Government of Madras

HOME DEPARTMENT (MISCELLANEOUS)

G.O. No. 1076, 11th June 1920

Bill—Mussalman Marriages and Divorces.

Papers relating to the Hon'ble Mr. Yaqub Hasan's — recorded.

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Government of Madras

HOME DEPARTMENT (MISCELLANEOUS)

G.O. No. 1076, 11th June 1920

Bill—Mussalman Marriages and Divorces.

Papers relating to the Hon'ble Mr. Yaqub Hasan's — recorded.

READ—the following papers :—

I

Telegram—from the Secretary to the Government of India, Legislative Department.
To—the Secretary to the Government of Madras, Home (Miscellaneous) Department.
Dated—Simla, the 9th May 1918.
No.—1323.

Your 358, 8th April. Government India see no objection to principle of Bill to provide for voluntary registration of Mussalman marriages and divorces if non-official members of Local Council approve. Drafting will no doubt receive careful consideration. It is suggested that inquiry might be made from Bengal how provision corresponding to clause 10 has worked there. Please send copy of Bill as actually introduced immediately after introduction.

II

Letter—from the Hon'ble Diwan Bahadur R. RAMACHANDRA RAO Avargal, Secretary to Government, Home (Miscellaneous) Department.
To—the Chief Secretary to the Government of Bengal (with Bill).
Dated—the 30th May 1918.
No.—Ref. 1519-1.

I am directed to enclose a copy of a Bill to provide for the voluntary registration of Mussalman marriages and divorces, which a non-official Additional Member of the Local Legislative Council proposes to introduce at the next meeting of the Council, and to request that with the permission of His Excellency the Governor in Council, this Government may be informed as to how the provision corresponding to section 10 of the Bill has worked in your province. It will be observed that the Bill in its main lines resembles the measure which became law in Bengal as Act I of 1876.

III

Letter—from L. BIRLEY, Esq., C.I.E., I.C.S., Secretary to the Government of Bengal, Revenue Department (Registration Branch).
To—the Secretary to the Government of Madras, Home (Miscellaneous) Department.
Dated—Darjeeling, the 18th June 1918.
No.—617 T.R.

I am directed to refer to your letter No. 1519-1, dated the 30th May 1918, forwarding a copy of a Bill to provide for the voluntary registration of Mussalman marriages and divorces, which it is intended to introduce in the Madras Legislative Council, and inquiring how the provision in Bengal Act I of 1876 corresponding to section 10 of the Bill has worked in this province.

2. In reply, I am to say that in 1916 the Inspector-General of Registration, Bengal, submittted to Government a draft Bill to amend the Bengal Act I of 1876 containing a proposal to repeal section 10 of the Act. After careful consideration of the proposal the Governor in Council considered it unadvisable to accept the recommendation of the Inspector-General of Registration. In this connexion I am to invite a reference to paragraph 5 of the enclosed copy of Government Resolution No. 1410 T.R., dated the 24th September 1917, on the draft Bill referred to above.

Enclosure

Resolution of the Government of Bengal, Revenue Department (Registration) No. 1410-T.R., dated Darjeeling, the 24th September 1917.

Read—

The resolution recorded by the Lieutenant-Governor of Bengal on the 31st May 1884 on the report of a Committee appointed for the purpose of revising the rules and procedure under the Muhammadan Marriage Registration Act and of supervising the Kazis appointed in Bengal, and the general working of the Act.

Letter No. 142 T.D., dated the 30th October 1916, from the Inspector-General of Registration, Bengal, submitting a draft Bill drawn up by himself and the Permanent Committee for the supervision of Muhammadan Marriage Registrars and Kazis in Bengal for the amendment of the law relating to the registration of Muhammadan marriages and divorces.

The law in force in Bengal on this subject consists of Act I (B.C.) of 1876, an Act to provide for the voluntary registration of Muhammadan marriages and divorces, and Act XII of 1880, an Act for the appointment of persons to the office of Kazi. The Act of 1880 was first extended to certain districts in Bengal on the 31st May 1884.

2. Since the passing of Act I (B.C.) of 1876 the Government of Bengal have from time to time instituted inquiries as to the causes which hinder the extension of the practice of registering Muhammadan marriages and divorces, and various proposals for amending the law have been considered, but the law remains as it was enacted in 1876 and 1880, and the measures which have been taken have been confined to alterations in the Statutory rules and executive orders.

3. The most important change in the law which has from time to time been suggested is that registration should be made compulsory: this proposal has at no time commended itself to the Muhammadan community in general or to Government, and it is not included in the Bill now under consideration. The Bill, however, involves important modifications in the law in respect of five subjects, and these have received the careful consideration of the Governor in Council.

4. The first of these proposals is the abolition of Naib-Kazis. This recommendation involves the amendment, or the withdrawal from Bengal, of Act XII of 1880. The Act empowers a Kazi to appoint or remove any number of Naib-Kazis. On the other hand it confers no legal powers on Kazis, it prevents no person from discharging the functions of a Kazi, nor does it distinguish the functions of a Kazi from those of a Naib-Kazi. The legal position is therefore altogether indefinite. On the whole, it appears to the Governor in Council that, as the expression Naib-Kazi connotes no powers under any law, no advantage is to be gained by an attempt to abolish those functionaries.

5. The second proposal of importance is to repeal section 10 of Act I (B.C.) of 1876 under which a Muhammadan Marriage Registrar is "not prohibited from receiving," in other words is permitted to receive, a gratuity in excess of the prescribed fee of one rupee, when such gratuity is voluntarily tendered. The Bill provides for an enhanced fixed fee in place of gratuity, and the Inspector-General of Registration has recorded a strong condemnation of the existing law which permits gratuities. The Governor in Council recognizes the objections to a system of gratuities. *Prima facie*, such a system is not only inconsistent with the general standard which regulates the conduct of public officers, but is also open to obvious abuse. On the other hand, in examining the question of amending the law with a view to stopping this system the Governor in Council cannot but attach weight to the arguments against a change. In particular, registration being voluntary, the natural result of an excessive demand would be a refusal to register, involving the registrar in the loss of any remuneration at all. Excessive demands are therefore automatically discouraged. Again, while the general absence of complaints from the poorer classes of the Muhammadan community is far from proving that all is well, on the other hand, the Governor in Council feels that the allegations of abuse, which are sporadically made but not proved, would hardly justify him in proposing this fundamental change in the law. Apart from this, it is very doubtful whether with the existing machinery for supervision, prohibition of gratuities would be accompanied by their cessation. Finally, it must be remembered that the income of many Muhammadan Marriage Registrars is admittedly so low as to render their appointments of little value. The Governor in Council, therefore, apprehends that if gratuities were abolished, the fixed fees would have to be raised to such a high figure that the poorest classes would be deterred from making use of the law, whereas under existing conditions there are facilities for adjusting the charges to suit the means of all parties. In short, the present position is not unlike that which prevails in the Christian community where the bridegroom gives such fee to the officiating and registering clergyman as his own means can afford. For these reasons the Governor in Council, as at present advised, is not prepared to undertake legislation to abolish the system of gratuities.

6. The third proposal is to legalise the registration of "Talak Bilyad," i.e., a divorce effected by the wife alone in accordance with authority conferred as a condition of her marriage. On this subject the Governor in Council finds that the Bill entrusts the Muhammadan Marriage Registrar with certain quasi-judicial duties which he is clearly of opinion that

Muhammadan Marriage Registrars as a class should not be called on to exercise. Moreover, the Governor in Council has reason to believe that the Muhammadan community is by no means unanimously in favour of this proposal and he is therefore unable to accept it.

7. The fourth proposal is to legalise the registration by Muhammadan Marriage Registrars of such deeds of dower and divorce as do not deal in any manner with immovable property. It is also proposed to forbid the registration of these documents by Sub-Registrars appointed under the Indian Registration Act. This proposal involves the amendment of the Indian Registration Act under which the public are entitled to present such deeds for registration to a Sub-Registrar. A similar proposal has been negatived by the Government of Bengal on two previous occasions. The Governor in Council has again examined the question and he is not convinced that it would be generally acceptable. The public have confidence in Sub-Registrars and would prefer that the registration of documents, as distinct from the registration of ceremonies, should remain with them. He is therefore unable to accept this proposal.

8. The fifth proposal is to provide in the law for the Permanent Committee of supervision and to give to it very wide statutory powers. This Committee was first constituted by the Resolution of the Lieutenant-Governor of Bengal, dated the 31st May 1884, and its duties have from time to time been prescribed by Resolutions and in the Statutory Rules. Resolution No. 211 J.D. of the Government of Bengal, dated the 17th September 1912, provides that the Committee shall consist of five or more members, the Inspector-General of Registration being *ex-officio* President and that it shall deal with the following matters:—

(1) The consideration of all nominations to the post of Muhammadan Marriage Registrar or Kazi.

(2) Recommendations for suspension, dismissal and removal of Muhammadan Marriage Registrars and Kazis.

(3) And such other matters as the President may desire to place before the Committee for advice.

The Committee is referred to in Statutory Rules of 1916 and it is provided therein that the nominations of District Registrars for appointment to the post of Muhammadan Marriage Registrar shall be placed before the Permanent Committee, who shall forward them to Government with their remarks and recommendations. It is also laid down that if the Committee disapprove of the nomination of the District Registrar they may ask him to submit a fresh nomination, or they may select any other candidate: one of the members of, or a person appointed by, the Permanent Committee is authorized to set the papers for the examination of Muhammadan Marriage Registrar and the Permanent Committee is authorized to decide which candidates have passed. The present Committee is therefore working partly on a statutory and partly on an executive basis. In the Bill now under consideration it has been provided that Government shall appoint a Statutory Committee to assist and advise Government regarding the appointment, transfer, suspension, removal and supervision of Muhammadan Marriage Registrars and Kazis, and that every member shall be competent to inspect the offices of Muhammadan Marriage Registrars.

In 1912 the Governor in Council declined to entertain a proposal that members of the Committee should be empowered to inspect offices and he sees no reason to alter this decision. Nor is he prepared to add to their duties the consideration of questions of transfer of Muhammadan Marriage Registrars. These questions can more suitably be dealt with by the Inspector-General of Registration as head of the Registration Department. The Governor in Council has recently had under consideration the subject of the functions of the Permanent Committee: he has found that their advice has been of material assistance to Government on general questions of legislation and the framing of rules, and that their opinions on technical questions of Muhammadan law which arise in the administration of the Act have been of great value to him. He desires to take this opportunity of thanking them for their notable services in these respects. He has found, however, that for questions of appointment and dismissal a Central Committee, which cannot without inconvenience sit frequently, is unsuitable, and that serious delay has occurred in dealing with cases which required expeditious disposal. He, therefore, proposes to restrict the functions of the Committee to those of an Advisory Committee on general questions. They will also retain the functions of an examining body. On the other hand, as explained below, he proposes to provide for local Committees to assist him in making appointments. He is, therefore, unable to accept those proposals for legislation which relate to the Permanent Committee.

9. The Governor in Council has reviewed the progress which has been made in attaining the purpose of the Act, viz., that the practice of registration of Muhammadan marriages and divorces shall be extended as widely as possible. Alterations in the constitution of the Province and the gradual extension of the Act to new districts make it difficult to present concisely the increase in registrations in the whole Province, but the figures for the Dacca Division in which the Act is of primary importance show a steady progress. For the first period of 15 years during which the Act was in force registrations were generally from 2,000 to 3,000 annually. During the next period of 15 years there was a steady increase from 4,000 to 16,000, and though the increase has not been quite continuous during the last 10 years the average number for the past 4 years has been about 35,000. It is true that these figures represent a very small portion of the ceremonies which are registrable, but the progress is substantial, and it points

to the expediency of adhering to the policy of patience in awaiting improvement. This policy was adopted by Government in the early period when the Act was generally considered to be a failure. Frequent proposals were made for changing the policy and amending the Act. Time has however shown that the policy was sound.

10. Although the Governor in Council has decided that there are at present insufficient grounds for any legislation, he has considered whether any measures short of legislation are desirable for improving the working of the Act and in this respect he has come to the following conclusions.

11. Between 1912 and 1916 the number of registration offices has only increased from 273 to 276 : the Governor in Council desires that the Inspector-General of Registration will examine the position with a view to increasing the number of offices in areas in which facilities for registration are found to be insufficient. In making this examination the Inspector-General of Registration will of course bear in mind that the multiplication of offices tends to reduce the income of Muhammadan Marriage Registrars and thereby to discourage suitable men from taking up this work. Moreover, in areas in which an individual Registrar has made the Act popular and increased the number of registrations, consideration should be shown to the successful Registrar during the continuance of his incumbency. But even after due weight has been given to those factors in the situation there is probably room for a substantial increase in the number of offices. The Governor in Council therefore awaits the specific proposals of the Inspector-General of Registration.

12. The income of Muhammadan Marriage Registrars as already noted is often very small. In some cases it is even insufficient to provide a living in the absence of some other occupation. In such cases it is obvious that no one but a local man can be expected to fill the post. The Governor in Council therefore considers it desirable that when a suitable candidate can be found who can live in his own home and conduct his duties there, he should be always given preference over others. He does not object to the office of the Registrar being removed from one place to another, so as to enable the incumbent to reside at his home provided that the office is situated within the area of the Registrar's jurisdiction. If these principles be borne in mind it will be possible to establish offices in much larger numbers than in the past.

13. With a view to facilitate the selection of suitable local candidates the Governor in Council has decided to modify the existing method of appointment. In each district there will be an Advisory Committee of Muhammadans to assist in selecting candidates. Where a local Muhammadan Association is already in existence and is recognized by Government, this Association, with its own consent, will be treated as the Advisory Committee. Where there is no distinct local Muhammadan Association, but a branch of a larger association recognized by Government, the same principle will be applied. In other districts a Committee of five Muhammadans which will ordinarily include two officials and three non-officials will be appointed by the Inspector-General of Registration in consultation with the District Registrar to advise District Registrar on the subject of appointments. The recommendations of the Committee as regards appointments will be submitted to Government by the District Registrar through the Inspector-General of Registration. The Governor in Council is confident that this system will be more effectual than the present system of a centralised Committee in bringing to the notice of Government the claims of local men of respectable character and suitable attainments. It will then be possible to open new offices in places in which the Registrar will be contented with a small income from fees, because he is able to carry on his former occupation. Questions of transfer and dismissal will not be dealt with by the local Committees, but by the District Registrar, and by the Inspector-General of Registration, who will submit his proposals to Government.

14. In 1915 the Permanent Committee recommended the appointment of three special Inspectors of Muhammadan Marriage Registration Offices. Consideration of the proposal was postponed pending the receipt of proposals for legislation. The Governor in Council recognizes that inspection of these offices is at present inadequate, and he is convinced of the necessity of more efficient inspection and of a systematic endeavour to discover and remove the causes which render the Act unpopular in certain areas, and to improve the facilities for registration. For this he looks primarily to the District Officer who is usually the District Registrar. Inspectors of Registration Offices, District Sub-Registrars and Subdivisional Officers should also consider such inspection to be an important part of their ordinary duties. In localities where the District Sub-Registrar or Subdivisional Officer is a Muhammadan a special inspecting staff is uncalled for. In other places, however, there is much to be said for supplementing the inspections of the District Officer by the inspections of a special staff. On the return of normal financial conditions, the Governor in Council will therefore consider the question of appointing two special Inspectors of Muhammadan Marriage Registration Offices for this duty.

15. The Statutory rules will now be amended in accordance with the terms of this resolution.

(By order of the Governor in Council.)

L. Birley,
Secretary to the Govt. of Bengal.

IV

Letter—from the Hon'ble Mr. R. A. Graham, I.C.S., Acting Secretary to the Government of Madras, Legislative Department.
To—the Hon'ble Yaqub Hasan Sahib Bahadur, Non-official Additional Member of the Madras Legislative Council.
Dated—Ootacamund, the 24th June 1918.
No.—1390-1 Leg.

In continuation of my letter No. 1249-1, Legislative, dated 1st June 1918, I am directed to inform you that your motion for leave to introduce a Bill to provide for the Voluntary Registration of Mussalman Marriages and Divorces will be entered in the agenda paper for the ensuing meeting of the Legislative Council.

V

Letter—from the Hon'ble Diwan Bahadur R. Ramachandra Rao Avargal, Secretary to Government, Home (Miscellaneons) Department.
To—the Hon'ble Yaqub Hasan Sahib Bahadur, Non-official Additional Member of the Madras Legislative Council.
Dated—the 20th July 1918.
No.—1519-2 Ref.

I am directed to invite a reference to the correspondence ending with Legislative Department letter No. 1390-1, dated the 24th June 1918, regarding your Bill to provide for the Voluntary Registration of Mussalman Marriages and Divorces, and to communicate the following remarks in regard to section 10 of the Bill. The Government are advised that the provision in section 10 of the Bill under which a Muhammadan Marriage Registrar is " not prohibited from receiving ", in other words is permitted to receive, a gratuity in excess of the prescribed fee, when such gratuity is voluntarily offered, is capable of being abused. The Governor in Council is therefore of opinion that the aforesaid clause 10 should be omitted, leaving it to the good sense of the community, either to give a gratuity or not according to the means of the parties concerned. I am accordingly to commend the suggestion for your acceptance.

VI

Letter—from the Hon'ble Yaqub Hasan Sahib Bahadur, Non-official Additional Member of the Madras Legislative Council.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—Madras, the 6th August 1918.

I am in receipt of your letter No. 1519-2, dated 20th ultimo, conveying the suggestion of the Governor in Council that clause 10 should be omitted from my Bill for the Voluntary Registration of Mussalman Marriages and Divorces. I accept this suggestion and shall thank you to delete this clause from the Manuscript Bill.

VII

G.O. No. 76, L. & M. (Legislative), dated 14th September 1918.

Under rule 32 of the Rules for the conduct of business at meetings of the Madras Legislative Council, His Excellency the Governor is pleased to direct the publication in the *Fort St. George Gazette* of a Bill to provide for the Voluntary Registration of Mussalman Marriages and Divorces and the Statement of Objects and Reasons in English, Tamil, Telugu, Malayalam, Kanarese and Hindustani languages.

(True extract)

R. A. Graham,
Acting Secretary to Government.

To the Home (Miscellaneous) Department,
,, Superintendent, Government Press,
,, Senior Translator to Government,
,, Hindustani Translator to Government,
,, Hon'ble Yaqub Hasan Sahib Bahadur,
} with Bill and Statement.

VIII

Telegram—from the Secretary to Government, Home (Miscellaneous) Department.
To—the Hon'ble Muhammad Aziz-ud-din Husain Sahib Bahadur, Commissioner of Board of Revenue (Land Revenue).
Dated—the 10th October 1918.
No.—498.

Reference my Demi-official No. 1519, dated 14th August, asking for[a] list of persons and associations who may be consulted on [Mr.] Yaqub Hasan Sahib's Mussalman Marriages Bill.

Please expedite reply.

IX

Letter—from the Hon'ble Diwan Bahadur R. Ramachandra Rao Avargal, Secretary to Government, Home (Judicial) Department.
To—the Hon'ble the Chief Justice of the High Court of Judicature at Madras.
Dated—the 12th October 1918.
No.—1519-6.

I am directed to forward sixteen copies of the Bill noted in the margin, which the Hon'ble Yaqub Hasan Sahib Bahadur is to introduce into the local Legislative Council, and to request that the Honourable the Judges will be so good as to favour Government with their opinion on the provisions of the Bill.

Bill to provide for the voluntary Registration of Mussalman Marriages and Divorces, 1918.

X

Memorandum No. 1519-7, Home (Miscellaneous), dated 12th October 1918.

A copy of the Bill noted in the margin, which the Hon'ble Yaqub Hasan Sahib Bahadur is to introduce into the local Legislative Council, is forwarded to the Hon'ble the Advocate-General, who is requested to favour Government with his opinion on the provisions of the Bill.

Bill to provide for the Voluntary Registration of Mussalman Marriages and Divorces, 1918.

R. Ramachandra Rao,
Secretary to Government.

The Government Solicitor (with Bill).

XI

Memorandum No. 1519-8, Home (Miscellaneous), dated 12th October 1918.

The Bill to provide for the Voluntary Registration of Mussalman Marriages and Divorces, which the Hon'ble Yaqub Hasan Sahib Bahadur desires to introduce into the local Legislative Council, is referred to the Collector of who is requested to obtain the views of representative Muhammadans or Muhammadan bodies within his jurisdiction on the provisions of the Bill and to forward them with his remarks to Government.

R. Ramachandra Rao,
Secretary to Government.

To all Collectors (with copy of Bill).

XII

Memorandum No. 1519-9, Home (Miscellaneous), dated 4th November 1918.

*Madras	Tinnevelly.
North Arcot.	Kurnool.
Chingleput.	Gōdāvari.
South Arcot.	Vizagapatam.
Cuddapah.	Ganjām.
Chittoor.	Coimbatore.
Nellore.	Malabar.
Salem.	Anantapur.
South Kanara.	Tanjore.
Madura.	Trichinopoly.

With reference to Memorandum No. 1519-8, dated the 12th October 1918, inviting his remarks on the Bill to provide for the Voluntary Registration of Mussalman Marriages and Divorces, the Collector of * is advised that in addition to those persons whom he may consider worth consulting, the views of the persons/person named below may be obtained, if their/his opinion has not already been invited.

R. Ramachandra Rao,
Secretary to Government.

XIII

Letter—from the Hon'ble Diwan Bahadur R. Ramachandra Rao Avargal, Secretary to Government, Home (Judicial) Department.
To—Moulavi Qazi Haji Saiyid Sahib Abdul Gaffar Sahib Qadiri, Civil and Military Station, Bangalore.
Dated—the 4th November 1918.
No.—1519-10.

I am directed to forward the accompanying copy of a Bill to provide for the Voluntary Registration of Mussalman Marriages and Divorces, which the Hon'ble Yaqub Hasan Sahib Bahadur is to introduce into the local Legislative Council, and to request that you will be good enough to let Government have your opinion on the provisions of the Bill.

XIV

Letter—from H. Brightwell, Esq., Government Solicitor.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—the 29th October 1918.
No.—1244.

Abstract.—Forwarding the opinion of the Advocate-General, No. 513, dated 28th October 1918.

Opinion.

In my opinion, a system of compulsory registration of Muhammadan marriages and divorces, at any rate in the less backward areas of the Madras Presidency is a necessary measure, as the legitimacy of children, rights of succession and other valuable rights are involved. In a very recent case from Bengal Mr. Ameer Ali in delivering the judgment in the Judicial Committee says :—"In the absence of any statutory provision making compulsory the registration of Muhammadan marriages, Indian Courts in case of a dispute as to the factum of a marriage are usually left to discover, or attempt to discover, the truth from a mass of conflicting and often very unsatisfactory evidence of witnesses" (35 M.L.J. page 422 at p. 430 P.C.). The Bill, however, merely reproduces the provisions of Bengal Act of 1876 and leaves the registration of a marriage or a divorce entirely optional with the parties. Further, it defeats the very object of a registration of marriage or divorce by providing that it is to be effected after the marriage or divorce and within 30 days thereof. I am of opinion that it is not desirable to enact a law like this in Madras 40 years after the Bengal enactment. The law ought to provide that marriages at least, if not divorces, shall be solemnized only before the Moslem Registrar whether he is a Kazi, Naib Kazi or other licensed person. No power should be given to a Marriage Registrar to enquire into the factum of a marriage or divorce after the event. I am not sure that it will minimise the evils which it is sought to eliminate.

S. Srinivasa Ayyangar,
Advocate-General.

XV

Letter—from H. L. Braidwood, Esq., I.C.S., District Magistrate of Anjengo.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—Trivandrum, the 1st November 1918.
No.—Dis. 803.

With reference to Government Memorandum No. 1519-8, dated 12th October 1918, regarding the Bill to provide for the Voluntary Registration of Mussalman Marriages and Divorces, I have the honour to report that there are no Muhammadans worth consulting in this district.

XVI

Letter—from C. G. Mackay, Esq., I.C.S., Registrar, High Court.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—the 5th November 1918.
No.—Dis. 1905.

With reference to your letter No. 1519-6, Home (Miscellaneous) Department, dated 12th/15th October 1918, inviting the opinion of the Honourable the Judges of the High Court on the provisions of the Bill to provide for the Voluntary

Registration of Mussalman Marriages and Divorces, 1918, I am directed to forward the minutes recorded by the Honourable the Judges. The Hon'ble the Chief Justice, the Hon'ble Mr. Justice Ayling, the Hon'ble Mr. Justice Oldfield, the Hon'ble Mr. Justice Phillips and the Hon'ble Mr. Justice Napier have no remarks to offer.

Enclosure

Minutes.

The Hon'ble Mr. Justice Abdur Rahim.—I think the Bill proceeds on sound lines.

I suppose section 24 would be sufficient to make the entries evidence under section 35, Evidence Act, but perhaps an additional express provision might be useful, if properly drafted.

I am not sure that ordinary District Registrars who might not be familiar with the Muhammadan law and customs relating to marriages would be the best tribunal to hear appeals. If there be many appeals, the question should be considered whether there ought not to be special officers appointed for the purposes.

The Hon'ble Mr. Justice Sadasiva Ayyar.—I approve of the Bill with my whole heart and only wish that compulsory registration might be introduced by the Legislature, at least as regards marriages taking place in municipalities and in towns where there are Registrars' offices established for the purpose.

The Hon'ble Mr. Justice Spencer.—The Bill does not state in what language the registers are to be kept, nor is this one of the matters as to which the Government is empowered by section 23 to make rules. This may be made clear.

2. The inscription on the seals of Muslim Registrars is, according to section 4, to be in Persian. For the purpose of easily identifying the origin of marriage certificates by persons who do not know the Persian language, the name and place of the Muslim Registrar's office may be inscribed also in English or in the vernacular of the district.

Section 14 provides for copies which are furnished to persons applying for the same being sealed; but there is no provision for the copies which are given to the parties, on the conclusion of the ceremony, under section 11 being sealed.

Both the copies obtained by payment of fees and the copies that are furnished gratis to the parties equally require to be sealed as a guarantee of genuineness.

The Hon'ble Mr. Justice Coutts-Trotter.—I regard registration as of little value unless it is compulsory. But something is better than nothing, and I do not on that account oppose the present Bill.

The Hon'ble Mr. Justice Seshagiri Ayyar.—I see no objection to this piece of permissive legislation. I am under the impression—it may be wrong—that settlements of dower are sometimes entered in the register kept by the kazi. If my surmise is correct it may be desirable that the entry in the register should relate to this also and should also be signed by the husband and attested.

I find in section 8 that an application 'shall be made to the Registrar *orally*.' Does this section mean that the party should not send a written application?

The Hon'ble Mr. Justice Kumaraswami Sastri.—I think the Bill which is purely voluntary and which offends against no principle of Muhammadan law is a step in the right direction and the provisions, if duly availed of, will check litigation.

I would suggest that the words 'duly authorized' in the Bill should be explained. The authority should be by a power-of-attorney attested by a responsible officer.

As regards section 20, I would give a right of suit as in section 77 of the Registration Act. I think the refusal to register should be confined to cases where he is not satisfied as to the *factum* of the marriage or divorce. The registrars should not decide questions as to the *validity* or otherwise of marriages or divorces which have in fact taken place.

The Hon'ble Mr. Justice Krishnan.—If it is thought necessary by the Muhammadans to have a better and more reliable form of register for their marriages and divorces there can be no objection to the Bill as a whole. The details of it must be carefully considered but I do not propose to deal with them.

XVII

Letter—from Mr. T. M. Sulaiman, Honorary Secretary to the Muslim League, Begampur, Dindigul.
To—the Secretary to Government, Local and Municipal (Legislative) Department.
Dated—the 6th November 1918.
No.—265.

The Bill for the registration of Mussalman marriages introduced by the Hon'ble Mr. Yaqub Hasan in the Legislative Council was discussed and considered by the Begampur Muslim League in its annual meeting held on the 6th October last under

the presidency of the Hon'ble Mir Asad Ali Khan Bahadur and it was unanimously resolved that in the opinion of the meeting the Bill is a useful measure, the need of which was being felt for a long time; the League therefore accords its strong support.

Enclosure

Resolution No. 9.—That this League accords its heartfelt support to the Bill to provide for voluntary registration of marriages and divorces among Mussalmans and hopes the Bill will soon become law.

XVIII

Petition—from Mr. Amjad Ali, Government Chief Kazi for Shiah Sect.
To—His Excellency the Governor of Madras.
Dated—the 22nd November 1918.

May it Please Your Excellency,

I beg to bring to your Excellency's notice that I received some letters from Mr. Yaqub Hasan and the Collector of Madras to the effect that the kazis should be bound illegally under the authority of the registrar, the reply to which I have produced before your Excellency, so that your Excellency may cast an eye of justice over it and finally I may be informed of the result of it so that I may know what to do in future.

1. Any new change in a current system is a source of disturbance. Unless there is any defect, there is no necessity of any reform. There is no defect in the present system of kazis among us. If there seems to be any among the Sunni Muhammadans their maulavis are the right persons to alter it. The Legislative Council does not seem to have the right to interfere into such religious questions, except to bring the difficulties, if any, before the religious Doctors. When Muhammad, the Prophet, and his descending sons have once established a law it cannot be altered by the rules framed by the followers.

2. When the kazi is one selected and appointed by the Government, the register of the kazi is itself the Government register.

3. Kazis as a rule, have seals of their own and there does not seem to be any necessity of Government giving them a fresh seal. Moreover seal itself is full of suspicions.

4. Any fees taken as wages for religious services as nikka, etc., is not allowed by the religion. But as a matter of gift it is quite optional, one can give and take as much as they desire. If the Government wants to fix a fee it is breaking the religious law, it must be either to save the public from the burden of the expense or to enrich the kazis. If it is with the former idea why should a single pie be not fixed as the fees or otherwise why not a quarter or half the expenses of the marriage be given to the kazis? Here I should like to bring to your Excellency's notice that neither my father nor I did ever or do even now take anything from the public for serving the religion.

5. With regard to the copies of the entries, if the kazi finds it necessary will grant it himself. Though the Shiah kazi does not get any share in the inams or jaghirs and salaries of the kazis, whereas the kazi of Sunni Muhammadans get the whole.

6. Our office is perfectly religious according to the rules and laws framed by Muhammad and his descendants. It is to be regretted that Mr. Yaqub Hasan wants to make the kazis what they are by licences. Among the Shiahs, the religious knowledge, ability and the fear of God are wanted for their leader.

7. Kaziship does not only depend upon nikka and divorce, all religious disputes are to be decided by the Holy Court of Kazi, which is competent for it.

8. I am not a paid servant of any person and I am not such a kazi that was appointed by any person, owing to any knowledge, etc.

9. In every district where there is even one Shiah the Government may nominate a kazi or the kaziship of the Shiah community of all the districts may be entrusted upon me and I would manage it as I have been doing for many districts.

10. The deputy kazi may be appointed on the confidence of the kazi regarding his competency in the religious knowledge and character but not on hereditary rights, because in Shiahs sect a true knowledge of religious rules and justice is essential for a religious leader, even for a witness these qualifications are necessary, but on the other hand in several other sects of Islam every good and bad man may become a leader.

11. Islam does never compel any honourable lady to confess openly even before her own near relative, whereas to confess before registrars or vakils is still worst. If she is a matured lady it is enough if she does not express her unwillingness and on the other hand her parents have the full authority.

12. A kazi is not one to read the few verses of nikka or divorce but has also to see that all the religious rules are obeyed. Therefore it is necessary that a kazi should be a learned man and also a man of justice.

13. No respectable Shiah will ever agree to become a kazi under such trouble some and insulting rules of Mr. Yaqub Hasan because he is a gazetted officer of Government and a justice of his religion.

14. At any rate the kazis of Shiahs will never agree with any item of Mr. Yaqub Hasan and in case this Bill is passed, I shall choose to resign the post.

15. It is strange why the worldly people interfere with religion in spite of the religious people keeping themselves aloof from the worldly affairs.

XIX

Letter—from the Secretary, Anjuman-i-Islahul Muslimin, Mount Road.
To—the Collector of Madras.
Dated—the 28th/29th November 1918.
No.—20.

The following is herewith submitted for favour of information :—

The members of the Anjuman-i-Islahul Muslimin, Madras, held a meeting at the Mosque, Chetty's Garden, Mount Road, Madras, on Wednesday the 27th November 1918, in the afternoon with Shamsul Ulama Moulvi Shah Zahid Hussain Sahib Mehkari Khadari as the President, in which the following resolution was passed :—

Resolution.

" The Anjuman-i-Islahul Muslimin, Chetty's Garden, Mount Road, Madras, is strongly opposed to the Hon'ble Mr. Yaqub Hasan's Bill submitted in the Madras Legislative Council, for voluntary registration of Muslim marriages and divorces, as it is against our religious functions and puts us into unnecessary inconveniences and losses. "

As it is purely a religious matter, the members hope, so far as all the Moulvis of Madras are against it, that the Collector will be pleased to see that the Bill will not be passed.

True copy submitted to the Chief Secretary to the Government of Madras, for favourable consideration and kind orders.

Please acknowledge.

XX

Letter—from Muhammad Usman Sahib Bahadur, B.A., Honorary Secretary to the Muthialpet Muslim Anjuman.
To—the Secretary to Government, Local and Municipal (Legislative) Department.
Dated—Madras, the 14th November 1918.

I have the honour to communicate to you the following resolutiou passed at the meeting of the Managing Committee of the Muthialpet Muslim Anjuman, Madras, held on Wednesday, the 13th November 1918 ;—

The Managing Committee of the Muthialpet Muslim Anjuman, Madras, having considered the provisions of the Bill for voluntary registration of Mussalman marriages and divorces to be introduced into the Madras Legislative Council by the

Hon'ble Mr. Yaqub Hasan, is emphatically of opinion that any attempt to amend by omission, change or addition the eminently simple procedure laid down by the Prophet of Islam as essential to a valid Muhammadan marriage or divorce, will be resented by the Muhammadan community as intended to supersede the authority of the Prophet, and that, since the Honourable Member's Bill aims at introducing, ostensibly as a permissive measure but with a view to prepare the way for eventual compulsory legislation, a condition, non-compliance with which will relegate marriages and divorces effected on present orthodox lines to an inferior position of doubtful validity, the acceptance of the Bill by the legislature will be viewed with indignation as the introduction of the thin end of a wedge calculated to bring about the degradation of the very authority of the Prophet as the sole legislator of Muhammadans in matters social and religious.

XXI

Letter—from the Honorary Joint Secretaries, the Muslim Association, Nagore.
To—the Secretary to Government, Local and Municipal (Legislative) Department.
Dated—the 31st October 1918.
No.—18.

We are directed by the executive committee of the above association to communicate to you the following resolution passed at its meeting held on the 27th October 1918 :—

Resolution.—This association is emphatically of opinion that " the Voluntary Registration of Muhammadan Marriages Bill which the Hon'ble Mr. Yaqub Hasan Sait proposes to introduce in Madras Legislative Council and which has been published in the *Fort St. George Gazette* inviting opinion, is insufficient to meet the demands of the Muslims of Madras Presidency and is incapable of remedying the grievances obtaining at present, and therefore humbly prays that the Government of Madras will be pleased not to accord its support to that Bill and to introduce a new Bill making registration of Muhammadan marriages compulsory ".

XXII

Letter—from Saiyid Niamt-ul-lah Qadiri, President of a public meeting of Mussalmans, Nellore.
To—the Secretary to Government, Local and Municipal (Legislative) Department.
Dated—the 16th November 1918.

I have the honour to communicate to you the resolutions passed at a public meeting of the Mussalmans of Nellore held on Saturday the 15th November 1918, presided over by me—

(1) That the Mussalmans of Nellore strongly feel that the present system of maintaining records of Mussalman marriages and divorces is extremely unsatisfactory, and consequently believe that the enactment of a Bill of the nature proposed by the Hon'ble Yaqub Hasan Sahib Bahadur in the last session of the Madras Legislative Council is both necessary and timely

(2) That the Mussalmans of Nellore, however, submit that the Bill should be amended to a slight degree to make provision for the following principles :—

(*a*) The registration should be made compulsory, the compulsion being enforced on pain of inadmissibility of unregistered marriages and divorces in evidence and also of a moderate penalty.

(*b*) The Governor in Council should be authorized to grant licences to kazis, such kazis being empowered under sufficient restrictions as to qualifications, etc., to grant licences to their naibs or deputies.

(*c*) The Governor in Council shall grant licences not to any person who applies for the same but shall grant them only to kazis appointed under India Act XII of 1880, and where there is no such kazi to such person as shall be appointed for such area by the Governor in Council.

(*d*) That with regard to the representation of a parda-nashin woman for any purpose contemplated by the Act (except with regard to khula), it shall not be required that her vakil shall be a duly authorized one ; it shall be sufficient if such person is her vakil in accordance with the provisions of the Muhammadan Law.

(*e*) It shall be incumbent on the Muslim registrar, as a matter of routine without parties applying therefor, to supply free of charge a certified copy each to the parties to a marriage or divorce.

(*f*) The fee chargeable for certified copies of an entry in the register shall be As. 8 only.

(*g*) Any person other than a Muslim registrar solemnizing a marriage or a divorce shall be liable to a heavy fine.

(*h*) Sections 8, 9 and 10 of the Bill shall be recast so as to allow of the principle of compulsion.

(*i*) The Government of India Act XII of 1830 shall be amended so as not to conflict with the provisions of this Act.

(*j*) The other parts of the Bill shall remain as they are.

XXIII

Letter—from Muhammad Usman Sahib Bahadur, B.A., Honorary Secretary, South Indian Islamia League, Madras.
To—the Secretary to Government, Local and Municipal (Legislative) Department.
Dated—the 26th November 1918.

I have the honour to communicate to you the following resolution passed at the meeting of the Council of the South Indian Islamia League held on Monday the 25th November 1918 :—

"The Council of the South Indian Islamia League is strongly opposed to the Hon'ble Mr. Yaqub Hasan's Bill for voluntary registration of Mussalman marriages and divorces as it brings into contempt the simple procedure laid down by our Prophet in connexion with marriages and divorces by giving a higher legal status to the proposed registered marriages and divorces."

XXIV

Letter—from Khan Sahib Saiyid Diwan Abdur Razaak Sahib Bahadur, President, Anjumane Islamia, Coimbatore, Member, District Board, Coimbatore, Vice-President, Taluk Board, Pollachi, Chairman, Municipal Council, Udamalpet.
To—the Secretary to Government, Local and Municipal (Legislative) Department.
Dated—the 25th November 1918.

With reference to the Bill for the registration of Mussalman marriages introduced by the Hon'ble Yaqub Hasan Sahib Bahadur, I have the honour to report as follows.

2. The contents of the Bill were explained to the Mussalmans of the place and also to the Pesh Imam of the mosque and all agree that the facilities afforded therein to strengthen the rights of the married people and to prevent the abuses too common at present are absolutely necessary to meet the needs of the present days.

3. The allegation that the provisions of this Bill contravene the sacred tenets of Islam is absolutely untenable as it is not obligatory on all to get their marriages and divorces registered in the books. A variety of circumstances have led to the abuses which the Bill tries to prevent in future. The complete absence of control over the kazis and their poverty which makes them dance to the tunes of rival factions in villages have led to a great scandal in the registration of marriages, etc., as at present conducted, so much so, that with a few noble exceptions—becoming fewer every day—it is not altogether impossible to tamper with the amount of the dowry or with the actual entries made in the kazi's books. It is therefore felt that some sort of public registration is absolutely necessary and if the Bill tends to reduce—if it does not altogether prevent—the abuses now so keenly felt by Muhammadans, the mover of this Bill as well as the Government will be entitled to the gratitude of the community, the sober element of which stands staggered and helpless at the amount of mischief wrought by some of the Kazis and the misery involved on the poor and ignorant masses. Nor can it be said that the Bill is too early as the need has been felt for the past several decades. A police constable died intestate at Coimbatore ten years back. He was found to have had money dealings to the extent of thirty thousand rupees. Every one knew him to have been an old bachelor. But when

his distant relations from Madura came to claim the money it was contended up to the High Court that the man had married, had left a widow and a married daughter whose minor son claimed a share of the monies. I do not remember the exact decision of the High Court, but all knew too well that the so-called widow and her daughter were only street women put up in the courts to admit the husbandship of the deceased constable. There was a kazi who came up with an old book to say that the marriage had taken place some fifty years back. In Pollachi when a husband gifted some properties to his wife ten years back, his own relations out of enmity on her and with the connivance of the kazi tore off the sheet of the marriage book and contended that the mahar amount was much below the value of the properties assigned. Such instances can be easily multiplied. Again, the question of the dowry and mahar is too important to be written on mere scraps of paper as is done at present. So also divorce, which is resorted to mostly by lower classes. The existing practice is extremely faulty and gives rise to very great abuses. The community feel therefore that the fears expressed by the Hon'ble Muhammad Aziz-ud-din Husain Sahib Bahadur are more imaginary than real.

4. I am also of opinion that the registration of marriage, etc., must for some time more be left to the willingness of the community as the masses are not advanced so far as to welcome the remedy without misunderstanding the motives of the legislators. But the safeguards available in getting the registry made in a book supplied by Government are so apparent that in the course of a few years the Mussalman public will reject the old system and take to the new one whole-heartedly when, perhaps—and not till then—the Government or the Muslim leaders may try to make the registration compulsory. For these reasons I do not agree with the proposal of the Hon'ble Khan Bahadur Ahmad Tambi Marakkayar that the registration should be made compulsory at once.

5. I do not also share his fears that the Bill will be of no use without the element of compulsion and of punishment in default. Government cannot take the full or even initial responsibility of effecting improvement in the internal socio-religious conditions of any community. Nor can the acts of any legislative body—however stringent its provisions are—lift the masses out of their ignorance without subjecting the legislature to a vast amount of suspicion and of misguided opposition. Even the Hon'ble Mr. Yaqub Hasan Sahib does not claim for his Bill the miraculous power of getting all the evils remedied at once with one magic wand. All that he claims to do—and that is the only thing possible at present—is to afford to the Mussalman public an option to seek registration and avoid future troubles, or to ignore the facility now placed before them and perpetuate the various miseries under which the community is groaning silently and helplessy.

6. I propose the following alterations in the Bill :—

(*a*) *Section* 3—*Add* to the first proviso the words 'unless more than one person has been doing such work in the place, in which case, the Governor in Council may appoint more than one person to meet the requirements of the locality'. This will add to the convenience of the public who must always have a choice to make in order, indirectly, to exercise a check over the vagaries of the kazi registrars.

(*b*) *Section* 3—*second proviso*.—*Add* at the end 'and every Pesh Imam of the mosque'. Pesh Imams or leaders of prayers in all mosques also perform marriages and are generally resorted to by the intelligent portion of the community. Their custody of the registers is preferable to that of the kazis. The registers should be left in the custody of the Muthavalli when Pesh Imams leave the mosque for good.

(*c*) *Section* 4,—*Add* the words 'or the Pesh Imam' at the end.

(*d*) *Section* 19.—*Add* 'and deliver a copy of his order to the party who applied for registration'.

(*e*) *Section* 20.—After the words 'and the Registrar,' *add* 'after such inquiry as he thinks fit'; *delete* the words 'and the order passed by the Registrar on appeal shall be final' and *add* 'against this order one appeal is allowed to the Inspector-General of Registration whose order shall be final. The Inspector-General may before passing such order direct further inquiry and shall, in his

decision, be guided by the Muslim council of Ulemas at Madras to be specially constituted by the Government for the purpose. The number of Ulemas shall be five, and the council shall be presided over by the Inspector-General'. My object is not to make final the decision of a District Registrar who is not conversant with the requirements of the community.

(*f*) *Form A*, *Book* 1.—After the word 'name' in columns 2, 3, 5, 6, 7, 8 and 16, *add* 'and signature'.

(*g*) *Form B*, *Book* 2.—After the word 'name' in columns 2, 3, 8, 9, 10, 12, 13 and 14, *add* the words 'and signature'.

7. The community is fully convinced that the Government will confer a boon on the Muslim subjects if they pass this Bill into an Act, which will prevent the scandalous litigations that have wrecked the happiness of so many pleasant homes in this country.

XXV

Letter—from Moulvi Mir Kazi Haji Saiyid Abdul Gaffur Sahib Qadira, Civil and Military Station, Bangalore.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—the 10th December 1918.

In reply to your letter No. 1519-10, dated 4th November 1918, regarding provisions of Bill for voluntary registration of Mussalman marriages and divorces to be introduced into the local Legislative Council by the Hon'ble Yaqub Hasan Sahib Bahadur, I have the honour to state that the provisions of the intended Bill are not at all acceptable, as they nullify many of the authorities and orders of the Holy Prophet and Islam. Introduction of any Bill on a religious subject is absolutely unnecessary.

2. All Kazis now maintain registers, which are considered valid by courts and cases disposed of.

3. The Mussalman community of Bangalore look to the introduction of the intended Bill with resentment.

XXVI

Letter—from Khan Bahadur Waljee Laljee, Honorary Presidency Magistrate and Honorary Secretary to the Anjuman, Madras.
To—the Secretary to Government, Local and Municipal (Legislative) Department.
Dated—the 30th November 1918.

With reference to the Muhammadan Marriage and Divorce Registration Bill intended to be introduced in the Council by the Hon'ble Mr. Yaqub Hasan Sahib, I fully agree with the principle of the Bill which will insure correct records of marriages.

XXVII

Letter—from Shams-ul Ulama Moulana Moulvi Saiyid Hasan Raza Sahib, Madras.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—the 12th December 1918.

I have the honour to forward herewith a copy of the proceedings of a public meeting of the Shiah community held on the 8th instant recording its opinion against the passing of the Bill regarding registration of Mussalman marriages and divorces which has been introduced by the Hon'ble Mr. Yaqub Hasan in the local Legislative Council. The opinion of the community is emphatic on the subject and the acceptance of the Bill by the Government will, I fear, amount to an interference in the Mussalman religion and it is highly desirable in the interest of the Government itself not to allow such an impression to gain ground. I therefore request you to be good enough to lay the matter before the Government for their consideration.

Enclosure

In the name of the Almighty God the Merciful.

Praise be to the Almighty the Supporter of the world and peace upon our Prophet and the Holy Saints, his descendants. This evening the 8th day of December 1918 at 5 p.m. a public meeting of the Shiah Community of Madras was held in the sacred building of Abbasee

Ashoorkhana known as Thousand Lights, Mount Road, under the presidency of His Eminence Shams-ul Ulama Moulana Moulvi Saiyid Hasan Raza Sahib at which almost all the Shiah residents of Madras attended. Among those were the following :—

(1) His Eminence Qazi Moulana Moulvi Amjad Ali Sahib, Chief Qazi for Shiahs.
(2) His Eminence Moulana Moulavi Muhammad Mahdi Sahib.
(3) Aga Muhammad Khaleel Sahib Shirazi, a leading merchant.
(4) Khan Bahadur Haji Mirza Abdul Hasain Sahib, Persian Consul.
(5) Aga Saiyid Ali Akhbar Sahib Isphehani, a leading merchant.
(6) Haji Mirza Ali Nakhi Sahib Kirmani, a leading merchant.
(7) Haji Aga Sahib Shirazi, a leading merchant.
(8) Muhammad Takee Sahib Brother Amberkhani, Jagirdar of Avolcunda.
(9) Haji Hasan Ali Sahib Kazurani.
(10) Mirza Muhammad Mahdi Sahib Kirmani, a leading merchant.
(11) Muhammad Ali Sahib Bahadur Hazari, retired Tahsildar and Honorary Magistrate.
(12) Khan Sahib Jafer Husain Khan Sahib Bahadur, retired Inspector of Police.
(13) Muhammad Jafer Sahib Amberkhani.
(14) Ali Husain Sahib Amberkhani.
(15) Saiyid Jafer Husain Sahib Bismilla Kirmani.
(16) Mir Sajjad Husain Sahib.
(17) Aga Abbass Ali Sahib Shirazi.
(18) Aga Muhammad Raza Sahib Namazi, a leading merchant.
(19) Mirza Javad Sahib Namazi.
(20) Saiyid Hasan Sahib Isphahani, a leading merchant.
(21) Mirza Casim Sahib Kirmani, a leading merchant.
(22) Mirza Muhammad Kazim Sahib Namazi, a leading merchant.
(23) Aga Saiyid Asadulla Sahib Moosavi Shoostari Disfuli.
(24) Aga Mirza Luthfa Ali Sahib.
(25) Aga Muhammad Ali Sahib Shirazi, a leading merchant.
(26) Aga Mirza Ahmad Sahib Namazi.
(27) Sulaman Sait Sahib, a leading merchant.
(28) Muhammad Ali Sahib Shirazi, a leading merchant.
(29) Muhammad Moosay Raza Sahib 'Brother'.
(30) Mir Husan Ali Sahib.
(31) Saiyid Hasan Moin-ud-din Sahib Kirmani.
(32) Mir Kazim Husain Sahib Kirmani.
(33) Mir Gazamfar Ali Sahib.
(34) Haji Ahmad Sahib Isphahani, a leading merchant.
(35) Mir Zama Hussain Sahib.
(36) Mir Abbass Hussain Sahib 'Fyazi'.
(37) Aga Sirdar Ali Sahib.
(38) Mir Murtaza Ali Sahib.
(39) Mir Mahdi Hussain Sahib.
(40) Mir Baker Hussain Sahib (and many others).

The president opened his speech by praising God, His Prophet and the Holy Saints who are the descendants of the Prophet and explained the object of the meeting at length. He put forward the translation of the Bill proposed by the Hon'ble Yaqub Hasan Sahib Bahadur regarding the registration of nikahs and divorces of Mussalmans in the Presidency for the consideration of the meeting. It was thoroughly discussed and unanimously resolved that the Bill alluded to should not be passed into law as it is an innovation and uncalled for, since the Shiah precepts are clear and thoroughly understood and the imaginary evil which the proposed Bill seeks to remedy does not exist in our community. The Bill, if passed into law, is calculated to cause more harm than good.

It was further resolved that the president of the meeting should be authorized to communicate to His Excellency the Governor in Council the opinion recorded by the meeting and if need be to submit a memorial to His Excellency in consultation with the leading members of the Shiah community.

XXVIII

Letter—from Saiyid Shah Muhammad Ala-ud-din Kaderi, Sufi, Hanafi, a resident of Hospet, Bellary.
To—the Secretary to Government, Local and Municipal (Legislative) Department.
Dated—the 20th November 1918.

May its mighty shadow be prolonged!

It is submitted that the Bill for the Voluntary Registration of Mussalman Marriages and Divorces, introduced by the Hon'ble Mr. Yakub Hasan Sait, Khan Bahadur, with a view to facilitating procedure and safeguarding the interests of

Mussalmans is supremely excellent and suitable. I support the opinion that the registration of marriages and divorces should be voluntary. This representation has been made for your information.

XXIX

Letter—from Abul Karam Muhammad Abd-ul-quddus, Zao, Chairman of the Association of the Sufis, Madras.
To—the Secretary to Government, Local and Municipal (Legislative) Department.
Dated—the 26th November 1918.

I have very carefully gone through the Bill for the Registration of Mussalman Marriages and Divorces introduced by the Hon'ble Mr. Yakub Hasan Sait. Many years of experience compel me to say that such a law is urgently required in the Madras Presidency. I agree with the principles of the Bill. I am considering certain points that call for amendment and will address you again on the subject in the near future.

XXX

Telegram—from Moulvi Shaik Abd-ul-qadir Sahib, President.
To—His Excellency the Governor.
Dated—the 9th December 1918.

Muslims Rajagiri Tanjore district assembled meeting. Strongly oppose Hon'ble Yaqub Hasan Muslim Marriage Bill.

XXXI

Petition—from S. Qadir Muhi-ud-din Sahib, President, Anjuman Jalsai-Islami, Cuddapah.
To—His Excellency the Governor in Council.
Dated—the 23rd December 1918.

Most respectfully showeth.—That in consequence of a publication regarding the Bill about "the voluntary registration of Muhammadan marriages and divorces" the members of the Muhammadan community of Cuddapah town and taluk presented the enclosed mahazar under their signatures requesting intercession of this association in the following circumstances.

2. That in the town of Cuddapah and its taluk there is a total population of ten thousand Muhammadans and that until ten years ago there were no differences of religion or bad feelings amongst the members of the Muhammadan community.

3. That about ten years ago a few handful of Muhammadans of the Ahle-Hadis persuasion and who had their own particular mosque claimed a right to perform their namaz and other religious rites or performances in the mosques that were being exclusively used by the orthodox Muhammadans who formed the entire bulk of the population.

4. That objection to this unusual and unprecedented claim led the Ahle-Hadis to file criminal cases and declaration suits in criminal and civil courts respectively with the result that a decree was passed in their favour, though the said decree did not go to the full length of granting all their reliefs prayed for.

5. That in consequence of the above ambiguous decree, disputes again arose resulting in the exercise of the security section of the Criminal Procedure Code.

6. That at present Ahle-Hadis and their Sunni sympathizers are not allowed to join the congregational daily namazes of the other Muhammadans and are prevented from performing the Jumma namaz in the mosques and also from entering the mosques during the month of Ramzan. In consequence of these differences the Ramzan and Bakr-id-kudba also are held in two different places—one by the majority of the Muhammadans under their spiritual guru and elected Kazi and the other by the few Ahle-Hadis and their sympathetic Sunni followers under the leadership of the Government Kazi who, though he calls himself a Sunni Hanafi, has taken the Ahle-Hadis and their friends under his leadership.

7. That in consequence of the above circumstances nine-tenths of the Muhammadans above referred to have been since ten years getting their marriages,

divorces and all other spiritual rites and ceremonies performed by the abovementioned Kazi Saiyid Sha Amir-ul-lah Husaini Chistial Khadari who was elected Kazi by them.

8. The abovementioned Kazi is a descendant of a very great spiritual guru of the Muhammadans and has been doing the duties of the Kazi most satisfactorily until this hour.

9. That section 3 of the proposed Bill for voluntary registration of marriages and divorces in restricting the Kazis for each sect to be not more than one imposes a great inconvenience and difficulty for the appointment of Kazis for the different sections of the same sect who form a considerable assembly as in the case of our Cuddapah town.

10. That in view of the above circumstances existing at Cuddapah and many similar ones in other places, it is necessary that the section be so amended as to provide for more than one Kazi for a sect wherever there is a necessity and that the appointments be made in conformity with the section II of the present Kazi Act empowering or enabling every Kazi elected by people to maintain a register as contemplated in the proposed Bill.

11. That the petitioners most emphatically submit, that in case such an amendment is not made, the Bill will seriously affect the established rites and privileges of the Muhammadans, doing which will be acting contrary to the established principle of the British Government, of a policy of non-interfering character so far as their religious and social matters are concerned.

12. Petitioners therefore pray that His Excellency will be pleased to safeguard their rights under the circumstances above mentioned; for which act of kindness and mercy the petitioners, as in duty bound, will ever be grateful and thankful.

XXXII

Letter—from C. F. Brackenbury, Esq., I.C.S., Acting Collector of Kurnool.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—the 10th January 1919.
No.—D. Dis. 148/Genl.

In reply to the Government Memorandum No. 1519-8, dated 12th October 1918, I have the honour to state that the Hon'ble Mr. Yaqub Hasan's Bill has received the general assent of the Muhammadans of this district.

2. Some leading Muhammadans of Kurnool town including the Government Kazi desire to go a step further by making the registration compulsory, as in their opinion voluntary registration will serve no useful purpose.

XXXIII

Letter—from C. G. Austin, Esq., I.C.S., Acting Collector of Tinnevelly.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—the 14th January 1919.
No.—D. Dis. 66/Rev.

With reference to Government Memorandum No. 1519-8, dated 12th October 1918, regarding the Hon'ble Mr. Yaqub Hasan's Bill to provide for the voluntary registration of Mussalman marriages and divorces, I have the honour to report that 13 representative gentlemen in this district were requested to offer their remarks. Only 11 of them have replied and their replies are enclosed with a list. Seven are in favour of the Bill, while 2 are against it. One gentleman is of opinion that an element of compulsion should be introduced in the Bill without, at the same time, rendering a marriage or divorce void for want of registration, as, in his opinion, to provide that Muhammadan marriages and divorces should be registered in order to render them valid is against the spirit of the Muhammadan law. The 11th gentlemen is not in favour of the Bill but proposes the amendment of the Kazis Act XII of 1880.

List.

1. I. A. Peer Muhammad Sahib Bahadur.
2. P. N. Muhammad Miran Sahib Bahadur.
3. Abdulla Khan Ghori Sahib Bahadur.
4. Muhammad Usman Sahib Bahadur.
5. Khan Sahib Moideen Kadirsha Marakkayar.
6. Janab Kazi Muhammad Irtaza Ali Sahib Tamariel.
7. Abjimiah Sahib Bahadur.
8. Diwan Muhi-ud-din Ravuttar.
9. Janab Moulavi Muhammad Sharafuddin Sahib Bahadur.
10. Muhammad Gouse Sahib Bahadur.
11. Muhammad Fazl-ud-din Sahib Bahadur.

2. Even those who oppose the Bill admit there is already a system of private registration among the Muslims. There is a large volume of opinion in favour of the Bill which, being merely permissive, seems to me to be unobjectionable.

Enclosures

(1)

Letter—from I. A. Peer Muhammad Sahib Bahadur, B.A., Revenue Divisional Officer, Tinnevelly.
To—the Collector of Tinnevelly.
Dated—the 1st December 1918.

With reference to your letter R.O.C. No. 998/G.B., Revenue, dated 26th October 1918, I have the honour to submit the following report on the Bill introduced by the Hon'ble Mr. Yaqub Hasan for the voluntary registration of Mussalman marriages and divorces.

2. I entirely agree with the object of the Bill and the reasons of the Honourable mover. True it is that according to Muslim law marriage is a civil contract and its validity does not depend on any religious ceremony though, by time immemorial practice sanctified by the example of the Prophet, the marriage is solemnized by *all* the assembled guests as there is no priestcraft in Islam. This most important event in the life time of a man or woman is recognized as merely a civil contract as every Mussalman is bound to fulfil all his civil contracts whether made orally or in writing. For example an oral gift of landed property by a Muhammadan is valid without any written deed provided there is delivery of possession to signify the genuineness of the gift. A Mussalman objects to swear by his "Koran" as he is bound to speak the truth in every day life. One who tells an untruth is not a Mussalman in the words of the Prophet as lie gives cover to most sins. If a man forbears from lying he will have perforce to give up most other sins. A deliberate liar will forswear with "Koran." Such being the sanctity attached to the truthfulness and to the fulfilment of contract, no written document is required for the marriage contract provided all the people live in patriarchal simplicity. But in a complex society there are sure to be black sheep. To safeguard against the wiles of such black sheep, a written record of the marriage is highly desirable though not absolutely necessary for the validity of the marriage. The Prophet inculcated committing to writing events. So some record is usually kept by the "Kazi" who takes the lead in solemnization of the marriage which solemnization as I said already is made by all the assembled guests.

3. The Hon'ble Yaqub Hasan's Bill aims at a regulated system of such record, the prevention of abuses in the simple ceremony and fraud on the part of the person maintaining the record by the registration of marriages and that optional according to the rules embodied in the Bill. No thinking Mussalman can disapprove of such a Bill.

4. The Right Hon'ble Syed Ameer Ali of His Most Exalted Majesty's Privy Council thinks that the registration should be made compulsory as is done in most Mussalman countries. The registration, however compulsory, does not infringe the religious principle which recognizes marriages to be a simple contract in the same way that the compulsory registration of births and deaths does not interfere with the laws of nature. However the people of this Presidency who have not been used to the registration of marriages by a regulated system will resent any sudden innovation which carries with it a penal provision which is necessary to enforce the compulsory registration. Therefore, I think the Hon'ble Mr. Yaqub Hasan has very rightly gauged the sentiments of the people of this country by proposing the registration to be voluntary. I hope there will be a time when the people of this Presidency will ask for compulsory registration.

5. Divorces, however easy, are resorted to only very rarely especially among the advanced people. The Prophet said that divorce displeases God though it is not irreligious. Once it is resorted to some record is necessary as in the case of marriages.

6. For the foregoing reasons I approve of the Bill generally and I would make the following suggestions in the details of the Bill.

Article 8.—The person authorized to attest the vakalat of a woman should be defined and I would propose any magistrate appointed under the Criminal Procedure Code, any sub-registrar, any village headman, any Gazetted officer retired or in service, any titleholder, any municipal councillor, any member of the taluk or district board or union panchayat, any revenue inspector, any tahsildar or deputy tahsildar.

Article 10, *paragraph* 2.—If the witnesses who were present at the marriage ceremony cannot appear before the Muslim registrar, they may be represented by their agents duly authorized before any officer stated above.

Article 16, *paragraph* 2.—It will be inconvenient to the Inspector-General of Registration to have direct supervision and control over the Muslim registrars in the town of Madras. In the town of Madras also, the District Registrar of Assurances may have supervision and control over Muslim registrars. The Inspector-General of Registration will of course have general supervision over all the Muslim registrars.

Article 25.—It is provided that every Muslim registrar shall be deemed to be a public officer. I would substitute "public servant" as defined in Penal Code for "public officer."

Schedule. Form A, Book I, columns 2 *and* 3.—The age also of the bridegroom and the bride should be noted.

Columns 9 *and* 17.—The date according to the Roman Calendar and the Hijiri should be given as most of the womenkind are used only to the latter date.

A column may be provided to note the properties settled by any of the relations of the married couple.

Column 15.—The taluk in which the village is situated may be given.

Book II, Columns 2 *and* 3.—The age of the husband and wife should be given.

Columns 4 *and* 15.—The Roman and Hijiri dates should be given for the reasons stated above.

Column 12.—The name of the taluk in which the village or town is situated should be noted.

The registrar may be authorized to iregister marrages in any place in his jurisdiction, but it is not necessary that the marriage ceremony should have been performed within his jurisdiction.

(2)

Letter—from P. N. Muhammad Miran Sahib, Deputy Collector on leave.
To—the Collector of Tinnevelly.
Dated—the 30th November 1918.

With reference to your R.O.C. No. 998/G.B. Rev., dated 26th October 1918, calling for my views on the draft Bill regarding the voluntary registration of Muhammadan marriages and divorces, I have the honour to state that I accept the general principles of the Bill. An enactment of the kind is highly necessary to minimise the scandalous litigation among the Muslim community.

A written record like the register proposed in the Bill literally carries out the injunctions of the Holy Prophet and gives support to the Islami tenets.

2. I take this opportunity of pointing out the necessity of appointing proper and only qualified persons to act as Muslim registrars. In addition to the central committee for working of the Act as in Bengal, local Committees of the leading Muhammadans with the District registrar as president may be appointed for each district. As a rule it is submitted that the registrar under the Act may be 'nominated' on their recommendation. The introduction of compulsory registration is opposed to the spirit of Muhammadan law of marriages and divorces. However, to render the proposed measure effective it is necessary to penalise the parties for neglect to register marriages and divorces, without at the same time making them invalid for want of such registration. Section 8 of the Bill provides for application of registration to be made only *orally*. It may with advantage be added *or in writing*. Under section 20, time allowed for appeal is 20 *days*. This may be raised to 30 *days*.

(3)

Letter—from Abdulla Khan Sahib Ghori, B.A., B.L., Vakil, Tinnevelly.
To—the Collector of Tinnevelly.
Dated—the 28th November 1918.

I have the honour to reply to you as follows regarding the Voluntary Registration of Mussalman Marriages and Divorces Bill.

Such a measure is a long-felt necessity and I believe the Mussulman community will hail it with joy.

But I like to make the following alterations. As section 8 now stands application for registration of marriages or divorces can be made only orally and there seems to be no remedy in case of refusal to register by the registrar. This ought to be altered. Written applications also should be allowed and in case of refusal the Registrar must give his grounds for refusal and should be taken to task by his superior if the grounds are not sound, true or valid.

Further in the appointment, suspension or dismissal of a Registrar, the Mussalmans of the place over which he is to be, or is, appointed registrar should have a voice, their representation to the authorities being given much weight.

(4)

Letter—from F. Muhammad Usman Sahib Bahadur, B.A., District Assistant Recruiting Officer, Tinnevelly.
To—the Collector of Tinnevelly.
Dated—the 30th November 1918.

With reference to your letter R.O.C. No. 998/G.B. Rev. 1918, calling for my opinion on the Mussalman Marriage and Divorce Registration Bill, which is to be introduced in the Madras Legislative Council, I beg to submit that I strongly support the Bill and to state as follows.

2. A Mussalman marriage is but a civil contract. All civil contracts are safeguarded by enactments and rules thereunder in the interest of the public. Such safeguarding is necessary to prevent possible malpractices. Of all the civil contracts a marriage or a divorce is the most important for man's harmonious life. If such a contract is not safeguarded as other contracts of less importance, the harmony of domestic life is likely to be injuriously affected. A Mussalman marriage consists of very simple rites, and is made valid by the expression of consent on the part of the bride and bridegroom in the presence of necessary witnesses and vakil followed by a prayer for the well-being of the married couple. It was purposely made simple by our Holy Prophet so that neither the rich nor the poor may have the least hindrance to its performance. It must also have been considered that such an oral contract was sufficient in those days of simplicity and virtuousness. In these days of litigation, to satisfy which His Majesty's Government are increasing the number of law courts every year, such simple contracts are thwarted with impunity. False evidence has become a matter of daily occurrence, fabrication of records is made with dexterity, and suppression of facts is made with a veil of innocence. For most of the cases of Mussalman marriages and divorces a record is maintained, sometimes of doubtful nature, by the Kazis who soleminize the marriages or record divorces. Considering the litigous nature of the modern public such records are likely to be destroyed, suppressed or altered as the Kazis please, especially with mercenary objects. The civil law courts, in which claims of dowry and questions of divorces are fought, have to depend on the unsatisfactory documents that are produced by their Kazis, the entire denials of the existence of records of marriages and divorces or the other oral evidence adduced before them. It is not the intention of any Muslim or anybody else to allow the ends of justice to be defeated, on which depends the fate of many a contracting party. I believe that in most cases civil judges, who decide claims of dowry or questions of divorces, are not perfectly satisfied with the records of marriages and divorces, that are produced in their courts, or the oral evidence that is adduced. Such a state of affairs exists, because the most important of civil contracts, viz., marriages and divorces are not safeguarded by an enactment that prescribes the maintenance of an authorized record of such contracts. It will be unnecessary for me to quote instances of law suits by which, owing to the unsatisfactory nature of the records of marriages and divorces, many a family has been ruined or brought to shame.

3. Such an enactment is not against the Islamic Law, because there is no Islamic Law for or against the maintenance of such record, and cannot be considered to be an unnecessary interference on the part of Government, because marriage is only a civil contract. I remember to have read in the newspapers a resolution that appears to have emanated from some wilfully hostile quarters and which says that legislation of the kind proposed will be an unnecessary interference with the religious law dictated by our Holy Prophet. The resolution may be safely dismissed with the remark that our Holy Prophet did not dictate a law of a religious nature for or against the registration of marriages or divorces. If such an enactment be against the Islamic religious law, an Act of the proposed kind would not have been in existence for about 40 years in Bengal, the most advanced Presidency in India. The contemplated registration is intended to safeguard the material interests of a civil contract.

4. Considering all these circumstances the passing of the proposed Bill, into an Act will only be a boon to the Mussalmans of this Presidency. The Government have the best of intentions to safeguard the interests of the public and Government might have passed an Act enforcing the registration of marriages by persons authorized for the purpose had it not been for the fact that Government respect the opinions of the public.

5. I consider it necessary that Muslim Registrars should be appointed by Government making it obligatory on them to enter all the marriages they solemnize in the register supplied to them by the Government and to have the register signed by the parties and witnesses to the marriage, the mark of an illiterate person being regarded as signature if it is attested by a literate witness. It should also be made obligatory on Muslim Registrars to enter in the register such marriages as are sought to be registered by the parties to the marriage.

6. The next question to be considered is whether registration should be made compulsory or permissive. Considering the circumstances explained in paragraph 2 supra one should say that it should be made compulsory. But some parts of the Mussalman public might consider compulsory registration as a burden to them.

The penal provisions of an Act for compulsory registration, for failure to register marriages and divorces, may not create a healthy impression on their minds. An Act for compulsory registration is also likely to open a new field for mischief-makers. If any person wants revengefully to annoy or inconvenience a party to a marriage, that person may issue a notice to the concerned Registrar of the marriage that under some concocted circumstances the marriage should not be registered. The Registrar who is responsible to Government for the proper discharge of his duties will not take upon himself the burden of inquiring into the validity of the objection to register it. Consequently the parties to the marriage will be immensely inconvenienced and put to loss. On the other hand if the registration is only permissive the contracting parties need not look to the Registrar who might have been prevented from registering the marriage and will have it solemnized by any person. Though the objection be frivolous,

as it will be in most of the cases, the objector can very easily prevent the marriage when a compulsory Act is in force; but when a permissive Act is in force he will have to make out a case in Court of Law against the contracting parties at much cost and inconvenience after the performance of the marriage. Such and similar state of affairs will be prevented by a permissive Act. I therefore consider it sufficient at present to have a permissive Act of the kind proposed.

7. I beg to suggest a few alterations in the body of the Bill. In the definition of "Purdah-Nisheen" in lines 27 and 28 of the first page of the Bill the words "Might not ordinarily appear in public" may be substituted for the words "might reasonably object to appear in public". In section 3, line 35 of the first page of the Bill the word "areas" may be substituted for the word "limits". Similar substitution may be made where the word "limits" appears in the Bill. In section 6, line 17 of page 2 of the Bill the words "books" may be omitted and the word "register" may be altered into "registers".

(5)

Letter—from Khan Sahib S. K. Mohideen Cader Sha Marakkayar, Marakkayar Mahal, Tuticorin.
To—the Collector of Tinnevelly.
Dated—the 18th November 1918.

[Ref. R.O.C. No. 998 G.B., Revenue, dated 20th October 1918, inviting opinion on the draft Bill regarding "the Voluntary Registration of Mussalman Marriages and Divorces".]

I have the honour to reply that a copy of the resolution on the above subject and the speech made in connexion with the same by the Hon'ble Yaqub Hasan Sahib Bahadur in the Madras Legislative Council in its last session in the month of August 1918, was forwarded to me by the Honourable Member himself inviting my opinion and, today, I am sending a reply, expressing my entire sympathy with the said resolution and, if the same be passed in the Legislative Council, it would do an immense benefit to the Muhammadan community in general. I have the honour to attach herewith, a copy * of my views in Tamil as has been submitted by me to the Honourable Member's request, for your information.

* Not printed.

(6)

Letter—from Khan Sahib S. K. Mohideen Cader Sha Marakkayar, Marakkayar Mahal, Tuticorin.
To—the Collector of Tinnevelly.
Dated—the 9th December 1918.

In reply to your letter R.O.C. No. 998/G.B. Rev., dated 27th November 1918, I beg to say that I was in receipt of your letter C. No. 998/G.B. Rev., dated 26th October 1918, to which I sent you a reply on 19th November 1918 containing my opinion in the matter in point and to add that I have had the pleasure of going through the speech of the Hon'ble Mr. Yaqub Hasan with reference to the registration of Mussalman marriages and divorces and the arguments relating to it and that I entirely fall in with his views and I am in favour of the introduction of the proposed Bill.

(7)

Letter—from Muhammad Ibtiza Ali Sahib Bahadur, Government Kazi and Municipal Councillor, Tinnevelly.
To—the Hon'ble Yaqub Hasan Sahib Bahadur, Member of the Madras Legislative Council.
Dated—the 5th December 1918.

I am in receipt of your communication regarding the Bill introduced by you in the Legistive Council.

2. I as a Kazi welcome the Bill as it only enlarges the scope of the Kazi Act and strengthens the hands of Kazis. I understand the Bill as making the Kazi a real person and not the illusory and vague person he is under the Act. So I agree with you that Kazis may be appointed Muslim Registrars ex officio. But I differ from you in the matter of appointing or styling the Naib Kazis (who are the Kazis' nominees) also as Muslim Registrars. Naib Kazis are persons appointed and removable by Kazis. If they are also appointed and styled Muslim Registrars their removal may lead to complication.

3. There is another matter about which I have a doubt. Supposing a Kazi Muslim Registrar offends the Marriage Act and is removed. The offence under the Marriage Act may not be one under the Kazi Act and *as* Kazi he may continue to perform the *duties* of Muslim Registrar. I think you may have to propose some remedy for that *passe*. Moreover that may also lead to two Registrars for the same locality which you provide *against* in the Bill.

4. As a Kazi of this town I experienced certain difficulties in the matter of Kazi registers which we Kazis keep. I write to you in the hope that you will include provisions in your Bill to meet those difficulties. It is not infrequently that we are called on by Courts to produce our registers to prove the entries in them The Courts do not immediately return them after inspection but file them as exhibits and it takes years before we get back our books. Now what else can a Kazi do but keep another temporary register or a number of slips to note down the marriages and divorces that are celebrated in the interval? When the registers came back to him he has to re-enter them seriatim. If when the permanent register is out of his custody and when he keeps a temporary register or slips entries he is called on by any Court to produce the record of marriages what else can he produce but the temporary register or the slip entries? This is a difficulty that I have often experienced and my brother Kazis also must have experienced. But I admit that the system besides being faulty leaves the door open to fraud and persons so minded have thereby an opportunity of abusing their powers. To meet this difficulty I would beg to propose to you to insert a provision that a certified copy of the register under the Act may take the place of the original and the original should not in any event be removed from the custody of the Registrars. I understand there are similar provisions in the Banker's Books Evidence Act. In this connexion I would also beg you to move in the proper quarter to provide in the Kazis Act also likewise either by rules or by amendment of the Act. The Bengal and Bombay Governments have framed rules *under the Kazis Act* but in Madras so far as I know no rules have been framed on any topic.

5. There is another difficulty in the matter of styling or appointing the Kazis as Muslim Registrars. Suppose some Kazi refuses to accept the office of the Muslim Registrar but wishes to continue only as Kazi and records marriages in his own fashion. What about the safeguards in regard to the marriages so recorded? But then that is a matter to be considered if the measure is to be passed as compulsory. For my part I am for making it compulsory. In my opinion and I have reasons to believe that I am not of the minority that registrations of marriages and divorces is not against the spirit of Islamic Law or usage but on the other hand it is a step towards enforcing the Islamic Law of keeping valuable evidence of marriages and divorces.

6. There is another point to which I should like to draw your attention. The entry in the register as to Mahar—would this not come under the Stamp Act? It may be made clear in the Bill if it does or does not come under the Stamp Act.

7. Regarding the Naib Kazis I have another suggestion to make. They may be styled as Assistant or Deputy Registrars removable by the Chief Registrar, the Kazi. Their duties may be defined by the Kazis. They may be allowed only to act by delegation.

8. Regarding the powers of superintendence and control provision, I have just one word to offer. I should prefer the District Collector or the District Judge to be in that position rather than the District Registrar. I do not object to the books being sent to the District Registrar's custody and the other provisions regarding sending of returns. I would prefer the control to be by the Collector or the Judge of the District as the status of the Kazi surely entitles him to that privilege. You may at least make an exception in the case of Government Kazis in that matter considering that they have long occupied a position.

9. Your Bill does not provide for the returning or otherwise of the books and other records that are already in the custody of the Kazis.

10. Regarding the point whether in my opinion the measure should be made compulsory and if so on whom the responsibility should rest I am of opinion that it is the solemnisers that ought to be made responsible and not the parties or their vakils or the witnesses.

11. I cannot conclude without expressing my sincere thanks for your earnestness in this matter and wishing you success in the Council.

(8)

Letter—from R. Abjee Miah Sahib, District Board Member, Panagudi.
To—the Collector of Tinnevelly.
Dated—the 21st December 1918.

With reference to your letter bearing Current No. 998-General B. Rce., dated 26th of October 1918, requesting to consider the Bill for Registration of Mussalman marriages and Divorces to introduce which permission is sought by the Hon'ble Mr. Yaqub Hasan and to state my views with remarks if any, I have the honour to state my view as follows with the following remarks.

The necessity for such a legislative enactment to prevent malpractice, corruption and various kinds of abuses and to obviate chances for fabricating false evidence and forging documents for proving and establishing false claims, was felt for a long time as the present system of maintaining marriage registers is so loose and unsatisfactory that the chances for such abuses are very great and the registers maintained now are found unworthy of acceptance as evidence to prove the status and legitimacy of children and establish real claims in a court of law. As a result, owing to this faulty system of maintaining marriage registers there has been miscarriage

of justice in law courts. As far as I have ascertained from Ulemas and Faqees and other learned men of the community they are of opinion that such a legislation is necessary. In many respectable families the members have become quite so much disgusted of the many instances of such abuses frequently brought to their notice that a record of marriages and divorces is maintained for a group of families by themselves to prevent tampering with the entries in the registers though they are aware that such a record will not be accepted as recognized record in the face of the provision in the Town Kazi Act XII of 1880.

The necessity for such a legislation is not denied even by those who are opposed to leave being granted for introducing the Bill but it seems that they fear of opposition from Moulvis on the ground that the Government interferes in religious matters.

The fear of opposition from the Ulemas on the ground that it is a religious interference is only imaginary. No Alim who has understood the spirit of Islam rightly will oppose this Bill nor declare that Mussalman marriage is a religious ceremony nor any religious ceremony is necessary to make the marriage valid.

From 1864 to 1880 the system of appointing Kazis was discontinued. The result was that all sorts of corrupt practices and abuses in connexion with Mussalman marriages and divorces and the maintenance of registers crept in. The need for legislation was very keenly felt in every province. Bengal had a Bill for voluntary registration of Mussalman marriages and divorces passed so early as 1876 by the support of the Ulemas and other learned men and the Act is working satisfactorily. While this being the case, there is no reason whatsoever to fear that the Bill won't work satisfactorily in our presidency.

The provisions in the Act XII of 1880 are defective. The abuses and corruption practised in connexion with Mussalman marriages and divorces were not checked nor the chances for such abuses were reduced. The object of the Act was in the main frustrated. The Kazis appointed under the Act have no official status; nor he is responsible to any in regard to maintenance and preservation of marriage registers. The Act is not armed with sufficient provisions to check and remove the chances for the abuses while it affords facilities for such abuses. So there is necessity for a Bill before the council. In this Bill there is nothing new. This is purely based on the Bengal Act of 1876, and provisions are made to have the presence of a recognized official (who ought to be appointed by the president and chairmen of the local boards), at these marriages and for maintenance and preservation of these registers.

This Bill is supposed to be opposed to the spirit of Mussalman Law. There is nothing in this Bill which is not in accordance with the spirit of Islam nor there is anything which is contrary to (1) the Koran, (2) Hades or Sunnat (tradition handed down from the prophet) (3) Ijmai-Ummat (accordance among the followers) and (4) Keyas (the private judgment).

With these remarks I support heartily the Bill, permission to introduce which has been sought for by the Hon'ble Mr. Yaqub Hasan and in my view I am supported by Ulemas and Faqees in this part of this district and by the unanimous opinion of a large body of Mussalman public.

(9)

Letter—from P. T. C. V. Dewan Mohideen Ravuttar Sahib Bahadur, Pettai.
To—the Collector of Tinnevelly.
Dated—the 2nd December 1918.

With reference to your letters R.O.C. No. 998 G.B., Revenue, dated 26th October 1918 and 27th November 1918, I have the honour to submit that a gathering of the Muslims of Pettai was assembled at the Mosque yesterday after the Jumma Prayer to discuss the proposed Bill for the registration of Mussalman marriages and divorces. It was unanimously resolved that the Bill was quite unnecessary and undesirable. I beg to say that I also hold the very same opinion.

I beg to thank you for calling for my opinion of the Bill.

(10)

Letter—from Moulvi Muhammad Sharāfuddin Sahib, Professor, Arabic College, Pettai, Tinnevelly.
To—the Collector of Tinnevelly.
Dated—the 13th December 1918.

With reference to your circulars R.O.C. No. 998 G.B. Revenue, dated 9th and 27th November 1918, regarding *Bill for the voluntary Registration of Mussalman marriages and divorces* I have the honour to say that the Bill is viewed with alarm by the vast majority of the Muslim community as interfering with its religious sentiments and I beg to explain below a few of the objections raised.

The Bill is likely to be made compulsory very soon. The proposer of the Bill himself expects it and that is why, he says, he thinks it enough to make the registration voluntary at present, instead of making it compulsory. So then, we have to consider the good or evil thereof in the light that it will be made compulsory sooner or later. But the Muslim religious sentiment

is quite against such a sort of legislation. According to the Muhammadan Law, a marriage that is attested even by the oral evidence of two witnesses is absolutely legal and valid. But under the compulsory registration system, our law courts will not be able to recognise as valid any marriage that is not registered. Even under the voluntary system unregistered marriages will be regarded with suspicion by the courts. This is extremely subversive of the spirit of the Islamic religion and the principles of its law. Further, the Muslim mind cannot tolerate such an intrusion (as registration) on the solemnity of a ceremony which is highly religious. No Muslim regards marriage as a worldly contract intended merely for his own convenience and enjoyment, but as a sacred duty which he performs in obedience to the commandments of his religion. To reduce such a solemn affair to the position of a business transaction such as the sale and purchase of properties will be to undermine the moral health of the community and to retard its progress.

2. The registration, if it is to be an effective one, must be much more elaborate and complex than is proposed. It won't be sufficient to have the brides' application for registration and the entries in the register signed by two witnesses. Further the provision to register marriages within one month of their celebration and not on the spot is capable of much abuse. There is much room for disputes and litigation. Applications can be concocted and marriages and divorces registered without the knowledge of the parties concerned, especially in the case of the Muslim bride who is ordinarily illiterate and invariably a gosha (parda-nisheen) So then thumb impressions, etc., will have to be taken in the register, in addition to the entry of identification marks. This will place the registers in the hands of qualified and trained men, who must be paid sufficiently and the department will become as elaborate and expensive as the present registration department (for documents). And who is to pay for the cost of maintaining the department? Surely the parties whose marriages and divorces are to be registered. The more perfect and the more elaborate and expensive the department becomes the higher will be the fee charged for registration. This will be a great inconvenience to the rich and a great hardship to the poor. And the benefit that may be derived at such a high cost is only doubtful and certainly the game is not worth the candle.

Further the sweet assurance that the registration will be entrusted to the present Kazis and Pesh-imams, who generally solemnize the marriages will be simply nullified; for, as shown above, the registers will have to be placed in the hands of qualified and trained men.

3. Under such a system of taking thumb-impressions and entering identification marks, the inconvenience, expense and hardships entailed upon the poor Muhammadan lady, who is invariably *a gosha*, are immense. Those who have witnessed the plight of Muhammadan ladies in the case of documentary registration need no stretch of imagination to realise this.

4. And what is the benefit that is hoped to be derived from the registration at such a great inconvenience and cost? Is the door against all disputes and quarrels effectively shut? The answer is an emphatic 'no' while the ingenuity of fraud is able enough to baffle the strict vigilance of the Registration Department (for documents) and we have thousands of suits and disputes coming before the Law courts as to the execution of documents and alienation of properties, it will not be difficult for such a fraud to defeat the vigilance of the by far less able registrar of Mussalman marriages. Whether there is registration or not, disputes and suits as to marriages will exist as ever.

But it may be argued that the number of suits and the possibility of miscarried judgment will be by far less. But here we have to distinguish between (1) contracts relating to properties etc., and (2) contracts relating to life such as marriage, etc. The contracts coming under the latter head are, unlike the former, naturally such as to give no room for disputes. This is inborn in human nature itself. Man, even though he may belong to the lowest strata of society is not generally willing, and when he is willing he does not find it easy, to deny marriages, etc., contracted by him. Quite contrary is the case with contracts relating to the alienation of property and the sale and purchase of commodities. This is why suits regarding marriages, etc., are very rare and few, even now when there is no authorized registration. These rare instances of disputes are bound to exist even under the system of registration.

5. There is another reason urged in favour of registration. It is said that a person marrying a second wife sometimes tries to keep his second marriage a secret in fear of his first wife. But does the proposed voluntary system of registration obviate this defect.

6. It is to be clearly understood that there is already an effective system of private registration in vogue among the Muslims. The Muslim community throughout the whole country may be split up into a multitude of small congregations, each attached to a mosque. Each congregation possess a common burial ground. The marriages of the congregation are solemnized by the pesh-imam, who conducts the prayers in the common mosque and who owes his office to the good opinion of the congregation. In the mosque is kept a register which is taken to the marriage house by the pesh-imam, who is to celebrate the marriage. The marriage contract is written in it, signed by the parties and attested by witnesses as well as by the pesh-imam himself. All this is done on the very spot, before the marriage assembly disperses. It may be safely said that the marriage and the entry take place at the same time. Certain fees are levied for performing and registering the marriage which go towards the maintaining

expenses of the mosque. No other scheme of registration, however elaborate it might be, can be so very effective, authentic and genuine as this one. The entry is so very public and unquestionable.

It may be that defects are found in the working of the system here and there. But the removal of these defects must be left to the private efforts of the Muslim community and to such public bodies as may exist among them. In these days of self-reliance and self-help, when private institutions that can be of some use to the people are most willingly nourished and encouraged by the Government and such organizations as panchayats and self-management of local affairs are under experiment, it will be most deplorable to invoke the aid of legislation to kill an organization, which is doing immense good to the community and which in no way is less effective than the system which the proposed legislation is expected to bring into being. Such a legislative interference ought to be vehemently condemned, especially when it goes against the religious sentiments of the community concerned and is extremely liable to be misunderstood and wrongly interpreted by the common mass.

7. Let us imagine for a while what will be the state of affairs, should the proposed Bill be passed into law. It has been shown above that there is already a system of private registration in vogue and that certain fees are levied by the mosque in connexion with marriages. People cannot refuse to pay these fees, for if they do, they will have to forego the common rights to which they are entitled as members of the aforesaid congregation so, people will not be inclined to have their marriages entered in the licensed register; for, that will mean an additional taxation and a great inconvenience. They will be further encouraged in such an act of omission by custom and sentiment. In most localities the licensed register will not at all be applied for. Either with the legislation or without it, things will go on as usual without any alteration or improvement. Only in a very few localities the register will be applied for; and that will be through the efforts of individuals having some zeal for the legislation or some selfish object in view, such as income, etc., but not through the common mass feeling the necessity for it. Even in such localities, the register will not find an universal adoption. The common mass will not easily break off from their old sanctified custom and go in for these innovations, as a matter of sentiment and of means. Only those who want some special record of their marriages will have recourse to the licensed register. And when disputes arise about such marriages, the object and intention in thus going out of the customary way to register the marriages will have to be discussed. Thus, the licensed register, instead of being an unquestionable record will be one the entries in which will have to be regarded with suspicion.

Further, since the register will not be used by the generality of the people, it will not be a rarity to find registers with a few entries on only one or two pages during the whole year. So that after the lapse of a few years, the Government will have to face the question whether to make the registration compulsory or to abolish it altogether But, as shown already, it cannot be made compulsory, for that will revolt against the religious sentiments of the community and against the spirit of the Muhammadan Law. Quite a storm of protests will be stirred up. Hence it will have to be abolished. Why, then, so much bother about a scheme which is bound to fail.

So then, I think the Bill is quite unnecessary and uncalled for under the circumstances. It militates against the religious sentiments of the vast majority of the community and is likely to arouse great apprehension and misunderstanding, if passed into law.

Further, I beg leave to say that the Muslims of Pettai, assembled at the mosque on 29th November 1918 after the Jumma prayer, have entered their protest against the Bill and have authorized me to communicate the same to you.

So, I, on behalf of the Muslims aforesaid, beg that you may be pleased to consider these objections and forward the same to His Excellency the Governor in Council, so that the necessary steps may graciously be taken to prevent the Bill from being passed into law.

(11)

Letter—from Muhammad Ghouse Sahib Bahadur, Treasury Deputy Collector, Tinnevelly.
To—the Collector of Tinnevelly.
Dated—the 14th November 1918.
No.—D. Dis. 674 Acct.

With reference to your letter R.O.C. No. 998/G.B., Revenue, dated 26th October 1918, calling for my opinion on the draft Bill published at page 863 of the *Fort St. George Gazette*, Part IV, dated 8th October, regarding the voluntary registration of Mussalman marriages and divorces, I have the honour to state as follows :—

(1) The fact that the present Mussalman system of registration of marriages and divorces requires proper regulation and legislation cannot be denied. Ancient history of Arabia clearly indicates that a system of registration existed during the time of Muhammad the prophet (Peace be on him) and of his Khalifs, and that the registration was almost a 'Sunnath', which means compulsory. I believe that no conscientious Moulvi, i.e., a person well versed in

Muhammadan religion, can deny this. That the present system of registration is loose and does not prevent malpractices arising from want of a properly regulated system is admitted on all hands.

(2) The word 'Kazi' is not defined anywhere, either in the draft Bill or in the Kazi Act XII of 1880. Nor are the legitimate functions of a Kazi enumerated anywhere. The word 'Kazi' literally means a judge. He would write or pronounce 'Fathwas', i.e., authoritative decisions in civil and criminal disputes including divorce cases. But since the advent of the British regime and the establishment of Judicial courts, Kazis have ceased to exercise these powers, except in disputes of a petty nature and that too in rural parts. Solemnizing a marriage is different from registration. Kazis are recognized only as Registrars of Mussalman marriages and divorces. Solemnizing marriages is not one of their legitimate functions. Persons who are pious and well versed in Muhammadan Law and Ethics are generally appointed as Kazis and in practice they perform both the functions of solemnizing and registering a marriage. But when a more pious and learned person is available and present in the marriage congregation he will generally be requested to selemnize the marriage. This has been the practice in Arabia and Moslem countries and in India from time immemorial. Even if a person other than the Kazi solemnizes a marriage, the marriage is booked in the Kazis' registers. Ancient history of Arabia and Moslem countries and India would prove this beyond any reasonable doubt. It is therefore clear that solemnization of Muslim marriages is not one of the legitimate functions of a Kazi. The Bill as at present drafted does not provide for the grant to Kazis or Naib Kazis of licences for solemnizing Mussalman marriages, in which case alone it would interfere with the existing privileges which Ulemahs (pious and learned persons) and others enjoy of solemnizing marriages. The Bill, as at present introduced, provides only for the registration of marriages by the Kazis. There cannot therefore be any possible ground for the Ulemahs or others to dissent from the Bill. The Bill so far as it goes is therefore unobjectionable.

(3) The Bill as now drafted is no doubt an improvement on the existing state of things but it will, I believe, be a dead letter and will fail to bring about the desired effect, unless and until a provision is made therein making the registration of Mussalman marriages and divorces compulsory. But to provide that all cases of Muhammadan marriages and divorces should be registered to make them valid, is certainly opposed to the spirit of Muhammadan Law. An element of compulsion should, I think, be introduced into the Bill without at the same time rendering a marriage or a divorce void for want of registration. It is necessary to penalise the parties and their lawful guardians for neglect to register Muhammadan marriages and divorces. If provisions similar to those mentioned in sections 18 and 19 of the Birth and Death Registration Act III of 1889 are made in the Bill, the object of the Bill would be fully served and there can also be no reasonable objection to the Bill on the part of the members of the Muhammadan community.

(4) A Kazi or a Naib Kazi is seldom left uninvited during occasions of Mussalman marriages. He is generally present and in his presence, the Moulvi or Ulemah or any other person, if so requested, solemnizes the marriage after obtaining the consent of the contracting parties through the vakil, and it would therefore not be difficult for the Kazi to register the marriages then and there on the spot. It is only in rare cases of marriages that Kazis or Naib Kazis are not invited; and in these cases, the fear of penalty would compel the parties to register the marriage or divorce, though marriages or divorces without registration should be valid according to Muhammadan Law. A Bill on the above lines penalising parties for neglecting to register marriages and divorces but without rendering the marriages and divorces for want of registration is the only one in my opinion that can effectively remedy the defects in the existing system of registration.

(12)

Letter—from Muhammad Fuzl-ud-din Sahib Bahadur, B.A., B.L., Subordinate and Assistant Sessions Judge, Tinnevelly.
To—A. R. Cox, Esq., I.C.S., Collector of Tinnevelly.
Dated—the 29th November 1918.

With reference to your letter R.O.C. No. 988/G. B., Revenue, dated 26th October 1918, I have the honour to state as follows:—

The subject of registration of Muhammadan marriages, so far as this Presidency is concerned, is about a score of years old. It was, if I remember correctly, for the first time introduced by me while at the bar in Cuddalore, in the memorial submitted by the Mussalmans to His Excellency Sir Arthur Havelock on his visit to the place in the year 1899. What was then urged, so far as I remember, was amendment of the Kazi Act (Act XII of 1880) making it incumbent on a Government Kazi to attend marriages if invited and maintain register of marriages in a prescribed form. His Excellency promised inquiry into the subject and was pleased to do so. Thoroughly conservative opinion was then the order of the day, and the subject, which carried with it nothing of a religious nature, as I will presently show, was assumed to be of that aspect and give the full colour of it. The result was that the Government of the day was not prepared to take action in the matter.

(2) The object of the Bill as described in the Statement of Objects and Reasons and as can be gathered from the speeches of the Honourable Members, made, when the motion for leave to introduce the Bill was made, is the *preservation* of evidence of marriages, their terms and divorces as recorded in the loose form of registers as at present maintained by Kazis and others, who solemnize marriages, as, when necessity arises, those records are either not forthcoming or not forthcoming in the state originally recorded. There is nothing against religion in the *preserving* of evidence. Any portion of the Muhammadan Law relating to evidence pure and simple in relation to Mussalman marriages and divorces, has been abrogated by the Evidence Act and hence the subject is purely a temporal one.

(3) On closer scrutiny, it must be clear that the chief aim of the Bill is the preservation of evidence of *terms* of marriage contract and not so much its factum nor of divorce or its terms. Cases, where the marriage itself is questioned, are rare. An optional measure like the one proposed, cannot tend to minimise such rare cases. A compulsory measure would affect the religion, must strongly be resented by the community, and would be a novelty in this Presidency. Bengal, which has an optional measure for more than four decades, was not inclined towards making it compulsory. A compulsory measure even would not tend to minimise such rare cases so long as marriage relationship can otherwise be proved, as by opinion expressed by conduct under the General Evidence Act (section 50), or by the doctrine of 'acknowledgment' peculiar to Muhammadan Law. The Bill is certainly not intended to abrogate the above provision of the Evidence Act or to do away with the doctrine of acknowledgment. The Hindus, who form the bulk of the population of the country and have no records of marriages, do not feel the absence. There is then no particular reason why the marriages of Muhammadans which are generally registered though in loose form and among some of whom it is customary to keep private records of the marriage contract called Kabinnamehs, should be compulsorily registered for the bare purpose of proof of the fact.

(4) I see absolutely no reason for divorces being registered. Divorce is considered a sin and condemned by the Prophet himself. It is resorted to only in unavoidable cases and when accomplished, the parties evince the desire to forget the past relationship and to keep it as little exposed as possible. When the dissolution is effected, both the parties naturally take special care to create private record of the fact for future free action and to prevent the one from setting up any claim against the other.

(5) Is there then no necessity for the state taking any action? What is the real cause then for any complaint by at least a limited section of the Muhammadan community? The Muhammadan Law annexes to the marriage contract, besides the usual incidents attaching to it in other systems, the obligation by the husband to pay what is called dower to the wife. The amount is often fixed beyond the means of the husband and the object is to act as a check against the unrestricted power he commands under the law to divorce. This amount or the whole of it is not payable at once. Even the prompt portion of it is not enforced as must be natural while the parties live in happy terms. It is only when the relationship ends either by death or by divorce, the time comes generally to enforce the obligation. The Law of Limitation itself has been drafted so as to enable the marital parties or their heirs to enforce this obligation on the happening of such contingencies. (Articles 103 and 104 of Schedule II of the Limitation Act.) Thus the obligation comes ordinarily to be enforced either when the relationship between the original parties to the contract is strained or either or both of them are dead and it becomes the turn of the heirs of the one to enforce the obligation against the other or the heirs of the other, and by this time several years have generally elapsed since the marriage. Naturally one party (husband's) tries to escape out of it or minimise its amount while the other tries to exaggerate it. Here lies the necessity for a correct record of the marriage contract.

(6) In several places it is customary also for parents and other relations to make gifts to the bride of immovable properties besides ornaments and paraphernalia and these also used to be recorded in the marriage register. Here also the marriage register becomes very important as gifts of immovable property by Muhammadans are not affected by section 123 of the Transfer of Property Act relating to registration or any other thing in Chapter VII of the Act.

(7) The question may be asked whether preservation of evidence and that especially of terms of a contract is not the proper look out of the immediate parties to it and is there any necessity or expediency for State intervention for the purpose? In the first place the contracts in many instances are not entered into by the parties themselves but by their parents and guardians. There are cases where adult women as well (those of the Shafi and Maliki faith) who cannot lawfully contract a marriage without the intervention of jali (guardian for the marriage). In most cases rights and obligations arising out of the contract happen to be enforced not between the immediate parties to the contract but by the one or his or her heirs against the heirs of the other. It is obvious that Kabinnamehs made on the occasion of the marriage may not be available to the one who seeks to enforce any right arising out of it. They are exposed to the same risk and abuses as the loose form of registers kept now by Kazis and others.

(8) Thus showing the necessity for State intervention for the preservation of terms of marriage contract, I shall now proceed to consider if the proposed measure will really bring out its avowed object. By the way, it is hardly necessary to say that preservation of evidence of terms of a marriage contract will incidentally serve as evidence of factum of the contract itself.

9. In my humble opinion the measure instead of promoting its object will tend to defeat it. The preamble to the Bill, while not setting out its true object, is couched in language which is apt to be misunderstood. It, read with clause 1 of the Bill, is likely to lead to the misconception that marriages not registered under the Act carry with them something inexpedient in the very form marriages are solemnized and thus to affect the substantive law relating to Muhammadan marriages. The substantial provisions of the Bill (sections 8 to 10) are grounded upon the Muhammadan Law as to validity of marriages and divorces which is entirely foreign to the purpose of the Bill and this must lend additional support to the view that it aims at changing indirectly Muhammadan Law as to marriages.

10. Any necessity for the creation of new set of officers as Moslem registrars in addition to Kazis under Act XII of 1880 and in contra-distinction to them is not at all apparent. Of course the Bill provides for Kazis being given licence as Moslem registrars as a matter of course but they are by no means bound to do so. If it is intended to compel them to take licences or they themselves voluntarily apply, any necessity for their entity as Kazis under another Act disappears.

11. The Bill instead of aiming at the abolition or rectification of the loose forms of registers maintained by Kazis perpetuates it by creating a second voluntary registration in addition to or in some cases instead of it. The Bill will of necessity lead to double registration in several cases with no apparent benefit and will be cause for confusion and embarrassment.

12. Immense inconvenience must also be felt by the parties in complying with the provisions of the Bill and reaping any benefit to arise out of it. Unless the parties to the marriage, their agents, vakils, etc., whose presence is necessary for its registration according to sections 8 to 10 happen to belong to the same locality, it must in most cases be difficult to bring them altogether for the purpose of registration on a day subsequent to the marriage and within one month from it. They can ill-afford to dance attendance before the registrar on the marriage day itself. If inconvenience to the parties is to be avoided, the registrar must be compelled to be present at the marriage ceremony. Is there any necessity to do so? Is it not enough if the Kazi himself is compelled to maintain proper record of the marriage?

13. The Bill is highly objectionable in that it involves the parties in quasi-judicial inquiries before registrars in matters chiefly relating to the validity of the marriage after the event and when there is no controversy about the matter and probably after consummation in several cases by which any defect in the observance of the due form of the marriage is validated; and a refusal by the registrar to register a marriage for non-observance of any defect in the performance of the ceremony as he ought to or for unavoidable absence of any persons whose presence is necessary for the purpose of registration must provoke the feelings of the parties and the community especially when the Bill is silent as to the effect of registration (of course rightly).

14. There might have been some necessity for the Bengal Act of 1876 as no Kazi Act was then in force. The Right Hon'ble Mr. Amir Ali in his treatise on Muhammadan Law, Vol. II, third edition, page 328, foot-note, observes as regards the working of that Act. "It has since been acknowledged that great difficulties arise in the administration of justice from the permissive character of the Act." An enactment which does not satisfactorily work in the province of its birth and where the Muhammadans are of better culture, enlightenment, social position and influence and are found in larger numbers is not a fit measure to be experimented upon in this Presidency where they are in less favourable position in every respect.

15. As observed in the Statement of Objects and Reasons of the Bill, Muhammadan marriages are generally registered by the Kazis and other persons that solemnize them. To prevent the records being subsequently tampered with or secreted or otherwise lost, it is necessary and sufficient that due provision is made for their proper preservation. This will amply be provided for by making it incumbent on the Kazis to attend marriages, if invited, register the marriages which they solemnize and send extracts of the same to the nearest Sub-Registrar and the register when completed, and amending the Kazi Act and, if necessary, the Registration Act. This was exactly what was prayed for in the memorial to His Excellency Sir Arthur Havelock by the Cuddalore public about two decades ago.

16. By my proposal, the public are not at all inconvenienced and so far as they are concerned registration remains voluntary. At the same time registration becomes compulsory as marriages are generally now registered. When the public see the practical utility of the measure they must find themselves forced to resort to Government Kazis for solemnization and self-styled and self-elected Kazis of the present day must in course of time disappear.

17. I would therefore advocate the amendment of the Kazi Act on the lines indicated above.

18. The cause for the public opinion hitherto against any measure for the registration of marriages is due to the fact of the true aspect of it not having been placed before them. But times have somewhat since changed and I do not believe there is any likelihood of the object being misunderstood, if its true character is properly laid before the community.

16

XXXIV

Petition—from Hakeem Saiyid Shah Muhammad Sibgatullah Husain-ul-Quadiri "Noor", Secretary, Anjuman-i-Ahla-I-Sunnat-O-Jammat, Madras.
To—His Excellency the Governor of Madras.
Dated—Triplicane, the 7th January 1919.

May it please your Excellency,—The humble petitioner takes the liberty of submitting the following resolution which has been unanimously passed in a protest meeting held under the auspices of "Anjuman-i-Ahla-I-Sunnat-O-Jammat" held on Saturday the 4th instant at Ameerun-nissa Begum Sahiba's mosque, Triplicane, at 9-30 p.m. with Moulana Moulvi Muhammad Kudrath Haleem Sahib Nasari in the chair:—

"That this Anjuman-i-Ahla-I-Sunnat-O-Jammat strongly protests against the Bill of Registration of Muhammadan marriages and divorces introduced in the Legislative Council by the Hon'ble Yaqub Hasan Sahib as it is against the principles of our religion and it requests the benign Government not to pass the said Bill as marriages and divorces come under religion."

XXXV

Letter—from Hajee Saiyid Muhammad Abdur Rahaman Sahib, Royapetta.
To—the Collector of Madras.
Dated—7th January 1919.

With reference to your R.O.C. No. 1351-B & G., dated 11th November 1918, I have the honour to state that the Bill introduced by the Hon'ble Yaqub Hasan Sahib is contrary to and conflicting with the established Muhammadan Law. Marriages and divorces are not matters purely social. They are religious ceremonies and no interference with these ceremonies except on religious consideration can be allowed. It is stated in the Bill that registration is voluntary and not compulsory; this is misleading. It is compulsory for all practical purposes and any compulsory interference with religious tenets of Islam has the local effects of making the country a Darul Harub. Alaman: Alaman: Alaman.

The Honourable gentleman is not a Moulvi and has no expert knowledge of our religious books. He belongs to a community converted to Islam in recent years. This community observes Hindu Laws and principles. As a representative of Muhammadan community, his interference with matters religious is injurious to the Islamic principles. It is a sin to declare things not permissible by law having sanction of 'Koran'.

We hope the benign Government will not allow the Bill to be passed into law, as it is contrary to our religion.

XXXVI

Letter—from P. A. Kunhahamed.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—Cochin, 13th January 1919.

I humbly beg to submit that a public meeting was held yesterday at Halara Musjid Cochin, under the presidentship of Mr. A. Kunhahamed to consider about the Honourable Yaqub Hasan Sahib's marriage register Bill favourably. There was a large gathering. The majority was against the Bill, so the meeting was disturbed.

XXXVII

Letter—from C. B. Cotterell, Esq., c.i.e., I.C.S., Collector of Ganjām.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—Camp, Russellkonda, the 20th January 1919.
No.—R.G.B. 1554-Cor.

I have the honour to submit the report called for in the Government Memorandum No. 1519-8, dated 12th October 1918, on the Bill to provide for the voluntary registration of Mussalman marriages and divorces.

2. There are not many Muhammadans in the district; such as there are, are chiefly concentrated in Russellkonda, Chicacole and Berhampur. Their opinions have been taken and they are generally strongly in favour of the Bill. The opinions are enclosed.

3. The Muhammadans of Russellkonda suggest that clause 20 of the Bill may be amended by extending the appeal time to thirty days and by providing an appeal against the Muslim Registrar's order under clause 19 to a panchayat of five persons, four selected by the parties at two each and the fifth by the four panchayatdars, instead of to the District Registrar.

4. The appeal time may be extended to thirty days but the Muslim Registrar's decision should not, I think, be appealable to a non-official body. To overcome the difficulty of the District Registrar not being a Muhammadan in most cases, I suggest that Muhammadan assessors should be appointed for fixed periods to advise the District Registrar in such appeals.

Enclosures

(1)

Letter—from H. Mir Faizullah, Medical Practitioner, Berhampur.
To—the Tahsildar of Berhampur.
Dated—the 22nd December 1918.

[Reference your R.O.C. No. 3343, dated 19th December 1918.]

I have the honour to inform you the opinion of the Muhammadan community regarding the Bill to provide for the Mussalman marriages and divorces published in the *Fort St. George Gazette*, page 863, and public meeting of the Muhammadans was held on Friday the 13th instant at the Jumma Mazjid and all unanimously agreed that the above-mentioned Bill may be passed. Signatures of some of the prominent men who were present at the meeting are taken on the margin to signify that they are in favour of the Bill.

1. Muhammad Faseeluddin.
2. Muhammad Yusuf Bhat, Acting Khazi.
3. H. M. Sadatullah.

(2)

Letter—from the Government Kazis, Chicacole.
To—the Tahsildar of Chicacole.
Dated—9th November 1918.

With reference to your notice, dated 6th November 1918, requiring us to express our opinion in regard to the proposed introduction of a Bill to provide for the voluntary registration of Mussalman marriages and divorces published in page 863 of the *Fort St. George Gazette*, dated 13th August 1918, we beg to state that, after deep consideration, we are of opinion that the proposed Bill suits the wishes of the Muhammadans of this place as it not only removes the present disabilities but also safeguards the wishes resulting from the present system of record of marriages by Kazis, Naib Kazis and officiating Kazis.

XXXVIII

Letter—from the Muhammadans of Parlākimedi, Ganjam district.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—the 7th November 1918.

We have gone through the Bill to provide for the voluntary registration of Mussalman marriages and divorces and we agree to the provisions of the Bill. The provisions in the Bill are almost in accordance with the existing practice.

XXXIX

Letter—from F. B. Evans, Esq., I.C.S., Collector of Malabar.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—Calicut, the 22nd January 1919.
No.—D. Dis. 6753/18.

[Memorandum No. 1519, dated 20th October 1918. Bill to provide for registration of Mussalman marriages and divorces.]

I append a precis of the opinions which I have received. I have quoted at length where I have thought it advisable to do so: and have repeated some criticisms of detail which seem to me useful.

2. It will be seen that opinions are very divided. A majority of about two to one is against the Bill: and I think that the most weighty opinion is against it. Of course in any such matter it is to be expected that conservatism should be more pronounced than the demand for reform; and that is no doubt the reason why such legislation is usually framed in permissive terms. But I doubt whether such a Bill as the draft would be of any real use: and I do not think that in Malabar the defects of present practice are sufficiently great, or public opinion sufficiently strong, to justify a compulsory enactment.

Enclosure

Précis of the opinions.

1. *A. Khader Kutti Sahib Bahadur*, B.A., L.T., *Headmaster, Training school, Calicut.*—Such a legislation appears to me to be very necessary for this district. For, marriages are sometimes performed by moulvis who are not Kazis or Naib Kazis. These are not recorded at all. As regards the marriages performed by the Kazis and their Naibs, the records kept by them are often flimsy.

2. *Khan Bahadur Chekkutty Sahib Bahadur, Retired Inspector of Police, Manjeri.*—The Bill provides only for voluntary registration and, in my opinion, even if carried into law will practically be infructuous without compulsory registration. The case of the Malabar Marriage Act of the Hon'ble Sir Sankaran Nayar is an instance in point. The Government, wedded as they are to religious neutrality, may not make the Bill compulsory against the wishes of the people affected: but in my opinion unless this is done there is no useful purpose served. I, therefore, am for dropping the Bill in its present form.

3. *M. Bava Sahib Bahadur, Sub-Assistant Inspector of Schools.*—Many leading Mussalmans, Thangals and Musaliars have agreed with me in considering that the Bill contains all the particulars required and that to have such an Act as this is an absolute necessity. Now there is every sort of confusion in the case of Mussalman marriages and divorces inasmuch as there is no record to be relied on when dispute occurs. But I am of humble opinion that unless registration is made compulsory the object aimed at will never be achieved. Further, before settling all the disputes regarding Kaziship of each place, the Act will not satisfactorily work even if it is made compulsory.

4. *Kakulangara Pazhayagath Saiyid Muhammad Habib Thangal, Kazi of Baliapatam Jumath mosque*—

(i) *Clause* 3.—It is not desirable to take away the authority enjoyed by the Kazis and their tarwads during the last 1,000 years and more. If it is proved that a Kazi has committed any fault, he may be removed or suspended from the place; but his next heir should be appointed to the post.

(ii) The power of giving licences and seals to the Naib Kazis should be given to the Kazis. If a Naib is dismissed by the Kazi or retires from service, the Kazi should make a proper entry in his book, obtain the Naib's signature thereto and report the fact to Government or the District Registrar.

(iii) *Clause* 9 requires that application should be made to the Mussalman Registrar with a fee of Rs. 1-4-" within a month Marriages are ordinarily of three kinds:—(1) about two weeks or one month before the actual date, the parties agree to effect the marriage and 'Mangalam' on a fixed date; (2) the parties agree to marry within a day or two or a week and to effect 'Mangalam' one or two months hence; (3) marriage is settled all on a sudden and performed by the Kazi without 'Mangalam.' The requirement of one month's notice is therefore likely to cause inconvenience to the parties. It should therefore be enacted that as soon as the marriage is settled, the parties should produce Rs. 2—the fee now demanded—and apply for registration.

(iv) *Clause* 9.—It has to be settled as to who should act as a witness or vakil for the identification of women who have no relatives. According to Mussalman law, the authority to get such women married belongs to the kazi.

(v) *Clause* 10 requires that two witnesses should testify to the identity of the divorcer. But if the kazi knows him personally no witness seems necessary. It is enough if the kazi writes in the register that he knows the party.

(vi) *Clause* 15 has laid down a search fee of As. 4 and a copying fee of Re. 1. This is insufficient to meet the cost of entertaining a clerk. The kazis have no salary; but we demand a fee of Rs. 2 for every marriage. If the parties are rich, they may pay more. If marriages are performed from the houses of the parties by kazis or naibs, they are paid from Rs. 10 to Rs. 20. But such marriages are rare and far between. When naibs perform a marriage, they receive Rs. 2, pay Re. 1 to the kazi and keep Re. 1 for themselves as a consideration. This practice has been in existence during the last 1,100 years and our religious books prohibit a deviation from long-established custom. It should therefore be enacted that the kazis and naibs should receive fees as at present and that the naibs should pay Re. 1 to the kazi.

(vii) Under clause 20, an appeal lies from the Mussalman Registrar's decision to the District Registrar. But it should be enacted that the District Registrar can modify the former's decision only after consulting other kazis.

(viii) *Clause* 22 requires that as soon as a register is used up the Mussalman Registrar should send it to the District Registrar or some other officer empowered by him. In order to facilitate future reference in cases of doubt, it is highly necessary that an index or copy of the register should be maintained by the Mussalman Registrar at the kazi's expense. It should also be enacted that when a Mussalman Registrar leaves a district in which he holds kaziship, he may appoint a member of his tarwad as his substitute and report the fact to the District Registrar.

(ix) I may here be permitted to add a few words on a subject which has not been mentioned in the Bill. When a man marries a woman before a kazi or naib, the parties agree to pay each other certain sums of money as dowry, marriage consideration, expenses of maintenance, etc. If they fail to fulfil the promise in due time they apply to the kazi for enforcement of the agreement. The kazi takes the necessary evidence and decides the case on the merits. The kazi's decision is very often produced in courts as evidence. This decision is generally written on ordinary paper. It should be enacted that such decision should in future be written on ad valorem stamp paper as is done in courts of justice and that an appeal should lie from the kazi's decision to the District Court. Such an enactment would save the parties from much inconvenience.

5. *Khan Bahadur O. Mammi Kunhi Haji, timber merchant and contractor, and late Chairman of Municipal Council, Cannanore.*—I am in agreement with the provisions of the Bill, but I hold that this is not the opportune time to legislate on this subject.

6. *M. Abdulla Moulvi, President of the Hidayathul Mussalman Sabha, Manjeri.*—A meeting of the Hidayathul Mussalman Sabha of Manjeri was held on Sunday 1st December 1918 to consider the Marriage Registration Bill. More than 50 members attended the meeting. Mr. K. Mamath Moyan Kurikkal spoke at length about the necessity of the Bill and its importance to the Mussalmans, but subject to the following modifications:—

(*a*) The inscription bearing on the seal mentioned in section 4 of the Bill should be either in Arabic language or in the vernacular spoken in particular places.

(*b*) If the application be for registration of a divorce mentioned in section 8 of the Bill, other than of the kind known as khula, application shall be made to the Moslem Registrar by the woman, her father or by an authorized vakil, if not by the man who has effected the divorce.

(*c*) According to the strict laws of Moslem marriage a Shafi woman has the right to effect a divorce if she thinks it necessary; but the Marriage Registration Bill which is placed before the public for consideration provides no means for the exercise of the right on the part of a Shafi woman. This is a serious defect which must be removed. Therefore if a Shafi woman gives notice of her intention to effect divorce to the Moslem Registrar, the Moslem Registrar after giving due notice to the person must take account of it and register the divorce according to section 9 of the Bill.

(*d*) According to section 20 of the Bill, an appeal is allowed to the District Registrar from the Moslem Registrar. But he must consult, before giving the final decision on the appeal, two Muhammadan members who are well versed in the Muhammadan law. This is a defect for which provision must be made in the Bill.

(*e*) The poor should be exempted from the registration fee. These proposals were cordially supported by Mr. K. Aidru, the manager of the sabha.

Mr. K. Unny Moyan Haji then rose up and vehemently opposed the Bill and in doing so he laid emphasis on two points which carried the audience with him. He said that the Bill was fraught with more evil than good and that the kazis who did not know any language other than Arabic would not be in a position to maintain the register properly as is desired in the Bill, and that the appointments of the Registrar being few and far between in a district, the parties desiring marriage would be put to the greatest difficulties and disadvantages. Hence he was for rejecting the Bill in toto. In this he was enthusiastically and cordially supported by Messrs. I. Moidin and P. Kunhimoyi.

The proposals of the two parties being put to vote it was found that the majority was against the Bill. Thus it was finally resolved that such a Bill as is introduced by Mr. Yaqub Hasan is not beneficial to the country and that it is fraught with more evil than good.

7. *Puthiamalikakkal Kochithakiavil Thottummukath Puthen Veeti Ponnani Valiajarathingal Said Abubakker bam Hadroos Valia Thangal of Kakkuth amsam and desam, Walluvanad taluk.*—The times and circumstances require such a Bill very badly and it ought to have been brought in earlier. The registration fee of Rs. 1-4-0 will fall heavily on the poorer classes. The rate should be made proportionate to the amount of the dowry.

Clause 3.—In Malabar the mosques of Shiahs and Sunnis are situated close to each other. The two sects do not intermingle. The permanent kazi of the Sunnis should be given a licence covering all the mosques under him and he should register a certificate in favour of the naibs under him.

When a man wishes to marry more than one woman, the kazi does not make inquiries as to the capability of the man to maintain her with the result that poor persons marry more wives and propagate many children whom they cannot maintain. This gives an impetus to thefts and dacoities and leads to disastrous results. Marriages of this sort should not therefore be allowed.

As there are several castes and classes among Mussalman, registration of intercaste marriages should not be allowed. If not, women of the higher classes may find it difficult to get proper husbands. Men belonging to the lower classes may mislead women of the higher classes to marry them and thus bring disgrace upon their tarwads. It is therefore highly necessary that sufficient precaution should be taken in such cases. Applicants for registration should therefore be required to produce a yadast from the kazi or naib before the Registrar.

8. *C. C. O. Alipi Sahib Bahadur, B.A., B.L., District Munsif, Chowghat.*—I am of opinion that a Bill like this is most essential in the interest of the wellbeing of the Mussalmans of this Presidency. In my experience both at the Bar and on the Bench as a Munsif, I have come across many cases which justify the necessity for such a Bill. There is an impression among orthodox Mussalmans that it is the duty of the kazi or the naib kazi to keep authentic records of such marriages. In practice, except in the case of a few towns, no such records are kept so far as the kazis and the naib kazis on the West Coast are concerned. There are all sorts of kazis among the Mussalmans on this coast. Some are very respectable people. Some are appointed by Government. About these men it may be said that generally they keep an authentic record of marriages celebrated by them. Of the rest the same thing cannot be said. I have come across many cases where unscrupulous men have escaped their legal liability to maintain their wife and children by a denial of the factum of marriage when the woman and children were unable to establish their case by good evidence In the majority of cases the parties have to depend upon pure oral evidence to prove marriages and divorces. It is necessary to point out that according to no Islamic school of thought marriage is a religious ceremony though it is always in practice conducted in a purely religious atmosphere. According to every school of Mussalman law the marriage relation is a contractual relation created by the agreement of parties, and no religious ceremony is required to complete it. According to Islamic Sunni law all that is necessary for a marriage is the proposal and acceptance between the bridegroom and the bride or their agents in the presence of two witnesses. It will be found that the subject of marriage is one which is least connected with religion except in very few matters. Every attempt should be made to make the procedure of registration as simple and informal as possible. In the first place, the seal of the Moslem Registrar should be in Arabic character and not in Persian as more Muhammadans know Arabic than Persian. In section 10 of the Bill the provision making it compulsory for two witnesses of the marriage or divorce to sign the entry should be removed. It is enough if the entry contains particulars relating to the names, address, etc., of the two witnesses. Again it is enough if the entry is signed by the parties or their authorized agents. Even now marriages could be entered into through mere agents. It should not be made necessary that the bride and bridegroom should sign the entry. It is enough if their duly-authorized agents sign. So also it should be provided in section 8 that the application for registration may be made by the joint application of the agents of the parties to the marriage. Where the application for registration is made by agents it should be provided that such agents should have authority duly attested in the manner in which vakalatnamas are now attested. This provision is necessary to provide against false personation or fraud on the part of the persons professing to be agents.

It is well known that on the West Coast and among some Tamilian Muhammadans, large sums of money are customarily given by the bride or her relations to the bridegroom on special terms. For example, Kazi panam and stridhanam are given to the bridegroom among the Mappillas of the West Coast. These sums or property are generally returnable on the termination of the marriage according to custom. There should be an entry in the register A giving particulars as to these payments or agreements for payments of these. Similarly, in form B there should be an entry as to the refund of those or agreement as to repayment of those. The amount and conditions of these payments often lead to a large amount of litigation among Muhammadans on this coast. Hence the necessity for these entries in these forms.

It is also necessary to provide expressly in section 17 that the Inspector-General should have power to make rules as to how the fees collected by the Moslem Registrar under the Bills are to be utilized.

9. *Khan Sahib P. Koonjayan Sahib Bahadur, retired Deputy Collector, Mahe.*—There is no urgent demand for legislation on the lines sketched out in the Bill. As far as my knowledge goes quarrels arising out of marital relations and leading to law courts are extremely rare—I may say almost nil—among Mappillas of North Malabar. In South Malabar such cases are sometimes heard of, but this number is too small to justify legislature interference, be it voluntary or compulsory.

As matters now stand, if any one desires to secure documentary evidence of marriages and divorces there are other means already available. For instance, the parties can very easily draw up a simple form of document and have it registered in one of the numerous registration offices with very little expense and trouble. This will furnish undoubtedly far better evidence than the record maintained by an uneducated and apparently irresponsible Registrar created by the proposed Act. So that no special enactment or machinery is necessary for voluntary registration.

In order to effectively guard against abuses of the nature the author of the Bill has in mind, nothing short of compulsory registration will be of any use. To think of enacting a law for compulsory registration at the present stage of secular education among the community is quite out of the question. Mussalman marriage is, as has been pointed out by the author of the Bill, "a very simple affair." Any one who is able to correctly dictate the few essential words of the formula can effect a marriage. This simple method prescribed by the religious law will have to be interfered with by declaring that marriages, etc., performed by licensed persons alone will be valid. This would mean open interference with religion which will be heartily resented by the community and opposed with all their might. From experience I have lost faith in the general belief that legislative enactments of the nature in contemplation will have the effect of reducing quarrels and litigation: on the other hand it will have the contrary effect and will drive parties to law courts on the slightest provocation and all sorts of dirty linen will be washed there.

10. *M. Ussan Kutti Mouliyar, Kazi of Cannanore.*—A regular register of Muslim marriages and divorce according to our Sharah has always been maintained by us and true copies are issued to the parties when required.

Some other points shown in the above Bill cannot be taken into force as they are against our Sharah and troublesome to men.

11. *The Mahadunn Tahngal, Ponnani (a high religious authority).*—The proposed law is highly desirable and will prove very useful to the Mussalman community. The present unregulated system gives rise to unnecessary disputes as to the validity of marriages. Persons having no religious status and learning are now consecrating marriages which are highly objectionable to our religion. The provision in section 3 of the Bill that any person being a Mussalman is eligible to be granted a certificate is objectionable and opposed to our "Sharah". The appointment of Registrars must be made firstly from among the existing Kazis who are of ancient families and secondly from amongst those who possess necessary learning and respectability.

12. *The Sultan Ahamed Ali Raja of Cannanore, Cannanore.*—I am not in favour of it. We have been getting on well enough up to now, and the motion for legislation does not appear to be called for as yet.

13. *Palliveettil Muhammad Haji, Cadiar, Calicut.*—As the enforcement of the rules mentioned in the Bill lead to increasing difficulties and losses, it will be very difficult to enforce them.

As the Act does not render invalid, merely by reason of its not having been registered, any marriage or divorce which would otherwise be valid and does not render valid by reason of its having been registered any marriage or divorce which would otherwise be invalid and since registration is not compulsory, no body is likely to undergo the troubles incidental to the compliance with the rules mentioned in the Bill. If the Act is made compulsory, it will lead to difficulties and losses and may go against religion.

If the Bill is brought into force some men may follow it while others may disregard it. The result will be that the Courts may look upon with suspicion and refuse to accept unregistered marriages and divorces. The serious consequences of such a contingency can be easily imagined.

If the registers at present maintained by the Cadis are deemed unsatisfactory, it would be enough if they are asked to maintain proper registers containing all the particulars required by the new Bill.

14. *Kayanadath Kunhamad Kutti Musaliar, Government Cadi, Tellicherry.*—As the evils resulting from the Bill exceed the benefits to be derived therefrom, I am of opinion that the Bill should not be passed into law.

15. *P. M. Aitakoya Tangal, Quilandy.*—Although the Bill is purely permissive, there appears to be no likelihood of its becoming popular, at any rate among our community on this side. At the same time in the event of its being passed and its provisions made use of, the only result may be to breed disputes and misunderstandings. In spite of its defects and shortcomings our existing system is on the whole quite good enough for all practical purposes.

As regards paragraph 20 of the Bill, it strikes me as being extremely strange and undesirable that an appeal from the order of a Muslim Registrar well versed in religious matters should lie to a District Registrar who would certainly be not so versed.

In religious matters, fraud and deception are happily very rare, but if it is intended, by the Bill to provide a better regulated system, I submit that this object could more easily be attained by Government providing Kazis with printed registers on the understanding that these should be regularly and properly maintained and be produced for inspection whenever occasion may arise.

The proposed legislation is neither called for nor necessary and had better be postponed until a real demand for it has revealed itself.

16. *Khan Sahib P. A. Ammoo Sahib Bahadur, Deputy Collector, Calicut.*—Almost all the Muhammadans I consulted and also most of the Muhammadans in other places whose opinions I have been able to read in newspapers are against the Bill. My own opinion is that when there is such a stout opposition against the Bill from a majority of the members of the community whom it concerns, the Government should not allow the Bill to be passed into law whether such opposition be based upon a misconception of the object of the Bill or not.

As a matter of fact, every Kazi whether appointed by Government or not in this district is maintaining a regular register in which all the marriages solemnized by them or by their subordinates and all divorces intimated to them are recorded as a matter of course. In no respectable family in Malabar, I have ever heard of a single case of marriage being called in question. The divorce amongst them are very rare. Among poor people also disputes regarding validity of marriages or divorces are few and far between. Only those marriages that are not solemnized by Kazis or their subordinates and those divorces that are not intimated to them do not find a place in any register, but the proposed Bill does not remedy this defect. If the Bill be passed, the Kazis will have to maintain two sets of registers, one for all ordinary marriages and divorces and the other for voluntary registration. The effect will be the latter being subject to the control of Government officials, the former is likely to be discontinued. If, instead of the proposed complicated Bill, the Kazi Act be amended so as to make it incumbent upon every Kazi or Naib Kazi appointed under the Kazi Act, to maintain a consecutively numbered register for recording all marriages solemnized by them and all divorces intimated to them, failure to do so being punished with suspension or removal from office, I think the desired object can easily be attained.

Section 3.—According to the proviso, no more than one person of the same sect Sunni or Shiah can be licensed within the same limits. In Calicut, Tellicherry, Quilandi and other places there are already more than one Kazi having concurrent jurisdiction for the Sunni sect of whom only one Kazi is appointed by Government under the Kazi Act. Thus if the Government appointed Kazi alone be licensed, those Sunnis who follow the other Kazi will have no chance of voluntary registration. Hence this restriction should be removed and all applicants should be granted licences.

Section 4.—The seal should bear the inscription in the Arabic and the Vernacular character and language.

Section 8.—In the case of divorce other than the kind known as Khula, not only the man who has effected the divorce, but also the woman or her father or her authorized vakil should be allowed to make an application for registration.

Sections 8 *and* 9.—It is lawful under Muhammadan law for a woman of the Shafi sect to effect a divorce known as Faskh under certain conditions. Hence in such cases application should be allowed to be made by the woman, her father or by an authorized vakil and the Muslim Registrar after giving due notice to the person concerned allow the registration.

Section 9.—A fee of Rs. 1-4-0 is provided for registration. This will exclude many a poor desirous of voluntary registration. Registration must therefore be made free.

Section 16.—Almost all the District Registrars in this Presidency are non-Moslems. The Moslem Registrars are mostly learned Kazis and Moulvis will have sentimental objections to perform their duties which are purely religious under the control and superintendence of the non-Moslem Registrars.

Section 20.—Similarly it would be unwise to legislate that a decision passed by a Moslem Registrar who is usually the most learned Kazi or Moulvi may be interfered with by a non-Moslem District Registrar who is expected to know nothing about the Muhammadan law.

17. *Moulvi A. Kunhi Ahmad,* the president of the meeting held on Sunday the 12th January 1919 at Kalvatty, British Cochin.

The above meeting passed a resolution in favour of the Bill.

XL

Endorsement No. 434-1, Home (Miscellaneous), dated 15th January 1919.

The Persian and Hindustani Translator to Government is requested to furnish the Government with an English translation of the accompanying petition in Hindustani.

(By order)

C. Ramanuja Achariyar,
Registrar.

The Persian and Hindustani Translator to Government.

XLI

Letter—from W. J. Prendergast, Esq., B.Litt. (Oxon), Acting Persian and Hindustani Translator to Government.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—Madras, the 27th January 1919.
No.—4.

With reference to endorsement No. 434-1, Home (Miscellaneous) Department, dated 15th January 1919, I have the honour to return the Hindustani petition with an English translation.

Enclosures

(1)

Petition—from the Government Kazi and others of Kurnool.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—the 15th December 1918.

There is no doubt that the objects, with which Mr. Yaqub Hasan has introduced his Bill, are based on the well-being and betterment of Mussalmans in general. But the Bill appears to be entirely devoid of benefit to the community, for it does not appear to contain anything calculated to remove existing defects.

With reference to the Bill it has been asked whether it is to be voluntary or compulsory. If 'voluntary' instead of being beneficial it will be entirely injurious. If 'compulsory' it may be expected to do much as regards the systematizing and amelioration of matters pertaining to marriages and divorces.

Yaqub Hasan Sahib has drafted the Bill in a manner so as to avoid interference with religious matters but still it does interfere and hence the criticisms of certain objectors are justified.

For instance a certain person marries a virtuous woman but this law contains loopholes which fraudulent and deceitful persons take advantage of. After the marriage the man puts off registration and eventually declines to have it recorded by the Moslem Registrar, or have it registered in an ordinary register, as he is empowered to do. From the very beginning he entertained a different idea. In this case will the marriage of this man, that has not been registered with the Moslem Registrar, be legal according to Muhammadan law or no? If legal, will the judicial authorities, the Collector, the Judge, the Munsif, Government officers, grant a decree in connexion with such marriage, for maintenance, mahar (dower), inheritance and cohabitation, etc.? If, in spite of the marriage not being registered with the Moslem Registrar, a decree can be granted and despite the law of registration the ordinary register is valid, what additional benefit can accrue from the Government taking all this trouble to pass the Bill into law? The ordinary registers will continue in the same irregular and slipshod condition.

If the marriage is considered invalid because it has not been registered and a decree be not granted in consequence, a serious objection will arise against the Government, viz., that the Government by regarding a marriage invalid, that is valid according to Muhammadan law, is interfering with religion.

In addition to this the rights of old hereditary kazis appointed by the Government will suffer much and they will be victims of the Government's high-handed procedure. That is to say the fees they have been in receipt of for generations and upon which they rely for the support of their families will be discontinued. We can easily prove this statement.

Hence if Mr. Yaqub Hasan amends his Bill as we suggest, the Government will be saved from the charge of interference with religion and the rights of the old hereditary kazis appointed by the Government which allow them to receive fees will also be safeguarded. The Government can easily arrange this. The amended law will, however, have to be compulsory.

(1) To regard the law thus amended and made compulsory as interfering with religion would be a great mistake for the law passed by the Government in consultation with members of the community, for, its benefit and well-being cannot be regarded as an interference with religion. For example, there is nothing in religion as important as the obligation to make the pilgrimage to the Hedjaz. Why therefore are the regulations for pilgrims to Mecca not regarded as interfering with religion? This is a case on all fours.

(2) The contracting parties and others will not be affected by the law. They can with alacrity perform this religious duty. The law will be passed in accordance with the commandment of God with reference to those who officiate. God says in the Koran, Ruku 39, Surat-al-Baqr 'Ye faithful! When you have to borrow do so on a bond in writing. The writer should be just and not refuse to write.'

Most marriages in this country are performed on credit (fees are not paid at the time of the ceremony), exceptions are so rare as to be negligible. If a marriage is performed on payment of Dower, it is not noteworthy. Hence a deed of marriage is required as commanded by God, but the existence of a just (honest) recorder is as rare as the philosopher's stone in this age. Therefore to pass a law to keep them straight with the consent of Mussalmans is in the interests of Muhammadans and not a case of interference with religion.

Before the passing of the law, a penalty clause for the person who officiates as kazi without preparing the marriage lines and making a record in the Government Kazi's register 'any one who officiates as kazi and performs the marriage before recording a deed of marriage in the register of the Government kazi will be punished with imprisonment with a fine amounting to so much' should be added. If this be added to the law relating to kazis there will be no defect left in the procedure and the community will be grateful to the Gevernment.

3. *Government Kazi.*—Wherever there are old hereditary kazis with their deputies, they should be retained in the villages attached to the posts. In places where there are no such kazis, appointments should at once be made by means of election regulations. Their deputies should be appointed in the several quarters and the villages of those places. These deputies will be appointed by the kazis appointed by the Government. The latter should be empowered to give

decrees for maintenance, according to the circumstances of husbands, in the case of wives who have been cruelly deserted by their husbands. This is now vested in the Deputy Collector and is altogether out of place. Government kazis are entitled to do this, for, this is also a religious matter. Certain cruel husbands with the object of giving annoyance would not consent to be legally separated or to give an allowance for maintenance. Hence power to declare the marriage nul and void should be granted as it is in conformity with the tenets of Islam.

Duties of Government kazis.—Every Government kazi should have a seal which should bear his name with the words 'Government Kazi' with the name of the place and date of appointment. Every Government kazi should have several copies of (1) A register of marriages and (2) Divorces and Khula in forms A and B respectively. They should be printed and bound. Every page should be numbered consecutively and should bear the seal of the kazi. He should supply copies to the required extent and from time to time to his deputies. He should see that no marriage or divorce is effected in the places and villages under his jurisdiction without first recording the fact in the register in a regular manner. He should always scrutinize the records of his deputies. If he finds that any marriage or divorce has not been duly registered he should at once prosecute the defaulter and have him punished by the Deputy Collector. In case the kazi ignores this irregularity he should on conviction be made liable to the prescribed punishment.

Every Government kazi should then keep his records open and produce whenever required for the inspection of the Government chief kazi. He should pass decrees for maintenance according to the means of the husbands in case of cruel husbands who desert their wives and leave them unprovided for. He should grant decree in cases when husbands with evil intention do not consent to effect a *Khula* nor to maintain their wives.

Duties of deputies.—The deputies should fill in neatly and correctly the registers given them by the Government kazi under the law with his seal affixed, should take in the signatures of the parties, vakil and witnesses or their thumb impressions and without doing this he should not perform any marriage ceremony. He should not allow any marriage or divorce to be effected without first entering it in the register in the places under his jurisdiction. He should act strictly in accordance with the orders of the Government kazi, as regards keeping the register. He should deposit a money security with the Government kazi to make such losses good as are caused by keeping the register of marriage or divorce in an irregular manner or damage by fire or loss. He should indent for more registers before those in his possession are exhausted. When the registers are completed he should deliver them to the Government kazi and obtain an acknowledgment. If the villages placed under any kazi are numerous and far apart and it is impossible to reach them in one and the same day he should obtain a number of copies with heading consecutive numbers from the Government kazi and, as necessity arises, he should get the work done by reliable assistants but bear in mind that the responsibility devolves upon himself. If under his jurisdiction any one has performed a marriage and it has not been registered he should at once send a report to the Government kazi who will prosecute the offender in the court of the Deputy Collector and have him punished. In case of any delay in the matter he should regard himself guilty of an offence and liable to punishment.

The duty of the chief district kazi.—He should keep a list of all Government kazis and deputy kazis. He should inspect the registers of marriages and divorces at least four times a year. The other matters in Mr. Yaqub Hasan's Bill might be retained.

A copy of the register of marriages of the district of Kurnool is also submitted.

(2)

Form of Register of marriages prepared under the orders of the Collector of Kurnool by Kazi Muhammad Tahir Sahib, Government Chief Kazi, Kurnool town, Nundikotkur, Dhone, etc., taluks.

Number.	Name and age.	Father's name.	Occupation.	Residence.	State of Bride and Mahar.	Signatures or thumb impressions.		Date.
						Right hand thumb impression of bridegroom.	Left hand thumb impression.	Date. Year.
Bridegroom.	Name Age				Has or has not attained puberty.			
						Vakil's thumb impression.	Do.	Date. Month. Year.
Bride.	Name Age				Virgin or no.			
					Amount of Mahar in figures. Rs. A. P.	First witness's thumb impression.	Do.	Place of marriage.
Vakil.	Name *Note.*—Father should be Vakil; if not written Mukhtarnama should be entered on the reverse.				....			
					Amount of Mahar in words.	Second witness's thumb impression.	Do.	Signature of the Deputy.
Witness No. 1.	Name Alias				Immediate or deferred.			
					If immediate give details of cash, jewels or land on the reverse.	Signature of Government Kazi.	Do.	Do.
Witness No. 2.	Name Alias				.....			

If it is proved that in the column of the signature of reddi—karnam, the signatures of reddi—karnams have not been obtained as directed in the Order of Government No. 254, dated 2nd June 1905, the deputy will have to suffer much.

XLII

Letter—from Moulavi Haji Mufti Mahmud Sahib, Chairman of the Moslem Public Meeting, Madras.

To—the Secretary to Government, Local and Municipal (Legislative) Department.

Dated—the 4th December 1918.

I have the honour to communicate to you the following resolution passed at a very largely attended public meeting of the Ulamas, Mashaikheens and other Mussalmans of Madras held under my chairmanship on Monday the 2nd December 1918 in the Esplanade Maidan opposite Pachaiyappa's College, Madras, to protest against the Hon'ble Mr. Yaqub Hasan's Bill for voluntary registration of Mussalman marriages and divorces:—

"This meeting of Ulamas, Mashaikheens and other Mussalmans of Madras protest strongly against the Hon'ble Mr. Yaqub Hasan's Bill for voluntary registration of Mussalman marriages and divorces since, if the Bill becomes law, marriages and divorces valid according to Muhammadan religion would become liable to be questioned in Courts of Law for want of such registration as is contemplated in the Bill and also since thereby difficulties will be created which will mar the simplicity of the present law and curtail the religious liberty of Muhammadans."

XLIII

Letter—from Haji Moulvi Zia-uo-din Muhamhad Sahib, Chairman of the Moslem Public Meeting, Lawley Hall, Mount Road.

To—the Secretary to Government, Local and Municipal (Legislative) Department.

Dated—Madras, the 4th December 1918.

A public meeting was held under my chairmanship on Monday, the 18th November 1918, at the Lawley Hall to consider the Bill for registration of Mussalman marriages and divorces which the Hon'ble Mr. Yaqub Hasan wishes to introduce in the Legislative Council. The following resolution was adopted at the meeting:—

"Resolved that this meeting while accepting the principle of the Bill as tending to minimise unnecessary and scandalous litigation considers that its provisions call for some amendments and accordingly appoints the following committee to study the Bill thoroughly and submit to Government such amendments as in its opinion are calculated to afford better relief and ensure greater facility in procedure."

The committee consists of the following members:—

(1) Haji Moulvi Zia-ud-din Muhammad Sahib.
(2) Khan Bahadur Muhammad Abd-ul-kudhus Badsha Sahib.
(3) Khan Bahadur Ghulam Mohmud Sahib Mahajir.
(4) Moulvi Abd-ul-majid Sahib Sharar.
(5) Moulana Abd-us-subhan Sahib.
(6) Muhammad Hussain Sahib Siddeeki (convener).
(7) Muhammad Moazam Sahib, B.A., B.L.
(8) Hakim Abdul Aziz Sahib.
(9) Moulvi Muhammad Ghaus Sahib.
(10) Moulvi Muhammad Habib-ul-lah Sahib.
(11) Hakim Muhammad Saiyid Sahib.
(12) S. A. K. Jeelani Sahib.
(13) Muhammad Abd-ul-qader Sahib.
(14) Muhammad Musa Sait Sahib.
(15) Muhammad Sadulla Badsha Sahib.
(16) Ismail Sait Sahib Magmoom.
(17) Saiyid Madar Sahib.
(18) Muhammad Abd-ul-latif Sahib.

I enclose a cutting from the *Hindu* of the 20th December 1918, in which the proceedings of the meeting appears and I shall thank you to place the proceedings and the above resolution before the Legislative Council. I shall forward to you the report of the committeee that has been formed to examine the Bill and suggest amendments for the consideration of the Select Committee of the Legislative Council.

XLIV

Letter—from Adam Dawood Sahib, Honorary Magistrate, Udipi.
To—the Secretary to Government, Local and Municipal (Legislative) Department.
Dated—the 6th December 1918.

With reference to the Bill No. 7 of 1918 introduced by the Hon'ble Mr. Yaqub Hasan regarding the registration of Mussalman marriages and divorces, the following is my humble submission.

After due consideration over the provisions of the Bill for the voluntary registration of Mussalman marriages and divorces, I am convinced of the absolute necessity of such healthy legislation and consequently I support it with all my heart.

The Bill will prove of immense utility to the community and will be the basis of fair play and justice in the matter of matrimonial transactions.

Notwithstanding the fact that all its provisions are happy I am inclined to think that the following changes are necessary in it, namely :—

(1) That in section 10, where the parties to a marriage contract or divorce are illiterate, their thumb impressions shall be taken, in addition to their marks of signatures.

(2) That the Mussalman registrar shall deliver copies of the entries to the parties concerned immediately after the registration of marriage whether they apply or not, Ref. section 11.

(3) That in section 22 provision must also be made for the filing of registers after the same have been exhausted.

(4) Further I am also of opinion that it would be better to provide distinctly in the Bill that those whose marriages have already taken place previous to the date when the Bill will come into operation and who wish to have them duly registered must be enabled to carry out their intentions with regard to that matter.

XLV

Letter—from M.R.Ry. Rao Bahadur T. Raghavayya Pantulu Garu, B.A., Collector of Anantapur.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—Anantapur, the 26th January 1919.
No.—D. Dis. 294.

Referring to Government Memorandum No. 1519-8, dated 12th October 1918, I have the honour to state that the representative Muhammadans at the headquarters of the several taluks in the district and the Janab Sujjadah Nishin of Baba Fakr-ud-din Darga at Penukonda have been consulted on the Bill introduced by the Hon'ble Yakub Hassan. Their written opinions are enclosed.

2. About 80 Muhammadans residing at Kadiri, Anantapur, Kalyandrug, Madakasira and Hindupur support the Bill unreservedly, as also Khan Sahib K. Imam-ud-din Sahib Bahadur, Municipal Chairman, Anantapur. The representative Muhammadans of Dharmavaram, Penukonda and Tadpatri about 45 in number have expressed their disapproval of the proposed legislation and do not desire any change in the existing practice which they say are enjoined by their religious texts. The Manager of the Baba Fakr-ud-din Darga at Penukonda and the Sajjadah Nishin at the Darga and their followers stated on 16th November 1918 that the Muhammadans were already finding it difficult to pay the Khaji, Sir Khaji and the Naib Khaji for their services and that their community was too poor to incur the additional charges for registration, etc., contemplated by the Bill. They confirmed this view again on 9th December 1918 after reading the Hindustani translations of the Hon'ble Member's speech in the Council. The Manager of the Darga Saiyid Abdal Hussain has however in his petition, dated 25th December 1918, written to say that the provisions of the Bill had not been properly appreciated when the earlier opinions were given and expressed himself in favour of the Bill. The Anjumani Islamia at Gooty is generally in favour of the bill, but has proposed certain modifications which are detailed in the Gooty Tahsildar's letter, dated 15th November 1918, enclosed. These modifications are dealt with in paragraph 5 infra.

3. The objections raised and the modifications suggested relate exclusively to the portions of the Bill dealing with the registration of marriages. Divorces will be rarer than marriages and the parties to divorces will be majors and would not mind the inconvenience and cost involved in appearing before the registrar at his own residence or producing witnesses and authorized vakils before him.

4. The main advantage of the proposed legislation, namely, the securing of an accurate and reliable record of Muhammadan marriages and divorces, is generally recognized but the additional expense involved in the case of registration of marriages is generally objected to on the ground that Muhammadans are as a class poor. This objection has much force and the question how far the expenses of registration may be minimised deserves careful consideration.

5. *Modification proposed by the Anjumani Islami of Gooty.*—(*a*) Registration of marriages should take place at the time of the marriage in the marriage house itself. It is urged that the registration till about a month after the marriage which is permitted in the Bill has not the same advantage as that made at the time of the marriage itself, and that, if the registration takes place in the marriage house itself at the time of the marriage, the expenses involved in securing before the registrar the presence of witnesses and of authorized vakils in the case of parda nishin ladies can be obviated. Both these objections have much force. The suggestion that the registration should be made at the marriage house itself might involve the payment of carriage hire to the registrar, but the charge under this head must be considerably less than the expenses involved in securing the presence of witnesses and authorized vakils at the registrar's office. Further the Bill provides that every Khaji appointed by Government under section 2 of Act XII of 1880 and every Naib Khaji appointed by every such Khaji should be recognized as a marriage registrar. As the majority of Muhammadan marriages are likely to be solemnized by Khajis and Naib Khajis regularly appointed under Act XII of 1880 they could also register the marriages at the time of solemnizing them without extra conveyance charges. It is possible that in places where the Muhammadan population is large and where consequently on a single day there might be a number of applications for registrations simultaneously, registration there and then at the marriage house might cause a certain amount of inconvenience to the registrar. But such instances will be rare and in such large towns or villages, the difficulty can be overcome by the appointment of more than one registrar with jurisdiction over parts of the town or village. This the Bill permits.

(*b*) *Registration free of cost.*—This is urged from considerations of poverty. At present the bridegroom has to pay the Khaji for his services at the time of the marriage. The registration charges provided for in the Bill have to be incurred in addition. Total exemption from a fee is out of the question. Registration must involve some expense but the registration fee need not be so heavy as Rs. 1-4-0 in each case. It may be fixed much lower, say, at As. 8 in each case. If the Khaji or Naib Khaji solemnizing the marriage is a functionary properly constituted under Act XII of 1880 and as such is a marriage registrar himself, this additional fee of As. 8 will be sufficient inducement to him to undertake the work of registration also, even though he has to meet the cost of registers, ink, etc., from the fee. In the case of a registrar who is other than the person solemnizing the marriage the additional expense of conveyance allowances cannot of course be avoided.

Unless the question of extra expense for registration of marriages be suitably amended, the Bill is not likely to become popular and to be availed of to the desired extent.

6. Other defects—

(1) The expression 'Khula' is not defined.

(2) Signature of parties.

In the case of illiterate persons, it is desirable to insist upon thumb impressions being obtained with a view to obviate future disputes and for this purpose, a set of thumb impression materials must be supplied to every registrar.

Enclosures.

(1)

Letter—from the Tahsildar of Gooty.
To—the Deputy Collector, Gooty.
Dated—15th November 1918.

Adverting to your R.S.C. No. 1604, dated 28th October 1918, directing me to consult and obtain the views in writing of prominent Muhammadan gentlemen and Muhammadan bodies in this taluk, on the Bill to provide for the Voluntary Registration of Muhammadan Marriages and Divorces, which the Hon'ble Yakub Hassan Sahib Bahadur desires to introduce into the local Legislative Council, I beg to state that I consulted several Muhammadans, at Gooty, Guntakal, Thimmancherla and the Anjumani Islamia at Gooty and that they are unanimous for the registration. But they say that the Moslem registrar may be directed to visit the marriage houses at the time of nikah, and to register the marriages in the book supplied to him by Government. They say that all Muhammadan ladies are parda nishi ladies and more so after the marriage. Every Muhammadan will be willing to have the marriages registered in the book prescribed by Government, but it would not be possible for the bride to go to the office of the Muhammadan registrar. Though a provision has been made for the bride to send her authorized vakil yet many people who are poor in large numbers in these parts cannot meet the expenses of the authorized vakil and witnesses who are to be produced before the Muhammadan registrar. They also say that the fees of Rs. 1-4-0 prescribed for the registration must be done away with, and it must however be collected from those who apply for the extract in the marriage pandal after nikah (marriage solemnization) or at any time after it.

2. Gooty taluk is not directly in charge of one Kazi. The Cuddapah Kazi Janab Basithamiyya Sahib is the Kazi appointed by Government, under the Act. He being the resident of Cuddapah town, a Naib Kazi, a very old man, is appointed on his behalf. He resides at Gulapaliyam. In these parts marriages are mostly celebrated in the months of Rabbinsani, Rajab, Shaban, Shavval Zilqueth, Tillahey. There are separate Naib Kazis for the solemnization of marriages at towns and villages. A few villages are in charge of each man. The man appointed for each group of villages should alone perform the Nikah and by others also on very rare occasions with the expressed permission of the man appointed. The Muhammadans of this taluk are of opinions that these men appointed by the Kazi of Cuddapah or by custom where there is no Kazi must be licensed as Muhammadan registrars and supplied with registers duly paged and sealed, with the necessary printing on each page just as in the case of Christian marriages. It would then be easy for them to proceed to the marriage house (they will of course be invited by every marriage house-owner without fail) and to have the registration made if they are willing.

3. For each nikah, the party of the bridegroom alone pays a (rusm) fee of Rs. 1-10-0 and nothing is collected from the party of the bride. Out of this sum, a rupee goes to the payment of Kazi and the remainder to the Naib Kazi. Poor people pay this sum with difficulty. None will be willing to have their marriages registered after paying a further fee of Rs. 1-4-0. On the other hand every one will be willing to have the marriages registered at their houses and the Naib Kazis, if licensed, do not find any difficulty whatever to register the marriages. The Muhammadans say that, if parties are made to go to the office of the Muhammadan registrar, the community will be put to much inconvenience and expenditure which they are not able enough to bear. It may be said that the Registration is only optional and those who are willing may get the marriages registered in the office of the Muhammadan registrar. Such a procedure is, as a wholesale, unsound and against the authorities of the Muhammadan religion and such a course will not be availed of by many. The Muhammadan writers and authors of the scripts on Muhammadan religion have laid down certain vivid principles to be observed at the time of marriages. These principles are observed from a Patcha to a Fakir. The principles are that before solemnization of a nikah a vakil is nominated by the bride from the relations of the bride and to establish this nomination two witnesses are nominated by bridegroom side. The nikah will be celebrated by the Kazi or Naib Kazi or by any man authorized by him with the help of the said vakil and the two witnesses and without them no 'nikah' will be recognized. But in the case of an adult woman, the services of a vakil might be dispensed with and the services of the two witnesses are absolutely necessary, and cannot be dispensed with.

4. As regards the divorce (forsaking one's wife) which can be done by the husband, and qulla (forsaking one's husband) which can be done by the wife, the Muhammadans are of opinion that this also cannot be done by going to office of Moslem registrar and say they that the party willing to have the divorce or qulla registered may have it registered at their respective houses and the same Naib Kazis may be licensed.

5. I agree with the views of the Muhammadans. The written statements are enclosed.

(2)

Letter—from Khan Sahib K. Imam-ud-din Sahib Bahadur, Anantapur.
To—the Revenue Divisional Officer, Anantapur.
Dated—the 28th November 1918.

With reference to your foot-note R.S.C. No. 1800, dated 28th October 1918, communicating for my opinion, copy of the Bill of the Hon'ble Mr. Yakub Hassan Sahib *in re* "Registration of Mussalman Marriages and Divorces," I have the honour to state that the suggestions made therein by the Honourable Member, with little alterations, are highly appreciable : because they are based upon the very principles of Mussalman Laws. The introduction of such a Bill is highly desirable. The leading members of this place and myself see no objection for their being passed into law.

(3)

Abstract of opinions.

Kadiri town	Union Chairman (Haji Momin Fakr-ud-din Sahib) and twenty other Muhammadans.	Accept the Bill.
Anantapur town ...	Twelve Muhammadans including Khan Sahib K. Imam-u-din Sahib, (Municipal Chairman).	Do.
Kalyandrug town ...	Nineteen Muhammadans.	Do.
Madakasira	Seventeen persons ...	Do.
Hindupur	Ten persons	Do.
Dharmavaram town ...	Five Muhammadans ...	Present system of Kazi's arranging marriages and making an entry in their books to continue. They do not want the Bill. No reasons are stated.
Daraga	Eleven persons ...	Proposed legislation not necessary. Satisfied with existing record of marriages.
Penukonda town ...	Three persons	Not in favour of the proposed legislation. No reasons are given.
Do. ...	Twenty-eight persons...	Existing system and record of entry by the Kateeb enough, no inconvenience caused. Not in favour of the proposed Bill.

Syed Abdul Hussain is one who on reconsiderations consents to the Bill.

Tadpatri	Twelve Muhammadans.	Existing system to continue, not in favour of the amendment, no reasons.
Gooty	Two persons	No fees for registration—modification.
Do.	Big statement	.....

XLVI

Letter—from the Hon'ble Mr. A. R. Loftus-Tottenham, M.A., I.C.S., Collector of Madras.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—the 27th January 1919.
No.—R.O.C. A. 1351/B. & G. of 18.

Bill for Registration of (Mussalman) Marriages and Divorces Government Memorandum No. 1519-8, *Home (Miscellaneous), dated 12th October* 1918.—In reply to the above I enclose the opinions elicited. It will be seen that the balance of opinion is decidedly adverse to the Bill.

2. The reasons given in support of this view no doubt appear to the non-Muslim to be entirely futile, in view of the fact that the legislation proposed is purely permissive, and will neither render anything prescribed by Muhammadan law or religion superfluous, nor make any addition thereto compulsory.

3. On the other hand, there seems to be no reason why Government should incur the odium of facilitating the passing of this Bill. Whatever the evils may be that it is intended to remove (and Mr. Yakub Hassan's statement of objects and reasons is silent on this essential point) they only concern the Muhammadan community and no one else, and if that community acquiesce in them clearly Government may do so too.

4. As a matter of policy it seems highly undesirable to do gratuitously anything that may create unrest (however unfounded that unrest may appear) among Muhammadans at the present time. Possibly it was Mr. Yaqub Hassan's aim to create such unrest. He appears to let slip no opportunity of exciting disaffection.

Enclosures

(1)

Letter—from Muhammad Khalil Shirazi, Madras.
To—the Collector of Madras.
Dated—the 14th November 1918.

I am in receipt of a copy of the "Muhammadan Marriage and Divorce Registration Bill" which you have so kindly sent me. Although I cannot object to the provisions of the Bill, still as I am against any Government interference in religious matters, my opinion is that the Bill should be dropped.

(2)

Letter—from Muhammad Usman Sahib Bahadur, B.A., Honorary Secretary, Muttiyalpet Moslem Anjuman, Madras.
To—the Collector of Madras.
Dated—the 14th November 1918.

With reference to your letter R.O.C. No. 1351/B. & G., dated 28th October 1918, I have the honour to communicate to you the following resolution passed at the meeting of the Managing Committee of the Muttiyalpet Moslem Anjuman, Madras, held on Wednesday the 13th November 1918:—

"The Managing Committee of the Muttiyalpet Moslem Anjuman, Madras, having considered the provisions of the Bill for voluntary registration of Mussalman marriages and divorces to be introduced into the Madras Legislative Council by the Hon'ble Mr. Yaqub Hasan, is emphatically of opinion that any attempt to amend by omission, change or addition the eminently simple procedure laid down by the Prophet of Islam as essential to a valid Muhammadan marriage or divorce will be resented by the Muhammadan community as intended to supersede the authority of the Prophet and that, since the Honourable Member's Bill aims at introducing, ostensibly as a permissive measure but with a view to prepare the way for eventual compulsory legislation, a condition non-compliance with which will relegate marriages and divorces effected on present orthodox lines to an inferior position of doubtful validity, the acceptance of the Bill by the legislature will be viewed with indignation as the introduction of the thin end of a wedge calculated to bring about the degradation of the very authority of the Prophet as the sole legislator of Muhammadans in matters social and religious."

(3)

Letter—from Mirza Abd-ul-Hasain, Khan Bahadur, Madras.
To—the Collector of Madras.
Dated—the 19th November 1918.

I beg to acknowledge receipt of your R.O.C. No. 1351/B. & G., dated 28th October 1918, forwarding for my opinion copy of a Bill to provide for the voluntary registration of Mussalman marriages and divorces which the Hon'ble Mr. Yaqub Hasan desires to introduce into the local Legislative Council.

I have carefully considered the question and have come to the conclusion that the measure is uncalled for and unnecessary for the following reasons, namely :—

(i) That no case has been made out for such legislation, and there seems to be considerable difference of opinion amongst the Mussalmans as to the advisability for such a measure at present.

(ii) Having regard to clause 25 of the Bill, the proposed measure would not seem to serve any useful purpose.

(iii) In my opinion a much better course would be for Government to require the Kazi to maintain a more formal and reliable book which at the end of each year should be delivered up to Government and to start a new book for the succeeding year. For this no legislation would seem to be necessary.

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(4)

Letter—from Amjid Ali, Chief Kazi of Shiah community.
To—the Collector of Madras.
Dated—the 22nd November 1918.

I beg to bring to your notice to the effect that the Kazis should be bound legally under the authority of the Registrars that I have received some papers from Mr. Yaqub Hasan and a few papers from your honour's office, the reply to which I have produced before you, so that your honour may cast an eye of justice over it, and finally I may be informed of the result of it, so that I may know what to do in future.

Any new change in a current system is a source of disturbance, unless there is any defect there is no necessity of any reforms. There is no defect in the present system of kara-ut among us. If there seems to be any among the Sunni Muhammadans, these Moulvis are the right persons to alter it and the Legislative Council does not seem to have the rights to interfere into such religious questions except to bring the difficulties, if any, before the religious doctors, when Mahomed and his descending sons have once established laws, they cannot be altered by rules formed by the followers.

2. When the Kazi is one selected and appointed by the Government, the register of the Kazi itself is a Government register.

3. Kazis, as a rule, have seal of their own and there does not seem to be any necessity of Government giving them a fresh seal; moreover the seal itself is full of suspicions.

4. Any fees taken as wages for religious services as nikah is not allowed by the religion. But as a matter of gift it is quite optional; one can give and take as much as they desire.

If the Government want to fix fees breaking the religious law, it must be either to save the public from the burden of the expense or to enrich the Kazi. If it is with the former idea, why should a single pie be not fixed as the fees otherwise why not a quarter of half the expenses of the marriage should be for the Kazi? Here I should like to bring to the notice of the Government. Neither my father did ever nor do I even now take anything from the public for serving the religion.

5. With regard to the copies of the entries if the Kazi finds it necessary give it himself, though the Shiah Khazi does not get any share in the inams, jaghirs and salaries of the Kazis whereas the Kazi of Sunni Muhammadans get the whole

6. Our office is purely religious according to the rites and laws framed by Mahomed and his descendants. It is to be regretted that Mr. Yaqub Hasan wants to make the Kazis what they are by licence.

Among the Shiahs it is the learning, religious knowledge and ability and fear of God required for a leader.

7. Kaziship does not only depend upon nikah and divorce, all religious disputes are to be decided by the Holy Court of Kazi which is competent for it.

8. I am not a paid servant of any person and I am not such a Kazi that was appointed by any person owing to my knowledge.

9. In every district where there is even one Shiah the Government may nominate a Kazi or the Kaziship of the Shiah community for the Presidency may be entrusted to me as I have been doing for many districts.

10. Deputy Kasis may be appointed on the confidence of the Kazi regarding his competency in the religious knowledge and character but not on hereditary rights because in Shiah sect a true knowledge of religious rites and justice is essential for a religious leader. Even for a witness these qualifications are indispensable. On the other hand in several other sects of Islam leadership does not concern to the learned and the ignorant.

11. Islam does not allow any honourable body to confess openly even before her own relatives whereas before registrars and vakils is still worse. If she is a matured lady, it is enough if she does not express her unwillingness, and on the other hand their parents are fully authorized.

12. A Kazi is not only to read the few verses of nikah or talk but also to see that all the religious rules are properly obeyed. Therefore it is necessary that a Kazi should be a learned man and also a man of justice.

13. No respectable Shiah will ever agree to become a Kazi under such troublesome restrictions and insults such as proposed by Mr. Yaqub Hasan.

14. At any rate the Kazi of the Shiah never agree with any item of Mr. Yaqub Hasan Sahib and in case this will be passed I shall rather prefer to resign my post than to remain.

15. It is rather strange why the political people interfere with the religion in spite of the religious people keeping aloof from the political affairs.

(5)

Letter—from Moulvi Muhammad Shahab-ud-din Sahib, Retired Arabic Teacher, Government Madrasa-i-Azam, Madras.
To—the Collector of Madras.
Dated—the 22nd November 1918.

With reference to your letter, dated 11th instant, forwarding for my views on the provisions of the Bill for marriage and divorce registration of Mussalmans which the Hon'ble Mr. Yaqub Hasan desires to introduce into the local Legislative Council, I beg to state that I have duly considered the provisions of the Bill under reference. I am of opinion that God Almighty has distinctly declared in His Holy Book that Islam has attained its perfection as regards the legislation of social and religious matters. The Prophet has laid down such eminent and simple procedure regarding the Muhammadan marriage and divorce that it would be impossible for any one to amend the existing system by any addition or omission whatever.

Hence I am of opinion that there is no necessity of new legislation to be enacted in the face of the one (Islamic system) already existing.

(6)

Letter—from M. Husain Mian Sahib Bahadur, Madras.
To—the Collector of Madras.
Dated—the 22nd November 1918.

With reference to your R.O.C. No. 1351/B. & G., dated 28th October 1918, I have the honour to state that I am strongly opposed to the Bill for the voluntary registration of Mussalman marriages and divorces. Though the registration is voluntary, it has a strong tendency in throwing the simple procedure laid down by our Prophet for valid marriages and divorces which has been in existence for nearly 1,300 years into the region of suspicion and contempt since in the eye of law greater importance will be attached to marriages and divorces that are registered.

The necessity for such a Bill as proposed by the Hon'ble Mr. Yaqub Hasan has not arisen at all. If people want to see that their marriages and divorces are properly recorded, they will find in every village and hamlet Kazis who keep a correct record of such occurrences.

I am herewith returning the enclosures sent to me.

(7)

Letter—from Moulvi Haji Abd-ur-rahman, Madras.
To—the Collector of Madras.
Dated—the 22nd November 1918.

With reference to your letter, dated 15th November, regarding the Moslem Marriages Registration Bill, I have the honour to state that the question of Moslem Marriages and Divorces Registration Bill which is now placed at the table for its enforcement is quite against the lawful facilities in the freedom of religion and, if it is passed in spite of our opposition, it means an intrusion of the Government in religion.

The Bill has been represented before the Council by such gentlemen who have less acquaintance in religion than leading Moulvis.

I therefore trust and hope that you will be good enough to place the matter before His Excellency for its rejection.

For which act of kindness I and the Moslem community shall highly feel grateful.

(8)

Letter—from Muhammad Usman Sahib Bahadur, B.A., Honorary Secretary, the South Indian Islamia League, Madras.
To—the Collector of Madras.
Dated—the 26th November 1918.

I have the honour to communicate to you the following resolution passed at the meeting of the Council of the South Indian Islamia League held on Monday the 25th November 1918 :—

"The Council of the South Indian Islamia League is strongly opposed to the Hon'ble Mr. Yaqub Hasan's Bill for voluntary registration of Mussalman marriages and divorces as it brings into contempt the simple procedure laid down by our Prophet in connexion with marriages and divorces by giving a higher legal status to the proposed registered marriages and divorces."

(9)

Letter—from Moulvi Shakhadir Husain Sahib, Naib Kazi, Mirsapet, Madras.
To—the Collector of Madras.
Dated—the 23rd November 1918.

I have the honour to pen the following in reply to your most kind letter inviting my opinion about the provisions of the Bill (marriage and divorce registration of Mussalmans) dated 11th November 1918.

(i) The view to introduce this Bill of registration is faulty and imprudent in the mind of a Moslem as such questions of marriage and divorces are dealt with strictly in the sphere of religion and the Holy Book. The present system in its workings, is all right and the records of the Moslem marriages are safe with the Government Kazi and with no dispute are recognized in the court of law at present.

(ii) and (iii) As I find that this newly brought Bill is against the faith of Islam, I could be content to say that it is unnecessary to deal into the matter at all, for it will yield to the disfeeling of the Moslem mind in general.

(iv) As I have stated in column first that the Bill is anti-religious one in character I am at a loss to give my opinion in the present question of introducing it voluntary or compulsory and I predict that this Bill when introduced will hurt the feelings of the Mussalmans greatly.

(v) I am against the idea of this kind of registration which has been brought, as I see that such Bill is contrary to the doctrines of Islam, I am dead against the idea to make this Bill compulsory.

(vi) When I say frankly that this Bill is against the doctrines of Islam how is it possible for me to invite to do a crime in faith by the marriage couple and their kin and kids. And I predict that they (marriage couple and their kin and kids) would never lean their ear to such an idea contrary to their faith and religion as Muslim marriages are wholly religious contracts.

Therefore I am of opinion as I have stated above that the Bill being contrary to the doctrines of Islam I say boldly that this Bill if introduced will hurt greatly the minds of Mussalmans in general. The Honourable Member has dealt the Bill wholely unreligious, and this fault of his is because that he has never consulted the Ulamas and the leaders of the community before introducing in the matter how that affected the faith of Islam. Hence I say that the Honourable Member being unaware of its effect in religion has stooped to introduce this Bill and I pray that the gracious Government will never allow it to pass for. My statements in the above will prove how unreligious it is to introduce the Bill.

Therefore I pray that the introduction of this will not be passed so that the Muslim subjects shall be glad and not be discontent.

(10)

Letter—from the Secretary, Anjuman-i-Islahul Muslimin, Mount Road, Madras.
To—the Collector of Madras.
Dated—the 29th November 1918.

The following is herewith submitted for favour of information.

The members of the Anjuman-i-Islahul Muslimin, Madras held a meeting at the mosque, Chetti's Garden, Mount Road, Madras, on Wednesday the 27th November 1918 in the afternoon with Shamsul Ulama Moulana Moulvi Shah Zahid Husain Sahib Mehkari Khadari as the President, in which the following resolution was passed :—

Resolution.

"The Anjuman-i-Islahul Muslimin, Chetti's Garden, Mount Road, Madras, is strongly opposed to the Hon'ble Mr. Yaqub Hasan's Bill submitted in the Madras Legislative Council, for voluntary registration of Muslim marriages and divorces, as it is against our religious functions and puts us into unnecessary inconveniences and losses."

As it is purely a religious matter, the Members hope, as far as all the Moulvis of Madras are against it, that the Collector will be pleased to see that the Bill will not be passed.

(11)

Letter—from Moulvi Sha. Muhammad Burhanudin Siddiqui, Royapetta, Madras.
To—the Collector of Madras.
Dated—the 1st December 1918.

With reference to your R.O.C. No. A. 1351 B. & G., dated 26th November 1918, inviting my views upon the Hon'ble Mr. Yaqub Hasan Sahib's Bill for the voluntary registration of Muhammadans' marriages and divorces in Madras Presidency, I have the honour to state that notwithstanding his generous and earnest endeavours, the learned member has missed himself badly in grappling with all the phases of the question (or matter) under review.

For the present, the procedure now in vogue may perfectly be let to continue without the intrusion of the proposed innovation, which clashes with the principles of Islam and is therefore unnecessary and out of place.

(12)

Letter—from Khan Bahadur Tajammul Husain Sahib Bahadur, Vice-President, Anjuman Ahlai-Sunnat and Jamath, Royapetta, Madras.
To—the Collector of Madras.
Dated—the 2nd December 1919.

Received your Bill for the registration of Muslim marriages and divorces. I have considered it both from the religious point of view and otherwise. In my opinion the Bill seems quite called for, as it will eradicate the existing evils some of the minor points require modification, which are being discussed in a committee at Madras, whose views will be submitted later on to the Government of Madras.

(13)

Letter—from Moulvi Haji Mufti Mahmood Sahib, Chairman of the Muslim Public Meeting, Royapetta, Madras.
To—the Collector of Madras.
Dated—the 4th December 1918.

I have the honour to communicate to you the following resolution passed at a very largely attended public meeting of the Ulamas, Mashaikheens and other Mussalmans of Madras held under my chairmanship on Monday the 2nd December 1918 in the Esplanade Maidan opposite Pachaiyappa's College, Madras, to protest against the Hon'ble Mr. Yaqub Hasan's Bill for voluntary registration of Mussalman marriages and divorces :—

"This meeting of Ulamas, Mushaikheens and other Mussalmans of Madras protest strongly against the Hon'ble Mr. Yaqub Hasan's Bill for voluntary registration of Mussalman marriages and divorces since, if the Bill becomes law, marriages and divorces valid according to Muhammadan religion, would become liable to be questioned in courts of law for want of such registration as is contemplated in the Bill and also since thereby difficulties will be created which will mar the simplicity of the present law and curtail the religious liberty of Muhammadans."

(14)

Letter—from Moulvi Hafi Mufti Mahmood Sahib, Professor, Arabic College, Madrasa-i-Mahmoodia, Royapetta, Madras.
To—the Collector of Madras.
Dated—the 5th December 1918.

With reference to your letter R.O.C. No. 1351 B. & G., dated 15th November 1918, I have the honour to inform you that I am strongly against the Hon'ble Mr. Yaqub Hasan's Bill for voluntary registration of Mussalman marriages and divorces since it tends to degrade in the eye of state marriages and divorces performed according to the strict injunctions of our religion but are not registered under the proposed Act. My full views on the subject are to be found in my speech delivered as the chairman of the public Muslim meeting held at the Esplanade maidan opposite Pachaiyappa's College, Madras, on Monday, the 2nd December 1918, one Urdu copy (not printed) of which is herewith enclosed.

(15)

Letter—from Moulvi Haji Muhammad Thameem Sahib, Georgetown, Madras.
To—the Collector of Madras.
Dated—the 5th December 1918.

With reference to your letter, dated the 11th November 1918, R.O.C. No. 1351-B. & G., requesting my views on the provisions of the Bill to provide for the voluntary registration Mussalman marriages and divorces, I beg to state that careful consideration of the Bill, I am of opinion that

(1) marriages and divorces are matters relating to Muhammadan religion and directly governed by it; and

(2) if registration of marriages and divorces was made even optional by legislature it will cause great hardship and injury (religiously) to Muhammadans.

I am therefore opposed to the intended legislation and I hope that the Government will adopt the usual policy in this affair, viz., of not interfering with the matters relating to religion of the Muhammadans and not allow the Bill to be passed into an Act.

I have not given in detail the reasons for my opinion as I think the same is not wanted but if you want me to go into detail and show how it will interfere with religion and how it will cause injury and hardship I am prepared to give the same.

(16)

Letter—from Haji Muhammad Haneef Sahib, Khan Bahadur, Zamindar of Karingali (Ponneri) and Member of the British Empire League, London, Madras.
To—the Collector of Madras.
Dated—the 6th December 1918.

In reference to your letter, dated 28th October 1918, R.O.C. No. 1351/B. & G., requesting me to give expression to my views on the provisions of the Bill to be introduced by the Hon'ble Mr. Yaqub Hasan to provide for the voluntary registration of Mussalman marriages and divorces, I beg to state that I am quite opposed to it, being contrary to Muhammadan law and that the passing of it will lead to serious difficulties and inconveniences.

I further beg to state that our marriages and divorces are not like mercantile contracts. They are strictly and rigidly governed by our religion of Muhammad the Prophet.

As we all know that our benign Government's Policy is not to interfere in matters religious and as this Bill is one of that kind, I trust our good Government will not pass it into law.

(17)

Letter—from Moulvi Muhammad Habib-ul-lah Sahib, Diwan Sahib Garden, Royapetta.
To—the Collector of Madras.
Dated—the 6th December 1918.

With reference to your letter R.O.C. No. 1351, dated 11th November 1918, asking for my opinion about the Voluntary Registration Bill of the Hon'ble Mr. Yaqub Hasan, I have the honour to reply that the Voluntary Registration Bill should not be passed into an Act; for it contemplates to provide for a certain insignificant minority only, whereas the whole Muhammadan population do not want it.

Further if the Bill is passed it will bring about unnecessary complications and difficulties.

(18)

Letter—from Haji Moulvi Ziyauddin Muhammad Sahib, Madras.
To—the Collector of Madras.
Dated—the 10th December 1918.

In reply to your letter No. 1351/B. & G., dated 28th October, I beg to submit that I approve the Bill for the registration of Mussalman marriages and divorces which the Hon'ble Mr. Yaqub Hasan Sahib desires to introduce into the Local Legislative Council subject to certain changes in the provisions of the Bill which are quoted below :—

(1) In section 3 of the Bill, the clause that "provided that no more than one person of the same sect Sunni or Shiah shall be licensed to exercise the said functions in the same limits" must be eliminated as it is possible that within the same limits there may be several Jamaats (sections of the community) each may prefer to have the marriage celebrated or divorce effected by a Kazi of their own Jamaat.

(2) In section 4 the word 'Persian' must be omitted and the word 'Arabic' must be inserted in its stead as the Arabic character is more common in this presidency than Persian.

(3) Section 9 should be so worded that it shall be incumbent on the Muslim registrar to be personally present on the occasion of the celebration of the marriage, make all entries in his book which are necessary for the marriage at the time in the presence of the assembly gathered for the marriage occasion as provided for in section 10 of the Bill and in this case section 8 is superfluous and may be eliminated. This procedure is quite essential in order to prevent bogus parties, bogus vakils and bogus witnesses to form into a conspiracy and have the marriage registered without the knowledge of the actual parties concerned in the marriage and thus prevent litigation in the future.

With regard to schedule, book Nos. 1 and 2 a column should be provided for the entry of the names of the witnesses to the marriage and columns for the signatures of the parties, their vakils and the witnesses to the marriage.

(19)

Letter—from Janab Moulvi Khudrath Haleem Sahib, Al-Nasari, Mirsapetta, Madras.
To—the Collector of Madras.
Dated—the 9th December 1918.

With reference to your letter R.O.C. No. 1351/B. & G., dated 11th November 1918, calling for my views upon the Hon'ble Mr. Yaqub Hasan Sahib's Bill for the voluntary registration of Muhammadan marriages and divorces in the presidency, I am of opinion that the present procedure which is in vogue does not call for any change, so in my opinion the Bill is unnecessary and out of place.

(20)

Letter—from Haji C. Husain Sahib, Georgetown, Madras.
To—the Collector of Madras.
Dated—the 13th December 1918.

With reference to your letter R.O.C. No. 1351/B. & G., dated 28th October 1918, I have the honour to inform you that I am strongly opposed to the Bill for the voluntary registration of Mussalman marriages and divorces for the following reasons :—

(1) There is absolutely no practical necessity for the Bill. Everywhere I find Kazis who perform marriage ceremony keep a correct and clear record of marriages and divorces and this is carried out for last 1,336 years.

(2) If the Bill is passed into law, there will be the most undesirable effect of making valid marriages and divorces effected according to the strict injunctions of our Prophet.

I am herewith returning the enclosures sent to me.

(21)

Letter—from Shifa-ul-Mulk Zynulabideen Sahib Bahadur, B.A., Madras.
To—the Collector of Madras.
Dated—the 16th December 1918.

With reference to your R.O.C. No. 1351/B. & G., dated 28th October 1918, I have the honour to state that I am strongly opposed to the passing of the Hon'ble Mr. Yaqub Hasan's Bill for voluntary registration of marriages and divorces into law for the following reasons :—

(1) Mussalman marriages and divorces are governed by the injunctions laid down in our religion. The passing of the proposed Bill into law will be construed as an infringement of religious rights and liberties.

(2) As has been pointed out by the resolutions passed on the subject by some of the Muhammadan public bodies, the acceptance of this Bill by the legislature will have the most undesirable effect of throwing unregistered marriages and divorces into the region of suspicion, degradation and contempt.

As the proposed measure seems to be very unpopular with the Muhammadan community I would strongly request Government to see that the Bill is thrown out of the Legislative Council.

(22)

Letter—from Haji Kazi Muhammad Fazih-ud-din Sahib, Kazi of Georgetown, Madras.
To—the Collector of Madras.
Dated—the 9th December 1918.

With reference to your letter R.O.C. No. 1351/B. & G., dated 28th October 1918, forwarding a Bill to provide for the voluntary registration of Mussalman marriages and divorces which the Hon'ble Mr. Yaqub Hasan desires to introduce into the Madras Legislative Council, and asking me to submit my views on the provisions of the Bill for submission to Government, I beg to state that the provisions of the Bill is against the Muhammadan religion and therefore I trust that the Government will not allow the same to become law.

2. In my opinion the present procedure which is followed according to the Muhammadan religion and which has worked satisfactorily for such a long time is quite sufficient.

(23)

Letter—from the Vice-President of the Madras Presidency Moslem League.
To—the Collector of Madras.
Dated—the 18th December 1918.

With reference to your letter R.O.C. No. 1351/B. & G., dated 28th October 1918, I have the honour to submit the following resolution passed at the meeting of the Council held on the 26th November 1918 :—

"The Council of the Madras Presidency Moslem League is of opinion that a measure of the kind proposed by the Hon'ble Mr. Yakub Hasan is highly desirable and therefore the Council accords its approval to the Bill for the registration of Moslem marriages and divorces."

(24)

Letter—from Moulvi Obidullah Sahib, Shamsul-Ulman, Chief Khazi of Madras.
To—the Collector of Madras.
Dated—the 18th December 1918.

With reference to your letter dated November 1918, I beg to state that after careful study of the Hon'ble Mr. Yaqub Hasan's Bill for voluntary registration of Moslem marriages and divorces I arrived at this conclusion that, if the Bill be enacted into law, difficulties will be created which would mar the simplicity of the present law and curtail the religious freedom of the Moslems. Hence my strong opposition to the Bill.

(25)

Letter—from the Secretary, Anjuman-i-Islahul Muslimin, Mount Road, Madras.
To—the Collector of Madras.
Dated—the 19th December 1918.

In submitting herewith a copy of the report, I beg to request that your honour will be pleased to move the matter in the Legislative Council opposing the sanction of the Bill for the voluntary registration of the Moslem marriages and divorces as it is against our Muhammadan law and custom for which the members of the Anjuman and priests thank you in anticipation. The fact has already been published in several newspapers and in the *Madras Mail*, dated the 10th December 1918.

Sub-Enclosure

Registration of Moslem marriages and divorces.

A protest meeting.—On Friday the 6th of December 1918 at the Nawab Wallajah's Big Mosque, Triplicane, a large gathering of Muhammadans assembled with the Shamsul Ulama Moulana Moulvi Huzruth Shah Zahid Hussain Sahib Mahkara-ul-Quadari (the President of the Anjuman-i-Islahul Muslimin) as the President, and the following resolution was declared by the Secretary of the said Anjuman and strongly seconded by another priest, viz., Moulana Moulvi Muhammad Khalilur Rahiman Sahib Khadari Behari and was unanimously passed twice :—

"The Muhammadan residents of Triplicane and other localities of the City of Madras urge that the Bill submitted in the Madras Legislative Council by the Hon'ble Mr. Yaqub Hasan is against the Muhammadan law and in connexion with nikah, divorce and khula, it will unlawfully interfere or hinder the liberty of Muhammadans and produce a great and unnecessary stir and inconvenience. In religious matters, no Muhammadan is supposed to abide by any other order or law but those of the Koran, Hades-i-Sharif (traditional sayings of the Prophet), Ijma (Senate of pious men) and Khiyas-i-Mujtahiddeen (surmise of the prelates), and we obediently and earnestly hope that the Government will be pleased not to interfere in religious matters and will remove the anxiety created by the news of the Bill for voluntary registration of marriages and divorces by rejecting it."

Soliciting an acknowledgment of its receipt.

(26)

Letter—from M. Abdul Zuly, Secretary, Naby Sahib Anjuman-i-Anwarul-Aqlauk, Madras.
To—the Collector of Madras.
Dated—the 21st December 1918.

I am directed by the president and members of this Anjuman to submit to you the enclosed resolution passed at a meeting of the Anjuman held on 7th December 1918, regarding "The Hon'ble Mr. Yaqub Hasan's Voluntary Bill for Moslem marriages and divorces" for transmission to the Secretary to the Government of Madras, Legislative Department.

Sub-Enclosure

The Hon'ble Mr. Yakub Hasan's Bill for Moslem marriages and divorces.

At a meeting of the "Anjuman-i-Anwarul-Aqlauk," Soopori Goonta, Mount Road, Madras, held on 7th December 1918, under the presidency of Janab Muhi-ud-din Khan Sahib, President of the Anjuman, a resolution was passed accepting heartily the principles of the Bill introduced by the Hon'ble Mr. Yaqub Hasan for correcting the records of the Kazis.

(27)

Letter—from Honorary Secretaries of the Muhammadan Educational Association of Southern India, Madras.
To—the Collector of Madras.
Dated—the 21st December 1918.

We have the honour to forward to you the following resolution adopted at the special meeting of the Executive Committee held on the 28th November 1918 about the Bill the Hon'ble Mr. Yakub Hasan desires to introduce into the Madras Legislative Council :—

"In the opinion of this committee the proposed Bill on the registration of Moslem marriages and divorces is greatly needed, and, when passed into law, will be beneficial to the Moslem community."

(28)

Letter—from Haji Moulvi Hakim Muhammad Badr-ud-din Husain Sahib Kaderi, Triplicane, Madras.
To—the Collector of Madras.
Dated—the 4th January 1919.

To the Collector Sahib :—Opinion of the (undersigned) fakir in the matter of amending the marriages records. It is proved by the Koran and Hadis that religion is based on very easy and untroublesome laws and this is not secret from any man of learning. Therefore no quotations are given here of the verses of the Koran and the sayings of the Prophet. As far as possible trouble be minimised and money be not spent. It is essential that laws and rules be made in a manner that as far as possible trouble be minimised and money is not expended. In the system which is prevalent now proper books of registers are scarcely found with every kazi and naib kazi. It is necessary to amend and reform this procedure. The appointment and dismissal of Naib Kazis should be in the power of kazis. And after marriage a copy of the document should be given in the same meeting to the bridegroom and a copy to the vakil of the

bride on or without their application and their signed receipt be taken for it. Such a procedure was seen in the time of Aurangazeb Alamgir Badsha, from which the authorities of the time will get great assistance in the inquiry into matters relating to marriage, and either of the parties will not get chance of concocting cases. At present Mussalmans are in poverty and are not able to bear extraordinary expenses. It is advisable in the opinion of the (undersigned) fakir to draw up the Bill according to the above items.

(29)

Letter—from Moulvi Ghulam Muhi-ud-din Sahib, Librarian, Muhammadan Public Library, Triplicane.
To—the Collector of Madras.
Dated—Trichinopoly, the 5th January 1919.

With reference to your letter R.C. No. 1351 B. & G. dated 11th November 1918, regarding marriage and divorces registration of Mussalmans, I append below my opinion on the subject. The delay in replying to the above reference was due to my ill-health.

2. In the Urdu translation of the Bill on the subject the introducer of the Bill says that *marriage* is a wordly contract among Mussalmans not based on any religious ceremony. It is not so. It is purely a religious contract agreed upon under conditions and terms laid down in our Holy book of *Koran* and all Mussalmans are unanimous on the point that marriages and divorces are religious ties and dissolutions performed in consonance with the laws of the *Holy Koran* and its commentaries made by our religious leaders and reformers years ago. As such any deviation from the above rules is their dereliction. For the past 1,300 years, these functions have been duly performed by kazis and their naibs without registration as now suggested and there has been no abuse of the powers conceded to the above functionaries.

3. When there is ample provision in our religious books to safeguard Moslem interests it is an unnecessary interference on the part of the mover to innovate new rules for which there is no real need and for which there is no provision in our religious books on the subject. To initiate a thing like registration is therefore irreligious and God has prescribed penalties for such deviations. In the fifth book of the *Koran* God says that whosoever acts against the commandments of the Prophet knowing what is right and adopts a fresh path other than that pursued by the adherents of his religion, will be made to stick up to his new path and will be thrown into the hell. There is also a saying of the Prophet that we should follow the learned, that is, we should adopt the course which our learned saints have adopted.

4. To adopt the system of the registration for which there is no provision in our Holy books is irreligious. This view is supported by the saying of the Prophet that any suggestion against the Holy books should not be acted upon. There is another saying of the Prophet that any person who innovates a thing for which there is no provision in the religion of the Prophet is a heathen Further, there can be no change in religious matters to suit to times.

5. As there is ample provision in the religion of the Prophet for the marriages and divorces there is no need for further expansion of the subject. This principle of registration is likely to interfere with religion which is against the policy of the benign British Government. The passing of the present Bill would involve Mussalmans in difficulties from time to time and a marriage rightly performed may sometimes fail for want of registration. For, naturally the courts of law which are bound to proceed on recorded evidence would, eventually be put to the necessity of viewing religiously performed marriages with suspicion in the face of marriages, which though irreligious in several ways, have the cloak of registration. This is against the wishes of God. In His Holy Book, He says "God is not willing to place man in difficulties."

6. Under the above circumstances I am quite against the passing of the Bill in question.

(30)

Letter—from Janab Moulvi Haji Muhammad Fazl-ul-lah Sahib, Godown Street, Madras.
To—the Collector of Madras.
Dated—Vaniyambadi, the 8th January 1919.

With reference to your letter R.O.C. No. 1351-B. & G. of 1918, I have the honour to state the following as my views on the Bill in question.

First of all let me tell you that I am quite opposed to the Bill, as it is only a half-measure. My reason for opposition is that the Bill includes such aspects of the nikah as are not quite necessary under Moslem Law, on the other hand it excludes certain aspects of marriages and divorces as are allowed by the Moslem Law. For example, a second marriage according to Muhammadan Law is not at all necessary for a converted couple who are already married according to customs of their previous religion. Now when a legal question is raised about the matrimonial relations of such a couple, the case in a law court will not be valid in the face of this Bill, if passed, as the couple could not have registered it.

Then, two other aspects of divorce have been left out (viz.), *Iela*; by these a husband has to take a vow before his wife that he will not have any connexion with her and after a lapse of four months from the date of the vow the marriage tie becomes invalid and the wife loses all claims on the person and property of the husband. Now this *Iela* cannot be registered; and this is another instance where the Act cannot at all help the judiciary.

In the light of the above facts, as the Act will give room to a complicated set of legal proceedings, and sometimes even confuse the Judge, to the detriment of the parties, I am strongly opposed to the passing of the Bill.

If the Bill is passed after any amendments, the Act becomes quite unnecessary. Moreover the provisions mentioned in article 23 of the Bill are all the work of Ulemas; and it is quite undesirable that the Governor in Council should interfere in matters which they are not competent to deal with.

(31)

Letter—from Moulavi S. M. F. Fakhri Sahib, Mylapore, Madras.
To—the Collector of Madras.
Dated—the 9th January 1919.

In reply to your letter No. 1351-G. & B., dated 28th October 1918, and the reminder, dated 3rd January 1919, I have the honour to enclose herein three (3) copies of printed Urdu booklet "Tubsirathuth Thaqiq" (minute review) written by me on the receipt of your above letter against the provisions of the Bill to provide for the voluntary registration of Mussalman marriages and divorces which the Hon'ble Mr. Yaqub Hasan Sait desires to introduce into the Local Legislative Council.

I, in the said booklet, have exhaustively dealt with all the provisions of the said Bill and have authoritatively proved that Moslem marriages and divorces are religious and not social matters, as contended by the Honourable Member, and hence the Government under the Royal Proclamation, cannot interfere in the religious questions of their subjects (vide paragraphs 7, 8 and 22).

I have also proved beyond any shadow of doubt that the said Bill of the Honourable Member is not his originality, as he makes the Government and the Moslem public believe, but it is a borrowed verbatim copy of Act I of 1876 with the exceptions of the words (1) Lieutenant-Governor in Council, (2) Muhammadans, etc., which have been altered into (1) Governor in Council, (2) Mussalman or Moslem, etc. The said Act I of 1876 is also a dead letter in the Bengal Presidency (vide paragraphs 4 and 16).

Further I have the honour to inform you that very recently a "Fatwa" (mandate) of the most eminent Ulamas of Madras, etc, has also been published against the provisions of the said Bill, which also contains a small paragraph under my signature and seal. I am led to believe that the said "Fatwa" has already been translated into English by the Government Persian Translator and it is now with the Government.

I request you to kindly submit the said booklet to the Government which contains my humble views against the provisions of the said Bill. I hope the booklet, as usual, will be translated into English in the office of the Government Persian Translator.

(32)

Letter—from Haji Saiyid Muhammad Abdul Rahaman Sahib, Royapetta, Madras.
To—the Collector of Madras.
Dated—the 7th January 1919.

With reference to your R.O.C. No. 1351-B. & G., dated 11th November 1918, I have the honour to state that the Bill introduced by the Hon'ble Yaqub Hasan Sait Sahib is contrary to and conflicting with the established Muhammadan law. Marriages and divorces are not matters purely social. They are religious ceremonies and no interference with these ceremonies except on religious consideration can be allowed. It is stated in the Bill that registration is voluntary and not compulsory; this is misleading. It is compulsory for all practical purposes and any compulsory interference with religious tenets of Islam has the local effects of making the country a 'Darul Harub.'

Alaman: Alaman: Alaman.

The Honourable gentleman is not a Moulvi and has no expert knowledge of our religious books. He belongs to a community converted to Islam in recent years. This community observes Hindu laws and principles. As a representative of Muhammadan community his interference with matters religious is injurious to the Islamic principles. It is a sin to declare things not permissible by law having *sanction* of 'Koran.'

We hope the benign Government will not allow the Bill to be passed into law as it is contrary to our religion.

(33)

Letter—from Muhammad Abdul Latif Sahib, Proprietor, "Jarida-i-Rozgar" and Hyderi Press, Madras.
To—the Collector of Madras.
Dated—the 7th January 1919.
No.—17.

With reference to your letters R.O.C. No. 1351-B. & G., dated 11th November 1918, and 3rd January 1919, I have the honour to inform you that the delay in replying you early was this: for the Bill introduced by the Hon'ble Mr. Yaqub Hasan regarding the registration of Moslem marriages and divorces comes under the religion, I have to consult with many Ulemas of our religion and take their opinion.

I further beg to state that as far as I have consulted and received innumerable correspondence from various parts of this Presidency on this Bill I came to know that the Moslem public and the Ulemas at large are against the registry of marriages and divorces, and they think that this is a matter solely concerned with the religion. I am also against the passing of the Bill.

(34)

Letter—from Haji Eesa Abba Sait Sahib, Godown Street, Madras.
To—the Collector of Madras.
Dated—the January 1919.

With reference to your letter No. 1351, dated 28th October 1918, I beg to state that in my opinion it is absolutely necessary that an enactment should be passed to insure a correct maintenence and safe custody of marriage and divorce registers. I therefore strongly support the Bill brought forward by the Hon'ble Mr. Yaqub Hasan.

(35)

Letter—from Moulvi Mir Haidar Ali Sahib, Persian Munshi, Presidency College, Madras.
To—the Collector of Madras.
Dated—the 11th January 1919.

With reference to your letter No. 1351-B. & G., dated 11th November 1918, I have the honour to inform you that I am sorry to state that the registration of Mussalman Bill for marriages and divorces is only voluntary. The voluntary registration never prevents all the mistakes found in the records of Kazis at present and it cannot be a compulsory registration at any time against the Muhammadan law.

The leading and well-known learned Moulvis of Madras Presidency and almost all the Muhammadan community find that this registration is quite unnecessary and they hope that the Government should not interfere in religious matters that is (nikahs and talaqs), by means of insisting on this registration; and I also consider that even after the said registration there may occur more mistakes in the records of kazis than at present.

Therefore it would be enough if the Kazis themselves be ordered to keep their records correct and if necessary the judges might be checking their records as at present and punish them for the mistakes found in their records.

(36)

Letter—from Khan Bahadur H. Muhammad Abdul Aziz Badsha Sahib.
To—the Collector of Madras.
Dated—the 15th January 1919.

With reference to your letter R.O.C. No. 1351-B. & G., dated 3rd instant, I have the honour to state that this is not a matter which could be lightly disposed of. No doubt there exists a good deal of irregularities and it is desirable that something should be done to protect the interest of the Moslem community.

The matter is being discussed by those in favour of and against the measures on account of certain conditions imposed therein.

I do not know how the matter will be settled. If some one intercedes between both parties and could come to some conclusion and compromise the matter would be settled.

(37)

Letter—from Moulvi Hakim Saiyid Shah Muhammad Valivullah Sahib Qadri, Triplicane, Madras.
To—the Collector of Madras.
Dated—the 16th January 1919.

With reference to your letter R.O.C. No. 1351-B. & G., dated 11th November 1918, desiring me to give out my views on the provision of the Bill to provide for the voluntary registration of Mussalman marriages and divorces, introduced by the Hon'ble Mr. Yaqub Hasan Sahib into the local Legislative Council, I have the honour to state that after going deep into the question of the Bill and after consulting several religious books that have been written on the subject I am led to believe that the Bill interferes very much with the conventional rites of the Muhammadan religion, which have hitherto been freely enjoyed by us under the benign British Government.

Hence the passing of this Bill will, in my opinion, prejudice the minds of the Muhammadans of this large Presidency and will surely wound their feelings very much.

It is, therefore, my earnest prayer to the Government that they would see that this Bill is not passed and thereby the Muhammadan subjects of this Presidency are allowed the privilege of freely enjoying their religious rights, as it has hitherto been done, in accordance with the late Queen Victoria's Proclamation of 1857.

(38)

Letter—from Moulvi Saiyid Husain Kadiri, Mylapore, Madras.
To—the Collector of Madras.
Dated—the 17th January 1919.

I perused the Bill for the voluntary registration of Moslem marriages and divorces introduced by the Hon'ble Mr. Yaqub Hasan Sait. Marriages which to all outward appearance, seem a social function in fact come in our religion under the category of prayers which we cannot voluntarily bring under legislation.

In the face of the Kazi Act of 1880 there is no necessity of the proposed Bill. Moslem leaders should move the Government for the appointment of kazis. If the latter be found incapable they should be removed from the office by the Government, and in the case of assistant kazis, the kazis should see to their removal. Local kazis not appointed by the Government should be ignored. Either the Government should enjoin that the registers be kept regularly and that an extract taken monthly from those registers or, if the book be completed, it should be lodged with the District Registrar or the Moslem leaders should arrange with the kazis for the proper observance of this principle. Compulsory registration in the kazi's registers is preferable. But this is against the principles of our religion. Those marriages, performed without honest witnesses and with no registry in the kazi's registers, cannot be presented in a court of law at the nick of time.

The presence of kazi or his assistant is quite essential in the event of a marriage being solemnized by an elderly pious man. In their absence the latter should note down in a slip of paper the particulars of the ceremony attested with the signatures of the protector and guardian or the vakil or at least of the two witnesses known to both the sides and cause the entries to be made in the kazi's register. In this case the responsibility rests with this man.

(39)

Letter—from Saiyid Muhammad Abdul Qadir, Madras.
To—the Collector of Madras.
Dated—the 21st January 1919.
No.—187.

With reference to your letter No. 1351-B. & G., dated 11th November 1918, and reminder, dated 3rd January 1919, I have the honour to submit for your information that after going through the Hon'ble Mr. Yaqub Hasan's Bill carefully and conferring with several cultured Moslem theologians and gentlemen of progressive views I am inclined to maintain that the reasons advanced by the Honourable Member are misleading and consequently the Bill, if passed into law, will prove harmful and an encroachment on the religious susceptibility of the Moslem community as discussed in the leading articles of (my social weekly) "Mukhbir-i-Deccan," dated 4th December 1918 and 8th January 1919.

Mr. Yaqub was entirely wrong in regarding the Moslem marriage as a purely civil contract, as the solemnization of our marriage is a sacred religious obligation on the clear authority of the Holy Koran, the Prophet's traditions and Fiqa. His arguments are illogical although he calls our marriage a civil contract yet is shy of enforcing his Bill in the shape of compulsory legislation. It is not clear why he should be nervous of pushing it forward as a compulsory measure.

I may kindly be permitted to mention that the Bill has been disliked by thousands of educated Moslems of not only the Sunni sect which I and Mr. Yaqub belong to but also the Shiah and Ahla-i-Hadis sections do not approve of it as will be seen from Fatwas of Ulimas and the pamphlet published by Moulvi Muhammad Fakhr-ud-din Sahib of Mylapore under your kind permission.

This is an innovation tantamount to Government's interference in the religious matters because the Bill, though now a permissive measure, will prepare the way for eventual compulsory legislation, the non-compliance of which as contended by the Muthialpet Moslem Anjuman will relegate marriages and divorces effected on present orthodox lines to an inferior position of doubtful validity.

The legislation will be painfully received by the Muhammadans as a measure leading to open the gates of other religious legislations or reformations as is explained in the meeting of 8th January 1919.

Even if the Bill is enacted it will not work satisfactorily but is sure to cause dissatisfaction as is experienced in Bengal. The Honourable Member's Bill has very little fresh matter compared with the Bengal Legislation which has been condemned by eminent jurists, such as the Hon'ble Justice Saiyid Amir Ali, etc.

Under the circumstances I am of opinion that the Moslem community would resent any attempt to tamper with the simple procedure laid down by the Prophet of Islam as essential to a valid Muhammadan marriage or divorce.

XLVII

Letter—from J. C. Stodart, Esq., I.C.S., Acting Collector of South Arcot.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—Cuddalore, the 29th January 1919.
No.—D. Dis. 169-Cor.

1. Muhammad Husain Sahib Bahadur, B.A., District Registrar, Cuddalore.
2. Saiyid Ismail Sahib Albeez, Government Pensioner, Cuddalore.
3. Janab Moulavi Muhammad Obidulla Sahib, Porto Novo.
4. Ghulam Muhammad Gose Sahib Bahadur, Porto Novo.
5. Janab Kazi Baha-ud-din Sahib Shokir, Government Kazi, Minambur, Gingee taluk, South Arcot.
6. Muhammadans of Tindivanam assembled at a public meeting held on 6th November 1918.

With reference to Government Memorandum No. 1519-8, dated 12th October 1918, Home (Miscellaneous) Department, regarding the Bill to provide for the voluntary registration of Mussalman marriages and divorces which the Hon'ble Mr. Yaqub Hasan Sahib desires to introduce into the local Legislative Council, I have the honour to forward herewith the views of the marginally-noted representative Muhammadans and Muslim associations in this district on the provisions of the Bill.

2. The need for providing a better form of registration of Muslim marriages and divorces is admitted by all. The passing of the Bill as a purely permissive piece of legislation is greatly welcomed by the whole community as it will considerably reduce the difficulties in the administration of justice in disputed cases and set right the present unsatisfactory system of keeping records by ignorant Kazis or their agents. This measure, if passed into law, would surely obviate false evidence and false records prepared by self-appointed Kazis and encourage uniformity of practice, stimulating the community to make these functions regular. Janab Moulavi Muhammad Obidulla Sahib of Porto Novo is of opinion that voluntary registration will be "a sound action as it ensures safety of property and also removes obstacles against contested claims in respect of such property in courts and that it will be commendable to one and all and also permissible under the Muhammadan law". The Government Kazi at Minambur, a rich Mussalman village in the Gingee taluk, says that the Bill is just what is required to safeguard the interests of the community, while Mr. Muhammad Husain Sahib, District Registrar, Cuddalore, a distinguished Mussalman, has in his learned and interesting letter vividly put forth his arguments in support of the Bill. Mr. Saiyid Ismail Albeez has not clearly expressed himself about his attitude to the Bill, but it is not understandable how the various reforms suggested by him are feasible except by legislation. Some additions and modifications to the Bill in matters of detail have been suggested in some of the replies received.

Enclosures

(1)

Letter—from M. Muhammad Hussain Sahib Bahadur, Registrar of South Arcot.
To—the Collector of South Arcot.
Dated—the 20th November 1918.
No.—2858-Genl.

With reference to R.O.C. No. 1587-B. & G., dated the 28th October 1918, I have the honour to submit the following opinion on the Bill to provide for the voluntary registration of Mussalman marriages and divorces in this presidency.

2. Marriage among Mussalmans, far from being a religious tie, is a civil contract and it is solemnized by self-constituted Kazis or those appointed as such under the Kazis Act (1880). In consequence of their special position the latter where available are generally preferred to the former but learned Kazis are now the exception rather than the rule, the prospects awaiting the candidates in other walks of life being what they are.

My observation applies in a greater degree to self-appointed Kazis and there are to be found among these as well as the Government Kazis sons of their fathers without necessary qualifications or a due sense of responsibility. The naibs or agents of either class of Kazis occupy a still lower scale in point of efficiency but the thing which calls loudly for amendment is the exercise of powers by the Kazis and their agents without any checks imposed on them, not to speak of the endless disputes consequent on the solemnization of marriages by persons without the least shred of authority.

3. The system of recording marriages and divorces on slips of paper or in what passes for a register has in the circumstances given rise to abuses of a grave nature and no wonder that in deciding questions of *mahar* and the like civil courts attach more importance to oral evidence based on custom than to so-called documentary evidence furnished by 'scraps of paper'. Prolonged litigation is the inevitable result and it means in turn the ruin of respectable families; but what is it to the unscrupulous among the Kazis who are intent on making hay while the sun shines.

Divorce among respectable Mussalman families is undoubtedly rare but if they have recourse to it as a last resort it is more often than not with a view to a re-marriage. The objection to the registration of divorces based on the ground of publicity therefore vanishes in such cases with the re-marriage which means if anything publicity with a vengeance.

Divorce however is not uncommon among the poorer classes and the explanation for it is to be sought in most cases in the cupidity of parents which yoked their daughters while young, to persons of questionable character or unsuitable age. In such cases the Kazis, in order to satisfy their greed, not infrequently, side with the stronger party and throw formidable obstacles in the way of the weaker party.

4. There would of course be raised the old cry of "religion in danger" in relation to the proposed legislation but it would be found to proceed ultimately from the Kazis and those who take their word for gospel. Nevertheless the question of questions is how long these Kazis and their tools are to be permitted to trade on the credulity of the Mussalman community unchecked by any authority and unhindered by public opinion.

The fact that some years ago such an orthodox section of Mussalmans as the Mappillas of South Kanara had considered it necessary to press the matter on the attention of His Excellency Sir Arthur Lawley—a late Governor of Madras—irresistibly points to the intensity of the evils inherent in the present system. What the present Bill aims at is the appointment of a better class of Kazis and the maintenance by them of a trustworthy record of marriages and divorces without so much as touching the fringe of religion and in this respect it does not materially differ from the statutory measure for the recording of births and deaths without regard to creed or nationality.

Moreover the Government Kazis are in the enjoyment of salaries or grant of lands or both and there is no reason why they, of all others, should not be brought under effective control and thereby made to serve as an example to the self-styled Kazis. Otherwise the Kazis Act will remain a dead letter considering the poor qualifications and the questionable methods of the Kazis appointed thereunder. There are of course honourable exceptions but civil courts cannot in the nature of things take cognizance of such exceptions so far as the authenticity of the record of marriages and divorces is concerned.

5. Bengal seems to contain a larger Mussalman population than the Madras Presidency and yet Act I of 1876 for the registration of Mussalman marriages and divorces has been in operation there these long years without any one being the worse for it. In view however of my present inability to procure a copy of the Bengal Act and of the latest administration report embodying the results of its working, I cannot vouch for what is claimed for the system in vogue there but it is impossible to avoid the conclusion that what is beneficial or harmful to one part of British India must be equally so to another part, the conditions applicable to Mussalman society not admitting of fundamental differences.

If I am correctly informed the provisions of the Bengal Act are worked somewhat on the following lines:—

"There are Muhammadan registrars in all towns and villages in Bengal who act under the control and supervision of the Government registrars. They submit monthly returns of marriages and divorces to the district registrars to whom the registers, when filled up, are also deposited for safe custody. The Bengal Government have appointed a central committee in Calcutta of which some leading Mussalmans are members and the Inspector-General of Registration is the President. The appointment of Kazis and Muhammadan registrars is made by Government in consultation with the Committee to which are also referred all matters of dispute and complaint. Practically all the powers assigned to the Government and the Inspector-General of Registration by the Bengal Act are exercised by this Committee by delegation."

6. An Act worked in accordance with the foregoing principles cannot but be welcomed by the Mussalmans of this Presidency but if the Government Kazis get up a spurious agitation—let alone the self-appointed Kazis and the host of agents—it will mean that they are out for fortifying themselves against legitimate complaints which sooner or later would see the light of the day or dispossession through default of their emoluments or lands held by virtue of office

but alienated or divided without sufficient cause. It is therefore a matter for serious consideration whether the Government will have fulfilled its task by appointing Kazis and yet leaving them uncontrolled when a remedy which has stood the test of time in another province is ready to hand for successful application.

The learned judgment of the Hon'ble Mr. Justice Kumaraswami Sastri in Civil Suit No. 269/16 exposing the tainted character of some of the Madras Kazis and the audacity with which they tamper with the record of marriages and divorces and the Bengal system avoiding both pitfalls by appointing right men to the posts of Kazis and insisting on the faithful performance of duties by them are in the nature of revelations which ought to strengthen, more than anything else, the hands of the Government in this Presidency.

Judging also from the lament of the Mappillas—the most conservative portion of Mussalmans forming a third of their total population in this Presidency—no difficulties of a serious nature need be apprehended in connexion with the proposed legislation, except it be that the Government Kazis and their agents will put up a last fight in their own interest and unnecessarily drag religion into it so that it may assume the character of a communal fight.

7. The necessity for legislation has already been acknowledged by such eminent jurists as Sir Ronald Wilson and the Right Hon'ble Mr. Amir Ali. According to these authorities however compulsory legislation would alone put a stop to the abuses of the present system but caution is needed all the same in view of the social aspects of the questions involved. An optional measure will, on the other hand, serve to cover the transitional period necessary to reconcile the vested interests to a compulsory measure, if and when it comes, but the latter task had best be left to the Imperial Government so that it may introduce a measure which would apply to the whole of British India.

In the absence of a copy of the Bengal Act and of the latest administration report dealing with its operations I reserve my comments on particular provisions of the Bill, the more so because it has yet to be referred to a select committee. The best method of focussing Mussalman opinion on it in the meanwhile seems to be to circulate Urdu translation of the Bill under discussion and of the Bengal Act with relevant extracts in the same language culled from the administration report setting forth the results of its working.

I have ventured to make this suggestion in the hope that even if the Madras Government should feel diffident in the matter it will at least see its way to launch a limited measure with the condition that it should at the outset become operative only in districts which are wholeheartedly for its introduction to be extended in course of time to other districts as they come into line. Since writing the above the *Hindu* of the 20th instant has published a full report of an influential Muhammadan meeting held in Madras in support of the Bill.

(2)

Letter—from Saiyid Ismail Albebz, Retired Government Officer, Cuddalore.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—the 15th December 1918.

With reference to your R.O.C. No. 1587-B. & G. of 1918, dated the 28th ultimo, asking me to give my opinion as called for by Government on the introduction of a Bill for the registration of Muhammadan marriages and divorces, I am convinced that it is absolutely necessary to take steps for the better preservation of Kazis' registers, especially, in cases when some of such registers are lost and when after the witnesses to any marriage are no more, the parties find it far too hard to prove factum of marriages or divorces and the mahar amount, etc.

2. For the present, some other mode may be taken than using the expressions either "Compulsory" or "Voluntary" registration of marriage, etc., as is viewed by the Honourable Members of the Legislative Council and as is found in the Bill under reference.

3. To avoid the aforesaid objections and to do away with the difficulties in the administration of justice and for the just cause of the Muhammadan community, the benign Government may be pleased to adopt the following *procedure*, which I presume will do much good to such community, and which, in times to come will demand such legislation and also for the present it will be thankfully acceptable by the public.

4. It is as follows:—

(*a*) All the Government Kazis may be directed to send copies of *marriages, divorces, khoola, moobarat, release of mahar* and *the payment of mahar*, from their registers within three days from the date of such transactions, either to a District Registrar or a Sub-Registrar, within whose jurisdiction such marriage, etc., has taken place. Further, all copies of the transactions, such as nikah, etc., entered in their registers up to date, since the Kazis Act came into force, may be sent to the District Registrars within a month from the date of such order. The Kazis' registers may be with them for their frequent use and reference.

(*b*) The District Registrars and Sub-Registrars may be directed to maintain a separate *file book* showing receipts of such communications.

(*c*) The public may be informed that in cases, when any marriage, or any matter referred to in clause (*a*) supra is performed by any *private person*, other than a Government Kazi, he,

or *any one of the parties to such marriage*, may likewise communicate such fact to the Registrar or Sub-Registrar, as stated above, *with the attestation of the village munsif*, within whose jurisdiction such marriage, etc., has taken place.

(*d*) The District Registrars and Sub-Registrars may be directed to grant certified copies of the above records, when applied for by the public on payment of annas two per copy.

(*e*) When any party fails to act or do as aforesaid it will not, on that ground, render any marriage, etc., void, but it will be viewed with suspicion unless a Government Kazi, or a court of law, on strict proof of evidence, considers it to be valid, when any question arises about the legality or illegality of such marriage, etc.

(*f*) The public may also be informed that if any fraud or illegality as to any marriage, etc., comes to the knowledge of any Muhammadan, he should at once make a report of it to the Government Kazi of the place, in which such occurrence takes place and such Kazi should inquire the matter, his opinion therein, and the result of which should form part of his record.

5. There is another important matter referred to in a decision about the release of a mahar, which if the Government Kazi had entered in his *register* that it is in accordance with the Muhammadan law, then, the Madras High Court would not have taken a different view about it in A.S. No. 1277 on its file.

6. The decision is that a Muhammadan girl of fifteen years old, a major under the Muhammadan Law, may contract *marriage, mahar amount*, etc., but could not release such *mahar*, till she attains her 19th year, i.e., till she attains majority under the Indian Majority Act, in spite of proviso to section 2 of the said Act, which is in favour of Muhammadan law.

7. As the said decision leads to serious consequences, two or three articles beginning from 5th March last appeared in the *Madras Mail* headed as '*Majority of a Muhammadan Woman*'.

The serious consequences among other facts are: If such girl wants to release her mahar in favour of her husband to obtain a divorce from him, owing to his ill-treatment, such as beating, kicking, etc., she could not do so till she can ask, to be freed from such a situation, only on her attaining her 19th year according to the above decision and till then should be subjected to such harsh treatment. Similarly, when she relinquishes her mahar in favour of her husband on her *death bed*, her heirs may claim such *mahar amount* after her death under the present decision, as she did not attain her 19th year when she relinquished her *mahar amount*.

8. All these are virtuous acts, sanctioned by sacred *Koran* and now disallowed by the *said decision*, which has affected the Muhammadan law to a great extent.

9. If such facts had been legally entered in the register of *a Kazi appointed by Government*, then, of course, the High Court would not have interfered in such religious acts on a perusal of a judgment passed by such Kazi in his *register* on the subject.

10. I enclose herewith six printed copies of such decision for the perusal of His Excellency the Governor in Council and for the perusal of the Honourable Members in the Council, who had spoken on the subject, when leave to introduce the Bill under reference was asked.

11. For the purpose of avoiding all these defects the above procedure will be highly acceptable to the Muhamadan community, especially, and meet with the approval of the general public.

(3)

Letter—from Muhammad Obaid-ul-la Sahib, Resident of Porto Novo.
To—the Collector of South Arcot.

With due reverence I humbly beg to acknowledge the receipt of your esteemed letter with a copy of the Bill for making provision for registration of Muslim marriages, divorce, etc., introduced by Mr. Yaqub Hasan Sahib Bahadur in the Madras Legislative Council. I have expressed my opinion in Urdu in a separate sheet enclosed herein. I have no objection to its being sent to such places as your honour may deem fit. I have also sent a copy of this to Mr. Yaqub Hasan Sahib Bahadur. The gist of it is that I am in favour of optional registrations and not of compulsory one.

After giving due weight and consideration to the Statement of Objects and Reasons in introducing the Bill about the registration of Muslim marriages, divorce, kula, etc. (obtaining divorce in lieu of Mahar) it is inferred that everyone is self-independent in deriving benefits and warding off evils attendant on one's actions and the wording of the enactment speaks for itself that registration is one of option and not of compulsion whether both parties constituting nikah or kula register it or not. It is stated in Hidaya and other Muhammadan religious books that every adult male member is cognisant of the benefits and evils arising from wealth and property concerned in marriages, etc., and hence it is not desirable to enforce compulsion in cases permissible under Muhammadan Law. The literate and the learned are aware that the validity of marriage, divorce, and kula does not depend upon its being registered but it is a sound action in as much as it ensures safety of property and wealth concerning such marriage, divorce, and kula and also removes obstacles against contested claims in respect of such property in courts of law. This view will be commendable to one and all and is even permissible under Muhammadan Law. It is therefore undesirable that compulsion should be resorted to in such cases.

In the above circumstances I strongly recommend that registration should be made optional. If on the other hand, it is made compulsory both the parties concerning the marriage, etc., render themselves liable to accusation for setting at naught the orders of the court of law and such persons though defaulters in the ordinary court of law do not stand as accused under Muhammadan law. As stated in Dainal-Vuktan and other Muhammadan religious books it is unjust to inflict punishment on delinquents merely for setting the orders at naught for which no express punishment is laid down. It is therefore evident that Muhammadan law does not accuse anyone of crime in the absence of such registration which only ensures safety of property and everyone is self independent in exercising caution over such property. Thus it will be seen that compulsory registration is undesirable and optional one commendable. Some people are of opinion that if the nikah is performed by some one else in the absence of the appointment of Muslim Registers, it is necessary that such person should intimate the details of the marriage, Mahar (dower), etc., in a separate sheet of paper to the Muslim Registrar who should make the necessary entries in his register and default in such cases entails inflictions of fines, etc. I do not approve of this view. At all events it is indispensably necessary that a Muslim Registrar should be appointed for performing Muhammadan marriages, divorces, etc., whether both the parties concerning the marriage do register it or not.

Thus registration of marriages, etc., should be made optional and not compulsory. Further it is also desirable that this post should be given to such of the persons, viz., Moulvies, etc., as are fully aware of the rulings and commandments of Muhammadan law, because the Kazis appointed under Kazi Act XII of 1880 often commit such gross blunders in matters relating to marriage, divorce, etc., owing to their ignorance of rules.

Though the Bill is silent on this point, I strongly recommend that an additional clause may be inserted 'such appointed Kazis and Muslim Registrars should be fully aware of the rules and commandments'

(4)

Letter—from Gulam Muhammad Ghose Sahib, Honorary Magistrate, Porto Novo.
To—the Deputy Collector of Chidambaram.
Dated—the 20th November 1918.

In referring to your kind Demi-official, dated the 31st October regarding the Bill for the voluntary registration of Mussalman marriages and divorces, I beg to observe the following :—

So far the statement and reasons put forth by the introducer of the Bill are concerned, I agree with the Honourable Member. Under no circumstances could it be made compulsory, compulsory registration being quite against the principles of the doctrines of Muhammadanism.

However I am of opinion that the Bill may be passed without prejudice to the principles of the Muhammadan doctrine with the following modifications and additions—

(*a*) In rule 8, the following must be added, viz.: If the application be for "Fusq"—by the woman who seeks for Fusq : provided if the woman be a parda-nishin, such application may be made on her behalf by her duly authorized vakil'.

(*b*) In rule 9, the time of one month notice should be modified to a shorter period.

(*c*) In rule No. 10, the following must be added : 'If the entry be of a divorce of the kind known as 'Fusq' in a register in the form (*b*) contained in the schedule to this Act—

(1) By the applicant; Provided if the applicant be a parda-nishin, the entry may be signed on her behalf by her authorized agent or vakil.
(2) By the persons who prove and testify the statement of the applicant to the satisfaction of the Muslim Registrar fulfilling the terms and condition laid out in the Muhammadan law.
(3) By the Muslim Registrar.

(*d*) The rule 20 must be fully modified as follows.—An appeal should lie against an order of a Muhammadan Registrar refusing to register a marriage or divorce to the Civil Court. The appeal must lie and be final according to Civil Procedure Code. Why we object to rule 20, is that the District Registrars are not considered to have qualified in the Muhammadan law.

(*e*) In book No. 1.
(1) Grand father's name of the parties—Bride and Bridegroom—may be mentioned as required by the Muhammadan law.

The delay in reply is due to my son's sickness.

(5)

Letter—from Muhammad Baha-ud-din Sahib, Government Khazi.
To—the Collector of South Arcot.
Dated—the 24th November 1918.

With reference to your honour's communication No. 1587/B. & G., dated 9th November 1918, I most respectfully beg to submit that the Bill to provide for the voluntary registration of Mussalman marriages and divorces is just what is required to safeguard the interests of Mussalmans as far as marriages and divorces are concerned.

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(6)

Letter—from Muhammad Baha-ud-din, Government Kazi, South Arcot.
To—the Collector of South Arcot.
Dated—the 6th December 1918.

[With reference to your honour's R.O.C. No. 1587 B. & G., dated 28th November 1918.]

In continuation of my previous communication to your honour in connexion with the voluntary registration of Muhammadan marriages and divorces I most respectfully beg to add that I have read very carefully one copy each of the proceedings of the meeting of the Legislative Council relating to the debate on the motion for leave to introduce the Bill for the Registration of Mussalman marriages and divorces, Hindustani and English translation of the Hon'ble Mr. Yaqub Husan's speech and free translation of the Bill in Hindustani, and beg to state that I have no further remarks to make in the light of the papers now sent to me, I beg to submit that I still maintain that the Bill introduced may be passed into law.

(7)

Proceedings of a public meeting of the Muhammadans of Tindivanam, dated 6th November 1918.

The Muhammadans of Tindivanam in public meeting assembled on 6th November 1918, passed the following resolutions :—

I. Resolved, that the Bill referred to in Memorandum Mis. No. 1519–8, dated 12th October 1918, of the Government of Madras, and introduced in the local Legislative Council by the Hon'ble Mr. Yaqub Hasan Sahib Bahadur is much appreciated and deserves to be passed into law at as early a date as possible.

II. Resolved also that the whole Muhammadan community has been placed under a deep debt of gratitude to the Honourable mover for his remedying a very great defect in the existing law affecting the community.

Tindivanam,
7th November 1918.

Saiyid Muhi-ud-din,
Chairman.

XLVIII

Letter—from Diwan Bahadur L. D. Swamikannu Pillai, Esq., I.S.O., Collector of Nellore.
To—the Secretary to Government, Home (Judicial) Department.
Dated—the 30th January 1919.
No.—506-C/Cor.

With reference to the Government Memorandum No. 1519–8, dated 12th October 1918, I have the honour to submit herewith the opinions of the marginally-noted Muhammadan gentlemen and Muhammadan bodies on the Bill to provide for the voluntary registration of Mussalman marriages and divorces, introduced by the Hon'ble Yaqub Hasan Sahib Bahadur in the Legislative Council.

1. Haji Muhammad Habibullah Sahib Bahadur.
2. Moulavi Syed Nasir-ud-din Sahib Bahadur, Khazi of Nellore.
3. Muhammad Munshi.
4. Yahya Ali, M.A., B.L., District Court Vakil, Nellore.
5. Mirza Hasan Ali Isaphani Sahib Bahadur, B.A., B.L., District Munsif, Kanigiri.
6. Muhammad Yakub Sahib Bahadur, Treasury Deputy Collector, Nellore.
7. Hajee Mirza Asadulla Kirmany alias Aga Sahib, Contractor, Gudur.
8. Copy of the Gudur Union Chairman's letter.
9. Copy of the letter submitted to the Secretary to Government communicating the resolutions passed at a public meeting of the Mussalmans of Nellore.

2. All the persons consulted are in favour of the Bill and some of them have proposed amendments. I am personally of opinion that a measure of the kind will have a beneficial effect.

Enclosures

(1)

Letter—from Haji Muhammad Habib-ul-lah Sahib Bahadur, Nellore.
To—the Collector of Nellore.
Dated—the 21st November 1918.

I have the honour to submit my views with regard to the Bill proposed in the Madras Legislative Council by the Hon'ble Mr. Yaqub Hasan for the Registration of Muhammadan marriages and divorces.

2. I strongly feel that the present system of maintaining records of Mussalman marriages and divorces are extremely unsatisfactory, and consequently believe that the enactment of a Bill of the nature proposed by the Honourable Member in the last session of the Madras Legislative Council is both necessary and timely.

3. I think, however, that the Bill should be amended to a slight degree to make provision for the following principles :—

(*a*) The registration should be made compulsory, the compulsion being enforced on pain of inadmissibility of unregistered marriages and divorces in evidence and also of a moderate penalty.

(*b*) The Governor in Council should be authorized to grant licences to Kazis being empowered, under sufficient restrictions as to qualifications, etc., to grant licences to their Naibs or deputies,

(*c*) The Governor in Council shall grant licences not to any person who applies for the same but shall grant them only to Kazis appointed under India Act XII of 1880, and where there is no such Kazi to such persons as shall be appointed for such area by the Governor in Council.

(*d*) that with regard to the representation of a pardanishin woman for any purpose contemplated by the Act (except with regard to kula), it shall not be required that her vakil shall be a duly authorized one : it shall be sufficient if such person is her vakil in accordance with the provisions of the Muhammadan law.

(*e*) It shall be incumbent on the Muslim Registrar, as a matter of routine without parties applying therefor, to supply free of charge a certified copy each to the parties to a marriage or divorce.

(*f*) The fee chargeable for certified copies of an entry in the register shall be eight annas only.

(*g*) Any person other than a Muslim Registrar solemnizing a marriage or a divorce shall be liable to a heavy fine.

(*h*) Sections 8, 9 and 10 of the Bill shall be recast so as to allow of the principles of compulsion.

(*i*) The Government of India Act XII of 1880 shall be amended so as not to conflict with the provisions of this Act.

(*j*) The other parts of the Bill shall remain as they are.

4. The copy of this Bill is returned herewith with thanks.

(2)

Letter—from Moulvi Saiyid Nasir-ud-din Sahib, Kazi of Nellore.
To—the Collector of Nellore.
Dated—the 13th December 1918.

In reply to your letter No. 1167 G. & B./Cor., dated 3rd November 1918, I have the honour to invite your attention to a resolution passed at a public meeting of the Mussalmans of Nellore held on 15th November 1918 with Mr. Hakim Saiyid Namathulla Sahib in the chair and to state that I have nothing to add to the abovesaid resolution.

2. A copy of the resolution is herewith enclosed.

(3)

Letter—from Yahya Ali, M.A., B.L., District Court Vakil, Nellore.
To—the Collector of Nellore.
Dated—the 24th December 1918.

In reply to your letter Ref. No. 1167 G. & B./Cor., dated 3rd November 1918, I have the honour to submit hereunder my personal views with regard to the Bill proposed to be introduced by the Hon'ble Mr. Yaqub Hasan Sahib Bahadur, in the Madras Legislative Council to provide for the voluntary registration of Mussalman marriages and divorces.

2. At the outset, I may submit that I am in hearty agreement with the Honourable mover of the Bill as to the necessity of the legislation and in consideration of the malpractices to which pointed reference has been made by the various speakers on the motion, by several eminent judges of the various High Courts, by text-writers on Muhammadan Law, and by those gentlemen for whose opinion the matter had been referred as per G.O. No. 826, dated 5th June 1901, such an enactment was in my opinion, long overdue. I do not consider that my enthusiastic support of

the Bill is in any way inconsistent with the strong faith I have in the simplicity of Mussalman marriages, as enjoined by the law-giver. I would, on the other hand, hold that since the Holy Prophet (R.I.P.), on more than one occasion, insisted on marriages being notified by beat of drum and solemnized in the presence of agents, guardians and witnesses, the spirit of the holy injunctions is consistent more with a system of perpetuating the evidence rather than with a system, which avails now in British India of setting a premium on the suppression, interpolation or fabrication of evidence.

3. I would wish the registration to be compulsory, as I fear a voluntary system will prove practically a dead letter. Every registering officer must be a licensed person or one on whom it is incumbent to report the event at once to the Moslem Registrar. Since such officer has exclusive jurisdiction within a particular area, it must be his duty to respond to every call for personal attendance at a nikka ceremony, as otherwise owing to the existence of party factions in several villages, the registrar may wreak his vengence by declining to attend the nikka or to register the divorce and thus drive people to travel long distance with their entourage to get a neutral and impartial registrar.

4. The post of Kazi, though shorn by steady corrosion of all its pristine dignity is yet possessed of some importance to the community. The Kazi continues in most parts to be the nucleus Moslem society and is most often the expositor of our ecclesiastical law. As an arbitrator, a representative of the community in the councils of the district and as a channel through which Moslem needs are represented to the Government, he plays no mean part in the country. In remote villages, he ministers at funerals and is helpful in officiating at all services. As such it is not proper that his powers should be still further curtailed by introducing the possibility of his own naibs declaring their independence after obtaining a licence under this provision direct from the Governor in Council. I would, therefore, provide that the authority to grant licences to naibs (or say subordinate registrars) shall be vested in the Kazis, all Kazis heretofore appointed under Act XII of 1880 having been declared ex officio Moslem Registrars. This power, it may be rightly apprehended, is likely to be abused and hence I would have its concession hedged by adequate provisos as to qualifications, etc., of the licensees.

5. In a meeting of the Mussalmans of Nellore held on the 15th November 1918, this Bill was considered and certain resolutions were passed and communicated to the Legislative Secretary of the Government of Madras. I am enclosing herewith a copy of the same, hereby giving my support to all the resolutions mentioned therein.

(4)

Letter—from Mirza Hasan Ali Ispahani Sahib Bahadur, B.A., B.L., District Munsif, Kanigiri.
To—the Tahsildar, Kanigiri.
Dated—the 19th December 1918.
No.—Dis. 3915.

Adverting to Ref. No. 1980 Sup., dated 11th November 1918, communicating to me copy of letter Ref. No. 1167/Civ. G.B., dated 24th October 1918 from the Collector of Nellore to the Secretary to the Muhammadan Literary Association, Nellore, I have the honour to state that some legislation in this direction is absolutely necessary, is beyond question. The proposed Bill does not answer the purpose fully. Compulsory registration with necessary safeguards seems to be highly desirable. It is for the members of the Legislative Council to discuss the several provisions of the Bill in detail and decide what is most beneficial to the community.

(5)

Letter—from Muhammad Yakub Sahib Bahadur, Treasury Deputy Collector, Nellore.
To—the Collector of Nellore.
Dated—the 3rd January 1919.
No.—39.

In reply to your letter Ref. No. 1167-S.B./Cor., dated 3rd November 1918, received on 9th December 1918, I have the honour to state that I see no objection to the provisions of the Bill so far as they go.

(6)

Letter—from Hajee Mirza Asad-ul-lah Kirmany alias Aga Sahib, Contractor, Nellore.
To—the Collector of Nellore.
Dated—the 27th December 1918.

In reply to your letter Ref. No. 1167-G.B./Cor., dated 3rd November 1918, I have the honour to submit hereunder my views on the Bill for the voluntary registration of Mussalman marriages and divorces introduced into the Madras Legislative Council by the Hon'ble Yaqub Hasan Sahib Bahadur.

2. I strongly feel that the present system of maintaing records of Mussalman marriages and divorces is extremely unsatisfactory and consequently believe that the enactment of a Bill of the nature proposed, is both necessary and timely.

3. I, however, submit that the Bill should be amended to a slight degree to make provision for the following principles :—

(*a*) The Governor in Council should be authorized to grant licences to Kazis, such Kazis being in their turn empowered under sufficient restrictions as to qualifications to grant licences to their naibs or deputies.

(*b*) The registration should be made compulsory, the compulsion being enforced so as not to affect the validity of unregistered marriages and divorces.

(*c*) The Governor in Council shall grant licences not to any and every person who applies for the same but shall grant them only to Kazis appointed under India Act XII of 1880, and where there is no such Kazi, to each person as shall be appointed for such area by the Governor in Council.

(*d*) With regard to the representation of a parda-nishin woman for any purpose contemplated by the Act (except with regard to khula) it shall not be required that her vakil shall be a duly authorized one ; it shall be sufficient if such person is her vakil in accordance with the provisions of the Muhammadan Law.

(*e*) It shall be incumbent on the Moslem registrar as a matter of routine, without party applying therefor, to supply free of charge a certified copy each to the parties to a marriage or divorce.

(*f*) The fee chargeable for the certified copies of an entry in the register shall be eight annas only.

(*g*) Any person other than a Moslem registrar solemnizing a marriage or a divorce shall be liable to a heavy fine.

(*h*) Sections 8, 9 and 10 of the Bill shall be recast so as to allow of the principle of compulsion.

(*i*) The Government of India Act XII of 1880 shall be amended so as not to conflict with the provisions of this Act.

(*j*) The other parts of the Bill shall remain as they are.

(7)

Letter—from the Union Chairman, Gudur.
Dated—the 12th December 1918.
No.—Extra 1.

With reference to your Ref. No. 1715/Hac., dated 2nd November 1918, I have the honour to submit my views on the provisions of the Bill for the voluntary registration of Mussalman marriages and divorces introduced into the Madras Legislative Council by the Hon'ble Mr. Yaqub Hasan Sahib Bahadur. I have consulted several representatives of my community at Gudur :—

(1) We are in entire sympathy with the Bill and are very anxious that having in view the malpractices we are suffering under, provision of this sort should become law very early.

(2) We desire that the system to be introduced should be made compulsory provided that it shall be enforced not by making the divorce or marriage invalid but by imposing a specified penalty in cases of disobedience.

(3) The licences shall be issued to Kazis only, such Kazis being in their turn authorized to grant licences to their naibs under sufficient restrictions as to the qualifications of licensees.

(4) The Governor in Council shall grant licences not to any person who applied for the same but only to Kazis duly appointed under India Act XII of 1880 or to such Kazis as shall have been duly appointed in any locality which is without a Kazi by the local community.

(5) A parda-nishin woman shall be represented for the purpose of this Bill except with regard to khula by "a vakil in accordance with the provisions of the Muhammadan Law," and not as the Bill contemplates by her "duly authorized vakil."

(6) Copies shall be supplied by the Moslem registrar as a matter of duty and not only when applied for.

(7) The fee chargeable for certified copies of an entry in the register shall be (8) eight annas only.

(8) Any person other than a Moslem registrar solemnizing a marriage or divorce shall be liable to a heavy fine.

(9) Other sections (8, 9 and 10) of the Bill shall be recast so as to allow of the principle of compulsion. The remaining parts of the Bill may remain as they are.

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(8)

Letter—from Syed Sha Namat-ul-lah, President of the Public meeting, Nellore
To—the Secretary to Government, Legislative Department.
Dated—the 16th November 1918.

I have the honour to communicate to you the resolutions passed at a public meeting of the Mussalmans of Nellore held on Saturday the 15th November 1918, presided over by me :—

(1) That the Mussalmans of Nellore strongly feel that the present system of maintaining records of Mussalman marriages and divorces are extremely unsatisfactory, and consequently believe that the enactment of a Bill of the nature proposed by the Hon'ble Yaqub Hasan Sahib Bahadur in the last session of the Madras Legislative Council is both necessary and timely.

(2) That the Mussalmans of Nellore however submit that the Bill should be amended to a slight degree to make provision for the following principles :—

(*a*) The registration should be made compulsory, the compulsion being enforced on pain of inadmissibility of unregistered marriages and divorces in evidence and also of a moderate penalty.

(*b*) The Governor in Council should be authorized to grant licences to Kazis, such Kazis being empowered, under sufficient restrictions as to qualifications, etc., to grant licences to their naibs or deputies.

(*c*) The Governor in Council shall grant licences not to any person who applies for the same but shall grant them only to Kazis appointed under India Act XII of 1880, and where there is no such Kazi to such person as shall be appointed for such area by the Governor in Council.

(*d*) That with regard to the representation of a parda-nishin woman for any purpose contemplated by the Act (except with regard to khula), it shall not be required that her vakil shall be a duly authorized one ; it shall be sufficient if such person is her vakil in accordance with the provisions of the Muhammadan Law.

(*e*) It shall be incumbent on the Moslem registrar, as a matter of routine without parties applying therefor, to supply free of charge a certified copy each to the parties to a marriage or divorce.

(*f*) The fee chargeable for certified copies of an entry in the register shall be eight annas only.

(*g*) Any person other than a Muslim Registrar solemnizing a marriage or a divorce shall be liable to a heavy fine.

(*h*) Sections 8, 9 and 10 of the Bill shall be recast so as to allow of the principle of compulsion.

(*i*) The Government of India Act XII of 1880, shall be amended so as not to conflict with the provisions of this Act.

(*j*) The other parts of the Bill shall remain as they are.

XLIX

Letter—from H. H. Burkitt, Esq., I.C.S., Acting Collector of Gōdāvari.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—Cocanada, the 28th January 1919.
No.—D. Dis. 503-Rev.

In reply to Government Memorandum Nos. 1519–8, dated 12th October 1918 and 1519–9, dated 4th November 1918, I have the honour to forward, in original, all the replies to the Government. These are all the reports that have been received.

2. I have no remarks to offer.

Enclosures

(1)

Letter—from Khan Sahib Khaja Ahmadulla Khan, Khazi of Rajahmundry.
To—the District Collector, Gōdāvari.
Dated—the 28th November 1918.

With reference to your No. G.B. Mis. 1314, Revenue, dated 9th November 1918, I have attached herewith my humble opinion in Urdu for your kind perusal, regarding the Bill of voluntary registration of Mussalman marriages and divorces, which the Hon'ble Mr. Yaqub Husan Sahib Bahadur desires to introduce in the local Legislative Council at Madras.

(2)

Letter—from Muhammad Anvaruzzaman Khan, Secretary, the Anjuman Himayath-a-Islam, Rajahmundry.
To—the Collector, Gōdāvari.
Dated—the 11th December 1918.
No.—28.

With reference to your office R.C.B. No. 1314, Revenue, dated 9th November 1918, I beg to forward herewith a copy of the resolution passed by the Anjuman Himayath-a-Islam, Rajahmundry, held on 7th December 1918, in connexion with the registration of Muhammadan marriages and divorces which is to be introduced in the Legislative Council.

Sub-Enclosure

Resolution No. 3, *passed at the meeting of the Anjuman Himayath-a-Islam, Rajahmundry, held on 7th December* 1918.

A copy of Bill proposed by the Hon'ble Mr. Yaqub Hasan Sahib, Khan Bhadur, in connexion with the registration of Muhammadan marriages and divorces which he wishes to introduce in the Legislative Council has also been sent to this Association for opinion.

The Bill was placed before the meeting who found some unnecessary points in the Bill which requires amendments. As the present system of registration, etc., is very defective, it is highly necessary to bring it on a sound basis. We accept the Bill in principle. Therefore in conformity with the tenets of Islam such an Act has to be passed by the legislature as would empower the Khazis nominated by the Government to be bona fide registrars, and the Khazis to be appointed Muslim District Registrars and their naibs (deputies) their subordinate registrars. In the presence of these officers there does not appear to be any necessity of appointing non-Muslim registrars, because the question as now stands has a religious aspect as well. In matters religious the Khazis and their deputies (naibs) are entitled to perform civil duties as it is laid down "Shawhan and Tahavi—" "*Layajoozo Agden Nikah illa baiznel Khaziyazherulhakko Vulfatava alayhil Galabatal Fisk Fi Zamanana Zikra fi shauhan vathavi*—" (The consummation of marriage is objectionable unless with the permission of Khazi.) The Law of Jurisprudence proves the verity against the corruption which is rampant at the present time.

2. According to the Act the naib registrars will have to furnish a monthly report to the Khazi the head registrar's office of his jurisdiction and the Khazi will collect all the records of their subordinates and keep them in his office by the close of the year. Thus the registration of marriage and divorce are to be made compulsory so as to strengthen the hands of the Khazis and it should not be optional on the part of a private person who desires to be a registrar.

3. There appears to be no necessity of considering the other items of the Bill.

(3)

Letter—from Ahmed Mohiuddin Sahib, Government Khazi of Cocanada City.
To—the Collector of Gōdāvari district.
Dated—the 14th December 1918.

With reference to the Memorandum No. 1519-8, dated 12th October 1918 of the Government of Madras communicated with your Endorsement No. G.B. Mis. 1314, Revenue, dated 9th November 1918, and No. Ref. G.B. 1314, Revenue, dated 3rd December 1918, I have the honour to state that the rules and regulations drawn up by the Muhammadan religious heads have been adhered to and followed by all the Muhammadan world from time immemorial and the Khazis appointed by Government apply those rules only and put them into practice in their strictest sense and keep the records regularly in order. If the Government be pleased to extend the jurisdiction of the Government Khazis to those places in the district where there are no khazis appointed by Government, I am of opinion that the difficulties apprehended by the Hon'ble Mr. Yaqub Hasan can be safely got over.

(4)

Letter—from S. Ahmed Ali Sahib Bahadur, B.A., Revenue Divisional Officer, Bhadrachalam division.
To—the Collector of Gōdāvari.
Dated—Kunavaram, the 11th December 1918.
No.—D. Dis. 1575-Rev.

With reference to your Ref. G.B. Mis. No. 1314, Revenue, dated 9th November 1918, calling for my remarks of Mr. Yaqub Hasan's Bill, for voluntary registration of Muslim marriages and divorces, I have the honour to state the loose method of registry now prevailing in this presidency is open to grave abuses. Instances are by no means wanting, where the absence of a properly regulated system of registry has caused great hardship to the parties concerned, when questions affecting "Mahar" (or dower bestowed on the bride by the bridegroom at the time of marriage) succession and legitimacy come up for decision before law courts.

2. The need for some sort of legislation in the matter to obviate such difficulties, has long been felt by the community. It would probably have been more desirable to make registration of marriages and divorces compulsory, but it is feared that such a measure would encounter fierce opposition in certain quarters, where members of the community, have not yet attained that breadth of vision which alone would enable them to welcome this salutary reform. This is all the more evident, from the bitter controversy, now raging in the papers on this subject. It is a matter for regret that some are opposed even to the voluntary nature of the Bill.

3. However I fully sympathise with the objects of the Bill, and consider that Mr. Yaqub Hasan has taken a step in the right direction. The Kazis at present appointed by Government, and their naibs will be made registrars as a matter of course, while others who wish to be appointed registrars may obtain licences on application. But I think that it should be made obligatory on every registrar, whoever he might be—Kazi, naib Kazi or any other licensed registrar—to register a marriage or divorce, when due application is made to him for it by the parties.

4. The voluntary nature of the Bill has the double advantage of safeguarding the interests of those who want them to be safeguarded, and at the same time, of not offending the susceptibilities of such ultra-orthodox members of the community, who are prepared to take the risks involved in the promiscuous form of registry, now in vogue, and prefer to be let alone in matters like these.

(5)

Letter—from Khan Sahib Muhammad Fuzlullah Sahib Bahadur, B.A., Deputy Collector, Polavaram division.
To—the Collector of Gōdāvari district.
Dated—the 20th December 1918.
No.—R.C. 1127.

With reference to your Endorsement No. Ref. G.B. 1314, dated 9th November 1918, communicating for remarks a copy of the Hon'ble Yaqub Hasan Sahib's Bill to provide for voluntary registration of Mussalman marriages and divorces, I have the honour to state as follows:—

The system which obtains at present among the Mussalman community in regard to the registration of marriages and divorces, is, from the irresponsible fashion in which it has been left adrift, capable of abuses of a grave character. The Bill now proposed to be introduced, is, in my opinion, calculated to provide a safeguard of conjugal interests of at least such of the community as would choose to profit by it, and has my support.

L

Letter—from Kaji Saiyid Batcha Sahib Bahadur, Taluk Board Member, Harur, Salem district.
To—E. W. Legh, Esq., District Magistrate, Salem.
Dated—the 27th January 1919.

Reference your office No. 1266, dated 3rd December 1918, eliciting my opinion on the Bill introduced by the Hon'ble Mr. Yaqub Hasan Sahib for the voluntary registration of Mussalman marriages and divorces which is to be discussed in the local Legislative Council in February 1919.

I took time till now to discuss with many of my community to take their independent views on the subject under reference. Most of them are in favour of the Bill while some seem to be against it though the latter are unable to rely upon any religious authorities to support their selfish theory.

2. After due consultation and long consideration of the pros and cons of the subject, I come to conclusion that the Bill if made into law will prove a successful and popular reform which will be welcomed by all the right thinking men for the uplift of the Mussalman community.

3. In fact I am of opinion that the Bill will put down all litigation now due to corruptions of unscrupulous people in many a quarter in the matter of marriages taking advantages of the absence of an expressed and independent law on the subject.

LI

Letter—from B. Saiyid Shams-ud-in Sahib, Anjumaneh Rahamath, Madura.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—the 1st February 1919.

I beg to solicit the favour of the copy of the resolutions passed by the "Anjumaneh Rahamath" being to be brought before the Legislative Council of Madras.

Enclosure

Protest against the passing of the Muslim Marriage Registration and Divorce Bill.

Under the auspices of the 'Anjumaneh Rahmath', Madura, a public meeting of the Muslims of the place was held on 2nd January 1919 in the Victoria Edward hall with Janab Haji Muhammad Ebrahim Sahib, in the chair; and the following resolutions were moved and unanimously carried.

2. We contend that

(1) had the Hon'ble Mr. Yaqub Hasan, the originator of this Bill, before having moved this in the Legislative Council, understood the general tone of the Muslims of our Presidency, by consulting with the Presidency and other branch Muslim leagues and several Anjumans representing the views of the Muslim public, we would have been very grateful to him.

(2) if this Bill be passed it would certainly require the employment of a large number of paid 'Kazis and Naibs' (their assistance) to maintain the implicit observance of its conditions; and it need not be said that it would tell upon the resources of all the Muslims, both rich and the poor; and the burden must tell heavily on the latter.

(3) the right of selecting the 'Kazis' and recommending them for nomination by the Government which is now owned by the Muslim public at large, would, we fear, be set at naught, as an effect of this Bill; and ultimately there would be no room for harmony between the Kazis and the people at large, resulting perhaps, in an aggression on the part of some Kazis upon the poor.

(4) inasmuch as there would be no voice for the Muslim assemblies as Anjumans and leagues, to check the abuses or the mistakes of either the Muslim registrars or the Kazis, it is feared that the passing of this Bill would be detrimental to our interest and would also put us to the dire necessity of appealing to the District Registrars at whose discretion the right of rectifying the Kazis' mistakes would solely lie, which contingency, we are ashamed to say, would be a blot upon the prestige and prowess of our benign religion.

(5) the present system of registering marriages and divorces by the Kazis, is working well, and is conducive to our social and religious interests as it is patent from the dearth of marriage disputes in the courts of law; we also contend, that there would be a great scope for marriage litigation in case this Bill be passed.

3. As it is, our present system of registration is carried on successfully because our religious assemblies called 'Jamath' in each units of our society have a hold upon the Kazis and check them if they go astray, and we are guided in our decisions regarding divorces and Khulas purely upon the mandates of the "Holy Koran" and the tradition left to us ever since our 'Holy prophet' (blessed be his name) lived. Therefore we are unanimously of opinion that inasmuch as the existing system is working successfully we wish that it might continue without any further unnecessary changes in its procedure.

4. We also contend, that the people would not be disposed to register, even if this Bill be brought into effect, because it means spending some money upon it which could not be borne especially by the poor. At such a juncture, the Government will have to put pressure for the compulsory registration which would unnecessarily result in a hitch between the rulers and the ruled.

5. To avoid all this future misunderstanding, it would be better for the Government to adopt the policy of 'non-interference' especially in this delicate matter that affects the religious sentiments of the Moslems. In final we, the gentry assembled, regret that the Government would do well not to interfere in their religious matter which we solemnly express that it is not only in contradiction to doctrines of Islam, but also involves an unnecessary burden upon our purse, and freedom of religious liberty, which was declared to us to be our own, in the solemn proclamation of Her Imperial Majesty the late Queen Victoria in 1858. So we unanimously protest against the passing of this Bill in the Provincial Legislative Council, which is our representative assembly at present. The above resolutions were moved by Messrs. Janab Haji H. M. Muhammad Moulana Sahib, and seconded by (1) Janab Haji Be Saiyid Shams-ud-din Sahib, (2) Janab K. M. Alla-ud-din Ravattar, (3) Janab V. M. Meera Hussain Ravattar, (4) Janab P. Abdul Kather Ravattar, (5) Janab Shaik Miran Ravattar.

LII

Telegram—from Moulumee Hajee Rehemathulla Sahib.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—Negapatam, the 4th February 1919.

Oppose Yaqub Hasan Marriage Bill. Resolution follows.

36

LIII

Letter—from G. F. Paddison, Esq., M.A., I.C.S., Collector of Madura.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—the 3rd February 1919.
No.—D. Dis. 469-Rev.

In reply to Government Memorandum No. 1519-8, dated 12th October 1918, requesting me to obtain and forward the views of representative Muhammadans and Muhammadan bodies in this district on the provisions of the Bill to provide for the voluntary registration of Mussalman marriages and divorces, I have the honour to report as follows.

2. Janab Moulavi Qazi Amjad Ibrahim Sahib, Kazi Mahalla, Madura, who was consulted with reference to Government Memorandum No. 1519-9, dated 4th November 1918, is opposed to the Bill being passed into law and says that it will lead to several complications. His statement is enclosed.

3. The views of the Muhammadans in the following centres were taken and they are dealt with below:—

(i) *Madura town.*—A letter received from Moulavi Saiyid Abdul Kadir Ibrahim Sahib, Town Kaziar, Madura, is enclosed. He is opposed to the Bill being passed into law. I also understand that there was a meeting of the Muhammadans of Madura town in Victoria Edward Hall wherein it was unanimously resolved that they were not in favour of the Bill.

(ii) *Melur taluk.*—The Tahsildar reports that there are no Muhammadan representatives or bodies in his taluk who are in a fit position to give an opinion for or against the Bill, and that some of the individual Muhammadans who were consulted by him are not in favour of the Bill.

(iii) *Usilampatti division.*—The report of the Divisional Officer, Usilampatti, who is himself a Muhammadan, is enclosed. The representative and respectable Muhammadans in this division are said to be generally agreeable to the provisions of the Bill and to have no objection to its being passed into law. The Divisional Officer is also in favour of the Bill; but suggests some modifications.

(iv) *Dindigul town.*—The letters received by the Tahsildar from the Secretary, Muslim League, Dindigul, and Town Kaziar, Dindigul, are enclosed. They welcome the introduction of the Bill.

(v) *Palni town.*—Some of the leading Muhammadans who were consulted by the Tahsildar say that the provisions of the Bill, if adopted, will prove advantageous to the community considering the irregular system now in vogue.

(vi) *Kodaikanal.*—The statement recorded by the Deputy Tahsildar from the Kazi of Kodaikanal is enclosed.

(vii) *Nilakkottai taluk.*—The Muhammadans in the Nilakkottai firka in this taluk are not in favour of the Bill. There are no representative Muhammadans in the other firkas of this taluk.

4. Opinion seems to be greatly divided, a majority being against the Bill.

Enclosures

(1)

Letter—from Moulvi Saiyid Abdul Qadir Ibrahim Sahib, Town Kaziar Madura.
To—the Collector of Madura.
Dated—the 16th January 1919.

In connexion with the Bill to provide for the voluntary registration of Mussalman marriages and divorces I have to inform you my opinion as follows.

I carefully studied the Hindustani copy of the Bill introduced by the Hon'ble Yaqub Hasan Sahib, the Tamil translation of the same in the *Fort St. George Gazette* and the letter directly written to me by him with its enclosures.

It seems to me the Honourable Member has introduced this Bill considering that this registration will be bona fide and helpful to Mussalmans. He has also considered the marriage to be purely as human affair which is not the case. According to our (Sharah), i.e., religion, the marriage is religious to be celebrated subject to divine commands. Such being the case the Muhammadan religious learned gentlemen will not give their opinion for registration.

If the above Bill is to be passed, I am afraid many unreligious acts will happen which will lead to rioting among the Mussalmans. The Government had announced that it will not interfere in our religious matters. This being a religious matter, it seems the Government has arranged to get the opinion of the majority of the Mussalmans in the districts and taluks of this Presidency, and then to decide about the Bill.

Generally no discrepancies are noticed in the marriages celebrated (without registration) up to date from the time of our prophet 'The Muhammad.'

It is 39 years since I was appointed as Kaziar in 1880 and I did not notice any kind of defect forthcoming either in the whole of Madura or Ramnad districts among the marriages celebrated (without registration) during this period of 39 years.

I therefore request you to be good enough to recommend to the Legislative Council not to pass the Bill (brought forward by the Honourable Member) which is unconnected with our religion and thus oblige.

(2)

Letter—from M. Tamiz-ud-din Sahib Bahadur, B.A., Divisional Officer, Usilampatti.
To—the Collector of Madura.
Dated—the 13th January 1919.
No.—R.C. 1627/Collr.

With reference to your R.O.C. No. 1435/B. & G., dated 5th November 1918, communicating Government Memorandum No. 1519-8, dated 12th October 1918, requesting to obtain the views of the represenative Muhammadans, on the provisions of the Bill to provide for the voluntary registration of Mussalman marriages and divorces, I have the honour to state that I held meetings of the representative Mussalman in Uttamapalaiyam and Periyakulam which are important Mussalman centres and conferred with the respectable Muhammadans in other places of my division and that they are generally agreeable to the provisions of the Bill and have no objection to its being passed into law.

2. Personally I consider that the introduction of an enactment of the kind proposed by the Honourable Member will be the first step towards setting at rest unnecessary litigations about 'Mahar' to some extent and towards observing a uniformity of procedure in the registration of marriages and divorces. In most of the important villages and towns, records of registration of marriages have already been in existence. For instance in Periyakulam a printed bound book of marriages is being maintained and it contains the following columns and informations :—

1. Name of bride-groom.
2. His father's name.
3. Name of the bride.
4. Her father's name.
5. The amount of 'Mahar' in figures letters, and
6. The signature of—
   (*a*) bride-groom.
   (*b*) bride.
   (*c*) Vakil or Vali.
   (*d*) witnesses.
   (*e*) Kathib or Kazi and
   (*f*) Writer.

3. It will thus be observed that there is a growing popularity and necessity for maintaining a permanent record of marriages in view of the fact that in civil suits importance is attached to evidence more of a documentary nature than parol which latter is not always reliable. Such a record is essential for divorces also.

4. In Islam religion and law are combined. Any innovation in matters religion is no doubt at first objected to by a set of patriarchal Mussalmans. I think any such objection to the passing of the present Bill is not sound and it amounts to this—that they admit the necessity of a permanent record for the registration of marriages and divorces and that at the same time they do not require a systematic procedure governing such registration. After all the Bill in question provides for the voluntary registration of marriages and divorces; and no harm can be conceived by its passing into law.

5. I venture to propose two amendments to the Bill—

(1) The registration of marriages may be made in the language of the district or in Urdu.

(2) Whenever a marriage is once voluntarily registered under the proposed enactment, any subsequent dissolution of such a marriage resulting from divorce should be registered compulsorily. Otherwise an unscrupulous husband, taking advantage of the fact of his marriage having already been registered, might throw obstacles in the remarriage of the widow when her divorce was not according to the act or when there was no record evidencing the divorce.

(3)

Letter—from Saiyid Abdul Rashit Sahib Bahadur, Town Kaziar, Dindigul town.
To—the Tahsildar of Dindigul.
Dated—the 9th December 1918.

With reference to your letter R.O.C. No. 4513-M.P., dated 22nd November 1918, asking my opinion as regards the Bill providing for voluntary registration of Mussalman marriages, I have the honour to state that it is a salutary provision which may with advantage be introduced.

(4)

Letter—from T. M. Sulaiman, Secretary, Muslim League, Begampur.
To—the Tahsildar of Dindigul.
Dated—the 28th November 1918.
No.—268.

With reference to your R.O.C. No. 4513, dated 22nd November 1918, I have the honour to state that the Bill to provide for the voluntary registration of Mussalman marriages and divorces which the Hon'ble Yaqub Hasan Sahib Bahadur desires to introduce into the local Legislative Council was proposed and carried unanimously at the anniversary meeting of the Muslim League, Begampur, held on the 6th October 1918 under the presidency of the Hon'ble Nawab Mir Asad Ali Khan Bahadur.

Resolution No. 9.—'That this League accords its heartfelt support to the Bill to provide for voluntary registration of marriages and divorces among Mussalmans and hopes the Bill will soon become law.'

The copies of the same have been forwarded to the Chief Secretary to the Government of India, the Chief Secretary to the Government of Madras on the 8th October last. Then to the Secretary to the Government of Madras, Legislative Department, on the 6th instant in order to place this resolution before the select committee of the Council.

Therefore this League supports the Bill to provide for the voluntary registration of Mussalman marriages and divorces and hopes the Bill will soon become law.

LIV

Letter—from A. Galletti, Esq., I.C.S., Acting Collector of Chittoor.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—the 1st February 1919.
No.—D. Dis. 4468 of 1918.

I have the honour to reply to Government Memorandum No. 1519-8, dated 12th October 1918, regarding the proposed Bill for the voluntary registration of Mussalman marriages and divorces.

2. All the persons whose views were obtained are in favour of the Bill except Muhammad Taqqi Khan Sahib Bahadur, Jaghirdar of Avalkonda. The communications received from the following persons are enclosed :—

(1) The Jaghirdar of Avalkonda.
(2) The Revenue Divisional Officer, Chandragiri.
(3) Do. Madanapalle.
(4) The Kazi, North Palar Division, Chittoor.
(5) The Revenue Divisional Officer, Chittoor.
(6) Muhammad Abdul Quadir Sahib, Honorary Magistrate, Kalahasti.

3. Saiyid Mir Husain Sahib Bahadur mentioned in the list accompanying the Government Memorandum No. 1519-9, dated the 4th November 1918 has not troubled to answer though he was reminded.

4. I may add that, considering that the humble have as much right to be consulted as persons of higher standing, I had the Bill explained to my Muhammadan daffadar and peons and they all declared they were in favour of it.

Enclosures

(1)

Letter—from Muhammad Taqqi Khan Sahib Bahadur, Jaghirdar of Avalkonda, Avalkonda.
To—the Collector of Chittoor.
Dated—the 25th November 1918.

In obedience to your letter No. 4468 of 1918, I beg to state that the draft Bill appears to me as well as the Shiahs whom I consulted objectionable as it would interfere with the sanctity of the Shiah Muslim marriages.

As far as we see no registration is necessary, as the Shiah Muhammadans law of the marriages enjoins that the man who enters into the marriage contract, i.e., when he takes a woman as his wife, he should, if the other party so desires, give her a nikahnama which can be preserved by the other side and which would safeguard her interest all through.

As regards divorce as soon as a woman is divorced in presence of witnesses she undergoes a period of iddat for four months and ten days which in itself is quite sufficient to make public that she has been properly divorced according to the usage of Islam. Under such circumstances registration by a separate registrar would in all probabilities lead to friction between the kazi and the registrar and would give room to objectionable deeds concerning marriages and divorces.

The present system of kazis is working satisfactorily and no change is necessary. We are afraid that the Bill if passed, in course of time would make all parda-nishini, i.e., gosha ladies to be non-parda-nishini.

On the whole the passing of the Bill seems to me and the other Shiah community as dangerous, objectionable and irreligious.

(2)

Letter—from M.R.Ry. Doraswamayya Garu, B.A., B.L., Revenue Divisional Officer, Chandragiri.
To—the Collector of Chittoor.
Dated—the 7th December 1918.
No.—Dis. 1820-D.

Your letter No. 4468, dated 5th November 1918 regarding the introduction of draft Bill for the voluntary registration of Mussalman marriages and divorces, etc.

I have the honour to state that the Tahsildar of Chandragiri and the Deputy Tahsildars of the division report that they explained the contents of the draft Bill published in the *Fort St. George Gazete*, dated 8th October 1918, and also consulted some of the leading Muhammadan gentlemen in their respective jurisdictions in the matter and that all the Mussalman gentlemen are in favour of the introduction of the Bill in question. The Deputy Tahsildar, Tiruttani, says that he convened a meeting of the Muhammadan gentlemen and that all of them believe "that such a legislative measure would not only strengthen the hands of the kazis and perpetuate a permanent record of the marriages for legal purposes which would also create a wholesome influence on the contracting parties to adhere to their contract and thus indirectly on their society in general for good."

I have also consulted a few Muhammadans and they are also in favour of the Bill.

(3)

Letter—from A. Tampoe, Esq., I.C.S., Sub-Collector, Madanapalle.
To—the Collector of Chittoor.
Dated—the 8th December 1918.
No.—Dis. 2723-D.R.

1. Quadir Husain Sahib.
2. Reddi Miran Sahib.
3. Abdul Ghafur Sahib.
4. Ekkalur Nabi Sahib.
5. Kazi Abdul Hakim Sahib.
6. Raji Burhan-ud-din Sahib of Madanapalle.

I have the honour to state that I consulted the marginally-noted Muhammadan gentlemen in this division in the matter and that they unanimously welcome the Bill.

(4)

Letter—from Nasir-ud-din Ahmad Sahib Cheeda, Government Kazi, North Palar division, Chittoor.
To—the Collector of Chittoor.
Dated—the 26th December 1918.

I have the honour to acknowledge the receipt of your letter No. 4468, dated 5th November 1918, and the draft Bill for the voluntary registration of Mussalman marriages and divorces forwarded to me for my opinion thereon.

I heartily approve of the principle underlying the proposed Bill and I feel sure that the existence of an enactment of this nature would act as a very strong safeguard against the evil practices of some self-created kazis and other mischievous persons and in the case of some Government kazis also. I think that the proposed Bill will act as a deterrent to mischievous persons and protect honest and simple-minded Mussalmans from the snares of evil-doers.

I believe that all intelligent and educated Mussalmans will welcome the existence of such an enactment. As a Government kazi of about 36 years standing and experience, I am of opinion that the proposed draft Bill needs some amendments which I shall communicate to you later on when a select committee is formed to consider the details.

(5)

Letter—from Saiyid Ahmad Badshah Sahib Bahadur, B.A., Revenue Divisional Officer, Chittoor.
To—the Collector of Chittoor.
Dated—the 22nd January 1919.
No.—Dis. 112/D.

With reference to your letter No. 4468, dated 5th November 1918, regarding the Bill for the voluntary registration of Mussalman marriages and divorces, I have to state that it is an admitted fact that the present system of maintaining records of marriages and divorces is defective, giving room for grave abuses and malpractices. Consequently, any step taken to remove the defect and render the records reliable should be viewed with satisfaction. I have been watching the discussion among the Mussalmans of this presidency about the Bill. Those who oppose it have not, in my view, adduced any valid ground. They bring in religion as an excuse and appeal to Government to maintain the policy of non-interference.

But I fail to see how religion is affected. No change is proposed in the form or conditions of the marriage or the divorce. It shall take place as usual but to maintain of it a reliable record with no chance of being tampered with is aimed at. I would, therefore, support the Bill and wish to see it passed into law.

(6)

Letter—from M. Abdul Qadir Sahib, Honorary Magistrate, Kalahasti.
To—the Collector of Chittoor.
Dated—the 29th January 1919.

I beg to inform you that I am in entire accord with the Bill of the registration of Muslim marriages and divorces introduced into the Legislative Council by the Honourable Mr. Yaqub Hasan Sahib Bahadur.

I hope your honour will kindly communicate my view either to the Secretary to Government, Legislative Department, or to the necessary authorities concerned.

LV

Letter—from J. F. Bryant, Esq., M.A., I.C.S., Collector of Chingleput.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—the 3rd February 1919.
No.—D. Dis. 5478.

I have the honour to inform you that most of the Muhammadans consulted are agreed as to the necessity for the introduction of legislation of the kind.

2. The kazi, the union chairman and other Muhammadans at Conjeeveram are in entire agreement with the proposals. The kazi at Saint Thomas' Mount and another Muhammadan gentleman of the place welcome the Bill but suggest modifications. Their statement is enclosed.

Sikandar Beg Sahib, who is a leading Muhammadan citizen of Chingleput and a member of the Muhammadan Devasthanam Committee, suggests that in the case of divorces, the parties should be required to appear personally before the registrar and register the divorce and that no representatives should be allowed.

The Chairman of the Tiruvallur Union, Abdul Husain Sahib Bahadur, is of opinion that the Bill is necessary and that it will put an end to certain drawbacks inherent in the present marriage system. Abbas Husain Sahib Bahadur, Honorary Magistrate of Saidapet, is also in complete accord with the Bill.

3. But the Muslim population represented by their Kazi Baba Sahib alias Saiyid Issub Sahib Bahadur at Sriperumbudur are not in favour of the Bill. They are of opinion that the present system may continue. The Muhammadan representatives at Madurantakam have no opinion to offer.. They say that they will abide by the decisions of their religious teacher Jaked Husain Sahib and the Government Kazi Ubaid-uh-lah Sahib, both residents of Madras.

Enclosures

(1)

Letter—from S. A. Keelani, Government Kazi, Saint Thomas' Mount, and District Board Member, Chingleput.
To—the Collector of Chingleput.
Dated—the 22nd December 1918.

With reference to your Tahsildar's personal inquiry regarding my opinion about the Hon'ble Mr. Yaqub Hasan Sahib Bahadur's Bill for the register of mussalmans' marriages and divorces, I beg to state as follows:—

The present system of keeping records for marriages and divorces is not secure from fraud. This I say from my personal experience of 16 years as a Government kazi.

To prevent the chances of fraud some steps should be taken by the Legislature, and I therefore approve of the principles of the Bill which the Hon'ble Mr. Yaqub Hasan Sahib Bahadur has proposed to introduce in the Legislative Council, and I suggest the following modifications in the Bill:—

(1) The appointment of a kazi should be given to a man of a better class, and Government kazis should be appointed in places where there are no kazis now.

(2) Kazi's presence must be made compulsory in every marriage and divorce, but the option of solemnizing them be left to the desire of the parties (bride and bridegroom). Kazi cannot claim that he alone should solemnize them.

(3) The register for marriages and divorces should be of uniform kind supplied by the Government in quadruplicate copies of bound books duly numbered.

(4) As soon as a marriage or a divorce is over it should be entered in the register and signed by the vakil, parties, witnesses and the kazi, one copy should be given to each party; third to be sent to the district registrar, within three days, and the fourth to be retained in the register as office file.

(2)

Letter—from Muhammad Naimur Rahman, M.A., Professor of Arabic, Persian and Urdu, Government Muhammadan College, Madras.
To—the Collector of Madras.
Dated—the 25th January 1919.

I have been asked by the Hon'ble Mr. Yaqub Hasan Sahib Bahadur to convey to you an expression of my opinion regarding the Bill to provide for the voluntary registration of Mussalman marriages and divorces, to introduce which he moved for leave in the meeting of the Madras Legislative Council held on the 13th August 1918.

The speech which Mr. Yaqub Hasan Sahib Bahadur made in the said Council while moving for leave to introduce the Bill, together with the record of the proceedings of the Council relating to the debate on this motion, is before me. It is almost a period of three years since I have been in Madras. During this period of time I had had many occasions to hear numerous sad stories from different quarters and from men of different status in life (of course Muslims) pertaining to the abuse of the sacred rites of marriage. I have been informed how very deplorably some people have behaved in the matter of marriages and divorces and in what horrible ways they have (often) succeeded in subverting the letter of religion, law, custom and all to gain their own ends and aims, which are certainly far from being termed anything like lawful or reasonable. Such accounts of malpractices and corruption have again and again awakened me to the feeling that some sort of legislative measure is necessarily required to put an end to all such troubles. And now that Mr. Yaqub Hasan Sahib Bahadur has at last been good enough to think of the introduction of a Bill to provide for the registration of the Mussalman marriages and divorces I think that the only proper thing for the Muslims of this Presidency of ours is to support it and see it carried through the Council and passed as an Act of Law. I at least have this sincere longing.

It is alleged that

Firstly—it is difficult to put an end once for all to all kinds of abuses and malpractices even by dint of such a law of registration as this, and

Secondly—the enactment of a regular law for the registration (whether voluntary or compulsory) of marriages and divorces is an act of interference in the religious affairs of the Muslims.

The answer to the first allegation is simple and easy. It is really worth consideration how many of the codes of law, under any rule and in any time and clime, have achieved real, unquestionable and consummate success in the establishment of perfect peace and order and in the total extinction and destruction of all crimes and abuses, notwithstanding their best and truest efforts to cope with all their multifarious natures and to provide the nicest and the fullest laws to deal with them. It is an equally hard task to point out any of the lofty ideals, of any nation or individual, that has been achieved to its full extent and worked upon with the most perfect satisfaction by its holder, however easy of approach those ideals may be, and however short, well-defined and secure the way leading to the same happen to be. But it is certainly erroneous and even foolish, I dare say, to assert that as no laws can wholly overcome the committal of crimes and no ideals are fully realized, therefore it is no use going through any amount of trouble to frame laws for the country or to bother oneself with mere dreams and childish fancies of this ideal or that. The making of laws is one thing and the submission to them is another. It is wrong to judge of the necessity or otherwise of a certain law by a simple and timid assertion that it would not do much good to the country and will go only half way in the eradication of evils—especially more so when we see clearly that evils and vices are prevalent and feel painfully that some measure must be devised to put a stop to them. It is therefore not sound or reasonable to say that the Marriages and Divorces Bill will hardly be of any good in the extirpation of the prevailing evils, and I feel strongly that we in the Madras Presidency do require the enactment of such a law as proposed by the Hon'ble Mr. Yaqub Hasan Sahib Bahadnr.

Respecting the second point it would suffice for me to say that I fail to understand in what way the present bill interferes with the religious affairs of the Muslims. As far as I have been able to search the important Muslim books on the commentaries of the Koran and on the Traditions of the Prophet as well as the chief basic books of Muslim law, from nowhere could I succeed in getting the least ground for any justification for this extremely erroneous view. It

really passes my imagination how the bare and simple act of having the (Muslim) marriages and divorces registered in the register of a Muslim registrar would go to interfere with our beliefs and religious performances! And then, it is not the *compulsory* registration which the Honourable Mover is trying to have enacted. It is only *voluntary*, and it depends on the sweet will of the parties concerned to have the marriage or the divorce registered or otherwise. Again, the saving clause in section 25 of the Bill says expressly and definitely that

"Nothing in this Act shall be construed to

(*a*) render invalid, merely by reason of its not having been registered, any Mussalman marriage or divorce which would otherwise be valid;

(*b*) render valid, by reason of its having been registered, any Mussalman marriage or divorce which would otherwise be invalid;

(*c*) authorize the attendance of any Muslim registrar at the celebration of a marriage, except at the request of all the parties concerned;

(*d*) affect the religion or religious rites and usages of any of His Majesty's subjects in India;

(*e*) prevent any person, who is unable to write, from putting his or her mark instead of the signature required by this Act."

It is therefore clear that this Bill

(i) is not proposed to be a nuisance to the people by being made compulsory and obligatory,

(ii) does not in any way prevent them from or even interfere in the performance of the rites of marriage and divorce according to the strictest requirements of Islam, as it lays no claim to empower the bare act of registration to validate the marriage or divorce which may be supposed to be really invalid or to invalidate that which could be thought to be valid,

(iii) does not inflict upon the parties the necessary presence of a Government official (the Muslim registrar) at the marriage celebrations—if the parties are so very narrow-minded and superstitious as to regard the presence of such an officer as an act of breach in their religion,

(iv) will not affect religion in any way, and will not,

(v) even be so hard to anyone as to compel him (or her) to sign his (or her) name in case he (or she) is unable to write.

Further, the same law is doing so much of good to the Muslim population of Bengal and they are using it to their best advantage; why should not the Muslims of Madras Presidency profit by it, and wherefore should the Muslims here be so ultra-religious as to regard it as a prevention for or interference in their religion when the followers of the same Islam have not objected to it as such in Bengal.

Where lies the harm, then, in supporting the Bill of the Hon'ble Mr. Yaqub Hasan Sahib Bahadur? And I will ask you, Sir, to allow me to submit that I support the Bill very strongly and wish with all my heart to see it passed as an Act of Law.

I hope the above lines will be favoured with your kind perusal and that the humble opinion of mine embodied in the same will be recorded.

LVI

Letter—from J. C. Stodart, Esq., I.C.S., Acting Collector of South Arcot.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—Cuddalore, the 4th February 1919.
No.—R.O.C. 595-Cor.

In continuation of my letter D. Dis. No. 169-Cor., dated 29th January 1919, forwarding the views of certain Muhammadan bodies and gentlemen on the Bill to provide for the voluntary registration of Mussalman marriages and divorces, I have the honour to forward herewith a letter since received from another Muhammadan gentleman, Saiyid Ghulam Husain Sahib Bahadur by name, who is at present employed as Civil Assistant Surgeon at Villupuram. He is also a supporter of the Bill.

Enclosure

Letter—from Saiyid Ghulam Husain, L.M. & S., Civil Assistant Surgeon and Registered Medical Practitioner, Villupuram.
To—the Collector of South Arcot.
Dated—the 27th January 1919.

As per request made by the Hon'ble Mr. Yaqub Hasan to communicate to you my opinion on his Bill for the registration of Muslims marriages and divorces, I beg to inform you that all my sympathies are with the Bill and I wish it soon passed into law, as such an enactment, in my opinion, is most urgently needed to put down the grave abuses that are to be expected to be seen and to exist for want of such a proper system of maintaining records of Muslim marriages and divorces.

I beg to be excused for the liberty I have taken.

LVII

Letter—from E. W. Legh, Esq., I.C.S., District Magistrate, Salem.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—the 5th February 1919.
No.—92 D.M.D.

With reference to Government Memoranda No. 1519–6, dated 12th October 1918 and No. 1519–9, dated 4th November 1918, I have the honour to forward herewith the opinions of the Muhammadans and Muhammadan bodies on the Bill for the voluntary registration of Mussalman marriages and divorces, and to report as follows :—

(1) Muhammadan Association ...	1. The Crescent Club, Fort, Salem.
(2) Muhammadan officials ...	2. U. A. Abdur Rahim Sahib, Treasury Deputy Collector, Salem. 3. Muhammad Munir Khan Sahib, Headquarters Deputy Collector. 4. Mukarram, Salt and Abkari Inspector, Sankaridrug Circle.
(3) Muhammadan non-officials ...	5. Kazi Saiyid Batcha Sahib, Harur. 6. Mir Muhammad Habib-ul-lah Sahib, Bevuhalli. 7. Qadir Batcha Sahib, Fort, Salem. 8. Muhammad Aziz-ud-din Sahib, Fort, Salem. 9. Mir Muhammad Aziz-ul-lah Sahib, Bevuhalli. 10. S. K. I. Abdur Rahaman Sahib, Bazaar Street, Salem.

2. Copies of the Bill in English were sent to—
(i) the Secretary, Muhammadan Educational Association, Fort, Salem ;
(ii) the Crescent Literary Union, Fort, Salem ;
(iii) the Headquarters Deputy Collector ; and
(iv) the Treasury Deputy Collector.

Only the first body has not replied as yet, and the replies from the other three are in support of the Bill. The replies of the latter two gazetted officers in favour of the Bill are worth noting.

3. Copies of the Bill in Hindustani were sent to nine of the important kazis in this district ; only one of them, viz., the Kazi at Harur has replied, and his reply is in favour of the Bill.

4. Opinions of five other gentlemen have been received, and all of them except one are in favour of the Bill. The opinion of the Secretary, Anjuman-e-Himayathul Islam, Salem, is adverse to the Bill and probably reflects the opinion of the conservative section of the community.

5. While the English educated section of the Muhammadan community welcome the Bill and support it, it seems likely that the Bill is looked upon with disfavour by a large section, and no thought whatever has been bestowed upon it by the rest, forming probably the largest section of all.

The Bill is, however, a purely voluntary measure and there seems to be no objection to passing an enactment on the lines of the Bill.

Enclosures

(1)

Letter—from T. A. Aziz-ul-lah Khan, Secretary, Crescent Club, Fort, Salem.
To—the District Magistrate, Salem.
Dated—the 6th December 1918.

I have the honour to request you to be so kind as to cause this copy of the resolution herein enclosed to be sent to the Secretary to Government, Legislative Department, Madras and oblige.

Sub-Enclosure

Proceedings of the Salem Crescent Free Literary and Physical Club, dated 1st December 1918.

* * * * * *

The provisions of the Hon'ble Mr. Yaqub Hasan's Bill for the voluntary registration of Mussalman marriages and divorces having been considered, it has been resolved to approve of it as proposed to be introduced into the Council, as it sufficiently safeguards the possibility, in the present system, of repeating the malpractices.

Resolved further that copies of this resolution be sent to the Honourable Member and Secretary for necessary action.

* * * * * *

(2)

Letter—from U. A. Abdur Rahim Sahib Bahadur, Treasury Deputy Collector, Salem.
To—the District Magistrate, Salem.
Dated—the 24th December 1918.

With reference to your No. 1266/D.M.R., dated 3rd December 1918, asking me to let you know my views on the Bill of the Hon'ble Mr. Yaqbk Hasan, to provide for the voluntary registration of Mussalman marriages and divorces, I have the honour to state that the Bill is a long felt want in the social life of the community and is sure to put a stop to many abuses that have crept therein and I am strongly of opinion that it is indispensibly necessary for the good of the community and the fair name of Islam.

According to Mussalman law, marriage is only a civil contract and no religious ceremony is attached to it. Number of persons of all sorts have at present constituted themselves as kazis and naibs, with no responsibility to any authority for their action. There are also black sheep among them as in all the communities and for want of a proper system of registration of marriages and divorces such men are afforded opportunities of committing frauds which lead to grave consequences ; and the present Bill is sure to put a check on such unscrupulous solemnizers of marriage and it will tend to greatly minimise unnecessary and scandalous litigation.

It may be said that by their registration greater publicity is given to cases of divorces and this may cast a slur on the woman divorced. But the Mussalman religion does not enjoin secrecy in such cases and on the other hand wide publicity is required. Besides, in cases of khula and mubarat (divorces) the dissolution of marriage is effected only with the consent of both the parties and if a wife considers it a dishonour to her she will not naturally be a consenting party to it. It is only in cases of talak (divorce) separation is effected even without the consent of wife. But the cases of divorce very seldom occur in the community and I may say that they are almost nil in respectable families. There are no doubt, a few rare cases in the lower orders and the divorced woman generally marries another husband and the publicity of divorce in such cases is not a stigma on her but it is to her own advantages and it is even cruel to her to keep the fact of her divorce a secret, as it may prevent her remarriage.

I am also of opinion that the appointment of Muslim registrars making it obligatory on them to enter all the marriages and the divorces performed by them in the registers supplied to them by Government is absolutely necessary for the effective check and to see that the provisions of the law are complied with.

In these circumstances, I consider that a truthful and authenticated record is necessary and that a regular system of entering marriages and divorces in proper registers should be introduced.

I may go even further and suggest that the Bill may be made compulsory, but I am afraid that there will be opposition from a great many of the community. Even now, when the measure is permissive, there is some opposition from the most conservatives of Mussalmans and from the kazis and moulvis who have not properly understood the Bill and who, fancying that their prestige will be lowered by the passing of the Bill into law, are giving out that it is an interference by the Government in matters connected with their religion. One of my co-religionists argued with me that the parties (husband and wife) will have to appear before a sub-registrar for the registration of a marriage or divorce just as the parties appear before him for the registration of documents, and another said that a marriage or divorce will be considered invalid in the eye of the law, unless it is registered under the provisions of the present Bill. When I explained to them that this is not the object of the Bill, they expressed that in that case the Bill is quite unobjectionable. I think that the time has not yet arrived for making the registration compulsory.

In conclusion, I would submit that the Bill is most harmless being only permissive and is intended for the good of the community and the Government will be conferring a real boon on the Mussalman by passing the Bill into law, since a vast majority of them is in favour of it, though an infinitely small number is against it.

(3)

Letter—from Muhammad Munir Khan Sahib, Khan Sahib Bahadur, B.A., Revenue Divisional Officer and Subdivisional First-class Magistrate, Salem.
To—the District Magistrate, Salem.
Dated—the 14th December 1918.
No.—163/M.D.

With reference to your letter No. 1266/D.M., dated 3rd instant forwarding a copy of the speech made by the Hon'ble Mr. Yaqub Hasan in introducing the Bill for the voluntary registration of Mussalman marriages and divorces which is to be discussed in the Local Legislative Council in February next and requesting me to offer my views on the Bill I have the honour to state as follows.

2. From the speech of the Honourable mover itself, it is clear that the necessity for the introduction of such a measure purely on voluntary basis has been keenly felt by all thoughtful Mussalmans from a long time. There can be no doubt that the present method of registration which is under no sort of control gives scope for malpractices, promotes litigation and causes failure of justice. Very often disputes arise as to the amount of mahar fixed at the time of marriage. When a rich Muhammadan dies leaving a second wife without issue and children by his first wife, the latter get a larger share of his property than the former according to the Muhammadan law of inheritance. Naturally, the widow is prompted to get as much as she can and the only way open to her is to enhance the amount mahar fixed during marriage. In the present state of affairs this is easily done. The kazi if he is dishonest will feel no difficulty in making any entry he likes in the so-called register which he maintains. Depending mostly on such entries people resort to courts in cases of this kind. But for the possibility of getting such false entries, several Muhammadan families would have been saved costly litigation and ultimate ruin.

3. Again cases arise when the validity of a marriage itself is questioned in a court of law. In such cases also the kazis play an important part. They can do anything they like. They are aware that the evidence they give and the record they produce are naturally given much value. An unscrupulous man does not hesitate to make any entry he likes as there is ample scope for him to do it in the absence of any sort of check over the registers said to be maintained by him. In this way also much litigation is caused among Mussalman families.

4. In short, in all cases relating to conjugal rights, matrimonial relations and inheritance, the kazi's so-called registers play an important part. All Muhammadans whether educated or illiterate know the difficulty under which they now labour and are in favour of introducing some system by which the present abuses can be avoided. All that they are particular about is that any action that may be taken should in no way interfere with the tenets of Islam.

5. They think that the excellence of their system is its simplicity. The marriage according to Islamic law can be performed by any Muhammadan not necessarily a kazi. As a matter of fact the kazi is no religious functionary. He is practically a civil registrar of marriage. A marriage performed by any learned Muhammadan is as valid as the one where a kazi officiates. The religion and Muhammadan law make no distinction. The law recognizes no priesthood. If a kazi is to be considered as a priest, then every adult male Muhammadan of learning and piety is a priest. The simplicity of the marriage consists in the fact that no particular functionary is needed to perform it. The Muhammadan belief is that this simplicity is intended to facilitate legal marriage and prevent unlawful intercourse.

6. The only argument that can possibly be advanced and, so far as I have been able to see actually advanced by a few people, is that the addition of registration will add a condition which is not enjoined by Divine law, to make a marriage appear valid in the eyes of the public. This conception of the measure now proposed appears to be altogether erroneous. The proposed Bill is only a persuasive measure. It makes registration entirely voluntary. It does not, therefore, lead to the inference that unregistered marriage will be held to be invalid. No doubt when facility is given to record marriages in a satisfactory manner people in generality of cases will willingly resort to registration because it will be a more satisfactory record of the event.

7. I do not think the objectors to the proposed Bill can point out many cases in which marriages are performed by persons other than kazis, peish-imams and mashaiks. Such cases are of rare occurrence and can perhaps be counted on one's own fingers. In the generality of cases the marriages are done in the presence of kazis, peish-imams and mashaiks. The law does not require it but it is done in accordance with a long-standing custom. Naturally and in the ordinary course of human affairs, one may be inclined to attach more value to such marriages than to those rarely performed by private individuals. It cannot therefore be said that the existence of such functionaries, as kazis, peish-imams and mashaiks interferes with the law of Islam. The same argument with equal force holds good in the case of voluntary registration of marriages. Such registration cannot by any stretch of imagination be said to interfere with the teachings of Islam.

8. So far as I have been able to consult the views of Muhammadans, I find that the consensus of opinion is in favour of the measure as it is purely of a voluntary character. My own view is the same. There can be no doubt that it will, without in the least interfering with their religious beliefs, save them from avoidable and costly litigation.

(4)

Letter—from M.R.Ry. Kazi Saiyid Batcha Sahib Bahadur, Taluk Board Member, Harur, Salem district.
To—the District Magistrate, Salem.
Dated—the 27th January 1919.

Reference—Your office No. 1266, dated 3rd December 1918, eliciting my opinion on the Bill introduced by the Hon'ble Mr. Yaqub Hasan Sahib for the voluntary registration of Mussalman marriages and divorces which is to be discussed in the Local Legislative Council in February.

1. I took time till now to discuss with many of my community to take their independent views on the subject under reference. Most of them are in favour of the Bill while some seem to be against it though the latter are unable to rely upon any religious authorities to support their selfish theory.

2. After due consultation and long consideration of the pros and cons of the subject, I come to the conclusion that the Bill, if made into law, will prove a successful and popular reform, which will be welcomed by all the right thinking men for the uplift of the Mussalman community.

3. In fact I am of opinion that the Bill will put down all litigation now due to corruptions of unscrupulous people in many a quarter in the matter of marriages taking advantage of the absence of an expressed and independent law on the subject.

Wishing every success for the Bill.

(5)

Letter—from Mir Muhammad Kalim-ul-lah Sahib, Salem, Mittadar of Bevuhalli.
To—the District Magistrate, Salem.
Dated—the 17th January 1919.

You are aware of the fact that the Hon'ble Mr. Yaqub Hasan, the Member of the Madras Legislative Council, is of opinion that a Bill, for want of a proper system of maintaining records of Muslim marriages and divorces, should be passed by the Council, and that this job should be taken up by the Government.

I am sure that for want of a proper system of maintaining records of marriages and divorces there are grave abuses and malpractices and that there is a crying need for an enactment to regularize the registration.

But some of his opponents have set up a few moulvis to oppose the Bill on the hackneyed plea of Government interference in our religious affairs.

Therefore I quite agree with his Bill and I do not like to make any alterations in the details.

(6)

Letter—from J. Qadir Batcha Sahib, Merchant, Commission Agent and Contractor and Honorary Magistrate, Salem.
To—the District Magistrate, Salem.
Dated—the 29th December 1918.

As an Honorary Magistrate and Mussalman citizen of Salem town, I feel myself bound to express my views on the Hon'ble Mr. Yaqub Hasan's Bill for voluntary registration of Mussalman marriages and divorces.

On consideration of the provisions of the Bill I am of opinion that it does not in any way interfere with our religious principles, but on the other hand it aims at the safe secure of the records relating to our marriages, etc., performed *as at present* besides giving no room to the malpractices played by some Kazis. It is a real boon if the Bill is passed into law as it supplies the long felt want.

I would, therefore, heartily support the Bill and request you to be good enough to transmit this to Government.

(7)

Letter—from Muhammed Aziz-ud-din Sahib, Hafiz and Pesh-imam of the Fort Mosque.
To—the District Magistrate, Salem.
Dated—the 2nd December 1918.

A public meeting was held on Friday the 29th November, after the Juma prayers at the fort mosque over which I presided. The Hon'ble Mr. Yaqub Hasan's Bill for the registration of marriages and divorces was read and discussed and the meeting was of unanimous opinion that the Bill was a useful measure, that there was nothing in it against the religion of Islam and it should be passed into law.

(8)

Letter—from Mir Muhammad Aziz-ul-lah Sahib, Mittah Zamindar of Bavuhalli, Dharmapuri taluk, Salem.
To—the District Magistrate, Salem.
Dated—the 22nd January 1919.

You are aware that the Hon'ble Mr. Yaqub Hasan has brought forward before the Council, a Bill for the voluntary registration of Muslim marriages and divorces. I have gone through the Bill in detail. I agree with the Bill and I have no alterations to consider to be taken away or to add in the Bill.

(9)

Letter—from S. K. I. Abdur Rahman Sahib Bahadur, Chairman, Anjuman-e-Himayathul Islam, Salem.

To—the District Magistrate, Salem.

Dated—the 22nd December 1918.

I beg to forward herewith a copy of the proceedings of a public meeting of the Mussalmans of Salem held under the auspices of the Anjuman-e-Himayathul, Salem. A copy of the notice inviting the Mussalmans of Salem for attending the meeting is herein enclosed.

Sub-Enclosure

Proceedings of a meeting of the Mussalmans of Salem, dated the 15th December 1918.

Present :

Janab S. K. I. Abdur Rahman Sahib Bahadur, Municipal Councillor and Honorary Magistrate (in chair).
,, Kazi Muhammad Sharif Sahib Bahadur, Municipal Councillor and Honorary Magistrate.
,, A. S. Abdul Qadir Sahib Bahadur, Honorary Magistrate.
,, Haji Muhammad Husain Sahib, Merchant, Salem.
,, M. Saiyid Omer Sahib, Merchant, Salem.
,, Khatcheed Saiyid Omer Sahib, Merchant, Salem.
,, M. Saiyid Amir Sahib, Merchant, Salem.
,, P. Qadir Badsha Sahib, Merchant, Salem.
,, Abdul Hamid Sahib, Contractor, Salem.
,, Moulana Moulvi Muhammad Taj-ud-din Sahib, Priest.
,, Moulana Moulvi Abdul Karim Sahib.
,, Moulana Moulvi Muhammad Tamiz-ud-din Sahib and many others.

That the Bill brought by the Hon'ble Mr. Yaqub Hasan regarding Mussalman marriages and divorces should not be accepted as it is against the teachings of Koran and Hades-i-Shariff (traditional teachings of Prophet) and that our benign Government be requested to reject the Bill.

2. The chairman of the meeting is authorized to communicate copies of the proceedings to the Government, Collector of Salem and the Muhammadan members of the Legislative Council, Madras.

(10)

Letter—from A. F. Mukarram, Inspector, Salt and Abkāri Revenue, Sankaridrug Circle, Salem district.

To—the District Magistrate, Salem.

Dated—the 26th January 1919.

With reference to the Bill to provide for the voluntary registration of Mussalman marriages and divorces permission to introduce which has been sought for by the Hon'ble Mr. Yaqub Hasan, as it is a measure which concerns the community to which I have the honour to belong, I therefore beg to offer as my humble opinion for favour of transmission to Government that some legislation of the kind is very badly needed to secure the rights of a husband and wife, as I may say that though my wife has borne me eight children, I am not quite sure that I can now establish beyond a doubt if my wife is my legally married wife or that I am her husband should such a question arise. It is unfortunate that there is any opposition at all to the measure proposed, but it has always been so with some selfish and bigoted moulvis who having misled our fathers and dissuaded them from giving their children English education saying that it turns them into 'Kafurs' or unbelievers, now realize their mistake when it is too late. I would, therefore, humbly beg to submit that if the Government is morally convinced that the proposed Bill is one that would secure the rights of poor and helpless widows and orphans, as I think it would, it may not be deterred by any opposition in allowing the Bill to be introduced and passed as it in no way interferes with the form in which the religious ceremony of the marriage is performed but is purely an administrative measure to secure the civil rights of the individual members of a community according to the law of their religion, and as it also proposes to make the registration not compulsory but only voluntary.

LVIII

Letter—from J. R. Huggins, Esq., I.C.S., Collector of Tanjore.

To—the Secretary to Government, Home (Miscellaneous) Department.

Dated—the 6th February 1919.

No.—D. Dis. 550-Rev.

With reference to Government Memorandum No. 1519-8, dated Home (Miscellaneous), dated the 12th October last, I have the honour to forward the opinion of the marginally-noted Muhammadans and Muhammadan bodies.

1. The Secretary, Anjuman-i-Auzum, Tanjore.
2. Janab Government Kazi Sahib, Tanjore.
3. The Hon'ble Khan Bahadur A. T. G. M. Ahmad Tambi Marakkayar, Negapatam.
4. Mr. R. Abdul Karim Ravuttar, Union Chairman, Papanasam.
5. Mr. Muhammad Abdulla, B.A., Sub-Assistant Inspector of Schools and Muhammad Saduk Azam, B.A., Tanjore.
6. M. Sultan Marakkayar of Negapatam.

I do not think the opinions call for any particular remarks and none of those consulted have really realized the weakness of the Bill except perhaps the town Kazi who, however, is in favour of it. In my opinion the Bill is quite useless. It will not remedy the abuses complained of for those who wish to misbehave will clearly not have their marriages or divorces registered. There is clearly no unanimity of opinion in regard to the matter and the Bill if passed into law is likely to remain a dead letter for a good many years.

Enclosures

(1)

Letter—from T. K. Sheik Ahmad Sahib, Secretary, the Anjuman-i-Auzum, Tanjore.

To—the Collector of Tanjore.

Dated—the 14th November 1918.

No.—196.

In returning herewith a copy of the Bill (with its Tamil translation) introduced in the local Legislative Council by the Hon'ble Mr. A. Yaqub Hasan Sahib, for the appointment of a Mussalman registrar for the marriages and divorces, sent to me with letter R.C. No. 1328/G. & B., dated 2nd November 1918, with a request to return them with the views of this Anjuman, I have the honour to state that the Bill was placed before the meeting of the Muhammadan public on 13th November 1918, after due publicity by printed notices and a copy of the resolution passed at the meeting requesting the Government not to pass the Bill into law is herewith sent.

2. There are more than three Kazis in the Tanjore town besides the gazetted Kazi who has been appointed by the Government in pursuance of section 2 of Government of India Act XII of 1880. None of them accept to become a naib Kazi under section 3 of the said Act as they are exercising the functions of the Kazi in separate *mahalas* (some streets) among the sub-sects of the Muhammadan community. Some of them say that they exercise the functions of a Kazi for the last 900 years in Tanjore for some generations before the Town Kazi Act was brought into force in 1882.

3. According to section 3 of the proposed Bill every town Kazi is to be appointed as a Mussalman registrar and other Kazis who are seniors to the town Kazi should become naib Kazis and besides the Muhammadan public of Tanjore is of opinion that the present Bill is not necessary for the present and therefore it should be rejected.

I therefore have the honour to request that you may be pleased to address the Government that the Mussalmans of Tanjore are not in favour of the Bill and so it need not be passed into law.

Sub-Enclosure

Proceedings of the Anjuman-i-Auzum, Tanjore, dated 13*th November* 1918.

Read the Bill introduced by the Hon'ble Mr. A. Yaqub Hasan Sahib in the local Legislative Council for the appointment of a Mussalman registrar of marriages and divorces and it was explained by the Secretary of the Anjuman.

Resolution.—Proposed by Janab K. E. Ismail Sahib Bahadur, Special Magistrate of Tanjore, seconded by Janab K. Abdul Qadir Sahib Bahadur, merchant, and carried by a majority that the Bill need not be passed into law.

(2)

Letter—from the Hon'ble Khan Bahadur A. T. G. M. Ahmad Tambi Marakkayar, Sahib Bahadur, Non-official Additional Member of the Madras Legislative Council.
To—the Collector of Tanjore.
Dated—Negapatam, the 23rd November 1918.

I have the honour to acknowledge, with thanks, the receipt of your letter R.C. No. 1328/G. & B., dated 20th instant, enclosing a copy of the Bill to provide for the voluntary registration of Mussalman marriages and divorces and asking me to return it to you with my views thereon.

In reply, I beg to quote below copy of the speech I delivered at the Legislative Council meeting on the 13th August 1918, from which you will observe that I am against the introduction of the Bill in question for reasons stated therein.

"My Lord, I am sorry I have to oppose the motion moved by my Honourable friend.

"That the Mussalman system of registration of marriages requires legislation cannot be denied. Even so early as in 1900 the Mussalman residents of Triplicane sent in a memorial to the Government of Madras to amend the Town Kazi Act XII of 1880 and to prevent malpractices arising from want of compulsory registration of Muhammadan marriages. The Government on that occasion after consulting the Muhammadan officials and Collectors of the districts observed that the Government would not take the initiative in the matter of legislation unless the members of the community are agreed as to the direction in which the reform should take. The need for providing better registration of Muhammadan marriages is admitted on all hands and therefore the Bill to be introduced must be one capable of putting a stop to corrupt practices obtaining at present for want of necessity to register marriages. So unless registration of Muhammadan marriages is made compulsory, the desire for registration would not receive adequate response. Under the Bill which my Honourable friend proposes to introduce, registration of marriages would be voluntary as at present and no useful purpose could be served by the Bill as in section 25 of the Bill no marriage would be rendered invalid for want of registration. In the Objects and Statements of the Bill my Honourable friend states 'that the loose system of registering marriages and divorces is capable of giving room to abuses of the gravest nature' and I am afraid that the Bill which he proposes to introduce will fail to bring about the desired effect as he himself admits 'that it will be open to the parties to get married in the simple 'Islamic manner'."

"To provide that all cases of Muhammadan marriages should be registered to make them valid would probably be opposed to the spirit of Muhammadan law and so in order to escape from the difficulty it is necessary to penalise the parties for neglect to register Muhammadan marriages without at the same time making such marriages invalid for want of registration. Fear of penalty would compel parties to register marriages though marriages without registration might be held to be valid according to Muhammadan law. A Bill on the above lines penalising parties for neglecting to register marriages without rendering the marriages void for want of registration is the only one that could remedy the defects. In order to introduce such a Bill I was getting Mussalman opinion and before my endeavours on that respect are completed, my Honourable friend has brought forward this motion for leave to introduce a Bill which in my opinion is insufficient to check the corrupt practices prevailing at present. I am daily receiving a number of letters from the leaders of the Mussalman community, from different parts of the Presidency encouraging me to take action on the lines suggested by me. Under these circumstances I am afraid I have to oppose the motion for leave though I am in sympathy with the Honourable mover's desire to effect some sort of legislation to provide for better registration of Muhammadan marriages. In my opinion the desired end could be brought about only by amending with the consent of the Government of India the Kazis Act XII of 1880 to bring it into harmony with the wishes of Mussalman public without introducing a new Act whose principles might conflict with the existing Act XII of 1880."

I return herewith the Bill sent with your letter.

(3)

Letter—from the Hon'ble Khan Bahadur A. T. G. M. Ahmad Tambi Marakkayar, Non-official Additional Member of the Madras Legislative Council.
To—the Collector of Tanjore.
Dated—Negapatam, the 2nd December 1918.

I have the honour to acknowledge, with thanks, the receipt of your letter No. R.C. 1328/G. & B. of 1918 and of the enclosures referred to therein in connexion with the Hon'ble Mr. Yaqub Hasan's Bill for the registration of Mussalman marriages and divorces, all of which I have carefully perused.

In reply, I would refer you to my letter of 23rd November and as mentioned therein, I still maintain that I am opposed to the introduction of the above Bill.

(4)

Letter—from Saiyid Ethulla Hussaini Sahib, Government Kazi, Tanjore.
To—the Collector of Tanjore.
Dated—the 9th December 1918.

With reference to your R.C. No. 1328/G. & B. dated 21st November 1918, inviting my views and those of any institution which I may like to consult on the Hon'ble Mr. Janab Yaqub Hasan Sahib's Bill for the voluntary registration of Mussalman marriages and divorces, I have the honour to state that the proposed measure meets with my approval and I am in entire accord with the intentions of the Honourable Member as set forth in the Statement of Objects and Reasons. I had occasion to consult several of my co-religionists for whose benefit the Bill is proposed to be placed on the Statute book and they have all expressed opinions endorsing my views. The Bill does not in any way run counter to the policy of religious neutrality which the Government have all along been wisely following nor does it in any way interfere with Mussalman tradition and usage or the tenets of Islam. I would even go a little further and advocate the procedure laid down in the Bill to be compulsorily adopted in the matter of Mussalman marriages and divorces, as otherwise the abuses which the Bill seeks to remove will continue although in a less pronounced form. This latter view of mine is also endorsed by several of my co-religionists whom I have consulted in the matter. The copy of the draft Bill is herewith returned.

(5)

Proceedings of the meeting, Rajaghiri, Tanjore, dated 6th December 1918.

This meeting is of opinion that no legislation should be introduced in the Legislative Council with regard to the marriage and divorce of Muslims on the following grounds:—

(1) That the existing state of law as regards marriage and divorce of Muslims is quite satisfactorily working.

(2) That no new legislation need be introduced in the Legislative Council as it is against the principles of the Muslim faith and as it will ultimately lead to much confusion and other troubles.

(3) That when we are agitating for self-Government, it will be quite imprudent on our part to allow Government's interference in matters of religion.

(4) That the Hon'ble Mr. Yaqub Hasan is hurriedly pushing through his Bill without considering the opinions of the several hundred thousands of Muslims in this country as he fears that in the reformed councils he cannot introduce this legislature.

Accordingly wires have been sent to His Excellency the Governor of Madras, Hon'ble Yaqub Hasan and Khan Bahadur Aziz-ud-din Sahib.

(6)

Letter—from the Chairman-Delegate, Papanasam Union, Tanjore.
To—the Collector of Tanjore.
Dated—the 18th December 1918.

The resolution of the panchayat referred to above is submitted to the Collector of Tanjore with reference to his No. R.C. 1328/G. & B. of 1918 together with the letter of the Secretary of the Anjuman Committee and with the opinion of the Muhammadan assembly of Rajagiri.

Sub-Enclosure

Proceedings of the Union Panchayat, Papanasam, dated 17th December 1918.

* * * * * *

Read letter R.C. No. 1328/G. & B. of 1918 of the Collector of Tanjore on the registration of the Mussalman marriages and divorces and the Tamil translation Bill thereof and a letter of the Secretary of the Anjuman Committee with the opinion of Muhammadan assembly of Rajagiri.

Resolved that the resolution passed at the meeting of the Anjuman Muhammadans of Rajagiri be forwarded to the Collector of Tanjore.

(7)

Letter—from T. K. Sheik Ahmad Sahib Bahadur, Secretary, the Anjuman-i-Auzum, Tanjore.
To—the Collector of Tanjore.
Dated—the 14th January 1919.

With reference to your R.C. No. 1328/G. & B., dated 27th November last, forwarding to me copies of the proceedings of the meeting of the Legislative Council relating to the Bill for the registration of Mussalman marriages and divorces and some other papers connected therewith, I have the honour to inform you that there was a public demonstration over the birthday of

our Prophet on the 2nd day of January 1919 and not less than 4,000 persons excluding the females were sumptuously fed and the papers relating to the registration of Mussalman marriages and divorces were read and explained to them but the opinion of the majority of persons who were present at that time is in favour of the resolution of this Anjuman passed at the special meeting held at the Juma majid on 13th November 1918 and so the resolution sent already on the subject is confirmed.

The proposed Bill need not be passed into law, and I have the honour to request you to report to the Government that the Mussalmans of Tanjore are not in favour of the Bill and it need not be passed into law.

(8)

Letter—from Mr. Saduk Azam Sahib, B.A., Tanjore.
To—the Collector of Tanjore.
Dated—the 28th January 1919.

A copy of our opinion regarding the Hon'ble Mr. Yaqub Hasan's Bill for Muslim marriage and divorce is herein attached. As our opinion thereon was required by the Honourable mover of the Bill and as it concerns our religion and Muslim society, we have sent a copy to him also.

It is needless to question the usefulness of the proposed legislation regarding the registration of the Muslim marriages and divorces as it is essentially necessary to safeguard the abuses which do not come to light. Some Mussalmans do not appear to be keen observers of such social abuses as do in fact exist. Instances of the kind are too numerous to mention. It may be of interest to the Muslim world if two typical cases of such abuses that occurred recently are cited here. A certain young Muslim of the north, a scholar in Persian and Arabic, who could repeat the whole of Masnavai Sharief verbatim, a few years ago passed for a peer-o-murshad (spiritual leader) and began making mureeds (deciples) of both sexes. His first field of operation was Madura, where, in the midst of his spiritual activities, he contracted a matrimonial alliance with one of his mureeds. After a short stay there, he disappeared altogether, leaving his helpless bride to her own fate. His next campaign was in Trichinopoly, where the same process repeated itself. Among the many spiritual followers that he enlisted there was a very young and pious Mussalman widow whose virtue and religiosity were a bye-word in the neighbourhood. To such a woman, the so-called spiritual leader laid seige, and ultimately made her a captive to his passion. With an idea of receiving more religious instruction if she took him to her husband, she became his married wife. After a month or so, the Madura wife learnt the whereabouts of her husband, went to him to Trichinopoly and claimed him as such. Finding that his vile machinations had seen the light of day, he deserted both of them and disappeared altogether from the place, not to be heard of again. The poor Trichinopoly wife is reported to have ended her life miserably. What fate awaited the Madura wife, is not known. Such kinds of easy and selfish marriages for one's own convenience and such cruel desertions at will, could have been minimised, if there had been such a registration as is propsed in this Bill. To quote another instance, the high priest or town Kazi Sahib, of a certain town, I am informed, was recently requisitioned at about eleven in the night to perform a certain Nikha, at a certain public choultry. The Kazi Sahib on arrival at the place, found that about a dozen Mussalmans with a bridegroom in their midst were awaiting him. Finding the strangeness of the situation and the low status of the people assembled, he learnt secretly from one of the people assembled that the bride was already married at another place a few years back and on account of her husband's maltreatment she was brought back to the said town by some of her relations a year ago. She fell in intimacy with the present bridegroom and hence the hurried arrangement for the Nikah. Naturally enough, the Kazi Sahib, out of suspicion made more direct inquiries of the guardian, who gave evasive answers telling him first that, she was divorced by the order of a Khazi, and then, in the same breath, by a judicial court and that the certificate would be produced next morning, if the Nikha was celebrated at once. The guardian, at the same time, tried to bring round the Kazi Sahib by handing him a currency note for Rs. 10. This annoyed the upright and tenacious Kazi who quietly returned home. The next morning, to his utter dismay, the guardian turned up only to taunt him that what he could not do for Rs. 10 was accomplished by another for Rs. 5. What a deplorable insecurity for a bride in the absence of such a legislation as is proposed in the Hon'ble Mr. Yaqub Hasan's Bill! How many more might there be suffering in silence, the All-merciful alone knows. I would, rather, go even to the extent of suggesting that the proposed legislation might be made compulsory. However, on a fair perusal of the Bill and the discussions made thereon in the Legislative Council, I would like to make the following observations :—

(i) I do realise the need for an enactment for the registration of Mussalman marriages and divorces, inasmuch as it systematizes the institution of Moslem marriages and divorces, and serves as a check to malpractices apprehended in some cases, such as, claiming of mahar and the shares of wives and children in secret marriages, etc., and in such marriages as are instanced supra.

(ii) I do approve of the appointment of the Moslem registrars, making it obligatory on them to enter all the marriages they solemnize in the registers supplied to them by Government and to have the register signed by the parties and witnesses to the marriage, the mark of an illiterate being regarded as a signature.

(iii) It is found that if a licensed Moslem registrar neglects to register a marriage solemnized by him at the time of marriage and in the presence of the parties and witnesses concerned or having so registered the marriage fails to inform the district registrar as laid down in the Bill, no penal provision is made against him for the enforcement of the rule so as to make the Bill operative.

(iv) Another problem for consideration is that in the case of voluntary registration, if a party wishing to get his marriage registered is obliged to have his marriage solemnized by a Moslem other than a licensed Moslem registrar, for want of a licensed registrar in the locality, his interest cannot be safeguarded unless it is made obligatory on the said Moslem who solemnizes the marriage to transmit the information to the nearest licensed registrar under penalty of some fine.

These observations, I am constrained to think, may not be complete, without drawing attention to a few salient points in the adverse criticisms appearing in the papers and showing thereby how shallow and unreasonable they are.

(*a*) It is an undeniable fact that the light of religious education has not illuminated the hearts of a majority of the Mussalmans of Southern India. As such, they do not seem to understand what this Bill proposes to do. They are under the impression that the enactment of the Bill might lead to an enhancement of the fee of the solemnizer of nikah and the levying of extra charges for registration of the marriage—which, they apprehend, would bring on 'hardship to the poor and inconvenience to the rich.'

(*b*) The various resolutions passed in all the meetings, merely state that the proposed legislation is an uncalled for interference 'with the tenets of Moslem faith' and with 'the existing state of law as regards marriage and divorce of Moslems.' But no one has yet pointed out how and wherein is the apprehended interference. The Bill under discusssion, it is obvious, does not intrinsically affect the established law, but is as extrinsic in its working as the Kazis Act of 1880. It is worth while, in this connexion, to note how our Bengali Muslim brethren have already had such a legislation for warding off such social abuses. The more enlightened 'they' are now none the worse for it; how are 'we', the less cultured of this Presidency, likely to be any the worse?—for, what is found beneficial to our brethren of the North cannot be otherwise to us of the same faith.

(*c*) What passes beyond one's comprehension is that even those who, realizing the necessity of such a Bill some years back, wanted to have their names immortalized in the Statute book by introducing a similar Bill, should now stand as champions to oppose the present one when another public-spirited gentleman comes out to introduce it.

In conclusion it is hoped that in view of the interest and wellbeing of the Moslem community, all fair-minded Muslims would heartily co-operate with the Honourable mover of the Bill to make it a real success.

(9)

Letter—from M. Sultan Marakkayar, Negapatam.
To—the Collector of Tanjore.
Dated—the 29th January 1919.

[Hon'ble Mr. Yaqub Hasan's 'Bill to provide for the voluntary registration of Mussalman marriages and divorces.']

With reference to the above Bill, the undersigned humbly begs to inform that he is very strongly in favour of, and supports, the Bill.

LIX

Letter—from A. F. G. Moscardi, Esq., I.C.S., Collector of Ramnad at Madura.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—the 7th February 1919.
No.—R.O.C. 1358/B. & G. of 1918.

With reference to Government Memorandum No. 1519-8, dated 12th October 1918, I have the honour to forward the opinions of the Muhammadan gentlemen who were consulted on the provisions of the Bill for the voluntary registration of Mussalman marriages and divorces. The majority of Muhammadans seem to be opposed to the introduction of the Bill which they regard as an innovation and therefore objectionable. The educated few have no objection to it, as the registration is voluntary. One of the leading Muhammadans in the district is positively in favour of it.

Enclosures

(1)

Letter—from P. C. M. K. Muhammad Abdul Rahiman Marakkayar, Chairman, Union Panchayat, Pamban.
To—the Tahsildar of Ramnad.
Dated—the 5th January 1919.
No.—R.O.C. 295-Pn./18.

With reference to your R.O.C. No. 2331-Sup. of 1918 on my personal discussion with many Muslim priests and inhabitants of this place which also coincides with mine according to the majority, I am also of opinion that it is not at all necessary to take away the rights and privileges that are now maintained by Muslim communities conducting marriages by local priests according to the custom of this place. Moreover the question of mahar and many like questions rest upon the will and pleasure of bride, etc.

(2)

Letter—from Dubash D. K. Muhammad Ebrahim Sahib, Landlord, Abiramam.
To—the Revenue Divisional Officer, Ramnad.
Dated—the 20th January 1919.
No.—12.

With reference to your R.O.C. No. 1654, dated 9th instant, addressed to my brother Mr. Dubash Saiyid Ebrahim Sahib regarding the Bill for voluntary registration of Mussalman marriages, I have the honour to state that he is away at Rangoon on business of our firm. A reply to this effect was made to the Deputy Tahsildar, Mudukulatur, on 4th January 1919. I am of opinion that the proposals are not applicable to this locality.

(3)

Letter—from Khan Bahadur P. R. M. Qasim Muhammad Marakkayar, Mandapam.
To—the Tahsildar of Ramnad.
Dated—the 29th December 1918.

With reference to your letter R.O.C. No. 2331-Sup., dated 24th December 1918, I have the honour to state that, though I am not inclined for any radical changes being introduced in the Muhammadan Law, I have nothing to oppose in this particular Bill, inasmuch as it deals only with voluntary registration.

(4)

Letter—from Dubash D. K. Muhammad Ebrahim Sahib, Landlord, Abiramam.
To—the Revenue Divisional Officer, Devakottai.
Dated—the 4th January 1919.
No.—5.

With reference to your R.O.C. No. 1819, dated 18th December 1918, regarding the Bill regarding Mussalman marriages and divorces, I have to state that in my opinion the proposals contained in the Bill are not applicable to this locality as voluntary registration has been invariably effected in proper order at the mosques. It may be introduced in places where it may be considered necessary.

LX

Letter—from F. Hannyngton, Esq., I.C.S., Collector of Bellary.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—the 5th February 1919.
No.—D. Dis. 532.

With reference to Government Memorandum No. 1519–8, dated 12th December 1918, regarding the Hon'ble Mr. Yaqub Hasan's Bill to provide for the voluntary registration of Mussalman marriages and divorces, I have the honour to forward herewith the views of the marginally-noted seven Muhammadan gentlemen who have been consulted as to its provisions.

1. Munshi Muhammad Hussain Sahib Bahadur.
2. Roshan Minulla Nanne Hussain Sahib Bahadur.
3. Mirza Muhammad Beg Sahib.
4. Hajee Ahmed Sahib Bahadur.
5. Khan Bahadur Abdul Karim Sahib.
6. Sowdagar Abdul Gaffur Sahib Bahadur.
7. Yasan Peer Sahib Bahadur.

2. Of the individuals noted in the margin Nos. 1, 2, 3, 5 and 7 support the Bill for the following reasons:—

(*a*) That the records or registers of marriages and divorces now maintained by Kazis or naib Kazis are very unsatisfactory and sometimes unreliable and give rise to abuses of various kinds.

(*b*) That the proposed legislation gives a basis for the validity of marriages and divorces and will put a stop to or lessen the number of marriages and divorces that are ruining several Mussalman families at present.

Individual No. 2 suggests that 'mahar' or bridal dowry suits may also be included in the Bill and individual No. 5 considers that the registration, which is to be voluntary, should be made compulsory after some time. No. 7 is of opinion that Kazis or naib Kazis of Mussalman marriages and divorces should be made liable for punishment for any breach of the rules of the Bill.

3. Haji Ahmad Sait Bahadur (No. 4), while sympathizing with the object of the Bill so far as it seeks to provide measures to protect possible fraud and malpractices under the present system of registration by Kazis, considers that voluntary registration will not be necessary if at the time of the marriage settlement of 'mahar' a deed of settlement is drawn up and registered. Such a deed, he considers, will obviate litigation and will also serve as a proof of marriage.

4. Sowdagar Abdul Gaffur Sahib Bahadur (No. 6) is not in favour of the Bill. He is of opinion that no legislation is at present needed as the present system of maintaining registers satisfies both the contracting parties to the marriage and that the introduction or appointment of Mussalman registrars would create a good deal of misunderstanding and competition among some members who are living in harmony under one Kazi. He adds that, as trustee of the Jama-i-Masjid, he discussed the Bill with his co-religionists and that none of them who were present were in favour of the Bill.

5. The local Anjumani-i-Islamia, which is here concerned chiefly with education, has expressed itself against the Bill. Local opinion would therefore seem to be on the whole against legislation and previous experience of permissive legislation of this kind argues that the latter view is a sound one.

Enclosures

(1)

Letter—from Munshi Muhammad Hussain Sahib of Bellary.
To—the Collector of Bellary.
Dated—the 22nd November 1918.

With reference to your honour's office No. 1428, dated the 5th November 1918, furnishing me with a copy of the Bill introduced by the Hon'ble Mr. Yaqub Hasan as regards the voluntary registration of Mussalman marriages and divorces, and asking me to give my opinion on the Bill, I most respectfully beg to state—

As a matter of fact in many a place the functions of a Kazi (the ceremony called nikah khani or the solemnization of marriages) are being performed by persons who are neither Kazis recognized by Government, nor naib Kazis appointed by such Kazis. The records or registers of marriages and divorces maintained by such people are loose, unsatisfactory and sometimes unreliable, because they are not written out in some systematical way and taken sufficient care of. Hence this faulty way of keeping records gives rise to abuses of various kinds. It is therefore found imperative necessity for introducing a better and much safer system of registering Moslem marriages and divorces, so that the Judicial Department, in times of necessity (during inquiries), may be facilitated and led to true facts.

If my memory serves me right, it was so many years back as 1900 or 1902, when I was Recordkeeper in Bellary Collector's office, a question arose that some legal provision should be made for an effective registration of Moslem marriages and divorces, the Government decided that the time had not arrived for making any such legislative enactment. In my humble opinion, I think such time has now come.

I quite appreciate and approve of every item referred to in the Bill submitted by the Hon'ble Mr. Yaqub Hasan providing for the registration of Mussalman marriages and divorces. The registration to be *voluntary* and not compulsory.

The Moslem registrars to be licensed or appointed under this Act should be acquainted with English besides knowing their own mother tongue 'Urdu'. Then only all records and accounts, etc., will be maintained according to English system, and give easy and correct access for the supervision of District Registrars and Inspector-General of Registration.

(2)

Letter—from Roshan Nanhay Minulla Hussain Sahib Bahadur of Adōni.
To—the Collector of Bellary.
Dated—the 30th November 1918.

With reference to your letter No. 1428-B. & G., dated 5th November 1918, bearing a copy of the Bill on voluntary registration of Mussalman marriages attached, I beg to say that the Bill

as it is drawn up fully satisfies an existing want among Mussalmans. It is quite true that the introduction of some authorized registry of marriages and divorces was a long felt necessity and the Bill if passed is sure to put a stop or at least very much lessen the number of marriage and divorce suits that are actually ruining so many Mussalman families. I beg further to add that the voluntary nature of the Bill is specially appealing to me.

One item that I would like to draw your kind attention to is, that besides marriage and divorce suits dower or as it is called in Hindustani 'mahar' suits also deserve the kind attention of the Government; and these suits are so closely connected with marriage and divorce suits that it is almost impossible to neglect them while the Government is considering a Bill to check the evil effects accruing in connexion with marriage and divorce for the lack of registration. It generally happens that a married woman on her death bed or at the death bed of her husband or even at a prior stage during their lifetime voluntarily withdraws her claims to her dower or 'mahar' or a part of dower or 'mahar' but afterwards, after the demise of her husband or a later stage during the lifetime of her husband when she is divorced by the husband, she files a suit for 'mahar' against the successors of her husband or against him as the case may be and thus unnecessarily puts him or his successors into trouble. However, I beg to recommend that along with the marriage and divorce registry if the Government provides for the voluntary registry of the forfeiture of dower of 'mahar' it shall still facilitate the questions of Mussalman marriages and the bad results accruing from them for want of any controlling machinery.

In conclusion I beg to offer my thanks for the chance offered to me to express my humble opinion on such an important question.

(3)

Letter—from Mr. Hajee Ahmed Sait of Messrs. Ebrahim Sait & Co., Bellary.
To—the Collector of Bellary.
Dated—the 4th December 1918.

Referring to your B & G. No. 1428, dated 5th November 1918, I beg to enclose herein copy of my letter to the Hon'ble Mr. Yaqub Hasan expressing my views in the matter of the Moslem Marriage Registration Bill.

Sub-Enclosure

Letter—from Messrs. Hajee Ahmed Esmail and Zackria Esmail of Messrs. Ebrahim Sait & Co., Bellary.
To—the Hon'ble Mr. Yaqub Hasan, Madras.
Dated—the 4th December 1918.

We thank you very much for the honour done to us by sending us copies of your Bill to provide for the registration of Mussalman marriages and divorces together with your letter of the 13th November 1918 and the proceedings of the Madras Legislative Council connected with the Bill.

I am quite in sympathy with the objects of the Bill in so far as it seeks to provide measures to protect possible fraud and malpractices under the present system of registration by the kazis and under the Kazis Act. But I believe whatever may be the practice elsewhere I understand that in this Presidency the validity of a Mussalman marriage does not entirely depend upon the entries made in a kazi's book, but the fact of the marriage is testified to by independent evidence of the relations or other respectable persons who attended the wedding. If, however, any individual chooses to adopt the additional preliminary of formally registering his or her marriage, I see no objections to his voluntarily registering so under your Bill. But such registration cannot be made compulsory, as it will introduce a lot of hardship to poor and indigent members of the Moslem community; moreover, the compulsory registration of Moslem marriages will tend to remove from such marriages the element of religious sanctity. I am not therefore in favour of compulsory registration.

I rather think that even voluntary registration will not be necessary if, at the time of the marriage settlement of *mahar*, a deed of settlement is drawn up and registered. This will safeguard all litigation as to property, etc., and will also serve as a proof of marriage.

(4)

Letter—from Khan Sahib Mirza Muhammad Beg Sahib Bahadur, Zamindar and President, Majli-se-Islamia, Yemmiganuru.
To—the Collector of Bellary.
Dated—the 5th December 1918.

With reference to your letter B. & G. No. 1428, dated 5th November 1918, forwarded with a copy of the Bill on voluntary registration of Moslem marriages and divorces introduced by the Hon'ble Yaqub Hasan Sahib in the Madras Legislative Council and asking for my opinion for the same.

I have the honour to express that the principles of the Bill are commendable in general and very necessary for the present day society. The old system of registering has been very disorganized and unreliable since want of definite rules and of inspection by a recognized

authority. Not to say of untold difficulties that used to crop up especially when any question of litigation comes. This present Bill brings chaos into order and gives a strong basis for the validity of the marriage or the divorce.

I fully endorse my opinion in support of the Bill and enthusiastically wish that it will come into force within a short time. A copy of the resolution passed at a mass meeting of Muhammadans held here also is herewith enclosed.

Sub-enclosure

Moslem Marriage Bill.

A mass meeting of the Muhammadans of Yemmiganuru (Bellary district) and its suburbs held at Zuma-masjid, Yemmiganur, under the presidency of Khan Sahib Mirza Muhammad Beg Sahib Bahadur, Zamindar, passed a resolution accepting heartily the principles of the Bill introduced by the Hon'ble Yaqub Hasan Sahib. Further resolved to request the opponents not to oppose the Bill totally as the time has come for introducing a better method of registration at least to minimise the scandals that have disgraced the fair name of Islam in the courts of law.

(5)

Letter—from Khan Bahadur Abd-ul-karim Sahib, Bellary.
To—the Collector of Bellary.
Dated—the 18th December 1918.

With reference to your letters B. & G. No. 1428, dated 5th November 1918, and also dated 30th November 1918, kindly sending for my opinion the Bill for the voluntary registration of Mussalman marriages introduced by the Hon'ble Yaqub Hasan Sahib in the local Legislative Council, I have the honour to send the following remarks on the Bill:—

It is a notorious fact that the present records of Mussalman marriages kept by kazis and other people are very unsatisfactory. Sometimes old books cannot be traced and sometimes are missing and various poor widows are deprived of their legal rights for want of good registers systematically kept by the said men. I therefore strongly recommend the adoption of the present Bill of the Hon'ble Mr. Yaqub Hasan in toto for the present as a small instalment before the said Act is made compulsory after some time.

(6)

Letter—from Sowdagar Abd-ul-ghafur, Bellary.
To—the Collector of Bellary.
Dated—the 22nd January 1919.

In thanking you for your selecting me to express an opinion on the Bill presented by the Hon'ble Mr. Yaqub Hasan forwarded with your letters B. & G. No. 1428, dated 8th November 1918 and 30th November 1918, I beg to state that I went through the Bill carefully individually myself and as trustee of the Jamai Masjid I placed it for consideration of my brethren in a meeting convened by me for the purpose, and I beg to state that we have come to one unanimous resolution that no legislation is at present called for, since the present state of affairs prevailing in the several districts of the Presidency and particularly in Bombay have been running on smoothly and the present system of maintaining the kazi's registers which were the outcome of a similar movement in 1901 satisfies my condition of both the parties, the bride and the bridegroom. In case where any of the parties or both the parties feel that they should be made sure that proper registration of their marriages has taken place they are quite welcome or rather they are quite at liberty to obtain extracts from the kazi's register then and there on the very nikah day signed by the kazi by parties to marriage and also by some gentlemen present on that day.

The introduction or the appointment of Moslem registrars as contemplated in the Bill only creates a good deal of misunderstanding and competition among some members of the community which is living in harmony under one kazi. I would rather like to have only one officer and one head to represent all communal ceremonies that have too many cooks to spoil the broth. If on the other hand any legislation be introduced to strengthen the present state and position of *the kazi*, I think our representatives would be doing immense good to the community as a whole, instead of introducing legislation against the very man whom they select as their kazi and at the same time distrust him and his records of marriage registration.

I am also a member of local Anjuman here. In one of its meetings presided over by Mr. Munshi Saiyid Ahmad Sahib in which the draft Bill of the Honourable Member was discussed in full, it was resolved unanimously that the proposed suggestion regarding registration of marriages voluntarily and the introduction of the Bill with Government interference are not suitable at present.

(7)

Letter—from Khan Sahib Yesan Peer Sahib, Kamalapur.
To—the Collector of Bellary.
Dated—the 28th January 1919.

With reference to your B. & G. No. 1428, dated 5th November 1918, I beg to state that the Bill on voluntary registration of Mussalman marriages and divorces introduced by the Hon'ble Mr. Yaqub Hasan Sahib may kindly be passed so as to ensure correct entries and safe custody of records as these informations are very valuable when needed since the present system is flimsy.

A clause may be added in the Bill that the kazi or naib kazi of Mussalman marriages and divorces shall be liable for punishment for any breach of rules of the Bill. The control of Government is necessary on registration and every marriage or divorce must be got registered.

LXI

Letter—from A. Galletti, Esq., I.C.S., Acting Collector of Chittoor.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—Chittoor, the 20th February 1919.
No.—L. Dis. 2131.

In continuation of my letter D. Dis. No. 4468 of 1918, dated 1st February 1919, forwarding the opinion of certain persons on the proposed Bill for the voluntary registration of Mussalman marriages and divorces, I have the honour to forward herewith the reply since received from Saiyid Mir Husain Sahib Bahadur of Chittoor.

Enclosure

Letter—from Sowcar Saiyid Mir Husain Sahib Bahadur, Chittoor.
To—the Collector of Chittoor.
Dated—the 14th February 1919.

In reply to your letter No. 4468, dated 5th November 1918, requesting me to give my views on the Moslem Voluntary Marriage and Divorce Bill I have the honour to state the following :—

(1) In the first place it directly interferes with the Islamic religion. Any such proposal is against the apostles of Holy Koran. From the time of our Prophet Muhammad down to the present time we are getting on well with the present system, and by passing this Bill into law, our religion is meddled with.

(2) All learned men and Ulemas have more than once expressed their views against the Bill, well quoting verdicts from Holy Koran and they are all of one opinion against it and with one voice protest against the Bill in question. I say if this Bill is passed into law it will certainly injure the feelings of the Muhammadans.

(3) In short I am quite against the Hon'ble Yaqub Hassan Sahib Bahadur's Bill, and request the Government not to give any support to it.

LXII

Letter—from H. G. Gharpurey, Esq., M.A., I.C.S., Acting Collector of Cuddapah.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—the 24th February 1919.
No.—D. Dis. 496 Rev.

I have the honour to forward herewith, in original, the opinions obtained by the divisional officers from representative Muhammadans and Muhammadan bodies in respect of the Bill for the voluntary registration of Mussalman marriages and divorces called for in Government Memorandum No. 1519/8, dated 12th October 1918 and No. 1519/9, dated 4th November 1918.

The Divisional Officer, Cuddapah, submits the views of the following representative Muhammadans and Muhammadan bodies in Cuddapah town :—

(1) Anjumanai Ahlai Hadis.
(2) Some Mosque Committeedars.
(3) Members of a public meeting held in Bhadir Khan Musjid street on 17th November 1918.
(4) Khaji Saiyid Mustafa Husain Sahib.
(5) Muhammad Abdulla Sahib Ahale Hadis.
(6) Anjumanai Jalsai Islamia.
(7) Do. Mufidai Islam.

3. Nos. 1, 2, 3 and 5 agree with No. 4 and are in favour of the Bill. Nos. 3, 4 and 5 however require the registration to be compulsory. Nos. 1 and 5 (Ahlai Hadees) require the appointment of Kazi by Government to be from the members of the existing Kazi family and insist on the Government appointing only a person who is well educated, learned in Arabic and who passes the Kazi test. No. 5 proposes penalty for unauthorized registration and also requires only one Moslem Marriage Registrar to be appointed by the Government for the whole district, the registrars in taluks and villages being regarded as Naibs of the District Moslem Marriage Registrar. No. 4 suggests that in section 9, instead of fixing Rs. 1–4–0 as registration fee, the full fee according to the practice obtaining in each locality should be imposed and that provision in the Bill be made to the effect that in the absence of the Moslem Registrar at the nikah ceremony, the person who solemnizes the marriage should be made responsible for the registration of the marriage in the registers of the Moslem Registrar.

4. No. 6 does not agree with No. 4. This body however appreciates the Bill as a considerable improvement on the existing Kazi Act but requires section 3 to be so completely amended as to substitute section 2 of the existing Kazi Act for it or bring it into conformity with the same, so as to enable not only different sects of Muhammadans as contemplated by section 3 of the proposed Act but also any considerable number of Muhammadans of each sect—where there are differences in their religious beliefs and observances among members of the same sect—to elect one or more Kazis with power of registration according to the necessities of each case or area, as, otherwise, the limitation in section 3 of the proposed Bill will, according to them, seriously curtail the vested rights and privileges of Muhammadans to choose their own Kazi according to their own inclinations when such a body is considerable and when such an appointment is necessary in the interest of the Muhammadan community.

5. A mahazar signed by a very large number of Muhammadans of Cuddapah addressed to Jalsai Islamia (No. 6) has since been received from Government with Endorsement No. 121/B–1, dated 23rd January 1919, through the Collector of Anantapur. They protest against Government interfering with their religious affairs and say that if they do interfere, Saiyid Sha Amin-ulla Huseni Chisti-ul Kadiri, who has been officiating as Kazi for the last seven or eight years may be appointed as Government Kazi in the place of the present Government Kazi, Saiyid Mustafa Husain Sahib.

6. No. 7 which is an educational society, declines to give any opinion as a body either in favour of or against the Bill but the members generally approve of the Bill with great pleasure but say that sections 3 and 23 require to be so amended as to make provision for the determination of qualifications required from persons to be appointed as Moslem Registrars by a Moslem body consisting only of Ulemas approved by the Moslem public and for fixing in the Act itself the remuneration for the attendance of Moslem Registrars at the celebration of marriages, which attendance is regarded as absolutely necessary in the mufassal.

7. The Divisional Officer, Jammalamadugu, reports that the Muhammadans in his division are against the passing of the Bill. The Divisional Officer, Rajampet, submits the opinion of the leading Muhammadans in Badvel who are not in favour of the Bill. The Divisional Officer, Rayachoti, submits opinions of the leading Muhammadans of Pulivendla and Rayachoti. The Muhammadans of Pulivendla are not in favour of the Bill while those of Rayachoti are in favour.

8. In my opinion the purpose of the Bill is good and some provision is considered essential by enlightened Muhammadans against the malpractices due to want of control over the registration as it is at present. The difficulty, however, will be in the working of the law when the appointment of a particular man as Kazi may not be in consonance with the religious predilictions of a particular class of Muhammadans. Such a state of things actually obtains at Cuddapah at present, where the Kazi appointed by Government is not regarded as one by a large number of Muhammadans who recognize another gentleman, viz., Saiyid Shah Amin-ulla Huseni Chisti-ul Khadiri as their Kazi. Unless there is found out a way by which the practical

difficulties as indicated above which are likely and almost sure to arise in some way or other, may be got over, the Bill, if passed into law, might be a source of great future trouble, involving, as it does, the interference of the State in matters which are essentially social and governed by religious sentiment.

Enclosures

(1)

Letter—from the Secretary, the Anjumanai-Ahlai-Hadis, Cuddapah.
To—the Deputy Collector, Cuddapah division.
Dated—the 7th November 1918.

With reference to your No. 1103, Sup., dated 30th October 1918, requesting this Anjuman to give its opinion on the proposals of the Hon'ble Yaqub Hassan Sait Sahib Bahadur, regarding the registration of Mussalman marriages, divorces, etc., I have the honour to inform you that this Anjuman, after full discussion in its meeting held on the 3rd instant, passed the following resolutions approving with great pleasure the proposals of the Hon'ble Yaqub Hasan Sait Sahib Bahadur and finds them to be very advantageous for Mussalmans.

Resolutions—

(1) That this Anjuman approves with great pleasure the proposals of the Hon'ble Yaqub Hasan Sait Sahib Bahadur regarding the registration of Mussalman marriages, divorces, etc., and further resolves that the Kazi should be a well-educated man specially versed or certified in Arabic, must know all the rules and regulations of Muhammadanism and should without fail pass the Kazi test.

(2) That the appointment of Kazi possessing the abovesaid qualifications should be made by Government.

(3) That preference should be given to members of the Kazi's family who should also have passed the Kazi test.

(2)

Proceedings of the meeting of the members of the Muhammadan Mosque Committee, dated 15th November 1918.

Read letter Ref. No. 1103/Sup., dated 30th October 1918, from the Deputy Collector, Cuddapah division, asking opinions regarding the voluntary registration of Mussalman marriages and divorces, etc., as proposed by the Hon'ble Yaqub Hasan Sahib of Madras.

Resolution.—Resolved unanimously that the Bill proposed by the Aliyanab Hon'ble Yaqub Hasan Sait Sahib of Madras is a very good one. We express our approval and state that it is quite necessary to be passed in the interest of the public.

A copy of this resolution must be submitted to the Deputy Collector.

Khazi Saiyid Mustafa Husain.
Hakim Saiyid Kamal-ud-din.
Hakim Muhammad Ali.

(3)

Proceedings of the meeting of the Cuddapah Muhammadans, held in Bhadir Khan mosque, dated 17th November 1918.

Khan Bahadur Hakim Abdul Majid Sahib—*President.*

Resolutions.—(1) The contents of the Bill were read and explained by Muhammad Abdullah Sahib and the same was approved with thanks.

(2) The meeting unanimously proposes an enactment for compulsory registration.

(4)

I agree with the subject matter of the Bill subject to the following amendments :—

(1) This enactment should be made compulsory instead of optional.

(2) In section 9 instead of Rs. 1-4-0, the existing customary fee may be substituted to prevent mischievous persons from presiding at the performance of nikah as otherwise such persons would receive the full amount and pay the Registrar only Rs. 1-4-0 misappropriating the balance which will result in the mere filling of the memorandum of nikah without filling the columns of Register No. 1. In such cases there will be no difference between the practice now existing and the one proposed to be adopted. In case of the full amount reaching the Moslem Registrar, the mischievous persons would not preside at the nikah as they get nothing.

(3) In the absence of the Moslem Registrar, the person presiding at the nikah should write up a memorandum of mahar on a piece of paper and obtain the signatures of parties and witnesses and produce such paper before the Registrar for registration and should himself attest the entry in the register. Any person acting contrary to this should be made liable to punishment by fine. This suggestion may be added as section 26 of the Bill.

Kazi Saiyid Mustafa Husain.

(5)

Letter—from Abdulla Sahib, Skin Merchant, Masapet, Cuddapah.
To—the Deputy Collector, Cuddapah.
Dated—the 30th November 1918.

I most respectfully beg to state as follows :—

1. The Bill No. 7 of 1918 of the Madras Government, regarding the registration of the Mussalman marriages and divorces proposed by the Hon'ble Yaqub Hasan Sait Sahib has been found to be very advantageous and most important for Muhammadans and is well appreciated with great pleasure by all. But the most important point to be considered is whether the registration should be either compulsory or optional.

2. (*a*) With reference to paragraph 3 of the above reference, the Registrar of the Mussalman Marriages, etc., will be appointed by the Government.

(*b*) With reference to paragraph 5 of the same Bill the Moslem Registrar will be supplied with registers, stamps, etc., by the Government.

(*c*) With reference to paragraph 24 of the same Bill it will be seen that the Moslem Registrar will be treated as a Government official.

The above clauses proposed to be introduced are no doubt very advantageous and beneficial for the Mussalmans. In these circumstances, if the registration is made optional, the introduction of the above clauses will be of no use, consequently the adherence of the rules of the resolution will be at stake and it is feared that the resolution will be proved unsuccessful. Further, this inference is drawn with the experience of the existing optional registration by unauthorized men. Compulsory registration is, therefore, desired.

3. With reference to paragraph 3 (2) of the Bill the fault of the registration of marriages, etc., against the rules should lie in the unauthorized Naib, for which he should be punished suitably by levy of fine.

4. Sub-paragraphs (2) and (3) of paragraph 3 of the Bill are very essential and advantageous and I beg to propose the following also to be included in it so that it will be still more advantageous and the object of paragraph 24 may be found true and beneficial :—

(*a*) Only one Registrar of Mussalman marriages and divorces should be appointed for the district just like one District Judge and one Collector for a district.

(*b*) The District Registrar should be well versed with the rules of Muhammadanism, certified in Arabic and should have passed the Kazi test.

(*c*) All the Moslem Registrars of the taluks and villages in the district should be designated only as Naibs of the District Registrar of Marriages.

(*d*) As the District Moslem Registrar (i.e., Sar Kazi) is a religious and honorary official, he should have passed the Kazi test also besides being well educated as per paragraph 23 (*a*) supra.

(*e*) Preference should be given to a member of the Kazi's family who should have also passed the Kazi test and well educated.

(6)

Extract from the Proceedings of the Jalsai Islamia, dated 15th November 1918.

Read communication from the Division Deputy Collector, Cuddapah, requesting to give opinion regarding the voluntary registration of Mussalman marriages and divorces.

Resolution.—It is resolved that the proposed Bill in question is a considerable improvement on the existing Kazi Act, provided, section 3 of the proposed Act is so completely amended as to substitute section 2 of the existing Kazi Act, or bring it into conformity with the same, so as to enable not only different sects of Muhammadans as contemplated by section 3 of the proposed Act, but also any considerable number of Muhammadans of each sect, where there are differences in their religious beliefs and observances among themselves, to elect one or more Kazis with power of registration, according to the necessities of each case or area, as otherwise, the limitation in section 3 of the proposed Bill will seriously curtail the vested rights and privileges of Muhammadans to choose their own Kazi according to their own inclinations when such a body is considerable, and when such an appointment is necessary in the interests of the Muhammadan community.

S. Qadir Muhi-ud-din,
President.

(7)

Letter—from the President, Anjumanai Mufedi Islam, Cuddapah.
To—the Divisional Officer, Cuddapah.
Dated—the 14th November 1918.
No.—122/18.

With reference to your C. No. 1103, dated 30th October 1918, I beg to intimate to you that the Executive Committee of the Anjuman regrets that the Anjuman cannot give its opinion on the subject as it is such that the Anjuman has no jurisdiction to discuss being as it is, at present, chiefly an educational society.

However, the Committee taken severally is of opinion that the Bill provides for considerable improvement on the present system of registration of Moslem marriages, and hopes that it will meet with public approval should sections 3 and 23 be so amended as to make provision (1) for the determination of qualifications required from persons to be appointed as Moslem Registrars by a Moslem body consisting only of Ulemas approved by the Moslem public, (2) for fixing in the Act itself, the remuneration for the attendance of Moslem Registrars at the celebration of marriages (which attendance is unavoidably necessary in mufassal).

(8)

Statement of S. Nazermohideen Sahib, (2) *K. Sulaiman Sahib*, (3) *Mahmad Sab Bitni*, (4) *Nayath Qadir Hussain Sahib*, *before the Tahsildar of Badvel on* 16*th December* 1918.

We have read the contents of the Bill introduced into the Legislative Council by the Hon'ble Yaqub Hasan and have understood it through a copy supplied to us in Hindustani. Nikah and talak are found described in Koran and as such are more of a religious character. These are registered under the rules given by Muhammad, the founder of Moslem religion and are in vogue from time out of mind. We are therefore not in favour of the new Bill being enacted into law.

(9)

Extract from the meeting held by the Anjumani Ta-ullim Ahalai Islam, Pulivendla on Tuesday the 31*st December* 1918 *at* 3 *p.m.*

Present:

(1) Janab Kazim Sahib, Kazi, Chairman.
(2) „ Kurnool Haji Papamiah Sahib.
(3) „ Muhammad Umar Sahib.
(4) „ Nalhand Fakruddin Sahib.
(5) „ Husain Miah Sahib.
(6) „ Madar Sahib.
and (7) „ Muhi-ud-din Sahib.
Chairman: Kazim Sahib, Kazi.

Read copy of the translation in Hindustani of the Bill to provide for the registration of Mussalman marriages and divorces which the Hon'ble Mr. Yaqub Hasan Sahib Bahadur desires to introduce.

Resolution.—Unanimously resolved that Muhammadanism is founded on the reading of "Kalmah" subject to two conditions "Ekrarun and Tasdikun" viz., one by promise and the other settling the promise at heart. While the origin of the Muhammadanism itself depends upon only the reading of Kalmah the others are merely instruments to the religion and need not require registration not being beneficial to the religion in any way.

Qazim Sahib Kazi,
Chairman.

(10)

Extract of the resolution of the meeting of the Muhammadans held at Rayachoti, dated 9*th January* 1919.

Present:

(1) Janab Kazi Saiyid Qadir Badshaw Husaini Sahib.
(2) „ Naib Qadir Sherif Saib.
(3) „ Bephari Khaja Miah.
(4) „ G. Muhammad Yusuf Sahib.
(5) „ Khalil Sahib.
(6) „ K. Hayath Khan.
(7) „ Gajula Ahmad Sahib.
(8) „ Banasari Dade Sahib.
(9) „ A Mahaboob Khan.
(10) „ Rustum Khan.
(11) „ Atam Alli Sahib.

Chairman: Kazi Saiyid Qadir Badshaw Husaini Sahib

Read copy of the translation in Hindustani, of the Bill to provide for the voluntary registration of Mussalman marriages and divorces which the Hon'ble Mr. Yaqub Hasan Sahib Bahadur desires to introduce.

Resolution.—Unanimously resolved that we fully assent to the introduction of the Bill for the registration of Mussalman marriages and divorces, in the form suggested by the Honourable Member.

LXIII

Copy of the resolution passed by the Muhammadans of Kodambakkam on the 8*th February* 1919.

'The Muhammadans present at the meeting strongly protest against the Mussalman Registration Marriage Bill as it is against the Muhammadan law.'

LXIV

Letter—from J. C. Stodart, Esq., I.C.S., Acting Collector of South Arcot.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—Cuddalore, the 17th February 1919.
No.—R.O.C.-Petition 821.

In continuation of my letter D. Dis. No. 169 Cor., dated 29th January 1919, forwarding the views of certain Muhammadan bodies and gentlemen on the Bill to provide for the voluntary registration of Mussalman marriages and divorces, I have the honour to forward herewith a petition since received from certain Muhammadans of Kasba, Vriddhachalam, who are in favour of the Bill.

Enclosure

Petition—from the Muhammadans of Kasba, Vriddhachalam.
To—the Collector of South Arcot.
Dated—the 4th February 1919.

We, Shaikh Fatha Sahib and other Muhammadans of Kasba, Vriddhachalam and Pudupet, most humbly beg to bring the following few lines to your honour's kind consideration, regarding the registration of Muslims' marriages or Muhammadans' divorces in support of the Bill proposed by the Hon'ble Mr. Yaqub Hasan Sahib, 123, Moor Street, Madras.

2. We beg to say that the Muslim marriages and divorces are going on then and there in towns and villages every year. The concerning Kazis, Moulvis, the Muhammadan priests do not at all take care to keep up a permanent register of Muslim marriages and divorces with serial numbers at the times of marriages.

3. They are so negligent as to make a temporary entry in bits of paper, in the times of nikkas or marriages, and they may either enter it in the times of their leisure or may fail to nter in the book.

4. This piece of their laziness and negligence to make entry then and there in the book, leads them very often, to slip or lose the bits of papers which they made entry in, and there is no possibility and probability of putting the Muslim marriages written in the permanent book.

5. Hence we beg to say the records of Muslim marriages are not at all available whenever we are in need of them to be produced in any public office of the Government, if necessary, nor the Kazis or Moulvis do produce them to the Government when we are unavoidably in need of it, and that is why we beg of your honour to enforce the registration of Muslim marriages after bringing them to the Legislative Council.

6. By so doing we not only save the sufferings and troubles we are to undergo in getting the records of Muslim marriages, but also we are apt to get the copy of the entry of marriages in the book by the Kazis.

7. Further we beg to say we perused the Supplement Gazette of Muslim marriages published by the Board of Revenue, and we are ready to follow or go in accordance to the contents of it.

8. Under the above reasons, we are of opinion that the registration of Muslim marriages and divorces is the best arrangement, and the great help to the Muhammadan community, and we agree in saying that the Bill of Hon'ble Mr. Yaqub Hasan Sahib is the pearl of great price.

9. It may even be called either a gem or an emerald which cannot be bought even for the world and we are driven by the call of necessity to esteem the Bill to so great a degree.

10. Hence we beg of your benevolent honour, the Bill of Mr. Hon'ble Yaqub Hasan Sahib to be admitted by the Government, and to bring the entry of Muslim marriages, by Moulvis, to the force of being registered in the Government book of registration, in accordance to the virtues of the abovesaid Bill, as we are of the same opinion as that of Hon'ble Hasan Sahib.

LXV

Letter—from P. C. Dutt, Esq., B.A., I.C.S., District Magistrate, North Arcot.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—Vellore, the 22nd February 1919.
No.—Dis. 196.

Adverting to Government Memorandum No. 1519-8, dated the 12th October 1918, regarding the voluntary registration of Mussalman marriages and divorces, I have the honour to forward herewith the reports received from Mussalman gentlemen of this district expressing their views on the Bill.

2. A list of the Muhammadan gentlemen who have expressed their views is enclosed.

Enclosures.

(1)

1. Report from the Subdivisional Magistrate, Ranipet, No. 2381 D., dated 5th December 1918.
2. Letter from Saiyid Shah Ahmad Qadiri, High Priest of Arcot.
3. Letter from Mr. Badruddin Dulvi, Manager, Messrs. Parry & Co., Ranipet.
4. Letter from Khan Sahib T. Salar Sahib, Tiruppattur.
5. Letter from Saiyid Sultan Moyatheen Sahib Qadiri, Secretary, Anjuman-Govindapuram, Vaniyambadi.
6. Letter from the Inspector of Police, Tiruppattur.
7. Letter from Janab Moulvi Hakim Abdul Khyoom Sahib, Unani Doctor, Pernambut.
8. Letter from M. Hussain Khan Sahib Bahadur, Municipal Councillor, Gudiyattam.
9. Letter from Haji P. Shaikh Mira Sahib Bahadur, Union Chairman, Pernambut.
10. Letter from the Muhammadan residents of Arkonam.
11. Letter from C. Abdul Hakim Sahib, Wallajah, Member of North Arcot District Board.
12. Letter from H. Muhammad Nafurddin Sahib, Jaghirdar of Virudambat.
13. Letter from Moulvi Abdul Wahab, Muhammad Abdul Jabar and Shaikh Adam.
14. Letter from Moulvi Abdul Basith, 3rd Assistant, Lathifia Arabic College, Hazarath Makhan, Moulvi Shahabudur, 4th Assistant, Lathifia Arabic College, Moulvi Muhammad, 5th Assistant, and Ahmad Koya, and Assistant, Lathifia Arabic College.
15. Letter from Mohideen Saiyid Abdul Latif Qadiri.
16. Letter from Abdul Jamal, Headmaster, Madrasa Latifia, Vellore.
17. Letter from Muhammad Kutb-ud-din Sahib, Naib Kazi, Chandapet, Arcot.
18. Letter from Moulvi Abdul Rahman Sahib, Ambur.

(2)

Letter—from M.R.Ry. N. Narayanaswami Nayudu Garu, Revenue Divisional Officer, Cheyar, Tiruvetipuram.
To—the Collector of North Arcot.
Dated—the 5th December 1918.
No.—Dis. 2381.

With reference to your endorsement No. 2003/Magl., dated 9th November 1918, I have the honour to inform you that I consulted the leading Muhammadans of this division and they are in favour of passing this permissive measure.

(3)

Letter—from Saiyid Shah Ahmad Qadiri, High Priest of Arcot.
To—the Revenue Divisional Officer, Ranipettai.
Dated—Arcot, the 1st December 1918.

With reference to your communication No. 1869, dated 22nd November 1918, which reached me on the 28th instant, I have the honour to inform you that I do not for a moment consider it necessary to introduce any Bill to provide for the voluntary registration of Mussalman marriages and divorces. I consider that the rules laid down by our Holy Prophet on the subject are more than enough and do not require any amendment by any Honourable Member.

(4)

Letter—from Mr. Badiruddin Dulvi.
To—the Revenue Divisional Officer, Ranipettai.
Dated—the 30th November 1918.

With reference to your communication No. 1869, dated 22nd November 1918, which reached me on the 28th instant, I have the honour to inform you that I do not for a moment consider it necessary to introduce any Bill to provide for the voluntary registration of Mussalman marriages and divorces. I consider that the rules laid down by our Holy Prophet on the subject are more than enough and do not require any amendment by any Honourable Member.

(5)

Letter—from Khan Sahib T. Salar Sahib, Tiruppattur.
To—the Sub-Collector, Tiruppattur.
Dated—the 5th December 1918.

With reference to your letter R.O.C. No. 1920/Sup., dated 16th November 1918, I beg to submit that the Bill in question relates primarily to a religious function hitherto for so many centuries performed without any serious inconvenience or results by the community itself without the interference of the Government. There have not been many instances in which the community has suffered prestige and the intervention of the Government was sought for to rectify matters. Secondly social rules among Mussalmans have not undergone such changes in the recent times to call for a legislature of this kind—though it may be made to avert short drawbacks in individual cases which are quite capable of being rectified by the society itself in the light of their religious principles by their religious headmen.

The above is also the opinion of Mussalmans which I have been able to gather. I have personally no objection to the principle involved in the Bill in question but the community seem to think that there is no necessity for the introduction of the new Bill involving a purely religious function as held by the Mussalmans. The abuses are so rare as not to warrant the introduction of the Bill proposed by the Honourable Member.

(6)

Letter—from Saiyid Sultan Muhi-ud-din Sahib Qadiri, Secretary, the Anjuman, Govindapuram, Vaniyambadi.
To—the Sub-Collector, Tiruppattur.
Dated—the 5th December 1918.

In acknowledging with thanks the receipt of your letter No. 1920/Sup., dated 16th November 1918, about the draft Bill to provide for the voluntary registration of Mussalman marriages and divorces I beg to state that in a public meeting held in Vaniyambadi on Sunday the 1st instant at Nellikolly Madarasa, a resolution was passed as follows:—

"The Holy Koran has given us perfect and needful lesson regarding all matters and it is the indispensable duty of any Mussalman to act to its commands and hence the Bill for the voluntary registration of Mussalman marriages and divorces is unnecessary one." Such being the case I do not think it is necessary to go against that resolution.

In face of the above resolution and other circumstances the Bill brought forward is useless and uncalled for according to my opinion.

(7)

Letter—from M. Rahim Sahib, Inspector of Police, Tiruppattur.
To—the Sub-Collector and Joint Magistrate, Tiruppattur.
Dated—the 9th December 1918.

With reference to R.O.C. No. 1920/Sup., dated 16th November 1918, regarding the introduction of Mussalman Marriages and Divorces Bill I beg to submit that in my opinion there is no need as the present system of working is going on very easily and even poor and innocent people are conducting their marriages according to their religious rites very easily.

(8)

Letter—from Janab Moulvi Hakim Abdul Qaiyum Sahib, Unani Doctor, Pernambut.
To—the Sub-Collector, Tiruppattur.
Dated—the 12th December 1918.

With reference to your office letter R.O.C. No. 1920/Sup., dated 18th December 1918, asking my opinion regarding the registration of Bill pertaining to Mussalman marriages and divorces, etc., I beg to offer my opinion as follows :—

The question of Mussalman marriages and divorces is purely a religious one. I don't see the reason of its registration.

Hence I regret to say that I am not in sympathy with the Hon'ble Yaqub Hasan Sahib Bahadur's Bill.

(9)

Letter—from M. Husain Khan Sahib Bahadur, Municipal Councillor, Gudiyattam.
To—the Sub-Collector, Tiruppattur.
Dated—the 13th December 1918.

In acknowledging the receipt of your letters No. 1920/Sup., dated 16th November 1918, and 8th December 1918, I have the honour to state that I am not in favour of the Bill for the registration of Muslim marriages. This is also the popular opinion of respectable Muhammadans of this town.

(10)

Letter—from Haji P. Shaikh Mira Sahib Bahadur, Union Chairman, Pernambut.
To—the Sub-Collector, Tiruppattur.
Dated—the 17th December 1918.

With reference to your letters R.O.C. No. 1920/Sup., dated 16th November 1918, and 8th December 1918, requesting me to offer my views regarding the Bill which the Hon'ble Yaqub Hasan Sahib Bahadur desires to introduce in the Legislative Council to provide for the voluntary registration of Mussalman marriages and divorces, I beg to state as follows.

Since so many years the Mussalman marriage rituals are being read over by hereditary Kazis, Peish Imams of the localities concerned.

Since one or two years in certain places and four or five years in some other places few persons get the marriage rituals read over by some other different persons other than the said Kazis. In so doing, it not only causes a loss to the hereditary professional Kazis and as well creates disunion among the communities of the places.

Since a year that is being read over at Pernambut through a different person and that new system is being followed in four or five houses and that has caused disturbance to the peace.

It will be highly desirous if the Government were to pass an order to the effect that none-else other than the hereditary Kazis of the localities concerned ought to read the marriage rituals. Those who get it read through different persons other than the hereditary permanent Kazis ought to be made liable for penalty.

The records (i.e.) marriage registers ought to be made to be maintained only by the said hereditary Kazis and the registers ought to be well maintained duly bound by leather and printed. Kazis have to be made to report to the authorities as to the period from which they have been maintaining the register and they have also to certify to the authorities about the safe custody of the registers.

A town Kazi may be appointed at Vellore. The marriage rituals and the divorce are of purely a religious affair. Hence I am not in sympathy with the Bill that is being proposed by Hon'ble Yaqub Hasan Sahib Bahadur.

(11)

Letter—from Hakim Sabith Ali Shah, etc., Muhammadan residents of Arkonam.
To—the Collector of North Arcot.
Dated—Arkonam, the 14th January 1919.

We, the undersigned Muhammadans of Arkonam, wish to support the Bill which the Hon'ble Mr. Yaqub Hasan Sahib wishes to introduce in the Council for the registration of Muhammadan marriages and divorces.

(12)

Letter—from C. Abdul Hakim Sahib, Member, North Arcot District Board.
To—the Collector of North Arcot.
Dated—Hirasatpuram, the 23rd January 1919.

I am in complete accord with the purport of the Bill for the registration of Muslim marriages and divorces which the Hon'ble Mr. Yaqub Hasan wishes to introduce in the Legislative Council Please communicate this opinion of mine to the Government and oblige.

(13)

Letter—from H. Muhammad Nasurddin Sahib, Jagirdar of Virudampet.
To—the Collector of North Arcot.
Dated—the 8th February 1919.

As I am requested to communicate my opinion about the Bill of the Hon'ble Mr. Yaqub Hasan, a member of the Legislative Council of Madras Government in the matter of the Muslim marriages and divorces, I beg to state that though the said Bill is good, the Moulvis and general public and learned persons of Madras are objecting to it, being a religious matter, and I therefore follow their opinion.

(14)

Letter—from Moulvi Abdul Birth, etc.
To—the Deputy Collector, North Arcot.
Dated—the 8th December 1918.

Our opinion regarding the proposed Bill of the Hon'ble Mr. Yaqub Hasan relating to the optional registration of marriage and divorcement is, that this question is of a religious nature. It is evident from the Royal Proclamation that the rulers of the time will not interfere with religious functions of any community. By introducing the proposed Bill, the marriage and the divorcement which are legal by Muhammadan Law, will in the absence of registration in Government will be considered doubtful and illegal, by which, difficulties will arise in the present liberties of religion and conveniences, and which will not be agreeable to Mussalmans. In accordance to the aforesaid Royal Proclamation, the rulers of the time will not approve of the interference in such matters.

(15)

Letter—from Muhi-ud-din Saiyid Abdul Latif Qadiri.
To—the Collector of Vellore.
Dated—the 13th February 1919.

I having been asked to give my opinion with regard to the Marriage and Divorce Bill proposed by Hon'ble Mr. Yaqub Hasan Sahib hereby give my opinion and reply that marriage totally is a devoted duty. To bind over this by law like the social or worldly affairs is against the Muhammadan Law.

(16)

Letter—from Abdul Jamal, Headmaster, Madrasa Lathia, Vellore.
To—the Collector of Vellore.
Dated—the 13th February 1919.

It is submitted that I went through the contents of the marriage Bill proposed by Hon'ble Mr. Yaqub Hasan Sahib. It is based on the lines that marriage is considered by the Muslim people as temporal function, but not as a religious one, and therefore like other business such as a sale-deed, etc., should come under the rules or bind over by laws and regulations, the repudiation and the divorce, etc., which are temporal should also be governed by rules.

In this connexion I am of opinion that marriage or any other thing in connexion therewith is not temporal. But it is very clear from the religious books and the sayings of the Prophet that the marriage is a proved devoted duty. 'saying' 'To marry is the order of the Prophet' and 'To marry after attaining puberty is very essential and from time immemorial this comes under the devoted duties and correspondingly 'Thou shalt marry' is the precept of the Holy Koran. The precept or commandment is either for obedience or abstinence.

In the great religious commentary book Imam-a-Razi has written that in the Khaliphhood of Oomer Farook, the Khaliph, proposed to fix such an amount so that the mahar should not be allowed to exceed that amount and that the burden of the Mahar on the Muslim community be reduced. With this object when he consulted his followers, an old woman requested and said to the Khaliph 'how far your suggestion will be valid against the precept or commandment. The precept of the Holy Koran says'. 'Thou shall pay (Mahar) to one woman one leather bag (of money). If it is so very clear how it will be possible to fix a certain or limited sum, but it may be raised to any extent and it is allowable and the word 'bag' of the precept is an evidence on this; then the Khaliph Oomer Farook withdrew his proposal and the mahar was left without any

limit. When such a powerful and learned Khaliph did not interfere in modifying the marriage rules—because they came under religious devoted duties—the rules, etc., that were formed in the precept of the Holy Koran were left as they were how it will be possible to make any additions against the established rules or conditions.

(17)

Letter—from Muhammad Kutub-ud-din Sahib, Naib Kazi, Chandapet, Arcot.
To—the Collector of North Arcot.
Dated—the 20th February 1919.
No.—R.O.C. 2003-Mgl.

With reference to Hon'ble Mr. Yaqub Hasan's Bill for the registration of Muslim marriages and divorces I am of opinion that the Bill is a useful measure and strongly recommend its being passed into a law Every Kazi or Naib Kazi should welcome it because it raises his position to the status of a public officer and his records and certificate will be more acceptable in the courts of law than is the case now.

Please place this opinion of mine before the Legislative Council and oblige.

(18)

Letter—from Janab Maligai Abdul Rahiman Sahib, Headman of the Muhammadan community of Ambur.
To—the Collector of North Arcot.
Dated—the 15th February 1919.

I have the honour to forward herewith a printed copy of the resolutions adopted at a public meeting of all Ambur Muhammadan Jamayet held on Monday the 10th instant, protesting against the acceptance of the Bill introduced by the Hon'ble Mr. Yaqub Hasan Sahib in the Madras Legislative Council requiring the registration of the Muhammadan marriages, etc., and to request that the same may have the favourable consideration of the authorities concerned.

LXVI

Proceedings of the Public meeting of all Ambur Muhammadans, Jamayet, held in Chouk Majid premises at 10 *a.m. on Monday the* 10*th February* 1919 *to consider about Moslem Marriage Bill introduced by the Hon'ble Mr. Yaqub Hasan Sahib in the Madras Legislative Council.*

President—Janab Maligai Abdul Rahiman Sahib Bahadur, Headman of the Muhammadan community, Ambur.

The following resolutions were unanimously passed :—

1. This meeting of all Ambur Muhammadan Jamayet most emphatically protest against the acceptance of the Bill introduced by the Hon'ble Mr. Yaqub Hasan Sahib in the Madras Legislative Council regulating the registration of the Muhammadan marriages, inasmuch as such registration is likely to seriously interfere with the religious and social sentiments of the Muhammadan community, and, as the Muhammadans are not, under any circumstances supposed to abide by any other rules or regulations except those that are enforced by the Holy Koran in the matter of the marriages and divorces. Besides, the present system of registering the marriages by Kazis is quite satisfactory and sufficient to meet the requirements of the law.

2. This meeting further submits that a resolution already communicated by the Secretary of the Local Muhammadan reading room accepting the Bill is only the individual opinion of the said Secretary and the said resolution does not in any way convey the views and opinion of the entire Muhammadan community of Ambur.

3. The President of this meeting is requested to communicate copies of the above resolutions to—

(1) The Secretary to the Government of Madras, Legislative Department.
(2) The Collector of North Arcot.
(3) The Hon'ble Mr. Yaqub Hasan Sahib.

LXVII

Demi-official—from the Hon'ble Diwan Bahadur R. Ramachandra Rao, Secretary to Government, Home (Miscellaneous) Department.
To—the Hon'ble Yaqub Hasan Sahib Bahadur, Non-official Additional Member of the Madras Legislative Council.
Dated—the 3rd March 1919.
No.—1878-1.

With reference to your demi-official, dated the 13th February 1919, I write to say that the Government regret that they are unable to give you any advance information regarding the opinions furnished by bodies and individuals consulted on your Bill for the registration of Mussalman marriages and divorces.

LXVIII

Letter—from R. W. Davies, Esq., I.C.S., Collector of the Nilgiris.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—Ootacamund, the 22nd February 1919.
No.—D. Dis. 346.

With reference to the Memorandum of Government, Home Department (Miscellaneous), No. 1519-8, dated 12th October 1918, I have the honour to submit the opinions obtained from representative Muhammadans and Muhammadan bodies in the district.

Enclosures

(1)

List of representative Muhammadans and Muhammadan bodies from whom opinions on the Bill to provide for voluntary registration of Mussalman marriages and divorces have been obtained by the Collector of The Nilgiris.

1. Saiyid Ahmad Sahib, Government Kazi, Ootacamund.
2. Khan Bahadur H. A. R. Fakir Muhammad Sait, Landlord and Planter, Ootacamund.
3. Saiyid Shah Fakruddin Sufi, Persian and Urdu Munshi, Breek's school, Ootacamund.
4. S. Muhammad Qasim Sahib, Secretary, Wellington Mosque, Wellington.
5. The Secretary of the Anjumani Islamia, Ootacamund.

(2)

Letter—from Saiyid Ahmad Bagdadi-ul-Qadiri Sahib, Government Kazi, President, Moslem Society, Ootacamund.
To—the Collector of the Nilgiris.
Dated—the 11th November 1918.

With reference to your letter No. 1232, dated 29th October 1918, forwarding for expression of my opinion a Bill to provide for the voluntary registration of Mussalman marriages and divorces, I have the honour to state that in due consultation with select members of the Muhammadan community, the early passing of the Bill is most desirable as the salutary provisions contained in it have the sanction of the Moslem religious books and will supply a much-felt want.

In my experience of twenty-four years as the Government Kazi at Ootacamund I have found that such provisions are absolutely necessary to check uncertified and irresponsible persons from fraud and malpractices and creating disunion, a fact in this town which requires no comment. What is most essential is that power should be taken by Government to frame rules so as to check such fraud by suitable penal provisions and select Muhammadan gentlemen be asked to discuss and frame the draft rules in committee for criticism of the public.

(3)

Letter—from Khan Bahadur H. A. R. Hajee Fakir Muhammad Sait, Landlord and Planter, Ootacamund.
To—the Collector of the Nilgiris.
Dated—the 12th November 1918.

I have the honour to acknowledge receipt of your Circular letter No. B.G. 1232 of 1918, dated 26th/29th ultimo giving cover to a draft Bill the Hon'ble Mr. Yaqub Hasan wishes to introduce in the Legislative Council and requesting me to express my opinion thereon.

After a careful perusal of the Bill and its objects the Bill seems unnecessary to me.

(4)

Letter—from Khan Bahadur H. A. R. Hajee Fakir Muhammad Sait, Landlord and Planter, Ootacamund.
To—the Collector of the Nilgiris.
Dated—the 30th December 1918.

I have the honour to acknowledge receipt of your R.B. & G. No. 1232/18 with its enclosures and beg to inform you that I have nothing more to add to what I have said in my letter to you of 12th November 1918.

The Bill seems quite unnecessary.

(5)

Letter—from Saiyid Shah Fakruddin Sufi, Persian and Urdu Munshi, Breeks' school, Ootacamund.
To—the Collector of the Nilgiris.
Dated—the 4th November 1918.

I acknowledge with thanks the receipt of your letter, dated 29th October 1918, with a copy of the draft Bill to provide for the voluntary registration of Mussalman marriages and divorces, and beg to state that I went through the Bill very carefully and my humble opinion is as follows:—

(1) The foundation of the Islamic laws and regulations is laid down by the Almighty God in his Holy Koran which was sent to his people through his beloved Prophet Muhammad the Great where the traditions and commands are perfect which no human being can dare to rectify or modify.

(2) It is more than 1,300 years ago that Koran was sent by God and all these years the laws governed so well which needed no modification or rectification.

(3) The excellence of the Islamic law is admitted by world-wide reformers for an example. Divorce was allowed among Muhammadans ever since the Koran was received and till about 30 years ago there was no divorce in Europe, but having found its wisdom after 1,300 years ago the Europeans admit divorce now.

(4) The Holy Koran has given us a perfect and needful lesson regarding all matters and it is the indispensable duty of every Mussalman to act to its commands and hence the Bill for the voluntary registration of Mussalman marriages and divorces is an unnecessary one.

(5) Under these circumstances no Mussalman who has the least knowledge of his religion will agree to bind and sacrifice his religious liberty and freedom which the Almighty has granted him by getting himself yoked under the so called Bill which the Honourable Member desires to introduce in the Local Legislative Council.

It is satisfactory to note that the Honourable gentleman in paragraph 25 (*a*) of his Bill himself confesses the simple manners of the Islamic law of marriage and divorce and also adds the same principle in conclusion of his statement.

In face of his own confession and under all the above circumstances the Bill stands useless and uncalled for.

(6)

Letter—from Saiyid Shah Fakruddin Sufi Sahib, Persian and Urdu Munshi, Breeks' school, Ootacamund.
To—the Collector of the Nilgiris.
Dated—Ootacamund, the 3rd January 1919.

I acknowledge with thanks the receipt of your letter, dated the 4th December last, with 4 enclosures sent by the Hon'ble Mr. Yaqub Hasan Sahib concerning the Bill to provide for the voluntary registration of the Mussalman marriage and divorce, and beg to state that I went through the papers very carefully and my humble opinion is as follows:—

(1) I adhere to my opinion which I submitted to you on the 4th November 1918.

(2) Uluma and Mashaikheen of Madras have passed a religious resolution against the Bill in question, and have declared the invalidity of the subject matter of the Bill, in face of the Moslem Religious Law, which needs no modification, also similar resolutions have been passed in various places of the Madras Presidency.

(3) The orthodox Mussalmans who are in duty bound to safeguard the honour of the Religious Law, are offended by the Bill in question, the best solution for the same on the part of the Hon'ble Mr. Yaqub Hasan Sahib is to withdraw the said Bill.

(7)

Letter—from S. Muhammad Qassim Sahib, Secretary, Wellington Mosque.
To—the Collector of the Nilgiris.
Dated—the 26th November 1918.

In acknowledging receipt of R.B.G. 1232/18 of 29th ultimo and the letter dated 14th November 1918 I humbly beg to submit that the delay in reply is entirely due to the consulting I have had from my co-religionists for which I beg your pardon.

The Bill to provide for voluntary registration of marriages and divorces of the Mussalman community introduced by the Hon'ble Yaqub Hasan Sahib Bahadur into the Local Legislative Council (in the opinion of my community) will be of an invaluable benefit and it is a step which will lead them towards vital communal progressive requirements.

(8)

Letter—from F. Fakir Muhammad Sait, Secretary, Anjumani Islamia, Ootacamund.
To—the Collector of the Nilgiris.
Dated—the 11th November 1918.

I have the honour to acknowledge receipt of your Ref. B. & G. No. 1232/18 of 26th October 1918 with copies of the draft Bill and statement of objects and reasons which the Hon'ble Mr. Yaqub Hasan desires to introduce in the Legislative Council and to enclose herein copy of a resolution passed by the leading Moslems of this place at a meeting held at the Anjuman Hall on the 10th November 1918.

"The members of this association and the Moslems of Ootacamund in general agreeably and unanimously resolve that the introduction of this Bill into the Legislative Council, seems unnecessary, and as such do not support it."

(9)

Letter—from F. Fakir Muhammad Sait, Secretary, Anjumani Islamia, Ootacamund.
To—the Collector of the Nilgiris.
Dated—the 3rd January 1919.

In reply to your letter No. 1232, dated 4th December 1918 giving cover to copies of Proceedings of the Legislative Council, the Hon'ble Mr. Yakub Hasan's Bill, etc., I have the honour to append hereunder copy of resolution passed at the public meeting held at the Anjuman Hall on the 29th instant:—

"That this Anjuman and the Moslems of Ootacamund do not see the need to change their opinion already recorded in the meeting held on the 10th November 1918, and communicated to the Collector of the Nilgiris on the proposed Bill to be introduced by the Hon'ble Mr. Yaqub Hasan to provide for the voluntary registration of Moslem marriages and divorces, that the members of this association and the Muslims of Ootacamund in general agreeably and unanimously resolve that the introduction of this Bill into the Legislative Council seems unnecessary and as such do not support it."

LXIX

Letter—from H. T. Reilly, Esq., I.C.S., Collector of Trichinopoly.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—the 25th February 1919.
No.—R.C. 1339/B. & G. of 1918.

With reference to Government Memorandum No. 1519-8, dated 12th October 1918, calling for the views of representative Muhammadans and Muhammadan bodies on the Bill to be introduced by the Hon'ble Yaqub Hasan, I have the honour to report that the marginally-noted individuals and bodies including the Government Kazi referred to in Government Memorandum No. 1519-9, dated 4th November 1918 were consulted in the matter.

Muhammadan gentlemen.

(1) Town Kazi.
(2) Moulvi Saiyid Murtuza Sahib.
(3) Kalifulla Sahib, M.A., B.L.
(4) Agent to the Prince of Arcot.
(5) Subadar-Major Mir Abbas Sahib.
(6) Muhammad Zinda Sahib Bahadur, Tahsildar.
(7) The Assistant Inspector of Schools, Muhammadan Range.
(8) Inamdar of Eachampatti, District Board Member.

Muhammadan bodies.

(1) Coronation Commercial Moslem League, Palakkarai (Kanji Mean Sait).
(2) Secretary, Muzzi-li-ululama, Palakkarai.
(3) Literary Moslem Society, Fort (Secretary Abdul Salam).

2. The opinion of (1) the Government Kazi, (2) the Agent to the Prince of Arcot, (3) Muhammad Zinda Sahib Bahadur, Tahsildar, (4) Subadar-Major Mir Abbas Sahib Bahadur and (5) The Moslem Literary Society and a copy of the proceedings of a public meeting held by some of the leading Muhammadans of the town are now available and are submitted herewith. Except Subadar-Major Mir Abbas Bahadur, all support the Bill. They have not criticized the Bill in detail, but have offered only two suggestions, viz., that the seal of the Mussalman Registrar should be in the Arabic character instead of the Persian, and that the Kazis and Pesh Imams should be appointed by Government in consultation with the leading Muhammadans of the respective locality. Subadar-Major Mir Abbas-Bahadur, on the other hand, thinks that existing system sanctioned by the Muhammadan law is quite good and that any reformation should come from within. He is opposed to State legislation in religious matter as it would be viewed with suspicion.

3. The conservative Muhammadans will no doubt be against the Bill but the educated will support it.

4. The views of other Muhammadan gentlemen will be submitted on receipt.

Enclosures

(1)

Proceedings of the public meeting of the Mussalmans of Trichinopoly, dated 7th December 1918.

Present :

1. Town Kazi.
2. V. S. Muhammad Ibrahim Ravuttar Bahadur.
3. Moulvi Muhammad Fazi Sahib Bahadur, Secretary of the Muzzili-ul-ulima, Palakkarai.
4. Moulvi Abdul Wahab Sahib Bahadur.
5. Khan Sahib Sheik Ismail Sahib Bahadur.
6. Moulvi Saiyid Murtuza Sahib Bahadur.
7. Abdul Salam Sahib Bahadur, Secretary of the Literary Moslem Society, Fort.
8. P. Kalifulla Sahib Bahadur, M.A., B.L.
9. T. Muhammad Sulaiman Sahib Bahadur.
10. Aziz-ud-din Ahmad Sahib Bahadur, B.A.
11. Gulam Khadir Sahib Bahadur, B.A., T.S.M.

Resolutions.—

I. Resolved that this meeting of the leading Mussalmans of Trichinopoly accords its cordial support to the Bill for the voluntary registration for Mussalman marriages and divorces. The meeting further suggests that the seal of the Mussalman Registrar be in Arabic characters instead of Persian characters as stated in the draft bill.

Proposed by Moulvi Saiyid Murtuza Sahib Bahadur.

Seconded by the Town Kazi.

Supported by Khan Sahib Sheik Ismail Sahib Bahadur.

Carried unanimously.—

II. That this meeting is further of opinion that the Kazis and Pesh Imams to be licensed by the Government under the Bill should be so licensed after consultation with the leading Mussalmans of the respective localities.

Proposed by Moulvi Muhammad Fazi Sahib Bahadur.

Seconded by Moulvi N. Abdul Wahab Sahib Bahadur.

(2)

Letter—from Mir Abbas Sahib Bahadur, Subadar-Major, Trichinopoly.
To—the Revenue Divisional Officer, Trichinopoly.
Dated—the 14th February 1919.

In returning herewith a copy of the Bill to provide for the voluntary registration of Mussalman marriages and divorces I beg to state that the old system instituted by Muhammadan law is quite good and I therefore do not see the necessity of providing any new law for it.

If any defects exist they can easily be rectified by the community itself. As this is a religious matter Government intervention will certainly be viewed with suspicion which should be carefully avoided, there being more harm in it than any good.

Every department has its own faults so the Registration of Mussalman marriages, etc., has some. But very few serious mistakes have resulted for centuries past. I, therefore, object to Mr. Yaqub Hasan's Bill.

(3)

Letter—from Saiyid Shah Mustafa Sahib Qadiri, Government Kazi, Singartope street, Trichinopoly.
To—the Revenue Divisional Officer, Trichinopoly.
Dated—the 15th February 1919.

With reference to your letter R.C. No. 162/Sup., dated 9th February 1919, I have the honour to inform you that I cordially accord my support to the Bill to provide for the voluntary registration of Moslem marriages and divorces introduced by the Hon'ble Mr. Yaqub Hasan Sahib and that I further suggest that in case of a need for any subsequent rule or amendment for the working of the Bill the same should be framed only after getting the consent of the Moslem public.

(4)

Letter—from Moulvi Muhammad Abdur Rahman Sahib Bahadur "Shatir," Agent to the Prince of Arcot, Amir Mahal, Madras.
To—the Revenue Divisional Officer, Trichinopoly.
Dated—the 16th February 1919.
No.—265.

With reference to your letter R.C. No. 162 Sup., dated the 9th instant, and despatched on the 11th instant, inviting my opinion on the provisions of the Bill for the voluntary registration of Mussalman marriages and divorces within three days at the latest which reached me only to-day as will be seen from the cover herein enclosed, I have the honour to state that I have hardly sufficient time to express my views in detail on the subject. However I must say that I agree with the main principles of the Bill and am inclined to think that unless and until the Kazis Act is so amended as to meet the present requirements and put a stop to the prevalent vices, some such legislative measure as the one under contemplation is imperatively necessary. I may also mention that the provisions of the Bill do not in the least militate against the injunctions of our religion.

(5)

Letter—from Muhammad Zinda Sahib Mahajir, B.A., Tahsildar of Trichinopoly.
To—the Revenue Divisional Officer, Trichinopoly.
Dated—the 13th February 1919.
No.—D. Dis. 377/Rev.

In reply to your R.C. No. 162/Sup., dated 9th February 1919, I beg to state that I am in full accord with the principles underlying the Bill proposed to be introduced by the Hon'ble Mr. Yaqub Hasan.

(6)

Letter—from Muhammad Abdul Salam Sahib, Secretary, the Moslem Literary Society, Trichinopoly.
To—the Revenue Divisional Officer, Trichinopoly.
Dated—the 13th February 1919.
No.—123.

With reference to your letter R.C. No. 163-Sup., I have the honour to send a copy of the resolutions passed at a public meeting of Muhammadans of Trichinopoly under the auspices of the Moslem Literary Society, Trichinopoly, to consider the Bill to provide for the voluntary registration of Moslem marriages and divorces on the 2nd and 3rd instants with Janab Moulvi Qadir Pacha Sahib Khatheeb and Janab Saiyid Shah Mustafa Sahib Khadri Khatheeb, Kothaval Chavadi mosque, respectively, in the chair.

Sub-enclosure

Extract from the public meeting of the Moslem Literary Society, Trichinopoly, held on the 2nd and 3rd instants.

Resolution.—That this public meeting of the Mussalmans of Trichinopoly gladly gives its strong support to the Bill of voluntary registration of Moslem marriages and divorces introduced by the Hon'ble Mr. Yakub Hasan and further suggests that the following amendments should be made :—

"(*a*) Moslem registrars should be appointed with the consultation of the Mussalmans of the locality.

(*b*) In case of a need for any subsequent regulation or rule for the working of the Bill, the same should be framed only after getting the consent of the Moslem public".

LXX

Letter—from Muhammad Abu-Bakar Faqir-ud-din Ahmad Sahib, Kazi of Madras.
To—the Secretary to Government, Legislative Department (through the Collector of Madras).
Dated—the 25th February 1919.

I am the Kazi of Madras, chief priest and sermon preacher attached to the Big Mosque, built by the late Nawab Wallajah in Georgetown, Madras, appointed by Government.

As Kazi of Madras, I am solemnizing marriages in the town of Madras from the time I attained majority and, prior to this, my forefathers and ancestors had done this business for two hundred years and over, that is to say, the post I hold is a hereditary and ancestral one.

As Kazi of Madras, I am attending also to the duty of divorces (i.e., breaking of marriages, i.e., separation of husband and wife).

As the jurisdiction over which I preside is so extensive that it is not possible for one individual to attend to these onerous duties and consequently I have appointed several deputies under me to attend to these multifarious duties, who, as per my orders, do the work and enter them in the general register maintained by me.

Now I find from my personal experience that there are certain cases of sham and foul marriages and divorces brought to civil and criminal courts for trial and that no step has yet been taken by the Muhammadan community to put a stop to this illegal and frivolous habits and that no Muhammadan leader or representative has taken the least pains to remedy these evils which the Muhammadan community is labouring under, and if these evils are allowed to exist without nipping them in the bud, it is likely that shame and ignominy would be the result and the community will ultimately lose its prestige and estimation in the eyes of other communities.

I am glad to learn that this point has just struck the present Muhammadan Legislative Member the Hon'ble Mr. Yaqub Hasan Sait, may 'God bless him', and that he has taken sufficient pains to remove these evils.

The Bill he has submitted to the Council, copy of which has recently been circulated to one and all, is a clear proof of his sympathetic views necessary for the welfare of his community. In that, he has founded sufficient means to safeguard the interests and bring about a reasonable reconciliation both for the rich and the poor. His means of registration of marriages is paramount and unshaken, and does not interfere with our religious rights nor is it in any way against the doctrines or the precepts of the 'Koran'. It does not give any loop-hole for the fabrication or the falsification of any marriage or divorce.

In these circumstances, I beg to support cordially the suggestions made in the said Bill framed by the Honourable Member and request that all the members of the Legislative Council of Fort St. George will unanimously pass it into an Act.

In this connexion, I beg to submit that the Muhammadan public whom I consulted jointly and severally are of opinion that the proposed Legislation is not productive of any hardship but, on the other hand, it will do immense good to the public and save them from all stains and blots that they are at present subjected to.

With these my humble views.

N. Dis. No. A-662, dated 1st March 1919.

Forwarded to the Secretary to Government, Home (Miscellaneous) Department, in continuation of my R.O.C. No. 1351/B. & G. of 1918, dated 27th January 1919.

A. Tottenham,
Collector.

LXXI

Letter—from H. T. Reilly, Esq., I.C.S., Collector of Trichinopoly.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—the 12th March 1919.
No.—R.C. 1339/B. & G.

In continuation of this office R.C. No. 1339-B. & G. of 1918, dated 25th February 1919, I have the honour to submit herewith the views of the marginally * noted two Muhammadan gentlemen on the Bill for the registration of Mussalman marriages and divorces. They both agree to the provisions of the Bill.

* (1) A. Ahmad Sahib, B.A., Sub-Assistant Inspector of Schools.
(2) Saiyid Shah Abdul Latif Sahib Shuttari, inamdar of Kalpalaiyam.

Enclosures

(1)

Letter—from Saiyid Shah Abdul Latif Sahib Shuttari, Inamdar of Kalpalaiyam, Trichinopoly.
To—the Revenue Divisional Officer, Trichinopoly.
Dated—the 22nd February 1919.

I was in receipt of your letter No. 152/Sup., dated 9th February 1919, and the Kazis Act on 13th February 1919. As I had been to Negapatam I was not able to reply you earlier. I beg to be excused for the same.

I went through the Act completely. I do not find anything objectionable therein. Any person may get his marriage registered by a licensed Kazi if he likes. If not, there is no compulsion, nor is he fined. The registration fee is only Rs. 1-4-0 as usual. It does not exceed that. If the marriage is a registered one, a copy is furnished to the bridegroom and the bride. There is all the benefit. So I beg to state that the Bill for registration will be beneficial to the Mussalmans greatly especially to those in the village parts.

(2)

Letter—from A. Ahmad Sahib, B.A., Sub-Assistant Inspector of Schools, Trichinopoly Muhammadan Range.
To—the Revenue Divisional Officer, Trichinopoly.
Dated—the 21st February 1919.
No.—R.C. 10-Gl.

With reference to your R.C. No. 162-Sup., dated the 9th February 1919, I have the honour to state that I am in perfect agreement with the provisions of the Bill for the voluntary registration of Mussalman marriages and divorces. In my opinion the Bill undoubtedly provides a system calculated to safeguard Mussalman interests and put an end to many malpractices that are prevalent under the present defective method of maintaining records of Mussalman marriages.

LXXII

Letter—from A. F. G. Moscardi, Esq., I.C.S., Collector of Ramnad.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—Madura, the 13th March 1919.
No.—D. Dis. 769-Rev.

In continuation of this office R.O.C. No. 1358 B. & G. of 1918, dated 7th February 1919, I have the honour to forward the opinion of another Muhammadan gentleman, Ayyathurai alias Peer Muhammad Ambalam, in the district on the provisions of the Bill for the voluntary registration of Mussalman marriages and divorces.

LXXIII

Letter—from A. Galletii, Esq., I.C.S., Collector of Chittoor.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—the 4th March 1919.
No.—L. Dis. 2620.

In continuation of my letter Dis. No. 4468 of 1918, dated the 1st February 1919, forwarding the opinions of certain persons on the proposed Bill for the voluntary registration of Mussalman marriages and divorces, I have the honour to forward a letter, dated the 25th February 1919, received from Kazi Saiyid Ismail Sahib of Punganur.

Enclosure

Letter—from Khazi Saiyid Ismail Sahib, Punganur.
To—the Collector of Chittoor.
Dated—the 25th February 1919.
No.—2620.

I most submissively state that I herewith submit my humble opinion to the Government of Madras in Urdu in connexion with the Bill to provide for the voluntary registration of Mussalman marriages and divorces and to say that the same may be passed and humbly crave your honour will kindly submit the same to the Government of Madras.

LXXIV

Letter—from Kazi Saiyid Abdul Gaffur Sahib alias Ghudu Sahib, Hospet.
To—the Collector of Bellary.
Dated—the 17th February 1919.

Salams—In this letter I express my opinion (about Hon'ble Mr. Yaqub Hasan's Bill).

Where there is no kazi or naib kazi, the pesh imam of the hohalle or anybody else may be appointed and Government can under its superintendence arrange strong and compulsory registration.

2. Where there is a kazi with jagir or inam or he is hereditary they should be asked by Government to keep compulsory or voluntary registers and they should be entitled to the fees paid.

3. Government can arrange the recording, filing, etc., of all registers for every one.

4. Government should arrange to supply books to all jaghirdar, inamdar and hereditary kazis.

5. In some places where there is a kazi or naib kazi some persons work deceitfully in order to usurp the rights of rightful persons. Government should arrange to stop these (fictitious kazis).

6. Wherever there be two sections, whether large or small, no one except hereditary kazi can have the right of keeping register books (however learned he may be). Government should arrange this carefully.

7. If the inamdar and hereditary kazi has not ability in him Government should assist him with a deputy kazi and it is hoped Government will arrange to educate that kazi.

Dis. on C.P. No. 317, *dated* 4*th March* 1919.

Submitted to Government (Home Department) in continuation of this office report D. Dis. No. 532, dated 5th February 1919.

J. Hannyngton,
Collector.

To the Secretary to Government, Home (Miscellaneous) Department.

Sub-enclosure

Petition from Kazi Saiyid Ismail Sahib, dated 25th February 1919.

As the irregularities caused by men officiating at marriages and errors in the marriage registers are on the increase owing to the weakness of the Kazi Act of 1880, hence an Act for the Registration of Marriages and Divorces is urgently required.

I approve the Bill published by His Excellency the Governor in 1918.

At present there being no one to supervise marriage registers and persons officiating at marriages, they, being quite independent, not only destroy the pages of the registers, but are also breaking the sacred law.

If their actions be viewed in accordance with the sacred law they will be regarded as deserving of severe punishment. For the eradication of all these evils and irregularities Mr. Yaqub Hasan's Bill will be a sort of machine.

There is no need for any amendment in the Bill as it has already been carefully drafted.

As the Bill proposes the registration of marriages should be voluntary.

There is no need for making registration compulsory, for when the registrars' offices are Government institutions the public, high and low, will have recourse to them. It is probable all marriages will be registered.

LXXV

Letter—from J. R. Huggins, Esq., I.C.S., Collector of Tanjore.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—the 16th March 1919.
No.—D. Dis. 1133/Rev.

In continuation of my D. Dis. No. 550-Rev., dated the 6th February 1919, reporting on the Bill for the voluntary registration of Mussalman marriages and divorces, I have the honour to submit herewith another communication on the subject from K. T. Abdul Rahim Sahib, Special Magistrate, Bench Courts, Tanjore.

Enclosure

Letter—from K. T. Abdul Rahim Sahib, Special Magistrate, Bench Courts, Tanjore.
To—the Collector of Tanjore.
Dated—the 7th March 1919.

As requested by Janab Hon'ble Yaqub Hasan Sait, Madras, I have the honour to communicate my view through you to the Government about the Bill brought by him before the Legislative Council, Madras, for the voluntary registration of Mussalman marriages and divorces, I may state that the Bill has my whole hearted support and think that the registration should be made compulsory.

LXXVI

Letter—from J. K. Lancashire, Esq., I.C.S., Acting Collector of South Kanara.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—Kasaragod, the 18th March 1919.
No.—D. Dis. 597/Rev.

With reference to Government Memorandum No. 1519-8, dated the 12th October last, I have the honour to forward herewith the views of representative Muhammadans and Muhammadan bodies in this district on the provisions of the Bill to provide for the voluntary registration of Musalman marriages and divorces. All those who have been consulted with the exception of Saiyid Ishaq Sahib of Karkal are strongly in favour of the Bill. Saiyid Ishaq Sahib proposes that, instead of imposing upon the Muslim public an Act which will be viewed as an innovation, some amendment may be introduced into the existing Kazi Act, XII of 1880.

2. Muhammad Schamnad Sahib of Kasaragod and Saiyid Ishaq Sahib suggest that the registration of Mussalman marriages and divorces should be made compulsory, but the majority are of opinion that it should not be made compulsory at any time.

3. The changes proposed in sections 10 and 11 of the Bill by Khan Sahib Haji Abdullah Haji Qasim Sahib and Muhammad Usman Yusuf Sahib seem desirable.

4. Janab Government Kazi Sahib, Kasaragod, referred to in Government Memorandum No. 1519-9, dated 4th November 1918, is reported to have died on 1st December 1918; so it was not possible to obtain his views on the subject.

Enclosures

(1)

Letter—from Khan Sahib Haji Abdullah Haji Qasim and Muhammad Usman Yusuf, B.A., LL.B. (Alig).
To—the Divisional Officer, Coondapoor.
Dated—Udipi, the 19th November 1918.

With reference to the Bill No. 7 of 1918, we humbly beg to submit as follows.

After due consideration over the provisions of the Bill for the voluntary registration of Mussalman marriages and divorces, we are fully convinced of the necessity of such legislation and therefore we entirely support it.

The Bill will undoubtedly be very beneficial to the Muhammadan community, as it will save many Mussalman families from being involved in unnecessary litigation.

But, we think that it should not be made compulsory at any time and that the following change in its provisions should be introduced, viz.:—

1. That where the parties to a marriage are illiterate their thumb impressions shall be taken in addition to their usual marks of signatures (section 10).

2. That the Mussalman Registrar shall deliver copies of the entries to the parties, whether they apply for them or not, immediately after the registration of marriage or divorce (section 11).

3. That in section 22, after the words "shall be filed" the words "after it is exhausted" must be introduced.

In conclusion we thank the Hon'ble Yaqub Hussan Sahib Bahadur for his services to the community and also to the Local Government in anticipation that it will give its full support to the Bill.

(2)

Letter—from M.R.Ry. P. N. Krishna Rao, Tahsildar of Karkal taluk.
To—the Divisional Officer, Coondapoor.
Dated—the 20th December 1918.
No.—Dis. 1227 D./Rev.

With reference to your endorsement Ref. on C.C. No. 1613-Rev., dated the 5th ultimo, I beg to submit herewith the views of the leading Muhammadans of Karkal on the subject of voluntary registration of Mussalman marriages and divorces obtained through Mr. Saiyid Isaac Sahib Pensdenes, Karkal, and I have no remarks to offer thereon.

Sub-Enclosure

An enactment for the registration of Mussalman marriages and divorces is a necessity which has long been felt and is therefore highly desirable. For, in that case the evils attending the present system which is growing apace will be mitigated. As things stand, the system is open to malpractices which are difficult to control. The enactment proposed would keep all such abuses in check and confer uniformity and security on the registration.

2. The appointment of Muslim Registrar, making it obligatory on them to enter all the marriages that are solemnized in the registers supplied by Government with the attestation of parties, witnesses, etc., is also a necessity that cannot be overlooked. Because such appointments would fall to the lot of really deserving candidates and the unscrupulous and shabby manner in which such duties are performed by irresponsible persons would be brought to an end. And to make it obligatory on them to enter the marriages in the register supplied by Government, would obviate the haphazard manner in which the entries are made on any paper they liked and at any time they wished and ensure uniformity and correctness of the entries which preclude the chance of being tampered with.

3. Under the present conditions, the registration is optional, and if, as is proposed in the Bill, the registration continues to be permissive, I do not see what good will come out of the Bill, except it be that a new Act has been introduced by way of reformation to provoke the feelings of the Muhammadans. All the time and labour devoted to the subject will have been spent in vain. Unles the registration is made compulsory, no benefit will accrue; because no marriage would be invalid for want of registration. Seeing that the Bill is lax on that point the people would naturally avoid such registration and be free to have their own way; and we will be no way better off. The evil propensities will continue as before.

The compulsory character of registration would give better status to the function and its validity would be assured. It will thus have far-reaching significance, without entrenching on the religious and social susceptibilities. When compulsory registration is adopted, the additional sections as suggested by the mover of the Bill, will have to be taken into account.

If, instead of imposing upon the Muslim public an act which will be viewed as an innovation, not palatable to many, some amendment be introduced into the existing Kazi Act XII of 1880, incorporating therein the necessary clause regarding the compulsory nature of the registration on the lines proposed by the mover of the Bill with penalty for non-compliance with the said terms, it will, I hope, answer the purpose. This will probably not raise hue and cry which is inevitable whenever a new Act is brought into discussion as in these times such things are viewed in suspicious and prejudicial light, irrespective of the fact that it would do good to them. If this suggestion be upheld, there is no apprehension of the clause being misconstrued as the people are already aware of the recording of the marriages by persons solemnizing the marriages; and this clause, instead of becoming a subject of controversy, will be taken as a slight improvement on the existing system.

No doubt, this clause may not be applicable in some parts of this presidency, where there are no Government Kazis. But as the proposed system is bound to work systematically and satisfactorily throughout the places served by the Government Kazis, there will be strong incentive to those in the unrepresented parts, the people whereof will necessarily come forward and insist upon having either Government Kazis appointed for their respective areas or to have the local Kazis invested with the powers attached to the Government Kazis.

(3)

Letter—from M.R.Ry. R. Siva Rao, Acting Tahsildar of Coondapoor taluk.
To—the Revenue Divisional Officer, Coondapoor Division.
Dated—the 11th December 1918.
No.—958-D/Rev.

With reference to your order Ref. on C.C. No. 1613, dated the 9th instant, I beg to report as follows:—

2. I convened a meeting of the marginally noted Kazis and Mussalman committee members of this taluk on 22nd November 1918, read over and explained to them in Kanarese, the provisions of the Bill No. 7/18 which the Hon'ble Yaqub Hasan Sahib Bahadur intends to introduce into the Legislative Council and obtained their views on the provisions of the same. They generally approve the

(1) Muhammad Hayath Khan Sahib, Naib Kazi, Coondapoor kasba.
(2) Nakwa Ahmad Haji Sahib, committee member, Koondapoor taluk.
(3) Abdul Khader Sahib, son of Haji Ibrahim Sahib, Gangolli.
(4) Khaji Muhammad Moilar Sahib, Hanglur.

Bill which they consider as a boon with reference to their present loose system of registering marriages and divorces, but they make the following suggestions, which, they wish, may be incorporated in the Bill—

(1) *In cases of marriage registration*—(*a*) That the amount of "mahār (dower to be given by the husband to the wife at the time of marriage) should be settled at the time of 'nikah' (marriage) and registered as a first and prior debt against the husband at the time of registering the marriage.

(*b*) That the 'nikah' of a person who marries at a place other than his reputed residence, should not be registered unless the Kazi or Muslim Registrar of the place is satisfied from a certificate or letter from the Kazi of the applicant's former place of residence, that the applicant has not contracted a previous 'nikah', or if he has, that he has fully discharged the onus of his first 'mahār'.

(2) *In cases of registration of divorces other than khula*—(i) If a woman is divorced (by means of talāk) by her first husband, her marriage with a second person should not be registered until and unless 'Iddat', i.e., a period of three months and ten days, elapses after the divorce. Neither the husband nor the wife should have any right to decrease or to increase the amount of 'mahār' once settled on the score of its being heavy or light.

(ii) If the husband of a 'Sayyib' (or a girl who has been married during her minority) divorces her by means of 'talāk' during her minority, or if he dies during her minority, the marriage of such a girl with a second person before she attains age should not be registered.

(*c*) Even if a husband divorces his wife by uttering talāk twice to her, the divorce should not be registered until and unless a period of three months and ten days elapses from the date of uttering the second '*talak*' as such registering would be invalid. As to the suggestion of certain of the Mussalman gentlemen referred to above that the age and place of residence of the parties to a marriage should be registered, I beg to state that provision has already been made for it in columns 2 to 4 of Book I in Form A referred to in schedule to sections 6 and 10 of the Act appended to the Bill.

Their statement obtained by me are submitted herewith.

Ref. C. C. No. 1613, *dated* 28*th December* 1919.

Submitted to the Collector of South Kanara in continuation of this office report Ref. on C.C. No. 1613-Rev. of 1918, dated the 9th instant.

R. Siva Rao,
Revenue Divisional Officer.

(4)

Letter—from M. Muhammad, Khan Sahib, Retired Sub-Magistrate, Mangalore.
To—the Revenue Divisional Officer, Mangalore.
Dated—the 31st December 1918.

With reference to the Bill to provide for the voluntary registration of Mussalman marriages and divorces I beg to state that I went through the provisions of the Bill very carefully and that I have no changes or modifications to suggest. It will undoubtedly be a boon to the Mussalman community as it will save many families from unnecessary litigation. The introduction of the Bill is therefore an absolute necessity.

(5)

Letter—from M. Muhammad, Khan Sahib, Retired Sub-Magistrate, Mangalore.
To—the Revenue Divisional Officer, Mangalore Division.
Dated—the 30th November 1918.

Adverting to your reference C.C. No. 1732 Rev. 1918, dated 21st instant (received yesterday), forwarding to me copy of the Bill to provide for the voluntary registration of Mussalman marriages and divorces, I beg to express my views on its provisions briefly as follows.

2. If the Registrar of marriages is the Kazi or Naib Kazi, etc., who performs the nikah ceremony he should register the marriage at the time and receive no fee for the registration inasmuch as he generally gets a nikah fee of five rupees at a marriage. In cases where the Registrar is other than the nikah performing gentleman, he should, while going on invitation to attend at the marriage, take with him his register so as to record it on the spot. He should also be paid carriage allowance when necessary. Clause (*c*) of section 25 of the Bill may be revised accordingly. This course will save all the trouble and inconvenience to the parties and their witnesses resorting to him afterwards.

3. The fee of Rs. 1-4-0 fixed by section 9 of the Bill for the registration of a marriage or divorce is high. It may be reduced to four annas and if not, many a poor man will, of course, avoid making application for the registration. The fee of one rupee provided by section 15 for a certified copy of an entry in the register may also be reduced to four annas as it will be in but few lines.

4. After the word "parties" in the last line of clause (*c*) to section 25 the words "or their guardians or relatives" may be necessarily inserted.

5. I see no other remarks against the Bill being passed into Law.

(6)

Letter—from Chilmi Nizamuddin Sahib Bahadur.
To—the Revenue Divisional Officer, Mangalore Division.
Dated—Chilmi Mangalore, the 7th December 1918.

I am in receipt of your letter of reference No. 1732, dated 21st November 1918, and the copy of Bill No. 7 of 1918, to provide for the voluntary registration of Mussalman marriages and divorces, introduced by the Hon'ble Yaqub Hasan Sahib Bahadur in the Provincial Legislative Council to be passed as an Act.

I went through the Bill and I am of opinion that the rate of fees charged under section 9 of the Bill for the registration of marriages and divorces, and under section 15, for the grant of copies, is too high, and thus will prevent rather than encourage, the voluntary registration of marriages and divorces; for it is a known fact that in general, the Muhammadan community of our district is rather hard pressed financially.

Moreover, I think it is better that the registration of a marriage or divorce should take place immediately after the marriage or divorce is being effected rather than "within one month" as stated under section 9 of the Bill; for, this change will put an end to many abuses which will otherwise be forthcoming and will prevent further misrepresentations.

Nevertheless I am of opinion that the Bill, if passed into an Act of the legislature, will be beneficial to the Mussalman community.

(7)

Letter—from C. Abdur Rahman Sahib, Merchant, Mangalore.
To—the Revenue Divisional Officer, Mangalore.
Dated—the 12th December 1918.

In reply to your reference C.C. No. 1822 Rev., dated 9th December 1918, I beg to state that after going through the Hindustani copy of the Mussalman Marriage and Divorce registration Bill received therewith I find that there is no objection to the Bill being passed as it will be conducive to the interests of the Mussalmans. But I am of opinion that as the Nikah performing gentlemen (Kazi, Naib Kazi, etc.) will be appointed Registrars of marriages, etc. they should register the same on the spot and as they receive a handsome Nikah fee, a separate fee for registration may be dispensed with in their case. So section 9 of the Bill may be amended in that direction, also the copy fee of one Rupee mentioned in section 15, may be reduced to four or five annas.

(8)

Letter—from Mahammad S. Chamnad Sahib Bahadur, President, Izzatul Islamia Club and Honorary Secretary, Muslim Educational Association, Kasaragod.
To—the Tahsildar of Kasaragod.
Dated—the 3rd December 1918.

With reference to your reference on C. No. 2482 Sup., 1918, regarding Hon'ble Mr. Yaqub Hasan's Bill for the voluntary registration of Mussalman marriages and divorces, I have the honour to inform you that I consulted the members of Muslim Educational Association and Izzatul Islamia Club, Kasaragod, about this Bill and also other leading gentlemen and moulvis here and we have resolved as follows:—

(i) There is urgent need for an enactment providing for the registration of Mussalman marriages and divorces.

(ii) It is necessary to appoint Muslim registrars whose duty it will be to enter all the marriages solemnized by them as well as those solemnized by others if reported in due time and proper form, in registers supplied by Government and to have the registers signed by the parties, witnesses and himself or by the solemnizer and himself as the case may be.

(iii) It is further necessary to make some alterations in the Bill in order to make registration of marriages and divorces compulsory. The Muslim registrars shall be held responsible for the registration of all marriages and divorces solemnized in their presence as well as of those done by others if reported within a fixed time and in the proper form. The other soleminizers shall be responsible to report all the marriages and divorces conducted by them, to the proper Muslim Nikah Registrar within a fixed time say 15 days—and in an authorized form.

If the muslim registrar or the other solemnizer fails in his duties, he shall, on conviction thereof, be punished with a fine not exceeding rupees two hundred.

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(9)

Proceedings of the meeting of the members of the Mufiegrul Islamia Majlis at Puttur, dated the 1st February 1919.

* * * * * *

Read letter dated 31st January 1919, from the Tahsildar of Uppanangadi taluk, forwarding for remarks a copy of the Bill to provide for the voluntary registration of Mussalman marriages and divorces moved by Hon'ble Mr. Yaqub Hasan, dated 13th August 1918, and requesting to convene a meeting and communicate a copy of the resolution of the meeting.

Resolution.—Resolved unanimously to adopt the rules laid down in the "Masoodai Khanoos" written in Hindustani language.

H. Makhdum Ismail,
President.

LXXVII

Letter—from R. Narayana Ayyar, Esq., M.A., I.C.S., Bar.-at-Law, Acting Collector of Coimbatore.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—Coimbatore, the 21st March 1919.
No.—R.O.C. 1650/B. & G. of 1918.

In reply to Government Memorandum No. 1519-8, dated 12th October 1918, I have the honour to submit herewith the views of representative Muhammadans and Muhammadan bodies in this district on the "Registration of Mussalman Marriages and Divorces" Bill which the Hon'ble Yaqub Hasan Sahib Bahadur desires to introduce into the Legislative Council.

2. Among those consulted, the following are those who support the Bill:—

(1) The Kollegal Islamiah Anjuman.
(2) A. K. Muhammad Husain Sahib, Bhavani taluk.
(3) I. A. Alaud-din Sahib ,,
(4) C. Nanu Sahib, Bhavani taluk.
(5) K. Badshah Sahib ,,
(6) P. M. Muhammad Hasan Sahib, Bhavani taluk.
(7) J. W. Hasan Sahib ,,
(8) Quazi Babjan Sahib ,,
(9) I. K. Abdur Rahman Sahib ,,
(10) T. A. Muhammad Usman Sahib ,,
(11) G. Salar Khan ,,
(12) B. M. Hayath Badshah Sahib ,,
(13) Quazi Jamaldeen Sahib ,,
(14) E. Asanud-din Sahib ,,
(15) Khaja Muhammad Sahib, Gobichettipalaiyam taluk.
(16) P. K. Khadir Mohideen Sahib ,,
(17) Muhammad Mullick Sahib ,,
(18) Muhammad Sheriff Sahib ,,
(19) (Signature illegible) ,,
(20) Syed Ismail Sahib ,,
(21) Mohid-din Khan Sahib ,,
(22) Khadir Badshah Sahib ,,
(23) Khan Sahib Saiyid Diwan Abdur Razak Sahib Bahadur, Chairman, Municipal Council, Udamalpet and President, Anjumanai Islamiah, Coimbatore, Udamalpet taluk
(24) W. S. Khader Khan Sahib, Udamalpet taluk.
(25) U. K. Sinna Saiyid Ravuttar, private vakil and committee member, Muhammadan mosques, Udamalpet taluk.
(26) C. Muhammad Husan Sahib of Anamalai, late Union Chairman and Taluk Board Member, Pollachi taluk.
(27) Quazi Saiyid Jami Alan Sahib, Udamalpet taluk.
(28) Khader Muhiud-din Ravuttar ,,
(29) K. Rasul Ravuttar ,,
(30) The Pesh Imam, Erode, Erode taluk.
(31) Haji Muhammad Rafi-ud-din Ravuttar Sahib, Municipal Councillor, Dharapuram taluk.
(32) Muhammad Abdur Rahim Alim Sahib, Pesh Imam, Dharapuram taluk.

3. From the views of the above-mentioned gentlemen, I gather that the Muhammadan community in general is alive to the grave abuses of the prevailing system of registration of marriages and divorces, and that there is evidence of a general desire

among its members for some reform. The Kollegal Islamiah Association go so far as to suggest that registration should be made compulsory. Khan Sahib Saiyid Devan Abdur Razak Sahib Bahadur and Khan Sahib G. A. Ghulam Husain Sahib Bahadur cite certain notorious instances to prove the unsatisfactory nature of the present system which makes it possible for bogus claims to be set up and genuine ones suppressed. The following are some typical cases :—

(1) A Police constable Shaik Ahmad Sahib died intestate at Coimbatore in 1903, leaving property worth about Rs. 27,000. He was a bachelor. He had made a will for Rs. 24,000 in favour of two minors, Babji Sahib and Mianji Sahib of Madura. These relations obtained a succession certificate in C.M.P. No. 199 of 1904; but soon after two women Mariam Bi and Kathem Bi also obtained a succession certificate claiming to be the deceased's wife and daughter cancelling the claim of the relations (C.M.P. No. 327 of 1904). The second succession certificate was confirmed by the High Court. The marriage register maintained by the Khazi was brought to the Court on the first day of hearing but was subsequently reported to have been stolen. Some days after the hearing of the case, the register was discovered floating in the well of the mosque.

(2) In Pollachi, a husband gifted his properties to his wife some ten years ago. His own relations, out of enmity to the wife tore off the page in the marriage register showing the entry of marriage with the connivance of the Kazi and contended that the 'mahar' amount was much below the properties originally assigned.

(3) In another case, Bani Bi, daughter of one Kasim Sahib, was married to one Qadir Batcha alias Sodalai of Kolinjamparai. Some days after this, one Ali Bak again married her, Kazi Muhammad Jehanghir officiating. The woman was not divorced from her first husband. Qadir Batcha alias Sodalai complained to the Subdivisional Magistrate (R.C. No. 1 of 1902). During the trial of the case, the Kazi who performed the second marriage when examined as fifth accused stated on 27th February 1902 that he did not maintain the register though he had one, but only made the entries of 'nikka' and 'thalak' in loose sheets of paper.

Such cases are said to be not at all uncommon.

4. Among those who oppose the Bill are —

(1) B. Muhi-ud-din Khan Lodi Sahib Bahadur, Revenue Divisional Officer, Erode.

(2) K. A. Qadir Muhi-ud-din Sahib Bahadur, Taluk and District Board Member, Erode.

(3) Town Kazi Sahib, Erode.

(4) Khaja Qadir Muhi-ud-din Sahib, Erode.

(5) D. M. Abdul Karim Sahib Bahadur, Taluk and District Board Member, Dharapuram.

(6) Janab Government Kazi Sahib, Coimbatore.

But even the opponents of the Bill mostly condemn the existing practice and while fully alive to its defects, they are unable to suggest the best way to remedy them.

5. The criticisms advanced against the principle of the Bill fall mainly under two heads. Firstly, it is urged that registration is opposed to the spirit of freedom of the Muhammadan Law of marriage and is therefore repugnant to their religious sentiments, and secondly, that as a permissive measure only, it is not likely to remedy present evils. It is also stated that the proposed Bill would create an invidious distinction between registered and unregistered marriages and divorces and that the latter while perfectly valid under the Muhammadan Law will, in course of time, come to be viewed with suspicion, and the result will be increase of litigation and unsettlement of homes.

6. The Hon'ble Yaqub Hasan Sahib Bahadur indeed contemplates a time when no respectable family will perform a marriage without the precaution of registering it under the proposed law. I am not at all sure that he is right in this forecast. So long as the law of Muhammad which requires no record but only witnesses holds, many a marriage in respectable families will continue to be performed without the formality of registration and Courts of Law cannot safely make any presumption against their genuineness.

7. The amendments and criticisms in respect of the provisions of the Bill are detailed below :—

The Chairman, Municipal Council, Udamalpet, suggests the following amendments—

(1) *Section* 3.—The words "unless more than one person has been doing such work in the place in which case the Governor in Council may appoint more than one person to meet the requirements of the locality" should be added to the first proviso.

(2) *Section* 3.— The words "and every Pesh Imam of the Mosque" should be added at the end of the second proviso as Pesh Imam also perform ceremonies and as their custody of the registers is preferable to that of the khazis.

(3) *Section* 4.—The words "or the Pesh Imam" should be added at the end.

(4) *Section* 19.—The words "and deliver a copy of his order to the party who applied for registration" should be added to section 19.

(5) *Section* 20.—After the words "and the registrar" the words "after such inquiry as he thinks fit" should be added and in line 7 the words "and the order passed by the Registrar on appeal shall be final" should be deleted and the following words added "against this order one appeal is allowed to the Inspector-General of Registration whose order shall be final. The Inspector-General may, before passing such order, direct further inquiry and shall in his decision be guided by the Muslim Council of Ulemas at Madras to be specially constituted by the Government for the purpose. The number of Ulemas shall be five and the Council shall be presided over by the Inspector-General."

(6) *Schedule form A.*—The words "and signature" should be added to the 12, word "name" in columns 2, 3, 5, 6, 7, 8 and 16.

(7) *Schedule form B.*—After the word "name" in columns 2, 3, 8, 9, 10 13 and 14, the words "and signature" should be added.

The Revenue Divisional Officer, Erode, offers the following criticisms against the provisions of the Bill :—

(1) *Section* 8.—Muhammadan brides being gosha women, they would find it very difficult to secure agents to get the marriages registered.

(2) *Section* 9.—(*a*) The fee of Rs. 1-4-0 proposed to be paid to the registrar will be an unnecessary expense.

(*b*) Since parties are given one month's time to get the marriages registered, difficulties will arise in the course of the inquiries which the registrar has to make before registration.

(*c*) It will not always be possible for the parties to adduce evidence a month after the marriage occurred.

(3) *Section* 10.—The brides will never be willing to appear before the registrar and to sign the record and any signatures by the representatives will give room for fraud.

(4) *Section* 11.—An honorary registrar will not be willing to give a copy of the entry in the register free of charge.

(5) *Section* 16.—An honorary registrar is sure to resent the control of Government official.

(6) *Section* 19.—Registrars will mostly be irresponsible men and their indiscriminate refusal to register marriages will result in much litigation.

(7) *Section* 21.—Since there is no public office for registrars they will have to keep the registers in their houses and this will give room for fraud.

(8) *Section* 23.—(*d*) Registrars will not be willing to pay the cost of seals, registers, etc., supplied to them and it is not worth while for the Government to incur any expense for these, especially as the fee of Rs. 1-4-0 levied is proposed to be given to the registrar.

(9) *Section* 24.—No honorary registrar will undertake the heavy duties involved on the office without remuneration and the Government might not be prepared to incur any expenditure on this account especially as there is nothing on the receipt side and as the fee of Rs. 1-4-0 levied is intended to be given away to the registrar.

(10) *Section* 25.—Since unregistered marriages and divorces are not rendered invalid and since registration itself is optional, the Bill is not likely to bring about any improvement.

(11) The Act as it stands at present, makes no provision for the framing of rules.

(12) The present evils could be removed by increasing the existing number of kazis appointed under the Kazis Act XII of 1880 and by issuing some departmental orders requiring them to notify to the Collector all appointments and the removals of Naibs under them.

8. I agree generally with the amendments proposed by the Chairman, Municipal Council, Udamalpet. But I doubt the efficacy of the provision relating to second appeals. The registrar's order should be final in the sense that it cannot be challenged by way of a departmental appeal but only by a suit. Amendments Nos. 6 and 7 also do not appear to be necessary in view of the provisions contained in section 10. I have no remarks to offer on the criticisms made by Mr. Muhi-ud-din Khan Lodi Sahib Bahadur except that some of the arguments are feeble and that the criticism is purely destructive.

9. There is no doubt that the present state of things is unsatisfactory. The question is whether the Bill is likely to improve it and whether the criticisms levelled against it are sound. Some improvement is certainly likely to result and much of the criticism is unimportant. The real opposition to the proposed measure is directed against the attempt to bring the free law of Islam in regard to marriages and divorces under control—especially official control. Permissive as registration is under the proposed law, I think its promoters are too sanguine about the benefits that will flow from it. At the same time, I believe that any law which seeks to make registration of marriage and divorces compulsory will be met with very serious opposition from the community as a whole as against the genius of the Law of Islam.

Enclosures.

(1)

Proceedings of the Kollegal Islamiah Anjuman at its special meeting dated the 6th November 1918.

Read letter from the Revenue Divisional officer, Kollegal, R.O.C. No. 946 Rev. Supr., dated the 29th October 1918, asking the opinion of the Anjuman regarding the Bill proposed by the Hon'ble Yaqub Hasan Sahib Bahadur to provide for the voluntary registration of Mussalman marriages and divorces.

Read also the said Bill published in the *Fort St. George Gazette*, dated the 8th October 1918.

Resolution.—The meeting resolves that the introduction of the Bill referred to is absolutely essential and that it should be made compulsory.

(2)

Letter—from the Kazi Saiyid Jami Alam Sahib, Udamalpet.
To—the Tahsildar of Udamalpet.

With reference to your order No. R.O.C. 1898 Sup., dated 14th November 1918, communicating copy of resolution of the Hon'ble Yaqub Hasan Sahib Bahadur, I have the honour to inform you that the people of my faction concur with the opinion of the said Honourable Member.

(3)

Letter—from W. S. Kadir Khan Sahib, Udamalpet.
To—the Tahsildar of Udamalpet.
Dated—the 17th November 1918.

With reference to your order No. R.O.C. 1898 Sup., dated 14th November 1918, communicating copy of resolution of the Hon'ble Yaqub Hasan Sahib Bahadur, I have the honour to inform you that the people of my faction concur with the opinion of the said Honourable Member.

(4)

Letter—from U. K. Sinna Saiyid Ravuther, Vakil and Committee Member of Muhammadan Mosques, Udamalpet.
To—the Tahsildar of Udamalpet.
Dated—the 20th November 1918.

With reference to your endorsement R.O.C. No. 1893/Supr., dated 31st October 1918, calling for remarks on the Bill to provide for the Voluntary Registration of Mussalman Marriages and Divorces, I have the honour to report as follows.

2. The contents of the Bill were explained to the Mussalmans of the place and also to the Pesh Imams of the mosque and all agree that the facilities afforded therein to strengthen the rights of the couple and to prevent the abuses too common at present, are absolutely necessary to meet the needs of the present days.

3. The allegation that the provisions of this Bill contravene the sacred tenets of Islam is absolutely untenable as it is not obligatory on all to get their marriages and divorces registered in the books. A variety of circumstances has led to the abuses which the Bill tries to prevent in future. The complete absence of control over the Kazis, their poverty which makes them dance to the tunes of rival factions in villages, want of proper check over the momentary impulses of mankind, all these causes have led to a great scandal in the registration of marriages, etc., as at present conducted, so much so that with a few noble exceptions becoming fewer every day—it is not altogether impossible to tamper with the amount of the dowry or with the actual entries made in the Kazis books. It is therefore felt that some sort of public registration is absolutely necessary and if the Bill tends to reduce—if it does not altogether prevent—the abuses now so keenly felt by the Muhammadans, the mover of this Bill as well as the Government will be entitled to the gratitude of the community, the sober element of which stand staggered and helpless at the amount of mischief wrought by some of the Kazis and the misery involved on the poor and ignorant masses. Nor can it be said that the Bill is too early as the need has been felt for the past two decades. A police constable died intestate at Coimbatore ten years back. He was found to have had money dealings to the extent of 30 thousands. Every one knew him to have been an old bachelor. But when his distant relations from Madura came to claim the money it was contended up to the High Court that the man had married, had left a widow and married daughter whose minor sons claimed a share of the monies. I do not remember the decision of the High Court but all knew too well that the so-called widow and her daughter were only street women put up in the courts to admit the husbandship of the deceased constable. There was a Kazi who came up with an old book to say that the marriage had taken place some fifty years back. In Pollachi when a husband gifted some properties to his wife ten years back, his own relations out of enmity to her and with the connivance of the Kazi tore off the sheet of the marriage book and contended that the *mahar* amount was much below the value of the properties assigned. Such instances can be easily multiplied. Again the question of dowry and mahar is too important to be written on mere scraps of paper as is done at present. So also divorce which is resorted to mostly by the lower classes. The existing practice is extremely faulty and gives rise to very great abuses and much misery. The community mostly feel therefore that the fears expressed by the Hon'ble Muhammad Aziz-ud-din Hussain Sahib Bahadur are more imaginary than real.

4. I am also of opinion that the registration of marriage, etc., must for some time more, be left to the option of the community as the masses are not advanced so far as to welcome the remedy without misunderstanding the motives of the legislators. But the safeguard available in getting the registry made in a book supplied by Government are so apparent that in the course of a few years the Mussalman public will reject the old system and take to the new one wholeheartedly when, perhaps, and not till then, the Government or the Muslim leaders may try to make the registration compulsory. For these reasons I do not agree with the proposal of the Hon'ble Khan Bahadur Ahmad Tambi Marakkayar that the registration should be made compulsory.

5. I do not also share his fears that the Bill will be of no use without the element of compulsion and of punishment in default. Government cannot take the full or initial responsibility of effecting improvement in the interior socio-religious conditions of any community. Nor can the Acts of any legislative body however stringent its provisions are, uplift the masses out of their ignorance without subjecting the legislature to a vast amount of suspicion and of misguided opposition. Even the Hon'ble Mr. Yakub Husain Sahib does not claim for his Bill the miraculous power of getting all the miseries remedied with one magic wand. All that he claims to do—and that is the only thing possible at present—is to afford to the Mussalman public an option to seek registration and avoid future troubles or to ignore the facility now placed before them and perpetuate the various miseries under which the community is groaning silently and helplessly.

6. I propose the following alterations in the Bill :—

(*a*) *Section* 5.—*Add* to the first proviso the words "unless more than one person has been doing such work in the place, in which case, the Governor in Council may appoint more than one person to meet the requirements of the locality."

This will add to the convenience of the public who must always have a choice to make in order indirectly to exercise a check over the vagaries of the registrars.

(*b*) *Section* 3, *second proviso.*—*Add* at the end "and every Pesh Imam of the mosque." Pesh Imams or leaders of prayers in all mosques also perform marriages and are generally resorted to by the intellectual portion of the community. Their custody of the registers is far more preferable to that of the Kazis. The registers should be left in the custody of the Muthavalli when the Pesh Imam leaves the mosque for good.

(*c*) *Section* 4.—*Add* the words "or the Pesh Imam" at the end.

(*d*) *Section* 19.—*Add* "and deliver a copy of his order to the party who applied for registration."

(*e*) *Section* 20.—After the words "and the Register" *add* "after such inquiry as he thinks fit." In sentence 7 delete the words "and the order passed by the Registrar on appeal shall be final" and *add* "against this order, one appeal is allowed to the Inspector-General of Registration whose order shall be final. The Inspector-General may, before passing such order, direct further inquiry and in his decision, be guided by the Muslim council of Hemas at Madras to be specially constituted by the Government for the purpose. The number of Ulamas shall be five and the council shall be presided over by the Inspector-General."

My object is not to make final the decision of a Sub-Registrar who is not conversant with the requirements of the community.

(*f*) *Form A, Book* 1.—After the word "Name" in columns 2, 3, 5, 6, 7, 8, 16, *add* "and signature."

(*g*) *Form B, Book* 2.—After the word "Name" in columns 2, 3, 8, 9, 10, 12, 13, 14, *add* the words "and signature."

(5)

Letter—from Khan Sahib Saiyid Devan Abdur Razak Sahib Bahadur, President, Anjuman Islamiah, Coimbatore, Member, District Board, Coimbatore, Vice-President, Taluk Board, Pollachi, and Chairman, Municipal Council, Udamalpet.
To—the Revenue Divisional Officer, Pollachi.
Dated—Udamalpet, the 22nd November 1918.

With reference to your endorsement R.O.C. No. 1293/Supr., dated 31st October 1918, calling for remarks on the Bill to provide for the voluntary registration of Mussalman marriages and divorces, I have the honour to report as follows.

2. The contents of the Bill were explained to the Mussalmans of the place and also to the Pesh Imam of the mosque and all agree that the facilities afforded therein to strengthen the rights of the married people and to prevent the abuses too common at present, are absolutely necessary to meet the needs of the present days.

3. The allegation that the provisions of this Bill contravene the sacred tenets of Islam is absolutely untenable as it is not obligatory on all to get their marriages and divorces registered in the books. A variety of circumstances have led to the abuses which the Bill tries to prevent in future The complete absence of control over the Kazis and their poverty which makes them dance to the tunes of rival factions in villages have led to a great scandal in the registration of marriages, etc., as at present conducted, so much so, that with a few noble exceptions—becoming fewer every day—it is not altogether impossible to tamper with the amount of the dowry or with the actual entries made in the Kazi's books. It is therefore felt that some sort of public registration is absolutely necessary and if the Bill tends to reduce—if it does not altogether prevent—the abuses now so keenly felt by Muhammadans, the mover of this Bill as well as the Government will be entitled to the gratitude of the community, the sober element of which stands staggered and helpless at the amount of mischief wrought by some of the Kazis and the misery involved on the poor and ignorant masses. Nor can it be said that the Bill is too early, as the need has been felt for the past several decades. A police constable died intestate at Coimbatore ten years back. He was found to have had money dealings to the extent of Rs. 30,000. Every one knew him to have been an old bachelor. But when his distant relations from Madura came to claim the money it was contended up to the High Court that the man had married, had left a widow and a married daughter whose minor son claimed a share of the monies. I do not remember the decision of the High Court, but all knew too well that the so-called widow and her daughter were only street-women put up in the courts to admit the husbandship of the deceased constable. There was a kazi who came up with an old book to say that the marriage had taken place some fifty years back. In Pollachi when a husband gifted some properties to his wife ten years back, his own relations out of enmity to her, and with the connivance of the kazi, tore off the sheet of the marriage book and contended that the mahar amount was much below the value of the properties assigned. Such instances can be easily multiplied. Again the question of dowry and mahar is too important to be written on mere scraps of paper as is done at present. So also divorce which is resorted to mostly by the lower classes. The existing practice is extremely faulty and gives rise to very great abuses. The community keenly feel therefore that the fears expressed by the Hon'ble Muhammad Aziz-ud-din Husain Sahib Bahadur are more imaginary than real.

4. I am also of opinion that the registration of marriage, etc., must for some time more be left to the willingness of the community as the masses are not advanced so far as to welcome the remedy without misunderstanding the motives of the legislators. But the safeguard available in getting the registry made in a book supplied by Government are so apparent that in the course of a few years the Mussalman public will reject the old system and take to the new one whole-heartedly when, perhaps—and not till then—the Government or the Muslim leaders may try to make the registration compulsory. For these reasons I do not agree with the proposal of the Hon'ble Khan Bahadur Ahmad Tambi Marakkayar that the registration should be made compulsory at once.

5. I do not also share his fears that the Bill will be of no use without the element of compulsion and of punishment in default. Government cannot take the full or even initial responsibility of effecting improvement in the internal socio-religious conditions of any community. Nor can the acts of any legislative body—however stringent its provisions are—up lift the masses out of their ignorance without subjecting the legislature to a vast amount of suspicion and of misguided opposition. Even the Hon'ble Mr. Yaqub Hasan Sait does not claim for his Bill the miraculous power of getting all the evils remedied at once with one magic wand. All that he claims to do—and that is the only thing possible at present—is to afford to the Mussalman public an option to seek registration and avoid future troubles, or, to ignore the facility now placed before them and perpetuate the various miseries under which the community is groaning silently and helplessly.

6. I propose the following alterations in the Bill:—

(*a*) *Section* 3.—*Add* to the first proviso the words "unless more than one person has been doing such work in the place, in which case, the Governor in Council may appoint more than one person to meet the requirements of the locality." This will add to the convenience of the public who must always have a choice to make in order, indirectly, to exercise a check over the vagaries of the kazi registrars.

(*b*) *Section* 3, *second proviso.*—*Add* at the end 'and every pesh imam of the mosque' pesh imams or leaders of prayers in all mosques also perform marriages and are generally resorted to by the intelligent portion of the community. Their custody of the registers is preferable to that of the kazis. The registers should be left in the custody of the Mutavalli when pesh imams leave the mosque for good.

(*c*) *Section* 4.—*Add* the words 'or the pesh imam' at the end.

(*d*) *Section* 19.—*Add* 'and deliver a copy of his order to the party who applied for registration.'

(*e*) *Section* 20.—After the words 'and the registrar' *add* 'after such inquiry as he thinks fit.' In sentence 7, *delete* the words 'and the order passed by the registrar on appeal shall be final' and *add* 'against this order, one appeal is allowed to the Inspector-General of Registration whose order shall be final. The Inspector-General may before passing such order direct further inquiry and shall in his decision, be guided by the Muslim Council of Ulamas at Madras to be specially constituted by the Government for the purpose. The number of Ulamas shall be five, the council shall be presided over by the Inspector-General.' My object is not to make final the decision of a District Registrar who is not conversant with the requirements of the community.

(*f*) *Form A, Book* 1.—After the word 'name' in columns 2, 3, 5, 6, 7, 8, 16 *add* 'and signature.'

(*g*) *Form B, Book* 2.—After the word 'name' in columns 2, 3, 8, 9, 10, 12, 13, 14, *and* the words 'and signature.'

7. The community is fully convinced that the Government will confer a boon on the Muslim subjects if they pass this Bill into an Act which will prevent the scandalous litigations that have wrecked the happiness of so many pleasant homes in this country.

(6)

Letter—from K. Rasul Ravuttar Sahib, Tanner, Udamalpet.
To—the Tahsildar of Udamalpet.
Dated—the 22nd November 1918.

With reference to your R.O.C. No. 1898 Sup., dated 14th November 1918, forwarding G.O. No. 1519-8, dated 12th October 1918, about the Bill to provide for the voluntary registration of Mussalman marriages and divorces, Hon'ble Yaqub Hasan Sahib Bahadur desires to introduce into the Local Legislative Council, I have the honour to state that I support the Bill generally provided that it is modified on a few minor points which have been dealt with by Khan Sahib Saiyid Diwan Abd-ur-Razack Sahib Bahadur of Udamalpet in the report on the subject.

(7)

Letter—from Muhammad Jehangir Khandani, Hereditary and Government Kazi, Coimbatore.
To—the District Magistrate, Coimbatore.
Dated—the 16th December 1918.

With reference to your letters, dated 11th November and 4th December 1918, that for the voluntary registration of Mussalman marriages and divorces, I have the honour to forward herewith my views on the subject in Urdu.

Sub-enclosure

Translation of the note containing the views of Muhammad Jehangir, Government Kazi, Coimbatore, forwarded with his letter, dated 16th December 1918.

The Government having called on the learned religionists and kazis to offer their opinion on the draft Bill introduced in the Madras Legislative Council by Hon'ble Yaqub

Hasan Sahib regarding the registration of Muhammadan marriages and divorces Muhammad Jehangir Sahib, hereditary and Government kazi, is of the following opinion.

The proposed rules regarding the marriages and divorces of Muhammadans and also other communications on the subject forwarded by the Government to me were all duly received. The writer went through the whole correspondence from the beginning to the end and considered the question well. The Bill is against the Muhammadan religion and law. It is against religious principles that we should curtail the liberty in religious matters which has been given to us. Till now our benign Government which is always in favour of freedom did not tolerate interference in any religious matters and the proclamation made by it proves it. It clearly states that the Government will not interfere with the religion of any person and that every man may freely follow his own religion. Such being the case the rules under contemplation will result in the curtailment of the religious liberty of the Muhammadans. The followers of Islam are unanimously of opinion that the introduction of the registers is against the Islamic principles and that it will unnecessarily entangle them in difficulties. The rectification of the defects in the existing registers relating to the marriages and the divorces is a matter which could be easily done. Though it is said that in the draft Bill, that the registration of marriages and divorces will be purely voluntary yet this serious difficulty will arise, that the marriages and divorces which may be otherwise alright as per religion will be looked upon as suspicious or will not be accepted in course of law on account of non-registry in the registers prescribed by Government. Thus there is likelihood of great difficulties arising by Government interference in religious matters of Muhammadans which is against the proclamation. From any point of view interferences like the present are not in the least beneficial to the Muhammadans, but on the other hand will produce evil. The work of registering marriages should be done by the town kazi or his deputies alone. But now some uncertified and unselected men such as leaders in prayers and teachers in religious schools who have nothing to do with the work of a kazi unnecessarily interfere and celebrate marriages. This is not their duty and they have no register. As a result of their unauthorized action the legal rights and mahar of many of the females are made extinct. It is therefore better that such acts are done by the resident kazi of the place. It is also stated in the Bill that on the completion of the registers they should be handed over to the Registration department. If this is intended merely for their safe custody the kazi himself can become their custodian, as he who had been the custodian till their completion may also guard them easily after completion. The continuance of the register with the kazi will be in times of emergency beneficial to the public for urgencies require now and then. It is not advisable to create restrictions in matters in which Islam has allowed freedom. At any rate the Bill contemplates the registration of marriages in the prescribed register and to submit to the rules laid therein will be to curtail our own liberties.

Muhammad Jehangir,
Hereditary and Government Kazi.

(8)

Letter—from B. Muhi-ud-din Khan Lodi Sahib Bahadur, Revenue Divisional Officer, Erode Division.
To—the Collector of Coimbatore.
Dated—Camp Erode, the 18th January 1919.
No.—106 Rev.

With reference to your endorsement R.O.C. No. 1650–B. & G., dated 26th September 1918, and your further reference thereon, dated 4th December 1918, I have the honour to report that there are no formally constituted Muhammadan bodies within my jurisdiction. I, however, consulted some of the leading Muhammadan gentlemen of Erode and Dharapuram, two important Muhammadan centres of my division and their names are noted in the margin and I have distributed to them the Tamil and Hindustani pamphlets that were received with your second reference. In Erode, Nos. 1, 2 and 4 are against the Bill and No. 3 is in favour of it. In Dharapuram, No. 1 is against it and Nos. 2 and 3 are in favour of it. But generally, so far I have ascertained the views of the Muhammadans at large, they are against any statutory interference of the Government in this respect and that seems to be also the opinion of the majority of the Mussalmans of the Madras Presidency from what I see from the newspapers. I also see from the papers a party belonging to the Hon'ble Mr. Yaqub Hasan Sahib, the author of the Bill, is working with a view to popularising the provisions of the Bill and this party seems to have come into existence ever since the Hon'ble Mr. Aziz-ud-din Sahib opposed the Bill in the Council. My own humble opinion is that there is a good deal of force in the arguments that were put forward by the Hon'ble Mr. Aziz-ud-din

Erode—
1. K. A. Kadir Muhi-ud-din Sahib Bahadur, a rich ryot and landlord and the late Vice-Chairman of the Municipality and now a Taluk and District Board Member.
2. Town Kazi Sahib.
3. Peish Imam, i.e., the priest that leads the prayers in the Mosque.
4. Khaja Kadir Muhi-ud-din Sahib, Retired Revenue Inspector and a venerable old man of 80.

Dharapuram—
1. D. M. Abdul Karim Sahib Bahadur, Municipal Councillor and Taluk and District Board Member.
2. Haji Muhammad Rafi-ud-din Rowther Sahib Bahadur, Municipal Councillor.
3. Muhammad Abdur Rahim Alim Sahib, Peish Imam of the Mosque.

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Sahib in opposing the Bill. It is a fact that a similar attempt was made towards the registration of Muhammadan marriages and divorces some years ago. I remember that well, and that was when I was a Tahsildar in the Tinnevelly district. I was one of the Muhammadan officials that were consulted and I was against the measure, and there was generally then a great opposition to that measure and that was dropped. It is admitted on all hands that the circumstances of the Muhammadan society have not altered since then so as to justify the revival of that proposal. The Muhammadan marriage, it must be admitted, is not a religious institution and it is a simple social contract as conceded by the Hon'ble Mr. Yaqub Hasan Sahib himself. The consent of the parties and the settlement of the mahar, or the marriage consideration, and two witnesses to testify to these facts are all that are wanted to consummate a marriage and to render it valid under the Muhammadan Law. No doubt a record of the marriages is not required by the Muhammadan Law, but a record is invariably being made so far I know, both in towns and villages. No doubt these records are in different forms and methods, but it is immaterial. In Erode, I know the record is so complete that it satisfies the conditions that are now proposed to be imposed by the author of the Bill. Such being the case, I don't see any necessity for any Government interference and to institute a separate record of its own. No doubt the Bill is intended to make this record optional, but the provisions of the Bill, when they are being carried into effect, will begin to make an invidious distinction between a record made under the Act and a private record that is now being maintained, and will, I am afraid, rather tend to increase the evils and abuses and augment litigation than obviate the same, as is anticipated by the Hon'ble gentleman. There is not much litigation at present regarding marriages and divorces and I know very few cases go to civil court, and if I am permitted to say, the statement of the Hon'ble gentleman in this respect is an exageration. So much about the proposal.

2. Coming next to the provisions of the Bill, I am afraid, the procedure proposed is much complicated.

Section 8 *of the Bill.*—The Muhammadan brides are always 'gosha women' and it will not only be a great hardship but costly for these women to find agents to register vakalats in their names and to get the marriages registered.

Section 9 *of the Bill.*—A fee of Re. 1-4-0 proposed to be paid to the marriage registrar will be an additional and at once uncalled for expense to these parties, because they will have to pay as they do at present a fee to the kazis or other persons, or in many instances, to the village fund whenever marriages are consummated. Secondly, one month's time is given under this section for the parties to get the marriages registered and the marriage registrar is expected to make inquiries whether any such marriage really occurred. I am afraid this will give room for complications and any party of mischievous tendency will try his best to throw in all sorts of obstacles in the way. Thirdly, the kazi is asked to make inquiries about the identities of the parties and of the right of the representatives. It cannot always be possible for the parties to produce the very same witnesses and representatives or adduce evidence thereof, a month after the marriage occurred. The point in view of the author of the Bill is to make obligatory on the part of the registrars to make a record of any marriage that was solemnized or of a divorce that was effected. But the author of the Bill has made it optional for any party to go to a licensed registrar, leaving thus a large number of marriages not so registered. Then the object of the author will not be gained unless the registration itself is made compulsory as the Hon'ble Mr. Ahmad Tambi Marakkayar put it in the Council, and any such compulsory registration is certainly out of question at present.

Section 10.—The brides will never be willing to appear before the registrar and to sign the record and any signatures by the representatives will also give room to fraud.

Section 11.—I don't think an honorary registrar will be willing to give a copy of the entry free of charge, and even if fees are proposed to be charged, the system will become still more complex.

Section 16.—An Honorary Registrar is sure to resent the proposal to place him under the superintendence and control of the Government official.

Section 19.—I am unable to see how a registrar could refuse to register a marriage unless he is not satisfied with the conditions that are imposed under section 9, and these refusals which are bound to be many, because most of the registrars will be irresponsible men, and this will open another way for a great litigation.

Section 21.—I don't know where the author of the Bill expects the registrars to keep the originals of these records and any public office for this man is out of question, because the Bill makes no provisions to make the office stipendary. Therefore, these registrars have to keep the records in their houses and the danger which the author of the Bill proposes to remove is not likely to disappear.

Section 23.—I don't think the registrars will be willing to reimburse to the Government the cost of the seals, registers, stationery and other articles which are proposed to be supplied to them by the Government, nor will it be worthwhile for the Government to incur the expenses itself, because Government gets nothing out of this measure, and a fee of Rs. 1-4-0 is proposed to be given away to the registrar himself. If so, I don't see the necessity for the Government to supply all these articles.

Section 24.—I am sure no honorary registrar can afford to undertake the task of solemnizing marriages, effecting divorces, preparing the proposed registers A and B and their indexes, to furnish copies to the parties, sending up copies and other statements to the higher authorities, etc. There will be much correspondence in this respect and a point of remuneration is sure to rise then, and I don't think the Government will undertake to incur an expenditure unless there is anything on the receipt side. The Bill makes no provision for any such receipts and the only fee that is proposed to be levied for the registration under section 9 is intended to be given away to the registrar himself.

Section 25.—The provisions of this section seem, in my humble opinion, suicidal to the object in view of the author of the Bill. If a marriage or divorce which is not registered under this Act is not rendered invalid, or vice versa, if a registered marriage or divorce does not become valid, then where is the benefit of this registration? And if things are allowed to go on as they are, where is the necessity for the registration? But the caution that is resorted to by the Honourable Member under this section is no doubt necessary as it would otherwise be opposed to the spirit of the Muhammadan Law, and so long as the registration is optional, this caution cannot be done away with and therefore a caution of this kind is quite unnecessary to be provided for in the present Bill, and so long as this caution is proposed to be maintained, the necessity for the Bill itself will vanish.

3. In the end, I am of opinion, no case has been made out in favour of the Bill, nor do the provisions of the Bill seem salutary and workable. I would, however, suggest for the present, a large number of kazis may be appointed under the Kazis Act, XII of 1880, and the Act itself amended and the provisions amplified. The number of kazis that have been appointed under the Act are few and far between, and the increase in their number will, I am sure, tend to obviate the difficulties and the evils that are referred to by the Hon'ble Mr. Yaqub Hasan Sahib. The men that are so appointed are men of some status and influence in the localities in which they are appointed and feel themselves more responsible to the Government as well as to the public. They will carry a greater weight in the estimation of the public than any licensed registrar under the proposed Act. For all practical purposes, they can be considered to be the licensed registrars, but with a greater status. Their number is, however, at present very inadequate and in my opinion, one for each taluk is necessary. He will have his own naibs (deputies) in the various Muhammadan centres of the taluk nominated by him under section 3 of the Act, and the business would go on very well then. There is no restriction in the Act with regard to the number and it is clear from section 2 of the Act that any number may be appointed for any local area. The best thing would be to appoint one kazi for each taluk, or more if there be sufficient Muhammadan population, and to leave him to select his own naibs to work under him; but I would suggest in this connexion that Government kazis so appointed should be asked by some departmental orders to report the names of his naibs and their removal also to the Collector so that there may be a record of such persons with the Government. The naibs will then think that they have some status and feel more responsible than at present. The Act, as it stands at present, makes no provision for framing of rules So, the Act may be amended, and until that is done, a departmental order will, I think, suffice for the present.

LXXVIII

Letter—from H. A. B. Vernon, Esq., I.C.S., Collector of Vizagapatam.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—the 30th March 1919.
No.—D. Dis. 791.

Adverting to Government Memorandum No. 1519-8, dated 12th October 1918, I have the honour to report that the representative Muhammadans and Muhammadan bodies of the district have been consulted on the provisions of the Bill for the voluntary registration of Mussalman marriages and divorces which the Hon'ble Yaqub Hasan Sahib desires to introduce into the local Legislative Council.

2. The representative Muhammadans of the taluks noted in the margin object to the passing of the Bill into law on the ground that the registration referred to in the Bill is contradictory to the Muhammadan law and regulations and is also against the long existing practice, and that females cannot appear before the registrar to sign their names or affix their thumb impressions on account of the gosha system. As the registration proposed is voluntary and not compulsory these objections need not in my opinion be taken into consideration.

Salur.	Anakapalle.
Jeypore.	Vizagapatam.
Viravilli.	

3. The representative Muhammadans of the other taluks in the district are in favour of the Bill being passed into law, as the registration of marriages by duly appointed kazis is already in vogue in some parts of the district and as the present Bill provides only for the systematic maintenance of the registration.

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4. I agree with the views of these latter and accordingly recommend that the Bill may be passed into law.

The opinions received are herewith submitted.

Enclosures.

(1)

Letter—from the Union Chairman and Stationmaster, Salur.
To—the Deputy Tahsildar, Salur.
Dated—the 24th December 1918.

I have the honour to state that I convened a meeting of the Mussalman community of this place to-day at 4 p.m. in the residence of Mr. Saiyid Imam Sahib for the purpose of obtaining their views on the Bill to be introduced into the Provincial Legislative Council by the Hon'ble Mr. Yaqub Hasan regarding the voluntary registration of Mussalman marriages and divorces. I am sorry to state that the whole of the Mussalman community of this place is dead against the Bill. The Government Order is herewith returned.

(2)

Letter—from Rahim Khan Sahib of Jeypore.
To—the Deputy Tahsildar, Jeypore.
Dated—the 15th January 1919.

I read the point moved by Yaqub Hasan Sahib Bahadur before all the Muhammadans of this village. They want to continue the sastrams which they are adopting since 1300 years. So they objected from adopting the new registration, etc.

(3)

Letter—from Saiyid Amir Sahib, Kazi, and others, Chodavaram.
To—the Deputy Tahsildar, Chodavaram.
Dated—the 31st November 1918.

This is our opinion as regards the registration of Mussalman marriages and divorces. The Bill is in no way useful to us. It is quite contrary to our sastrams. It is not written anywhere in our sastrams that registration books No. 1 and 2 should be published and that money should be taken for registration. So we do not like that the Bill be passed into law.

(4)

Letter—from the Kazis of Vizagapatam.
To—the Collector of Vizagapatam.
Dated—the 9th January 1919.

We the two Muhammadan chief town kazis, viz., Janab Muhammad Isak Sahib and Kazi Janab Maulana Muhammad Abd-ul-haq Sahib of Gunner Street mosque of Vizagapatam most submissively beg to state that the proposal moved by the Legislative Councillor, the Honourable Yaqub Hasan Sahib Bahadur at the Legislative meeting of Madras regarding the registration of a Bill of Muhammadan marriages and divorces, etc., we beg to state that the registration of the Bill in question is utterly contradictory to Muhammadan regulations. That it in no way seems proper to our apprehension for its being adopted as it is quite contradictory to our Muhammadan law.

Translation.

Opinion of Mr. S. A. Wahid Sahib and other Muhammadans of Parvatipur.

We wish that the Bill published at page 863 of the *Fort St. George Gazette*, dated 8th October 1918, be passed into law.

Statement of the Muhammadans of Yellamanchille, Sarvasiddhi taluk, that Mussalman marriages have not been registered for the last 13 or 14 centuries, that the marriages have not been got registered by their ancestors, that the marriages are being registered only by their own kazis and that they therefore cannot go against their religion. They want to stick up to their Muhammadan law.

Sheik Rahimtullah Sahib.
Abdul Subhan.
Saiyid Ali Sahib.
Sheik Madina Sharif.
Rahman Sharif.
Saiyid Ahmad.

Statement of certain Muhammadans of Sarvasiddhi taluk accepting the provisions of the Mussalman marriages and divorces Bill.

Sheik Imam.
Saiyid Muhi-ud-din.
Saiyid Ibrahim.
Pir Ahmad.
Sheik Abdulla.
Sheik Mira Sahib.

(5)

Letter—from all the Muhammadans of Nowrangapur.
To—the Deputy Tahsildar, Nowrangapur.

There are more than one hundred houses of Muhammadans in this place and also in other places around this. So to these places a separate kazi may be appointed to perform the marriages of the Muhammadans.

(6)

Letter—from all the Muhammadans of Narasapatnam.
To—the Tahsildar, Narasapatnam.

We wish that the Bill published at page 863 of the *Fort St. George Gazette*, dated 8th October 1918, be passed into law.

LXXIX

Letter—from Khan Bahadur S. M. V. Usman Sahib Bahadur, B.A., B.L., District Magistrate, Guntūr.
To—the Secretary to Government, Home (Miscellaneous) Department, Madras.
Dated—the 31st March 1919.
No.—R. C. 2300 Magl. of 1918.

With reference to Government Memorandum No. 1519–8, dated 12th October 1918, forwarding the Bill to provide for the voluntary registration of Mussalman marriages and divorces, with instructions to obtain and forward the views on the provisions of the Bill of representative Muhammadans and Muhammadan bodies in the district, I have the honour to state that the marginally-noted representative gentlemen were consulted in the matter and copies of their reports containing thier views on the Bill are herewith enclosed.

1. The Kazi, Guntūr.
2. The Tahsildar, Palnad, Janab Muhammad Imam Muhi-ud-din Sahib Bahadur.
3. The Secretary, Anjumani Islamia, Guntūr.
4. T. S. Muhammad Husain Sahib Bahadur, Retired Assistant Inspector of Schools, Guntūr.
5. Saiyid Qasim Sahib Bahadur, Inspector of Police, Vinukonda.
6. Pesh Imam Sahib Bahadur, Guntūr.

2. Copy of letter, dated 26th November 1918, received from the Hon'ble Mr. Yaqub Hasan, together with copies of the proceedings of the meeting of the Legislative Council relating to the debate on the Bill in English and Hindustani received from the Honourable Member, were also forwarded to the above gentlemen and copies of the replies received from Nos. 2, 3, 4 and 6 are herewith enclosed. Reports to that reference have not been received from the Government Kazi, Guntūr, and the Inspector of Police, Vinukonda, who have again been reminded. Their reports will be submitted on their receipt.

3. The gentlemen from whom replies have been received appear to be in favour of the Bill. But I am not in favour of it.

4. The object of the Bill as put forward appears to be the *preservation of evidence* of marriages, their terms and divorces as the loose form of registers as at present maintained by Kazis and others, who solemnize marriages, are either not forthcoming or not forthcoming in the state originally recorded. There is nothing, against religion in the preserving of evidence. On closer examination it seems to me that the chief aim of the Bill is the preservation of terms of marriage contract and not so much its factum nor of divorce or its *terms*. The marriage itself is not disputed in very many cases. Muhammadan marriages are generally registered by the Kazis and other persons who solemnize them. To prevent their records being subsequently tampered with or secreted, it is sufficient to make due provision for their preservation. That can be done by amending the Kazi Act (Act XII of 1880) making it incumbent on a Government Kazi or his deputy to attend marriages, if invited, and maintain register of marriages in a prescribed form.

5. There may have been some necessity for the Bengal Act of 1876 as no Kazi Act, I understand, was then in force there. In his treatise of Muhammadan Law, Vol. II, page 328, foot-note (third edition), the Right Hon'ble Mr. Amir Ali observes as regards the working of the Bengal Act as follows:—

"It has since been acknowledged that great difficulties arise in the administration of justice from the permissive character of the Act."

In Bengal the Mussalmans are of better enlightenment and social position. An enactment which does not satisfactorily work in Bengal is not a fit measure to be experimented upon in this Presidency, where the Mussalmans are in less favourable position in every respect.

6. There seems to be no reason for divorces being registered. Divorce is being considered a sin and condemned by the Prophet himself. It is only in unavoidable cases it is resorted to and when accomplished the parties evince a desire to forget the past relationship and to keep it as little exposed as possible. When the dissolution is effected both the parties naturally take special care to create private record of the fact for future free action and to prevent the one setting up any claim against the other.

Enclosures

(1)

Letter—from Janab Muhammad Imam Muhi-ud-din Sahib Bahadur, Taluk Magistrate, Gurizala.
To—the District Magistrate, Guntūr.
Dated—the 6th November 1918.

Adverting to your R.C. No. 2300-Magl. of 1918, I beg to state to the great satisfaction of the educated Mussalmans of the Madras Presidency the long-expected Bill to provide for the voluntary registration of Mussalman marriages and divorces has now seen the light of day. The Mussalmans of the Presidency have been in urgent need of a legal enactment of the kind. The existing system of registration of Mussalman marriages and divorces is very loose and unsystematic and consequently many Mussalman families are being ruined on account of this loose system of registration. The objects and reasons given by the Honourable Member in the statement attached to the Bill are actual facts. There is every reason to believe that by passing this Bill into an Act the evils of the present system of registration will be removed and a better regulated system will be provided. There are no Muhammadan bodies or educated Muhammadans who know anything of the Muhammadan law in this taluk to be consulted with. As for my personal views on the provision of the Bill, I beg to state that the present loose system of registering marriages and divorces is capable of giving room to abuses of gravest nature and if the present Bill is passed into law it would provide a better regulated system.

(2)

Letter—from the Secretary, Anjumani Islamia.
To—the District Magistrate, Guntūr.
Dated—the 26th November 1918.

In reference to your R.C. No. 2300, I have the honour to inform you that all the members of the Anjumani Islamia assembled at a meeting held on 24th November 1918, at the Anjumani Islamia buildings, after full and careful consideration of the Bill to provide for the voluntary registration of Mussalman marriages and divorces have resolved unanimously to express their opinion that the Bill if passed will be a great boon to the Moslem community as there is no proper system now in existence about such sacred performances as those referred to in the Bill. The present system of keeping records of such ceremonies is so shabby and useless that it does greater evil than good to either party, the record being capable of being tampered with in any way as either party may like. No record is as complete as to be admissible in evidence. The forms for application for registration and for register to be maintained by the Moslem Registrar are sufficiently full and complete. But at present it is recommended that the registration may only be voluntary; as it gains popularity it may be made compulsory after some time for trial. In fact when the Moslm community feels its usefulness as time goes on, the whole community will one day be compelled to have recourse to the registration and appreciate it long before we attempt to make it compulsory.

(3)

Letter—from Saiyid Kasim Sahib, B.A., Inspector of Police, Vinukonda.
To—the District Magistrate, Guntūr.
Dated—the 23rd November 1918.

In obedience to R.C. No. 2300-Magl. of 1918, I beg to report as follows:—

The Bill now introduced by the Hon'ble Yaqub Hasan Sahib Bahadur deals as a matter of fact about two matters—one relating to marriages and the other to divorces. These two subjects though treated together require to be viewed from two different standpoints.

I. As regards marriages there can be no two opinions as to the necessity of devising a method by which the interests of the contracting parties to a Mussalman marriage are safeguarded against the abuse which now exists in the system, by which the present day Kazis or their Naibs maintain their records. The names of the contracting parties, the amount of the mahar are noted on slips of paper at the time the marriage is solemnized and the entries in the Kazi's register are made from these slips. The entries thus made are very often incorrect and are open to doubt. To provide against all such irregularities, an act of the nature now under consideration is quite necessary.

The Bill has been very carefully drafted and calls for no changes. Anyhow, I would wish to have the words "duly authorized vakil" used in several places in the bill defined, and certified copies required to be given under section 11 are made obligatory and the necessity of an application being made is dispensed with.

This enactment, as every such measure dealing with Moslem usages and customs, is sure to meet with opposition from the orthodox sections of the Muhammadan community. But in this case the voluntary nature of the enactment will be a sufficient answer to such opposition.

II. The case of divorces stands on a different footing. Divorce is such a rare thing and the parties thereto wish to maintain so much secrecy in the matter that the inclusion of this subject in the Bill will be viewed with disfavour by the Mussalman community in general and will raise a storm of protest from the orthodox among us. This measure also is voluntary and the passing of the Bill into an Act need not necessarily give cause for much apprehension of the Government interference in a custom solely peculiar to the Mussalman community. Yet the question of divorce is a matter affecting the social position of the parties and of the families to which they belong. It is resorted to in exceptionally unavoidable circumstances and all publicity is eschewed. I am afraid that the inclusion of this subject in the Bill may take away from it much of the support it might otherwise receive.

My humble opinion is that at first the registration of marriages may be tried for sometime, and then as experience is gained the question of divorces may be raised and discussed.

(4)

Letter—from Muhammad Abdur Rahim Beg, Trustee and Jaghirdar, Big Mosque, Guntūr.
To—the District Magistrate, Guntūr.
Dated—the 2nd December 1918.

With reference to your R.C. No. 2300-Magl. of 1918 and reminder No. I, dated 15th November 1918, I beg to state that (in consultation with a large number of Mussalmans assembled for Juma prayers in the Big Mosque) after due and careful consideration of the "Bill to provide for the voluntary registration of Mussalman marriages and divorces," recently introduced into the Legislative Council, Madras, if passed into a law will indeed be a real boon to the Moslem community at large, as the record of these performances is nowhere in the Presidency kept in a proper and systematic way.

The system at present in vogue is so shabby that it will be of no use either in judicial or criminal courts. The registers to be maintained are so complete and the different columns are so closely connected with each other that they cannot be tampered with.

But section 20 says "order passed by the Registrar on appeal is final." Here a non-Muhammadan who is not conversant with Muhammadan law is made a final authority. I am of humble opinion that the Inspector-General of Registration, Madras, may be final authority, who will pass a final order after consulting the Honorary Moslem Registrar-General, to be appointed, who will also be in Madras.

(5)

Letter—from T. S. Muhammad Husain Sahib Bahadur, Retired Assistant Inspector of Schools, Guntūr.
To—the District Magistrate, Guntūr.
Dated—the 25th December 1918.

In reference to your R.C. No. 2300-Magl., dated 28th October 1918, I have the pleasure to remark that "The Bill to provide for the voluntary registration of Mussalman marriages and divorces" will be a great boon to the community if it is made an Act, as it has done much good to Bengal Muhammadans.

2. At present the registration may be made *voluntary* as proposed by the mover; its advantages will surely compel the others in a short time and it may become practically compulsory. If it be made compulsory in the very beginning, there is the fear of its becoming unpopular since the ignorant are always ready to hate everything that is new; not because it is bad, but because it is new.

3. My absence from Guntūr for a fortnight was the cause of delay, for which I hope you will kindly excuse me.

(6)

Letter—from Janab Muhammad Imam Muhi-ud-din Sahib Bahadur, Tahsildar, Palnad taluk.
To—the District Magistrate, Guntūr.
Dated—the 20th January 1919.

With reference to your R.C. No. 2300-Magl., dated 24th December 1918, I beg to state as follows.

2. It is admitted by both parties that the present system of maintaining records of Moslem marriages and divorces is faulty and is capable of giving rise to and has been found to have given occasion to abuses of the gravest nature and that there is an imperative necessity for substituting for a better regulated system of registration. The three representatives of the Moslem community of the Presidency in the Legislative Council also have expressed their unanimous opinion during the debate on the motion for the permission sought for, to introduce the Bill, that a Legislative enactment is necessary to safeguard Mussalman interests in connexion with the registration of marriages, and in support of their arguments they have quoted some instances of the possibilities of the records maintained under the existing system being tampered with, when a dispute arises as to the mahar. It is also said that the Right Hon'ble Mr. Amir Ali in his book on Muhammadan Law has expressed his view about the advisability of making the registration compulsory. It is thus evident that the present system of registration is insufficient to check the corrupt practices prevailing at present.

3. The other two representatives of the Moslem community are in sympathy with the mover's desire to effect some sort of legislation to provide for better registration of Mussalman marriages, but one of them is of opinion that, unless the registration is made compulsary the Bill which is proposed to be introduced would fail to bring about the desired effect. The other representative expresses his sympathy in the matter and is strongly of opinion that some legislative measure is necessary to safeguard the Moslem interests in the matter, but at the same time he is against the introduction of either voluntary or compulsary registration of Moslem marriages at this juncture, on the ground that the interference of Government with religious matters will be resented by the Muslim community. It is an admitted fact that marriage according to Moslem Law is simply a civil contract and its validity does not depend upon any religious ceremony. Under these circumstances, how could a measure introduced for the better registration of the Moslem marriage which is only a civil contract be considered as an interference with religious matter. Our Ulamas and Kazis after the establishment of civil courts in this country have lost all their powers except in the matter of marriages and divorces and they are quite unwilling to lose the little power which they have and which is remunerative to them in disputed cases. The educated Moslems except the illiterate masses who are ignorant of the advantages of the legislation on the matter and the so called Ulamas and Kazis, for the reasons stated above, are in favour of the proposed legislation. If it is passed into law, it will very much safeguard the interest of the community.

(7)

Letter—from Abdur Rahim Beg, Muthavalli and Jaghirdar, Big Mosque, Guntūr.
To—the District Magistrate, Guntūr.
Dated—the 4th February 1919.

With reference to your letter R.C. No. 2300-Magl. and P.S.R., dated 26th December 1918, and in continuation of my letter dated 2nd December 1918, I beg to state that, after careful reconsideration of the Bill in question, my humble self and a large number of Mussalmans assembled for Juma prayers in the Big Mosque came to an unanimous conclusion that section 3 of the Marriage Registration Bill (Urdu translation) is quite inadequate and defective. This section provides that no more than one Moslem registrar be appointed within certain specified limits. If the wording of the section be kept as it is, it will occasion more harm than good. There are many places in our Presidency where the existence of cliques (pertaining to Kazi) among the Muhammadans is a common thing. If licence to register marriages and divorces be not granted to any other person except the Kazi and his Naib according to the provision of law, this will cause a great injustice to the party or clique that does not stand in good graces of Kazi. Not only this but it will tend to intensify the animosity on both sides and create great many intrigues which will in the long run drag them to court of law for justice. Indeed it is a matter of great regret to say that there will be no end to this. In the interest of the general public and to remove such unwelcome intrigues, party feelings, litigation, I humbly suggest to grant licence to the leaders or representatives of the parties concerned as the case may be. If it is not granted, the real sense of the Bill will be entirely lost and cause to increase the party feelings more than before, so I am of humble opinion that Bill should not be passed into law and save the Moslem public from undergoing undue unnecessary troubles. This will indeed be a real boon for the community as not even a slightest room for animosity is given on either side. I think I need not tell you about the deplorable condition of the existing local Kazi cliques and increasing litigation on both sides as you are well aware.

In conclusion, I humbly beg to say that this suggestion and the one that was laid down in my previous letter, dated 2nd December 1918, relating to final authority in divorces are indispensable.

(8)

Letter—from T. S. Muhammad Husain Sahib, Retired Assistant Inspector of Schools.
To—the District Magistrate, Guntūr.
Dated—the 4th February 1919.

In reference to your R.C. No. 2300-Magl., dated 26th December 1918, I beg to inform you that on a previous reference on the same subject I remarked that the Bill in question was very useful to the Muhammadan community and that it was a real boon for it will prevent so many evils now existing. I hold the same opinion even now.

LXXX

Letter—from J. T. Gwynn, Esq., I.C.S., Acting Collector of Kistna.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—Masulipatam, the 2nd April 1919.
No.—D. Dis. 8392-18-16.

With reference to your Memorandum No. 1519-8, dated the 12th October 1918, I have the honour to state that the following Muhammadan associations and individual Muhammadan gentlemen have been consulted about the Bill. Practically all of them are in favour of the Bill and several of them desire compulsory registration. The suggestions made have been briefly referred to in the enclosed statement.

Names of representative Muhammadans and Muhammadan bodies consulted.	Their views.
Bandar division.	
1. Abd-ul-qadir Munshi Muhammad, Kazi of Masulipatam.	Want the Bill.
2. Mir Azim Ali, Secretary, Anjuman-E-Imanniah, in a meeting held at Masulipatam.	Do.
3. Mr. Muhammad Haidar Ali Sahib, Retired Police Inspector and Taluk Board Member, District Board Member and Honorary Magistrate, Masulipatam.	He is in favour of compulsory registration of marriages and divorces. He makes mention of qualifications for the Mussalman registrars.
4. Muhammadans of Masulipatam in a public meeting held on 26th November 1918 under the presidency of Muhammad Anwar-ud-din Sahib, Retired Tahsildar.	They are in favour of compulsory registration of marriages and divorces.
5. Another meeting on 18th December 1918 held by Muhammad Usman Sharif, Secretary of the Anjuman Nural Islam, Masulipatam.	Want the Bill.
6. Muhammad Wahhab Ali, unani doctor, Masulipatam.	He does not want any legislation.
Gudivāda division.	
7. Muhammadans of Kaikalur, one section	Want the Bill.
8. Do. another section	Do not want the Bill.
9. Muhammadan of Mallayapalem, Gudivāda taluk ..	Want the Bill.
10. Daggumilli Muhammadans (nine)	They are silent. They referred the matter to the Kazi at Kondapalli.
11. Kattavanichervu Muhammadans	Want the Bill.
12. Muhammad Akbar, Gudlavalleru, timber merchant..	Do.
13. Pamarru Muhammadans	Want the Bill. They wish to have a Muhammadan clerk in District Registrar's office.
Bhīmavaram division.	
14. Muhammadans of Akividu, one a Kazi named Haji Muhammad Talel-ud-din.	Want the Bill, but not as a compulsory measure.
15. Abd-ul-jalil Sahib, native of Bhīmavaram	He wants the Bill.

Narasapur division.	
16. Abd-ul-qadir Khan, Kazi of Narasapur	He wants compulsory legislation.
17. Attili Muhammadans	They want the Bill.
18. Mulaparru Mahammadans	Do.
Ellore division.	
19. Ellore Muhammadans	They want the Bill and propose Re. 1 and Rs. 2-4-0 as Kazi's conveyance charges for attending marriages at homes.
Bezwada division.	
20. Tiruvur Muhammadan, Muhammad Akbar Kazi ..	Want the Bill.
21. Vuyyuru leading Muhammadans	They want the compulsory legislation.
22. Mr. Abd-ul-sattar Bēg, Jaghirdar, Bezwada.. ..	He wants the Bill. He proposes that the new registrars should be known as Naibs and Kazis.
23. President, Young Men's Muhammadan Association, Bezwada, Muhammad Muhi-ud-din.	He wants the Bill. He proposes that the Inspector-General of Registration and District Registrars should have nothing to do with the Bill but only the Kazi and Nazimai Kazis should have their powers.
24. Abd-ur-rahman, Gannavaram on behalf of the Muhammadans, Gannavaram.	He wants the bill.

LXXXI

Letter—from Khan Bahadur S. M. V. Usman Sahib Bahadur, District Magistrate, Guntūr.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—the 22nd April 1919.
No.—D. Dis. 444-Magl.

With reference to Government Memorandum No. 1519-8, dated 12th October 1918, and in continuation of this office R.C. No. 2300-Mag., dated 28th March 1919, submitting report on the Bill for the registration of Mussalman marriages and divorces, I have the honour to submit a copy of the report received from Moulvi Muhammad Raza Sahib Belgami Bahadur, Government Kazi, Guntūr, containing his views on the matter.

2. Saiyid Qasim Sahib Bahadur, Inspector of Police, Vinukonda now working at Ongole, states that he has nothing to add to what he had already expressed.

Enclosures.

(1)

Letter—from Moulvi Muhammad Raza Sahib Belgami Bahadur, Government Kazi, Guntūr.
To—the District Magistrate, Guntūr.
Dated—the 2nd April 1919.

With reference to R.C. No. 2300 Magl. of 1918, regarding the Bill for the registration of Mussalman marriages and divorces, I beg to submit the following.

Before proceeding to the subject, I think it necessary to describe the position of a Kazi in Moslem society. At one time the Kazi was the chief civil and criminal authority. He was responsible for the civil and criminal administration of a given local area. It was left to his option to have as many deputies or naibs under him as he found necessary. He exercised every variety of executive power. In every religious affair it is his duty to issue fatwas or decisions.

With the change in Government, the Kazi's position has undergone a change. The Kazis Act of 1882 has deprived him of civil and magisterial powers. He has no executive power of any sort now.

Another sad effect of the time is that the Muhammadan religious law is hardly studied, and knowledge of Persian and Arabic languages has become rare. Thousands of Mussalmans can speak, read and write vernacular languages such as Tamil, Telugu, but not even one in ten thousand can speak, read and write Persian or Arabic.

In short the Kazi's position is most deplorable. The respect in which the position was once held, has considerably suffered. In almost every town there are factions opposed to the Kazi, and he is hardly cared for. Whatever may be the good wishes of the author of the Bill, the position of the Kazi will suffer still more, if the Bill becomes law. No doubt it is necessary to secure in the best way possible the evidence regarding marriages and divorces. If this can be effected with a little amendment of the Kazi Act, there will hardly be any necessity for a fresh legislation as is aimed at in the Bill.

The Bill as it is throws unnecessary burden on the Registration department. At the time of nikah some customary fees are paid to the Kazi and the Naib. According to the Bill extra fees will have to be borne under certain circumstances. There will be unnecessary interference on the part of the Registration department officers with the Mussalman Marriage Law, etc., when disputes arise.

Hence I recommend that the Bill may be dropped and the Kazi Act amended.

(2)

Letter—from Saiyid Qasim Sahib, Inspector of Police, Ongole.
To—the District Magistrate, Guntūr.
Dated—the 17th April 1919.

In obedience to R.C. No. 2300, dated 26th December 1918, regarding the Bill for the Mussalman marriages and divorces, I beg to report that I have nothing to add to what I have already reported on 23rd November 1918.

LXXXII

Memorial—from K. S. Muhammad Abd-ul-qadir Alim Sahib, President of the public meeting held in the big Jumma Masjid, in Koothanallur, Tanjore district.
To—His Excellency the Governor in Council.
Dated—the 9th April 1919.

The resolutions passed at a meeting of the public of this place held in the big Jumma Masjid here on the 28th of the last month are as follows.

The public of this place, besides unanimously opposing "the Mussalman Marriage Registration Bill" introduced into the Madras Legislative Council by the Hon'ble Mr. Yaqub Hasan beg to submit that the Bill is unnecessary and that the affair referred to therein, which is to be governed by religious laws, should not be linked with other things. Therefore the prayer most humbly submitted to His Excellency the Governor of Madras on behalf of the public of this place is: The Bill is one which is likely to cause inconvenience to Muhammadans in many ways. Further, the passing of this Bill will be deemed to be contrary to the promise given by our Queen Victoria that (there) will be no interference with the religious affairs of the Muhammadans. I therefore entreat that your Excellency may be graciously pleased to reject this Bill which is prejudicial to the interests of the Moslems and not to pass it.

LXXXIII

A resolution, based on Moslem Holy Law, passed against the Bill for the Voluntary Registration of Moslem Marriages and Divorces by the Managing Committee of the Religious Branch of the Anjumani Muhammadi.

A special meeting of the Managing Committee of the Religious branch of the Anjuman-i-Muhammadi was held under the presidency of Moulana Moulvi Haji Mufti Mahmud Sahib at its premises, Dewan Sahib's Gardens, Royapetta, in which the following resolutions were passed:—

(1) That last year the Hon'ble Mr. Yaqub Hasan Sait Sahib brought in a Bill for the voluntary registration of Moslem marriages and divorces owing to which a great agitation was created. Pamphlets and fatwas were issued against it and the Government was informed that the Bill was against the Moslem Holy Law. Now newspapers announce that the matter has again been moved. This has renewed the anxiety of Mussalmans. The attention of the Government is, therefore, invited to the said fatwa (religious decree) with a strong hope that the Government will, in pursuance of its non-intervention policy in religious matters, reject the Bill and thus remove the anxiety.

(2) That copies of the resolution may be submitted to the Government and every member of the Legislative Council.

Gulam Muhai-ud-din Moulvi,
Secretary, Religious Branch.

LXXXIV

Memorial—from Moulvi Shah Muhammad Kadir Hussain Sahib Kadari, No. 19, Ice House Road, Royapetta, Madras and others.
To—His Excellency the Governor of Madras.
Dated—the 6th April 1920.

May it please Your Excellency,—We the undersigned members of the Moslem community who being learned religiously and spiritually, are thoroughly acquainted with, and act according to, the Holy Law, beg to represent that last year the Hon'ble Mr. Yaqub Hasan Sait Sahib brought in a Bill for the registration of Moslem marriages and divorces against the Holy Law. When the orthodox portion of the community in the city and in the districts wrote to Government against it, only some Mussalmans of the commercial and official class, not fully acquainted with the tenets of Islam, supported him. The Bill was postponed.

Now the *Hindu* of the 10th instant reports that the Honourable Member has moved the matter again, and hence we take the liberty to represent to His Excellency the Governor in Council that the Honourable Member is a merchant belonging to the Sait community about which it is alleged that it is guided by the Hindu Law of partition. He knows little about religious laws and questions. He troubles and disturbs the Government unnecessarily. His statement that marriages and divorces are secular functions and not religious are entirely erroneous. Marriages and divorces are religious affairs. The Quran, the Traditions and Jurisprudence contain many arguments in connexion therewith. The celebrations of marriages, the effecting of divorces and the maintaining and safeguarding of the records—all these duties should be done by Mussalmans alone and not by non-Moslems. The Honourable Member has thus deceived ignorant Mussalmans and also the Government. We issued a pamphlet and a religious decree explaining matters connected with marriages and divorces for the benefit of Mussalmans in general, a copy of which has also been submitted to the Government. It seems that it has produced no effect on him and so being firm in his opinion he has created great anxiety for Mussalmans in general and for the orthodox section in particular.

We and other Moslem brethren, therefore, strongly hope that His Excellency the Governor in Council will kindly reject the Bill in pursuance of their non-intervention policy in matters of religion owing to which every community enjoys perfect freedom in religion. If on the other hand the Bill is passed, we declare openly, suspicion would be created as to that policy.

Order—No. 1076, Home (Miscellaneous), dated 11th June 1920

Recorded.

(True extract)

R. Ramachandra Rao,
Secretary to Government.

NOTES CONNECTED WITH G.O. No. 1076, HOME (MISCELLANEOUS), DATED 11TH JUNE 1920

[SUBJECT.—*Bill to provide for the Voluntary Registration of Mussalman Marriages and Divorces.*]

Previous papers :

G.O.	800, *Judicial*,	*20th May* 1899	*G.O.*	128, *Legislative*,	*23rd Sep.* 1916
,,	826 ,,	*5th June* 1901	*Letter*	61 ,,	*25th July* 1917
,,	910 ,,	*20th* ,, ,,	*G.O.*	357–58, *Home (Mis.)*,	*8th Apr.* 1918
,,	1807 ,,	*1st Dec.* 1902	,,	52, *Legislative*,	*2nd July* ,,
,,	504, *Public*,	*31st Mar.* 1915	,,	76 ,,	*14th Sep.* ,,
Letter	122, *Legislative*,	*28th Aug.* 1916			

HOME (MISCELLANEOUS) DEPARTMENT.

I

From the Government of India, Legislative Department, dated 9th May 1918.

Please see paragraph 2 of this department note on pages 2–3 of notes to G.O. Nos. 357-58, dated 8th April 1918. The telegraphic reply of the Government of India does not state definitely whether the Bill falls within the classes specified in section 79 (3) of the Government of India Act, 1915, or not. Apparently, the telegram amounts to a sanction, if any sanction were necessary under the section, and no further sanction seems required. The Legislative Department may now grant permission to move for leave to introduce the Bill. No further action is called for in this department, until the motion for leave to introduce it is carried in the Council (next meeting is expected to be at the end of July or in the beginning of August), and the Bill with its Statement of Objects and Reasons is published in the *Fort St. George Gazette* by Legislative under Rule 32 of the Council Rules. The suggested inquiry to the Bengal Government in regard to clause 10 of the Bill may be made after the motion to introduce it is accepted and the Bill is published. After the publication, the question of consulting any officers concerned, and if necessary of obtaining public opinion on the provisions of the Bill may also be taken up in this department.

The case may now be transferred to Legislative Department u.o. for necessary action.

M.D.R.—15–5–18.

P.DER.—18–5–18.

C. RAMANUJA ACHARIYAR—20–5–18.

The Government of India evidently contemplate the inquiry to Bengal before the introduction of the Bill.

Please draft.

R. RAMACHANDRA RAO—21–5–18.

Draft letter to the Chief Secretary of the Bengal Government is submitted.

M.D.R.—22–5–18.

P.DER.—23–5–18.

C.R.—28–5–18.

R.R.—29–5–18.

II

Letter No. 1519-1, *dated* 30*th May* 1918.

Demi-official—from L. BIRLEY, Esq., C.I.E., I.C.S., Secretary to the Government of Bengal, Revenue Department.
To—the Hon'ble Diwan Bahadur R. RAMACHANDRA RAO Avargal, Secretary to the Government of Madras, Home (Miscellaneous) Department.
Dated—Darjeeling, the 18th June 1918.
No.—51-T.R.

In continuation of my letter No. 617-T.R., dated the 18th June 1918, relating to section 10 (acceptance of gratuity by a Muhammadan registrar) of a Bill for the voluntary registration of Muhammadan Marriages and Divorces which it is intended to introduce in the Madras Legislative Council, I am desired to forward herewith a copy of the accompanying proceedings of this Government together with a copy of notification No. 4000-Regn., dated the 30th April 1918, publishing revised rules under the Bengal Act, I of 1876.

Registration A—Proceedings for November 1917, 1–4, (file 1-A/3 of 1916 and 1-A/1 of 1917).

I am to say that the notes on pages 5, 6, 9 and 11 of the proceedings explain the case. It is requested that they should be considered as privileged.

III

From the Secretary to the Government of Bengal, Revenue Department, dated 18th June 1918.

From a perusal of the papers forwarded by the Bengal Government, it will be seen that the provision in section 10 of Bengal Act, I of 1876, under which a Muhammadan marriage registrar is 'not prohibited from receiving' a gratuity voluntarily offered, has led to abuse in Bengal, and that attempts were even made to amend the Act by legislation. Reference is solicited to paragraph 4 (iii) of the letter of the Inspector-General of Registration of Bengal, submitting a draft Bill for the amendment of the Act, and the notes side-lined in pencil on pages 5, 6, 9, 11 and 12 of the proceedings. The reasons which then weighed with the Bengal Government against the amendment will be found set out in paragraph 5 of their resolution. In this connexion, they observed ". . . the present position is not unlike that which prevails in the Christian community when the bridegroom gives such fee to the officiating and registering clergymen as his own means can afford". It will, however, be observed that the Indian Christian Marriage Act, 1872, does not contain any provision for the acceptance of extra fee or gratuity. It is for consideration whether instead of combating the evil of the abuse of gratuities which, as is shown by experience in Bengal, follows closely upon the statutory permission to receive gratuities, it is not desirable to take steps for the omission of all mention of gratuity in the Bill if it should be finally approved, leaving it to the good sense of the Muhammadan community either to grant a gratuity or not according to the means of the parties concerned.

From Rule 25 of the rules issued under Bengal Act, I of 1876, it will be seen that Bengal Government have fixed the amount of gratuity that may be demanded by a Muhammadan marriage registrar to Rs. 3 plus a travelling allowance at the rate of three annas a mile.

M.D.R.—28-6-18.

P.DER.—5-7-18.

C. RAMANUJA ACHARIYAR—7-7-18.

We may take it that subject to the remark below India has no objection to leave being granted to the introduction of the Bill.

H.F.W.G.—10-7-18.

2. The only doubt is about clause 10 of the Bill declaring legal receipt of gratuities voluntarily paid. There was a similar provision in the Bengal Act of 1876. India suggested our inquiring how it worked there. Bengal has replied.

3. It is clear that the provision has been abused. When the Act came up for revision, the Inspector-General there, the Muhammadan Committee and the Honourable Member (Muhammadan) all were for repealing the section. But on the whole it was considered desirable not to repeal the provision already in the Act.

Yes.
H.F.W.G.—10-7-18.

4. The question before us is whether the Government should advise the Additional Honourable Member to omit clause 10.

For orders.

R. RAMACHANDRA RAO—9-7-18.

A draft letter to the Honourable Additional Member conveying the suggestion is submitted.

M.D.R.—15-7-18.
P.DER.—17-7-18.

C. RAMANUJA ACHARIYAR—18-7-18.
R.R.—19-7-18.

IV

From the Local and Municipal (Legislative), dated 24th June 1918.

[Letter No. 1519-2, dated 20th July 1918—V.]

VI

From the Hon'ble Mr. Yaqub Hasan, dated 6th August 1918.

The Additional Member accepts the suggestion to omit clause 10 of the Bill. The correction will be carried out in the revised copy of the Bill. The file may now be submitted to the Honourable Member for information.

M.D.R.—9-8-18.
P.DER.—9-8-18.

C.R.—9-8-18.

I have already mentioned this to Honourable Member.

To Honourable Member (in Madras) for use at the Legislative Council meeting. Meanwhile to Legislative for information and return.

R.R.—9-8-18.

LOCAL AND MUNICIPAL (LEGISLATIVE) DEPARTMENT.

Seen and returned with thanks.

R. A. GRAHAM—9-8-18.

Circulate to Honourable Member at Madras.

C.R.—9-8-18.

Leave to introduce was given at the Council meeting of 13th August 1918.

This is a Bill in regard to which it is of the greatest importance that Government should obtain the opinion of representative Muhammadan associations and individuals. I wish therefore that the Bill should be circulated to selected Anjumans, Ulemas and leading Muhammadans for an expression of their views. Hon'ble Mr. Aziz-ud-din may be asked for a list of persons, etc., who should be consulted.

H. F. W. G[ILLMAN]—13-8-18.

A draft demi-official is submitted.

J.P.—13-8-18.

C.R.—13-8-18.
R.R.—14-8-18.

Demi-official—from the Hon'ble Diwan Bahadur R. RAMACHANDRA RAO Avargal, Secretary to Government, Home (Miscellaneous) Department.
To—the Hon'ble M. AZIZ-UD-DIN HUSAIN Sahib Bahadur, Khan Bahadur, C.I.E., I.S.O.
Dated—the 14th August 1918.
No.—519-4.

With reference to the Bill of the Hon'ble Yaqub Hasan Sahib Bahadur to provide of the voluntary registration of Mussalman Marriages and Divorces, to introduce which permission was given at the Council meeting held on 13th August 1918, I am directed to state that

the Government consider it to be of the greatest importance that they should obtain the opinion of representative Muhammadan associations and individuals thereon and that the Bill should accordingly be circulated to selected Anjumans, Ulemas and leading Muhammadans for an expression of their views. I am to request that you will be so good as to furnish the Government with a list of persons and associations whom it would be profitable to consult.

We may remind Mr. Aziz-ud-din. The following draft is for approval:—

Demi-official—from the Hon'ble Diwan Bahadur R. RAMACHANDRA RAO Avargal, Secretary to Government, Home (Miscellaneous) Department.

To—the Hon'ble M. AZIZ-UD-DIN HUSAIN Sahib Bahadur, Khan Bahadur, C.I.E., I.S.O.

Dated—the 12th September 1918.

No.—1519-5.

I am to refer you to my demi-official No. 1519-4, dated 14th August 1918 regarding the Bill to provide for the voluntary registration of Mussalman Marriages and Divorces and to ask for an early reply.

VII

From the Local and Municipal (Legislative), G.O. No. 76, dated 14th September 1918.

The Bill has been published in the *Fort St. George Gazette* in English and the several vernaculars—vide G.O. No. 76, Local and Municipal (Legislative), dated 14th September 1918, now received. The Bill has now to be referred to the High Court and other departmental officers. Please see paragraph 2 of this department note on page 3 of notes to G.O. No. 76, Legislative, dated 14th September 1918. Mr. Aziz-ud-din's reply to the demi-official has not yet been received. Meanwhile, the question may be considered of referring the Bill to the High Court, etc. The Post Puberty Marriage Bill introduced by the Hon'ble Mr. Srinivasa Sastri in 1914 was referred to the High Court Judges, the Advocate-General and the Collectors of districts, in addition to prominent non-officials (G.O. No. 860, dated 3rd June 1915).

The present Bill may also be referred to these officers for opinion. It would appear desirable to consult Collectors, as the Bill affects the Muhammadan population of the several districts. Perhaps the Collectors of Ganjām, Vizagapatam, Gōdāvari, Chingleput, Coimbatore, The Nilgiris and Anjengo districts which contain a comparatively less number of Muhammadan population need not be consulted. The Collectors may be asked to obtain the views of representative Muhammadans in their districts.

Draft letter to the High Court and memorandum to the Advocate-General and Collectors are submitted.

M.D.R.—7-10-18.

P.DER.—9-10-18.

C. RAMANUJA ACHARIYAR—10-10-18.

All the Collectors may be consulted.

R. RAMACHANDRA RAO—10-10-18.

H. F. W. G[ILLMAN]—11-10-18.

(A telegraphic reminder may also be sent to the Hon'ble Mr. Aziz-ud-din.)

C.R.—10-10-18.

R.R.—10-10-18.

H. F. W. G[ILLMAN]—11-10-18.

[Telegram No. 498, dated 10th October 1918—**VIII.**]

Letter No. 1519-6, dated 12th October 1918—**IX.**]

[Letter No. 1519-7, dated 12th October 1918—**X.**]

[Official Memorandum No. 1519-8, dated 12th October 1918—**XI.**]

Demi-official—from M. AZIZ-UD-DIN HUSAIN SAHIB, C.I.E., I.S.O., Commissioner of Land Revenue.

To—the Hon'ble Diwan Bahadur R. RAMACHANDRA RAO Avargal, Secretary to Government, Home (Miscellaneous) Department.

Dated—the 14th October 1918.

I send herewith a list of the Mussalman Ulamas who may be consulted in connexion with Mussalman Marriage and Divorce Bill.

I regret the delay in furnishing Government with the list but until recently I was busy with the War Loan Propoganda and other special work.

List of Ulemas and Qazis, etc.

1. Janab Shumsul-Ulema Haji Qazi Obid-ul-lah Sahib Bahadur Government Qazi for the town of Madras, Mobrey's Road Royapetta, Madras.
2. ,, Moulavi Haji Mahmud Sahib, Professor, Arabic College, Madrasa-i-Muhamediah, Mobrey's Road, Royapetta, Madras.
3. ,, Moulavi Muhammad Ghouse Sahib, Professor, Arabic College, Madrasa-i-Muhamediah, Mobrey's Road, Royapetta, Madras.
4. ,, Moulavi Muhammad Habib-ul-lah Sahib, Diwan Sahib's garden, Royapetta, Madras.
5. ,, Moulavi Haji Abd-ur-Rahman Sahib, Diwan Sahib's garden, Royapetta, Madras.
6. ,, Saiyid Muhammad Abdul Qadir Sahib Bahadur, Editor, the *Mukhberi-Deccan* (Daily and Weekly), Peter's Road, Royapetta, Madras.
7. ,, Muhammad Abdul Latiff Sahib Bahadur, Editor, the *Jarida-i-Rozgar* (Daily and Weekly), Peter's Road, Royapetta, Madras.
8. ,, Moulavi Saiyid Shah Husain Sahib Qadiri, Priest of Carnatic family, Cutcherry Road, Mylapore, Madras.
9. ,, Moulavi Hakim Haji Saiyid Shah Muhammad Faqir-ud-din Sahib Naqavi-ul-Fakhri Sujjadah, Khankha-i-Fakhriah, 8, Arundel Road, Mylapore, Madras.
10. ,, Moulavi Tajammul-Husain, Khan Bahadur, Amir Mahal, Royapetta, Madras.
11. ,, Moulavi Haider Ali Sahib, Presidency College, Madras.
12. ,, Moulavi Haji Muhammad Tamim Sahib, Eadgah Mosque, Muttiyalpet, Madras.
13. ,, Qazi Muhammad Fasih-ud-din Sahib, Muttiyalpet, Georgetown, Madras.
14. ,, Moulavi Haji Muhammad Fazl-ul-lah Sahib, Godowns street, Madras.
15. ,, Shumsul-Ulema Moulavi Shah Zahid Husain Sahib Qadiri, Big Mosque compound, Triplicane, Madras.
16. ,, Moulavi Qudrath Halim Sahib Ansauri, Mirsapet, Royapetta, Madras.
17. ,, Moulavi Madar Sahib, Professor, Jamaliah Arabic College, Perambur, Madras.
18. ,, Moulavi Haji Ziya-ud-din Muhammad Sahib Bahadur, Angappa Naik street, Madras.
19. ,, Moulavi Haji Ghulam Mohi-ud-din Sahib, Librarian, Muhammadan Public Library, Wallaja Road, Triplicane, Madras.
20. ,, Moulavi Haji Saiyid Abd-ur-Rahman Sahib, Bazaar Road, Royapetta, Madras.
21. ,, Moulavi Muhammad Shab-ud-din Sahib, retired teacher, Madrasa-i-Azam, behind Wallajah Mosque, Mount Road, Madras.
22. ,, Moulavi Hakim Badr-ud-din Husain Sahib Safai, Veeraragava Mudali street, Triplicane, Madras.
23. ,, Moulavi Shah Qadir Husain Sahib, naib-Qazi, Mirsapet, Royapetta, Madras.
24. ,, Moulavi Hakim Saiyid Sah Valivullah Sahib Qadiri, Mosque street, Triplicane, Madras.
25. ,, Shamsul-Ulema Moulavi Saiyid Shah Abdul Latiff Sahib Qadiri Sujjadah, Hazrath Mackan, Vellore.
26. ,, Moulavi Abdul Jameel Sahib, Professor, Arabic Latifiah College, Vellore, North Arcot.
27. ,, Shumsul-Ulema Moulavi Haje Shah Abd-ul-wahab Sahib Qadiri, Principal, Abrabic College, Baqiyatus-Salaihath, Vellore.
28. ,, Moulavi Abdul Jabbar Sahib, Professor, Arabic College, Baqiyatus-Salaihath, Vellore.
29. ,, Moulavi Shaik Ali Sahib, Professor, Arabic College, Baqiyatus-Salaihath, Vellore.
30. ,, Qazi Hakim Muhammed Shariff Sahib, Government Qazi, Vellore, North Arcot district.
31. ,, Moulavi Saiyid Shah Husaini Peeran Sahib Qadiri, Hazrath Mackan, Vellore.
32. ,, Hajee S. A. K. Jeelani Sahib Bahadur, Government Qazi, Aushur Khana street, St. Thomas Mount (Chingleput district).
33. ,, Moulavi Muhammad Obid-ul-lah Sahib, Porto Novo (South Arcot district).
34. ,, Moulavi Muhammad Abd-ul-lah Sahib, President, Anjuman, Ahlai Hadis, Musapet, Cuddapah.

35. Janab Qazi Moulavi Saiyid Sahab Mustafa Sahib Qadiri, Government Qazi, Cuddapah town, Cuddapah.
36. ,, Qazi Nasir-uddin Ahmad Sahib Chidah, Government Qazi, North Palar, Chittoor.
37. ,, Moulavi Habib-ul-lah Sahib, Nellore.
38. ,, Ahmad Ali Sahib Junidi, Secretary, Muhammadan Educational Association, Fort, Salem.
39 ,, Khan Bahadur Muhammad Habib-ul-lah Sahib Bahadur, Municipal Chairman and President, District Board, Vellore.
40. ,, Moulavi Muhammad Badivuddin Sahib Dulvi Bahadur, Manager, Messrs. Parry & Co., Ranipettai, North Arcot district.
41. ,, Moulavi Saiyid Sahib Ahmad Sahib Qadiri, Priest, Arcot (North Arcot district).
42. ,, Moulavi Haji Abdul Majid Khan Sahib, Professor, Arabic College, High Road, Govindapur (North Arcot district).
43. ,, Moulavi Saiyid Shah Sultan Mohi-ud-din Sahib Qadiri, Secretary the Anjuman, Vaniyambadi (North Arcot district).
44. ,, Moulavi Qazi Haji Saiyid Sahab Abdul Gaffur Sahib Qadiri, Civil and Military Station, Bangalore.
45. ,, Moulavi Qazi Amjad Ibrahim Sahib, Qazi Mahallah, Madura.
46. ,, Moulavi Haji Faqir-ul-lah Sahib, Professor, Arabic College, Pernambat (North Arcot district).
47. ,, Moulavi Abdus Salam Sahib, Pernambat (North Arcot district).
48. ,, Moulavi Haji Abdul Halim Sahib, Pernambat (North Arcot district).
49. ,, Moulavi Hakim Abdul Qiyoom Sahib, Pernambat (North Arcot district).
50. ,, Qazi Muhammad Irtaza Ali Sahib Tamrial, Government Qazi, Weavers street, Tinnevelly.
51. ,, Moulavi Muhammad Sharfuddin Saheb, Professor, Arabic College, Mosque, Pettah (Tinnevelly district).
52. ,, Moulavi Qazi Abd-ur-rahim Sahib, Government Qazi, Kurnool.
53. ,, Qazi Bahavuddin Sahib Shakir, Government Qazi, Minambore (South Arcot district).
54. ,, Government Qazi Sahib, Rajahmundry.
55. ,, Do. Vizagapatam.
56. ,, Do. Berhampore (Ganjām district).
57. ,, Do. Chicacole (do.).
58. ,, Do. Coimbatore.
59. ,, Do. Cannanore.
60. ,, Do. Kasaragode (South Kanara).
61. ,, Do. Calicut (Malabar).
62. ,, Do. Palghat (do.).
63. ,, Sajjadah Nishin Baba Fakhr-ud-din Durgah, Penukonda, Aantapur district.
64. ,, Moulavi Saiyid Ahmad Husain Sahib 'Hoorsh', Sowcar Snid Mir Husain Sahib Bahadur, Chittoor, Chittoor district.
65. ,, Goverment Qazi Sahib, Tanjore.
66. ,, Qazi Saiyid Sahab Mustafa Sahib Qadiri, Government Qazi, Singara Tope street, Trichinopoly Fort.

The Hon'ble Mr. Aziz-ud-din forwards a list of 66 Muhammadan Ulemas and Qasis, etc., who may be consulted in connexion with the Bill. Their opinion may accordingly be obtained. Draft circular letter submitted.

M.D.R.—23-10-18.

P.DER.—23-10-18.

These requisitions may be sent through the Collector concerned. In Memorandum No. 1519-8, dated 12th October 1918, we have asked all Collectors to obtain the views of representative Muhammadans within their jurisdictions. They should therefore know to whom we are directly sending these requisitions.

C. RAMANUJA ACHARIYAR—24-10-18.

R. RAMACHANDRA RAO—25-10-18.

It will be better to send extracts from the list to the Collectors concerned and ask them to consult the persons named if this has not been done already.

H. F. W. G[ILLMAN]—25-10-18.

Revise draft.

R. RAMACHANDRA RAO—26-10-18.

Draft memorandum to the Collectors concerned advising them to consult the persons named is submitted. One of the persons mentioned in the list is in Bangalore—vide No. 44 in the list. A letter may perhaps be sent to him direct inviting his opinion. Draft letter also is submitted.

M.D.R.—30-10-18

P.DER.—1-11-18.

C. RAMANUJA ACHARIYAR—1-11-18.

Issue.

R. RAMACHANDRA RAO—1-11-18.

[Memorandum No. 1519-9, dated 4th November 1918—**XIII.**]

[Letter No. 1519-10, dated 4th November 1918—**XIII.**]

XIV

From the Government Solicitor, Madras, dated 28th October 1918.

XV

From the District Magistrate, Anjengo, dated 1st November 1918.

XVI

From the Registrar, High Court, dated 5th November 1918.

XVII

Demi-official—from the Hon'ble Mr. YAQUB HASAN SAHIB Bahadur, Additional Member of the Madras Legislative Council.
To—the Hon'ble MR. L. DAVIDSON, C.S.I., Member of Council.
Dated—the 9th November 1918.

With reference to my Bill to provide registration of Mussalman Marriages and Divorces, I understand that district Collectors are taking the opinion of Muslim associations and individuals about my Bill. I have myself as Secretary of the Muslim League, received a letter from the Collector of Madras, dated the 26th October (but delivered on the 7th instant) inviting my views on the same. I expected that this consultation would only begin after the publication of the Bill in the *Fort St. George Gazette* in all the languages mentioned in the G.O. No. 76 L. & M. (Legislative), dated the 14th September 1918. I found the Tamil version of the Bill in the Gazette of the 29th October, I concluded from this that the publication of the bill in the other languages will follow and I shall be supplied with copies in the usual course. But on inquiry yesterday I was astonished to learn from the Secretary, Legislative Department, that some translations have already been published in the Gazette of the 22nd and 29th ultimo of which no copies were sent to me, not even with the usual weekly copy of the Gazette and that the last translation in Malayalam has appeared in the Gazette of the 5th instant. I have asked the Secretary, Legislative Department, on the 30th ultimo to supply me with a number of copies in each language and I am still waiting for them.

2. A large majority of the members of Muslim associations and leading Mussalmans specially the Ulemas are ignorant of English, and it cannot be expected that they would appreciate the Bill, if English version of it alone is placed in their hands. Even the vernacular Bill is so couched in technical words and phraseology that ordinary laymen, whose knowledge of literary vernacular is generally limited and deficient, will find it difficult to understand without the help of an explanatory note in plain language. The Hindustani version is set in metal type to which Mussalmans are not used and even I find it difficult to decipher some words. Even the educated people who are well versed in English are able to judge a Bill only in the light of the criticism of it in the Council debates and the press. My community does not possess an English paper and the discussion of my Bill was not fully reported in the English press and only partly reported in one Hindustani paper. Now that the bill has been published in Hindustani, Tamil, Telugu, Malayalam and Kanarese languages the vernacular press will discuss it hereafter.

3. If the Government had also attached to the Bill the proceedings of the Council as far as they related to the debate on the Bill the people consulted in the matter would have been in a better position to form their judgment. I am getting the debate printed in English and the translation of my speech in Hindustani, Tamil and Malayalam. I should like to send copies of

these papers through the district Collectors to all the people who are being addressed by them on the subject. If any associations, Ulemas and other persons have been asked by the Government, in addition to those whom the Collectors in the usual course would address, to express their opinion I shall thank you to let me have a list of them. I shall be much obliged if you would be so good as to forward the copies of the debate in English and translation of my speech in vernaculars, copies of which I hope to send to you on Tuesday next, to the Collectors for distribution to the persons and associations to whom they are referring my Bill. I shall thank you to let me know the number of copies required for the purpose.

4. If you would kindly read my speech in the Council proceedings you will see that it makes out a case for the need of legislation and, when read with the Bill, it will help in the unbiased consideration of the matter. I therefore request you to provide facilities for placing this question before my community as fully as possible before it is asked to declare its attitude towards this Bill.

5. I propose to supply these papers to you in order to avoid delay; otherwise I would have begged you to have the proceedings of the debate in English and vernaculars printed and issued with the respective Bills as 'connected papers.'

Please see what can properly be done to meet the Hon'ble Yaqub Hasan's wishes.

I have acknowledged receipt and told him I don't know the stage reached, or whether Home or Legislative should take action and am therefore sending this note to the Secretariat.

L. D[AVIDSON]—10-11-18.

HOME DEPARTMENT.

The Additional Member wants the Government to forward copies of the Council Proceedings in English, and the translations of his speech in Hindustani, Tamil and Malayalam to all Collectors for distribution to the persons whom they are consulting on the Bill. It is for consideration whether it would be advisable for Government to comply with his request. Such a course may perhaps create an impression in the minds of the public that Government are favouring the Bill. Again, besides the 66 persons whose names were suggested by the Hon'ble Aziz-ud-din Sahib Bahadur, Government have no idea as to who will be consulted by Collectors. It would thus appear that it is not easy to let the Additional Member know the approximate number of copies of the proceedings and of the translation of his speech that will be required, without asking the Collectors themselves. He may perhaps be furnished with the names of 66 persons, leaving him to obtain the names of others from the Collectors of each district.

2. The file may go to Legislative Department u.o. with reference to paragraph 1 of the letter.

M.D.R.—11-11-18.

P.DE.R.—13-11-18.

I submit that there is obviously no objection to the papers referred to by the Honourable Additional Member being circulated. The Bill, which has been sent round, has appended to it a Statement of Objects and Reasons, framed by the Member; and his speech at the Council is apparently an elaborated edition of it. The proceedings of the meeting 'so far as they related to the debate on the Bill' should evidently include the speeches of the Hon'ble Mr. Aziz-ud-din which fully represented 'the other side' of the case. A circulation of these proceedings will only place before the officers consulted the full materials necessary to form a proper estimate of the provisions of the Bill.

We have on our list of selected Muhammadan associations and gentlemen 66, and we may send a copy each to the Collectors (25) or in all 91 copies. We may tell Mr. Yaqub Hasan that for the present and allowing a copy to each Collector, in addition to one to each of those selected for consultation, we will want 100 copies. Collectors may also be asked to apply directly to Mr. Yaqub Hasan or to us for any additional copies that may be required. Mr. Yaqub Hasan may also be informed of this.

C. RAMANUJA ACHARIYAR—14-11-18.

There are two requests in the Honourable Member's letter.

2. As evidenced by Mr. Aziz-ud-din's speech, Mr. Aziz-ud-din is likely to take a hostile attitude towards the Bill. Mr. Yaqub Hasan fears that one reason for the attitude is personal unpleasantness of feeling. He told me that he heard that some one, presumably on the advice of Mr. Aziz-ud-din, was going round amongst the selected individuals trying to induce them to give their opinions against the Bill. And considering the class of people who are consulted they are not likely to think (themselves) of arguments for. So Mr. Yaqub Hasan wants in his turn to start propaganda work on behalf of the Bill.

3. Mr. Yaqub Hasan Sahib wants first a list of the persons whom the Collectors have been specially asked to consult. He thinks that Government will attach special weight to their opinion and wants to present to them his side of the case. I see no harm in his having a list of those people with addresses. We may add that Collectors will probably invite the opinions of several others.

L.D.—15-11-18.

4. He next wants certain proceedings to be distributed *by Government* to Collectors for being sent round. I do not think that this is necessary. We may tell him that there is no objection in his sending any papers to Collectors for distribution and that the Collectors will probably distribute them amongst those whose opinions have been invited. A copy of this reply may go to all Collectors.

None. He may find out the number required by asking Collectors himself.

L.D.—15-11-18.

R. RAMACHANDRA RAO—14-11-18.

L. DAVIDSON—15-11-18.

Draft reply letter to the Additional Member is submitted.

M.D.R.—18-11-18.

P.DE.R.—19-11-18.

C. RAMANUJA ACHARIYAR—19-11-18.

R.R.—19-11-18.

Demi-official—from the Hon'ble Diwan Bahadur R. RAMACHANDRA RAO Avargal, Secretary to Government, Home (Miscellaneous) Department.

To—the Hon'ble Mr. YAQUB HASAN SAHIB Bahadur, Additional Member, Madras Legislative Council.

Dated—the 19th November 1918.

No.—1519-11.

With reference to your letter to the Hon'ble Mr. Davidson, dated the 9th November 1918, I am directed to append a list of persons who have been invited by the Government to express their opinion on the provisions of your Bill. The Collectors of districts to whom the Bill has been forwarded will no doubt obtain the views of several *other* representative Muhammadans also, but Government have no information at present who they are.

2. There is no objection to your sending copies of the Council Proceedings and vernacular translations of your speech to all Collectors for distribution to persons whom they consult. You can best ascertain the number of copies required for this purpose by yourself addressing the Collectors direct.

XVIII

From the Government Chief Qazi, Thousand Lights, dated 27th November 1918.

XIX

From the Anjuman-i-Islatul Muslimin, Mount Road, No. 20, *dated 29th November* 1918.

XX

From the Honorary Secretary to the Muthialpet Muslim Anjuman, dated 14th November 1918.

Proceedings of the First Anniversary of the Muslim League, Begampore, Dindigul, held on the 6th October 1918 at 10-30 a.m. under the presidency of the Hon'ble Nawab Mir Asad Ali Khan Bahadur, the Member of the Imperial Legislative Council, when the following resolutions were unanimously passed :—

* * * * * *

9. That this League accords its heartfelt support to the Bill to provide for the voluntary registration of marriages and divorces among Mussalmans, and hopes the Bill soon becomes law. (Proposed by Janab Moulvi Saiyid Murtuza Sahib Bahadur and seconded by Janab M. J. Muhammad Mira Sahib Bahadur.)

* * * * * *

Demi-official—from the Hon'ble YAQUB HASAN SAHIB Bahadur, Non-official Additional Member of the Madras, Legislative Council.

To—the Hon'ble Mr. RAMACHANDRA RAO Avargal, Secretary to Government, Home (Miscellaneous) Department.

Dated—13th February 1919.

In addition to the communications made to the Legislative Council by the Legislative Secretary on the 5th instant on my Bill for the registration of Muslim marriages and divorces, you must have received communications from the Collectors giving cover to the statements of opinion on my Bill by the Musalmans and associations consulted by them in their districts. I shall one day call at your office to read these opinions ; in the meantime I shall feel highly obliged if you would let me have a districtwar list of the persons, associations and meetings who have expressed opinion with a remark against each as to whether that opinion is in support of or opposition to the Bill.

The Hon'ble Mr. Yaqub Hasan saw me to-day in office. He wishes to have a copy of the opinions for detailed study.

2. I do not think it right to give him a copy of the reports of officials (vide, e.g., the opinion of the Collector of Madras). But I see no objection to a copy of the opinions of non-officials. Several of these have already appeared in the Press.

R. RAMACHANDRA RAO—21-2-19.

I am not prepared to give Mr. Yaqub Hasan advance information regarding the opinions furnished in response to Memorandum No. 1519-8, Home (Miscellaneous), dated 12th October 1918. They were invited in order to enable Government to decide what attitude to adopt, with regard to this private Bill, and until they have been considered by Government, they should not be made available either to supporters or to opponents of the Bill. We have nothing to do with what may have appeared in the Press ; or may do so in future.

L. D[AVIDSON]—25-2-19.

Draft demi-official submitted for approval.

R.D.M.—27-2-19.

P.DE.R.—1-3-19.

C. RAMANUJA ACHARIYAR—1-3-19.

R.R.—3-3-19.

The following is the table of contents of the further notes :—

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Tabular statement of opinions.

I. Section.—Precis of opinions in favour of the Bill 11-14
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VII.—Other suggestions regarding details of Bill 18-21

A tabular statement of opinions received showing the number of persons for and against the Bill will be found below. * Appendices I and II contain the names of all persons whose opinions have been received and their attitude towards the Bill :—

* Not printed.

Tabular statement of opinions received showing the number for and against the Bill.

By whom consulted.	Total number.	Number for.	Number against.
Persons consulted.			
1. By Government	9	7	2
2. Opinions of Collectors	26	10*	†5 (11 have not expressed any opinion.)
Persons consulted.			
3. By Collector of Kurnool	Number not specified—all in favour.		
4. By * Collector of Tinnevelly	11	8	3
5. By * Collector of Ganjam	4	2	2
6. By † Collector of Malabar	17	8	9
7. By * Collector of Anantapur	12	8	4
8. By † Collector of Madras	39	7	32
9. By * Collector of South Arcot	7	7	Nil.
10. By * Collector of Nellore	9	9	Nil.
11. By Collector of Godavari	5	4	1
12. By Collector of Madura	4	3	1
13. By Collector of Chittoor	8	6	2
14. By Collector of Chingleput	Number not specified—majority in favour.		
15. By * Collector of Salem	11	10	1
16. By † Collector of Tanjore	6	3	3
17. By Collector of Ramnad	3	1	2
18. By † Collector of Bellary	7	6	1
19. By * Collector of Cuddapah	12	8	4
20. By Collector of North Arcot	17	4	13
21. By Collector of the Nilgiris	5	2	3
22. By Collector of Trichinopoly	7	6	1
23. By * Collector of South Kanara	9	9	Nil.
24. By * Collector of Coimbatore	30	18	12
25. By * Collector of Vizagapatam	Number not specified—majority against.		
26. By † Collector of Guntur	9	8	1
27. By Collector of Kistna	24	22	2
28. Those who have voluntarily expressed their opinions.	84	55	29
Total	375	231	133

I. The following is a precis of the opinions received from some of the more important gentlemen who are in favour of the Bill :—

The Hon'ble Mr. Justice Kumaraswami Sastri.—The Bill, which is purely voluntary and which offends against no principle of Muhammadan law, is a step in the right direction and its provisions will tend to check litigation.

President, Public meeting, Nellore.—The present system of maintaining records of Mussalman marriages and divorces is extremely unsatisfactory; the proposed Bill is both necessary and timely.

President, Anjuman Islamia, Coimbatore.—The complete absence of control over the Kazis have led to great scandal in registration of marriages, etc. The need for public registration is therefore absolutely necessary.

C. C. O. Alipi Sahib Bahadur, District Munsif, Chowghat.—The proposed Bill is most essential in the interests of the well-being of the Mussalmans of this Presidency. In many cases unscrupulous men have avoided their legal liability to maintain their wives and children by a denial of the factum of marriage when the latter were unable to establish their case by good evidence.

Every attempt should be made to make the procedure of registration as simple as possible.

The Mahadunn Thangal, Ponnani.—The present unregulated system gives rise to unnecessary disputes as to the validity of marriages. Persons having no religious status and learning are now consecrating marriages which is highly objectionable (to Muhammadanism). The proposed Bill is therefore very necessary.

Collector of South Arcot.—The passing of the Bill will considerably reduce the difficulties in the administration of justice in disputed cases and set right the present unsatisfactory system of keeping records by ignorant Kazis or their agents. The measure will obviate false evidence and false records prepared by self-appointed Kazis and encourage uniformity of practice stimulating the community to make these functions regular.

M. Muhammad Hussain Sahib Bahadur, Registrar of South Arcot.—The exercise of powers by the Kazis and their agents without any checks imposed on them, not to speak of the endless disputes consequent on the solemnization of marriages by persons without the least shred of authority calls loudly for amendment. The system of recording marriages and divorces on slips of paper has given rise to abuses of a grave nature. The proposed Bill is therefore necessary.

Saiyid Ismail Albeez, retired Government Officer, Cuddalore.—It is absolutely necessary to take steps for the better preservation of Kazi's registers, especially in cases where some of the registers are lost or the witnesses to a marriage are no more and the parties find it very difficult to prove the factum of marriage or divorce and the mahar amount, etc.

Khan Sahib Muhammad Fazl-ul-lah Sahib Bahadur, Deputy Collector, Polavaram.—The present system of the registration of marriages and divorces is, from the irresponsible manner in which it has been left to drift, capable of abuses of a grave nature. The proposed Bill is calculated to provide a safeguard against interference with the conjugal rights of at least such of the community as would choose to profit by it.

Kaji Saiyid Batcha Sahib Bahadur, Harur.—The proposed Bill will put down all litigation which now arise out of the malpractices of unscrupulous persons in matters of marriage.

M. Tamiz-ud-din Sahib Bahadur, Divisional Officer, Usilampatti.—The introduction of an enactment of the kind proposed will be the first step towards setting at rest unnecessary litigation about 'Mahar' to some extent and towards observing a uniformity of procedure in the registration of marriages and divorces. There is a growing necessity for maintaining a permanent record of marriages in view of the fact that in civil suits importance is attached more to evidence of a documentary nature than to parol evidence which latter is not always reliable. Divorces also should be registered.

Nasir-ud-din Ahmad Sahib Cheeda, Government Kazi, Chittoor.—Feels sure that the proposed Bill will act as a very strong safeguard against the evil practices of some self-created Kazis and others. It will act as a deterrent to mischievous persons and protect honest and simple minded Mussalmans from the snares of evildoers.

Saiyid Ahmad Badsha Sahib Bahadur, Revenue Divisional Officer, Chittoor.—The present system of maintaining records of marriages and divorces is defective and gives room for grave abuses and malpractices. Those who oppose the Bill have not adduced any valid ground. They bring in religion as an excuse and appeal to Government to maintain its policy of non-interference.

Muhammad Naimur Rahman, Professor of Arabic, Muhammadan College, Madras.—Has had occasion to hear of numerous sad stories of the abuse of the sacred rite of marriage and how people have succeeded in subverting the principles of religion, law and custom to gain their own ends.

Saiyid Ghulam Hussain, L.M.S., Villupuram.—The proposed enactment is most urgently needed to put down the grave abuses that exist for want of a proper system of maintaining records of Muslim marriages and divorces.

U. A. Abdur Rahim Sahib, Treasury Deputy Collector, Salem.—The Bill is a long-felt want in the social life of the community and is sure to put a stop to many abuses that have crept therein. He is of opinion that the Bill is indispensable for the good of the community and the fair name of Islam. For want of a proper system of registration of marriages and divorces men are afforded opportunities of committing frauds which lead to grave consequences: the present Bill is sure to put a check on such unscrupulous solemnizers and will tend to minimise unnecessary and scandalous litigation.

Muhammad Munir Khan Sahib, Divisional Officer, Salem.—There can be no doubt that the present method of registration gives room for malpractices, promotes litigation and causes failure of justice. Very often disputes arise as to the amount of Mahar fixed at the time of marriage. The Kazi, if he is dishonest, will feel

no difficulty in making any entry he likes in the so-called register which he maintains. Depending mostly on such entries, people resort to courts. But for the possibility of getting such false entries made several Muhammadan families would have been saved costly litigation and ultimate ruin. Cases arise where the validity of a marriage itself is questioned in a court of law. In such cases also the Kazis play an important part. An unscrupulous man does not hesitate to make any entry he likes and this leads to much litigation. All Muhammadans know the difficulties under which they labour and are in favour of introducing some system by which the present abuses can be avoided.

Saduk Azam Sahib, B.A., Tanjore.—It is needless to question the usefulness of the proposed legislation as it is extremely necessary to check the abuses which do not always come to light. Some Mussalmans do not appear to be keen observers of such social abuses which in fact do exist. He realises the need for the proposed enactment, inasmuch as it systematises the institution of Muslim marriages and divorces and serves as a check to malpractices, such as false claiming of Mahar and the denial of the shares of wives and children in secret marriages.

Munshi Muhammad Hussain Sahib Bahadur, Bellary.—Roshan Hussain Sahib Bahadur, Adoni.—The records or registers of marriages and divorces now maintained by Kazis or naib Kazis are very unsatisfactory and sometimes unreliable and give rise to abuses of various kinds. The proposed legislation gives a basis for the validity of marriages and divorces for want of which several Mussalman families are being ruined at present.

Collector of Cuddapah.—Provision is considered necessary by enlightened Muhammadans against the malpractices due to want of control over the registration as it is at present.

Saiyid Ahmad Bagdadi-ul-Qadiri Sahib, Government Kazi, Ootacamund.—He considers the early passing of the Bill most desirable as the salutary provisions contained in it have the sanction of the Moslem religious books and will supply a much felt want. The provisions of the proposed Bill are necessary to check unauthorized and irresponsible persons from committing fraud and malpractices.

Muhammad Abu Bahar Faqir-ud-din Ahmad Sahib, Kazi of Madras.—Cases of sham marriages and divorces are sometimes brought to civil and criminal courts for trial. If these evils are allowed to exist, shame and ignominy will be the result and the community will lose its prestige and estimation in the eyes of other communities. The provisions of the proposed Bill do not give any loop-hole for the fabrication of false records of marriages or divorces.

A. Ahmad Sahib, B.A., Sub-Assistant Inspector of Schools.—The Bill undoubtedly provides a system of registration calculated to safeguard Mussalman interests and to put an end to many malpractices that are now prevalent under the present defective method of maintaining records of marriages.

Views of the leading Muhammadans of Karkal, South Kanara.—An enactment for the registration of Mussalman marriages and divorces is a necessity which has long been felt and is therefore highly desirable. The evils attending the present system which is growing apace will be mitigated. The present system is open to malpractices which it is difficult to check. The proposed enactment will prevent all such abuses.

Collector of Coimbatore.—The Muhammadan community in general is alive to the grave abuses of the prevailing system and there is evidence of a general desire among its members for some reform.

V. K. Sinna Saiyid Ravuttar, Vakil, Udamalpet and Khan Sahib Abdur Razak Sahib, Udamalpet.—A variety of circumstances have led to the abuses which the Bill tries to prevent in future. The complete absence of control over the Kazis, their poverty which makes them dance to the tunes of rival factions in villages, and other such causes have led to a great scandal in the registration of marriages, etc.

Janab Muhammad Imam Muhi-ud-din Sahib Bahadur, Taluk Magistrate, Gurizala.—The existing system of registration is very loose and unsystematic and many Mussalman families are ruined thereby. There is every reason to believe that the proposed Bill will remove the evils of the present system.

Secretary, Anjuman Islamia, Guntur.—The present system of keeping records is so shabby and useless that it does more harm than good to either party inasmuch as the records are capable of being tampered with in any way as either party may like.

Saiyid Kasim Sahib, Inspector of Police, Vinukonda.—At present, the names of the contracting parties, the amount of the mahar are noted on slips of paper at the time of marriage and the entries in the Kazis' registers are made from these slips. These entries are very often incorrect. To provide against such irregularities an Act of the nature proposed is quite necessary.

II. Some of the persons consulted, while convinced of the necessity for reform in the existing system, consider that it is sufficient if the existing Kazi Act be suitably amended. Their opinions are extracted below :—

Khan Bahadur S. M. V. Usman Sahib Bahadur, District Magistrate, Guntur.—" The chief aim of the Bill is the preservation of the terms of marriage contract and not so much its factum nor of divorce or its terms. The marriage itself is not disputed in many cases. Muhammadan marriages are generally registered by Kazis and other persons who solemnize them. To prevent their records being subsequently tampered with or secreted, it is sufficient to make due provision for their preservation. That can be done by amending the Kazi Act XII of 1880, making it incumbent on a Government Kazi or his deputy to attend marriages, if invited, and maintain a register of marriages in a prescribed form." Since the Bengal Act does not work satisfactorily he says that it is not a fit measure to be experimented upon in this Presidency where the Mussalmans are less enlightened.

The views regarding the amendment of the Kazis Act are also shared by the Hon'ble Khan Bahadur Ahmad Thambi Marakkayar and Khan Sahib P. A. Ammo Sahib Bahadur, Deputy Collector, Calicut.

Mr. Usman Sahib is also against the registration of divorces because the parties to the divorce naturally take special care to create private record of the fact.

III. The chief objections of those who oppose the Bill are given below :—

Muhammad Fazul-ud-din Sahib Bahadur, B.A., B.L., Subordinate and Assistant Sessions Judge, Tinnevelly.—(1) The Bill instead of aiming at the abolition or rectification of the loose forms of registers maintained by Kazis, will perpetuate it by creating a second voluntary registration. The Bill will lead to double registration and thus create confusion and embarrassment.

(2) Great inconvenience will be felt by the parties in complying with the provisions of the Bill. Unless the parties to the marriage, their agents, etc., happen to belong to the same locality, it will be difficult to bring them all together for the purposes of sections 8-10 of the Bill.

(3) The Bengal Act of 1876 does not work well in Bengal where the Muhammadans are of better culture and enlightenment; much less will it work in this Presidency.

(4) *Khan Sahib P. Koonjayan Sahib Bahadur, retired Deputy Collector, Mahe.* There is no demand for the proposed legislation: if parties desire to secure documentary evidence of marriages and divorces they can easily draw up a simple form of document and have it registered with very little expense and trouble and this will be far better than any record maintained by an uneducated and apparently irresponsible Registrar created by the Act.

(5) *Mr. A. R. Loftus-Tottenham, Collector of Madras.*—Whatever the evils may be that it is intended to remove (and Mr. Yakub Hasan's statement of objects and reasons is silent on this essential point) they only concern the Muhammadan community and no one else; and if that community acquiesce in them, clearly Government may do so too. As a matter of policy it seems highly undesirable to do gratuitously anything that may create unrest among Muhammadans at the present time.

(6) *Muhammad Usman Sahib Bahadur, B.A., Honorary Secretary, Muthialpet Moslem Anjuman, Madras.*—The passing of the Bill will be viewed with indignation as the introduction of the thin end of the wedge calculated to bring about the degradation of the very authority of the prophet as the sole legislator for Muhammadans in matters social and religious.

(7) *M. Hussain Mian Sahib Bahadur, Madras.*—The proposed Bill brings into contempt the simple procedure laid down by the prophet in connexion with marriages and divorces by giving a higher legal status to the proposed legislation.

(8) *Haji Muhammad Hanif Sahib, Khan Bahadur, Zamindar of Karingali.*—The Bill is contrary to Muhammadan law and the passing of it will lead to serious difficulties and inconveniences.

(9) *H. G. Gharpurey, Esq., Acting Collector of Cuddapah.*—The Bill, if passed into law, might be a source of great future trouble, involving as it does, the interference of the State in matters which are essentially social and governed by religious sentiment. [Against this, many Muhammadans (including Kazis) have expressed the opinion that the proposed enactment is not against Islamic law, nor is it an interference on the part of Government, for Muhammadan marriage is only a civil contract.]

(10) *Collector of Anantapur.*—The passing of the Bill will mean the employment of a large number of paid Kazis and Naibs and this will tell upon the purses of Muhammadans who are as a class poor.

(11) *The Hon'ble Mr. A. T. G. M. Ahmad Thambi Marakkayar, Khan Bahadur.*—Unless registration is made compulsory, there is no use. The Bill is merely a permissive measure and as such is not calculated to produce the desired effects.

IV. Of those consulted some desire that registration should be compulsory while others that it should be optional. Their opinions are extracted below :—

Mr. Yakub Hasan thinks that in the present state of society it will be too much of a drastic reform to jump from the present loose system of keeping records of marriages and divorces to a compulsory system of registration. As marriages in this Presidency are performed as a rule by certain functionaries, and seldom by private persons, and as all these functionaries will obtain licences and become Muslim Registrars under the proposed Act, he thinks that practically all marriages will come to be registered in the ordinary course.

Mr. Ahmad Tambi Marakkayar is of opinion that it is necessary to penalize the parties for neglect to register marriages without at the same time making such marriages invalid for want of registration. Penalizing parties for neglecting to register marriages without rendering the marriages void for registration is, he thinks, the only way by which the corrupt practices now prevailing could be checked.

The Advocate-General.—Is of opinion that a system of compulsory registration is necessary. In the absence of any statutory provision making registration compulsory, Indian Courts, in case of a dispute as to the factum of a marriage, are usually left to discover, or attempt to discover, the truth from a mass of conflicting and often very unsatisfactory evidence of witnesses. The Bill merely reproduces the provisions of Bengal Act of 1876 and it is not desirable to enact a law like this in Madras 40 years after the Bengal enactment.

The Hon'ble Mr. Justice Sadasiva Ayyar wants compulsory registration at least as regards marriages taking place in municipalities and in towns where there are Registrars' offices established for the purpose.

The Hon'ble Mr. Justice Coutts-Trotter.—Regards registration as of little value unless made compulsory.

President, Public meeting of Mussalmans, Nellore.—Registration should be made compulsory, compulsion being enforced on pain of inadmissibility of unregistered marriages and divorces in evidence and also of a moderate penalty.

President, Anjuman Islamia, Coimbatore.—Is of opinion that registration must for some time be left to the willingness of the community as the masses are not so far advanced as to appreciate the motives of the legislators. Neither is the element of compulsion or of punishment in default called for.

P. N. Muhammad Miran Sahib, Deputy Collector.—The introduction of compulsory registration is opposed to the spirit of Muhammadan law of marriages and divorces. However, to render the proposed measure effective it is necessary to penalize the parties for neglect to register without at the same time making them invalid for want of registration.

Muhammad Ghouse Sahib Bahadur, Treasury Deputy Collector.—The Bill is an improvement on the existing state of things, but it will be a dead letter and will fail to bring about the desired effect, unless and until a provision is made therein making registration compulsory. But to provide that all Muhammadan marriages and divorces should be registered to make them valid is certainly opposed to the spirit of Muhammadan Law. An element of compulsion, such as penalizing the parties and their lawful guardians, should be introduced without at the same time rendering a marriage or a divorce void for want of registration.

Khan Bahadur Chekkutty Sahib Bahadur, Retired Inspector of Police, Manjeri.—The Bill provides only for voluntary registration and even if carried into law will practically be infructuous without compulsory registration. The case of the Malabar Marriage Bill is an instance in point. The Government wedded as they are to religious neutrality, may not make the Bill compulsory against the wishes of the people, but unless this is done, no useful purpose will be observed.

Khan Sahib P. Koonjayan Sahib Bahadur, Retired Deputy Collector.—In order effectively to guard against abuses nothing short of compulsory registration will be of any use. To think of enacting a law for compulsory registration at the present stage of secular education among the community is quite out of the question.

Collector of South Arcot.—The passing of the Bill as a purely permissive piece of legislation is greatly welcomed by the whole community, as it will considerably reduce the difficulties in the administration of justice in disputed cases and set right the present unsatisfactory system of keeping records.

M. Muhammad Hussain Sahib Bahadur, Registrar of South Arcot.—The necessity for legislation has already been acknowledged by such eminent jurists as Sir Ronald Wilson and Mr. Amir Ali. According to these authorities, compulsory registration would alone put a stop to the abuses of the present system; but caution is needed all the same, in view of the social aspects of the question involved. An optional measure will, on the other hand, serve to cover the transitional period necessary to reconcile the vested interests to a compulsory measure if and when it comes; but the latter task had best be left to the Government of India so that it may introduce a measure which would apply to the whole of India.

Haji Muhammad Habib-ul-lah Sahib, Nellore.—Registration should be made compulsory, the compulsion being enforced on pain of inadmissibility of unregistered marriages and divorces in evidence and also of a moderate penalty.

Yahya Ali, M.A., B.L., Vakil, Nellore.—I would wish registration to be compulsory, as I fear a voluntary system will prove practically a dead letter.

S. Ahmad Ali Sahib Bahadur, Revenue Divisional Officer.—It would have been more desirable to make registration of marriages and divorces compulsory, but it is feared that such a measure would encounter fierce opposition in certain quarters, where members of the community have not attained that breadth of vision which alone would enable them to welcome this salutary reform. The voluntary nature of the Bill has the double advantage of safeguarding the interests of those who want them to be safeguarded, and at the same time of not offending the susceptibilities of such ultra-orthodox members of the community, who are prepared to take the risks involved in the promiscuous form of registry now in vogue.

Collector of Tanjore.—The Bill is quite useless. It will not remedy the abuses complained of, for those who wish to misbehave will clearly not have their marriages or divorces registered. There is clearly no unanimity of opinion in regard to the matter and the Bill, if passed into law, is likely to remain a dead letter for a good many years.

Hajee Ahmad Sahib Bahadur, Bellary.—Considers that registration will not be necessary if at the time of the marriage settlement of 'mahar,' a deed of settlement is drawn up and registered. Such a deed, he considers, will obviate litigation and will also serve as a proof of marriage.

Muhammadans of Karkal, South Kanara.—If registration is permissive, no good will come out of it. Unless it is made compulsory no benefit will accrue, because no marriage would be invalid for want of registration. The compulsory

character of registration would give better status to the function and its validity would be assured: it will have far reaching significance, without entrenching on religious and social susceptibilities.

Collector of Coimbatore.—Permissive as registration is under the proposed law, its promoters are too sanguine about the benefits that will flow from it. At the same time, any law which seeks to make registration compulsory will be met with very serious opposition from the community as a whole as against the genius of the Law of Islam.

U. K. Sinna Saiyid Ravuttar, Vakil, Udamalpet.—Registration must for some time more be left to the option of the community, as the masses are not advanced so far as to welcome the remedy without misunderstanding the motives of the legislators. In the course of a few years the Mussalman public will reject the old system and take to the new one whole-heartedly, when the Government or the Muslim leaders may try to make registration compulsory. For these reasons he does not agree with the proposal of the Hon'ble Khan Bahadur Ahmad Tambi Marakkayar that registration should be compulsory. He does not also share his fears that the Bill will be of no use without the element of compulsion and of punishment in default. Government cannot take the full or initial responsibility of effecting improvement in the internal socio-religious conditions of any community. Nor can the Acts of any legislative body, however stringent its provisions are, lift the masses out of their ignorance without subjecting the legislature to a vast amount of suspicion and of misguided opposition.

V. To sum up.

The Hon'ble the Advocate-General, though convinced of the necessity for some such legislation as the proposed Bill, is not in favour of it in its present form. The High Court generally is in agreement, though it suggests some modifications.

Of the leading Mussalmans consulted by Collectors, the Muhammadans in 17 districts are in favour, in 7 districts they are against the Bill: in the remaining two, opinion is divided in The Nilgiris, while, from Anjengo, there is no opinion.

Of the persons and bodies who have volunteered their opinions, 29 are against the Bill, 55 in favour of it.

On the whole, the general opinion of the Muhammadan community seems to be in favour of the Bill. Many of the opposers are Moulvis, who are under the apprehension that it will adversely affect their interests.

As one of the principal objections to the Bill is based on the assumption that Bengal Act I of 1876 does not work well in that Presidency, it is for consideration if the Bengal Government should be asked how far this assumption is correct. Attention is in this connexion invited to paragraph 2 of Bengal Government's Resolution on page 2, current file, from which it appears that, since the passing of the Act there, the Bengal Government have from time to time instituted inquiries as to the causes which hinder the extension of the practice of registering Muhammadan marriages and divorces, and though various proposals for amendment were considered, the law remains as it was enacted in 1876. As to the progress which has been made in attaining the purpose of the Act, please see paragraph 9 of the Resolution on page 4, current file. In the Dacca Division, where the Act is of primary importance, there has been a steady and substantial progress which points to the expediency of adhering to the policy of patience in awaiting improvement. This policy was adopted by the Bengal Government in the early period when the Act was generally considered to be a failure.

VI. *The attitude that should be adopted by Government with regard to the proposed Bill.*—In October 1900 some of the Muhammadans of Triplicane petitioned Government to amend the Kazi Act XII of 1880 so as to provide that Kazis shall enter all marriages solemnized by them in a register to be maintained in a prescribed form, and that no entries in such registers shall be accepted as evidence in Courts unless they are authenticated by the signature of the husband, wife and witnesses (vide page 2 of G.O. No. 826, Judicial, dated 5th June 1901). The Government thereupon referred the matter to all the Collectors requesting them to ascertain and report to Government the opinion held by the leading Muhammadans in their

districts. The Judges of the High Court were also asked to favour Government with their opinion as regards the extent of the litigation consequent on the non-registration of Muhammadan marriages—vide G.O. No. 826, Judicial, dated 5th June 1901.

2. After due consideration of all the opinions thus elicited, Government decided to drop the matter until there was a more pronounced and unanimous demand for legislation than there was then or until a lead was given by some of the provinces where the population contains a larger proportion of Muhammadans (vide G.O. No. 1807, Judicial, dated 1st December 1902). Attention is in this connexion invited to the remarks of Lord Ampthill, the then Governor, on page 8 of the notes to G.O. No. 1807, dated 1st December 1902, where he stated that "any further initiation must come from the Muhammadans themselves and they must be of one mind about it."

With regard to the Hindu Marriages Validity Bill, introduced by the Hon'ble Mr. Patel in the Imperial Legislative Council, this Government was of opinion, that the best course was to leave the Bill to be dealt with by the enlarged Council with an increased non official element, which may come into existence under the impending Reform Scheme especially as it was not claimed for the Bill that it was an urgent piece of legislation that could not wait for a few years [G.O. No. 664, Home (Miscellaneous), dated 30th March 1919]. It is for consideration whether the same attitude may not be taken up by Government with regard to the present Bill also.

3. After Government have settled their attitude towards the Bill, the Government of India will have to be addressed with reference to Rule 10 (3) of the revised "Instructions to Local Governments regarding legislation in Local Councils" forming enclosure (2) to the Government of India letter No. 1473, dated 5th June 1918, recorded in G.O. No. 52, Local and Municipal (Legislative), dated 2nd July 1918. Please see in this connexion paragraph 2, sub-paragraph (3) of the Government of India letter No. 1475, dated 20th May 1919, which lays stress on the importance of the Local Government submitting its report as to the policy of a non-official member's Bill and *the attitude which it is proposed to adopt towards it*, "*without delay* (printed on page 2 of G.O. No. 75, Local and Municipal, dated 25th June 1919)."

VII.—The following remarks and suggestions on the detailed *provisions of the Bill* have been made for the consideration of Government :—

(1) *Section* 3 *Grant of licences to register marriages and divorces.*

Haji Muhammad Habib-ul-lah Sahib Bahadur of Nellore is of opinion that licences should be granted not to any person who applies for the same, but only to Kazis appointed under the Kazis Act XII of 1880, and where there is no such Kazi, to such persons as shall be appointed to such area by the Governor in Council.

The President, Anjumane Islamia, Coimbatore, is in favour of appointing more than one person to register marriages in any locality. He is also in favour of licensing Pesh Imams of mosques as they perform marriages and are generally resorted to by the intelligent portion of the community. The Anjumani Ahlai Hadis is, however, of opinion that a Kazi should be appointed from the members of the existing Kazi family and only persons who are well educated, learned in Arabic and who have passed the Kazis' test, should be appointed. It is also suggested that Kazis and Pesh Imams should be appointed by Government in consultation with the leading Muhammadans of the respective locality and that provision should be made for the determination of qualifications required from persons to be appointed as Moslem Registrars by a Moslem body consisting only of Ulemas approved by the Moslem public.

The Revenue Divisional Officer, Erode, says that there are in many places cliques (pertaining to Kazis) among the Muhammadans. If licence to register marriages and divorces be not granted to any other person except the Kazi and his Naib, it will cause great injustice to the party or clique that does not stand in the good graces of the Kazi. It will also tend to intensify the animosity on both sides and give rise to great many intrigues.

(2) *Section* 4—*Seal of the Moslem Registrar.*

The Hon'ble Mr. Justice Spencer.—For the purpose of easily identifying the origin of marriage certificates of persons who do not know Persian, the name and place of the Registrar's office should be inscribed also in English and in the vernacular of the district.

Mr. Abdullah Moulvi, Manjeri.—The inscription on the seal should be either in Arabic or in the vernacular spoken in the locality.

C. C. O. Alipi Sahib Bahadur.—The seal should be in Arabic, not Persian, as there are more Muhammadans who know Arabic than Persian.

(3) *Section* 6—*Moslem Registrars to keep registers.*

The Hon'ble Mr. Justice Spencer.—The Bill does not state in what language the registers are to be kept. This should be made clear.

(4) *Section* 8—*Applications for registration.*

(*a*) *Hon'ble Mr. Justice Seshagiri Ayyar.*—Section 8 says that the application "shall be made to the Registrar orally". It should be made clear so as not to exclude written applications.

Abdulla Khan Sahib Ghori, Vakil, Tinnevelly.—Written applications also should be allowed and, in case of refusal, the Registrar must give his grounds for refusal.

(*b*) *Hon'ble Mr. Justice Kumaraswami Sastri.*—The words "duly authorized" should be explained. The authority should be by a power-of-attorney attested by a responsible officer.

Haji Muhammad Habib-ul-lah Sahib of Nellore is of opinion that the vakil of a purda-nashin woman need not be a duly authorized one. It should be sufficient if such person is her vakil in accordance with the provisions of the Muhammadan law.

I. A. Peer Muhammad Sahib Bahadur (Revenue Divisional Officer).—The person authorized to attest the vakalat of a woman should be defined. He would propose any magistrate, any sub-registrar, any village headman, any gazetted officer, retired or in service, any title-holder, any municipal councillor, any member of the Taluk or District Board or union panchayat, any Revenue Inspector, Tahsildar or Deputy Tahsildar.

(5) *Section* 9—*Registration of marriages and divorces.*

(*a*) *Fee.*

Khan Sahib P. A. Ammoo Sahib Bahadur, Deputy Collector, Calicut.—The prescribed fee of Rs. 1-4-0 for the registration will exclude many a poor man desirous of registration. Registration must therefore be made free.

Collector of Anantapur.—The additional expense involved is generally objected to on the ground that Muhammadans are as a class poor. This objection has much force and the question how far the expenses of registration may be minimised deserves careful consideration. Fee may be fixed at annas eight in each case.

Khaji Saiyid Mustafa Hussain Sahib, Cuddapah.—Instead of fixing Rs. 1-4-0 as registration fee, the full fee according to the practice obtaining in each locality should be imposed.

(*b*) *Time for Registration.*

Collector of Anantapur.—Registration of marriages should take place at the time of marriage in the marriage house itself. It is urged that registration effected about a month after the marriage has not the same advantage as that made at the time of the marriage itself, and that if the registration takes place in the marriage house itself at the time of marriage, the expenses involved in securing before the Registrar the presence of witnesses and of authorized vakils in the case of purda-nashin ladies can be avoided.

(*c*) *Nizamuddin Sahib Bahadur, Mangalore.*—Registration should take place immediately after the event rather than 'within one month'. This will put an end to many abuses and will prevent further misrepresentation.

Revenue Divisional Officer, Erode.—Since parties are given one month's time to get marriages registered, difficulties will arise in the course of inquiries which the Registrar has to make before registration. It will not always be possible for the parties to adduce evidence a month after the marriage.

Moulvi Ziyauddin Muhammad Sahib, Madras.—It should be incumbent on the Moslem Registrar to be personally present on the occasion of the celebration of marriage and make all entries in his book which are necessary for the marriage. This procedure is quite essential in order to prevent bogus parties, bogus vakils and bogus witnesses from forming a conspiracy and having a marriage registered without the knowledge of the actual parties concerned.

The Hon'ble the Advocate-General.—Marriages at least, if not divorces, should be solemnized only before the Moslem Registrar whether he is a Kazi, Naib Kazi or other licensed person and no power should be given to a Marriage Registrar to inquire into the factum of a marriage after the event.

6. *Section* 10.—*Entries in the Register by whom to be signed.*

I. A. Peer Muhammad Sahib Bahadur, Revenue Divisional officer.—If the witnesses who were present at the marriage cannot appear before the Moslem Registrar, they may be represented by their agents duly authorized.

Muhammad Irtiza Ali Sahib Bahadur, Government Kazi, Tinnevelly.—Proposes that a provision be inserted to the effect that a certified copy of the marriage register under the Act may take the place of the original for production in court as evidence, so that the original may not in any event be removed from the custody of the Registrar.

C. C. O. Alipi Sahib Bahadur.—The provision making it compulsory that two witnesses should attest an entry, should be removed. It is enough if the entry contains particulars relating to the names, addresses, etc., of two witnesses.

(7) *Section* 14.—*Copies of entries in registers.*

Hon'ble Mr. Justice Spencer.—Provision is made in this section for copies which are furnished to persons applying for the same being sealed; but there is no provision for copies which are given to the parties, on conclusion of the ceremony under section 11, being sealed. Both the copies obtained by payment of fees and the copies that are furnished gratis to the parties equally require to be sealed as a guarantee of genuineness.

(8) *Section* 15.—*Fees for searches and copies.*

A suggestion has been made that the fee chargeable for certified copies of an entry should be 8 annas only instead of Re. 1.

(9) *Section* 16.—*Control and supervision of registrars.*

I. A. Peer Muhammad Sahib Bahadur, Revenue Divisional officer.—In the town of Madras also the District Registrar should have control and supervision over Moslem Registrars as it will be inconvenient for the Inspector-General of Registration to have direct supervision over them.

(10) *Section* 17.—*Inspector-General of Registration to exercise general superintendence.*

The Inspector-General of Registration should have power to make rules as to how the fees collected by Moslem Registrars are to be utilized.

(11) *Section* 20.—*Appeal against refusal to register.*

The Hon'ble Mr. Justice Abdur Rahim.—Doubts whether ordinary District Registrars who might not be familiar with the Muhammadan law relating to marriage would be the best tribunal to hear appeals. Special officers should be appointed to hear appeals if many crop up.

The Hon'ble Mr. Justice Kumaraswami Sastri would confine refusal to register to cases where the Registrar is not satisfied as to factum of marriage or divorce. He would give a right of suit as in section 77 of the Registration Act.

President, Anjumane Islamia, Coimbatore and Chairman, Municipal Council, Udamalpet.—An appeal against an order of the District Registrar should lie to the Inspector-General of Registration whose order should be final. The Inspector-General may, before passing such order, direct further inquiry and should in his decision be guided by the Moslem Council of Ulemas at Madras to be specially constituted by the Government for the purpose.

The Collector of Coimbatore.—Does not agree to second appeals. The District Registrar's order, in his opinion, should be final in the sense that it cannot be challenged by way of a departmental appeal, but only by a suit.

Ghulam Muhammad Ghouse Sahib, Porto Novo.—An appeal should lie against an order of a Muhammadan Registrar refusing to register a marriage or divorce to the Civil Court.

The Collector of Ganjām.—Considers that appeal time should be extended to 30 days.

(12) *Muhammad Irtiza Ali Sahib Bahadur, Government Kazi, Tinnevelly.*—Suggests that it should be made clear whether the Mahar does or does not come under the Stamp Act.

But these are matters for later consideration primarily by the member who introduces the Bill.

R.D.M.—11-7-19.

P.DE.R.—12-7-19.

C. RAMANUJA ACHARIYAR—12-7-19.

The above is an excellent summary of the opinions received. It is not necessary at this stage to comment on the detailed suggestions put forward. The main question is what the attitude of Government should be towards the Bill. Mr. Gillman has noted that it is of the utmost importance that Government should obtain the opinion of representative Muhammadans. Of course it is never intended that Government should take any active participation.

2. The first point is whether the Bill should make registration compulsory. I can well conceive that, by not invalidating the marriage for want of registration and providing only secular penalties, such a provision cannot theoretically be held to be religious. But there will be a loud outcry and the dividing line between religion and the attestation of a civil contract in this affair is so thin that we cannot well support a compulsory registration, much less suggest such a course.

3. It is quite possible that a permissive Bill will practically be inoperative. But that is the concern of the community.

4. There is, however, reason to suppose that in the Muhammadan community a permissive Bill will be more operative than the Malabar Bill. Evidently there are several abuses now current especially in the matter of the terms of the Mahar. And once the community comes to learn that an easy registry of such terms in register at a time when there is no cause for misunderstanding saves a lot of unpleasantness and litigation in the future, the Bill is likely to be considerably resorted to at least in municipal areas.

5. The bulk of the opinion in quantity and in quality is, I think, decidedly in favour of the Bill, and we shall be justified in saying that the opinions received by Government justify them in not opposing a permissive Bill. After the orders of Government are obtained on this point, the detailed provisions will be examined with a view to ascertain if the mover should be asked to amend the Bill.

6. If the Honourable Member, Mr. Yaqub Hasan, is not returned to the new Council, I believe the Bill abates.

R. RAMACHANDRA RAO—15-7-19.

For orders as to circulation.

R.D.M.—5-8-19. S.A.—6-8-19. C. R.—7-8-19.

R.R.—8-8-19.

I should be grateful to my Hon'ble Colleague Khan Bahadur Habib-ul-lah if he would kindly record his views on this case before I attempt and deal with it.

L. D[AVIDSON]—8-8-19.

I am sorry I have not had the time to wade through this mass of literature and record anything like a useful note for the benefit of my Honourable Colleague. As, however, I have to lay down the reins of office on the 20th instant, I return the file with many apologies.

M. H[ABIB-UL-LAH]—15-1-20.

Circulated.

R. RAMACHANDRA RAO—16-1-20.

It seems to me open to doubt whether Mr. Yaqub Hasan when he returns will not have other things to occupy him than the prosecution of his Bill which has by no means met with unanimous approval. I, therefore, do not think it worth while at present to wade through this enormous file in order to arrive at an opinion on a question which may never arise. I think we may wait till Mr. Yaqub Hasan does return and asks questions about the fate of his Bill. It is for him rather than for Government in the first instance to consider such amendments as will make it acceptable to the Council.

A. R. K[NAPP]—18-1-20.

C. G. T[ODHUNTER]—19-1-20.

P. R[AJAGOPALA ACHARIYAR]—24-1-20.

W[ILLINGDON]—30-1-20.

Extract of notes from Local and Municipal file regarding notice of motion for the introduction under Council rule 34 of the Bill to provide for the Voluntary Registration of Mussalman Marriages and Divorces.

LOCAL AND MUNICIPAL (LEGISLATIVE) DEPARTMENT.

From the Hon'ble Yaqub Hasan Sahib Bahadur, dated 3rd March 1920.

Under the rules the notice of motion is in time and in order (please see rules 23 and 34). Under rule 24 the motion should be entered in the Agenda paper. For orders whether they may be done.

2. The motion for leave to introduce the Bill (under rule 31) was carried in Council on 13th August 1918; and under rule 32, the publication of the Bill was directed in G.O. No. 76, L. & M. (Leg.), dated 14th September 1918. The opinions on the Bill were under consideration in the Home (Miscellaneous) Department and it is understood that the Bill has been ordered to lie over by Honourable Member, Home (Miscellaneous) Department, until the Honourable Additional Member himself moves again in the matter.

The Home (Miscellaneous) Department may be consulted u.o. before orders are taken as to the admission of the motion given notice of.

C.V.R.—3-3-20. L. A. CAMMIADE—3-3-20.

Honourable Member (Judicial) has spoken to me on this and he has doubtless given instructions to Home Department but formal reference is necessary.

None.

R.R.—4-3-20.

F. J. RICHARDS—3-3-20.

HOME (MISCELLANEOUS) DEPARTMENT.

The main file regarding Mr. Yaqub Hasan's Muhammadan Marriage Bill is with the Honourable Member. The case was ordered to lie over till Mr. Yaqub Hasan himself moved in the matter. The attitude of Government with regard to the Bill has not yet been settled and till that is done it does not seem desirable to have the Bill read in the Council. There are only five days more for the Council meeting and it does not seem possible to settle within such a short time what Government's attitude towards the Bill should be. The case may be submitted to Honourable Member for orders.

R.D.M.—4-3-20. N. KAILASA SARMA—4-3-20.

R. RAMACHANDRA RAO—4-3-20.

B I attach the main file. I have spoken to Mr. Yakub Hasan who will be quite content if Government do not oppose him at the present stage while they reserve the right to do so later on should public opinion dictate such a change in attitude. On this understanding I do not see any reason why he should not introduce his Bill.

A Will Secretary please have a list put up of all the opinions received on the Bill, distinguishing those which have already, as Legislative Council papers, been communicated to Mr. Yaqub Hasan. We have to decide whether we can let him have all or any of the other opinions.

A. R. K[NAPP]—4-3-20.

Done.

B.R.—3-4-20.

Inform Legislative also.

R.R.—4-3-20.

With reference to Honourable Member's orders at **A** above a list * of all the opinions received on the Bill is put up. Those which have already been communicated to Mr. Yaqub Hasan as 'Council papers' and are also printed in the current file are marked in the list in *red ink*. These need not be communicated to him. As regards the rest attention is solicited to the Hon'bie Mr. Davidson's note, dated 25th February 1919 at page 10 ante wherein he expressed the opinion that the papers should not be communicated till the Government had considered them and arrived at a decision. As the Additional Member has been allowed to introduce the Bill at the next meeting of the Council, the question what papers should be communicated to him may now be considered. There appears to be no objection to the communication to the Additional Member of the opinions of *private associations and individuals*—except No. XXXV—and also of the opinions of Muhammadan officials as these contain only their personal views on the merits of the Bill. It does not appear desirable to communicate at this stage the opinions of other officials or of the High Court, or the Advocate-General.

* Not printed.

2. In this connexion it may be pointed out that *all* the opinions received on Mr. Raman Menon's Malabar Marriage Bill were furnished to him in G.O. No. 594, Public, dated 31st March 1915. They were also placed on Editors' Table for the information of the public. Please see the Hon'ble Sir Alexander Cardew's remarks on page 32 of the notes to the above Government Order.

3. Attention is solicited to paragraph 10 on page 3 of the notes to G.O. No. 52, L. & M. (Leg.), dated the 2nd July 1918, and portion marked **B** on page 1 of notes to G.O. No. 78, L. & M. (Leg.), dated 25th June 1919, wherein the question whether the Government of India should again be addressed with reference to 10 (3) of the revised instructions for legislation in the local Councils was considered. No such action was then considered necessary.

The Hon'ble Mr. Gillman in his speech at the Legislative Council meeting held on the 13th August 1918 said that the attitude of Government in regard to this Bill would be '*entirely neutral.*' This attitude has not yet changed and till Government finally settle their attitude towards the Bill (vide Hon'ble Mr. Knapp's remarks above it does not seem necessary to address the Government of India. The Government of India have already intimated that they see no objection to the principle underlying the Bill and this sanction appears sufficient for the present.

R.D.M.—6-3-20. B.R.—6-3-20. N.K.—7-3-20.

I do not see much objection to XXXV also being communicated provided it be decided to communicate these opinions.

R. RAMACHANDRA RAO—7-3-20.

Regarding the communication of opinions to Mr. Yaqub Hasan, the matter must lie over.

2. I have spoken to Sir P. Rajagopala Achariyar and he agrees to speak on the Bill.

Please remove unnecessary put up files and submit pad to Honourable Member. Mark 'Council.' Bill will come on early to-morrow.

For the information of Honourable Member I wish to draw his attention to Hon'ble Mr. Knapp's note on page 23 **B** which is all that has to be expressed on behalf of Government at this stage.

R.R.—9-3-20.

———

Demi-official—from the Hon'ble YAQUB HASAN SAHIB Bahadur.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—the 11th March 1920.

If it suits the convenience of the Hon'ble Mr. Knapp I would suggest that a meeting of the Select Committee on the Registration of Muslim Marriages Bill be convened on the 28th instant, i.e., the day previous to the date of the next meeting of the Council. This will suit the mufassal members more than any other day. We shall then have a preliminary discussion and adjourn to some day in April before the departure of Government to the hills.

I wish to prepare a summary under each clause of the amendments and improvements suggested in the opinions received by you and the Secretary of the Legislative Department, and I shall, therefore, be glad if you can see your way to let me have the opinions received by you or at least their summary if one is made. I believe these papers will be placed before the Select Committee in the ordinary course and if I can have them in advance it will help me to be better prepared to deal with the Bill and quicken the deliberations of the Committee.

Please see the Hon'ble Mr. Yaqub Hasan's demi-official above. He seems to think that *all* the opinions received by Government on the Bill will be made available for the Select Committee. It does not seem desirable to do this as the opinions were called for mainly to determine Government attitude towards the Bill. It is, therefore, for consideration whether *all* or *any* of the opinions received by Government may be communicated to Mr. Yakub Hasan. Attention is in this connexion invited to paragraphs 1 and 2 of the office-note on page 23 ante and the Secretary's note above. After it has been decided which of the opinions should be communicated to the Honourable Additional Member, extracts will be made and sent to the Additional Member.

2. It is also for orders whether the date proposed for the meeting of the Select Committee, viz., 28th March (Sunday) may be approved.

3. Copy of Council proceedings on the Bill has not yet been received from Legislative.

R.D.M.—16-3-20. B.R.—16-3-20. N. KAILASA SARMA—16-3-20.

The Hon'ble Mr. Yaqub Hasan tells me that he proposes to see Honourable Member to-morrow. So I submit the file.

2. I submit that there is no harm to communicate to him the opinions of all the non-officials and the Muslim officials.

Very well.
A.R.K.—17-3-20.

3. The Members of the Select Committee I understand are

Honourable Member (2), four Muslim members, (3) B. V. Narasimha Ayyar, (4) P. Siva Rao.

R.R.—16-3-20.

I told Mr. Yaqub Hasan last week that I could not undertake that any Official Member would be able to attend Select Committee meetings before the next meeting of Council and I fear, so far as I am concerned, I must adhere to that.

Nor do I see any prospect of being able to attend a meeting in April as I shall probably be away from about the 6th.

A. R. K[NAPP]—17-3-20.

PROCEEDINGS OF THE LEGISLATIVE COUNCIL, DATED 10TH MARCH 1920.

A Bill to provide for the Voluntary Registration of Mussalman Marriages and Divorces.

The Hon'ble YAQUB HASAN SAHIB Bahadur then moved to introduce a Bill to provide for the Voluntary Registration of Mussalman Marriages and Divorces. In doing so, he said :—"I beg to introduce my Bill to provide for the Voluntary Registration of Mussalman Marriages and Divorces and to move that it be read in Council. When moving in August 1918 for leave to introduce this Bill, I pointed out that my Bill is a very simple one. Moslem marriages are now as has always been the case performed generally by kazis, naib kazis and imams of mosques. The marriages are being recorded in registers kept by these functionaries. My Bill only requires that the Government should appoint these kazis, naib kazis and imams of mosques as Muslim registrars and that these Muslim registrars should enter all the marriages that they perform and the divorces that are effected through their agencies in registers which will be supplied to them by Government. It further requires that these Muslim registrars should send to the Government District Registrars of Assurances a monthly statement giving a list of all the marriages registered in their registers, also the divorces registered in their registers. Now the Government is already appointing kazis under a Government of India Act and these kazis are appointing naib kazis, but there are many other kazis who are not appointed by Government. I ask the Government by means of this Bill to appoint in the same manner as they appoint kazis, the kazis and naib kazis and imams of mosques as registrars. In asking the Government to do that I am not making any novel request that would involve interference in a religious matter, because Government are already appointing kazis and kazis nowadays are only performers and registrars of marriages and they have no other functions to do which kazis in the olden times under Muhammadan rule used to perform.

"My Bill was published in the *Fort St. George Gazette* in English, Hindustani, Tamil, Telugu, Malayalam and Kanarese. The Government have invited opinions through the District Collectors of the leading Mussalmans and associations on this Bill. Some of these opinions have been placed before this Council in the form of communications. There are some others which have gone to the Judicial Secretary. All these opinions have been analysed and it is found that a very very large majority of them are in favour of my Bill. They recognize the necessity of legislation. I understand that several Judges of the High Court including all the Indian Judges are in support of my Bill. They consider that this is a piece of legislation in the right direction, the necessity of which they acknowledge. The quality and quantity of the support which this Bill has received is such that I feel sure that the Government will be induced to countenance my proposal. There has been, no doubt, some opposition to the Bill but this opposition when analysed shows that it is based more on misapprehension or misunderstanding than on anything else. For example in one of the opinions which is opposed to the Bill, it is said that non-compliance with the provisions of the Bill would relegate marriages and divorces effected on present orthodox lines to an inferior position of doubtful validity and it is said that the acceptance of the Bill will be viewed with indignation as the introduction of the thin end of a wedge calculated to bring about the degradation of the very authority of the Prophet as the sole legislator of Muhammadans in matters social and religious. It is absurd to think that this legislation will interfere with the authority of the Prophet as the sole legislator of Muhammadans in matters social and religious, nor if this Bill is passed the marriages performed in the usual manner but not registered would be reduced to an inferior position of doubtful validity. In another opinion it was said that marriages and divorces performed according to Muhammadan religion would be liable to question in courts of law for want of such a registration. Marriages are now registered in the books maintained by kazis and if the same marriages are registered in the books given by the Government to the same kazis, it will not make any difference and no courts of law will question the validity of any marriage simply because it

was not registered in the books given by the Government. In a fattua given by certain Moulvis a question was asked what they thought of my Bill. They were asked 'to explain whether Islam allows any interference by the proposal of a Legislative Council except the four arguments (the Koran, the Tradition, etc.) in matters relating to religion,' and the answer given is this: 'He who acts in connexion with this matter against religious commandments is a reprobate' and further answer which is more relevant to this question is 'what is done by a kazi if it is consistent with the sacred law will be enforceable otherwise it is reprobated.' Now this Bill does not want any kazi to do anything which is not consistent with the sacred law or existing practice among kazis. I mentioned a few of these arguments just to show that the opposition is based on misapprehension or misunderstanding rather than on any serious objection to the provisions of the Bill.

"At this stage I am only asking the Government to allow this Bill to be referred to a Select Committee. The Select Committee will consider all the opinions placed before the Council and the opinions received by the Judicial Secretary and also the suggestions contained in some of them about alterations and amendments. When the report of the Select Committee is presented and the Bill as amended is printed and published in the *Fort St. George Gazette*, the Muslim community will again have an opportunity of expressing themselves about the amended form of the Bill and the Government will then of course be at liberty to decide in accordance with the opinion of the public. I feel quite sure that just as now there is a very very large majority in favour of the Bill, it will receive still further support at a later stage which will induce the Government to eventually accept the Bill. With these few words, I move that the Bill be read in Council."

The Hon'ble Khan Sahib HAJI ABD-UL-LAH HAJI KASIM SAHIB Bahadur:—"Your Excellency, as the Bill only provides for the Voluntary Registration of Mussalman Marriages and Divorces, I beg to second the resolution."

The Hon'ble Diwan Bahadur Sir P. RAJAGOPALA ACHARIYAR:—"Your Excellency, the attitude of the Government at this stage can be explained in a few words. We do not propose to oppose the motion made by the Hon'ble Mr. Yakub Hasan. At the same time we want it to be clearly understood that we do not commit ourselves to any approval. As the Honourable Member has rightly pointed out, it will be for the Muhammadan community to consider the Bill in all its bearings and then to pronounce an opinion on it and it will be for the Government at a later stage, after knowing what the community concerned thinks of it, to decide what their own attitude should be. For the present therefore neither the Members of the Government nor any of the official members will vote on the motion and we will leave it to the non-official members to dispose of the matter as they think best."

The proposition was put to the Council and carried.

The Secretary read the title of the Bill.

The Hon'ble YAQUB HASAN SAHIB Bahadur:—'Your Excellency, I propose that the Bill be referred to a Select Committee."

The Hon'ble Khan Sahib Haji Abd-ul-lah Haji Khan Sahib Bahadur seconded the proposition.

His Excellency the PRESIDENT:—"The question now is that the Bill be referred to a Select Committee."

The proposition was put to the Council and carried.

The Hon'ble YAKUB HASAN SAHIB Bahadur:—"I propose that the following gentlemen form the Members of the Select Committee:—

Myself.

The Hon'ble Khan Bahadur A. T. G. M. Ahmad Tambi Marakkayar Sahib Bahadur.
" Khan Sahib Haji Abd-ul-lah Haji Kasim Sahib Bahadur.
" Khan Bahadur Muhammad Usman Sahib Bahadur.
" " Muhammad Habib-ul-lah Sahib Bahadur.
" Mr. A. R. Knapp, C.B.E.
" The Advocate-General.
" Mr. P. Siva Rao.
" Mr. B. V. Narasimha Ayyar.

The Hon'ble Khan Sahib Haji Abd-ul-lah Haji Qasim Sahib Bahadur seconded the motion.

The Hon'ble Khan Bahadur Muhammad HABIB-UL-LAH SAHIB Bahadur:—"Before the motion is put to vote, Your Excellency, I beg to point out that while I am thankful to my friend the Hon'ble Mr. Yaqub Hasan for having included my name in the Select Committee, I regret that it will not be possible for me to accept the nomination, inasmuch as the Honourable Member is aware that my life in the Council is very brief. My connexion with the Council is only for the brief period of the consideration of the District Municipalities Bill and the moment the Bill is passed into law, I automatically cease to be a Member of the Council and as such I could take no part in the deliberations of the Committee and regret I am not in a position to sit on it. Again I thank the Honourable Member for the honour done to me."

His Excellency the PRESIDENT:—"Does the Honourable Member wish to add another name?"

The Hon'ble YAQUB HASAN SAHIB Bahadur:—"When including his name I knew that his membership of the Council was only for a short time. Still I could not omit him as I thought he would be very useful. I think he may be included now and if there should be any vacancy, it might or might not be filled later on. Perhaps if the Municipal Bill is not passed in this session, he may continue till the next meeting and may have an opportunity to serve on the Committee."

His Excellency the PRESIDENT:—"The Honourable Member has given the names of the members of the Select Committee. Does the Council approve?"

The list was unanimously approved.

HOME (MISCELLANEOUS) DEPARTMENT.

An advance copy of the Legislative Council Proceedings on the Hon'ble Mr. Yaqub Hasan's Muhammadan Marriage Bill since received from Legislative has been added to the file. Please see page 26 and above which contain information as to the official attitude adopted in regard to the Bill and the Members forming the Select Committee.

2. A draft demi-official furnishing the Honourable Additional Member with copies of the opinions of *all* the non-officials and the Muslim officials is submitted. The Honourable Additional Member may also be informed that the Hon'ble Mr. Knapp would find it inconvenient to attend a Select Committee meeting before the next Council, nor a meeting in April.

3. Copies of extracts of the opinions now supplied to the Hon'ble Mr. Yaqub Hasan may be given to all the Select Committee Members. A collection of these papers above may be printed separately and furnished to the Members through the Legislative Department.

4. The demi-official may go to Legislative for acceptance.

B.R.—19-3-20. N. KAILASA SARMA—20-3-20.
R. RAMACHANDRA RAO—20-3-20.

Demi-official—from M.R.Ry. Diwan Bahadur R. RAMACHANDRA RAO Avargal, Secretary to Government, Home (Miscellaneous) Department.

To—the Hon'ble Mr. YAQUB HASAN SAHIB, Additional Member of the Legislative Council.

Dated—the 23rd March 1920. *No.*—1552-3.

As requested in your demi-official of the 11th March 1920, I forward herewith for your information extracts of opinions received by the Government from non-official associations and individuals and Muhammadan officials on the Bill to provide for the voluntary registration of Mussalman Marriages and Divorces.

2. As regards your suggestion to convene a meeting of the Select Committee on the 28th instant, I am to say that, owing to presure of work the Hon'ble Mr. Knapp cannot find it convenient to attend a meeting on that date, nor will he be able to attend a meeting in April as he will probably be leaving Madras in the first week of that month.

LOCAL AND MUNICIPAL (LEGISLATIVE) DEPARTMENT.

The draft demi-official may be accepted and the file returned to the Home (Miscellaneous) Department.

C.S.—20-3-20. L. A. CAMMIADE—22-3-20.

Home (Miscellaneous) u.o. with thanks.

F. J. RICHARDS—22-3-20.

HOME (MISCELLANEOUS) DEPARTMENT.

May issue.

N. KAILASA SARMA—22-3-20. R. RAMACHANDRA RAO—22-3-20.

[Demi-Official No. 1552-3, dated 23rd March 1920.]

From Ghulam Muhi-ud-din Sahib, dated 26th March 1920.

Copies of this resolution have been sent to every Member of the Legislative Council and so it is not necessary to communicate this to the Hon'ble Mr. Yaqub Hasan. It may be filed with the previous papers.

R.D.M.—26-3-20. B.R.—26-3-20. N.K.—27-3-20.

R.R.—29-3-20.

LOCAL AND MUNICIPAL (LEGISLATIVE) DEPARTMENT.

Letter—from GULAM MUHI-UD-DIN SAHIB, Moulvi.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—the 22nd March 1920.
No.—1-1-1920.

I have the honour to submit herewith, by order of the Managing Committee, Religious Branch, Anjuman-i-Muhammadi, four copies of the resolutions passed against the Bill for the Voluntary Registration of Muslim Marriages and Divorces, at its meeting held on Saturday the 20th instant, for favourable consideration by the Legislative Council of His Excellency the Governor of Madras.

This may be printed as a paper relating to the Bill and reported to the Council at the meeting next after the coming one. It may be difficult to get printed copies ready for the ensuing meeting.

A copy will be sent as usual to the Home (Miscellaneous) Department.

C.V.R.—25-3-20. L.A.C.—26-3-20.

HOME (MISCELLANEOUS) DEPARTMENT.

From Moulvi Shah Muhammad Khadir Husan Sahib, Kadari, Royapetta, dated 6th April 1920.

Submitted that the petition may be passed on to Legislative, copy being kept in this department.

S.A.—19-4-20. C. RAMANUJA ACHARIYAR—20-4-20.

R.R.—21-4-20.

Now that Mr. Yaqub Hasan has resigned his seat on the Legislative Council and the Bill has dropped, it is for consideration whether the papers may be "Recorded."

S.A.—9-6-20. C.R.—10-6-20. R.R.—11-6-20.

[G.O. No. 1076, Home (Miscellaneous), dated 11th June 1920.]

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Home (Miscellaneous) Dept.

pp 137-138 cf

C.No. 2125 from Moulvi Shah Md. Khadir Hussain Sahib Kadari, Rayapeta 6.4.20.

Submitted that the petition maybe passed on to Legislative, copy being kept in this department

Copy kept.

S.A. 19/4/20 C.R. 20-4-20 21/4/20

RR

Regr.

Now that Mr. Yakub Hasan has resigned his seat in the Legislative Council and the bill has dropped it is for consideration whether the papers may be recorded

No 1076 Home (Misc) dt 11th June 1920

Pren

Recorded

S.A. 9.6.20 C.R. 10-6-20 11/6/20.

RR

Pres
Please Note
RM 29.1.20

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Please attend to query in the proc

14/7

Government of Madras

HOME DEPARTMENT (MISCELLANEOUS)

30 JUL 1920
MADRAS

G.O. No. 1076, 11th June 1920

Bill ~~to provide for the Voluntary~~ ~~Registration~~ Mahomedan Marriages & divorces — Papers relating to the Hon. Mr Yakub Hasan's ~~Bill~~ recorded

Read—the following papers :—

I

Telegram—from the Secretary to the Government of India, Legislative Department.
To—the Secretary to the Government of Madras, Home (Miscellaneous) Department.
Dated—Simla, the 9th May 1918.
No.—1323.

Your 358, 8th April. Government India see no objection to principle of Bill to provide for voluntary registration of Mussalman marriages and divorces if non-official members of Local Council approve. Drafting will no doubt receive careful consideration. It is suggested that inquiry might be made from Bengal how provision corresponding to clause 10 has worked there. Please send copy of Bill as actually introduced immediately after introduction.

II

Letter—from the Hon'ble Diwan Bahadur R. Ramachandra Rao Avargal, Secretary to Government. Home (Miscellaneous) Department.
To—the Chief Secretary to the Government of Bengal (with Bill).
Dated—the 30th May 1918.
No.—Ref. 1519-1.

I am directed to enclose a copy of a Bill to provide for the voluntary registration of Mussalman marriages and divorces, which a non-official Additional Member of the Local Legislative Council proposes to introduce at the next meeting of the Council, and to request that with the permission of His Excellency the Governor in Council, this Government may be informed as to how the provision corresponding to section 10 of the Bill has worked in your province. It will be observed that the Bill in its main lines resembles the measure which became law in Bengal as Act I of 1876.

III

Letter—from L. Birley, Esq., c.i.e., I.C.S., Secretary to the Government of Bengal, Revenue Department (Registration Branch).
To—the Secretary to the Government of Madras, Home (Miscellaneous) Department.
Dated—Darjeeling, the 18th June 1918.
No.—617 T.R.

I am directed to refer to your letter No. 1519-1, dated the 30th May 1918, forwarding a copy of a Bill to provide for the voluntary registration of Mussalman marriages and divorces, which it is intended to introduce in the Madras Legislative Council, and inquiring how the provision in Bengal Act I of 1876 corresponding to section 10 of the Bill has worked in this province.

2. In reply, I am to say that in 1916 the Inspector-General of Registration, Bengal, submittted to Government a draft Bill to amend the Bengal Act I of 1876 containing a proposal to repeal section 10 of the Act. After careful consideration of the proposal the Governor in Council considered it unadvisable to accept the recommendation of the Inspector-General of Registration. In this connexion I am to invite a reference to paragraph 5 of the enclosed copy of Government Resolution No. 1410 T.R., dated the 24th September 1917, on the draft Bill referred to above.

Enclosure

Resolution of the Government of Bengal, Revenue Department (Registration) No. 1410-T.R., dated Darjeeling, the 24th September 1917.

Read—

The resolution recorded by the Lieutenant-Governor of Bengal on the 31st May 1884 on the report of a Committee appointed for the purpose of revising the rules and procedure under the Muhammadan Marriage Registration Act and of supervising the Kazis appointed in Bengal, and the general working of the Act.

Letter No. 142 T.D., dated the 30th October 1916, from the Inspector-General of Registration, Bengal, submitting a draft Bill drawn up by himself and the Permanent Committee for the supervision of Muhammadan Marriage Registrars and Kazis in Bengal for the amendment of the law relating to the registration of Muhammadan marriages and divorces.

The law in force in Bengal on this subject consists of Act I (B.C.) of 1876, an Act to provide for the voluntary registration of Muhammadan marriages and divorces, and Act XII of 1880, an Act for the appointment of persons to the office of Kazi. The Act of 1880 was first extended to certain districts in Bengal on the 31st May 1884.

2. Since the passing of Act I (B.C.) of 1876 the Government of Bengal have from time to time instituted inquiries as to the causes which hinder the extension of the practice of registering Muhammadan marriages and divorces, and various proposals for amending the law have been considered, but the law remains as it was enacted in 1876 and 1880, and the measures which have been taken have been confined to alterations in the Statutory rules and executive orders.

3. The most important change in the law which has from time to time been suggested is that registration should be made compulsory: this proposal has at no time commended itself to the Muhammadan community in general or to Government, and it is not included in the Bill now under consideration. The Bill, however, involves important modifications in the law in respect of five subjects, and these have received the careful consideration of the Governor in Council.

4. The first of these proposals is the abolition of Naib-Kazis. This recommendation involves the amendment, or the withdrawal from Bengal, of Act XII of 1880. The Act empowers a Kazi to appoint or remove any number of Naib-Kazis. On the other hand it confers no legal powers on Kazis, it prevents no person from discharging the functions of a Kazi, nor does it distinguish the functions of a Kazi from those of a Naib-Kazi. The legal position is therefore altogether indefinite. On the whole, it appears to the Governor in Council that, as the expression Naib-Kazi connotes no powers under any law, no advantage is to be gained by an attempt to abolish those functionaries.

5. The second proposal of importance is to repeal section 10 of Act I (B.C.) of 1876 under which a Muhammadan Marriage Registrar is "not prohibited from receiving," in other words is permitted to receive, a gratuity in excess of the prescribed fee of one rupee, when such gratuity is voluntarily tendered. The Bill provides for an enhanced fixed fee in place of gratuity, and the Inspector-General of Registration has recorded a strong condemnation of the existing law which permits gratuities. The Governor in Council recognizes the objections to a system of gratuities. *Prima facie*, such a system is not only inconsistent with the general standard which regulates the conduct of public officers, but is also open to obvious abuse. On the other hand, in examining the question of amending the law with a view to stopping this system the Governor in Council cannot but attach weight to the arguments against a change. In particular, registration being voluntary, the natural result of an excessive demand would be a refusal to register, involving the registrar in the loss of any remuneration at all. Excessive demands are therefore automatically discouraged. Again, while the general absence of complaints from the poorer classes of the Muhammadan community is far from proving that all is well, on the other hand, the Governor in Council feels that the allegations of abuse, which are sporadically made but not proved, would hardly justify him in proposing this fundamental change in the law. Apart from this, it is very doubtful whether with the existing machinery for supervision, prohibition of gratuities would be accompanied by their cessation. Finally, it must be remembered that the income of many Muhammadan Marriage Registrars is admittedly so low as to render their appointments of little value. The Governor in Council, therefore, apprehends that if gratuities were abolished, the fixed fees would have to be raised to such a high figure that the poorest classes would be deterred from making use of the law, whereas under existing conditions there are facilities for adjusting the charges to suit the means of all parties. In short, the present position is not unlike that which prevails in the Christian community where the bridegroom gives such fee to the officiating and registering clergyman as his own means can afford. For these reasons the Governor in Council, as at present advised, is not prepared to undertake legislation to abolish the system of gratuities.

6. The third proposal is to legalise the registration of "Talak Bilyad," i.e., a divorce effected by the wife alone in accordance with authority conferred as a condition of her marriage. On this subject the Governor in Council finds that the Bill entrusts the Muhammadan Marriage Registrar with certain quasi-judicial duties which he is clearly of opinion that

Muhammadan Marriage Registrars as a class should not be called on to exercise. Moreover, the Governor in Council has reason to believe that the Muhammadan community is by no means unanimously in favour of this proposal and he is therefore unable to accept it.

7. The fourth proposal is to legalise the registration by Muhammadan Marriage Registrars of such deeds of dower and divorce as do not deal in any manner with immoveable property. It is also proposed to forbid the registration of these documents by Sub-Registrars appointed under the Indian Registration Act. This proposal involves the amendment of the Indian Registration Act under which the public are entitled to present such deeds for registration to a Sub-Registrar. A similar proposal has been negatived by the Government of Bengal on two previous occasions. The Governor in Council has again examined the question and he is not convinced that it would be generally acceptable. The public have confidence in Sub-Registrars and would prefer that the registration of documents, as distinct from the registration of ceremonies, should remain with them. He is therefore unable to accept this proposal.

8. The fifth proposal is to provide in the law for the Permanent Committee of supervision and to give to it very wide statutory powers. This Committee was first constituted by the Resolution of the Lieutenant-Governor of Bengal, dated the 31st May 1884, and its duties have from time to time been prescribed by Resolutions and in the Statutory Rules. Resolution No. 211 J.D. of the Government of Bengal, dated the 17th September 1912, provides that the Committee shall consist of five or more members, the Inspector-General of Registration being *ex-officio* President and that it shall deal with the following matters:—

(1) The consideration of all nominations to the post of Muhammadan Marriage Registrar or Kazi.

(2) Recommendations for suspension, dismissal and removal of Muhammadan Marriage Registrars and Kazis.

(3) And such other matters as the President may desire to place before the Committee for advice.

The Committee is referred to in Statutory Rules of 1916 and it is provided therein that the nominations of District Registrars for appointment to the post of Muhammadan Marriage Registrar shall be placed before the Permanent Committee, who shall forward them to Government with their remarks and recommendations. It is also laid down that if the Committee disapprove of the nomination of the District Registrar they may ask him to submit a fresh nomination, or they may select any other candidate: one of the members of, or a person appointed by, the Permanent Committee is authorized to set the papers for the examination of Muhammadan Marriage Registrar and the Permanent Committee is authorized to decide which candidates have passed. The present Committee is therefore working partly on a statutory and partly on an executive basis. In the Bill now under consideration it has been provided that Government shall appoint a Statutory Committee to assist and advise Government regarding the appointment, transfer, suspension, removal and supervision of Muhammadan Marriage Registrars and Kazis, and that every member shall be competent to inspect the offices of Muhammadan Marriage Registrars.

In 1912 the Governor in Council declined to entertain a proposal that members of the Committee should be empowered to inspect offices and he sees no reason to alter this decision. Nor is he prepared to add to their duties the consideration of questions of transfer of Muhammadan Marriage Registrars. These questions can more suitably be dealt with by the Inspector-General of Registration as head of the Registration Department. The Governor in Council has recently had under consideration the subject of the functions of the Permanent Committee: he has found that their advice has been of material assistance to Government on general questions of legislation and the framing of rules, and that their opinions on technical questions of Muhammadan law which arise in the administration of the Act have been of great value to him. He desires to take this opportunity of thanking them for their notable services in these respects. He has found, however, that for questions of appointment and dismissal a Central Committee, which cannot without inconvenience sit frequently, is unsuitable, and that serious delay has occurred in dealing with cases which required expeditious disposal. He, therefore, proposes to restrict the functions of the Committee to those of an Advisory Committee on general questions. They will also retain the functions of an examining body. On the other hand, as explained below, he proposes to provide for local Committees to assist him in making appointments. He is, therefore, unable to accept those proposals for legislation which relate to the Permanent Committee.

9. The Governor in Council has reviewed the progress which has been made in attaining the purpose of the Act, viz., that the practice of registration of Muhammadan marriages and divorces shall be extended as widely as possible. Alterations in the constitution of the Province and the gradual extension of the Act to new districts make it difficult to present concisely the increase in registrations in the whole Province, but the figures for the Dacca Division in which the Act is of primary importance show a steady progress. For the first period of 15 years during which the Act was in force registrations were generally from 2,000 to 3,000 annually. During the next period of 15 years there was a steady increase from 4,000 to 16,000, and though the increase has not been quite continuous during the last 10 years the average number for the past 4 years has been about 35,000. It is true that these figures represent a very small portion of the ceremonies which are registrable, but the progress is substantial, and it points

to the expediency of adhering to the policy of patience in awaiting improvement. This policy was adopted by Government in the early period when the Act was generally considered to be a failure. Frequent proposals were made for changing the policy and amending the Act. Time has however shown that the policy was sound.

10. Although the Governor in Council has decided that there are at present insufficient grounds for any legislation, he has considered whether any measures short of legislation are desirable for improving the working of the Act and in this respect he has come to the following conclusions.

11. Between 1912 and 1916 the number of registration offices has only increased from 273 to 276: the Governor in Council desires that the Inspector-General of Registration will examine the position with a view to increasing the number of offices in areas in which facilities for registration are found to be insufficient. In making this examination the Inspector-General of Registration will of course bear in mind that the multiplication of offices tends to reduce the income of Muhammadan Marriage Registrars and thereby to discourage suitable men from taking up this work. Moreover, in areas in which an individual Registrar has made the Act popular and increased the number of registrations, consideration should be shown to the successful Registrar during the continuance of his incumbency. But even after due weight has been given to those factors in the situation there is probably room for a substantial increase in the number of offices. The Governor in Council therefore awaits the specific proposals of the Inspector-General of Registration.

12. The income of Muhammadan Marriage Registrars as already noted is often very small. In some cases it is even insufficient to provide a living in the absence of some other occupation. In such cases it is obvious that no one but a local man can be expected to fill the post. The Governor in Council therefore considers it desirable that when a suitable candidate can be found who can live in his own home and conduct his duties there, he should be always given preference over others. He does not object to the office of the Registrar being removed from one place to another, so as to enable the incumbent to reside at his home provided that the office is situated within the area of the Registrar's jurisdiction. If these principles be borne in mind it will be possible to establish offices in much larger numbers than in the past.

13. With a view to facilitate the selection of suitable local candidates the Governor in Council has decided to modify the existing method of appointment. In each district there will be an Advisory Committee of Muhammadans to assist in selecting candidates. Where a local Muhammadan Association is already in existence and is recognized by Government, this Association, with its own consent, will be treated as the Advisory Committee. Where there is no distinct local Muhammadan Association, but a branch of a larger association recognized by Government, the same principle will be applied. In other districts a Committee of five Muhammadans which will ordinarily include two officials and three non-officials will be appointed by the Inspector-General of Registration in consultation with the District Registrar to advise District Registrar on the subject of appointments. The recommendations of the Committee as regards appointments will be submitted to Government by the District Registrar through the Inspector-General of Registration. The Governor in Council is confident that this system will be more effectual than the present system of a centralised Committee in bringing to the notice of Government the claims of local men of respectable character and suitable attainments. It will then be possible to open new offices in places in which the Registrar will be contented with a small income from fees, because he is able to carry on his former occupation. Questions of transfer and dismissal will not be dealt with by the local Committees, but by the District Registrar, and by the Inspector-General of Registration, who will submit his proposals to Government.

14. In 1915 the Permanent Committee recommended the appointment of three special Inspectors of Muhammadan Marriage Registration Offices. Consideration of the proposal was postponed pending the receipt of proposals for legislation. The Governor in Council recognizes that inspection of these offices is at present inadequate, and he is convinced of the necessity of more efficient inspection and of a systematic endeavour to discover and remove the causes which render the Act unpopular in certain areas, and to improve the facilities for registration. For this he looks primarily to the District Officer who is usually the District Registrar. Inspectors of Registration Offices, District Sub-Registrars and Subdivisional Officers should also consider such inspection to be an important part of their ordinary duties. In localities where the District Sub-Registrar or Subdivisional Officer is a Muhammadan a special inspecting staff is uncalled for. In other places, however, there is much to be said for supplementing the inspections of the District Officer by the inspections of a special staff. On the return of normal financial conditions, the Governor in Council will therefore consider the question of appointing two special Inspectors of Muhammadan Marriage Registration Offices for this duty.

15. The Statutory rules will now be amended in accordance with the terms of this resolution.

(By order of the Governor in Council).

L. Birley,
Secretary to the Govt. of Bengal.

IV

Letter—from the Hon'ble Mr. R. A. Graham, I.C.S., Acting Secretary to the Government of Madras, Legislative Department.
To—the Hon'ble Yaqub Hasan Sahib Bahadur, Non-official Additional Member of the Madras Legislative Council.
Dated—Ootacamund, the 24th June 1918.
No.—1390-1 Leg.

In continuation of my letter No. 1219-1, Legislative, dated 1st June 1918, I am directed to inform you that your motion for leave to introduce a Bill to provide for the Voluntary Registration of Mussalman Marriages and Divorces will be entered in the agenda paper for the ensuing meeting of the Legislative Council.

V

Letter—from the Hon'ble Diwan Bahadur R. Ramachandra Rao Avargal, Secretary to Government, Home (Miscellaneous) Department.
To—the Hon'ble Yaqub Hasan Sahib Bahadur, Non-official Additional Member of the Madras Legislative Council.
Dated—the 20th July 1918.
No.—1519-2 Ref.

I am directed to invite a reference to the correspondence ending with Legislative Department letter No. 1390-1, dated the 24th June 1918, regarding your Bill to provide for the Voluntary Registration of Mussalman Marriages and Divorces, and to communicate the following remarks in regard to section 10 of the Bill. The Government are advised that the provision in section 10 of the Bill under which a Muhammadan Marriage Registrar is "not prohibited from receiving", in other words is permitted to receive, a gratuity in excess of the prescribed fee, when such gratuity is voluntarily offered, is capable of being abused. The Governor in Council is therefore of opinion that the aforesaid clause 10 should be omitted, leaving it to the good sense of the community, either to give a gratuity or not according to the means of the parties concerned. I am accordingly to commend the suggestion for your acceptance.

VI

Letter—from the Hon'ble Yaqub Hasan Sahib Bahadur, Non-official Additional Member of the Madras Legislative Council.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—Madras, the 6th August 1918.

I am in receipt of your letter No. 1519-2, dated 20th ultimo, conveying the suggestion of the Governor in Council that clause 10 should be omitted from my Bill for the Voluntary Registration of Mussalman Marriages and Divorces. I accept this suggestion and shall thank you to delete this clause from the Manuscript Bill.

VII

G.O. No. 76, L. & M. (Legislative), dated 14th September 1918.

Under rule 32 of the Rules for the conduct of business at meetings of the Madras Legislative Council, His Excellency the Governor is pleased to direct the publication in the *Fort St. George Gazette* of a Bill to provide for the Voluntary Registration of Mussalman Marriages and Divorces and the Statement of Objects and Reasons in English, Tamil, Telugu, Malayalam, Kanarese and Hindustani languages.

(True extract)

R. A. Graham,
Acting Secretary to Government.

To the Home (Miscellaneous) Department,
" Superintendent, Government Press,
" Senior Translator to Government,
" Hindustani Translator to Government,
" Hon'ble Yaqub Hasan Sahib Bahadur,
} with Bill and Statement.

VIII

Telegram—from the Secretary to Government, Home (Miscellaneous) Department.
To—the Hon'ble Muhammad Aziz-ud-din Husain Sahib Bahadur, Commissioner of Board of Revenue (Land Revenue).
Dated—the 10th October 1918.
No.—498.

Reference my Demi-official No. 1519, dated 14th August, asking for [a] list of persons and associations who may be consulted on [Mr.] Yaqub Hasan Sahib's Mussalman Marriages Bill.

Please expedite reply.

IX

Letter—from the Hon'ble Diwan Bahadur R. Ramachandra Rao Avargal, Secretary to Government, Home (Judicial) Department.
To—the Hon'ble the Chief Justice of the High Court of Judicature at Madras.
Dated—the 12th October 1918.
No.—1519-6.

Bill to provide for the voluntary Registration of Mussalman Marriages and Divorces, 1918.

I am directed to forward sixteen copies of the Bill noted in the margin, which the Hon'ble Yaqub Hasan Sahib Bahadur is to introduce into the local Legislative Council, and to request that the Honourable the Judges will be so good as to favour Government with their opinion on the provisions of the Bill.

X

Memorandum No. 1519-7, Home (Miscellaneous), dated 12th October 1918.

Bill to provide for the voluntary Registration of Mussalman Marriages and Divorces, 1918.

A copy of the Bill noted in the margin, which the Hon'ble Yaqub Hasan Sahib Bahadur is to introduce into the local Legislative Council, is forwarded to the Hon'ble the Advocate-General, who is requested to favour Government with his opinion on the provisions of the Bill.

R. Ramachandra Rao,
Secretary to Government.

The Government Solicitor (with Bill).

XI

Memorandum No. 1519-8, Home (Miscellaneous), dated 12th October 1918.

The Bill to provide for the Voluntary Registration of Mussalman Marriages and Divorces, which the Hon'ble Yaqub Hasan Sahib Bahadur desires to introduce into the local Legislative Council, is referred to the Collector of who is requested to obtain the views of representative Muhammadans or Muhammadan bodies within his jurisdiction on the provisions of the Bill and to forward them with his remarks to Government.

R. Ramachandra Rao,
Secretary to Government.

To all Collectors (with copy of Bill).

XII

Memorandum No. 1519-9, Home (Miscellaneous), dated 4th November 1918.

*Madras	Tinnevelly.
North Arcot.	Kurnool.
Chingleput.	Gōdāvari.
South Arcot	Vizagapatam.
Cuddapah.	Ganjam.
Chittoor.	Coimbatore.
Nellore.	Malabar.
Salem.	Anantapur.
South Kanara.	Tanjore.
Madura,	Trichinopoly.

With reference to Memorandum No. 1519-8, dated the 12th October 1918, inviting his remarks on the Bill to provide for the Voluntary Registration of Mussalman Marriages and Divorces, the Collector of 1* is advised that in addition to these person whom he may consider worth consulting, the views of the persons / person named below may be obtained, if their / his opinion has not already been invited.

R. Ramachandra Rao,
Secretary to Government.

XIII

Letter—from the Hon'ble Diwan Bahadur R. Ramachandra Rao Avargal, Secretary to Government, Home (Judicial) Department.
To—Moulavi Qazi Haji Saiyid Sahib Abdul Gaffar Sahib Qadiri, Civil and Military Station, Bangalore.
Dated—the 4th November 1918.
No.—1519-10.

I am directed to forward the accompanying copy of a Bill to provide for the Voluntary Registration of Mussalman Marriages and Divorces, which the Hon'ble Yaqub Hasan Sahib Bahadur is to introduce into the local Legislative Council, and to request that you will be good enough to let Government have your opinion on the provisions of the Bill.

XIV

Letter—from H. Brightwell, Esq., Government Solicitor.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—the 29th October 1918.
No.—1244.

Abstract.—Forwarding the opinion of the Advocate-General, No. 513, dated 28th October 1918.

Opinion.

In my opinion, a system of compulsory registration of Muhammadan marriages and divorces, at any rate in the less backward areas of the Madras Presidency is a necessary measure, as the legitimacy of children, rights of succession and other valuable rights are involved. In a very recent case from Bengal Mr. Ameer Ali in delivering the judgment in the Judicial Committee says :—"In the absence of any statutory provision making compulsory the registration of Muhammadan marriages, Indian Courts in case of a dispute as to the factum of a marriage are usually left to discover, or attempt to discover, the truth from a mass of conflicting and often very unsatisfactory evidence of witnesses" (35 M.L.J. page 422 at p 430 P.C.) The Bill, however, merely reproduces the provisions of Bengal Act of 1876 and leaves the registration of a marriage or a divorce entirely optional with the parties. Further, it defeats the very object of a registration of marriage or divorce by providing that it is to be effected after the marriage or divorce and within 30 days thereof. I am of opinion that it is not desirable to enact a law like this in Madras 40 years after the Bengal enactment. The law ought to provide that marriages at least, if not divorces, shall be solemnized only before the Moslem Registrar whether he is a Kazi, Naib Kazi or other licensed person. No power should be given to a Marriage Registrar to enquire into the factum of a marriage or divorce after the event. I am not sure that it will minimise the evils which it is sought to eliminate.

S. Srinivasa Ayyangar,
Advocate-General.

XV

Letter—from H. L. Braidwood, Esq., I.C.S., District Magistrate of Anjengo.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—Trivandrum, the 1st November 1918.
No.—Dis. 803.

With reference to Government Memorandum No. 1519-S, dated 12th October 1918, regarding the Bill to provide for the Voluntary Registration of Mussalman Marriages and Divorces, I have the honour to report that there are no Muhammadans worth consulting in this district.

XVI

Letter—from C. G. Mackay, Esq., I.C.S., Registrar, High Court.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—the 5th November 1918.
No.—Dis. 1905.

With reference to your letter No. 1519-6, Home (Miscellaneous) Department, dated 12th/15th October 1918, inviting the opinion of the Honourable the Judges of the High Court on the provisions of the Bill to provide for the Voluntary

registration of Mussalman Marriages and Divorces, 1918, I am directed to forward the minutes recorded by the Honourable the Judges. The Hon'ble the Chief Justice, the Hon'ble Mr. Justice Ayling, the Hon'ble Mr. Justice Oldfield, the Hon'ble Mr. Justice Phillips and the Hon'ble Mr. Justice Napier have no remarks to offer.

Enclosure

Minutes.

The Hon'ble Mr. Justice Abdur Rahim.—I think the Bill proceeds on sound lines.

I suppose section 24 would be sufficient to make the entries evidence under section 35, Evidence Act, but perhaps an additional express provision might be useful, if properly drafted.

I am not sure that ordinary District Registrars who might not be familiar with the Muhammadan law and customs relating to marriages would be the best tribunal to hear appeals. If there be many appeals, the question should be considered whether there ought not to be special officers appointed for the purposes.

The Hon'ble Mr. Justice Sadasiva Ayyar.—I approve of the Bill with my whole heart and only wish that compulsory registration might be introduced by the Legislature, at least as regards marriages taking place in municipalities and in towns where there are Registrars' offices established for the purpose.

The Hon'ble Mr. Justice Spencer.—The Bill does not state in what language the registers are to be kept, nor is this one of the matters as to which the Government is empowered by section 23 to make rules. This may be made clear.

2. The inscription on the seals of Muslim Registrars is, according to section 4, to be in Persian. For the purpose of easily identifying the origin of marriage certificates by persons who do not know the Persian language, the name and place of the Muslim Registrar's office may be inscribed also in English or in the vernacular of the district.

Section 14 provides for copies which are furnished to persons applying for the same being sealed; but there is no provision for the copies which are given to the parties, on the conclusion of the ceremony, under section 11 being sealed.

Both the copies obtained by payment of fees and the copies that are furnished gratis to the parties equally require to be sealed as a guarantee of genuineness.

The Hon'ble Mr. Justice Coutts-Trotter.—I regard registration as of little value unless it is compulsory. But something is better than nothing, and I do not on that account oppose the present Bill.

The Hon'ble Mr. Justice Seshagiri Ayyar.—I see no objection to this piece of permissive legislation. I am under the impression—it may be wrong—that settlements of dower are sometimes entered in the register kept by the kazi. If my surmise is correct it may be desirable that the entry in the register should relate to this also and should also be signed by the husband and attested.

I find in section 8 that an application 'shall be made to the Registrar *orally*.' Does this section mean that the party should not send a written application?

The Hon'ble Mr. Justice Kumaraswami Sastri.—I think the Bill which is purely voluntary and which offends against no principle of Muhammadan law is a step in the right direction and the provisions, if duly availed of, will check litigation.

I would suggest that the words 'duly authorized' in the Bill should be explained. The authority should be by a power-of-attorney attested by a responsible officer.

As regards section 20, I would give a right of suit as in section 77 of the Registration Act. I think the refusal to register should be confined to cases where he is not satisfied as to the *factum* of the marriage or divorce. The registrars should not decide questions as to the *validity* or otherwise of marriages or divorces which have in fact taken place.

The Hon'ble Mr. Justice Krishnan.—If it is thought necessary by the Muhammadans to have a better and more reliable form of register for their marriages and divorces there can be no objection to the Bill as a whole. The details of it must be carefully considered but I do not propose to deal with them.

XVII

Letter—from Mr. T. M. Sulaiman, Honorary Secretary to the Muslim League, Begampur, Dindigul.
To—the Secretary to Government, Local and Municipal (Legislative) Department.
Dated—Dindigul, the 6th November 1918.
No.—265.

The Bill for the registration of Mussalman marriages introduced by the Hon'ble Mr. Yaqub Hasan in the Legislative Council was discussed and considered by the Begampur Muslim League in its annual meeting held on the 6th October last under

the presidency of the Hon'ble Mir Asad Ali Khan Bahadur and it was unanimously resolved that in the opinion of the meeting the Bill is a useful measure, the need of which was being felt for a long time; the League therefore accords its strong support.

Enclosure

Resolution No. 9.—That this League accords its heartfelt support to the Bill to provide for voluntary registration of marriages and divorces among Mussalmans and hopes the Bill will soon become law.

XVIII

Petition—from Mr. Amjad Ali, Government Chief Kazi for Shiah Sect.
To—His Excellency the Governor of Madras.
Dated—the 22nd November 1918.

May it Please Your Excellency,

I beg to bring to your Excellency's notice that I received some letters from Mr. Yaqub Hasan and the Collector of Madras to the effect that the kazis should be bound illegally under the authority of the registrar, the reply to which I have produced before your Excellency, so that your Excellency may cast an eye of justice over it and finally I may be informed of the result of it so that I may know what to do in future.

1. Any new change in a current system is a source of disturbance. Unless there is any defect, there is no necessity of any reform. There is no defect in the present system of kazis among us. If there seems to be any among the Sunni Muhammadans their maulavis are the right persons to alter it. The Legislative Council does not seem to have the right to interfere into such religious questions, except to bring the difficulties, if any, before the religious Doctors. When Muhammad, the Prophet, and his descending sons have once established a law it cannot be altered by the rules framed by the followers.

2. When the kazi is one selected and appointed by the Government, the register of the kazi is itself the Government register.

3. Kazis as a rule, have seals of their own and there does not seem to be any necessity of Government giving them a fresh seal. Moreover seal itself is full of suspicions.

4. Any fees taken as wages for religious services as nikka, etc., is not allowed by the religion. But as a matter of gift it is quite optional, one can give and take as much as they desire. If the Government wants to fix a fee it is breaking the religious law, it must be either to save the public from the burden of the expense or to enrich the kazis. If it is with the former idea why should a single pie be not fixed as the fees or otherwise why not a quarter or half the expenses of the marriage be given to the kazis? Here I should like to bring to your Excellency's notice that neither my father nor I did ever or do even now take anything from the public for serving the religion.

5. With regard to the copies of the entries, if the kazi finds it necessary will grant it himself. Though the Shiah kazi does not get any share in the inams or jaghirs and salaries of the kazis, whereas the kazi of Sunnis Muhammadans get the whole.

6. Our office is perfectly religious according to the rules and laws framed by Muhammad and his descendants. It is to be regretted that Mr. Yaqub Hasan wants to make the kazis what they are by licences. Among the Shiahs, the religious knowledge, ability and the fear of God are wanted for their leader.

7. Kaziship does not only depend upon nikka and divorce, all religious disputes are to be decided by the Holy Court of Kazi, which is competent for it.

8. I am not a paid servant of any person and I am not such a kazi that was appointed by any person, owing to any knowledge, etc.

9. In every district where there is even one Shiah the Government may nominate a kazi or the kaziship of the Shiah community of all the districts may be entrusted upon me and I would manage it as I have been doing for many districts.

10. The deputy kazi may be appointed on the confidence of the kazi regarding his competency in the religious knowledge and character but not on hereditary rights, because in Shiahs sect a true knowledge of religious rules and justice is essential for a religious leader, even for a witness these qualifications are necessary, but on the other hand in several other sects of Islam every good and bad man may become a leader.

11. Islam does never compel any honourable lady to confess openly even before her own near relative, whereas to confess before registrars or vakils is still worst. If she is a matured lady it is enough if she does not express her unwillingness and on the other hand her parents have the full authority.

12. A kazi is not one to read the few verses of nikka or divorce but has also to see that all the religious rules are obeyed. Therefore it is necessary that a kazi should be a learned man and also a man of justice.

13. No respectable Shiah will ever agree to become a kazi under such troublesome and insulting rules of Mr. Yaqub Hasan because he is a gazetted officer of Government and a justice of his religion.

14. At any rate the kazis of Shiahs will never agree with any item of Mr. Yaqub Hasan and in case this Bill is passed, I shall choose to resign the post.

15. It is strange why the worldly people interfere with religion in spite of the religious people keeping themselves aloof from the worldly affairs.

XIX

Letter—from the Secretary, Anjuman-i-Islahul Muslimin, Mount Road.
To—the Collector of Madras.
Dated—the 28th/29th November 1918.
No.—20.

The following is herewith submitted for favour of information :—

The members of the Anjuman-i-Islahul Muslimin, Madras, held a meeting at the Mosque, Chetty's Garden, Mount Road, Madras, on Wednesday the 27th November 1918, in the afternoon with Shamsul Ulama Moulvi Shah Zahid Hussain Sahib Mehkari Khadari as the President, in which the following resolution was passed :—

Resolution.

"The Anjuman-i-Islahul Muslimin, Chetty's Garden, Mount Road, Madras, is strongly opposed to the Hon'ble Mr. Yaqub Hasan's Bill submitted in the Madras Legislative Council, for voluntary registration of Muslim marriages and divorces, as it is against our religious functions and puts us into unnecessary inconveniences and losses."

As it is purely a religious matter, the members hope, so far as all the Moulvis of Madras are against it, that the Collector will be pleased to see that the Bill will not be passed.

True copy submitted to the Chief Secretary to the Government of Madras, for favourable consideration and kind orders.

Please acknowledge.

XX

Letter—from Muhammad Usman Sahib Bahadur, B.A., Honorary Secretary to the Muthialpet Muslim Anjuman.
To—the Secretary to Government, Local and Municipal (Legislative) Department.
Dated—Madras, the 14th November 1918.

I have the honour to communicate to you the following resolutiou passed at the meeting of the Managing Committee of the Muthialpet Muslim Anjuman, Madras, held on Wednesday, the 13th November 1918 :—

The Managing Committee of the Muthialpet Muslim Anjuman, Madras, having considered the provisions of the Bill for voluntary registration of Mussalman marriages and divorces to be introduced into the Madras Legislative Council by the

Hon'ble Mr. Yaqub Hasan, is emphatically of opinion that any attempt to amend by omission, change or addition the eminently simple procedure laid down by the Prophet of Islam as essential to a valid Muhammadan marriage or divorce, will be resented by the Muhammadan community as intended to supersede the authority of the Prophet, and that, since the Honourable Member's Bill aims at introducing, ostensibly as a permissive measure but with a view to prepare the way for eventual compulsory legislation, a condition, non-compliance with which will relegate marriages and divorces effected on present orthodox lines to an inferior position of doubtful validity, the acceptance of the Bill by the legislature will be viewed with indignation as the introduction of the thin end of a wedge calculated to bring about the degradation of the very authority of the Prophet as the sole legislator of Muhammadans in matters social and religious.

XXI

Letter—from the Honorary Joint Secretaries, the Muslim Association, Nagore.
To—the Secretary to Government, Local and Municipal (Legislative) Department.
Dated—the 31st October 1918.
No.—18.

We are directed by the executive committee of the above association to communicate to you the following resolution passed at its meeting held on the 27th October 1918 :—

Resolution.—This association is emphatically of opinion that "the Voluntary Registration of Muhammadan Marriages Bill which the Hon'ble Mr. Yaqub Hasan Sait proposes to introduce in Madras Legislative Council and which has been published in the *Fort St. George Gazette* inviting opinion, is insufficient to meet the demands of the Muslims of Madras Presidency and is incapable of remedying the grievances obtaining at present, and therefore humbly prays that the Government of Madras will be pleased not to accord its support to that Bill and to introduce a new Bill making registration of Muhammadan marriages compulsory".

XXII

Letter—from Saiyid Niamt-ul-lah Qadiri, President of a public meeting of Mussalmans, Nellore.
To—the Secretary to Government, Local and Municipal (Legislative) Department.
Dated—the 16th November 1918.

I have the honour to communicate to you the resolutions passed at a public meeting of the Mussalmans of Nellore held on Saturday the 15th November 1918, presided over by me—

(1) That the Mussalmans of Nellore strongly feel that the present system of maintaining records of Mussalman marriages and divorces is extremely unsatisfactory, and consequently believe that the enactment of a Bill of the nature proposed by the Hon'ble Yaqub Hasan Sahib Bahadur in the last session of the Madras Legislative Council is both necessary and timely.

(2) That the Mussalmans of Nellore, however, submit that the Bill should be amended to a slight degree to make provision for the following principles :—

(*a*) The registration should be made compulsory, the compulsion being enforced on pain of inadmissibility of unregistered marriages and divorces in evidence and also of a moderate penalty.

(*b*) The Governor in Council should be authorized to grant licences to kazis, such kazis being empowered under sufficient restrictions as to qualifications, etc., to grant licences to their naibs or deputies.

(*c*) The Governor in Council shall grant licences not to any person who applies for the same but shall grant them only to kazis appointed under India Act XII of 1880, and where there is no such kazi to such person as shall be appointed for such area by the Governor in Council.

(*d*) That with regard to the representation of a parda-nashin woman for any purpose contemplated by the Act (except with regard to khula), it shall not be required that her vakil shall be a duly authorized one ; it shall be sufficient if such person is her vakil in accordance with the provisions of the Muhammadan Law.

(*e*) It shall be incumbent on the Muslim registrar, as a matter of routine without parties applying therefor, to supply free of charge a certified copy each to the parties to a marriage or divorce.

(*f*) The fee chargeable for certified copies of an entry in the register shall be As. 8 only.

(*g*) Any person other than a Muslim registrar solemnizing a marriage or a divorce shall be liable to a heavy fine.

(*h*) Sections 8, 9 and 10 of the Bill shall be recast so as to allow of the principle of compulsion.

(*i*) The Government of India Act XII of 1880 shall be amended so as not to conflict with the provisions of this Act.

(*j*) The other parts of the Bill shall remain as they are.

XXIII

Letter—from Muhammad Usman Sahib Bahadur, B.A., Honorary Secretary, South Indian Islamia League, Madras.
To—the Secretary to Government, Local and Municipal (Legislative) Department.
Dated—the 26th November 1918.

I have the honour to communicate to you the following resolution passed at the meeting of the Council of the South Indian Islamia League held on Monday the 25th November 1918 :—

"The Council of the South Indian Islamia League is strongly opposed to the Hon'ble Mr. Yaqub Hasan's Bill for voluntary registration of Mussalman marriages and divorces as it brings into contempt the simple procedure laid down by our Prophet in connexion with marriages and divorces by giving a higher legal status to the proposed registered marriages and divorces."

XXIV

Letter—from Khan Sahib Saiyid Diwan Abdur Razaak Sahib Bahadur, President, Anjumane Islamia, Coimbatore, Member, District Board, Coimbatore, Vice-President, Taluk Board, Pollachi, Chairman, Municipal Council, Udamalpet.
To—the Secretary to Government, Local and Municipal (Legislative) Department.
Dated—the 25th November 1918.

With reference to the Bill for the registration of Mussalman marriages introduced by the Hon'ble Yaqub Hasan Sahib Bahadur, I have the honour to report as follows.

2. The contents of the Bill were explained to the Mussalmans of the place and also to the Pesh Imam of the mosque and all agree that the facilities afforded therein to strengthen the rights of the married people and to prevent the abuses too common at present are absolutely necessary to meet the needs of the present days

3. The allegation that the provisions of this Bill contravene the sacred tenets of Islam is absolutely untenable as it is not obligatory on all to get their marriages and divorces registered in the books. A variety of circumstances have led to the abuses which the Bill tries to prevent in future. The complete absence of control over the kazis and their poverty which makes them dance to the tunes of rival factions in villages have led to a great scandal in the registration of marriages, etc., as at present conducted, so much so, that with a few noble exceptions—becoming fewer every day—it is not altogether impossible to tamper with the amount of the dowry or with the actual entries made in the kazi's books. It is therefore felt that some sort of public registration is absolutely necessary and if the Bill tends to reduce—if it does not altogether prevent—the abuses now so keenly felt by Muhammadans, the mover of this Bill as well as the Government will be entitled to the gratitude of the community, the sober element of which stands staggered and helpless at the amount of mischief wrought by some of the Kazis and the misery involved on the poor and ignorant masses. Nor can it be said that the Bill is too early as the need has been felt for the past several decades. A police constable died intestate at Coimbatore ten years back. He was found to have had money dealings to the extent of thirty thousand rupees. Every one knew him to have been an old bachelor. But when

his distant relations from Madura came to claim the money it was contended up to the High Court that the man had married, had left a widow and a married daughter whose minor son claimed a share of the monies. I do not remember the exact decision of the High Court, but all knew too well that the so-called widow and her daughter were only street women put up in the courts to admit the husbandship of the deceased constable. There was a kazi who came up with an old book to say that the marriage had taken place some fifty years back. In Pollachi when a husband gifted some properties to his wife ten years back, his own relations out of enmity on her and with the connivance of the kazi tore off the sheet of the marriage book and contended that the mahar amount was much below the value of the properties assigned. Such instances can be easily multiplied. Again, the question of the dowry and mahar is too important to be written on mere scraps of paper as is done at present. So also divorce, which is resorted to mostly by lower classes. The existing practice is extremely faulty and gives rise to very great abuses. The community feel therefore that the fears expressed by the Hon'ble Muhammad Aziz-ud-din Husain Sahib Bahadur are more imaginary than real.

4. I am also of opinion that the registration of marriage, etc., must for some time more be left to the willingness of the community as the masses are not advanced so far as to welcome the remedy without misunderstanding the motives of the legislators. But the safeguards available in getting the registry made in a book supplied by Government are so apparent that in the course of a few years the Mussalman public will reject the old system and take to the new one whole-heartedly when, perhaps—and not till then—the Government or the Muslim leaders may try to make the registration compulsory. For these reasons I do not agree with the proposal of the Hon'ble Khan Bahadur Ahmad Tambi Marakkayar that the registration should be made compulsory at once.

5. I do not also share his fears that the Bill will be of no use without the element of compulsion and of punishment in default. Government cannot take the full or even initial responsibility of effecting improvement in the internal socio-religious conditions of any community. Nor can the acts of any legislative body—however stringent its provisions are—lift the masses out of their ignorance without subjecting the legislature to a vast amount of suspicion and of misguided opposition. Even the Hon'ble Mr. Yaqub Hasan Sahib does not claim for his Bill the miraculous power of getting all the evils remedied at once with one magic wand. All that he claims to do—and that is the only thing possible at present—is to afford to the Mussalman public an option to seek registration and avoid future troubles, or to ignore the facility now placed before them and perpetuate the various miseries under which the community is groaning silently and helplessy.

6. I propose the following alterations in the Bill :—

(*a*) *Section* 3—*Add* to the first proviso the words 'unless more than one person has been doing such work in the place, in which case, the Governor in Council may appoint more than one person to meet the requirements of the locality'. This will add to the convenience of the public who must always have a choice to make in order, indirectly, to exercise a check over the vagaries of the kazi registrars.

(*b*) *Section* 3—*second proviso*.—*Add* at the end 'and every Pesh Imam of the mosque'. Pesh Imams or leaders of prayers in all mosques also perform marriages and are generally resorted to by the intelligent portion of the community. Their custody of the registers is preferable to that of the kazis. The registers should be left in the custody of the Muthavalli when Pesh Imams leave the mosque for good.

(*c*) *Section* 4.—*Add* the words 'or the Pesh Imam' at the end.

(*d*) *Section* 19.—*Add* 'and deliver a copy of his order to the party who applied for registration'.

(*e*) *Section* 20.—After the words 'and the Registrar,' *add* 'after such inquiry as he thinks fit'; *delete* the words 'and the order passed by the Registrar on appeal shall be final' and *add* 'against this order one appeal is allowed to the Inspector-General of Registration whose order shall be final. The Inspector-General may before passing such order direct further inquiry and shall, in his

decision, be guided by the Muslim council of Ulemas at Madras to be specially constituted by the Government for the purpose. The number of Ulemas shall be five, and the council shall be presided over by the Inspector-General'. My object is not to make final the decision of a District Registrar who is not conversant with the requirements of the community.

(*f*) *Form A*, *Book* 1.—After the word 'name' in columns 2, 3, 5, 6, 7, 8 and 16, *add* 'and signature'.

(*g*) *Form B*, *Book* 2.—After the word 'name' in columns 2, 3, 8, 9, 10, 12, 13 and 14, *add* the words 'and signature'.

7. The community is fully convinced that the Government will confer a boon on the Muslim subjects if they pass this Bill into an Act, which will prevent the scandalous litigations that have wrecked the happiness of so many pleasant homes in this country.

XXV

Letter—from Moulvi Mir Kazi Haji Saiyid Abdul Gaffur Sahib, Qadir, Civil and Military Station, Bangalore.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—the 10th December 1918.

In reply to your letter No. 1519-10, dated 4th November 1918, regarding provisions of Bill for voluntary registration of Mussalman marriages and divorces to be introduced into the local Legislative Council by the Hon'ble Yaqub Hasan Sahib Bahadur, I have the honour to state that the provisions of the intended Bill are not at all acceptable, as they nullify many of the authorities and orders of the Holy Prophet and Islam. Introduction of any Bill on a religious subject is absolutely unnecessary.

2. All Kazis now maintain registers, which are considered valid by courts and cases disposed of.

3. The Mussalman community of Bangalore look to the introduction of the intended Bill with resentment.

XXVI

Letter—from Khan Bahadur Waljee Laljee, Honorary Presidency Magistrate and Honorary Secretary to the Anjuman, Madras.
To—the Secretary to Government, Local and Municipal (Legislative) Department.
Dated—the 30th November 1918.

With reference to the Muhammadan Marriage and Divorce Registration Bill intended to be introduced in the Council by the Hon'ble Mr. Yaqub Hasan Sahib, I fully agree with the principle of the Bill which will insure correct records of marriages.

XXVII

Letter—from Shams-ul Ulama Moulana Moulvi Saiyid Hasan Raza Sahib, Madras.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—the 12th December 1918.

I have the honour to forward herewith a copy of the proceedings of a public meeting of the Shiah community held on the 8th instant recording its opinion against the passing of the Bill regarding registration of Mussalman marriages and divorces which has been introduced by the Hon'ble Mr. Yaqub Hasan in the local Legislative Council. The opinion of the community is emphatic on the subject and the acceptance of the Bill by the Government will, I fear, amount to an interference in the Mussalman religion and it is highly desirable in the interest of the Government itself not to allow such an impression to gain ground. I therefore request you to be good enough to lay the matter before the Government for their consideration.

Enclosure

In the name of the Almighty God the Merciful.

Praise be to the Almighty the Supporter of the world and peace upon our Prophet and the Holy Saints, his descendants. This evening the 8th day of December 1918 at 5 p.m. a public meeting of the Shiah Community of Madras was held in the sacred building of Abbasee

Ashoorkhana known as Thousand Lights, Mount Road, under the presidency of His Eminence Shams-ul Ulama Moulana Moulvi Saiyid Hasan Raza Sahib at which almost all the Shiah residents of Madras attended. Among those were the following:—

(1) His Eminence Qazi Moulana Moulvi Amjad Ali Sahib, Chief Qazi for Shiahs.
(2) His Eminence Moulana Moulavi Muhammad Mahdi Sahib.
(3) Aga Muhammad Khaleel Sahib Shirazi, a leading merchant.
(4) Khan Bahadur Haji Mirza Abdul Hasain Sahib, Persian Consul.
(5) Aga Saiyid Ali Akhbar Sahib Isphehani, a leading merchant.
(6) Hajee Mirza Ali Nakhi Sahib Kirmani, a leading merchant.
(7) Hajee Aga Sahib Shirazi, a leading merchant.
(8) Muhammad Takee Sahib Brother Amberkhani, Jagirdar of Avolcunda.
(9) Hajee Hasan Ali Sahib Kazurani.
(10) Mirza Muhammad Mahdi Sahib Kirmani, a leading merchant.
(11) Muhammad Ali Sahib Bahadur Hazari, retired Tahsildar and Honorary Magistrate.
(12) Khan Sahib Jafer Husain Khan Sahib Bahadur, retired Inspector of Police.
(13) Muhammad Jafer Sahib Amberkhani.
(14) Ali Husain Sahib Amberkhani.
(15) Saiyid Jafer Husain Sahib Bismilla Kirmani.
(16) Mir Sajjad Husain Sahib.
(17) Aga Abbass Ali Sahib Shirazi.
(18) Aga Muhammad Raza Sahib Namazi, a leading merchant.
(19) Mirza Javad Sahib Namazi.
(20) Saiyid Hasan Sahib Isphahani, a leading merchant.
(21) Mirza Casim Sahib Kirmani, a leading merchant.
(22) Mirza Muhammad Kazim Sahib Namazi, a leading merchant.
(23) Aga Saiyid Asadulla Sahib Moosavi Shoostari Disfuli.
(24) Aga Mirza Luthfa Ali Sahib.
(25) Aga Muhammad Ali Sahib Shirazi, a leading merchant.
(26) Aga Mirza Ahmad Sahib Namazi.
(27) Sulaman Sait Sahib, a leading merchant.
(28) Muhammad Ali Sahib Shirazi, a leading merchant.
(29) Muhammad Moosay Raza Sahib 'Brother'.
(30) Mir Husan Ali Sahib.
(31) Saiyid Hasan Moin-ud-din Sahib Kirmani.
(32) Mir Kazim Husain Sahib Kirmani.
(33) Mir Gazamfar Ali Sahib.
(34) Haji Ahmad Sahib Isphahani, a leading merchant.
(35) Mir Zama Hussain Sahib.
(36) Mir Abbass Hussain Sahib 'Fyazi'.
(37) Aga Sirdar Ali Sahib.
(38) Mir Murtaza Ali Sahib.
(39) Mir Mahdi Hussain Sahib.
(40) Mir Baker Hussain Sahib (and many others).

The president opened his speech by praising God, His Prophet and the Holy Saints who are the descendants of the Prophet and explained the object of the meeting at length. He put forward the translation of the Bill proposed by the Hon'ble Yaqub Hasan Sahib Bahadur regarding the registration of nikahs and divorces of Mussalmans in the Presidency for the consideration of the meeting. It was thoroughly discussed and unanimously resolved that the Bill alluded to should not be passed into law as it is an innovation and uncalled for, since the Shiah precepts are clear and thoroughly understood and the imaginary evil which the proposed Bill seeks to remedy does not exist in our community. The Bill, if passed into law, is calculated to cause more harm than good.

It was further resolved that the president of the meeting should be authorized to communicate to His Excellency the Governor in Council the opinion recorded by the meeting and if need be to submit a memorial to His Excellency in consultation with the leading members of the Shiah community.

XXVIII

Letter—from Saiyid Shah Muhammad Ala-ud-din Kaderi, Sufi, Hanafi, a resident of Hospet, Bellary.
To—the Secretary to Government, Local and Municipal (Legislative) Department.
Dated—the 20th November 1918.

May its mighty shadow be prolonged!

It is submitted that the Bill for the Voluntary Registration of Mussalman Marriages and Divorces, introduced by the Hon'ble Mr. Yakub Hasan Sait, Khan Bahadur, with a view to facilitating procedure and safeguarding the interests of

Mussalmans is supremely excellent and suitable. I support the opinion that the registration of marriages and divorces should be voluntary. This representation has been made for your information.

XXIX

Letter—from Abul Karam Muhammad Abd-ul-quddus, Zao, Chairman of the Association of the Sufis, Madras.
To—the Secretary to Government, Local and Municipal (Legislative) Department.
Dated—the 26th November 1918.

I have very carefully gone through the Bill for the Registration of Mussalman Marriages and Divorces introduced by the Hon'ble Mr. Yakub Hasan Sait. My years of experience compel me to say that such a law is urgently required in the Madras Presidency. I agree with the principles of the Bill. I am considering certain points that call for amendment and will address you again on the subject in the near future.

XXX

Telegram—from Moulvi Shaik Abd-ul-qadir Sahib, President.
To—His Excellency the Governor.
Dated—the 9th December 1918.

Muslims Rajagiri Tanjore district assembled meeting. Strongly oppose Hon'ble Yaqub Hasan Muslim Marriage Bill.

XXXI

Petition—from S. Qadir Muhi-ud-din Sahib, President, Anjuman Jalsai-Islami, Cuddapah.
To—His Excellency the Governor in Council.
Dated—the 23rd December 1918.

Most respectfully showeth.—That in consequence of a publication regarding the Bill about "the voluntary registration of Muhammadan marriages and divorces" the members of the Muhammadan community of Cuddapah town and taluk presented the enclosed mahazar under their signatures requesting intercession of this association in the following circumstances.

2. That in the town of Cuddapah and its taluk there is a total population of ten thousand Muhammadans and that until ten years ago there were no differences of religion or bad feelings amongst the members of the Muhammadan community.

3. That about ten years ago a few handful of Muhammadans of the Ahle-Hadis persuasion and who had their own particular mosque claimed a right to perform their namaz and other religious rites or performances in the mosques that were being exclusively used by the orthodox Muhammadans who formed the entire bulk of the population.

4. That objection to this unusual and unprecedented claim led the Ahle-Hadis to file criminal cases and declaration suits in criminal and civil courts respectively with the result that a decree was passed in their favour, though the said decree did not go to the full length of granting all their reliefs prayed for.

5. That in consequence of the above ambiguous decree, disputes again arose resulting in the exercise of the security section of the Criminal Procedure Code.

6. That at present Ahle-Hadis and their Sunni sympathizers are not allowed to join the congregational daily namazes of the other Muhammadans and are prevented from performing the Jumma namaz in the mosques and also from entering the mosques during the month of Ramzan. In consequence of these differences the Ramzan and Bakr-id-kudba also are held in two different places—one by the majority of the Muhammadans under their spiritual guru and elected Kazi and the other by the few Ahle-Hadis and their sympathetic Sunni followers under the leadership of the Government Kazi who, though he calls himself a Sunni Hanafi, has taken the Ahle-Hadis and their friends under his leadership.

7. That in consequence of the above circumstances nine-tenths of the Muhammadans above referred to have been since ten years getting their marriages,

divorces and all other spiritual rites and ceremonies performed by the abovementioned Kazi Saiyid Sha Amir-ul-lah Husaini Chistial Khadari who was elected Kazi by them.

8. The abovementioned Kazi is a descendant of a very great spiritual guru of the Muhammadans and has been doing the duties of the Kazi most satisfactorily until this hour.

9. That section 3 of the proposed Bill for voluntary registration of marriages and divorces in restricting the Kazis for each sect to be not more than one imposes a great inconvenience and difficulty for the appointment of Kazis for the different sections of the same sect who form a considerable assembly as in the case of our Cuddapah town.

10. That in view of the above circumstances existing at Cuddapah and many similar ones in other places, it is necessary that the section be so amended as to provide for more than one Kazi for a sect wherever there is a necessity and that the appointments be made in conformity with the section II of the present Kazi Act empowering or enabling every Kazi elected by people to maintain a register as contemplated in the proposed Bill.

11. That the petitioners most emphatically submit, that in case such an amendment is not made, the Bill will seriously affect the established rites and privileges of the Muhammadans, doing which will be acting contrary to the established principle of the British Government, of a policy of non-interfering character so far as their religious and social matters are concerned.

12. Petitioners therefore pray that His Excellency will be pleased to safeguard their rights under the circumstances above mentioned; for which act of kindness and mercy the petitioners, as in duty bound, will ever be grateful and thankful.

XXXII

Letter—from C. F. Brackenbury, Esq., I.C.S., Acting Collector of Kurnool.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—the 10th January 1919.
No.—D. Dis. 148/Genl.

In reply to the Government Memorandum No. 1519-8, dated 12th October 1918, I have the honour to state that the Hon'ble Mr. Yaqub Hasan's Bill has received the general assent of the Muhammadans of this district.

2. Some leading Muhammadans of Kurnool town including the Government Kazi desire to go a step further by making the registration compulsory, as in their opinion voluntary registration will serve no useful purpose.

XXXIII

Letter—from C. G. Austin, Esq., I.C.S., Acting Collector of Tinnevelly.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—the 14th January 1919.
No.—D. Dis. 66/Rev.

With reference to Government Memorandum No. 1519-8, dated 12th October 1918, regarding the Hon'ble Mr. Yaqub Hasan's Bill to provide for the voluntary registration of Mussalman marriages and divorces, I have the honour to report that 13 representative gentlemen in this district were requested to offer their remarks. Only 11 of them have replied and their replies are enclosed with a list. Seven are in favour of the Bill, while 2 are against it. One gentleman is of opinion that an element of compulsion should be introduced in the Bill without, at the same time, rendering a marriage or divorce void for want of registration, as, in his opinion, to provide that Muhammadan marriages and divorces should be registered in order to render them valid is against the spirit of the Muhammadan law. The 11th gentlemen is not in favour of the Bill but proposes the amendment of the Kazis Act XII of 1880.

List.

1. I. A. Peer Muhammad Sahib Bahadur.
2. P. N. Muhammad Miran Sahib Bahadur.
3. Abdulla Khan Ghori Sahib Bahadur.
4. Muhammad Usman Sahib Bahadur.
5. Khan Sahib Moideen Kadirsha Marakkayar.
6. Janab Kazi Muhammad Irtaza Ali Sahib Tamariel.
7. Abjimiah Sahib Bahadur.
8. Diwan Muhi-ud-din Ravuttar.
9. Janab Moulavi Muhammad Sharafuddin Sahib Bahadur.
10. Muhammad Gouse Sahib Bahadur.
11. Muhammad Fazl-ud-din Sahib Bahadur.

2. Even those who oppose the Bill admit there is already a system of private registration among the Muslims. There is a large volume of opinion in favour of the Bill which, being merely permissive, seems to me to be unobjectionable.

Enclosures

(1)

Letter—from I. A. Peer Muhammad Sahib Bahadur, B.A., Revenue Divisional Officer, Tinnevelly.
To—the Collector of Tinnevelly.
Dated—the 1st December 1918.

With reference to your letter R.O.C. No. 998/G.B., Revenue, dated 26th October 1918, I have the honour to submit the following report on the Bill introduced by the Hon'ble Mr. Yaqub Hasan for the voluntary registration of Mussalman marriages and divorces.

2. I entirely agree with the object of the Bill and the reasons of the Honourable mover. True it is that according to Muslim law marriage is a civil contract and its validity does not depend on any religious ceremony though, by time immemorial practice sanctified by the example of the Prophet, the marriage is solemnized by *all* the assembled guests as there is no priestcraft in Islam. This most important event in the life time of a man or woman is recognized as merely a civil contract as every Mussalman is bound to fulfil all his civil contrats whether made orally or in writing. For example an oral gift of landed property by a Muhammadan is valid without any written deed provided there is delivery of possession to signify the genuineness of the gift. A Mussalman objects to swear by his "Koran" as he is bound to speak the truth in every day life. One who tells an untruth is not a Mussalman in the words of the Prophet as lie gives cover to most sins. If a man forbears from lying he will have perforce to give up most other sins. A deliberate liar will forswear with "Koran." Such being the sanctity attached to the truthfulness and to the fulfilment of contract, no written document is required for the marriage contract provided all the people live in patriarchal simplicity. But in a complex society there are sure to be black sheep. To safeguard against the wiles of such black sheep, a written record of the marriage is highly desirable though not absolutely necessary for the validity of the marriage. The Prophet inculcated committing to writing events. So some record is usually kept by the "Kazi" who takes the lead in solemnization of the marriage which solemnization as I said already is made by all the assembled guests.

3. The Hon'ble Yaqub Hasan's Bill aims at a regulated system of such record, the prevention of abuses in the simple ceremony and fraud on the part of the person maintaining the record by the registration of marriages and that optional according to the rules embodied in the Bill. No thinking Mussalman can disapprove of such a Bill.

4. The Right Hon'ble Syed Ameer Ali of His Most Exalted Majesty's Privy Council thinks that the registration should be made compulsory as is done in most Mussalman countries. The registration, however compulsory, does not infringe the religious principle which recognizes marriages to be a simple contract in the same way that the compulsory registration of births and deaths does not interfere with the laws of nature. However the people of this Presidency who have not been used to the registration of marriages by a regulated system will resent any sudden innovation which carries with it a penal provision which is necessary to enforce the compulsory registration. Therefore, I think the Hon'ble Mr. Yaqub Hasan has very rightly gauged the sentiments of the people of this country by proposing the registration to be voluntary. I hope there will be a time when the people of this Presidency will ask for compulsory registration.

5. Divorces, however easy, are resorted to only very rarely especially among the advanced people. The Prophet said that divorce displeases God though it is not irreligious. Once it is resorted to some record is necessary as in the case of marriages.

6. For the foregoing reasons I approve of the Bill generally and I would make the following suggestions in the details of the Bill.

Article 8.—The person authorized to attest the vakalat of a woman should be defined and I would propose any magistrate appointed under the Criminal Procedure Code, any sub-registrar, any village headman, any Gazetted officer retired or in service, any titleholder, any municipal councillor, any member of the taluk or district board or union panchayat, any revenue inspector, any tahsildar or deputy tahsildar.

Article 10, *paragraph* 2.—If the witnesses who were present at the marriage ceremony cannot appear before the Muslim registrar, they may be represented by their agents duly authorized before any officer stated above.

Article 16, *paragraph* 2.—It will be inconvenient to the Inspector-General of Registration to have direct supervision and control over the Muslim registrars in the town of Madras. In the town of Madras also, the District Registrar of Assurances may have supervision and control over Muslim registrars. The Inspector-General of Registration will of course have general supervision over all the Muslim registrars.

Article 25.—It is provided that every Muslim registrar shall be deemed to be a public officer. I would substitute "public servant" as defined in Penal Code for "public officer."

Schedule. Form A, Book I, columns 2 *and* 3.—The age also of the bridegroom and the bride should be noted.

Columns 9 *and* 17.—The date according to the Roman Calendar and the Hijiri should be given as most of the womenkind are used only to the latter date.

A column may be provided to note the properties settled by any of the relations of the married couple.

Column 15.—The taluk in which the village is situated may be given.

Book II, Columns 2 *and* 3.—The age of the husband and wife should be given.

Columns 4 *and* 15.—The Roman and Hijiri dates should be given for the reasons stated above.

Column 12.—The name of the taluk in which the village or town is situated should be noted.

The registrar may be authorized to register marriages in any place in his jurisdiction, but it is not necessary that the marriage ceremony should have been performed within his jurisdiction.

(2)

Letter—from P. N. Muhammad Miran Sahib, Deputy Collector on leave.
To—the Collector of Tinnevelly.
Dated—the 30th November 1918.

With reference to your R.O.C. No. 998/G.B. Rev., dated 26th October 1918, calling for my views on the draft Bill regarding the voluntary registration of Muhammadan marriages and divorces, I have the honour to state that I accept the general principles of the Bill. An exactment of the kind is highly necessary to minimise the scandalous litigation among the Muslim community.

A written record like the register proposed in the Bill literally carries out the injunctions of the Holy Prophet and gives support to the Islami tenets.

2. I take this opportunity of pointing out the necessity of appointing proper and only qualified persons to act as Muslim registrars. In addition to the central committee for working of the Act as in Bengal, local Committees of the leading Muhammadans with the District registrar as president may be appointed for each district. As a rule it is submitted that the registrar under the Act may be 'nominated' on their recommendation. The introduction of compulsory registration is opposed to the spirit of Muhammadan law of marriages and divorces. However to render the proposed measure effective it is necessary to penalise the parties for neglect to register marriages and divorces, without at the same time making them invalid for want of such registration. Section 8 of the Bill provides for application of registration to be made only *orally*. It may with advantage be added *or in writing*. Under section 20, time allowed for appeal is 20 *days*. This may be raised to 30 *days*.

(3)

Letter—from Abdulla Khan Sahib Ghori, B.A., B.L., Vakil, Tinnevelly.
To—the Collector of Tinnevelly.
Dated—the 28th November 1918.

I have the honour to reply to you as follows regarding the Voluntary Registration of Mussalman Marriages and Divorces Bill.

Such a measure is a long-felt necessity and I believe the Mussulman community will hail it with joy.

But I like to make the following alterations. As section 8 now stands application for registration of marriages or divorces can be made only orally and there seems to be no remedy in case of refusal to register by the registrar. This ought to be altered. Written applications also should be allowed and in case of refusal the Registrar must give his grounds for refusal and should be taken to task by his superior if the grounds are not sound, true or valid.

Further in the appointment, suspension or dismissal of a Registrar, the Mussalmans of the place over which he is to be, or is, appointed registrar should have a voice, their representation to the authorities being given much weight.

(4)

Letter—from F. Muhammad Usman Sahib Bahadur, B.A., District Assistant Recruiting Officer, Tinnevelly.
To—the Collector of Tinnevelly.
Dated—the 30th November 1918.

With reference to your letter R.O.C. No. 998/G.B. Rev. 1918, calling for my opinion on the Mussalman Marriage and Divorce Registration Bill, which is to be introduced in the Madras Legislative Council, I beg to submit that I strongly support the Bill and to state as follows.

2. A Mussalman marriage is but a civil contract. All civil contracts are safeguarded by enactments and rules thereunder in the interest of the public. Such safeguarding is necessary to prevent possible malpractices. Of all the civil contracts a marriage or a divorce is the most important for man's harmonious life. If such a contract is not safeguarded as other contracts of less importance, the harmony of domestic life is likely to be injuriously affected. A Mussalman marriage consists of very simple rites, and is made valid by the expression of consent on the part of the bride and bridegroom in the presence of necessary witnesses and vakil followed by a prayer for the well-being of the married couple. It was purposely made simple by our Holy Prophet so that neither the rich nor the poor may have the least hindrance to its performance. It must also have been considered that such an oral contract was sufficient in those days of simplicity and virtuousness. In these days of litigation, to satisfy which His Majesty's Government are increasing the number of law courts every year, such simple contracts are thwarted with impunity. False evidence has become a matter of daily occurrence, fabrication of records is made with dexterity, and suppression of facts is made with a veil of innocence. For most of the cases of Mussalman marriages and divorces a record is maintained, sometimes of doubtful nature, by the Kazis who soleminize the marriages or record divorces. Considering the litigous nature of the modern public such records are likely to be destroyed, suppressed or altered as the Kazis please, especially with mercenary objects. The civil law courts, in which claims of dowry and questions of divorces are fought, have to depend on the unsatisfactory documents that are produced by their Kazis, the entire denials of the existence of records of marriages and divorces or the other oral evidence adduced before them. It is not the intention of any Muslim or anybody else to allow the ends of justice to be defeated, on which depends the fate of many a contracting party. I believe that in most cases civil judges, who decide claims of dowry or questions of divorces, are not perfectly satisfied with the records of marriages and divorces, that are produced in their courts, or the oral evidence that is adduced. Such a state of affairs exists, because the most important of civil contracts, viz., marriages and divorces are not safeguarded by an enactment that prescribes the maintenance of an authorized record of such contracts. It will be unnecessary for me to quote instances of law suits by which, owing to the unsatisfactory nature of the records of marriages and divorces, many a family has been ruined or brought to shame.

3. Such an enactment is not against the Islamic Law, because there is no Islamic Law for or against the maintenance of such record, and cannot be considered to be an unnecessary interference on the part of Government, because marriage is only a civil contract. I remember to have read in the newspapers a resolution that appears to have emanated from some wilfully hostile quarters and which says that legislation of the kind proposed will be an unnecessary interference with the religious law dictated by our Holy Prophet. The resolution may be safely dismissed with the remark that our Holy Prophet did not dictate a law of a religious nature for or against the registration of marriages or divorces. If such an enactment be against the Islamic religious law, an Act of the proposed kind would not have been in existence for about 40 years in Bengal, the most advanced Presidency in India. The contemplated registration is intended to safeguard the material interests of a civil contract.

4. Considering all these circumstances the passing of the proposed Bill, into an Act will only be a boon to the Mussalmans of this Presidency. The Government have the best of intentions to safeguard the interests of the public and Government might have passed an Act enforcing the registration of marriages by persons authorized for the purpose had it not been for the fact that Government respect the opinions of the public.

5. I consider it necessary that Muslim Registrars should be appointed by Government making it obligatory on them to enter all the marriages they solemnize in the register supplied to them by the Government and to have the register signed by the parties and witnesses to the marriage, the mark of an illiterate person being regarded as signature if it is attested by a literate witness. It should also be made obligatory on Muslim Registrars to enter in the register such marriages as are sought to be registered by the parties to the marriage.

6. The next question to be considered is whether registration should be made compulsory or permissive. Considering the circumstances explained in paragraph 2 supra one should say that it should be made compulsory. But some parts of the Mussalman public might consider compulsory registration as a burden to them.

The penal provisions of an Act for compulsory registration, for failure to register marriages and divorces, may not create a healthy impression on their minds. An Act for compulsory registration is also likely to open a new field for mischief-makers. If any person wants revengefully to annoy or inconvenience a party to a marriage, that person may issue a notice to the concerned Registrar of the marriage that under some concocted circumstances the marriage should not be registered. The Registrar who is responsible to Government for the proper discharge of his duties will not take upon himself the burden of inquiring into the validity of the objection to register it. Consequently the parties to the marriage will be immensely inconvenienced and put to loss. On the other hand if the registration is only permissive the contracting parties need not look to the Registrar who might have been prevented from registering the marriage and will have it solemnized by any person. Though the objection be frivolous,

as it will be in most of the cases, the objector can very easily prevent the marriage when a compulsory Act is in force; but when a permissive Act is in force he will have to make out a case in Court of Law against the contracting parties at much cost and inconvenience after the performance of the marriage. Such and similar state of affairs will be prevented by a permissive Act. I therefore consider it sufficient at present to have a permissive Act of the kind proposed.

7. I beg to suggest a few alterations in the body of the Bill. In the definition of "Purdah-Nisheen" in lines 27 and 28 of the first page of the Bill the words "Might not ordinarily appear in public" may be substituted for the words "might reasonably object to appear in public". In section 3, line 35 of the first page of the Bill the word "areas" may be substituted for the word "limits". Similar substitution may be made where the word "limits" appears in the Bill. In section 6, line 17 of page 2 of the Bill the words "books" may be omitted and the word "register" may be altered into "registers".

(5)

Letter—from Khan Sahib S. K. Mohidren Cader Sha Marakkayar, Marakkayar Mahal, Tuticorin.
To—the Collector of Tinnevelly.
Dated—the 18th November 1918.

[Ref. R.O.C. No. 998 G.B., Revenue, dated 20th October 1918, inviting opinion on the draft Bill regarding "the Voluntary Registration of Mussalman Marriages and Divorces".]

I have the honour to reply that a copy of the resolution on the above subject and the speech made in connexion with the same by the Hon'ble Yaqub Hasan Sahib Bahadur in the Madras Legislative Council in its last session in the month of August 1918, was forwarded to me by the Honourable Member himself inviting my opinion and, today, I am sending a reply, expressing my entire sympathy with the said resolution and, if the same be passed in the Legislative Council, it would do an immense benefit to the Muhammadan community in general. I have the honour to attach herewith, a copy * of my views in Tamil as has been submitted by me to the Honourable Member's request, for your information.

* Not printed.

(6)

Letter—from Khan Sahib S. K. Mohidren Cader Sha Marakkayar, Marakkayar Mahal, Tuticorin.
To—the Collector of Tinnevelly.
Dated—the 9th December 1918.

In reply to your letter R.O.C. No 998/G.B. Rev., dated 27th November 1918, I beg to say that I was in receipt of your letter C. No. 998/G.B. Rev., dated 26th October 1918, to which I sent you a reply on 19th November 1918 containing my opinion in the matter in point and to add that I have had the pleasure of going through the speech of the Hon'ble Mr. Yaqub Hasan with reference to the registration of Mussalman marriages and divorces and the arguments relating to it and that I entirely fall in with his views and I am in favour of the introduction of the proposed Bill.

(7)

Letter—from Muhammad Ibtiza Ali Sahib Bahadur, Government Kazi and Municipal Councillor, Tinnevelly.
To—the Hon'ble Yaqub Hasan Sahib Bahadur, Member of the Madras Legislative Council.
Dated—the 5th December 1918.

I am in receipt of your communication regarding the Bill introduced by you in the Legistive Council.

2. I as a Kazi welcome the Bill as it only enlarges the scope of the Kazi Act and strengthens the hands of Kazis. I understand the Bill as making the Kazi a real person and not the illusory and vague person he is under the Act. So I agree with you that Kazis may be appointed Muslim Registrars ex officio. But I differ from you in the matter of appointing or styling the Naib Kazis (who are the Kazis' nominees) also as Muslim Registrars. Naib Kazis are persons appointed and removable by Kazis. If they are also appointed and styled Muslim Registrars their removal may lead to complication.

3. There is another matter about which I have a doubt. Supposing a Kazi Muslim Registrar offends the Marriage Act and is removed. The offence under the Marriage Act may not be one under the Kazi Act and *as* Kazi he may continue to perform the *duties* of Muslim Registrar. I think you may have to propose some remedy for that *passe*. Moreover that may also lead to two Registrars for the same locality which you provide *against* in the Bill.

4. As a Kazi of this town I experienced certain difficulties in the matter of Kazi registers which we Kazis keep. I write to you in the hope that you will include provisions in your Bill to meet those difficulties. It is not infrequently that we are called on by Courts to produce our registers to prove the entries in them The Courts do not immediately return them after inspection but file them as exhibits and it takes years before we get back our books. Now what else can a Kazi do but keep another temporary register or a number of slips to note down the marriages and divorces that are celebrated in the interval? When the registers came back to him he has to re-enter them seriatim. If when the permanent register is out of his custody and when he keeps a temporary register or slips entries he is called on by any Court to produce the record of marriages what else can he produce but the temporary register or the slip entries? This is a difficulty that I have often experienced and my brother Kazis also must have experienced. But I admit that the system besides being faulty leaves the door open to fraud and persons so minded have thereby an opportunity of abusing their powers. To meet this difficulty I would beg to propose to you to insert a provision that a certified copy of the register under the Act may take the place of the original and the original should not in any event be removed from the custody of the Registrars. I understand there are similar provisions in the Banker's Books Evidence Act. In this connexion I would also beg you to move in the proper quarter to provide in the Kazis Act also likewise either by rules or by amendment of the Act. The Bengal and Bombay Governments have framed rules *under the Kazis Act* but in Madras so far as I know no rules have been framed on any topic.

5. There is another difficulty in the matter of styling or appointing the Kazis as Muslim Registrars. Suppose some Kazi refuses to accept the office of the Muslim Registrar but wishes to continue only as Kazi and records marriages in his own fashion. What about the safeguards in regard to the marriages so recorded? But then that is a matter to be considered if the measure is to be passed as compulsory. For my part I am for making it compulsory. In my opinion and I have reasons to believe that I am not of the minority that registrations of marriages and divorces is not against the spirit of Islamic Law or usage but on the other hand it is a step towards enforcing the Islamic Law of keeping valuable evidence of marriages and divorces.

6. There is another point to which I should like to draw your attention. The entry in the register as to Mahar—would this not come under the Stamp Act? It may be made clear in the Bill if it does or does not come under the Stamp Act.

7. Regarding the Naib Kazis I have another suggestion to make. They may be styled as Assistant or Deputy Registrars removable by the Chief Registrar, the Kazi. Their duties may be defined by the Kazis. They may be allowed only to act by delegation.

8. Regarding the powers of superintendence and control provision, I have just one word to offer. I should prefer the District Collector or the District Judge to be in that position rather than the District Registrar. I do not object to the books being sent to the District Registrar's custody and the other provisions regarding sending of returns. I would prefer the control to be by the Collector or the Judge of the District as the status of the Kazi surely entitles him to that privilege. You may at least make an exception in the case of Government Kazis in that matter considering that they have long occupied a position.

9. Your Bill does not provide for the returning or otherwise of the books and other records that are already in the custody of the Kazis.

10. Regarding the point whether in my opinion the measure should be made compulsory and if so on whom the responsibility should rest I am of opinion that it is the solemnisers that ought to be made responsible and not the parties or their vakils or the witnesses.

11. I cannot conclude without expressing my sincere thanks for your earnestness in this matter and wishing you success in the Council.

(8)

Letter—from R. Abjee Miah Sahib, District Board Member, Panagudi.

To—the Collector of Tinnevelly.

Dated—the 21st December 1918.

With reference to your letter bearing Current No. 998-General B. Rec., dated 26th of October 1918, requesting to consider the Bill for Registration of Mussalman marriages and Divorces to introduce which permission is sought by the Hon'ble Mr. Yaqub Hasan and to state my views with remarks if any, I have the honour to state my view as follows with the following remarks.

The necessity for such a legislative enactment to prevent malpractice, corruption and various kinds of abuses and to obviate chances for fabricating false evidence and forging documents for proving and establishing false claims, was felt for a long time as the present system of maintaining marriage registers is so loose and unsatisfactory that the chances for such abuses are very great and the registers maintained now are found unworthy of acceptance as evidence to prove the status and legitimacy of children and establish real claims in a court of law. As a result, owing to this faulty system of maintaining marriage registers there has been miscarriage

of justice in law courts. As far as I have ascertained from Ulmas and Faqees and other learned men of the community they are of opinion that such a legislation is necessary. In many respectable families the members have become quite so much disgusted of the many instances of such abuses frequently brought to their notice that a record of marriages and divorces is maintained for a group of families by themselves to prevent tampering with the entries in the registers though they are aware that such a record will not be accepted as recognized record in the face of the provision in the Town Kazi Act XII of 1880.

The necessity for such a legislation is not denied even by those who are opposed to leave being granted for introducing the Bill but it seems that they fear of opposition from Moulvis on the ground that the Government interferes in religious matters.

The fear of opposition from the Ulmas on the ground that it is a religious interference is only imaginary. No Alim who has understood the spirit of Islam rightly will oppose this Bill nor declare that Mussalman marriage is a religious ceremony nor any religious ceremony is necessary to make the marriage valid.

From 1864 to 1880 the system of appointing Kazis was discontinued. The result was that all sorts of corrupt practices and abuses in connexion with Mussalman marriages and divorces and the maintenance of registers crept in. The need for legislation was very keenly felt in every province. Bengal had a Bill for voluntary registration of Mussalman marriages and divorces passed so early as 1876 by the support of the Ulmas and other learned men and the Act is working satisfactorily. While this being the case, there is no reason whatsoever to fear that the Bill won't work satisfactorily in our presidency.

The provisions in the Act XII of 1880 are defective. The abuses and corruption practised in connexion with Mussalman marriages and divorces were not checked nor the chances for such abuses were reduced. The object of the Act was in the main frustrated. The Kazis appointed under the Act have no official status; nor he is responsible to any in regard to maintenance and preservation of marriage registers. The Act is not armed with sufficient provisions to check and remove the chances for the abuses while it affords facilities for such abuses. So there is necessity for a Bill before the council. In this Bill there is nothing new. This is purely based on the Bengal Act of 1876, and provisions are made to have the presence of a recognized official (who ought to be appointed by the president and chairmen of the local boards), at these marriages and for maintenance and preservation of these registers.

This Bill is supposed to be opposed to the spirit of Mussalman Law. There is nothing in this Bill which is not in accordance with the spirit of Islam nor there is anything which is contrary to (1) the Koran, (2) Hades or Sunnat (tradition handed down from the prophet) (3) Ijmai-Ummat (accordance among the followers) and (4) Keyas (the private judgment).

With these remarks I support heartily the Bill, permission to introduce which has been sought for by the Honourable Mr. Yakub Hasan and in my view I am supported by Ulmas and Faqees in this part of this district and by the unanimous opinion of a large body of Mussalman public.

(9)

Letter—from P. T. C. V. Dewan Mohideen Rowther Sahib Bahadur, Pettai.

To—the Collector of Tinnevelly.

Dated—the 2nd December 1918.

With reference to your letters R.O.C. No. 998 G.B., Revenue, dated 26th October 1918 and 27th November 1918, I have the honour to submit that a gathering of the Muslims of Pettai was assembled at the Mosque yesterday after the Jumma Prayer to discuss the proposed Bill for the registration of Mussalman marriages and divorces. It was unanimously resolved that the Bill was quite unnecessary and undesirable. I beg to say that I also hold the very same opinion.

I beg to thank you for calling for my opinion of the Bill.

(10)

Letter—from Moulvi Muhammad Sharafuddin Sahib, Professor, Arabic College, Pettai, Tinnevelly.

To—the Collector of Tinnevelly.

Dated—the 13th December 1918.

With reference to your circulars R.O.C. No. 998 G.B. Revenue, dated 9th and 27th November 1918, regarding *Bill for the voluntary Registration of Mussalman marriages and divorces* I have the honour to say that the Bill is viewed with alarm by the vast majority of the Muslim community as interfering with its religious sentiments and I beg to explain below a few of the objections raised.

The Bill is likely to be made compulsory very soon. The proposer of the Bill himself expects it and that is why, he says, he thinks it enough to make the registration voluntary at present, instead of making it compulsory. So then, we have to consider the good or evil thereof in the light that it will be made compulsory sooner or later. But the Muslim religious sentiment

is quite against such a sort of legislation. According to the Muhammadan Law, a marriage that is attested even by the oral evidence of two witnesses is absolutely legal and valid. But under the compulsory registration system, our law courts will not be able to recognise as valid any marriage that is not registered. Even under the voluntary system unregistered marriages will be regarded with suspicion by the courts. This is extremely subversive of the spirit of the Islamic religion and the principles of its law. Further, the Muslim mind cannot tolerate such an intrusion (as registration) on the solemnity of a ceremony which is highly religious. No Muslim regards marriage as a worldly contract intended merely for his own convenience and enjoyment, but as a sacred duty which he performs in obedience to the commandments of his religion. To reduce such a solemn affair to the position of a business transaction such as the sale and purchase of properties will be to undermine the moral health of the community and to retard its progress.

2. The registration, if it is to be an effective one, must be much more elaborate and complex than is proposed. It won't be sufficient to have the brides' application for registration and the entries in the register signed by two witnesses. Further the provision to register marriages within one month of their celebration and not on the spot is capable of much abuse. There is much room for disputes and litigation. Applications can be concocted and marriages and divorces registered without the knowledge of the parties concerned, especially in the case of the Muslim bride who is ordinarily illiterate and invariably a gosha (parda-nisheen) So then thumb impressions, etc., will have to be taken in the register, in addition to the entry of identification marks. This will place the registers in the hands of qualified and trained men, who must be paid sufficiently and the department will become as elaborate and expensive as the present registration department (for documents). And who is to pay for the cost of maintaining the department? Surely the parties whose marriages and divorces are to be registered. The more perfect and the more elaborate and expensive the department becomes the higher will be the fee charged for registration. This will be a great inconvenience to the rich and a great hardship to the poor. And the benefit that may be derived at such a high cost is only doubtful and certainly the game is not worth the candle.

Further the sweet assurance that the registration will be entrusted to the present Kazis and Pesh-imams, who generally solemnize the marriages will be simply nullified; for, as shown above, the registers will have to be placed in the hands of qualified and trained men.

3. Under such a system of taking thumb-impressions and entering identification marks, the inconvenience, expense and hardships entailed upon the poor Muhammadan lady, who is invariably *a gosha*, are immense. Those who have witnessed the plight of Muhammadan ladies in the case of documentary registration need no stretch of imagination to realise this.

4. And what is the benefit that is hoped to be derived from the registration at such a great inconvenience and cost? Is the door against all disputes and quarrels effectively shut? The answer is an emphatic 'no' while the ingenuity of fraud is able enough to baffle the strict vigilance of the Registration Department (for documents) and we have thousands of suits and disputes coming before the Law courts as to the execution of documents and alienation of properties, it will not be difficult for such a fraud to defeat the vigilance of the by far less able registrar of Mussalman marriages. Whether there is registration or not, disputes and suits as to marriages will exist as ever.

But it may be argued that the number of suits and the possibility of miscarried judgment will be by far less. But here we have to distinguish between (1) contracts relating to properties etc., and (2) contracts relating to life such as marriage, etc. The contracts coming under the latter head are, unlike the former, naturally such as to give no room for disputes. This is inborn in human nature itself. Man, even though he may belong to the lowest strata of society is not generally willing, and when he is willing he does not find it easy, to deny marriages, etc., contracted by him. Quite contrary is the case with contracts relating to the alienation of property and the sale and purchase of commodities. This is why suits regarding marriages, etc., are very rare and few, even now when there is no authorized registration. These rare instances of disputes are bound to exist even under the system of registration.

5. There is another reason urged in favour of registration. It is said that a person marrying a second wife sometimes tries to keep his second marriage a secret in fear of his first wife. But does the proposed voluntary system of registration obviate this defect.

6. It is to be clearly understood that there is already an effective system of private registration in vogue among the Muslims. The Muslim community throughout the whole country may be split up into a multitude of small congregations, each attached to a mosque. Each congregation possess a common burial ground. The marriages of the congregation are solemnized by the pesh-imam, who conducts the prayers in the common mosque and who owes his office to the good opinion of the congregation. In the mosque is kept a register which is taken to the marriage house by the pesh-imam, who is to celebrate the marriage. The marriage contract is written in it, signed by the parties and attested by witnesses as well as by the pesh-imam himself. All this is done on the very spot, before the marriage assembly disperses. It may be safely said that the marriage and the entry take place at the same time. Certain fees are levied for performing and registering the marriage which go towards the maintaining

expenses of the mosque. No other scheme of registration, however elaborate it might be, can be so very effective, authentic and genuine as this one. The entry is so very public and unquestionable.

It may be that defects are found in the working of the system here and there. But the removal of these defects must be left to the private efforts of the Muslim community and to such public bodies as may exist among them. In these days of self-reliance and self-help, when private institutions that can be of some use to the people are most willingly nourished and encouraged by the Government and such organizations as panchayats and self-management of local affairs are under experiment, it will be most deplorable to invoke the aid of legislation to kill an organization, which is doing immense good to the community and which in no way is less effective than the system which the proposed legislation is expected to bring into being. Such a legislative interference ought to be vehemently condemned, especially when it goes against the religious sentiments of the community concerned and is extremely liable to be misunderstood and wrongly interpreted by the common mass.

7. Let us imagine for a while what will be the state of affairs, should the proposed Bill be passed into law. It has been shown above that there is already a system of private registration in vogue and that certain fees are levied by the mosque in connexion with marriages. People cannot refuse to pay these fees, for if they do, they will have to forego the common rights to which they are entitled as members of the aforesaid congregation so, people will not be inclined to have their marriages entered in the licensed register; for, that will mean an additional taxation and a great inconvenience. They will be further encouraged in such an act of omission by custom and sentiment. In most localities the licensed register will not at all be applied for. Either with the legislation or without it, things will go on as usual without any alteration or improvement. Only in a very few localities the register will be applied for; and that will be through the efforts of individuals having some zeal for the legislation or some selfish object in view, such as income, etc., but not through the common mass feeling the necessity for it. Even in such localities, the register will not find an universal adoption. The common mass will not easily break off from their old sanctified custom and go in for these innovations, as a matter of sentiment and of means. Only those who want some special record of their marriages will have recourse to the licensed register. And when disputes arise about such marriages, the object and intention in thus going out of the customary way to register the marriages will have to be discussed. Thus, the licensed register, instead of being an unquestionable record will be one the entries in which will have to be regarded with suspicion.

Further, since the register will not be used by the generality of the people, it will not be a rarity to find registers with a few entries on only one or two pages during the whole year. So that after the lapse of a few years, the Government will have to face the question whether to make the registration compulsory or to abolish it altogether. But, as shown already, it cannot be made compulsory, for that will revolt against the religious sentiments of the community and against the spirit of the Muhammadan Law. Quite a storm of protests will be stirred up. Hence it will have to be abolished. Why, then, so much bother about a scheme which is bound to fail.

So then, I think the Bill is quite unnecessary and uncalled for under the circumstances. It militates against the religious sentiments of the vast majority of the community and is likely to arouse great apprehension and misunderstanding, if passed into law.

Further, I beg leave to say that the Muslims of Pettai, assembled at the mosque on 29th November 1918 after the Jumma prayer, have entered their protest against the Bill and have authorized me to communicate the same to you.

So, I, on behalf of the Muslims aforesaid, beg that you may be pleased to consider these objections and forward the same to His Excellency the Governor in Council, so that the necessary steps may graciously be taken to prevent the Bill from being passed into law.

(11)

Letter—from Muhammad Ghouse Sahib Bahadur, Treasury Deputy Collector, Tinnevelly.
To—the Collector of Tinnevelly.
Dated—the 14th November 1918.
No.—D. Dis. 674 Acct.

With reference to your letter R.O.C. No. 998/G.B., Revenue, dated 26th October 1918, calling for my opinion on the draft Bill published at page 863 of the *Fort St. George Gazette*, Part IV, dated 8th October, regarding the voluntary registration of Mussalman marriages and divorces, I have the honour to state as follows:—

(1) The fact that the present Mussalman system of registration of marriages and divorces requires proper regulation and legislation cannot be denied. Ancient history of Arabia clearly indicates that a system of registration existed during the time of Muhammad the prophet (Peace be on him) and of his Khalifs, and that the registration was almost a 'Sunnath', which means compulsory. I believe that no conscientious Moulvi, i.e., a person well versed in

Muhammadan religion, can deny this. That the present system of registration is loose and does not prevent malpractices arising from want of a properly regulated system is admitted on all hands.

(2) The word 'Kazi' is not defined anywhere, either in the draft Bill or in the Kazi Act XII of 1880. Nor are the legitimate functions of a Kazi enumerated anywhere. The word 'Kazi' literally means a judge. He would write or pronounce 'Fathwas', i.e., authoritative decisions in civil and criminal disputes including divorce cases. But since the advent of the British regime and the establishment of Judicial courts, Kazis have ceased to exercise these powers, except in disputes of a petty nature and that too in rural parts. Solemnizing a marriage is different from registration. Kazis are recognized only as Registrars of Musalman marriages and divorces. Solemnizing marriages is not one of their legitimate functions. Persons who are pious and well versed in Muhammadan Law and Ethics are generally appointed as Kazis and in practice they perform both the functions of solemnizing and registering a marriage. But when a more pious and learned person is available and present in the marriage congregation he will generally be requested to solemnize the marriage. This has been the practice in Arabia and Moslem countries and in India from time immemorial. Even if a person other than the Kazi solemnizes a marriage, the marriage is booked in the Kazis' registers. Ancient history of Arabia and Moslem countries and India would prove this beyond any reasonable doubt. It is therefore clear that solemnization of Muslim marriages is not one of the legitimate functions of a Kazi. The Bill as at present drafted does not provide for the grant to Kazis or Naib Kazis of licences for solemnizing Mussalman marriages, in which case alone it would interfere with the existing privileges which Ulemahs (pious and learned persons) and others enjoy of solemnizing marriages. The Bill, as at present introduced, provides only for the registration of marriages by the Kazis. There cannot therefore be any possible ground for the Ulemahs or others to dissent from the Bill. The Bill so far as it goes is therefore unobjectionable.

(3) The Bill as now drafted is no doubt an improvement on the existing state of things but it will, I believe, be a dead letter and will fail to bring about the desired effect, unless and until a provision is made therein making the registration of Mussalman marriages and divorces compulsory. But to provide that all cases of Muhammadan marriages and divorces should be registered to make them valid, is certainly opposed to the spirit of Muhammadan Law. An element of compulsion should, I think, be introduced into the Bill without at the same time rendering a marriage or a divorce void for want of registration. It is necessary to penalise the parties and their lawful guardians for neglect to register Muhammadan marriages and divorces. If provisions similar to those mentioned in sections 18 and 19 of the Birth and Death Registration Act III of 1889 are made in the Bill, the object of the Bill would be fully served and there can also be no reasonable objection to the Bill on the part of the members of the Muhammadan community.

(4) A Kazi or a Naib Kazi is seldom left uninvited during occasions of Mussalman marriages. He is generally present and in his presence, the Moulvi or Ulemah or any other person, if so requested, solemnizes the marriage after obtaining the consent of the contracting parties through the vakil, and it would therefore not be difficult for the Kazi to register the marriages then and there on the spot. It is only in rare cases of marriages that Kazis or Naib Kazis are not invited; and in these cases, the fear of penalty would compel the parties to register the marriage or divorce, though marriages or divorces without registration should be valid according to Muhammadan Law. A Bill on the above lines penalising parties for neglecting to register marriages and divorces but without rendering the marriages and divorces for want of registration is the only one in my opinion that can effectively remedy the defects in the existing system of registration.

(12)

Letter— from Muhammad Fuzl-ud-din Sahib Bahadur, B.A., B.L., Subordinate and Assistant Sessions Judge, Tinnevelly.
To— A. R. Cox, Esq., I.C.S., Collector of Tinnevelly.
Dated—the 29th November 1918.

With reference to your letter R.O.C. No. 988/G. B., Revenue, dated 26th October 1918, I have the honour to state as follows:—

The subject of registration of Muhammadan marriages, so far as this Presidency is concerned, is about a score of years old. It was, if I remember correctly, for the first time introduced by me while at the bar in Cuddalore, in the memorial submitted by the Mussalmans to His Excellency Sir Arthur Havelock on his visit to the place in the year 1899. What was then urged, so far as I remember, was amendment of the Kazi Act (Act XII of 1880) making it incumbent on a Government Kazi to attend marriages if invited and maintain register of marriages in a prescribed form. His Excellency promised inquiry into the subject and was pleased to do so. Thoroughly conservative opinion was then the order of the day, and the subject, which carried with it nothing of a religious nature, as I will presently show, was assumed to be of that aspect and give the full colour of it. The result was that the Government of the day was not prepared to take action in the matter.

(2) The object of the Bill as described in the Statement of Objects and Reasons and as can be gathered from the speeches of the Honourable Members, made, when the motion for leave to introduce the Bill was made, is the *preservation* of evidence of marriages, their terms and divorces as recorded in the loose form of registers as at present maintained by Kazis and others, who solemnize marriages, as, when necessity arises, those records are either not forthcoming of not forthcoming in the state originally recorded. There is nothing against religion in the *preserving* of evidence. Any portion of the Muhammadan Law relating to evidence pure and simple in relation to Mussalman marriages and divorces, has been abrogated by the Evidence Act and hence the subject is purely a temporal one.

(3) On closer scrutiny, it must be clear that the chief aim of the Bill is the preservation of evidence of *terms* of marriage contract and not so much its factum nor of divorce or its terms. Cases, where the marriage itself is questioned, are rare. An optional measure like the one proposed, cannot tend to minimise such rare cases. A compulsory measure would affect the religion, must strongly be resented by the community, and would be a novelty in this Presidency. Bengal, which has an optional measure for more than four decades, was not inclined towards making it compulsory. A compulsory measure even would not tend to minimise such rare cases so long as marriage relationship can otherwise be proved, as by opinion expressed by conduct under the General Evidence Act (section 50), or by the doctrine of 'acknowledgment' peculiar to Muhammadan Law. The Bill is certainly not intended to abrogate the above provision of the Evidence Act or to do away with the doctrine of acknowledgment. The Hindus, who form the bulk of the population of the country and have no records of marriages, do not feel the absence. There is then no particular reason why the marriages of Muhammadans which are generally registered though in loose form and among some of whom it is customary to keep private records of the marriage contract called Kabinnamehs, should be compulsorily registered for the bare purpose of proof of the fact.

(4) I see absolutely no reason for divorces being registered. Divorce is considered a sin and condemned by the Prophet himself. It is resorted to only in unavoidable cases and when accomplished, the parties evince the desire to forget the past relationship and to keep it as little exposed as possible. When the dissolution is effected, both the parties naturally take special care to create private record of the fact for future free action and to prevent the one from setting up any claim against the other.

(5) Is there then no necessity for the state taking any action? What is the real cause then for any complaint by at least a limited section of the Muhammadan community? The Muhammadan Law annexes to the marriage contract, besides the usual incidents attaching to it in other systems, the obligation by the husband to pay what is called dower to the wife. The amount is often fixed beyond the means of the husband and the object is to act as a check against the unrestricted power he commands under the law to divorce. This amount or the whole of it is not payable at once. Even the prompt portion of it is not enforced as must be natural while the parties live in happy terms. It is only when the relationship ends either by death or by divorce, the time comes generally to enforce the obligation. The Law of Limitation itself has been drafted so as to enable the marital parties or their heirs to enforce this obligation on the happening of such contingencies. (Articles 103 and 104 of Schedule II of the Limitation Act.) Thus the obligation comes ordinarily to be enforced either when the relationship between the original parties to the contract is strained or either or both of them are dead and it becomes the turn of the heirs of the one to enforce the obligation against the other or the heirs of the other, and by this time several years have generally elapsed since the marriage. Naturally one party (husband's) tries to escape out of it or minimise its amount while the other tries to exaggerate it. Here lies the necessity for a correct record of the marriage contract.

(6) In several places it is customary also for parents and other relations to make gifts to the bride of immovable properties besides ornaments and paraphernalia and these also used to be recorded in the marriage register. Here also the marriage register becomes very important as gifts of immovable property by Muhammadans are not affected by section 123 of the Transfer of Property Act relating to registration or any other thing in Chapter VII of the Act.

(7) The question may be asked whether preservation of evidence and that especially of terms of a contract is not the proper look out of the immediate parties to it and is there any necessity or expediency for State intervention for the purpose? In the first place the contracts in many instances are not entered into by the parties themselves but by their parents and guardians. There are cases where adult women as well (those of the Shafi and Maliki faith) who cannot lawfully contract a marriage without the intervention of jali (guardian for the marriage). In most cases rights and obligations arising out of the contract happen to be enforced not between the immediate parties to the contract but by the one or his or her heirs against the heirs of the other. It is obvious that Kabinnamehs made on the occasion of the marriage may not be available to the one who seeks to enforce any right arising out of it. They are exposed to the same risk and abuses as the loose form of registers kept now by Kazis and others.

(8) Thus showing the necessity for State intervention for the preservation of terms of marriage contract, I shall now proceed to consider if the proposed measure will really bring out its avowed object. By the way, it is hardly necessary to say that preservation of evidence of terms of a marriage contract will incidentally serve as evidence of factum of the contract itself.

9. In my humble opinion the measure instead of promoting its object will tend to defeat it. The preamble to the Bill, while not setting out its true object, is couched in language which is apt to be misunderstood. It, read with clause 1 of the Bill, is likely to lead to the misconception that marriages not registered under the Act carry with them something inexpedient in the very form marriages are solemnized and thus to affect the substantive law relating to Muhammadan marriages. The substantial provisions of the Bill (sections 8 to 10) are grounded upon the Muhammadan Law as to validity of marriages and divorces which is entirely foreign to the purpose of the Bill and this must lend additional support to the view that it aims at changing indirectly Muhammadan Law as to marriages.

10. Any necessity for the creation of new set of officers as Moslem registrars in addition to Kazis under Act XII of 1880 and in contra-distinction to them is not at all apparent. Of course the Bill provides for Kazis being given licence as Moslem registrars as a matter of course but they are by no means bound to do so. If it is intended to compel them to take licences or they themselves voluntarily apply, any necessity for their entity as Kazis under another Act disappears.

11. The Bill instead of aiming at the abolition or rectification of the loose forms of registers maintained by Kazis perpetuates it by creating a second voluntary registration in addition to or in some cases instead of it. The Bill will of necessity lead to double registration in several cases with no apparent benefit and will be cause for confusion and embarrassment.

12. Immense inconvenience must also be felt by the parties in complying with the provisions of the Bill and reaping any benefit to arise out of it. Unless the parties to the marriage, their agents, vakils, etc., whose presence is necessary for its registration according to sections 8 to 10 happen to belong to the same locality, it must in most cases be difficult to bring them altogether for the purpose of registration on a day subsequent to the marriage and within one month from it. They can ill-afford to dance attendance before the registrar on the marriage day itself. If inconvenience to the parties is to be avoided, the registrar must be compelled to be present at the marriage ceremony. Is there any necessity to do so? Is it not enough if the Kazi himself is compelled to maintain proper record of the marriage?

13. The Bill is highly objectionable in that it involves the parties in quasi-judicial inquiries before registrars in matters chiefly relating to the validity of the marriage after the event and when there is no controversy about the matter and probably after consummation in several cases by which any defect in the observance of the due form of the marriage is validated; and a refusal by the registrar to register a marriage for non-observance of any defect in the performance of the ceremony as he ought to or for unavoidable absence of any persons whose presence is necessary for the purpose of registration must provoke the feelings of the parties and the community especially when the Bill is silent as to the effect of registration (of course rightly).

14. There might have been some necessity for the Bengal Act of 1876 as no Kazi Act was then in force. The Right Hon'ble Mr. Amir Ali in his treatise on Muhammadan Law, Vol. II, third edition, page 328, foot-note, observes as regards the working of that Act. "It has since been acknowledged that great difficulties arise in the administration of justice from the permissive character of the Act." An enactment which does not satisfactorily work in the province of its birth and where the Muhammadans are of better culture, enlightenment, social position and influence and are found in larger numbers is not a fit measure to be experimented upon in this Presidency where they are in less favourable position in every respect.

15. As observed in the Statement of Objects and Reasons of the Bill, Muhammadan marriages are generally registered by the Kazis and other persons that solemnize them. To prevent the records being subsequently tampered with or secreted or otherwise lost, it is necessary and sufficient that due provision is made for their proper preservation. This will amply be provided for by making it incumbent on the Kazis to attend marriages, if invited, register the marriages which they solemnize and send extracts of the same to the nearest Sub-Registrar and the register when completed, and amending the Kazi Act and, if necessary, the Registration Act. This was exactly what was prayed for in the memorial to His Excellency Sir Arthur Havelock by the Cuddalore public about two decades ago.

16. By my proposal, the public are not at all inconvenienced and so far as they are concerned registration remains voluntary. At the same time registration becomes compulsory as marriages are generally now registered. When the public see the practical utility of the measure they must find themselves forced to resort to Government Kazis for solemnization and self-styled and self-elected Kazis of the present day must in course of time disappear.

17. I would therefore advocate the amendment of the Kazi Act on the lines indicated above.

18. The cause for the public opinion hitherto against any measure for the registration of marriages is due to the fact of the true aspect of it not having been placed before them. But times have somewhat since changed and I do not believe there is any likelihood of the object being misunderstood, if its true character is properly laid before the community.

XXXIV

Petition—from Hakeem Saiyid Shah Muhammad Sibgatullah Husain-ul-Quadiri "Noor", Secretary, Anjuman-i-Ahla-I-Sunnat-O-Jammat, Madras.
To—His Excellency the Governor of Madras.
Dated—Triplicane, the 7th January 1919.

May it please your Excellency,—The humble petitioner takes the liberty of submitting the following resolution which has been unanimously passed in a protest meeting held under the auspices of "Anjuman-i-Ahla-I-Sunnat-O-Jammat" held on Saturday the 4th instant at Ameerun-nissa Begum Sahiba's mosque, Triplicane, at 9-30 p.m. with Moulana Moulvi Muhammad Kudrath Haleem Sahib Nasari in the chair:—

"That this Anjuman-i-Ahla-I-Sunnat-O-Jammat strongly protests against the Bill of Registration of Muhammadan marriages and divorces introduced in the Legislative Council by the Hon'ble Yaqub Hasan Sahib as it is against the principles of our religion and it requests the benign Government not to pass the said Bill as marriages and divorces come under religion."

XXXV

Letter—from Hajee Saiyid Muhammad Abdur Rahaman Sahib, Royapetta.
To—the Collector of Madras.
Dated—7th January 1919.

With reference to your R.O.C. No. 1351-B & G., dated 11th November 1918, I have the honour to state that the Bill introduced by the Hon'ble Yaqub Hasan Sahib is contrary to and conflicting with the established Muhammadan Law. Marriages and divorces are not matters purely social. They are religious ceremonies and no interference with these ceremonies except on religious consideration can be allowed. It is stated in the Bill that registration is of voluntary and not compulsory; this is misleading. It is compulsory for all practical purposes and any compulsory interference with religious tenets of Islam has the local effects of making the country a Darul Harub. Alaman: Alaman: Alaman.

The Honourable gentleman is not a Moulvi and has no expert knowledge of our religious books. He belongs to a community converted to Islam in recent years. This community observes Hindu Laws and principles. As a representative of Muhammadan community, his interference with matters religious is injurious to the Islamic principles. It is a sin to declare things not permissible by law having sanction of 'Koran'.

We hope the benign Government will not allow the Bill to be passed into law, as it is contrary to our religion.

XXXVI

Letter—from P. A. Kunhahamed.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—Cochin, 13th January 1919.

I humbly beg to submit that a public meeting was held yesterday at Halara Musjid Cochin, under the presidentship of Mr. A. Kunhahamed to consider about the Honourable Yaqub Hasan Sahib's marriage register Bill favourably. There was a large gathering. The majority was against the Bill, so the meeting was disturbed.

XXXVII

Letter—from C. B. Cotterell, Esq., C.I.E., I.C.S., Collector of Ganjam.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—Camp, Russellkonda, the 20th January 1919.
No.—R.G.B. 1554-Cor.

I have the honour to submit the report called for in the Government Memorandum No. 1519-8, dated 12th October 1918, on the Bill to provide for the voluntary registration of Mussalman marriages and divorces.

2. There are not many Muhammadans in the district; such as there are, are chiefly concentrated in Russellkonda, Chicacole and Berhampur. Their opinions have been taken and they are generally strongly in favour of the Bill. The opinions are enclosed.

3. The Muhammadans of Russellkonda suggest that clause 20 of the Bill may be amended by extending the appeal time to thirty days and by providing an appeal against the Muslim Registrar's order under clause 19 to a panchayat of five persons, four selected by the parties at two each and the fifth by the four panchayatdars, instead of to the District Registrar.

4. The appeal time may be extended to thirty days but the Muslim Registrar's decision should not, I think, be appealable to a non-official body. To overcome the difficulty of the District Registrar not being a Muhammadan in most cases, I suggest that Muhammadan assessors should be appointed for fixed periods to advise the District Registrar in such appeals.

Enclosures

(1)

Letter—from H. Mir Faizullah, Medical Practitioner, Berhampur.
To—the Tahsildar of Berhampur.
Dated—the 22nd December 1918.

[Reference your R.O.C. No. 3343, dated 19th December 1918.]

I have the honour to inform you the opinion of the Muhammadan community regarding the Bill to provide for the Mussalman marriages and divorces published in the *Fort St. George Gazette*, page 863, and public meeting of the Muhammadans was held on Friday the 13th instant at the Jumma Mazjid and all unanimously agreed that the above-mentioned Bill may be passed. Signatures of some of the prominent men who were present at the meeting are taken on the margin to signify that they are in favour of the Bill.

1. Muhammad Faseeluddin.
2. Muhammad Yusuf Bhat, Acting Khazi.
3. H. M. Sadatullah.

(2)

Letter—from the Government Kazis, Chicacole.
To—the Tahsildar of Chicacole.
Dated—9th November 1918.

With reference to your notice, dated 6th November 1918, requiring us to express our opinion in regard to the proposed introduction of a Bill to provide for the voluntary registration of Mussalman marriages and divorces published in page 863 of the *Fort St. George Gazette*, dated 13th August 1918, we beg to state that, after deep consideration, we are of opinion that the proposed Bill suits the wishes of the Muhammadans of this place as it not only removes the present disabilities but also safeguards the wishes resulting from the present system of record of marriages by Kazis, Naib Kazis and officiating Kazis.

XXXVIII.

Letter—from the Muhammadans of Parlakimedi, Ganjam district.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—the 7th November 1918.

We have gone through the Bill to provide for the voluntary registration of Mussalman marriages and divorces and we agree to the provisions of the Bill. The provisions in the Bill are almost in accordance with the existing practice.

XXXIX

Letter—from F. B. Evans, Esq., I.C.S., Collector of Malabar.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—Calicut, the 22nd January 1919.
No.—D. Dis. 6753/18.

[Memorandum No. 1519, dated 20th October 1918. Bill to provide for registration of Mussalman marriages and divorces.]

I append a precis of the opinions which I have received. I have quoted at length where I have thought it advisable to do so: and have repeated some criticisms of detail which seem to me useful.

2. It will be seen that opinions are very divided. A majority of about two to one is against the Bill: and I think that the most weighty opinion is against it. Of course in any such matter it is to be expected that conservatism should be more pronounced than the demand for reform; and that is no doubt the reason why such legislation is usually framed in permissive terms. But I doubt whether such a Bill as the draft would be of any real use: and I do not think that in Malabar the defects of present practice are sufficiently great, or public opinion sufficiently strong, to justify a compulsory enactment.

Enclosure

Précis of the opinions.

1. *A. Khader Kutti Sahib Bahadur*, B.A., L.T., *Headmaster, Training school, Calicut.*—Such a legislation appears to me to be very necessary for this district. For, marriages are sometimes performed by moulvis who are not Kazis or Naib Kazis. These are not recorded at all. As regards the marriages performed by the Kazis and their Naibs, the records kept by them are often flimsy.

2. *Khan Bahadur Chekkutty Sahib Bahadur, Retired Inspector of Police, Manjeri.*—The Bill provides only for voluntary registration and, in my opinion, even if carried into law will practically be infructuous without compulsory registration. The case of the Malabar Marriage Act of the Hon'ble Sir Sankaran Nayar is an instance in point. The Government, wedded as they are to religious neutrality, may not make the Bill compulsory against the wishes of the people affected: but in my opinion unless this is done there is no useful purpose served. I, therefore, am for dropping the Bill in its present form.

3. *M. Bava Sahib Bahadur, Sub-Assistant Inspector of Schools.*—Many leading Mussalmans, Thangals and Musaliars have agreed with me in considering that the Bill contains all the particulars required and that to have such an Act as this is an absolute necessity. Now there is every sort of confusion in the case of Mussalman marriages and divorces inasmuch as there is no record to be relied on when dispute occurs. But I am of humble opinion that unless registration is made compulsory the object aimed at will never be achieved. Further, before settling all the disputes regarding Kaziship of each place, the Act will not satisfactorily work even if it is made compulsory.

4. *Kukulangara Pazhayagath Saiyid Muhammad Habib Thangal, Kazi of Baliapatam Jumath mosque*—

(i) *Clause* 3.—It is not desirable to take away the authority enjoyed by the Kazis and their tarwads during the last 1,000 years and more. If it is proved that a Kazi has committed any fault, he may be removed or suspended from the place; but his next heir should be appointed to the post.

(ii) The power of giving licences and seals to the Naib Kazis should be given to the Kazis. If a Naib is dismissed by the Kazi or retires from service, the Kazi should make a proper entry in his book, obtain the Naib's signature thereto and report the fact to Government or the District Registrar.

(iii) *Clause* 9 requires that application should be made to the Mussalman Registrar with a fee of Rs. 1-4-0 within a month. Marriages are ordinarily of three kinds:—(1) about two weeks or one month before the actual date, the parties agree to effect the marriage and 'Mangalam' on a fixed date; (2) the parties agree to marry within a day or two or a week and to effect 'Mangalam' one or two months hence; (3) marriage is settled all on a sudden and performed by the Kazi without 'Mangalam.' The requirement of one month's notice is therefore likely to cause inconvenience to the parties. It should therefore be enacted that as soon as the marriage is settled, the parties should produce Rs. 2—the fee now demanded—and apply for registration.

(iv) *Clause* 9.—It has to be settled as to who should act as a witness or vakil for the identification of women who have no relatives. According to Mussalman law, the authority to get such women married belongs to the kazi.

(v) *Clause* 10 requires that two witnesses should testify to the identity of the divorcer. But if the kazi knows him personally no witness seems necessary. It is enough if the kazi writes in the register that he knows the party.

(vi) *Clause* 15 has laid down a search fee of As. 4 and a copying fee of Re. 1. This is insufficient to meet the cost of entertaining a clerk. The kazis have no salary; but we demand a fee of Rs. 2 for every marriage. If the parties are rich, they may pay more. If marriages are performed from the houses of the parties by kazis or naibs, they are paid from Rs. 10 to Rs. 20. But such marriages are rare and far between. When naibs perform a marriage, they receive Rs. 2, pay Re. 1 to the kazi and keep Re. 1 for themselves as a consideration. This practice has been in existence during the last 1,100 years and our religious books prohibit a deviation from long-established custom. It should therefore be enacted that the kazis and naibs should receive fees as at present and that the naibs should pay Re. 1 to the kazi.

(vii) Under clause 20, an appeal lies from the Mussalman Registrar's decision to the District Registrar. But it should be enacted that the District Registrar can modify the former's decision only after consulting other kazis.

(viii) *Clause* 22 requires that as soon as a register is used up the Mussalman Registrar should send it to the District Registrar or some other officer empowered by him. In order to facilitate future reference in cases of doubt, it is highly necessary that an index or copy of the register should be maintained by the Mussalman Registrar at the kazi's expense. It should also be enacted that when a Mussalman Registrar leaves a district in which he holds kaziship, he may appoint a member of his tarwad as his substitute and report the fact to the District Registrar.

(ix) I may here be permitted to add a few words on a subject which has not been mentioned in the Bill. When a man marries a woman before a kazi or naib, the parties agree to pay each other certain sums of money as dowry, marriage consideration, expenses of maintenance, etc. If they fail to fulfil the promise in due time they apply to the kazi for enforcement of the agreement. The kazi takes the necessary evidence and decides the case on the merits. The kazi's decision is very often produced in courts as evidence. This decision is generally written on ordinary paper. It should be enacted that such decision should in future be written on ad valorem stamp paper as is done in courts of justice and that an appeal should lie from the kazi's decision to the District Court. Such an enactment would save the parties from much inconvenience.

5. *Khan Bahadur O. Mammi Kunhi Haji, timber merchant and contractor, and late Chairman of Municipal Council, Cannanore.*—I am in agreement with the provisions of the Bill, but I hold that this is not the opportune time to legislate on this subject.

6. *M. Abdulla Moulvi, President of the Hidayathul Mussalman Sabha, Manjeri.*—A meeting of the Hidayathul Mussalman Sabha of Manjeri was held on Sunday 1st December 1918 to consider the Marriage Registration Bill. More than 50 members attended the meeting. Mr. K. Mamath Moyan Kurikkal spoke at length about the necessity of the Bill and its importance to the Mussalmans, but subject to the following modifications:—

(*a*) The inscription bearing on the seal mentioned in section 4 of the Bill should be either in Arabic language or in the vernacular spoken in particular places.

(*b*) If the application be for registration of a divorce mentioned in section 8 of the Bill, other than of the kind known as khula, application shall be made to the Moslem Registrar by the woman, her father or by an authorized vakil, if not by the man who has effected the divorce.

(*c*) According to the strict laws of Moslem marriage a Shafi woman has the right to effect a divorce if she thinks it necessary; but the Marriage Registration Bill which is placed before the public for consideration provides no means for the exercise of the right on the part of a Shafi woman. This is a serious defect which must be removed. Therefore if a Shafi woman gives notice of her intention to effect divorce to the Moslem Registrar, the Moslem Registrar after giving due notice to the person must take account of it and register the divorce according to section 9 of the Bill.

(*d*) According to section 20 of the Bill, an appeal is allowed to the District Registrar from the Moslem Registrar. But he must consult, before giving the final decision on the appeal, two Muhammadan members who are well versed in the Muhammadan law. This is a defect for which provision must be made in the Bill.

(*e*) The poor should be exempted from the registration fee. These proposals were cordially supported by Mr. K. Aidru, the manager of the sabha.

Mr. K. Unny Moyan Haji then rose up and vehemently opposed the Bill and in doing so he laid emphasis on two points which carried the audience with him. He said that the Bill was fraught with more evil than good and that the kazis who did not know any language other than Arabic would not be in a position to maintain the register properly as is desired in the Bill, and that the appointments of the Registrar being few and far between in a district, the parties desiring marriage would be put to the greatest difficulties and disadvantages. Hence he was for rejecting the Bill in toto. In this he was enthusiastically and cordially supported by Messrs. I. Moidin and P. Kunhimoyi.

The proposals of the two parties being put to vote it was found that the majority was against the Bill. Thus it was finally resolved that such a Bill as is introduced by Mr. Yaqub Hasan is not beneficial to the country and that it is fraught with more evil than good.

7. *Puthiamalikakkal Kochithakiavil Thottummukath Puthen Veeti Ponnani Valiajarathingal Said Abubakker bam Hadroos Valia Thangal of Kakkuth amsam and desam, Walluvanad taluk.*—The times and circumstances require such a Bill very badly and it ought to have been brought in earlier. The registration fee of Rs. 1-4-0 will fall heavily on the poorer classes. The rate should be made proportionate to the amount of the dowry.

Clause 3.—In Malabar the mosques of Shiahs and Sunnis are situated close to each other. The two sects do not intermingle. The permanent kazi of the Sunnis should be given a licence covering all the mosques under him and he should register a certificate in favour of the naibs under him.

When a man wishes to marry more than one woman, the kazi does not make inquiries as to the capability of the man to maintain her with the result that poor persons marry more wives and propagate many children whom they cannot maintain. This gives an impetus to thefts and dacoities and leads to disastrous results. Marriages of this sort should not therefore be allowed.

As there are several castes and classes among Mussalman, registration of intercaste marriages should not be allowed. If not, women of the higher classes may find it difficult to get proper husbands. Men belonging to the lower classes may mislead women of the higher classes to marry them and thus bring disgrace upon their tarwads. It is therefore highly necessary that sufficient precaution should be taken in such cases. Applicants for registration should therefore be required to produce a yadast from the kazi or naib before the Registrar.

8. *C. C. O. Alipi Sahib Bahadur, B.A., B.L., District Munsif, Chowghat.*—I am of opinion that a Bill like this is most essential in the interest of the wellbeing of the Mussalmans of this Presidency. In my experience both at the Bar and on the Bench as a Munsif, I have come across many cases which justify the necessity for such a Bill. There is an impression among orthodox Mussalmans that it is the duty of the kazi or the naib kazi to keep authentic records of such marriages. In practice, except in the case of a few towns, no such records are kept so far as the kazis and the naib kazis on the West Coast are concerned. There are all sorts of kazis among the Mussalmans on this coast. Some are very respectable people. Some are appointed by Government. About these men it may be said that generally they keep an authentic record of marriages celebrated by them. Of the rest the same thing cannot be said. I have come across many cases where unscrupulous men have escaped their legal liability to maintain their wife and children by a denial of the factum of marriage when the woman and children were unable to establish their case by good evidence. In the majority of cases the parties have to depend upon pure oral evidence to prove marriages and divorces. It is necessary to point out that according to no Islamic school of thought marriage is a religious ceremony though it is always in practice conducted in a purely religious atmosphere. According to every school of Mussalman law the marriage relation is a contractual relation created by the agreement of parties, and no religious ceremony is required to complete it. According to Islamic Sunni law all that is necessary for a marriage is the proposal and acceptance between the bridegroom and the bride or their agents in the presence of two witnesses. It will be found that the subject of marriage is one which is least connected with religion except in very few matters. Every attempt should be made to make the procedure of registration as simple and informal as possible. In the first place, the seal of the Moslem Registrar should be in Arabic character and not in Persian as more Muhammadans know Arabic than Persian. In section 10 of the Bill the provision making it compulsory for two witnesses of the marriage or divorce to sign the entry should be removed. It is enough if the entry contains particulars relating to the names, address, etc., of the two witnesses. Again it is enough if the entry is signed by the parties or their authorized agents. Even now marriages could be entered into through mere agents. It should not be made necessary that the bride and bridegroom should sign the entry. It is enough if their duly-authorized agents sign. So also it should be provided in section 8 that the application for registration may be made by the joint application of the agents of the parties to the marriage. Where the application for registration is made by agents it should be provided that such agents should have authority duly attested in the manner in which vakalatnamas are now attested. This provision is necessary to provide against false personation or fraud on the part of the persons professing to be agents.

It is well known that on the West Coast and among some Tamilian Muhammadans, large sums of money are customarily given by the bride or her relations to the bridegroom on special terms. For example, Kazi panam and stridhanam are given to the bridegroom among the Mappillas of the West Coast. These sums or property are generally returnable on the termination of the marriage according to custom. There should be an entry in the register A giving particulars as to these payments or agreements for payments of these. Similarly, in form B there should be an entry as to the refund of those or agreement as to repayment of those. The amount and conditions of these payments often lead to a large amount of litigation among Muhammadans on this coast. Hence the necessity for these entries in these forms.

It is also necessary to provide expressly in section 17 that the Inspector-General should have power to make rules as to how the fees collected by the Moslem Registrar under the Bills are to be utilized.

9. *Khan Sahib P. Koonjayan Sahib Bahadur, retired Deputy Collector, Mahe.*—There is no urgent demand for legislation on the lines sketched out in the Bill. As far as my knowledge goes quarrels arising out of marital relations and leading to law courts are extremely rare—I may say almost nil—among Mappillas of North Malabar. In South Malabar such cases are sometimes heard of, but this number is too small to justify legislature interference, be it voluntary or compulsory.

As matters now stand, if any one desires to secure documentary evidence of marriages and divorces there are other means already available. For instance, the parties can very easily draw up a simple form of document and have it registered in one of the numerous registration offices with very little expense and trouble. This will furnish undoubtedly far better evidence than the record maintained by an uneducated and apparently irresponsible Registrar created by the proposed Act. So that no special enactment or machinery is necessary for voluntary registration.

In order to effectively guard against abuses of the nature the author of the Bill has in mind, nothing short of compulsory registration will be of any use. To think of enacting a law for compulsory registration at the present stage of secular education among the community is quite out of the question. Mussalman marriage is, as has been pointed out by the author of the Bill, "a very simple affair." Any one who is able to correctly dictate the few essential words of the formula can effect a marriage. This simple method prescribed by the religious law will have to be interfered with by declaring that marriages, etc., performed by licensed persons alone will be valid. This would mean open interference with religion which will be heartily resented by the community and opposed with all their might. From experience I have lost faith in the general belief that legislative enactments of the nature in contemplation will have the effect of reducing quarrels and litigation: on the other hand it will have the contrary effect and will drive parties to law courts on the slightest provocation and all sorts of dirty linen will be washed there.

10. *M. Ussan Kutti Mouliyar, Kazi of Cannanore.*—A regular register of Muslim marriages and divorce according to our Sharah has always been maintained by us and true copies are issued to the parties when required.

Some other points shown in the above Bill cannot be taken into force as they are against our Sharah and troublesome to men.

11. *The Mahadunn Tahngal, Ponnani (a high religious authority).*—The proposed law is highly desirable and will prove very useful to the Mussalman community. The present unregulated system gives rise to unnecessary disputes as to the validity of marriages. Persons having no religious status and learning are now consecrating marriages which are highly objectionable to our religion. The provision in section 3 of the Bill that any person being a Mussalman is eligible to be granted a certificate is objectionable and opposed to our "harah". The appointment of Registrars must be made firstly from among the existing Kazis who are of ancient families and secondly from amongst those who possess necessary learning and respectability.

12. *The Sultan Ahamed Ali Raja of Cannanore, Cannanore.*—I am not in favour of it. We have been getting on well enough up to now, and the motion for legislation does not appear to be called for as yet.

13. *Pallivettil Muhammad Haji, Cadiar, Calicut.*—As the enforcement of the rules mentioned in the Bill lead to increasing difficulties and losses, it will be very difficult to enforce them.

As the Act does not render invalid, merely by reason of its not having been registered, any marriage or divorce which would otherwise be valid and does not render valid by reason of its having been registered any marriage or divorce which would otherwise be invalid and since registration is not compulsory, no body is likely to undergo the troubles incidental to the compliance with the rules mentioned in the Bill. If the Act is made compulsory, it will lead to difficulties and losses and may go against religion.

If the Bill is brought into force some men may follow it while others may disregard it. The result will be that the Courts may look upon with suspicion and refuse to accept unregistered marriages and divorces. The serious consequences of such a contingency can be easily imagined.

If the registers at present maintained by the Cadis are deemed unsatisfactory, it would be enough if they are asked to maintain proper registers containing all the particulars required by the new Bill.

14. *Kayanadath Kunhamad Kutti Musaliar, Government Cadi, Tellicherry.*—As the evils resulting from the Bill exceed the benefits to be derived therefrom, I am of opinion that the Bill should not be passed into law.

15. *P. M. Attakoya Tangal, Quilandy.*—Although the Bill is purely permissive, there appears to be no likelihood of its becoming popular, at any rate among our community on this side. At the same time in the event of its being passed and its provisions made use of, the only result may be to breed disputes and misunderstandings. In spite of its defects and shortcomings our existing system is on the whole quite good enough for all practical purposes.

As regards paragraph 20 of the Bill, it strikes me as being extremely strange and undesirable that an appeal from the order of a Muslim Registrar well versed in religious matters should lie to a District Registrar who would certainly be not so versed.

In religious matters, fraud and deception are happily very rare, but if it is intended, by the Bill to provide a better regulated system, I submit that this object could more easily be attained by Government providing Kazis with printed registers on the understanding that these should be regularly and properly maintained and be produced for inspection whenever occasion may arise.

The proposed legislation is neither called for nor necessary and had better be postponed until a real demand for it has revealed itself.

16. *Khan Sahib P. A. Ammoo Sahib Bahadur, Deputy Collector, Calicut.*—Almost all the Muhammadans I consulted and also most of the Muhammadans in other places whose opinions I have been able to read in newspapers are against the Bill. My own opinion is that when there is such a stout opposition against the Bill from a majority of the members of the community whom it concerns, the Government should not allow the Bill to be passed into law whether such opposition be based upon a misconception of the object of the Bill or not.

As a matter of fact, every Kazi whether appointed by Government or not in this district is maintaining a regular register in which all the marriages solemnized by them or by their subordinates and all divorces intimated to them are recorded as a matter of course. In no respectable family in Malabar, I have ever heard of a single case of marriage being called in question. The divorce amongst them are very rare. Among poor people also disputes regarding validity of marriages or divorces are few and far between. Only those marriages that are not solemnized by Kazis or their subordinates and those divorces that are not intimated to them do not find a place in any register, but the proposed Bill does not remedy this defect. If the Bill be passed, the Kazis will have to maintain two sets of registers, one for all ordinary marriages and divorces and the other for voluntary registration. The effect will be the latter being subject to the control of Government officials, the former is likely to be discontinued. If, instead of the proposed complicated Bill, the Kazi Act be amended so as to make it incumbent upon every Kazi or Naib Kazi appointed under the Kazi Act, to maintain a consecutively numbered register for recording all marriages solemnized by them and all divorces intimated to them, failure to do so being punished with suspension or removal from office, I think the desired object can easily be attained.

Section 3.—According to the proviso, no more than one person of the same sect Sunni or Shiah can be licensed within the same limits. In Calicut, Tellicherry, Quilandi and other places there are already more than one Kazi having concurrent jurisdiction for the Sunni sect of whom only one Kazi is appointed by Government under the Kazi Act. Thus if the Government appointed Kazi alone be licensed, those Sunnis who follow the other Kazi will have no chance of voluntary registration. Hence this restriction should be removed and all applicants should be granted licences.

Section 4.—The seal should bear the inscription in the Arabic and the Vernacular character and language.

Section 8.—In the case of divorce other than the kind known as Khula, not only the man who has effected the divorce, but also the woman or her father or her authorized vakil should be allowed to make an application for registration.

Sections 8 *and* 9.—It is lawful under Muhammadan law for a woman of the Shafi sect to effect a divorce known as Faskh under certain conditions. Hence in such cases application should be allowed to be made by the woman, her father or by an authorized vakil and the Muslim Registrar after giving due notice to the person concerned allow the registration.

Section 9.—A fee of Rs. 1-4-0 is provided for registration. This will exclude many a poor desirous of voluntary registration. Registration must therefore be made free.

Section 16.—Almost all the District Registrars in this Presidency are non-Moslems. The Moslem Registrars are mostly learned Kazis and Moulvis will have sentimental objections to perform their duties which are purely religious under the control and superintendence of the non-Moslem Registrars.

Section 20.—Similarly it would be unwise to legislate that a decision passed by a Moslem Registrar who is usually the most learned Kazi or Moulvi may be interfered with by a non-Moslem District Registrar who is expected to know nothing about the Muhammadan law.

17. *Moulvi A. Kunji Ahmad,* the president of the meeting held on Sunday the 12th January 1919 at Kalvatty, British Cochin.

The above meeting passed a resolution in favour of the Bill.

XL

Endorsement No. 434-1, Home (Miscellaneous), dated 15th January 1919.

The Persian and Hindustani Translator to Government is requested to furnish the Government with an English translation of the accompanying petition in Hindustani.

(By order)

C. Ramanuja Achariyar,
Registrar.

The Persian and Hindustani Translator to Government.

XLI

Letter—from W. J. Prendergast, Esq., B.Litt. (Oxon), Acting Persian and Hindustani Translator to Government.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—Madras, the 27th January 1919.
No.—4.

With reference to endorsement No. 434-1, Home (Miscellaneous) Department, dated 15th January 1919, I have the honour to return the Hindustani petition with an English translation.

Enclosures

(1)

Petition—from the Government Kazi and others of Kurnool.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—the 15th December 1918.

There is no doubt that the objects, with which Mr. Yaqub Hasan has introduced his Bill, are based on the well-being and betterment of Mussalmans in general. But the Bill appears to be entirely devoid of benefit to the community, for it does not appear to contain anything calculated to remove existing defects.

With reference to the Bill it has been asked whether it is to be voluntary or compulsory. If 'voluntary' instead of being beneficial it will be entirely injurious. If 'compulsory' it may be expected to do much as regards the systematizing and amelioration of matters pertaining to marriages and divorces.

Yaqub Hasan Sahib has drafted the Bill in a manner so as to avoid interference with religious matters but still it does interfere and hence the criticisms of certain objectors are justified.

For instance a certain person marries a virtuous woman but this law contains loopholes which fraudulent and deceitful persons take advantage of. After the marriage the man puts off registration and eventually declines to have it recorded by the Moslem Registrar, or have it registered in an ordinary register, as he is empowered to do. From the very beginning he entertained a different idea. In this case will the marriage of this man, that has not been registered with the Moslem Registrar, be legal according to Muhammadan law or no? If legal, will the judicial authorities, the Collector, the Judge, the Munsif, Government officers, grant a decree in connexion with such marriage, for maintenance, mahar (dower), inheritance and cohabitation, etc.? If, in spite of the marriage not being registered with the Moslem Registrar, a decree can be granted and despite the law of registration the ordinary register is valid, what additional benefit can accrue from the Government taking all this trouble to pass the Bill into law? The ordinary registers will continue in the same irregular and slipshod condition.

If the marriage is considered invalid because it has not been registered and a decree be not granted in consequence, a serious objection will arise against the Government, viz., that the Government by regarding a marriage invalid, that is valid according to Muhammadan law, is interfering with religion.

In addition to this the rights of old hereditary kazis appointed by the Government will suffer much and they will be victims of the Government's high-handed procedure. That is to say the fees they have been in receipt of for generations and upon which they rely for the support of their families will be discontinued. We can easily prove this statement.

Hence if Mr. Yaqub Hasan amends his Bill as we suggest, the Government will be saved from the charge of interference with religion and the rights of the old hereditary kazis appointed by the Government which allow them to receive fees will also be safeguarded. The Government can easily arrange this. The amended law will, however, have to be compulsory.

(1) To regard the law thus amended and made compulsory as interfering with religion would be a great mistake for the law passed by the Government in consultation with members of the community, for, its benefit and well-being cannot be regarded as an interference with religion. For example, there is nothing in religion as important as the obligation to make the pilgrimage to the Hedjaz. Why therefore are the regulations for pilgrims to Mecca not regarded as interfering with religion? This is a case on all fours.

(2) The contracting parties and others will not be affected by the law. They can with alacrity perform this religious duty. The law will be passed in accordance with the commandment of God with reference to those who officiate. God says in the Koran, Ruku 39, Surat-al-Baqr 'Ye faithful! When you have to borrow do so on a bond in writing. The writer should be just and not refuse to write.'

Most marriages in this country are performed on credit (fees are not paid at the time of the ceremony), exceptions are so rare as to be negligible. If a marriage is performed on payment of Dower, it is not noteworthy. Hence a deed of marriage is required as commanded by God, but the existence of a just (honest) recorder is as rare as the philosopher's stone in this age. Therefore to pass a law to keep them straight with the consent of Mussalmans is in the interests of Muhammadans and not a case of interference with religion.

Before the passing of the law, a penalty clause for the person who officiates as kazi without preparing the marriage lines and making a record in the Government Kazi's register 'any one who officiates as kazi and performs the marriage before recording a deed of marriage in the register of the Government kazi will be punished with imprisonment with a fine amounting to so much' should be added. If this be added to the law relating to kazis there will be no defect left in the procedure and the community will be grateful to the Government.

3. *Government Kazi.*—Wherever there are old hereditary kazis with their deputies, they should be retained in the villages attached to the posts. In places where there are no such kazis, appointments should at once be made by means of election regulations. Their deputies should be appointed in the several quarters and the villages of those places. These deputies will be appointed by the kazis appointed by the Government. The latter should be empowered to give

decrees for maintenance, according to the circumstances of husbands, in the case of wives who have been cruelly deserted by their husbands. This is now vested in the Deputy Collector and is altogether out of place. Government kazis are entitled to do this, for, this is also a religious matter. Certain cruel husbands with the object of giving annoyance would not consent to be legally separated or to give an allowance for maintenance. Hence power to declare the marriage nul and void should be granted as it is in conformity with the tenets of Islam.

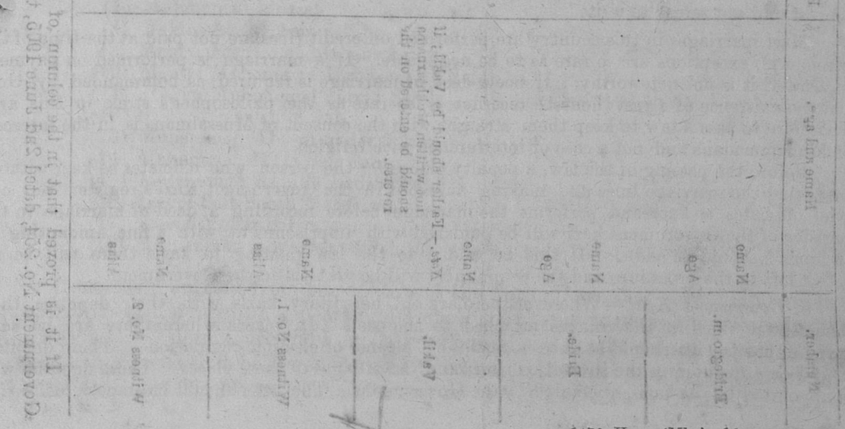
Duties of Government kazis.—Every Government kazi should have a seal which should bear his name with the words 'Government Kazi' with the name of the place and date of appointment. Every Government kazi should have several copies of (1) A register of marriages and (2) Divorces and Khula in forms A and B respectively. They should be printed and bound. Every page should be numbered consecutively and should bear the seal of the kazi. He should supply copies to the required extent and from time to time to his deputies. He should see that no marriage or divorce is effected in the places and villages under his jurisdiction without first recording the fact in the register in a regular manner. He should always scrutinize the records of his deputies. If he finds that any marriage or divorce has not been duly registered he should at once prosecute the defaulter and have him punished by the Deputy Collector. In case the kazi ignores this irregularity he should on conviction be made liable to the prescribed punishment.

Every Government kazi should then keep his records open and produce whenever required for the inspection of the Government chief kazi. He should pass decrees for maintenance according to the means of the husbands in case of cruel husbands who desert their wives and leave them unprovided for. He should grant decree in cases when husbands with evil intention do not consent to effect a *Khula* nor to maintain their wives.

Duties of deputies.—The deputies should fill in neatly and correctly the registers given them by the Government kazi under the law with his seal affixed, should take in the signatures of the parties, vakil and witnesses or their thumb impressions and without doing this he should not perform any marriage ceremony. He should not allow any marriage or divorce to be effected without first entering it in the register in the places under his jurisdiction. He should act strictly in accordance with the orders of the Government kazi, as regards keeping the register. He should deposit a money security with the Government kazi to make such losses good as are caused by keeping the register of marriage or divorce in an irregular manner or damage by fire or loss. He should indent for more registers before those in his possession are exhausted. When the registers are completed he should deliver them to the Government kazi and obtain an acknowledgment. If the villages placed under any kazi are numerous and far apart and it is impossible to reach them in one and the same day he should obtain a number of copies with heading consecutive numbers from the Government kazi and, as necessity arises, he should get the work done by reliable assistants but bear in mind that the responsibility devolves upon himself. If under his jurisdiction any one has performed a marriage and it has not been registered he should at once send a report to the Government kazi who will prosecute the offender in the court of the Deputy Collector and have him punished. In case of any delay in the matter he should regard himself guilty of an offence and liable to punishment.

The duty of the chief district kazi.—He should keep a list of all Government kazis and deputy kazis. He should inspect the registers of marriages and divorces at least four times a year. The other matters in Mr. Yaqub Hasan's Bill might be retained.

A copy of the register of marriages of the district of Kurnool is also submitted.



(2)

Form of Register of marriages prepared under the orders of the Collector of Kurnool by Kazi Muhammad Tahir Sahib, Government Chief Kazi, Kurnool town, Nundikotkur, Dhone, etc., taluks.

Number.	Name and age.	Father's name.	Occupation.	Residence.	State of Bride and Mahar.	Signatures or thumb impressions.	Date.
Bridegroom.	Name Age				Has or has not attained puberty.	Right hand thumb impression of bridegroom.	Date. Year.
Bride.	Name Age				Virgin or no.	Vakil's thumb impression.	Date. Month. Year.
Vakil.	Name *Note.*—Father should be Vakil; if not written Mukhtarnama should be entered on the reverse.				Amount of Mahar in figures. Rs. A. P.	First witness's thumb impression.	Place of marriage.
Witness No. 1.	Name Alias				Amount of Mahar in words.	Second witness's thumb impression.	Signature of the Deputy.
Witness No. 2.	Name Alias				Immediate or deferred.	Signature of Government Kazi.	Do.
					If immediate give details of cash, jewels or land on the reverse.	Do.	Do.

If it is proved that in the column of the signature of reddi—karnam, the signatures of reddi—karnams have not been obtained as directed in the Order of Government No. 254, dated 2nd June 1905, the deputy will have to suffer much.

XLII

Letter—from Mowlavi Haji Mufti Mahmud Sahib, Chairman of the Moslem Public Meeting, Madras.
To—the Secretary to Government, Local and Municipal (Legislative) Department.
Dated—the 4th December 1918.

I have the honour to communicate to you the following resolution passed at a very largely attended public meeting of the Ulamas, Mashaikheens and other Mussalmans of Madras held under my chairmanship on Monday the 2nd December 1918 in the Esplanade Maidan opposite Pachaiyappa's College, Madras, to protest against the Hon'ble Mr. Yaqub Hasan's Bill for voluntary registration of Mussalman marriages and divorces:—

"This meeting of Ulamas, Mashaikheens and other Mussalmans of Madras protest strongly against the Hon'ble Mr. Yaqub Hasan's Bill for voluntary registration of Mussalman marriages and divorces since, if the Bill becomes law, marriages and divorces valid according to Muhammadan religion would become liable to be questioned in Courts of Law for want of such registration as is contemplated in the Bill and also since thereby difficulties will be created which will mar the simplicity of the present law and curtail the religious liberty of Muhammadans."

XLIII

Letter—from Haji Moulvi Zia-ud-din Muhammad Sahib, Chairman of the Moslem Public Meeting, Lawley Hall, Mount Road.
To—the Secretary to Government, Local and Municipal (Legislative) Department.
Dated—Madras, the 4th December 1918.

A public meeting was held under my chairmanship on Monday, the 18th November 1918, at the Lawley Hall to consider the Bill for registration of Mussalman marriages and divorces which the Hon'ble Mr. Yaqub Hasan wishes to introduce in the Legislative Council. The following resolution was adopted at the meeting:—

"Resolved that this meeting while accepting the principle of the Bill as tending to minimise unnecessary and scandalous litigation considers that its provisions call for some amendments and accordingly appoints the following committee to study the Bill thoroughly and submit to Government such amendments as in its opinion are calculated to afford better relief and ensure greater facility in procedure."

The committee consists of the following members:—

(1) Haji Moulvi Zia-ud-din Muhammad Sahib.
(2) Khan Bahadur Muhammad Abd-ul-kudhus Badsha Sahib.
(3) Khan Bahadur Ghulam Mohmud Sahib Mahajir.
(4) Moulvi Abd-ul-majid Sahib Sharar.
(5) Moulana Abd-us-subhan Sahib.
(6) Muhammad Hussain Sahib Siddeeki (convener).
(7) Muhammad Moazam Sahib, B.A., B.L.
(8) Hakim Abdul Aziz Sahib.
(9) Moulvi Muhammad Ghaus Sahib.
(10) Moulvi Muhammad Habib-ul-lah Sahib.
(11) Hakim Muhammad Saiyid Sahib.
(12) S. A. K. Jeelani Sahib.
(13) Muhammad Abd-ul-qader Sahib.
(14) Muhammad Musa Sait Sahib.
(15) Muhammad Sadulla Badsha Sahib.
(16) Ismail Sait Sahib Magmoom.
(17) Saiyid Madar Sahib.
(18) Muhammad Abd-ul-latif Sahib.

I enclose a cutting from the *Hindu* of the 20th December 1918, in which the proceedings of the meeting appears and I shall thank you to place the proceedings and the above resolution before the Legislative Council. I shall forward to you the report of the committeee that has been formed to examine the Bill and suggest amendments for the consideration of the Select Committee of the Legislative Council.

XLIV

Letter—from Adam Dawood Sahib, Honorary Magistrate, Udipi.
To—the Secretary to Government, Local and Municipal (Legislative) Department.
Dated—the 6th December 1918.

With reference to the Bill No. 7 of 1918 introduced by the Hon'ble Mr. Yaqub Hasan regarding the registration of Mussalman marriages and divorces, the following is my humble submission.

After due consideration over the provisions of the Bill for the voluntary registration of Mussalman marriages and divorces, I am convinced of the absolute necessity of such healthy legislation and consequently I support it with all my heart.

The Bill will prove of immense utility to the community and will be the basis of fair play and justice in the matter of matrimonial transactions.

Notwithstanding the fact that all its provisions are happy I am inclined to think that the following changes are necessary in it, namely :—

(1) That in section 10, where the parties to a marriage contract or divorce are illiterate, their thumb impressions shall be taken, in addition to their marks of signatures.

(2) That the Mussalman registrar shall deliver copies of the entries to the parties concerned immediately after the registration of marriage whether they apply or not, Ref. section 11.

(3) That in section 22 provision must also be made for the filing of registers after the same have been exhausted.

(4) Further I am also of opinion that it would be better to provide distinctly in the Bill that those whose marriages have already taken place previous to the ~~dead~~ date when the Bill will come into operation and who wish to have them duly registered must be enabled to carry out their intentions with regard to that matter.

XLV

Letter—from M.R.Ry. Rao Bahâdur T. Raghavayya Pantulu Garu, B.A., Collector of Anantapur.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—Anantapur, the 26th January 1919.
No.—D. Dis. 294.

Referring to Government Memorandum No. 1519-8, dated 12th October 1918, I have the honour to state that the representative Muhammadans at the headquarters of the several taluks in the district and the Janab Sujjadah Nishin of Baba Fakr-ud-din Darga at Penukonda have been consulted on the Bill introduced by the Hon'ble Yakub Hassan. Their written opinions are enclosed.

2. About 80 Muhammadans residing at Kadiri, Anantapur, Kalyandrug, Madakasira and Hindupur support the Bill unreservedly, as also Khan Sahib K. Imam-ud-din Sahib Bahadur, Municipal Chairman, Anantapur. The representative Muhammadans of Dharmavaram, Penukonda and Tadpatri about 45 in number have expressed their disapproval of the proposed legislation and do not desire any change in the existing practice which they say are enjoined by their religious texts. The Manager of the Baba Fakr-ud-din Darga at Penukonda and the Sajjadah Nishin at the Darga and their followers stated on 16th November 1918 that the Muhammadans were already finding it difficult to pay the Khaji, Sir Khaji and the Naib Khaji for their services and that their community was too poor to incur the additional charges for registration, etc., contemplated by the Bill. They confirmed this view again on 9th December 1918 after reading the Hindustani translations of the Hon'ble Member's speech in the Council. The Manager of the Darga Saiyid Abdal Hussain has however in his petition, dated 25th December 1918, written to say that the provisions of the Bill had not been properly appreciated when the earlier opinions were given and expressed himself in favour of the Bill. The Anjumani Islamia at Gooty is generally in favour of the bill, but has proposed certain modifications which are detailed in the Gooty Tahsildar's letter, dated 15th November 1918, enclosed. These modifications are dealt with in paragraph 5 infra.

3. The objections raised and the modifications suggested relate exclusively to the portions of the Bill dealing with the registration of marriages. Divorces will be rarer than marriages and the parties to divorces will be majors and would not mind the inconvenience and cost involved in appearing before the registrar at his own residence or producing witnesses and authorized vakils before him.

4. The main advantage of the proposed legislation, namely, the securing of an accurate and reliable record of Muhammadan marriages and divorces, is generally recognized but the additional expense involved in the case of registration of marriages is generally objected to on the ground that Muhammadans are as a class poor. This objection has much force and the question how far the expenses of registration may be minimised deserves careful consideration.

5. *Modification proposed by the Anjumani Islami of Gooty.*—(*a*) Registration of marriages should take place at the time of the marriage in the marriage house itself. It is urged that the registration till about a month after the marriage which is permitted in the Bill has not the same advantage as that made at the time of the marriage itself, and that, if the registration takes place in the marriage house itself at the time of the marriage, the expenses involved in securing before the registrar the presence of witnesses and of authorized vakils in the case of parda nishin ladies can be obviated. Both these objections have much force. The suggestion that the registration should be made at the marriage house itself might involve the payment of carriage hire to the registrar, but the charge under this head must be considerably less than the expenses involved in securing the presence of witnesses and authorized vakils at the registrar's office. Further the Bill provides that every Khaji appointed by Government under section 2 of Act XII of 1880 and every Naib Khaji appointed by every such Khaji should be recognized as a marriage registrar. As the majority of Muhammadan marriages are likely to be solemnized by Khajis and Naib Khajis regularly appointed under Act XII of 1880 they could also register the marriages at the time of solemnizing them without extra conveyance charges. It is possible that in places where the Muhammadan population is large and where consequently on a single day there might be a number of applications for registrations simultaneously, registration there and then at the marriage house might cause a certain amount of inconvenience to the registrar. But such instances will be rare and in such large towns or villages, the difficulty can be overcome by the appointment of more than one registrar with jurisdiction over parts of the town or village. This the Bill permits.

(*b*) *Registration free of cost.*—This is urged from considerations of poverty. At present the bridegroom has to pay the Khaji for his services at the time of the marriage. The registration charges provided for in the Bill have to be incurred in addition. Total exemption from a fee is out of the question. Registration must involve some expense but the registration fee need not be so heavy as Rs. 1-4-0 in each case. It may be fixed much lower, say, at As. 8 in each case. If the Khaji or Naib Khaji solemnizing the marriage is a functionary properly constituted under Act XII of 1880 and as such is a marriage registrar himself, this additional fee of As. 8 will be sufficient inducement to him to undertake the work of registration also, even though he has to meet the cost of registers, ink, etc., from the fee. In the case of a registrar who is other than the person solemnizing the marriage the additional expense of conveyance allowances cannot of course be avoided.

Unless the question of extra expense for registration of marriages be suitably amended, the Bill is not likely to become popular and to be availed of to the desired extent.

6. Other defects—

(1) The expression 'Khula' is not defined.

(2) Signature of parties.

In the case of illiterate persons, it is desirable to insist upon thumb impressions being obtained with a view to obviate future disputes and for this purpose, a set of thumb impression materials must be supplied to every registrar.

Enclosures.

(1)

Letter—from the Tahsildar of Gooty.
To—the Deputy Collector, Gooty.
Dated—15th November 1918.

Adverting to your R.S.C. No. 1604, dated 28th October 1918, directing me to consult and obtain the views in writing of prominent Muhammadan gentlemen and Muhammadan bodies in this taluk, on the Bill to provide for the Voluntary Registration of Muhammadan Marriages and Divorces, which the Hon'ble Yakub Hassan Sahib Bahadur desires to introduce into the local Legislative Council, I beg to state that I consulted several Muhammadans, at Gooty, Guntakal, Thimmancherla and the Anjumani Islamia at Gooty and that they are unanimous for the registration. But they say that the Moslem registrar may be directed to visit the marriage houses at the time of nikah, and to register the marriages in the book supplied to him by Government. They say that all Muhammadan ladies are parda nishi ladies and more so after the marriage. Every Muhammadan will be willing to have the marriages registered in the book prescribed by Government, but it would not be possible for the bride to go to the office of the Muhammadan registrar. Though a provision has been made for the bride to send her authorized vakil yet many people who are poor in large numbers in these parts cannot meet the expenses of the authorized vakil and witnesses who are to be produced before the Muhammadan registrar. They also say that the fees of Rs. 1–4–0 prescribed for the registration must be done away with, and it must however be collected from those who apply for the extract in the marriage pandal after nikah (marriage solemnization) or at any time after it.

2. Gooty taluk is not directly in charge of one Kazi. The Cuddapah Kazi Janab Basithamiyya Sahib is the Kazi appointed by Government, under the Act. He being the resident of Cuddapah town, a Naib Kazi, a very old man, is appointed on his behalf. He resides at Gulapaliyam. In these parts marriages are mostly celebrated in the months of Rabbinsani, Rajab, Shaban, Shavval Zilqueth, Tillahey. There are separate Naib Kazis for the solemnization of marriages at towns and villages. A few villages are in charge of each man. The man appointed for each group of villages should alone perform the Nikah and by others also on very rare occasions with the expressed permission of the man appointed. The Muhammadans of this taluk are of opinions that these men appointed by the Kazi of Cuddapah or by custom where there is no Kazi must be licensed as Muhammadan registrars and supplied with registers duly paged and sealed, with the necessary printing on each page just as in the case of Christian marriages. It would then be easy for them to proceed to the marriage house (they will of course be invited by every marriage house-owner without fail) and to have the registration made if they are willing.

3. For each nikah, the party of the bridegroom alone pays a (rusm) fee of Rs. 1–10–0 and nothing is collected from the party of the bride. Out of this sum, a rupee goes to the payment of Kazi and the reminder to the Naib Kazi. Poor people pay this sum with difficulty. None will be willing to have their marriages registered after paying a further fee of Rs. 1–4–0. On the other hand every one will be willing to have the marriages registered at their houses and the Naib Kazis, if licensed, do not find any difficulty whatever to register the marriages. The Muhammadans say that, if parties are made to go to the office of the Muhammadan registrar, the community will be put to much inconvenience and expenditure which they are not able enough to bear. It may be said that the Registration is only optional and those who are willing may get the marriages registered in the office of the Muhammadan registrar. Such a procedure is, as a wholesale, unsound and against the authorities of the Muhammadan religion and such a course will not be availled of by many. The Muhammadan writers and authors of the scripts on Muhammadan religion have laid down certain vivid principles to be observed at the time of marriages. These principles are observed from a Patcha to a Fakir. The principles are that before solemnization of a nikah a vakil is nominated by the bride from the relations of the bride and to establish this nomination two witnesses are nominated by bridegroom side. The nikah will be celebrated by the Kazi or Naib Kazi or by any man authorized by him with the help of the said vakil and the two witnesses and without them no 'nikah' will be recognized. But in the case of an adult woman, the services of a vakil might be dispensed with and the services of the two witnesses are absolutely necessary, and cannot be dispensed with.

4. As regards the divorce (forsaking one's wife) which can be done by the husband, and qulla (forsaking one's husband) which can be done by the wife, the Muhammadans are of opinion that this also cannot be done by going to office of Moslem registrar and say they that the party willing to have the divorce or qulla registered may have it registered at their respective houses and the same Naib Kazis may be licensed.

5. I agree with the views of the Muhammadans. The written statements are enclosed.

(2)

Letter—from Khan Sahib K. Imam-ud-din Sahib Bahadur, Anantapur.
To—the Revenue Divisional Officer, Anantapur.
Dated—the 28th November 1918.

With reference to your foot-note R.S.C. No. 1800, dated 28th October 1918, communicating for my opinion, copy of the Bill of the Hon'ble Mr. Yakub Hassan Sahib *in re* "Registration of Mussalman Marriages and Divorces," I have the honour to state that the suggestions made therein by the Honourable Member, with little alterations, are highly appreciable: because they are based upon the very principles of Mussalman Laws. The introduction of such a Bill is highly desirable. The leading members of this place and myself see no objection for their being passed into law.

(3)

Abstract of opinions.

Kadiri town ...	...	Union Chairman (Haji Momin Fakr-ud-din Sahib) and twenty other Muhammadans.	Accept the Bill.
Anantapur town	...	Twelve Muhammadans including Khan Sahib K. Imam-u-din Sahib, (Municipal Chairman).	Do.
Kalyandrug town	...	Nineteen Muhammadans.	Do.
Madakasira ...	...	Seventeen persons ...	Do.
Hindupur ...	...	Ten persons	Do.
Dharmavaram town	...	Five Muhammadans ...	Present system of Kazi's arranging marriages and making an entry in their books to continue. They do not want the Bill. No reasons are stated.
Daraga ...	...	Eleven persons ...	Proposed legislation not necessary. Satisfied with existing record of marriages.
Penukonda town	...	Three persons	Not in favour of the proposed legislation. No reasons are given.
Do.	...	Twenty-eight persons...	Existing system and record of entry by the Kateeb enough, no inconvenience caused. Not in favour of the proposed Bill.

Syed Abdul Hussain is one who on reconsiderations consents to the Bill.

Tadpatri ...	...	Twelve Muhammadans.	Existing system to continue, not in favour of the amendment, no reasons.
Gooty	...	Two persons	No fees for registration—modification.
Do.	...	Big statement	.....

XLVI

Letter—from the Hon'ble Mr. A. R. Loftus-Tottenham, M.A., I.C.S., Collector of Madras.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—the 27th January 1919.
No.—R.O.C. A. 1351/B. & G. of 18.

Bill for Registration of (Mussalman) Marriages and Divorces Government Memorandum No. 1519–8, *Home (Miscellaneous), dated* 12*th October* 1918.—In reply to the above I enlcose the opinions elicited. It will be seen that the balance of opinion is decidedly adverse to the Bill.

2. The reasons given in support of this view no doubt appear to the non-Muslim to be entirely futile, in view of the fact that the legislation proposed is purely permissive, and will neither render anything prescribed by Muhammadan law or religion superfluous, nor make any addition thereto compulsory.

3. On the other hand, there seems to be no reason why Government should incur the odium of facilitating the passing of this Bill. Whatever the evils may be that it is intended to remove (and Mr. Yakub Hassan's statement of objects and reasons is silent on this essential point) they only concern the Muhammadan community and no one else, and if that community acquiesce in them clearly Government may do so too.

4. As a matter of policy it seems highly undesirable to do gratuitously anything that may create unrest (however unfounded that unrest may appear) among Muhammadans at the present time. Possibly it was Mr. Yaqub Hassan's aim to create such unrest. He appears to let slip no opportunity of exciting disaffection.

Enclosures

(1)

Letter—from Muhammad Khalil Shirazi, Madras.
To—the Collector of Madras.
Dated—the 14th November 1918.

I am in receipt of a copy of the "Muhammadan Marriage and Divorce Registration Bill" which you have so kindly sent me. Although I cannot object to the provisions of the Bill, still as I am against any Government interference in religious matters, my opinion is that the Bill should be dropped.

(2)

Letter—from Muhammad Usman Sahib Bahadur, B.A., Honorary Secretary, Muttiyalpet Moslem Anjuman, Madras.
To—the Collector of Madras.
Dated—the 14th November 1918.

With reference to your letter R.O.C. No. 1351/B. & G., dated 28th October 1918, I have the honour to communicate to you the following resolution passed at the meeting of the Managing Committee of the Muttiyalpet Moslem Anjuman, Madras, held on Wednesday the 13th November 1918:—

"The Managing Committee of the Muttiyalpet Moslem Anjuman, Madras, having considered the provisions of the Bill for voluntary registration of Mussalman marriages and divorces to be introduced into the Madras Legislative Council by the Hon'ble Mr. Yaqub Hasan, is emphatically of opinion that any attempt to amend by omission, change or addition the eminently simple procedure laid down by the Prophet of Islam as essential to a valid Muhammadan marriage or divorce will be resented by the Muhammadan community as intended to supersede the authority of the Prophet and that, since the Honourable Member's Bill aims at introducing, ostensibly as a permissive measure but with a view to prepare the way for eventual compulsory legislation, a condition non-compliance with which will relegate marriages and divorces effected on present orthodox lines to an inferior position of doubtful validity, the acceptance of the Bill by the legislature will be viewed with indignation as the introduction of the thin end of a wedge calculated to bring about the degradation of the very authority of the Prophet as the sole legislator of Muhammadans in matters social and religious."

(3)

Letter—from Mirza Abd-ul-Hasain, Khan Bahadur, Madras.
To—the Collector of Madras.
Dated—the 19th November 1918.

I beg to acknowledge receipt of your R.O.C. No. 1351/B. & G., dated 28th October 1918, forwarding for my opinion copy of a Bill to provide for the voluntary registration of Mussalman marriages and divorces which the Hon'ble Mr. Yaqub Hasan desires to introduce into the local Legislative Council.

I have carefully considered the question and have come to the conclusion that the measure is uncalled for and unnecessary for the following reasons, namely:—

(i) That no case has been made out for such legislation, and there seems to be considerable difference of opinion amongst the Mussalmans as to the advisability for such a measure at present.

(ii) Having regard to clause 25 of the Bill, the proposed measure would not seem to serve any useful purpose.

(iii) In my opinion a much better course would be for Government to require the Kazi to maintain a more formal and reliable book which at the end of each year should be delivered up to Government and to start a new book for the succeeding year. For this no legislation would seem to be necessary.

(4)

Letter—from Amjid Ali, Chief Kazi of Shiah community.
To—the Collector of Madras.
Dated—the 22nd November 1918.

I beg to bring to your notice to the effect that the Kazis should be bound legally under the authority of the Registrars that I have received some papers from Mr. Yaqub Hasan and a few papers from your honour's office, the reply to which I have produced before you, so that your honour may cast an eye of justice over it, and finally I may be informed of the result of it, so that I may know what to do in future.

Any new change in a current system is a source of disturbance, unless there is any defect there is no necessity of any reforms. There is no defect in the present system of kara-ut among us. If there seems to be any among the Sunni Muhammadans, these Moulvis are the right persons to alter it and the Legislative Council does not seem to have the rights to interfere into such religious questions except to bring the difficulties, if any, before the religious doctors, when Mahomed and his descending sons have once established laws, they cannot be altered by rules formed by the followers.

2. When the Kazi is one selected and appointed by the Government, the register of the Kazi itself is a Government register.

3. Kazis, as a rule, have seal of their own and there does not seem to be any necessity of Government giving them a fresh seal; moreover the seal itself is full of suspicions.

4. Any fees taken as wages for religious services as nikah is not allowed by the religion. But as a matter of gift it is quite optional; one can give and take as much as they desire.

If the Government want to fix fees breaking the religious law, it must be either to save the public from the burden of the expense or to enrich the Kazi. If it is with the former idea, why should a single pie be not fixed as the fees otherwise why not a quarter of half the expenses of the marriage should be for the Kazi? Here I should like to bring to the notice of the Government. Neither my father did ever nor do I even now take anything from the public for serving the religion.

5. With regard to the copies of the entries if the Kazi finds it necessary give it himself, though the Shiah Khazi does not get any share in the inams, jaghirs and salaries of the Kazis whereas the Kazi of Sunni Muhammadans get the whole.

6. Our office is purely religious according to the rites and laws framed by Mahomed and his descendants. It is to be regretted that Mr. Yaqub Hasan wants to make the Kazis what they are by licence.

Among the Shiahs it is the learning, religious knowledge and ability and fear of God required for a leader.

7. Kaziship does not only depend upon nikah and divorce, all religious disputes are to be decided by the Holy Court of Kazi which is competent for it.

8. I am not a paid servant of any person and I am not such a Kazi that was appointed by any person owing to my knowledge.

9. In every district where there is even one Shiah the Government may nominate a Kazi or the Kaziship of the Shiah community for the Presidency may be entrusted to me as I have been doing for many districts.

10. Deputy Kasis may be appointed on the confidence of the Kazi regarding his competency in the religious knowledge and character but not on hereditary rights because in Shiah sect a true knowledge of religious rites and justice is essential for a religious leader. Even for a witness these qualifications are indispensable. On the other hand in several other sects of Islam leadership does not concern to the learned and the ignorant.

11. Islam does not allow any honourable body to confess openly even before her own relatives whereas before registrars and vakils is still worse. If she is a matured lady, it is enough if she does not express her unwillingness, and on the other hand their parents are fully authorized.

12. A Kazi is not only to read the few verses of nikah or talk but also to see that all the religious rules are properly obeyed. Therefore it is necessary that a Kazi should be a learned man and also a man of justice.

13. N/ respectable Shiah will ever agree to become a Kazi under such troublesome restrictions and insults such as proposed by Mr. Yaqub Hasan.

14. At any rate the Kazi of the Shiah never agree with any item of Mr. Yaqub Hasan Sahib and in case this will be passed I shall rather prefer to resign my post than to remain.

15. It is rather strange why the political people interfere with the religion in spite of the religious people keeping aloof from the political affairs.

(5)

Letter—from Moulvi Muhammad Shahab-ud-din Sahib, Retired Arabic Teacher, Government Madrasa-i-Azam, Madras.
To—the Collector of Madras.
Dated—the 22nd November 1918.

With reference to your letter, dated 11th instant, forwarding for my views on the provisions of the Bill for marriage and divorce registration of Mussalmans which the Hon'ble Mr. Yaqub Hasan desires to introduce into the local Legislative Council, I beg to state that I have duly considered the provisions of the Bill under reference. I am of opinion that God Almighty has distinctly declared in His Holy Book that Islam has attained its perfection as regards the legislation of social and religious matters. The Prophet has laid down such eminent and simple procedure regarding the Muhammadan marriage and divorce that it would be impossible for any one to amend the existing system by any addition or omission whatever.

Hence I am of opinion that there is no necessity of new legislation to be enacted in the face of the one (Islamic system) already existing.

(6)

Letter—from M. Husain Mian Sahib Bahadur, Madras.
To—the Collector of Madras.
Dated—the 22nd November 1918.

With reference to your R.O.C. No. 1351/B. & G., dated 28th October 1918, I have the honour to state that I am strongly opposed to the Bill for the voluntary registration of Mussalman marriages and divorces. Though the registration is voluntary, it has a strong tendency in throwing the simple procedure laid down by our Prophet for valid marriages and divorces which has been in existence for nearly 1,300 years into the region of suspicion and contempt since in the eye of law greater importance will be attached to marriages and divorces that are registered.

The necessity for such a Bill as proposed by the Hon'ble Mr. Yaqub Hasan has not arisen at all. If people want to see that their marriages and divorces are properly recorded, they will find in every village and hamlet Kazis who keep a correct record of such occurrences.

I am herewith returning the enclosures sent to me.

(7)

Letter—from Moulvi Haji Abd-ur-rahman, Madras.
To—the Collector of Madras.
Dated—the 22nd November 1918.

With reference to your letter, dated 15th November, regarding the Moslem Marriages Registration Bill, I have the honour to state that the question of Moslem Marriages and Divorces Registration Bill which is now placed at the table for its enforcement is quite against the lawful facilities in the freedom of religion and, if it is passed in spite of our opposition, it means an intrusion of the Government in religion.

The Bill has been represented before the Council by such gentlemen who have less acquaintance in religion than leading Moulvis.

I therefore trust and hope that you will be good enough to place the matter before His Excellency for its rejection.

For which act of kindness I and Moslem community shall highly feel grateful.

(8)

Letter—from Muhammad Usman Sahib Bahadur, B.A., Honorary Secretary, the South Indian Islamia League, Madras.
To—the Collector of Madras.
Dated—the 26th November 1918.

I have the honour to communicate to you the following resolution passed at the meeting of the Council of the South Indian Islamia League held on Monday the 25th November 1918 :—

"The Council of the South Indian Islamia League is strongly opposed to the Hon'ble Mr. Yaqub Hasan's Bill for voluntary registration of Mussalman marriages and divorces as it brings into contempt the simple procedure laid down by our Prophet in connexion with marriages and divorces by giving a higher legal status to the proposed registered marriages and divorces."

(9)

Letter—from Moulvi Shakhadir Husain Sahib, Naib Kazi, Mirsapet, Madras.
To—the Collector of Madras.
Dated—the 23rd November 1918.

I have the honour to pen the following in reply to your most kind letter inviting my opinion about the provisions of the Bill (marriage and divorce registration of Mussalmans) dated 11th November 1918 :—

(i) The view to introduce this Bill of registration is faulty and imprudent in the mind of a Moslem as such questions of marriage and divorces are dealt with strictly in the sphere of religion and the Holy Book. The present system in its workings, is all right and the records of the Moslem marriages are safe with the Government Kazi and with no dispute are recognized in the court of law at present.

(ii) and (iii) As I find that this newly brought Bill is against the faith of Islam, I could be content to say that it is unnecessary to deal into the matter at all, for it will yield to the disfeeling of the Moslem mind in general.

(iv) As I have stated in column first that the Bill is anti-religious one in character I am at a loss to give my opinion in the present question of introducing it voluntary or compulsory and I predict that this Bill when introduced will hurt the feelings of the Mussalmans greatly.

(v) I am against the idea of this kind of registration which has been brought, as I see that such Bill is contrary to the doctrines of Islam, I am dead against the idea to make this Bill compulsory.

(vi) When I say frankly that this Bill is against the doctrines of Islam how is it possible for me to invite to do a crime in faith by the marriage couple and their kin and kids. And I predict that they (marriage couple and their kin and kids) would never lean their ear to such an idea contrary to their faith and religion as Muslim marriages are wholly religious contracts.

Therefore I am of opinion as I have stated above that the Bill being contrary to the doctrines of Islam I say boldly that this Bill if introduced will hurt greatly the minds of Mussalmans in general. The Honourable Member has dealt the Bill wholely unreligious, and this fault of his is because that he has never consulted the Ulamas and the leaders of the community before introducing in the matter how that affected the faith of Islam. Hence I say that the Honourable Member being unaware of its effect in religion has stooped to introduce this Bill and I pray that the gracious Government will never allow it to pass for. My statements in the above will prove how unreligious it is to introduce the Bill.

Therefore I pray that the introduction of this will not be passed so that the Muslim subjects shall be glad and not be discontent.

(10)

Letter—from the Secretary, Anjuman-i-Islahul Muslimin, Mount Road, Madras.
To—the Collector of Madras.
Dated—the 29th November 1918.

The following is herewith submitted for favour of information.

The members of the Anjuman-i-Islahul Muslimin, Madras held a meeting at the mosque, Chetti's Garden, Mount Road, Madras, on Wednesday the 27th November 1918 in the afternoon with Shamsul Ulama Moulana Moulvi Shah Zahid Husain Sahib Mehkari Khadari as the President, in which the following resolution was passed :—

Resolution.

"The Anjuman-i-Islahul Muslimin, Chetti's Garden, Mount Road, Madras, is strongly opposed to the Hon'ble Mr. Yaqub Hasan's Bill submitted in the Madras Legislative Council, for voluntary registration of Muslim marriages and divorces, as it is against our religious functions and puts us into unnecessary inconveniences and losses."

As it is purely a religious matter, the Members hope, as far as all the Moulvis of Madras are against it, that the Collector will be pleased to see that the Bill will not be passed.

(11)

Letter—from Moulvi Sha. Muhammad Burhanudin Siddiqui, Royapetta, Madras.
To—the Collector of Madras.
Dated—the 1st December 1918.

With reference to your R.O.C. No. A. 1351 B. & G., dated 26th November 1918, inviting my views upon the Hon'ble Mr. Yaqub Hasan Sahib's Bill for the voluntary registration of Muhammadans' marriages and divorces in Madras Presidency, I have the honour to state that notwithstanding his generous and earnest endeavours, the learned member has missed himself badly in grappling with all the phases of the question (or matter) under review.

For the present, the procedure now in vogue may perfectly be let to continue without the intrusion of the proposed innovation, which clashes with the principles of Islam and is therefore unnecessary and out of place.

(12)

Letter—from Khan Bahadur Tajammul Husain Sahib Bahadur, Vice-President, Anjuman Ahlai-Sunnat and Jamath, Royapetta, Madras.
To—the Collector of Madras.
Dated—the 2nd December 1919.

Received your Bill for the registration of Muslim marriages and divorces. I have considered it both from the religious point of view and otherwise. In my opinion the Bill seems quite called for, as it will eradicate the existing evils some of the minor points require modification, which are being discussed in a committee at Madras, whose views will be submitted later on to the Government of Madras.

(13)

Letter—from Moulvi Haji Mufti Mahmood Sahib, Chairman of the Muslim Public Meeting, Royapetta, Madras.
To—the Collector of Madras.
Dated—the 4th December 1918.

I have the honour to communicate to you the following resolution passed at a very largely attended public meeting of the Ulamas, Mashaikheens and other Mussalmans of Madras held under my chairmanship on Monday the 2nd December 1918 in the Esplanade Maidan opposite Pachaiyappa's College, Madras, to protest against the Hon'ble Mr. Yaqub Hasan's Bill for voluntary registration of Mussalman marriages and divorces:—

"This meeting of Ulamas, Mushaikheens and other Mussalmans of Madras protest strongly against the Hon'ble Mr. Yaqub Hasan's Bill for voluntary registration of Mussalman marriages and divorces since, if the Bill becomes law, marriages and divorces valid according to Muhammadan religion, would become liable to be questioned in courts of law for want of such registration as is contemplated in the Bill and also since thereby difficulties will be created which will mar the simplicity of the present law and curtail the religious liberty of Muhammadans."

(14)

Letter—from Moulvi Hafi Mufti Mahmood Sahib, Professor, Arabic College, Madrasa-i-Mahmoodia, Royapetta, Madras.
To—the Collector of Madras.
Dated—the 5th December 1918.

With reference to your letter R.O.C. No. 1351 B. & G., dated 15th November 1918, I have the honour to inform you that I am strongly against the Hon'ble Mr. Yaqub Hasan's Bill for voluntary registration of Mussalman marriages and divorces since it tends to degrade in the eye of state marriages and divorces performed according to the strict injunctions of our religion but are not registered under the proposed Act. My full views on the subject are to be found in my speech delivered as the chairman of the public Muslim meeting held at the Esplanade maidan opposite Pachaiyappa's College, Madras, on Monday, the 2nd December 1918, one Urdu copy of which is herewith enclosed.

× not printed.

(15)

Letter—from Moulvi Haji Muhammad Thameem Sahib, Georgetown, Madras.
To—the Collector of Madras.
Dated—the 5th December 1918.

With reference to your letter, dated the 11th November 1918, R.O.C. No. 1351-B. & G., requesting my views on the provisions of the Bill to provide for the voluntary registration Mussalman marriages and divorces, I beg to state that careful consideration of the Bill, I am of opinion that

(1) marriages and divorces are matters relating to Muhammadan religion and directly governed by it; and

(2) if registration of marriages and divorces was made even optional by legislature it will cause great hardship and injury (religiously) to Muhammadans.

I am therefore opposed to the intended legislation and I hope that the Government will adopt the usual policy in this affair, viz., of not interfering with the matters relating to religion of the Muhammadans and not allow the Bill to be passed into an Act.

I have not given in detail the reasons for my opinion as I think the same is not wanted but if you want me to go into detail and show how it will interfere with religion and how it will cause injury and hardship I am prepared to give the same.

(16)

Letter—from Haji Muhammad Haneef Sahib, Khan Bahadur, Zamindar of Karingali (Ponneri) and Member of the British Empire League, London, Madras.
To—the Collector of Madras.
Dated—the 6th December 1918.

In reference to your letter, dated 28th October 1918, R.O.C. No. 1351/B. & G., requesting me to give expression to my views on the provisions of the Bill to be introduced by the Hon'ble Mr. Yaqub Hasan to provide for the voluntary registration of Mussalman marriages and divorces, I beg to state that I am quite opposed to it, being contrary to Muhammadan law and that the passing of it will lead to serious difficulties and inconveniences.

I further beg to state that our marriages and divorces are not like mercantile contracts. They are strictly and rigidly governed by our religion of Muhammad the Prophet.

As we all know that our benign Government's Policy is not to interfere in matters religious and as this Bill is one of that kind, I trust our good Government will not pass it into law.

(17)

Letter—from Moulvi Muhammad Habib-ul-lah Sahib, Diwan Sahib Garden, Royapetta.
To—the Collector of Madras.
Dated—the 6th December 1918.

With reference to your letter R.O.C. No. 1351, dated 11th November 1918, asking for my opinion about the voluntary registration Bill of the Hon'ble Mr. Yaqub Hasan, I have the honour to reply that the Voluntary Registration Bill should not be passed into an Act; for it contemplates to provide for a certain insignificant minority only, whereas the whole Muhammadan population do not want it.

Further if the Bill is passed it will bring about unnecessary complications and difficulties.

(18)

Letter—from Haji Moulvi Ziyauddin Muhammad Sahib, Madras.
To—the Collector of Madras.
Dated—the 10th December 1918.

In reply to your letter No. 1351/B. & G., dated 28th October, I beg to submit that I approve the Bill for the registration of Mussalman marriages and divorces which the Hon'ble Mr. Yaqub Hasan Sahib desires to introduce into the Local Legislative Council subject to certain changes in the provisions of the Bill which are quoted below:—

(1) In section 3 of the Bill, the clause that "provided that no more than one person of the same sect Sunni or Shiah shall be licensed to exercise the said functions in the same limits" must be eliminated as it is possible that within the same limits there may be several Jamaats (sections of the community) each may prefer to have the marriage celebrated or divorce effected by a Kazi of their own Jamaat.

(2) In section 4 the word 'Persian' must be omitted and the word 'Arabic' must be inserted in its stead as the Arabic character is more common in this presidency than Persian.

(3) Section 9 should be so worded that it shall be incumbent on the Muslim registrar to be personally present on the occasion of the celebration of the marriage, make all entries in his book which are necessary for the marriage at the time in the presence of the assembly gathered for the marriage occasion as provided for in section 10 of the Bill and in this case section 8 is superfluous and may be eliminated. This procedure is quite essential in order to prevent bogus parties, bogus vakils and bogus witnesses to form into a conspiracy and have the marriage registered without the knowledge of the actual parties concerned in the marriage and thus prevent litigation in the future.

With regard to schedule, book Nos. 1 and 2 a column should be provided for the entry of the names of the witnesses to the marriage and columns for the signatures of the parties, their vakils and the witnesses to the marriage.

(19)

Letter—from Janab Moulvi Khudrath Haleem Sahib, Al-Nasari, Mirsapetta, Madras.
To—the Collector of Madras.
Dated—the 9th December 1918.

With reference to your letter R.O.C. No. 1351/B. & G., dated 11th November 1918, calling for my views upon the Hon'ble Mr. Yaqub Hasan Sahib's Bill for the voluntary registration of Muhammadan marriages and divorces in the presidency, I am of opinion that the present procedure which is in vogue does not call for any change, so in my opinion the Bill is unnecessary and out of place.

(20)

Letter—from Haji C. Husain Sahib, Georgetown, Madras.
To—the Collector of Madras.
Dated—the 13th December 1918.

With reference to your letter R.O.C. No. 1351/B. & G., dated 28th October 1918, I have the honour to inform you that I am strongly opposed to the Bill for the voluntary registration of Mussalman marriages and divorces for the following reasons:—

(1) There is absolutely no practical necessity for the Bill. Everywhere I find Kazis who perform marriage ceremony keep a correct and clear record of marriages and divorces and this is carried out for last 1,336 years.

(2) If the Bill is passed into law, there will be the most undesirable effect of making valid marriages and divorces effected according to the strict injunctions of our Prophet.

I am herewith returning the enclosures sent to me.

(21)

Letter—from Shifa-ul-Mulk Zynulabideen Sahib Bahadur, B.A., Madras.
To—the Collector of Madras.
Dated—the 16th December 1918.

With reference to your R.O.C. No. 1351/B. & G., dated 28th October 1918, I have the honour to state that I am strongly opposed to the passing of the Hon'ble Mr. Yaqub Hasan's Bill for voluntary registration of marriages and divorces into law for the following reasons :—

(1) Mussalman marriages and divorces are governed by the injunctions laid down in our religion. The passing of the proposed Bill into law will be construed as an infringement of religious rights and liberties.

(2) As has been pointed out by the resolutions passed on the subject by some of the Muhammadan public bodies, the acceptance of this Bill by the legislature will have the most undesirable effect of throwing unregistered marriages and divorces into the region of suspicion, degradation and contempt.

As the proposed measure seems to be very unpopular with the Muhammadan community I would strongly request Government to see that the Bill is thrown out of the Legislative Council.

(22)

Letter—from Haji Kazi Muhammad Fazih-ud-din Sahib, Kazi of Georgetown, Madras.
To—the Collector of Madras.
Dated—the 9th December 1918.

With reference to your letter R.O.C. No. 1351/B. & G., dated 28th October 1918, forwarding a Bill to provide for the voluntary registration of Mussalman marriages and divorces which the Hon'ble Mr. Yaqub Hasan desires to introduce into the Madras Legislative Council, and asking me to submit my views on the provisions of the Bill for submission to Government, I beg to state that the provisions of the Bill is against the Muhammadan religion and therefore I trust that the Government will not allow the same to become law.

2. In my opinion the present procedure which is followed according to the Muhammadan religion and which has worked satisfactorily for such a long time is quite sufficient.

(23)

Letter—from the Vice-President of the Madras Presidency Moslem League.
To—the Collector of Madras.
Dated—the 18th December 1918.

With reference to your letter R.O.C. No. 1351/B. & G., dated 28th October 1918, I have the honour to submit the following resolution passed at the meeting of the Council held on the 26th November 1918 :—

"The Council of the Madras Presidency Moslem League is of opinion that a measure of the kind proposed by the Hon'ble Mr. Yakub Hasan is highly desirable and therefore the Council accords its approval to the Bill for the registration of Moslem marriages and divorces."

(24)

Letter—from Moulvi Obidullah Sahib, Shamsul-Ulman, Chief Khazi of Madras.
To—the Collector of Madras.
Dated—the 18th December 1918.

With reference to your letter dated November 1918, I beg to state that after careful study of the Hon'ble Mr. Yaqub Hasan's Bill for voluntary registration of Moslem marriages and divorces I arrived at this conclusion that, if the Bill be enacted into law, difficulties will be created which would mar the simplicity of the present law and curtail the religious freedom of the Moslems. Hence my strong opposition to the Bill.

(25)

Letter—from the Secretary, Anjuman-i-Islahul Muslimin, Mount Road, Madras.
To—the Collector of Madras.
Dated—the 19th December 1918.

In submitting herewith a copy of the report, I beg to request that your honour will be pleased to move the matter in the Legislative Council opposing the sanction of the Bill for the voluntary registration of the Moslem marriages and divorces as it is against our Muhammadan law and custom for which the members of the Anjuman and priests thank you in anticipation. The fact has already been published in several newspapers and in the *Madras Mail*, dated the 10th December 1918.

Sub-Enclosure

Registration of Moslem marriages and divorces.

A protest meeting.—On Friday the 6th of December 1918 at the Nawab Wallajah's Big Mosque, Triplicane, a large gathering of Muhammadans assembled with the Shamsul Ulama Moulana Moulvi Huzruth Shah Zahid Hussain Sahib Mahkara-ul-Quadari (the President of the Anjuman-i-Islahul Muslimin) as the President, and the following resolution was declared by the Secretary of the said Anjuman and strongly seconded by another priest, viz., Moulana Moulvi Muhammad Khalilur Rahiman Sahib Khadari Behari and was unanimously passed twice :—

"The Muhammadan residents of Triplicane and other localities of the City of Madras urge that the Bill submitted in the Madras Legislative Council by the Hon'ble Mr. Yaqub Hasan is against the Muhammadan law and in connexion with nikah, divorce and khula, it will unlawfully interfere or hinder the liberty of Muhammadans and produce a great and unnecessary stir and inconvenience. In religious matters, no Muhammadan is supposed to abide by any other order or law but those of the Koran, Hades-i-Sharif (traditional sayings of the Prophet), Ijma (Senate of pious men) and Khiyas-i-Mujtahiddeen (surmise of the prelates), and we obediently and earnestly hope that the Government will be pleased not to interfere in religious matters and will remove the anxiety created by the news of the Bill for voluntary registration of marriages and divorces by rejecting it."

Soliciting an acknowledgment of its receipt.

(26)

Letter—from M. Abdul Zuly, Secretary, Naby Sahib Anjuman-i-Anwarul-Aqlauk, Madras.
To—the Collector of Madras.
Dated—the 21st December 1918.

I am directed by the president and members of this Anjuman to submit to you the enclosed resolution passed at a meeting of the Anjuman held on 7th December 1918, regarding "The Hon'ble Mr. Yaqub Hasan's Voluntary Bill for Moslem marriages and divorces" for transmission to the Secretary to the Government of Madras, Legislative Department.

Sub-Enclosure

The Hon'ble Mr. Yakub Hasan's Bill for Moslem marriages and divorces.

At a meeting of the "Anjuman-i-Anwarul-Aqlauk," Soopori Goonta, Mount Road, Madras, held on 7th December 1918, under the presidency of Janab Muhi-ud-din Khan Sahib, President of the Anjuman, a resolution was passed accepting heartily the principles of the Bill introduced by the Hon'ble Mr. Yaqub Hasan for correcting the records of the Kazis.

(27)

Letter—from Honorary Secretaries of the Muhammadan Educational Association of Southern India, Madras.
To—the Collector of Madras.
Dated—the 21st December 1918.

We have the honour to forward to you the following resolution adopted at the special meeting of the Executive Committee held on the 28th November 1918 about the Bill the Hon'ble Mr. Yakub Hasan desires to introduce into the Madras Legislative Council :—

"In the opinion of this committee the proposed Bill on the registration of Moslem marriages and divorces is greatly needed, and, when passed into law, will be beneficial to the Moslem community."

(28)

Letter—from Haji Moulvi Hakim Muhammad Badr-ud-din Husain Sahib Kaderi, Triplicane, Madras.
To—the Collector of Madras.
Dated—the 4th January 1919.

To the Collector Sahib :—Opinion of the (undersigned) fakir in the matter of amending the marriages records. It is proved by the Koran and Hadis that religion is based on very easy and untroublesome laws and this is not secret from any man of learning. Therefore no quotations are given here of the verses of the Koran and the sayings of the Prophet. As far as possible trouble be minimised and money be not spent. It is essential that laws and rules be made in a manner that as far as possible trouble be minimised and money is not expended. In the system which is prevalent now proper books of registers are scarcely found with every kazi and naib kazi. It is necessary to amend and reform this procedure. The appointment and dismissal of Naib Kazis should be in the power of kazis. And after marriage a copy of the document should be given in the same meeting to the bridegroom and a copy to the vakil of the

bride on or without their application and their signed receipt be taken for it. Such a procedure was seen in the time of Aurangazeb Alamgir Badsha, from which the authorities of the time will get great assistance in the inquiry into matters relating to marriage, and either of the parties will not get chance of concocting cases. At present Mussalmans are in poverty and are not able to bear extraordinary expenses. It is advisable in the opinion of the (undersigned) fakir to draw up the Bill according to the above items.

(29)

Letter—from Moulvi Ghulam Muhi-ud-din Sahib, Librarian, Muhammadan Public Library, Triplicane.
To—the Collector of Madras.
Dated—Trichinopoly, the 5th January 1919.

With reference to your letter R C. No. 1351 B. & G. dated 11th November 1918, regarding marriage and divorces registration of Mussalmans, I append below my opinion on the subject. The delay in replying to the above reference was due to my ill-health.

2. In the Urdu translation of the Bill on the subject the introducer of the Bill says that *marriage* is a wordly contract among Mussalmans not based on any religious ceremony. It is not so. It is purely a religious contract agreed upon under conditions and terms laid down in our Holy book of *Koran* and all Mussalmans are unanimous on the point that marriages and divorces are religious ties and dissolutions performed in consonance with the laws of the *Holy Koran* and its commentaries made by our religious leaders and reformers years ago. As such any deviation from the above rules is their dereliction. For the past 1,300 years, these functions have been duly performed by kazis and their naibs without registration as now suggested and there has been no abuse of the powers conceded to the above functionaries.

3. When there is ample provision in our religious books to safeguard Moslem interests it is an unnecessary interference on the part of the mover to innovate new rules for which there is no real need and for which there is no provision in our religious books on the subject. To initiate a thing like registration is therefore irreligious and God has prescribed penalties for such deviations. In the fifth book of the *Koran* God says that whosoever acts against the commandments of the Prophet knowing what is right and adopts a fresh path other than that pursued by the adherents of his religion, will be made to stick up to his new path and will be thrown into the hell. There is also a saying of the Prophet that we should follow the learned, that is, we should adopt the course which our learned saints have adopted.

4. To adopt the system of the registration for which there is no provision in our Holy books is irreligious. This view is supported by the saying of the Prophet that any suggestion against the Holy books should not be acted upon. There is another saying of the Prophet that any person who innovates a thing for which there is no provision in the religion of the Prophet is a heathen. Further, there can be no change in religious matters to suit to times.

5. As there is ample provision in the religion of the Prophet for the marriages and divorces there is no need for further expansion of the subject. This principle of registration is likely to interfere with religion which is against the policy of the benign British Government. The passing of the present Bill would involve Mussalmans in difficulties from time to time and a marriage rightly performed may sometimes fail for want of registration. For, naturally the courts of law which are bound to proceed on recorded evidence would, eventually be put to the necessity of viewing religiously performed marriages with suspicion in the face of marriages, which though irreligious in several ways, have the cloak of registration. This is against the wishes of God. In His Holy Book, He says "God is not willing to place man in difficulties."

6. Under the above circumstances I am quite against the passing of the Bill in question.

(30)

Letter—from Janab Moulvi Haji Muhammad Fazl-ul-lah Sahib, Godown Street, Madras.
To—the Collector of Madras.
Dated—Vaniyambadi, the 8th January 1919.

With reference to your letter R.O.C. No. 1351-B. & G. of 1918, I have the honour to state the following as my views on the Bill in question.

First of all let me tell you that I am quite opposed to the Bill, as it is only a half-measure. My reason for opposition is that the Bill includes such aspects of the nikah as are not quite necessary under Moslem Law, on the other hand it excludes certain aspects of marriages and divorces as are allowed by the Moslem Law. For example, a second marriage according to Muhammadan Law is not at all necessary for a converted couple who are already married according to customs of their previous religion. Now when a legal question is raised about the matrimonial relations of such a couple, the case in a law court will not be valid in the face of this Bill, if passed, as the couple could not have registered it.

Then, two other aspects of divorce have been left out (viz.), *Iela*; by these a husband has to take a vow before his wife that he will not have any connexion with her and after a lapse of four months from the date of the vow the marriage tie becomes invalid and the wife looses all claims on the person and property of the husband. Now this *Iela* cannot be registered; and this is another instance where the Act cannot at all help the judiciary.

In the light of the above facts, as the Act will give room to a complicated set of legal proceedings, and sometimes even confuse the Judge, to the detriment of the parties, I am strongly opposed to the passing of the Bill.

If the Bill is passed after any amendments, the Act becomes quite unnecessary. Moreover the provisions mentioned in article 23 of the Bill are all the work of Ulemas; and it is quite undesirable that the Governor in Council should interfere in matters which they are not competent to deal with.

(31)

Letter—from Moulavi S. M. F. Fakhri Sahib, Mylapore, Madras.
To—the Collector of Madras.
Dated—the 9th January 1919.

In reply to your letter No. 1351-G. & B., dated 28th October 1918, and the reminder, dated 3rd January 1919, I have the honour to enclose herein three (3) copies of printed Urdu booklet "Tubsirathuth Thaqiq" (minute review) written by me on the receipt of your above letter against the provisions of the Bill to provide for the voluntary registration of Mussalman marriages and divorces which the Hon'ble Mr. Yaqub Hasan Sait desires to introduce into the Local Legislative Council.

I, in the said booklet, have exhaustively dealt with all the provisions of the said Bill and have authoritatively proved that Moslem marriages and divorces are religious and not social matters, as contended by the Honourable Member, and hence the Government, under the Royal Proclamation, cannot interfere in the religious questions of their subjects (vide paragraphs 7, 8 and 22).

I have also proved beyond any shadow of doubt that the said Bill of the Honourable Member is not his originality, as he makes the Government and the Moslem public believe, but it is a borrowed verbatim copy of Act I of 1876 with the exceptions of the words (1) Lieutenant-Governor in Council, (2) Muhammadans, etc., which have been altered into (1) Governor in Council, (2) Mussalman or Moslem, etc. The said Act I of 1876 is also a dead letter in the Bengal Presidency (vide paragraphs 4 and 16).

Further I have the honour to inform you that very recently a "Fatwa" (mandate) of the most eminent Ulamas of Madras, etc, has also been published against the provisions of the said Bill, which also contains a small paragraph under my signature and seal. I am led to believe that the said "Fatwa" has already been translated into English by the Government Persian Translator and it is now with the Government.

I request you to kindly submit the said booklet to the Government which contains my humble views against the provisions of the said Bill. I hope the booklet, as usual, will be translated into English in the office of the Government Persian Translator.

(32)

Letter—from Haji Saiyid Muhammad Abdul Rahaman Sahib, Royapetta, Madras.
To—the Collector of Madras.
Dated—the 7th January 1919.

With reference to your R.O.C. No. 1351-B. & G., dated 11th November 1918, I have the honour to state that the Bill introduced by the Hon'ble Yaqub Hasan Sait Sahib is contrary to and conflicting with the established Muhammadan law. Marriages and divorces are not matters purely social. They are religious ceremonies and no interference with these ceremonies except on religious consideration can be allowed. It is stated in the Bill that registration is voluntary and not compulsory; interference with religious tenets of Islam has the local effects of making the country a 'Darul Harub.'

Alaman: Alaman: Alaman.

The Honourable gentleman is not a Moulvi and has no expert knowledge of our religious books. He belongs to a community converted to Islam in recent years. This community observes Hindu laws and principles. As a representative of Muhammadan community his interference with matters religious is injurious to the Islamic principles. It is a sin to declare things not permissible by law having *sanction* of 'Koran.'

We hope the benign Government will not allow the Bill to be passed into law as it is contrary to our religion.

(33)

Letter—from Muhammad Abdul Latif Sahib, Proprietor, "Jarida-i-Rozgar" and Hyderi Press, Madras.
To—the Collector of Madras.
Dated—the 7th January 1919.
No.—17.

With reference to your letters R.O.C. No. 1351-B. & G. dated 11th November 1918, and 3rd January 1919, I have the honour to inform you that the delay in replying you early was this: for the Bill introduced by the Hon'ble Mr. Yaqub Hasan regarding the registration of Moslem marriages and divorces comes under the religion, I have to consult with many Ulemas of our religion and take their opinion.

I further beg to state that as far as I have consulted and received innumerable correspondence from various parts of this Presidency on this Bill I came to know that the Moslem public and the Ulemas at large are against the registry of marriages and divorces, and they think that this is a matter solely concerned with the religion. I am also against the passing of the Bill.

(34)

Letter—from Haji Essa Abba Sait Sahib, Godown Street, Madras.
To—the Collector of Madras.
Dated—the January 1919.

With reference to your letter No. 1351, dated 28th October 1918, I beg to state that in my opinion it is absolutely necessary that an enactment should be passed to insure a correct maintenence and safe custody of marriage and divorce registers. I therefore strongly support the Bill brought forward by the Hon'ble Mr. Yaqub Hasan.

(35)

Letter—from Moulvi Mir Haidar Ali Sahib, Persian Munshi, Presidency College, Madras.
To—the Collector of Madras.
Dated—the 11th January 1919.

With reference to your letter No. 1351-B. & G., dated 11th November 1918, I have the honour to inform you that I am sorry to state that the registration of Mussalman Bill for marriages and divorces is only voluntary. The voluntary registration never prevents all the mistakes found in the records of Kazis at present and it cannot be a compulsory registration at any time against the Muhammadan law.

The leading and well-known learned Moulvis of Madras Presidency and almost all the Muhammadan community find that this registration is quite unnecessary and they hope that the Government should not interfere in religious matters that is (nikahs and talaqs), by means of insisting on this registration; and I also consider that even after the said registration there may occur more mistakes in the records of kazis than at present.

Therefore it would be enough if the Kazis themselves be ordered to keep their records correct and if necessary the judges might be checking their records as at present and punish them for the mistakes found in their records.

(36)

Letter—from Khan Bahadur H. Muhammad Abdul Aziz Badsha Sahib.
To—the Collector of Madras.
Dated—the 15th January 1919.

With reference to your letter R.O.C. No. 1351-B. & G., dated 3rd instant, I have the honour to state that this is not a matter which could be lightly disposed of. No doubt there exists a good deal of irregularities and it is desirable that something should be done to protect the interest of the Moslem community.

The matter is being discussed by those in favour of and against the measures on account of certain conditions imposed therein.

I do not know how the matter will be settled. If some one intercedes between both parties and could come to some conclusion and compromise the matter would be settled.

(37)

Letter—from Moulvi Hakim Saiyid Shah Muhammad Valivullah Sahib Qadri, Triplicane, Madras.
To—the Collector of Madras.
Dated—the 16th January 1919.

With reference to your letter R.O.C. No. 1351-B. & G., dated 11th November 1918, desiring me to give out my views on the provision of the Bill to provide for the voluntary registration of Mussalman marriages and divorces, introduced by the Hon'ble Mr. Yaqub

Hasan Sahib into the local Legislative Council, I have the honour to state that after going deep into the question of the Bill and after consulting several religious books that have been written on the subject I am led to believe that the Bill interferes very much with the conventional rites of the Muhammadan religion, which have hitherto been freely enjoyed by us under the benign British Government.

Hence the passing of this Bill will, in my opinion, prejudice the minds of the Muhammadans of this large Presidency and will surely wound their feelings very much.

It is, therefore, my earnest prayer to the Government that they would see that this Bill is not passed and thereby the Muhammadan subjects of this Presidency are allowed the privilege of freely enjoying their religious rights, as it has hitherto been done, in accordance with the late Queen Victoria's Proclamation of 1857.

(38)

Letter—from Moulvi Saiyid Husain Kadiri, Mylapore, Madras.
To—the Collector of Madras.
Dated—the 17th January 1919.

I perused the Bill for the voluntary registration of Moslem marriages and divorces introduced by the Hon'ble Mr. Yaqub Hasan Sait. Marriages which to all outward appearance, seem a social function in fact come in our religion under the category of prayers which we cannot voluntarily bring under legislation.

In the face of the Kazi Act of 1880 there is no necessity of the proposed Bill. Moslem leaders should move the Government for the appointment of kazis. If the latter be found incapable they should be removed from the office by the Government, and in the case of assistant kazis, the kazis should see to their removal. Local kazis not appointed by the Government should be ignored. Either the Government should enjoin that the registers be kept regularly and that an extract taken monthly from those registers or, if the book be completed, it should be lodged with the District Registrar or the Moslem leaders should arrange with the kazis for the proper observance of this principle. Compulsory registration in the kazi's registers is preferable. But this is against the principles of our religion. Those marriages, performed without honest witnesses and with no registry in the kazi's registers, cannot be presented in a court of law at the nick of time.

The presence of kazi or his assistant is quite essential in the event of a marriage being solemnized by an elderly pious man. In their absence the latter should note down in a slip of paper the particulars of the ceremony attested with the signatures of the protector and guardian or the vakil or at least of the two witnesses known to both the sides and cause the entries to be made in the kazi's register. In this case the responsibility rests with this man.

(39)

Letter—from Saiyid Muhammad Abdul Qadir, Madras.
To—the Collector of Madras.
Dated—the 21st January 1919.
No.—187.

With reference to your letter No. 1351-B. & G., dated 11th November 1918, and reminder, dated 3rd January 1919, I have the honour to submit for your information that after going through the Hon'ble Mr. Yaqub Hasan's Bill carefully and conferring with several cultured Moslem theologians and gentlemen of progressive views I am inclined to maintain that the reasons advanced by the Honourable Member are misleading and consequently the Bill, if passed into law, will prove harmful and an encroachment on the religious susceptibility of the Moslem community as discussed in the leading articles of (my social weekly) "Mukhbir-i-Deccan," dated 4th December 1918 and 8th January 1919.

Mr. Yaqub was entirely wrong in regarding the Moslem marriage as a purely civil contract, as the solemnization of our marriage is a sacred religious obligation on the clear authority of the Holy Koran, the Prophet's traditions and Fiqa. His arguments are illogical although he calls our marriage a civil contract yet is shy of enforcing his Bill in the shape of compulsory legislation. It is not clear why he should be nervous of pushing it forward as a compulsory measure.

I may kindly be permitted to mention that the Bill has been disliked by thousands of educated Moslems of not only the Sunni sect which I and Mr. Yaqub belong to but also the Shiah and Ahla-i-Hadis sections do not approve of it as will be seen from Fatwas of Ulimas and the pamphlet published by Moulvi Muhammad Fakhr-ud-din Sahib of Mylapore under your kind permission.

This is an innovation tantamount to Government's interference in the religious matters because the Bill, though now a permissive measure, will prepare the way for eventual compulsory legislation, the non-compliance of which as contended by the Muthialpet Moslem Anjuman will relegate marriages and divorces effected on present orthodox lines to an inferior position of doubtful validity.

The legislation will be painfully received by the Muhammadans as a measure leading to open the gates of other religious legislations or reformations as is explained in the meeting of 8th January 1919.

Even if the Bill is enacted it will not work satisfactorily but is sure to cause dissatisfaction as is experienced in Bengal. The Honourable Member's Bill has very little fresh matter compared with the Bengal Legislation which has been condemned by eminent jurists, such as the Hon'ble Justice Saiyid Amir Ali, etc.

Under the circumstances I am of opinion that the Moslem community would resent any attempt to tamper with the simple procedure laid down by the Prophet of Islam as essential to a valid Muhammadan marriage or divorce.

XLVII

Letter—from J. C. Stodart, Esq., I.C.S., Acting Collector of South Arcot.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—Cuddalore, the 29th January 1919.
No.—D. Dis 169-Cor.

1. Muhammad Husain Sahib Bahadur, B.A., District Registrar, Cuddalore.
2. Saiyid Ismail Sahib Albeez, Government Pensioner, Cuddalore.
3. Janab Moulavi Muhammad Obidulla Sahib, Porto Novo.
4. Ghulam Muhammad Gose Sahib Bahadur, Porto Novo.
5. Janab Kazi Baha-ud-din Sahib Shokir, Government Kazi, Minambur, Gingee taluk, South Arcot.
6. Muhammadans of Tindivanam assembled at a public meeting held on 6th November 1918.

With reference to Government Memorandum No. 1519-8, dated 12th October 1918, Home (Miscellaneous) Department, regarding the Bill to provide for the voluntary registration of Mussalman marriages and divorces which the Hon'ble Mr. Yaqub Hasan Sahib desires to introduce into the local Legislative Council, I have the honour to forward herewith the views of the marginally-noted representative Muhammadans and Muslim associations in this district on the provisions of the Bill.

2. The need for providing a better form of registration of Muslim marriages and divorces is admitted by all. The passing of the Bill as a purely permissive piece of legislation is greatly welcomed by the whole community as it will considerably reduce the difficulties in the administration of justice in disputed cases and set right the present unsatisfactory system of keeping records by ignorant Kazis or their agents. This measure, if passed into law, would surely obviate false evidence and false records prepared by self-appointed Kazis and encourage uniformity of practice, stimulating the community to make these functions regular. Janab Moulavi Muhammad Obidulla Sahib of Porto Novo is of opinion that voluntary registration will be " a sound action as it ensures safety of property and also removes obstacles against contested claims in respect of such property in courts and that it will be commendable to one and all and also permissible under the Muhammadan law ". The Government Kazi at Minambur, a rich Mussalman village in the Gingee taluk, says that the Bill is just what is required to safeguard the interests of the community, while Mr. Muhammad Husain Sahib, District Registrar, Cuddalore, a distinguished Mussalman, has in his learned and interesting letter vividly put forth his arguments in support of the Bill. Mr. Saiyid Ismail Albeez has not clearly expressed himself about his attitude to the Bill, but it is not understandable how the various reforms suggested by him are feasible except by legislation. Some additions and modifications to the Bill in matters of detail have been suggested in some of the replies received.

Inclosures

(1)

Letter—from M. Muhammad Hussain Sahib Bahadur, Registrar of South Arcot.
To—the Collector of South Arcot.
Dated—the 20th November 1918.
No.—2858-Genl.

With reference to R.O.C. No. 1587-B. & G., dated the 28th October 1918, I have the honour to submit the following opinion on the Bill to provide for the voluntary registration of Mussalman marriages and divorces in this presidency.

2. Marriage among Mussalmans, far from being a religious tie, is a civil contract and it is solemnized by self-constituted Kazis or those appointed as such under the Kazis Act (1880). In consequence of their special position the latter where available are generally preferred to the former but learned Kazis are now the exception rather than the rule, the prospects awaiting the candidates in other walks of life being what they are.

My observation applies in a greater degree to self-appointed Kazis and there are to be found among these as well as the Government Kazis sons of their fathers without necessary qualifications or a due sense of responsibility. The naibs or agents of either class of Kazis occupy a still lower scale in point of efficiency but the thing which calls loudly for amendment is the exercise of powers by the Kazis and their agents without any checks imposed on them, not to speak of the endless disputes consequent on the solemnization of marriages by persons without the least shred of authority.

3. The system of recording marriages and divorces on slips of paper or in what passes for a register has in the circumstances given rise to abuses of a grave nature and no wonder that in deciding questions of *mahar* and the like civil courts attach more importance to oral evidence based on custom than to so-called documentary evidence furnished by 'scraps of paper'. Prolonged litigation is the inevitable result and it means in turn the ruin of respectable families; but what is it to the unscrupulous among the Kazis who are intent on making hay while the sun shines.

Divorce among respectable Mussalman families is undoubtedly rare but if they have recourse to it as a last resort it is more often than not with a view to a re-marriage. The objection to the registration of divorces based on the ground of publicity therefore vanishes in such cases with the re-marriage which means if anything publicity with a vengeance.

Divorce however is not uncommon among the poorer classes and the explanation for it is to be sought in most cases in the cupidity of parents which yoked their daughters while young, to persons of questionable character or unsuitable age. In such cases the Kazis, in order to satisfy their greed, not infrequently, side with the stronger party and throw formidable obstacles in the way of the weaker party.

4. There would of course be raised the old cry of " religion in danger " in relation to the proposed legislation but it would be found to proceed ultimately from the Kazis and those who take their word for gospel. Nevertheless the question of questions is how long these Kazis and their tools are to be permitted to trade on the credulity of the Mussalman community unchecked by any authority and unhindered by public opinion.

The fact that some years ago such an orthodox section of Mussalmans as the Mappillas of South Kanara had considered it necessary to press the matter on the attention of His Excellency Sir Arthur Lawley—a late Governor of Madras—irresistibly points to the intensity of the evils inherent in the present system. What the present Bill aims at is the appointment of a better class of Kazis and the maintenance by them of a trustworthy record of marriages and divorces without so much as touching the fringe of religion and in this respect it does not materially differ from the statutory measure for the recording of births and deaths without regard to creed or nationality.

Moreover the Government Kazis are in the enjoyment of salaries or grant of lands or both and there is no reason why they, of all others, should not be brought under effective control and thereby made to serve as an example to the self-styled Kazis. Otherwise the Kazis Act will remain a dead letter considering the poor qualifications and the questionable methods of the Kazis appointed thereunder. There are of course honourable exceptions but civil courts cannot in the nature of things take cognizance of such exceptions so far as the authenticity of the record of marriages and divorces is concerned.

5. Bengal seems to contain a larger Mussalman population than the Madras Presidency and yet Act I of 1876 for the registration of Mussalman marriages and divorces has been in operation there these long years without any one being the worse for it. In view however of my present inability to procure a copy of the Bengal Act and of the latest administration report embodying the results of its working, I cannot vouch for what is claimed for the system in vogue there but it is impossible to avoid the conclusion that what is beneficial or harmful to one part of British India must be equally so to another part, the conditions applicable to Mussalman society not admitting of fundamental differences.

If I am correctly informed the provisions of the Bengal Act are worked somewhat on the following lines:—

" There are Muhammadan registrars in all towns and villages in Bengal who act under the control and supervision of the Government registrars. They submit monthly returns of marriages and divorces to the district registrars to whom the registers, when filled up, are also deposited for safe custody. The Bengal Government have appointed a central committee in Calcutta of which some leading Mussalmans are members and the Inspector-General of Registration is the President. The appointment of Kazis and Muhammadan registrars is made by Government in consultation with the Committee to which are also referred all matters of dispute and complaint. Practically all the powers assigned to the Government and the Inspector-General of Registration by the Bengal Act are exercised by this Committee by delegation."

6. An Act worked in accordance with the foregoing principles cannot but be welcomed by the Mussalmans of this Presidency but if the Government Kazis get up a spurious agitation—let alone the self-appointed Kazis and the host of agents—it will mean that they are out for fortifying themselves against legitimate complaints which sooner or later would see the light of the day or dispossession through default of their emoluments or lands held by virtue of office

but alienated or divided without sufficient cause. It is therefore a matter for serious consideration whether the Government will have fulfilled its task by appointing Kazis and yet leaving them uncontrolled when a remedy which has stood the test of time in another province is ready to hand for successful application.

The learned judgment of the Hon'ble Mr. Justice Kumaraswami Sastri in Civil Suit No. 269/16 exposing the tainted character of some of the Madras Kazis and the audacity with which they tamper with the record of marriages and divorces and the Bengal system avoiding both pitfalls by appointing right men to the posts of Kazis and insisting on the faithful performance of duties by them are in the nature of revelations which ought to strengthen, more than anything else, the hands of the Government in this Presidency.

Judging also from the lament of the Mappillas—the most conservative portion of Mussalmans forming a third of their total population in this Presidency—no difficulties of a serious nature need be apprehended in connexion with the proposed legislation, except it be that the Government Kazis and their agents will put up a last fight in their own interest and unnecessarily drag religion into it so that it may assume the character of a communal fight.

7. The necessity for legislation has already been acknowledged by such eminent jurists as Sir Ronald Wilson and the Right Hon'ble Mr. Amir Ali. According to these authorities however compulsory legislation would alone put a stop to the abuses of the present system but caution is needed all the same in view of the social aspects of the questions involved. An optional measure will, on the other hand, serve to cover the transitional period necessary to reconcile the vested interests to a compulsory measure, if and when it comes, but the latter task had best be left to the Imperial Government so that it may introduce a measure which would apply to the whole of British India.

In the absence of a copy of the Bengal Act and of the latest administration report dealing with its operations I reserve my comments on particular provisions of the Bill, the more so because it has yet to be referred to a select committee. The best method of focussing Mussalman opinion on it in the meanwhile seems to be to circulate Urdu translation of the Bill under discussion and of the Bengal Act with relevant extracts in the same language culled from the administration report setting forth the results of its working.

I have ventured to make this suggestion in the hope that even if the Madras Government should feel diffident in the matter it will at least see its way to launch a limited measure with the condition that it should at the outset become operative only in districts which are wholeheartedly for its introduction to be extended in course of time to other districts as they come into line. Since writing the above the *Hindu* of the 20th instant has published a full report of an influential Muhammadan meeting held in Madras in support of the Bill.

(2)

Letter—from Saiyid Ismail Albeez, Retired Government Officer, Cuddalore.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—the 15th December 1918.

With reference to your R.O.C. No. 1587-B. & G. of 1918, dated the 28th ultimo, asking me to give my opinion as called for by Government on the introduction of a Bill for the registration of Muhammadan marriages and divorces, I am convinced that it is absolutely necessary to take steps for the better preservation of Kazis' registers, especially, in cases when some of such registers are lost and when after the witnesses to any marriage are no more, the parties find it far too hard to prove factum of marriages or divorces and the mahar amount, etc.

2. For the present, some other mode may be taken than using the expressions either "Compulsory" or "Voluntary" registration of marriage, etc., as is viewed by the Honourable Members of the Legislative Council and as is found in the Bill under reference.

3. To avoid the aforesaid objections and to do away with the difficulties in the administration of justice and for the just cause of the Muhammadan community, the benign Government may be pleased to adopt the following *procedure*, which I presume will do much good to such community, and which, in times to come will demand such legislation and also for the present it will be thankfully acceptable by the public.

4. It is as follows:—

(*a*) All the Government Kazis may be directed to send copies of *marriages, divorces, khoola, moobarat, release of mahar* and *the payment of mahar*, from their registers within three days from the date of such transactions, either to a District Registrar or a Sub-Registrar, within whose jurisdiction such marriage, etc., has taken place. Further, all copies of the transactions, such as nikah, etc., entered in their registers up to date, since the Kazis Act came into force, may be sent to the District Registrars within a month from the date of such order. The Kazis' registers may be with them for their frequent use and reference.

(*b*) The District Registrars and Sub-Registrars may be directed to maintain a separate *file book* showing receipts of such communications.

(*c*) The public may be informed that in cases, when any marriage, or any matter referred to in clause (*a*) supra is performed by any *private person*, other than a Government Kazi, he,

or *any one of the parties to such marriage*, may likewise communicate such fact to the Registrar or Sub-Registrar, as stated above, *with the attestation of the village munsif*, within whose jurisdiction such marriage, etc., has taken place.

(*d*) The District Registrars and Sub-Registrars may be directed to grant certified copies of the above records, when applied for by the public on payment of annas two per copy.

(*e*) When any party fails to act or do as aforesaid it will not, on that ground, render any marriage, etc., void, but it will be viewed with suspicion unless a Government Kazi, or a court of law, on strict proof of evidence, considers it to be valid, when any question arises about the legality or illegality of such marriage, etc.

(*f*) The public may also be informed that if any fraud or illegality as to any marriage, etc., comes to the knowledge of any Muhammadan, he should at once make a report of it to the Government Kazi of the place, in which such occurrence takes place and such Kazi should inquire the matter, his opinion therein, and the result of which should form part of his record.

5. There is another important matter referred to in a decision about the release of a mahar, which if the Government Kazi had entered in his *register* that it is in accordance with the Muhammadan law, then, the Madras High Court would not have taken a different view about it in A.S. No. 1277 on its file.

6. The decision is that a Muhammadan girl of fifteen years old, a major under the Muhammadan Law, may contract *marriage, mahar amount*, etc., but could not release such *mahar*, till she attains her 19th year, i.e., till she attains majority under the Indian Majority Act, in spite of proviso to section 2 of the said Act, which is in favour of Muhammadan law.

7. As the said decision leads to serious consequences, two or three articles beginning from 5th March last appeared in the *Madras Mail* headed as '*Majority of a Muhammadan Woman*'.

The serious consequences among other facts are: If such girl wants to release her mahar in favour of her husband to obtain a divorce from him, owing to his ill-treatment, such as beating, kicking, etc., she could not do so till she can ask, to be freed from such a situation, only on her attaining her 19th year according to the above decision and till then should be subjected to such harsh treatment. Similarly, when she relinquishes her mahar in favour of her husband on her *death bed*, her heirs may claim such *mahar amount* after her death under the present decision, as she did not attain her 19th year when she relinquished her *mahar amount*.

8. All these are virtuous acts, sanctioned by sacred *Koran* and now disallowed by the *said decision*, which has affected the Muhammadan law to a great extent.

9. If such facts had been legally entered in the register of *a Kazi appointed by Government*, then, of course, the High Court would not have interfered in such religious acts on a perusal of a judgment passed by such Kazi in his *register* on the subject.

10. I enclose herewith six printed copies of such decision for the perusal of His Excellency the Governor in Council and for the perusal of the Honourable Members in the Council, who had spoken on the subject, when leave to introduce the Bill under reference was asked.

11. For the purpose of avoiding all these defects the above procedure will be highly acceptable to the Muhamadan community, especially, and meet with the approval of the general public.

(3)

Letter—from Muhammad Obaid-ul-la Sahib, Resident of Porto Novo.
To—the Collector of South Arcot.

With due reverence I humbly beg to acknowledge the receipt of your esteemed letter with a copy of the Bill for making provision for registration of Muslim marriages, divorce, etc., introduced by Mr. Yaqub Hasan Sahib Bahadur in the Madras Legislative Council. I have expressed my opinion in Urdu in a separate sheet enclosed herein. I have no objection to its being sent to such places as your honour may deem fit. I have also sent a copy of this to Mr. Yaqub Hasan Sahib Bahadur. The gist of it is that I am in favour of optional registrations and not of compulsory one.

After giving due weight and consideration to the Statement of Objects and Reasons in introducing the Bill about the registration of Muslim marriages, divorce, kula, etc. (obtaining divorce in lieu of Mahar) it is inferred that everyone is self-independent in deriving benefits and warding off evils attendant on one's actions and the wording of the enactment speaks for itself that registration is one of option and not of compulsion whether both parties constituting nikah or kula register it or not. It is stated in Hidaya and other Muhammadan religious books that every adult male member is cognisant of the benefits and evils arising from wealth and property concerned in marriages, etc., and hence it is not desirable to enforce compulsion in cases permissible under Muhammadan Law. The literate and the learned are aware that the validity of marriage, divorce, and kula does not depend upon its being registered but it is a sound action in as much as it ensures safety of property and wealth concerning such marriage, divorce, and kula and also removes obstacles against contested claims in respect of such property in courts of law. This view will be commendable to one and all and is even permissible under Muhammadan Law. It is therefore undesirable that compulsion should be resorted to in such cases.

In the above circumstances I strongly recommend that registration should be made optional. If on the other hand, it is made compulsory both the parties concerning the marriage, etc., render themselves liable to accusation for setting at naught the orders of the court of law and such persons though defaulters in the ordinary court of law do not stand as accused under Muhammadan law. As stated in Dainal-Vuktan and other Muhammadan religious books it is unjust to inflict punishment on delinquents merely for setting the orders at naught for which no express punishment is laid down. It is therefore evident that Muhammadan law does not accuse anyone of crime in the absence of such registration which only ensures safety of property and everyone is self independent in exercising caution over such property. Thus it will be seen that compulsory registration is undesirable and optional one commendable. Some people are of opinion that if the nikah is performed by some one else in the absence of the appointment of Muslim Registers, it is necessary that such person should intimate the details of the marriage, Mahar (dower), etc., in a separate sheet of paper to the Muslim Registrar who should make the necessary entries in his register and default in such cases entails inflictions of fines, etc. I do not approve of this view. At all events it is indispensably necessary that a Muslim Registrar should be appointed for performing Muhammadan marriages, divorces, etc., whether both the parties concerning the marriage do register it or not.

Thus registration of marriages, etc., should be made optional and not compulsory. Further it is also desirable that this post should be given to such of the persons, viz., Moulvies, etc., as are fully aware of the rulings and commandments of Muhammadan law, because the Kazis appointed under Kazi Act XII of 1880 often commit such gross blunders in matters relating to marriage, divorce, etc., owing to their ignorance of rules.

Though the Bill is silent on this point, I strongly recommend that an additional clause may be inserted 'such appointed Kazis and Muslim Registrars should be fully aware of the rules and commandments'

(4)

Letter—from Gulam Muhammad Ghose Sahib, Honorary Magistrate, Porto Novo.
To—the Deputy Collector of Chidambaram.
Dated—the 20th November 1918.

In referring to your kind Demi-official, dated the 31st October regarding the Bill for the voluntary registration of Mussalman marriages and divorces, I beg to observe the following:—

So far the statement and reasons put forth by the introducer of the Bill are concerned, I agree with the Honourable Member. Under no circumstances could it be made compulsory, compulsory registration being quite against the principles of the doctrines of Muhammadanism.

However I am of opinion that the Bill may be passed without prejudice to the principles of the Muhammadan doctrine with the following modifications and additions—

(*a*) In rule 8, the following must be added, viz.: If the application be for "Fusq"—by the woman who seeks for Fusq: provided if the woman be a parda-nishin, such application may be made on her behalf by her duly authorized vakil'.

(*b*) In rule 9, the time of one month notice should be modified to a shorter period.

(*c*) In rule No. 10, the following must be added: 'If the entry be of a divorce of the kind known as 'Fusq' in a register in the form (*b*) contained in the schedule to this Act—

(1) By the applicant; Provided if the applicant be a parda-nishin, the entry may be signed on her behalf by her authorized agent or vakil.
(2) By the persons who prove and testify the statement of the applicant to the satisfaction of the Muslim Registrar fulfilling the terms and condition laid out in the Muhammadan law.
(3) By the Muslim Registrar.

(*d*) The rule 20 must be fully modified as follows.—An appeal should lie against an order of a Muhammadan Registrar refusing to register a marriage or divorce to the Civil Court. The appeal must lie and be final according to Civil Procedure Code. Why we object to rule 20, is that the District Registrars are not considered to have qualified in the Muhammadan law.

(*e*) In book No. 1.

(1) Grand father's name of the parties—Bride and Bridegroom—may be mentioned as required by the Muhammadan law.

The delay in reply is due to my son's sickness.

(5)

Letter—from Muhammad Baha-ud-din Sahib, Government Khazi.
To—the Collector of South Arcot.
Dated—the 24th November 1918.

With reference to your honour's communication No. 1587/B. & G., dated 9th November 1918, I most respectfully beg to submit that the Bill to provide for the voluntary registration of Mussalman marriages and divorces is just what is required to safeguard the interests of Mussalmans as far as marriages and divorces are concerned.

(6)

Letter—from Muhammad Baha-ud-din, Government Kazi, South Arcot.
To—the Collector of South Arcot.
Dated—the 6th December 1918.

[With reference to your honour's R.O.C. No. 1587 B. & G., dated 28th November 1918.]

In continuation of my previous communication to your honour in connexion with the voluntary registration of Muhammadan marriages and divorces I most respectfully beg to add that I have read very carefully one copy each of the proceedings of the meeting of the Legislative Council relating to the debate on the motion for leave to introduce the Bill for the Registration of Mussalman marriages and divorces, Hindustani and English translation of the Hon'ble Mr. Yaqub Husan's speech and free translation of the Bill in Hindustani, and beg to state that I have no further remarks to make in the light of the papers now sent to me, I beg to submit that I still maintain that the Bill introduced may be passed into law.

(7)

Proceedings of a public meeting of the Muhammadans of Tindivanam, dated 6th November 1918.

The Muhammadans of Tindivanam in public meeting assembled on 6th November 1918, passed the following resolutions:—

I. Resolved, that the Bill referred to in Memorandum Mis. No. 1519–8, dated 12th October 1918, of the Government of Madras, and introduced in the local Legislative Council by the Hon'ble Mr. Yaqub Hasan Sahib Bahadur is much appreciated and deserves to be passed into law at as early a date as possible.

II. Resolved also that the whole Muhammadan community has been placed under a deep debt of gratitude to the Honourable mover for his remedying a very great defect in the existing law affecting the community.

Tindivanam,
7th November 1918.

Saiyid Muhi-ud-din,
Chairman.

XLVIII

Letter—from Diwan Bahadur L. D. Swamikannu Pillai, Esq., I.S.O., Collector of Nellore.
To—the Secretary to Government, Home (Judicial) Department.
Dated—the 30th January 1919.
No.—506-C/Cor.

With reference to the Government Memorandum No. 1519–8, dated 12th October 1918, I have the honour to submit herewith the opinions of the marginally-noted Muhammadan gentlemen and Muhammadan bodies on the Bill to provide for the voluntary registration of Mussalman marriages and divorces, introduced by the Hon'ble Yaqub Hasan Sahib Bahadur in the Legislative Council.

1. Haji Muhammad Habibullah Sahib Bahadur.
2. Moulavi Syed Nasir-ud-din Sahib Bahadur, Khazi of Nellore.
3. Muhammad Munshi.
4. Yahya Ali, M.A., B.L., District Court Vakil, Nellore.
5. Mirza Hasan Ali Isaphani Sahib Bahadur, B.A., B.L., District Munsif, Kanigiri.
6. Muhammad Yakub Sahib Bahadur, Treasury Deputy Collector, Nellore.
7. Hajee Mirza Asadulla Kirmany alias Aga Sahib, Contractor, Gudur.
8. Copy of the Gudur Union Chairman's letter.
9. Copy of the letter submitted to the Secretary to Government communicating the resolutions passed at a public meeting of the Mussalmans of Nellore.

2. All the persons consulted are in favour of the Bill and some of them have proposed amendments. I am personally of opinion that a measure of the kind will have a beneficial effect.

Enclosures

(1)

Letter—from Haji Muhammad Habib-ul-lah Sahib Bahadur, Nellore.
To—the Collector of Nellore.
Dated—the 21st November 1918.

I have the honour to submit my views with regard to the Bill proposed in the Madras Legislative Council by the Hon'ble Mr. Yaqub Hasan for the Registration of Muhammadan marriages and divorces.

2. I strongly feel that the present system of maintaining records of Mussalman marriages and divorces are extremely unsatisfactory, and consequently believe that the enactment of a Bill of the nature proposed by the Honourable Member in the last session of the Madras Legislative Council is both necessary and timely.

3. I think, however, that the Bill should be amended to a slight degree to make provision for the following principles :—

(*a*) The registration should be made compulsory, the compulsion being enforced on pain of inadmissibility of unregistered marriages and divorces in evidence and also of a moderate penalty.

(*b*) The Governor in Council should be authorized to grant licences to Kazis being empowered, under sufficient restrictions as to qualifications, etc., to grant licences to their Naibs or deputies,

(*c*) The Governor in Council shall grant licences not to any person who applies for the same but shall grant them only to Kazis appointed under India Act XII of 1880, and where there is no such Kazi to such persons as shall be appointed for such area by the Governor in Council.

(*d*) that with regard to the representation of a pardanishin woman for any purpose contemplated by the Act (except with regard to kula), it shall not be required that her vakil shall be a duly authorized one : it shall be sufficient if such person is her vakil in accordance with the provisions of the Muhammadan law.

(*e*) It shall be incumbent on the Muslim Registrar, as a matter of routine without parties applying therefor, to supply free of charge a certified copy each to the parties to a marriage or divorce.

(*f*) The fee chargeable for certified copies of an entry in the register shall be eight annas only.

(*g*) Any person other than a Muslim Registrar solemnizing a marriage or a divorce shall be liable to a heavy fine.

(*h*) Sections 8, 9 and 10 of the Bill shall be recast so as to allow of the principles of compulsion.

(*i*) The Government of India Act XII of 1880 shall be amended so as not to conflict with the provisions of this Act.

(*j*) The other parts of the Bill shall remain as they are.

4. The copy of this Bill is returned herewith with thanks.

(2)

Letter—from Moulvi Saiyid Nasir-ud-din Sahib, Kazi of Nellore.
To—the Collector of Nellore.
Dated—the 13th December 1918.

In reply to your letter No. 1167 G. & B./Cor., dated 3rd November 1918, I have the honour to invite your attention to a resolution passed at a public meeting of the Mussalmans of Nellore held on 15th November 1918 with Mr. Hakim Saiyid Namathulla Sahib in the chair and to state that I have nothing to add to the abovesaid resolution.

2. A copy of the resolution is herewith enclosed.

(3)

Letter—from Yahya Ali, M.A., B.L., District Court Vakil, Nellore.
To—the Collector of Nellore.
Dated—the 24th December 1918.

In reply to your letter Ref. No. 1167 G. & B./Cor., dated 3rd November 1918, I have the honour to submit hereunder my personal views with regard to the Bill proposed to be introduced by the Hon'ble Mr. Yaqub Hasan Sahib Bahadur, in the Madras Legislative Council to provide for the voluntary registration of Mussalman marriages and divorces.

2. At the outset, I may submit that I am in hearty agreement with the Honourable mover of the Bill as to the necessity of the legislation and in consideration of the malpractices to which pointed reference has been made by the various speakers on the motion, by several eminent judges of the various High Courts, by text-writers on Muhammadan Law, and by those gentlemen for whose opinion the matter had been referred as per G.O. No. 826, dated 5th June 1901, such an enactment was in my opinion, long overdue. I do not consider that my enthusiastic support of

the Bill is in any way inconsistent with the strong faith I have in the simplicity of Mussalman marriages, as enjoined by the law-giver. I would, on the other hand, hold that since the Holy Prophet (R.I.P.), on more than one occasion, insisted on marriages being notified by beat of drum and solemnized in the presence of agents, guardians and witnesses, the spirit of the holy injunctions is consistent more with a system of perpetuating the evidence rather than with a system, which avails now in British India of setting a premium on the suppression, interpolation or fabrication of evidence.

3. I would wish the registration to be compulsory, as I fear a voluntary system will prove practically a dead letter. Every registering officer must be a licensed person or one on whom it is incumbent to report the event at once to the Moslem Registrar. Since such officer has exclusive jurisdiction within a particular area, it must be his duty to respond to every call for personal attendance at a nikka ceremony, as otherwise owing to the existence of party factions in several villages, the registrar may wreak his vengence by declining to attend the nikka or to register the divorce and thus drive people to travel long distance with their entourage to get a neutral and impartial registrar.

4. The post of Kazi, though shorn by steady corrosion of all its pristine dignity is yet possessed of some importance to the community. The Kazi continues in most parts to be the nucleus Moslem society and is most often the expositor of our ecclesiastical law. As an arbitrator, a representative of the community in the councils of the district and as a channel through which Moslem needs are represented to the Government, he plays no mean part in the country. In remote villages, he ministers at funerals and is helpful in officiating at all services. As such it is not proper that his powers should be still further curtailed by introducing the possibility of his own naibs declaring their independence after obtaining a licence under this provision direct from the Governor in Council. I would, therefore, provide that the authority to grant licences to naibs (or say subordinate registrars) shall be vested in the Kazis, all Kazis heretofore appointed under Act XII of 1880 having been declared ex officio Moslem Registrars. This power, it may be rightly apprehended, is likely to be abused and hence I would have its concession hedged by adequate provisos as to qualifications, etc., of the licensees.

5. In a meeting of the Mussalmans of Nellore held on the 15th November 1918, this Bill was considered and certain resolutions were passed and communicated to the Legislative Secretary of the Government of Madras. I am enclosing herewith a copy of the same, hereby giving my support to all the resolutions mentioned therein.

(4)

Letter—from Mirza Hasan Ali Ispahani Sahib Bahadur, B.A., B.L., District Munsif, Kanigiri.
To—the Tahsildar, Kanigiri.
Dated—the 19th December 1918.
No.—Dis. 3915.

Adverting to Ref. No. 1980 Sup., dated 11th November 1918, communicating to me copy of letter Ref. No. 1167/Civ. G.B., dated 24th October 1918 from the Collector of Nellore to the Secretary to the Muhammadan Literary Association, Nellore, I have the honour to state that some legislation in this direction is absolutely necessary, is beyond question. The proposed Bill does not answer the purpose fully. Compulsory registration with necessary safeguards seems to be highly desirable. It is for the members of the Legislative Council to discuss the several provisions of the Bill in detail and decide what is most beneficial to the community.

(5)

Letter—from Muhammad Yakub Sahib Bahadur, Treasury Deputy Collector, Nellore.
To—the Collector of Nellore.
Dated—the 3rd January 1919.
No.—39.

In reply to your letter Ref. No. 1167-S.B./Cor., dated 3rd November 1918, received on 9th December 1918, I have the honour to state that I see no objection to the provisions of the Bill so far as they go.

(6)

Letter—from Hajee Mirza Asad-ul-lah Kirmany alias Aga Sahib, Contractor, Nellore.
To—the Collector of Nellore.
Dated—the 27th December 1918.

In reply to your letter Ref. No. 1167-G.B./Cor., dated 3rd November 1918, I have the honour to submit hereunder my views on the Bill for the voluntary registration of Mussalman marriages and divorces introduced into the Madras Legislative Council by the Hon'ble Yaqub Hasan Sahib Bahadur.

2. I strongly feel that the present system of maintaing records of Mussalman marriages and divorces is extremely unsatisfactory and consequently believe that the enactment of a Bill of the nature proposed, is both necessary and timely.

3. I, however, submit that the Bill should be amended to a slight degree to make provision for the following principles :—

(*a*) The Governor in Council should be authorized to grant licences to Kazis, such Kazis being in their turn empowered under sufficient restrictions as to qualifications to grant licences to their naibs or deputies.

(*b*) The registration should be made compulsory, the compulsion being enforced so as not to affect the validity of unregistered marriages and divorces.

(*c*) The Governor in Council shall grant licences not to any and every person who applies for the same but shall grant them only to Kazis appointed under India Act XII of 1880, and where there is no such Kazi, to each person as shall be appointed for such area by the Governor in Council.

(*d*) With regard to the representation of a parda-nishin woman for any purpose contemplated by the Act (except with regard to khula) it shall not be required that her vakil shall be a duly authorized one ; it shall be sufficient if such person is her vakil in accordance with the provisions of the Muhammadan Law.

(*e*) It shall be incumbent on the Moslem registrar as a matter of routine, without party applying therefor, to supply free of charge a certified copy each to the parties to a marriage or divorce.

(*f*) The fee chargeable for the certified copies of an entry in the register shall be eight annas only.

(*g*) Any person other than a Moslem registrar solemnizing a marriage or a divorce shall be liable to a heavy fine.

(*h*) Sections 8, 9 and 10 of the Bill shall be recast so as to allow of the principle of compulsion.

(*i*) The Government of India Act XII of 1880 shall be amended so as not to conflict with the provisions of this Act.

(*j*) The other parts of the Bill shall remain as they are.

(7)

Letter—from the Union Chairman, Gudur.
Dated—the 12th December 1918.
No.—Extra 1.

With reference to your Ref. No. 1715/Hac., dated 2nd November 1918, I have the honour to submit my views on the provisions of the Bill for the voluntary registration of Mussalman marriages and divorces introduced into the Madras Legislative Council by the Hon'ble Mr. Yaqub Hasan Sahib Bahadur. I have consulted several representatives of my community at Gudur :—

(1) We are in entire sympathy with the Bill and are very anxious that having in view the malpractices we are suffering under, provision of this sort should become law very early.

(2) We desire that the system to be introduced should be made compulsory provided that it shall be enforced not by making the divorce or marriage invalid but by imposing a specified penalty in cases of disobedience.

(3) The licences shall be issued to Kazis only, such Kazis being in their turn authorized to grant licences to their naibs under sufficient restrictions as to the qualifications of licensees.

(4) The Governor in Council shall grant licences not to any person who applied for the same but only to Kazis duly appointed under India Act XII of 1880 or to such Kazis as shall have been duly appointed in any locality which is without a Kazi by the local community.

(5) A parda-nishin woman shall be represented for the purpose of this Bill except with regard to khula by "a vakil in accordance with the provisions of the Muhammadan Law," and not as the Bill contemplates by her "duly authorized vakil."

(6) Copies shall be supplied by the Moslem registrar as a matter of duty and not only when applied for.

(7) The fee chargeable for certified copies of an entry in the register shall be (8) eight annas only.

(8) Any person other than a Moslem registrar solemnizing a marriage or divorce shall be liable to a heavy fine.

(9) Other sections (8, 9 and 10) of the Bill shall be recast so as to allow of the principle of compulsion. The remaining parts of the Bill may remain as they are.

(8)

Letter—from Syed Sha Namat-ul-lah, President of the Public meeting, Nellore
To—the Secretary to Government, Legislative Department.
Dated—the 16th November 1918.

I have the honour to communicate to you the resolutions passed at a public meeting of the Mussalmans of Nellore held on Saturday the 15th November 1918, presided over by me :—

(1) That the Mussalmans of Nellore strongly feel that the present system of maintaining records of Mussalman marriages and divorces are extremely unsatisfactory, and consequently believe that the enactment of a Bill of the nature proposed by the Hon'ble Yaqub Hasan Sahib Bahadur in the last session of the Madras Legislative Council is both necessary and timely.

(2) That the Mussalmans of Nellore however submit that the Bill should be amended to a slight degree to make provision for the following principles :—

(*a*) The registration should be made compulsory, the compulsion being enforced on pain of inadmissibility of unregistered marriages and divorces in evidence and also of a moderate penalty.

(*b*) The Governor in Council should be authorized to grant licences to Kazis, such Kazis being empowered, under sufficient restrictions as to qualifications, etc., to grant licences to their naibs or deputies.

(*c*) The Governor in Council shall grant licences not to any person who applies for the same but shall grant them only to Kazis appointed under India Act XII of 1880, and where there is no such Kazi to such person as shall be appointed for such area by the Governor in Council.

(*d*) That with regard to the representation of a parda-nishin woman for any purpose contemplated by the Act (except with regard to khula), it shall not be required that her vakil shall be a duly authorized one ; it shall be sufficient if such person is her vakil in accordance with the provisions of the Muhammadan Law.

(*e*) It shall be incumbent on the Moslem registrar, as a matter of routine without parties applying therefor, to supply free of charge a certified copy each to the parties to a marriage or divorce.

(*f*) The fee chargeable for certified copies of an entry in the register shall be eight annas only.

(*g*) Any person other than a Muslim Registrar solemnizing a marriage or a divorce shall be liable to a heavy fine.

(*h*) Sections 8, 9 and 10 of the Bill shall be recast so as to allow of the principle of compulsion.

(*i*) The Government of India Act XII of 1880, shall be amended so as not to conflict with the provisions of this Act.

(*j*) The other parts of the Bill shall remain as they are.

XLIX

Letter—from H. H. Burkitt, Esq., I.C.S., Acting Collector of Gōdāvari.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—Cocanada, the 28th January 1919.
No.—D. Dis. 503-Rev.

In reply to Government Memorandum Nos. 1519-8, dated 12th October 1918 and 1519-9, dated 4th November 1918, I have the honour to forward, in original, all the replies to the Government. These are all the reports that have been received.

2. I have no remarks to offer.

Enclosures

(1)

Letter—from Khan Sahib Khaja Ahmadulla Khan, Khazi of Rajahmundry.
To—the District Collector, Gōdāvari.
Dated - the 28th November 1918.

With reference to your No. G.B. Mis. 1314, Revenue, dated 9th November 1918, I have attached herewith my humble opinion in Urdu for your kind perusal, regarding the Bill of voluntary registration of Mussalman marriages and divorces, which the Hon'ble Mr. Yaqub Husan Sahib Bahadur desires to introduce in the local Legislative Council at Madras.

(2)

Letter—from Muhammad Anvaruzzaman Khan, Secretary, the Anjuman Himayath-a-Islam, Rajahmundry.
To—the Collector, Gōdāvari.
Dated—the 11th December 1918.
No.—28.

With reference to your office R.C.B. No. 1314, Revenue, dated 9th November 1918, I beg to forward herewith a copy of the resolution passed by the Anjuman Himayath-a-Islam, Rajahmundry, held on 7th December 1918, in connexion with the registration of Muhammadan marriages and divorces which is to be introduced in the Legislative Council.

Sub-Enclosure

Resolution No. 3, *passed at the meeting of the Anjuman Himayath-a-Islam, Rajahmundry, held on 7th December* 1918.

A copy of Bill proposed by the Hon'ble Mr. Yaqub Hasan Sahib, Khan Bhadur, in connexion with the registration of Muhammadan marriages and divorces which he wishes to introduce in the Legislative Council has also been sent to this Association for opinion.

The Bill was placed before the meeting who found some unnecessary points in the Bill which requires amendments. As the present system of registration, etc., is very defective, it is highly necessary to bring it on a sound basis. We accept the Bill in principle. Therefore in conformity with the tenets of Islam such an Act has to be passed by the legislature as would empower the Khazis nominated by the Government to be bona fide registrars, and the Khazis to be appointed Muslim District Registrars and their naibs (deputies) their subordinate registrars. In the presence of these officers there does not appear to be any necessity of appointing non-Muslim registrars, because the question as now stands has a religious aspect as well. In matters religious the Khazis and their deputies (naibs) are entitled to perform civil duties as it is laid down "Shawhan and Tahavi—" "*Layajoozo Agden Nikah illa baiznel Khaziyazherulhakko Valfatava alayhil Galabatal Fisk Fi Zamanana Zikra fi shauhan vathavi*—" (The consummation of marriage is objectionable unless with the permission of Khazi.) The Law of Jurisprudence proves the verity against the corruption which is rampant at the present time.

2. According to the Act the naib registrars will have to furnish a monthly report to the Khazi the head registrar's office of his jurisdiction and the Khazi will collect all the records of their subordinates and keep them in his office by the close of the year. Thus the registration of marriage and divorce are to be made compulsory so as to strengthen the hands of the Khazis and it should not be optional on the part of a private person who desires to be a registrar.

3. There appears to be no necessity of considering the other items of the Bill.

(3)

Letter—from Ahmed Mohiuddin Sahib, Government Khazi of Cocanada City.
To—the Collector of Gōdāvari district.
Dated—the 14th December 1918.

With reference to the Memorandum No. 1519-8, dated 12th October 1918 of the Government of Madras communicated with your Endorsement No. G.B. Mis. 1314, Revenue, dated 9th November 1918, and No. Ref. G.B. 1314, Revenue, dated 3rd December 1918, I have the honour to state that the rules and regulations drawn up by the Muhammadan religious heads have been adhered to and followed by all the Muhammadan world from time immemorial and the Khazis appointed by Government apply those rules only and put them into practice in their strictest sense and keep the records regularly in order. If the Government be pleased to extend the jurisdiction of the Government Khazis to those places in the district where there are no khazis appointed by Government, I am of opinion that the difficulties apprehended by the Hon'ble Mr. Yaqub Hasan can be safely got over.

(4)

Letter—from S. Ahmed Ali Sahib Bahadur, B.A., Revenue Divisional Officer, Bhadrachalam division.
To—the Collector of Gōdāvari.
Dated—Kunavaram, the 11th December 1918.
No.—D. Dis. 1575-Rev.

With reference to your Ref. G.B. Mis. No. 1314, Revenue, dated 9th November 1918, calling for my remarks of Mr. Yaqub Hasan's Bill, for voluntary registration of Muslim marriages and divorces, I have the honour to state the loose method of registry now prevailing in this presidency is open to grave abuses. Instances are by no means wanting, where the absence of a properly regulated system of registry has caused great hardship to the parties concerned, when questions affecting "Mahar" (or dower bestowed on the bride by the bridegroom at the time of marriage) succession and legitimacy come up for decision before law courts.

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2. The need for some sort of legislation in the matter to obviate such difficulties, has long been felt by the community. It would probably have been more desirable to make registration of marriages and divorces compulsory, but it is feared that such a measure would encounter fierce opposition in certain quarters, where members of the community, have not yet attained that breadth of vision which alone would enable them to welcome this salutary reform. This is all the more evident, from the bitter controversy, now raging in the papers on this subject. It is a matter for regret that some are opposed even to the voluntary nature of the Bill.

3. However I fully sympathise with the objects of the Bill, and consider that Mr. Yaqub Hasan has taken a step in the right direction. The Kazis at present appointed by Government, and their naibs will be made registrars as a matter of course, while others who wish to be appointed registrars may obtain licences on application. But I think that it should be made obligatory on every registrar, whoever he might be—Kazi, naib Kazi or any other licensed registrar—to register a marriage or divorce, when due application is made to him for it by the parties.

4. The voluntary nature of the Bill has the double advantage of safeguarding the interests of those who want them to be safeguarded, and at the same time, of not offending the susceptibilities of such ultra-orthodox members of the community, who are prepared to take the risks involved in the promiscuous form of registry, now in vogue, and prefer to be let alone in matters like these.

(5)

Letter—from Khan Sahib Muhammad Fuzlullah Sahib Bahadur, B.A., Deputy Collector, Polavaram division.
To—the Collector of Gōdāvari district.
Dated—the 20th December 1918.
No.—R.C. 1127.

With reference to your Endorsement No. Ref. G.B 1314, dated 9th November 1918, communicating for remarks a copy of the Hon'ble Yaqub Hasan Sahib's Bill to provide for voluntary registration of Mussalman marriages and divorces, I have the honour to state as follows:—

The system which obtains at present among the Mussalman community in regard to the registration of marriages and divorces, is, from the irresponsible fashion in which it has been left adrift, capable of abuses of a grave character. The Bill now proposed to be introduced, is, in my opinion, calculated to provide a safeguard of conjugal interests of at least such of the community as would choose to profit by it, and has my support.

L

Letter—from Kaji Saiyid Batcha Sahib Bahadur, Taluk Board Member, Harur, Salem district.
To—E. W. Legh, Esq., District Magistrate, Salem.
Dated—the 27th January 1919.

Reference your office No. 1266, dated 3rd December 1918, eliciting my opinion on the Bill introduced by the Hon'ble Mr. Yaqub Hasan Sahib for the voluntary registration of Mussalman marriages and divorces which is to be discussed in the local Legislative Council in February 1919.

I took time till now to discuss with many of my community to take their independent views on the subject under reference. Most of them are in favour of the Bill while some seem to be against it though the latter are unable to rely upon any religious authorities to support their selfish theory.

2. After due consultation and long consideration of the pros and cons of the subject, I come to conclusion that the Bill if made into law will prove a successful and popular reform which will be welcomed by all the right thinking men for the uplift of the Mussalman community.

3. In fact I am of opinion that the Bill will put down all litigation now due to corruptions of unscrupulous people in many a quarter in the matter of marriages taking advantages of the absence of an expressed and independent law on the subject.

LI

Letter—from B. Saiyid Shams-ud-in Sahib, Anjumaneh Rahamath, Madura.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—the 1st February 1919.

I beg to solicit the favour of the copy of the resolutions passed by the "Anjumaneh Rahamath" being to be brought before the Legislative Council of Madras.

Enclosure

Protest against the passing of the Muslim Marriage Registration and Divorce Bill.

Under the auspices of the 'Anjumaneh Rahmath', Madura, a public meeting of the Muslims of the place was held on 2nd January 1919 in the Victoria Edward hall with Janab Haji Muhammad Ebrahim Sahib, in the chair; and the following resolutions were moved and unanimously carried.

2. We contend that.

(1) had the Hon'ble Mr. Yaqub Hasan, the originator of this Bill, before having moved this in the Legislative Council, understood the general tone of the Muslims of our Presidency, by consulting with the Presidency and other branch Muslim leagues and several Anjumans representing the views of the Muslim public, we would have been very grateful to him.

(2) if this Bill be passed it would certainly require the employment of a large number of paid 'Kazis and Naibs' (their assistance) to maintain the implicit observance of its conditions; and it need not be said that it would tell upon the resources of all the Muslims, both rich and the poor; and the burden must tell heavily on the latter.

(3) the right of selecting the 'Kazis' and recommending them for nomination by the Government which is now owned by the Muslim public at large, would, we fear, be set at naught, as an effect of this Bill; and ultimately there would be no room for harmony between the Kazis and the people at large, resulting perhaps, in an agression on the part of some Kazis upon the poor.

(4) inasmuch as there would be no voice for the Muslim assemblies as Anjumans and leagues, to check the abuses or the mistakes of either the Muslim registrars or the Kazis, it is feared that the passing of this Bill would be detrimental to our interest and would also put us to the dire necessity of appealing to the District Registrars at whose discretion the right of rectifying the Kazis' mistakes would solely lie, which contingency, we are ashamed to say, would be a blot upon the prestige and prowess of our benign religion.

(5) the present system of registering marriages and divorces by the Kazis, is working well, and is conducive to our social and religious interests as it is patent from the dearth of marriage disputes in the courts of law; we also contend, that there would be a great scope for marriage litigation in case this Bill be passed.

3. As it is, our present system of registration is carried on successfully because our religious assemblies called 'Jamath' in each units of our society have a hold upon the Kazis and check them if they go astray, and we are guided in our decisions regarding divorces and Khulas purely upon the mandates of the "Holy Koran" and the tradition left to us ever since our 'Holy prophet' (blessed be his name) lived. Therefore we are unanimously of opinion that inasmuch as the existing system is working successfully we wish that it might continue without any further unnecessary changes in its procedure.

4. We also contend, that the people would not be disposed to register, even if this Bill be brought into effect, because it means spending some money upon it which could not be borne especially by the poor. At such a juncture, the Government will have to put pressure for the compulsory registration which would unnecessarily result in a hitch between the rulers and the ruled.

5. To avoid all this future misunderstanding, it would be better for the Government to adopt the policy of 'non-interference' especially in this delicate matter that affects the religious sentiments of the Moslems. In final we, the gentry assembled, regret that the Government would do well not to interfere in their religious matter which we solemnly express that it is not only in contradiction to doctrines of Islam, but also involves an unnecessary burden upon our purse, and freedom of religious liberty, which was declared to us to be our own, in the solemn proclamation of Her Imperial Majesty the late Queen Victoria in 1858. So we unanimously protest against the passing of this Bill in the Provincial Legislative Council, which is our representative assembly at present. The above resolutions were moved by Messrs. Janab Hajee H. M. Muhammad Moulana Sahib, and seconded by (1) Janab Hajee Be Saiyid Shams-ud-din Sahib, (2) Janab K. M. Alla-ud-din Ravattar, (3) Janab V. M. Meera Hussain Ravattar, (4) Janab P. Abdul Kather Ravattar, (5) Janab Shaik Miran Ravattar.

LII

Telegram—from Moulumee Hajee Rehemathulla Sahib.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—Negapatam, the 4th February 1919.

Oppose Yaqub Hasan Marriage Bill. Resolution follows.

LIII

Letter—from G. F. Paddison, Esq., M.A., I.C.S., Collector of Madura.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—the 3rd February 1919.
No.—D. Dis. 469-Rev.

In reply to Government Memorandum No. 1519-8, dated 12th October 1918, requesting me to obtain and forward the views of representative Muhammadans and Muhammadan bodies in this district on the provisions of the Bill to provide for the voluntary registration of Mussalman marriages and divorces, I have the honour to report as follows.

2. Janab Moulavi Qazi Amjad Ibrahim Sahib, Kazi Mahalla, Madura, who was consulted with reference to Government Memorandum No. 1519-9, dated 4th November 1918, is opposed to the Bill being passed into law and says that it will lead to several complications. His statement is enclosed.

3. The views of the Muhammadans in the following centres were taken and they are dealt with below:—

(i) *Madura town.*—A letter received from Moulavi Saiyid Abdul Kadir Ibrahim Sahib, Town Kaziar, Madura, is enclosed. He is opposed to the Bill being passed into law. I also understand that there was a meeting of the Muhammadans of Madura town in Victoria Edward Hall wherein it was unanimously resolved that they were not in favour of the Bill.

(ii) *Melur taluk.*—The Tahsildar reports that there are no Muhammadan representatives or bodies in his taluk who are in a fit position to give an opinion for or against the Bill, and that some of the individual Muhammadans who were consulted by him are not in favour of the Bill.

(iii) *Usilampatti division.*—The report of the Divisional Officer, Usilampatti, who is himself a Muhammadan, is enclosed. The representative and respectable Muhammadans in this division are said to be generally agreeable to the provisions of the Bill and to have no objection to its being passed into law. The Divisional Officer is also in favour of the Bill; but suggests some modifications.

(iv) *Dindigul town.*—The letters received by the Tahsildar from the Secretary, Muslim League, Dindigul, and Town Kaziar, Dindigul, are enclosed. They welcome the introduction of the Bill.

(v) *Palni town.*—Some of the leading Muhammadans who were consulted by the Tahsildar say that the provisions of the Bill, if adopted, will prove advantageous to the community considering the irregular system now in vogue.

(vi) *Kodaikanal.*—The statement recorded by the Deputy Tahsildar from the Kazi of Kodaikanal is enclosed.

(vii) *Nilakkottai taluk.*—The Muhammadans in the Nilakkottai firka in this taluk are not in favour of the Bill. There are no representative Muhammadans in the other firkas of this taluk.

4. Opinion seems to be greatly divided, a majority being against the Bill.

Enclosures

(1)

Letter—from Moulvi Saiyid Abdul Qadir Ibrahim Sahib, Town Kaziar Madura.
To—the Collector of Madura.
Dated—the 16th January 1919.

In connexion with the Bill to provide for the voluntary registration of Mussalman marriages and divorces I have to inform you my opinion as follows.

I carefully studied the Hindustani copy of the Bill introduced by the Hon'ble Yaqub Hasan Sahib, the Tamil translation of the same in the *Fort St. George Gazette* and the letter directly written to me by him with its enclosures.

It seems to me the Honourable Member has introduced this Bill considering that this registration will be bona fide and helpful to Mussalmans. He has also considered the marriage to be purely as human affair which is not the case. According to our (Sharah), i.e., religion, the marriage is religious to be celebrated subject to divine commands. Such being the case the Muhammadan religious learned gentlemen will not give their opinion for registration.

If the above Bill is to be passed, I am afraid many unreligious acts will happen which will lead to rioting among the Mussalmans. The Government had announced that it will not interfere in our religious matters. This being a religious matter, it seems the Government has arranged to get the opinion of the majority of the Mussalmans in the districts and taluks of this Presidency, and then to decide about the Bill.

Generally no discrepancies are noticed in the marriages celebrated (without registration) up to date from the time of our prophet 'The Muhammad.'

It is 39 years since I was appointed as Kaziar in 1880 and I did not notice any kind of defect forthcoming either in the whole of Madura or Ramnad districts among the marriages celebrated (without registration) during this period of 39 years.

I therefore request you to be good enough to recommend to the Legislative Council not to pass the Bill (brought forward by the Honourable Member) which is unconnected with our religion and thus oblige.

(2)

Letter—from M. Tamiz-ud-din Sahib Bahadur, B.A., Divisional Officer, Usilampatti.
To—the Collector of Madura.
Dated—the 13th January 1919.
No.—R.C. 1627/Collr.

With reference to your R.O.C. No. 1435/B. & G., dated 5th November 1918, communicating Government Memorandum No. 1519-8, dated 12th October 1918, requesting to obtain the views of the represenative Muhammadans, on the provisions of the Bill to provide for the voluntary registration of Mussalman marriages and divorces, I have the honour to state that I held meetings of the representative Mussalman in Uttamapalaiyam and Periyakulam which are important Mussalman centres and conferred with the respectable Muhammadans in other places of my division and that they are generally agreeable to the provisions of the Bill and have no objection to its being passed into law.

2. Personally I consider that the introduction of an enactment of the kind proposed by the Honourable Member will be the first step towards setting at rest unnecessary litigations about 'Mahar' to some extent and towards observing a uniformity of procedure in the registration of marriages and divorces. In most of the important villages and towns, records of registration of marriages have already been in existence. For instance in Periyakulam a printed bound book of marriages is being maintained and it contains the following columns and informations :—

1. Name of bride-groom.
2. His father's name.
3. Name of the bride.
4. Her father's name.
5. The amount of 'Mahar' in figures letters, and
6. The signature of—
   (*a*) bride-groom.
   (*b*) bride.
   (*c*) Vakil or Vali.
   (*d*) witnesses.
   (*e*) Kathib or Kazi and
   (*f*) Writer.

3. It will thus be observed that there is a growing popularity and necessity for maintaining a permanent record of marriages in view of the fact that in civil suits importance is attached to evidence more of a documentary nature than parol which latter is not always reliable. Such a record is essential for divorces also.

4. In Islam religion and law are combined. Any innovation in matters religion is no doubt at first objected to by a set of patriarchal Mussalmans. I think any such objection to the passing of the present Bill is not sound and it amounts to this—that they admit the necessity of a permanent record for the registration of marriages and divorces and that at the same time they do not require a systematic procedure governing such registration. After all the Bill in question provides for the voluntary registration of marriages and divorces; and no harm can be conceived by its passing into law.

5. I venture to propose two amendments to the Bill—

(1) The registration of marriages may be made in the language of the district or in Urdu.

(2) Whenever a marriage is once voluntarily registered under the proposed enactment, any subsequent dissolution of such a marriage resulting from divorce should be registered compulsorily. Otherwise an unscrupulous husband, taking advantage of the fact of his marriage having already been registered, might throw obstacles in the remarriage of the widow when her divorce was not according to the act or when there was no record evidencing the divorce.

(3)

Letter—from Saiyid Abdul Rashit Sahib Bahadur, Town Kaziar, Dindigul town.
To—the Tahsildar of Dindigul.
Dated—the 9th December 1918.

With reference to your letter R.O.C. No. 4513-M.P., dated 22nd November 1918, asking my opinion as regards the Bill providing for voluntary registration of Mussalman marriages, I have the honour to state that it is a salutary provision which may with advantage be introduced.

(4)

Letter—from T. M. Sulaiman, Secretary, Muslim League, Begampur.
To—the Tahsildar of Dindigul.
Dated—the 28th November 1918.
No.—268.

With reference to your R.O.C. No. 4513, dated 22nd November 1918, I have the honour to state that the Bill to provide for the voluntary registration of Mussalman marriages and divorces which the Hon'ble Yaqub Hasan Sahib Bahadur desires to introduce into the local Legislative Council was proposed and carried unanimously at the anniversary meeting of the Muslim League, Begampur, held on the 6th October 1918 under the presidency of the Hon'ble Nawab Mir Asad Ali Khan Bahadur.

Resolution No. 9.—'That this League accords its heartfelt support to the Bill to provide for voluntary registration of marriages and divorces among Mussalmans and hopes the Bill will soon become law.'

The copies of the same have been forwarded to the Chief Secretary to the Government of India, the Chief Secretary to the Government of Madras on the 8th October last. Then to the Secretary to the Government of Madras, Legislative Department, on the 6th instant in order to place this resolution before the select committee of the Council.

Therefore this League supports the Bill to provide for the voluntary registration of Mussalman marriages and divorces and hopes the Bill will soon become law.

LIV

Letter—from A. Galletti, Esq., I.C.S., Acting Collector of Chittoor.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—the 1st February 1919.
No.—D. Dis. 4468 of 1918.

I have the honour to reply to Government Memorandum No. 1519-8, dated 12th October 1918, regarding the proposed Bill for the voluntary registration of Mussalman marriages and divorces.

2. All the persons whose views were obtained are in favour of the Bill except Muhammad Taqqi Khan Sahib Bahadur, Jaghirdar of Avalkonda. The communications received from the following persons are enclosed :—

(1) The Jaghirdar of Avalkonda.
(2) The Revenue Divisional Officer, Chandragiri.
(3) Do. Madanapalle.
(4) The Kazi, North Palar Division, Chittoor.
(5) The Revenue Divisional Officer, Chittoor.
(6) Muhammad Abdul Quadir Sahib, Honorary Magistrate, Kalahasti.

3. Saiyid Mir Husain Sahib Bahadur mentioned in the list accompanying the Government Memorandum No. 1519-9, dated the 4th November 1918 has not troubled to answer though he was reminded.

4. I may add that, considering that the humble have as much right to be consulted as persons of higher standing, I had the Bill explained to my Muhammadan daffadar and peons and they all declared they were in favour of it.

Enclosures

(1)

Letter—from Muhammad Taqqi Khan Sahib Bahadur, Jaghirdar of Avalkonda, Avalkonda.
To—the Collector of Chittoor.
Dated—the 25th November 1918.

In obedience to your letter No. 4468 of 1918, I beg to state that the draft Bill appears to me as well as the Shiahs whom I consulted objectionable as it would interfere with the sanctity of the Shiah Muslim marriages.

As far as we see no registration is necessary, as the Shiah Muhammadans law of the marriages enjoins that the man who enters into the marriage contract, i.e., when he takes a woman as his wife, he should, if the other party so desires, give her a nikahnama which can be preserved by the other side and which would safeguard her interest all through.

As regards divorce as soon as a woman is divorced in presence of witnesses she undergoes a period of iddat for four months and ten days which in itself is quite sufficient to make public that she has been properly divorced according to the usage of Islam. Under such circumstances registration by a separate registrar would in all probabilities lead to friction between the kazi and the registrar and would give room to objectionable deeds concerning marriages and divorces.

The present system of kazis is working satisfactorily and no change is necessary. We are afraid that the Bill if passed, in course of time would make all parda-nishini, i.e., gosha ladies to be non-parda-nishini.

On the whole the passing of the Bill seems to me and the other Shaik community as dangerous, objectionable and irreligious.

(2)

Letter—from M.R.Ry. Doraswamayya Garu, B.A., B.L., Revenue Divisional Officer, Chandragiri.
To—the Collector of Chittoor.
Dated—the 7th December 1918.
No.—Dis. 1820-D.

Your letter No. 4468, dated 5th November 1918 regarding the introduction of draft Bill for the voluntary registration of Mussalman marriages and divorces, etc.

I have the honour to state that the Tahsildar of Chandragiri and the Deputy Tahsildars of the division report that they explained the contents of the draft Bill published in the *Fort St. George Gazette*, dated 8th October 1918, and also consulted some of the leading Muhammadan gentlemen in their respective jurisdictions in the matter and that all the Mussalman gentlemen are in favour of the introduction of the Bill in question. The Deputy Tahsildar, Tiruttani, says that he convened a meeting of the Muhammadan gentlemen and that all of them believe "that such a legislative measure would not only strengthen the hands of the kazis and perpetuate a permanent record of the marriages for legal purposes which would also create a wholesome influence on the contracting parties to adhere to their contract and thus indirectly on their society in general for good."

I have also consulted a few Muhammadans and they are also in favour of the Bill.

(3)

Letter—from A. Tampor, Esq., I.C.S., Sub-Collector, Madanapalle.
To—the Collector of Chittoor.
Dated—the 8th December 1918.
No.—Dis. 2723-D.R.

1. Quadir Hussin Sahib.
2. Reddi Miran Sahib.
3. Abdul Ghafur Sahib.
4. Ekkalur Nabi Sahib.
5. Kazi Abdul Hakim Sahib.
6. Baji Burhan-ud-din Sahib of Madanapalle.

I have the honour to state that I consulted the marginally-noted Muhammadan gentlemen in this division in the matter and that they unanimously welcome the Bill.

(4)

Letter—from Nasir-ud-din Ahmad Sahib Cheeda, Government Kazi, North Palar division, Chittoor.
To—the Collector of Chittoor.
Dated—the 26th December 1918.

I have the honour to acknowledge the receipt of your letter No. 4468, dated 5th November 1918, and the draft Bill for the voluntary registration of Mussalman marriages and divorces forwarded to me for my opinion thereon.

I heartily approve of the principle underlying the proposed Bill and I feel sure that the existence of an enactment of this nature would act as a very strong safeguard against the evil practices of some self-created kazis and other mischievous persons and in the case of some Government kazis also. I think that the proposed Bill will act as a deterrent to mischievous persons and protect honest and simple-minded Mussalmans from the snares of evil-doers.

I believe that all intelligent and educated Mussalmans will welcome the existence of such an enactment. As a Government kazi of about 36 years standing, and experience, I am of opinion that the proposed draft Bill needs some amendments which I shall communicate to you later on when a select committee is formed to consider the details.

(5)

Letter—from Saiyid Ahmad Badshah Sahib Bahadur, F.A., Revenue Divisional Officer, Chittoor.
To—the Collector of Chittoor.
Dated—the 22nd January 1919.
No.—Dis. 112/D.

With reference to your letter No. 4468, dated 5th November 1918, regarding the Bill for the voluntary registration of Mussalman marriages and divorces, I have to state that it is an admitted fact that the present system of maintaining records of marriages and divorces is defective, giving room for grave abuses and malpractices. Consequently, any step taken to remove the defect and render the records reliable should be viewed with satisfaction. I have been watching the discussion among the Mussalmans of this presidency about the Bill. Those who oppose it have not, in my view, adduced any valid ground. They bring in religion as an excuse and appeal to Government to maintain the policy of non-interference.

But I fail to see how religion is affected. No change is proposed in the form or conditions of the marriage or the divorce. It shall take place as usual but to maintain of it a reliable record with no chance of being tampered with is aimed at. I would, therefore, support the Bill and wish to see it passed into law.

(6)

Letter—from M. Abdul Qadir Sahib, Honorary Magistrate, Kalahasti.
To—the Collector of Chittoor.
Dated—the 29th January 1919.

I beg to inform you that I am in entire accord with the Bill of the registration of Muslim marriages and divorces introduced into the Legislative Council by the Honourable Mr. Yaqub Hasan Sahib Bahadur.

I hope your honour will kindly communicate my view either to the Secretary to Government, Legislative Department, or to the necessary authorities concerned.

LV

Letter—from J. F. Bryant, Esq., M.A., I.C.S., Collector of Chingleput.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—the 3rd February 1919.
No.—D. Dis. 5478.

I have the honour to inform you that most of the Muhammadans consulted are agreed as to the necessity for the introduction of legislation of the kind.

2. The kazi, the union chairman and other Muhammadans at Conjeeveram are in entire agreement with the proposals. The kazi at Saint Thomas' Mount and another Muhammadan gentleman of the place welcome the Bill but suggest modifications. Their statement is enclosed.

Sikandar Beg Sahib, who is a leading Muhammadan citizen of Chingleput and a member of the Muhammadan Devasthanam Committee, suggests that in the case of divorces, the parties should be required to appear personally before the registrar and register the divorce and that no representatives should be allowed.

The Chairman of the Tiruvallur Union, Abdul Husain Sahib Bahadur, is of opinion that the Bill is necessary and that it will put an end to certain drawbacks inherent in the present marriage system. Abbas Husain Sahib Bahadur, Honorary Magistrate of Saidapet, is also in complete accord with the Bill.

3. But the Muslim population represented by their Kazi Baba Sahib alias Saiyid Issub Sahib Bahadur at Sriperumbudur are not in favour of the Bill. They are of opinion that the present system may continue. The Muhammadan representatives at Madurantakam have no opinion to offer. They say that they will abide by the decisions of their religious teacher Jaked Husain Sahib and the Government Kazi Ubaid-uh-lah Sahib, both residents of Madras.

Enclosures

(1)

Letter—from S. A. Keelani, Government Kazi, Saint Thomas' Mount, and District Board Member, Chingleput.
To—the Collector of Chingleput.
Dated—the 22nd December 1918.

With reference to your Tahsildar's personal inquiry regarding my opinion about the Hon'ble Mr. Yaqub Hasan Sahib Bahadur's Bill for the register of mussalmans Marriages and divorces, I beg to state as follows :—

The present system of keeping records for marriages and divorces is not secure from fraud. This I say from my personal experience of 16 years as a Government kazi.

To prevent the chances of fraud some steps should be taken by the Legislature, and I therefore approve of the principles of the Bill which the Hon'ble Mr. Yaqub Hasan Sahib Bahadur has proposed to introduce in the Legislative Council, and I suggest the following modifications in the Bill :—

(1) The appointment of a kazi should be given to a man of a better class, and Government kazis should be appointed in places where there are no kazis now.

(2) Kazi's presence must be made compulsory in every marriage and divorce, but the option of solemnizing them be left to the desire of the parties (bride and bridegroom). Kazi cannot claim that he alone should solemnize them.

(3) The register for marriages and divorces should be of uniform kind supplied by the Government in quadruplicate copies of bound books duly numbered.

(4) As soon as a marriage or a divorce is over it should be entered in the register and signed by the vakil, parties, witnesses and the kazi, one copy should be given to each party; third to be sent to the district registrar, within three days, and the fourth to be retained in the register as office file.

(2)

Letter—from Muhammad Naimur Rahman, M.A., Professor of Arabic, Persian and Urdu, Government Muhammadan College, Madras.
To—the Collector of Madras.
Dated—the 25th January 1919.

I have been asked by the Hon'ble Mr. Yaqub Hasan Sahib Bahadur to convey to you an expression of my opinion regarding the Bill to provide for the voluntary registration of Mussalman marriages and divorces, to introduce which he moved for leave in the meeting of the Madras Legislative Council held on the 13th August 1918.

The speech which Mr. Yaqub Hasan Sahib Bahadur made in the said Council while moving for leave to introduce the Bill, together with the record of the proceedings of the Council relating to the debate on this motion, is before me. It is almost a period of three years since I have been in Madras. During this period of time I had had many occasions to hear numerous sad stories from different quarters and from men of different status in life (of course Muslims) pertaining to the abuse of the sacred rites of marriage. I have been informed how very deplorably some people have behaved in the matter of marriages and divorces and in what horrible ways they have (often) succeeded in subverting the letter of religion, law, custom and all to gain their own ends and aims, which are certainly far from being termed anything like lawful or reasonable. Such accounts of malpractices and corruption have again and again awakened me to the feeling that some sort of legislative measure is necessarily required to put an end to all such troubles. And now that Mr. Yaqub Hasan Sahib Bahadur has at last been good enough to think of the introduction of a Bill to provide for the registration of the Mussalman marriages and divorces I think that the only proper thing for the Muslims of this Presidency of ours is to support it and see it carried through the Council and passed as an Act of Law. *I* at least have this sincere longing.

It is alleged that

Firstly—it is difficult to put an end once for all to all kinds of abuses and malpractices even by dint of such a law of registration as this, and

Secondly—the enactment of a regular law for the registration (whether voluntary or compulsory) of marriages and divorces is an act of interference in the religious affairs of the Muslims.

The answer to the first allegation is simple and easy. It is really worth consideration how many of the codes of law, under any rule and in any time and clime, have achieved real, unquestionable and consummate success in the establishment of perfect peace and order and in the total extinction and destruction of all crimes and abuses, notwithstanding their best and truest efforts to cope with all their multifarious natures and to provide the nicest and the fullest laws to deal with them. It is an equally hard task to point out any of the lofty ideals, of any nation or individual, that has been achieved to its full extent and worked upon with the most perfect satisfaction by its holder, however easy of approach those ideals may be, and however short, well-defined and secure the way leading to the same happen to be. But it is certainly erroneous and even foolish, I dare say, to assert that as no laws can wholly overcome the committal of crimes and no ideals are fully realized, therefore it is no use going through any amount of trouble to frame laws for the country or to bother oneself with mere dreams and childish fancies of this ideal or that. The making of laws is one thing and the submission to them is another. It is wrong to judge of the necessity or otherwise of a certain law by a simple and timid assertion that it would not do much good to the country and will go only half way in the eradication of evils—especially more so when we see clearly that evils and vices are prevalent and feel painfully that some measure must be devised to put a stop to them. It is therefore not sound or reasonable to say that the Marriages and Divorces Bill will hardly be of any good in the extirpation of the prevailing evils, and I feel strongly that we in the Madras Presidency do require the enactment of such a law as proposed by the Hon'ble Mr. Yaqub Hasan Sahib Bahadnr.

Respecting the second point it would suffice for me to say that I fail to understand in what way the present bill interferes with the religious affairs of the Muslims. As far as I have been able to search the important Muslim books on the commentaries of the Koran and on the Traditions of the Prophet as well as the chief basic books of Muslim law, from nowhere could I succeed in getting the least ground for any justification for this extremely erroneous view. It

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really passes my imagination how the bare and simple act of having the (Muslim) marriages and divorces registered in the register of a Muslim registrar would go to interfere with our beliefs and religious performances! And then, it is not the *compulsory* registration which the Honourable Mover is trying to have enacted. It is only *voluntary*, and it depends on the sweet will of the parties concerned to have the marriage or the divorce registered or otherwise. Again, the saving clause in section 25 of the Bill says expressly and definitely that

"Nothing in this Act shall be construed to

(*a*) render invalid, merely by reason of its not having been registered, any Mussalman marriage or divorce which would otherwise be valid;

(*b*) render valid, by reason of its having been registered, any Mussalman marriage or divorce which would otherwise be invalid;

(*c*) authorize the attendance of any Muslim registrar at the celebration of a marriage, except at the request of all the parties concerned;

(*d*) affect the religion or religious rites and usages of any of His Majesty's subjects in India;

(*e*) prevent any person, who is unable to write, from putting his or her mark instead of the signature required by this Act."

It is therefore clear that this Bill

(i) is not proposed to be a nuisance to the people by being made compulsory and obligatory,

(ii) does not in any way prevent them from or even interfere in the performance of the rites of marriage and divorce according to the strictest requirements of Islam, as it lays no claim to empower the bare act of registration to validate the marriage or divorce which may be supposed to be really invalid or to invalidate that which could be thought to be valid,

(iii) does not inflict upon the parties the necessary presence of a Government official (the Muslim registrar) at the marriage celebrations—if the parties are so very narrow-minded and superstitious as to regard the presence of such an officer as an act of breach in their religion,

(iv) will not affect religion in any way, and will not,

(v) even be so hard to anyone as to compel him (or her) to sign his (or her) name in case he (or she) is unable to write.

Further, the same law is doing so much of good to the Muslim population of Bengal and they are using it to their best advantage; why should not the Muslims of Madras Presidency profit by it, and wherefore should the Muslims here be so ultra-religious as to regard it as a prevention for or interference in their religion when the followers of the same Islam have not objected to it as such in Bengal.

Where lies the harm, then, in supporting the Bill of the Hon'ble Mr. Yaqub Hasan Sahib Bahadur? And I will ask you, Sir, to allow me to submit that I support the Bill very strongly and wish with all my heart to see it passed as an Act of Law.

I hope the above lines will be favoured with your kind perusal and that the humble opinion of mine embodied in the same will be recorded.

LVI

Letter—from J. C. Stodart, Esq., I.C.S., Acting Collector of South Arcot.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—Cuddalore, the 4th February 1919.
No.—R.O.C. 595-Cor.

In continuation of my letter D. Dis. No. 169-Cor., dated 29th January 1919, forwarding the views of certain Muhammadan bodies and gentlemen on the Bill to provide for the voluntary registration of Mussalman marriages and divorces, I have the honour to forward herewith a letter since received from another Muhammadan gentleman, Saiyid Ghulam Husain Sahib Bahadur by name, who is at present employed as Civil Assistant Surgeon at Villupuram. He is also a supporter of the Bill.

Enclosure

Letter—from Saiyid Ghulam Husain, L.M. & S., Civil Assistant Surgeon and Registered Medical Practitioner, Villupuram.
To—the Collector of South Arcot.
Dated—the 27th January 1919.

As per request made by the Hon'ble Mr. Yaqub Hasan to communicate to you my opinion on his Bill for the registration of Muslims marriages and divorces, I beg to inform you that all my sympathies are with the Bill and I wish it soon passed into law, as such an enactment, in my opinion, is most urgently needed to put down the grave abuses that are to be expected to be seen and to exist for want of such a proper system of maintaining records of Muslim marriages and divorces.

I beg to be excused for the liberty I have taken.

LVII

Letter—from E. W. Legh, Esq., I.C.S., District Magistrate, Salem.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—the 5th February 1919.
No.—92 D.M.D.

With reference to Government Memoranda No. 1519-6, dated 12th October 1918 and No. 1519-9, dated 4th November 1918, I have the honour to forward herewith the opinions of the Muhammadans and Muhammadan bodies on the Bill for the voluntary registration of Mussalman marriages and divorces, and to report as follows :—

(1) Muhammadan Association ...	1. The Crescent Club, Fort, Salem.
(2) Muhammadan officials ...	2. U. A. Abdur Rahim Sahib, Treasury Deputy Collector, Salem. 3. Muhammad Munir Khan Sahib, Headquarters Deputy Collector. 4. Mukarram, Salt and Abkari Inspector, Sankaridrug Circle.
(3) Muhammadan non-officials ...	5. Kazi Saiyid Batcha Sahib, Harur. 6. Mir Muhammad Habib-ul-lah Sahib, Bevuhalli. 7. Qadir Batcha Sahib, Fort, Salem. 8. Muhammad Aziz-ud-din Sahib, Fort, Salem. 9. Mir Muhammad Aziz-ul-lah Sahib, Bevuhalli. 10. S. K. I. Abdur Rahaman Sahib, Bazaar Street, Salem.

2. Copies of the Bill in English were sent to—
(i) the Secretary, Muhammadan Educational Association, Fort, Salem ;
(ii) the Crescent Literary Union, Fort, Salem ;
(iii) the Headquarters Deputy Collector ; and
(iv) the Treasury Deputy Collector.

Only the first body has not replied as yet, and the replies from the other three are in support of the Bill. The replies of the latter two gazetted officers in favour of the Bill are worth noting.

3. Copies of the Bill in Hindustani were sent to nine of the important kazis in this district ; only one of them, viz., the Kazi at Harur has replied, and his reply is in favour of the Bill.

4. Opinions of five other gentlemen have been received, and all of them except one are in favour of the Bill. The opinion of the Secretary, Anjuman-e-Himayathul Islam, Salem, is adverse to the Bill and probably reflects the opinion of the conservative section of the community.

5. While the English educated section of the Muhammadan community welcome the Bill and support it, it seems likely that the Bill is looked upon with disfavour by a large section, and no thought whatever has been bestowed upon it by the rest, forming probably the largest section of all.

The Bill is, however, a purely voluntary measure and there seems to be no objection to passing an enactment on the lines of the Bill.

Enclosures

(1)

Letter—from T. A. Aziz-ul-lah Khan, Secretary, Crescent Club, Fort, Salem.
To—the District Magistrate, Salem.
Dated—the 6th December 1918.

I have the honour to request you to be so kind as to cause this copy of the resolution herein enclosed to be sent to the Secretary to Government, Legislative Department, Madras and oblige.

Sub-Enclosure

Proceedings of the Salem Crescent Free Literary and Physical Club, dated 1st December 1918.

* * * * * *

The provisions of the Hon'ble Mr. Yaqub Hasan's Bill for the voluntary registration of Mussalman marriages and divorces having been considered, it has been resolved to approve of it as proposed to be introduced into the Council, as it sufficiently safeguards the possibility, in the present system, of repeating the malpractices.

Resolved further that copies of this resolution be sent to the Honourable Member and Secretary for necessary action.

* * * * * *

(2)

Letter—from U. A. Abdur Rahim Sahib Bahadur, Treasury Deputy Collector, Salem.
To—the District Magistrate, Salem.
Daed—the 24th December 1918.

With reference to your No. 1266/D.M.R., dated 3rd December 1918, asking me to let you know my views on the Bill of the Hon'ble Mr. Yakub Hasan, to provide for the voluntary registration of Mussalman marriages and divorces, I have the honour to state that the Bill is a long felt want in the social life of the community and is sure to put a stop to many abuses that have crept therein and I am strongly of opinion that it is indispensibly necessary for the good of the community and the fair name of Islam.

According to Mussalman law, marriage is only a civil contract and no religious ceremony is attached to it. Number of persons of all sorts have at present constituted themselves as kazis and naiks, with no responsibility to any authority for their action. There are also black sheep among them as in all the communities and for want of a proper system of registration of marriages and divorces such men are afforded opportunities of committing frauds which lead to grave consequences ; and the present Bill is sure to put a check on such unscrupulous solemnizers of marriage and it will tend to greatly minimise unnecessary and scandalous litigation.

It may be said that by their registration greater publicity is given to cases of divorces and this may cast a slur on the woman divorced. But the Mussalman religion does not enjoin secrecy in such cases and on the other hand wide publicity is required. Besides, in cases of khula and mubarat (divorces) the dissolution of marriage is effected only with the consent of both the parties and if a wife considers it a dishonour to her she will not naturally be a consenting party to it. It is only in cases of talak (divorce) separation is effected even without the consent of wife. But the cases of divorce very seldom occur in the community and I may say that they are almost nil in respectable families. There are no doubt, a few rare cases in the lower orders and the divorced woman generally marries another husband and the publicity of divorce in such cases is not a stigma on her but it is to her own advantages and it is even cruel to her to keep the fact of her divorce a secret, as it may prevent her remarriage.

I am also of opinion that the appointment of Muslim registrars making it obligatory on them to enter all the marriages and the divorces performed by them in the registers supplied to them by Government is absolutely necessary for the effective check and to see that the provisions of the law are complied with.

In these circumstances, I consider that a truthful and authenticated record is necessary and that a regular system of entering marriages and divorces in proper registers should be introduced.

I may go even further and suggest that the Bill may be made compulsory, but I am afraid that there will be opposition from a great many of the community. Even now, when the measure is permissive, there is some opposition from the most conservatives of Mussalmans and from the kazis and moulvis who have not properly understood the Bill and who, fanoying that their prestige will be lowered by the passing of the Bill into law, are giving out that it is an interference by the Government in matters connected with their religion. One of my co-religionists argued with me that the parties (husband and wife) will have to appear before a sub-registrar for the registration of a marriage or divorce just as the parties appear before him for the registration of documents, and another said that a marriage or divorce will be considered invalid in the eye of the law, unless it is registered under the provisions of the present Bill. When I explained to them that this is not the object of the Bill, they expressed that in that case the Bill is quite unobjectionable. I think that the time has not yet arrived for making the registration compulsory.

In conclusion, I would submit that the Bill is most harmless being only permissive and is intended for the good of the community and the Government will be conferring a real boon on the Mussalman by passing the Bill into law, since a vast majority of them is in favour of it, though an infinitely small number is against it.

(3)

Letter—from Muhammad Munir Khan Sahib, Khan Sahib Bahadur, B.A., Revenue Divisional Officer and Subdivisional First-class Magistrate, Salem.
To—the District Magistrate, Salem.
Dated—the 14th December 1918.
No.—163/M.D.

With reference to your letter No. 1266/D.M., dated 3rd instant forwarding a copy of the speech made by the Hon'ble Mr. Yaqub Hasan in introducing the Bill for the voluntary registration of Mussalman marriages and divorces which is to be discussed in the Local Legislative Council in February next and requesting me to offer my views on the Bill I have the honour to state as follows.

2. From the speech of the Honourable mover itself, it is clear that the necessity for the introduction of such a measure purely on voluntary basis has been keenly felt by all thoughtful Mussalmans from a long time. There can be no doubt that the present method of registration which is under no sort of control gives scope for malpractices, promotes litigation and causes failure of justice. Very often disputes arise as to the amount of mahar fixed at the time of marriage. When a rich Muhammadan dies leaving a second wife without issue and children by his first wife, the latter get a larger share of his property than the former according to the Muhammadan law of inheritance. Naturally, the widow is prompted to get as much as she can and the only way open to her is to enhance the amount mahar fixed during marriage. In the present state of affairs this is easily done. The kazi if he is dishonest will feel no difficulty in making any entry he likes in the so-called register which he maintains. Depending mostly on such entries people resort to courts in cases of this kind. But for the possibility of getting such false entries, several Muhammadan families would have been saved costly litig tion and ultimate ruin.

3. Again cases arise when the validity of a marriage itself is questioned in a court of law. In such cases also the kazis play an important part. They can do anything they like. They are aware that the evidence they give and the record they produce are naturally given much value. An unscrupulous man does not hesitate to make any entry he likes as there is ample scope for him to do it in the absence of any sort of check over the registers said to be maintained by him. In this way also much litigation is caused among Mussalman families.

4. In short, in all cases relating to conjugal rights, matrimonial relations and inheritance, the kazi's so-called registers play an important part. All Muhammadans whether educated or illiterate know the difficulty under which they now labour and are in favour of introducing some system by which the present abuses can be avoided. All that they are particular about is that any action that may be taken should in no way interfere with the tenets of Islam.

5. They think that the excellence of their system is its simplicity. The marriage according to Islamic law can be performed by any Muhammadan not necessarily a kazi. As a matter of fact the kazi is no religious functionary. He is practically a civil registrar of marriage. A marriage performed by any learned Muhammadan is as valid as the one where a kazi officiates. The religion and Muhammadan law make no distinction. The law recognizes no priesthood. If a kazi is to be considered as a priest, then every adult male Muhammadan of learning and piety is a priest. The simplicity of the marriage consists in the fact that no particular functionary is needed to perform it. The Muhammadan belief is that this simplicity is intended to facilitate legal marriage and prevent unlawful intercourse.

6. The only argument that can possibly be advanced and, so far as I have been able to see actually advanced by a few people, is that the addition of registration will add a condition which is not enjoined by Divine law, to make a marriage appear valid in the eyes of the public. This conception of the measure now proposed appears to be altogether erroneous. The proposed Bill is only a persuasive measure. It makes registration entirely voluntary. It does not, therefore, lead to the inference that unregistered marriage will be held to be invalid. No doubt when facility is given to record marriages in a satisfactory manner people in generality of cases will willingly resort to registration because it will be a more satisfactory record of the event.

7. I do not think the objectors to the proposed Bill can point out many cases in which marriages are performed by persons other than kazis, peish-imams and mashaiks. Such cases are of rare occurrence and can perhaps be counted on one's own fingers. In the generality of cases the marriages are done in the presence of kazis, peish-imams and mashaiks. The law does not require it but it is done in accordance with a long-standing custom. Naturally and in the ordinary course of human affairs, one may be inclined to attach more value to such marriages than to those rarely performed by private individuals. It cannot therefore be said that the existence of such functionaries, as kazis, peish-imams and mashaiks interferes with the law of Islam. The same argument with equal force holds good in the case of voluntary registration of marriages. Such registration cannot by any stretch of imagination be said to interfere with the teachings of Islam.

8. So far as I have been able to consult the views of Muhammadans, I find that the consensus of opinion is in favour of the measure as it is purely of a voluntary character. My own view is the same. There can be no doubt that it will, without in the least interfering with their religious beliefs, save them from avoidable and costly litigation.

(4)

Letter—from M.R.Ry. Kazi Saiyid Batcha Sahib Bahadur, Taluk Board Member, Harur, Salem district.
To—the District Magistrate, Salem.
Dated—the 27th January 1919.

Reference—Your office No. 1266, dated 3rd December 1918, eliciting my opinion on the Bill introduced by the Hon'ble Mr. Yaqub Hasan Sahib for the voluntary registration of Mussalman marriages and divorces which is to be discussed in the Local Legislative Council in February.

1. I took time till now to discuss with many of my community to take their independent views on the subject under reference. Most of them are in favour of the Bill while some seem to be against it though the latter are unable to rely upon any religious authorities to support their selfish theory.

2. After due consultation and long consideration of the pros and cons of the subject I come to conclusion that the Bill, if made into law, will prove a successful and popular reform, which will be welcomed by all the right thinking men for the uplift of the Mussalman community.

3. In fact I am of opinion that the Bill will put down all litigation now due to corruptions of unscrupulous people in many a quarter in the matter of marriages taking advantage of the absence of an expressed and independent law on the subject.

Wishing every success for the Bill.

(5)

Letter—from Mir Muhammad Kalim-ul-lah Sahib, Salem, Mittadar of Bevuballi.
To—the District Magistrate, Salem.
Dated—the 17th January 1919.

You are aware of the fact that the Hon'ble Mr. Yakub Hasan, the Member of the Madras Legislative Council, is of opinion that a Bill, for want of a proper system of maintaining records of Muslim marriages and divorces, should be passed by the Council, and that this job should be taken up by the Government.

I am sure that for want of a proper system of maintaining records of marriages and divorces there are grave abuses and malpractices and that there is a crying need for an enactment to regularize the registration.

But some of his opponents have set up a few moulvis to oppose the Bill on the hackneyed plea of Government interference in our religious affairs.

Therefore I quite agree with his Bill and I do not like to make any alterations in the details.

(6)

Letter—from J. Qadir Batcha Sahib, Merchant, Commission Agent and Contractor and Honorary Magistrate, Salem.
To—the District Magistrate, Salem.
Dated—the 29th December 1918.

As an Honorary Magistrate and Mussalman citizen of Salem town, I feel myself bound to express my views on the Hon'ble Mr. Yaqub Hasan's Bill for voluntary registration of Mussalman marriages and divorces.

On consideration of the provisions of the Bill I am of opinion that it does not in any way interfere with our religious principles, but on the other hand it aims at the safe secure of the records relating to our marriages, etc., performed *as at present* besides giving no room to the malpractices played by some Kazis. It is a real boon if the Bill is passed into law as it supplies the long felt want.

I would, therefore, heartily support the Bill and request you to be good enough to transmit this to Government.

(7)

Letter—from Muhammed Aziz-ud-din Sahib, Hafiz and Pesh-imam of the Fort Mosque.
To—the District Magistrate, Salem.
Dated—the 2nd December 1918.

A public meeting was held on Friday the 29th November, after the Juma prayers at the fort mosque over which I presided. The Hon'ble Mr. Yaqub Hasan's Bill for the registration of marriages and divorces was read and discussed and the meeting was of unanimous opinion that the Bill was a useful measure, that there was nothing in it against the religion of Islam and it should be passed into law.

(8)

Letter—from Mir Muhammad Aziz-ul-lah Sahib, Mittah Zamindar of Bavuballi, Dharmapuri taluk, Salem.
To—the District Magistrate, Salem.
Dated—the 22nd January 1919.

You are aware that the Hon'ble Mr. Yaqub Hasan has brought forward before the Council, a Bill for the voluntary registration of Muslim marriages and divorces. I have gone through the Bill in detail. I agree with the Bill and I have no alterations to consider to be taken away or to add in the Bill.

(9)

Letter—from S. K. I. Abdur Rahman Sahib Bahadur, Chairman, Anjuman-e-Himayathul Islam, Salem.

To—the District Magistrate, Salem.

Dated—the 22nd December 1918.

I beg to forward herewith a copy of the proceedings of a public meeting of the Mussalmans of Salem held under the auspices of the Anjuman-e-Himayathul, Salem. A copy of the notice inviting the Mussalmans of Salem for attending the meeting is herein enclosed.

Sub-Enclosure

Proceedings of a meeting of the Mussalmans of Salem, dated the 15th December 1918.

Present:

Janab S. K. I. Abdur Rahman Sahib Bahadur, Municipal Councillor and Honorary Magistrate (in chair).
,, Kazi Muhammad Sharif Sahib Bahadur, Municipal Councillor and Honorary Magistrate.
,, A. S. Abdul Qadir Sahib Bahadur, Honorary Magistrate.
,, Haji Muhammad Husain Sahib, Merchant, Salem.
,, M. Saiyid Omer Sahib, Merchant, Salem.
,, Khatcheed Saiyid Omer Sahib, Merchant, Salem.
,, M. Saiyid Amir Sahib, Merchant, Salem.
,, P. Qadir Badsha Sahib, Merchant, Salem.
,, Abdul Hamid Sahib, Contractor, Salem.
,, Moulana Moulvi Muhammad Taj-ud-din Sahib, Priest.
,, Moulana Moulvi Abdul Karim Sahib.
,, Moulana Moulvi Muhammad Tamiz-ud-din Sahib and many others.

That the Bill brought by the Hon'ble Mr. Yaqub Hasan regarding Mussalman marriages and divorces should not be accepted as it is against the teachings of Koran and Hades-i-Shariff (traditional teachings of Prophet) and that our benign Government be requested to reject the Bill.

2. The chairman of the meeting is authorized to communicate copies of the proceedings to the Government, Collector of Salem and the Muhammadan members of the Legislative Council, Madras.

(10)

Letter—from A. F. Mukarram, Inspector, Salt and Abkāri Revenue, Sankaridrug Circle, Salem district.

To—the District Magistrate, Salem.

Dated—the 26th January 1919.

With reference to the Bill to provide for the voluntary registration of Mussalman marriages and divorces permission to introduce which has been sought for by the Hon'ble Mr. Yaqub Hasan, as it is a measure which concerns the community to which I have the honour to belong, I therefore beg to offer as my humble opinion for favour of transmission to Government that some legislation of the kind is very badly needed to secure the rights of a husband and wife, as I may say that though my wife has borne me eight children, I am not quite sure that I can now establish beyond a doubt if my wife is my legally married wife or that I am her husband should such a question arise. It is unfortunate that there is any opposition at all to the measure proposed, but it has always been so with some selfish and bigoted moulvis who having misled our fathers and dissuaded them from giving their children English education saying that it turns them into 'Kafurs' or unbelievers, now realize their mistake when it is too late. I would, therefore, humbly beg to submit that if the Government is morally convinced that the proposed Bill is one that would secure the rights of poor and helpless widows and orphans, as I think it would, it may not be deterred by any opposition in allowing the Bill to be introduced and passed as it in no way interferes with the form in which the religious ceremony of the marriage is performed but is purely an administrative measure to secure the civil rights of the individual members of a community according to the law of their religion, and as it also proposes to make the registration not compulsory but only voluntary.

LVIII

Letter—from J. R. Huggins, Esq., I.C.S., Collector of Tanjore.

To—the Secretary to Government, Home (Miscellaneous) Department.

Dated—the 6th February 1919.

No.—D. Dis. 550-Rev.

With reference to Government Memorandum No. 1519-8, dated Home (Miscellaneous), dated the 12th October last, I have the honour to forward the opinion of the marginally-noted Muhammadans and Muhammadan bodies.

1. The Secretary, Anjuman-i-Azum, Tanjore.
2. Janab Government Kazi Sahib, Tanjore.
3. The Hon'ble Khan Bahadur A. T. G. M. Ahmad Tambi Marakkayar, Negapatam.
4. Mr. R. Abdul Karim Ravuttar, Union Chairman, Papanasam.
5. Mr. Muhammad Abdulla, B.A., Sub-Assistant Inspector of Schools and Muhammad Saduk Azam, B.A., Tanjore.
6. M. Sultan Marakkayar of Negapatam.

I do not think the opinions call for any particular remarks and none of those consulted have really realized the weakness of the Bill except perhaps the town Kazi who, however, is in favour of it. In my opinion the Bill is quite useless. It will not remedy the abuses complained of for those who wish to misbehave will clearly not have their marriages or divorces registered. There is clearly no unanimity of opinion in regard to the matter and the Bill if passed into law is likely to remain a dead letter for a good many years.

Enclosures

(1)

Letter—from T. K. Sheik Ahmad Sahib, Secretary, the Anjuman-i-Auzum, Tanjore.

To—the Collector of Tanjore.

Dated—the 14th November 1918.

No.—196.

In returning herewith a copy of the Bill (with its Tamil translation) introduced in the local Legislative Council by the Hon'ble Mr. A. Yaqub Hasan Sahib, for the appointment of a Mussalman registrar for the marriages and divorces, sent to me with letter R.C. No. 1328/G. & B., dated 2nd November 1918, with a request to return them with the views of this Anjuman, I have the honour to state that the Bill was placed before the meeting of the Muhammadan public on 13th November 1918, after due publicity by printed notices and a copy of the resolution passed at the meeting requesting the Government not to pass the Bill into law is herewith sent.

2. There are more than three Kazis in the Tanjore town besides the gazetted Kazi who has been appointed by the Government in pursuance of section 2 of Government of India Act XII of 1880. None of them accept to become a naib Kazi under section 3 of the said Act as they are exercising the functions of the Kazi in separate *mahalas* (some streets) among the sub-sects of the Muhammadan community. Some of them say that they exercise the functions of a Kazi for the last 900 years in Tanjore for some generations before the Town Kazi Act was brought into force in 1882.

3. According to section 3 of the proposed Bill every town Kazi is to be appointed as a Mussalman registrar and other Kazis who are seniors to the town Kazi should become naib Kazis and besides the Muhammadan public of Tanjore is of opinion that the present Bill is not necessary for the present and therefore it should be rejected.

I therefore have the honour to request that you may be pleased to address the Government that the Mussalmans of Tanjore are not in favour of the Bill and so it need not be passed into law.

Sub-Enclosure

Proceedings of the Anjuman-i-Auzum, Tanjore, dated 13th November 1918.

Read the Bill introduced by the Hon'ble Mr. A. Yaqub Hasan Sahib in the local Legislative Council for the appointment of a Mussalman registrar of marriages and divorces and it was explained by the Secretary of the Anjuman.

Resolution.—Proposed by Janab K. E. Ismail Sahib Bahadur, Special Magistrate of Tanjore, seconded by Janab K. Abdul Qadir Sahib Bahadur, merchant, and carried by a majority that the Bill need not be passed into law.

(2)

Letter—from the Hon'ble Khan Bahadur A. T. G. M. Ahmad Tambi Marakkayar, Sahib Bahadur, Non-official Additional Member of the Madras Legislative Council.
To—the Collector of Tanjore.
Dated—Negapatam, the 23rd November 1918.

I have the honour to acknowledge, with thanks, the receipt of your letter R.C. No. 1328/G. & B., dated 20th instant, enclosing a copy of the Bill to provide for the voluntary registration of Mussalman marriages and divorces and asking me to return it to you with my views thereon.

In reply, I beg to quote below copy of the speech I delivered at the Legislative Council meeting on the 13th August 1918, from which you will observe that I am against the introduction of the Bill in question for reasons stated therein.

"My Lord, I am sorry I have to oppose the motion moved by my Honourable friend.

"That the Mussalman system of registration of marriages requires legislation cannot be denied. Even so early as in 1900 the Mussalman residents of Triplicane sent in a memorial to the Government of Madras to amend the Town Kazi Act XII of 1880 and to prevent malpractices arising from want of compulsory registration of Muhammadan marriages. The Government on that occasion after consulting the Muhammadan officials and Collectors of the districts observed that the Government would not take the initiative in the matter of legislation unless the members of the community are agreed as to the direction in which the reform should take. The need for providing better registration of Muhammadan marriages is admitted on all hands and therefore the Bill to be introduced must be one capable of putting a stop to corrupt practices obtaining at present for want of necessity to register marriages. So unless registration of Muhammadan marriages is made compulsory, the desire for registration would not receive adequate response. Under the Bill which my Honourable friend proposes to introduce, registration of marriages would be voluntary as at present and no useful purpose could be served by the Bill as in section 25 of the Bill no marriage would be rendered invalid for want of registration. In the Objects and Statements of the Bill my Honourable friend states 'that the loose system of registering marriages and divorces is capable of giving room to abuses of the gravest nature' and I am afraid that the Bill which he proposes to introduce will fail to bring about the desired effect as he himself admits 'that it will be open to the parties to get married in the simple 'Islamic manner'."

"To provide that all cases of Muhammadan marriages should be registered to make them valid would probably be opposed to the spirit of Muhammadan law and so in order to escape from the difficulty it is necessary to penalise the parties for neglect to register Muhammadan marriages without at the same time making such marriages invalid for want of registration. Fear of penalty would compel parties to register marriages though marriages without registration might be held to be valid according to Muhammadan law. A Bill on the above lines penalising parties for neglecting to register marriages without rendering the marriages void for want of registration is the only one that could remedy the defects. In order to introduce such a Bill I was getting Mussalman opinion and before my endeavours on that respect are completed, my Honourable friend has brought forward this motion for leave to introduce a Bill which in my opinion is insufficient to check the corrupt practices prevailing at present. I am daily receiving a number of letters from the leaders of the Mussalman community, from different parts of the Presidency encouraging me to take action on the lines suggested by me. Under these circumstances I am afraid I have to oppose the motion for leave though I am in sympathy with the Honourable mover's desire to effect some sort of legislation to provide for better registration of Muhammadan marriages. In my opinion the desired end could be brought about only by amending with the consent of the Government of India the Kazis Act XII of 1880 to bring it into harmony with the wishes of Mussalman public without introducing a new Act whose principles might conflict with the existing Act XII of 1880."

I return herewith the Bill sent with your letter.

(3)

Letter—from the Hon'ble Khan Bahadur A. T. G. M Ahmad Tambi Marakkayar, Non-official Additional Member of the Madras Legislative Council.
To—the Collector of Tanjore.
Dated—Negapatam, the 2nd December 1918.

I have the honour to acknowledge, with thanks, the receipt of your letter No. R.C. 1328/G. & B. of 1918 and of the enclosures referred to therein in connexion with the Hon'ble Mr. Yaqub Hasan's Bill for the registration of Mussalman marriages and divorces, all of which I have carefully perused.

In reply, I would refer you to my letter of 23rd November and as mentioned therein, I still maintain that I am opposed to the introduction of the above Bill.

(4)

Letter—from Saiyid Ethulla Hussaini Sahib, Government Kazi, Tanjore.
To—the Collector of Tanjore.
Dated—the 9th December 1918.

With reference to your R.C. No. 1328/G. & B. dated 21st November 1918, inviting my views and those of any institution which I may like to consult on the Hon'ble Mr. Janab Yaqub Hasan Sahib's Bill for the voluntary registration of Mussalman marriages and divorces, I have the honour to state that the proposed measure meets with my approval and I am in entire accord with the intentions of the Honourable Member as set forth in the Statement of Objects and Reasons. I had occasion to consult several of my co-religionists for whose benefit the Bill is proposed to be placed on the Statute book and they have all expressed opinions endorsing my views. The Bill does not in any way run counter to the policy of religious neutrality which the Government have all along been wisely following nor does it in any way interfere with Mussalman tradition and usage or the tenets of Islam. I would even go a little further and advocate the procedure laid down in the Bill to be compulsorily adopted in the matter of Mussalman marriages and divorces, as otherwise the abuses which the Bill seeks to remove will continue although in a less pronounced form. This latter view of mine is also endorsed by several of my co-religionists whom I have consulted in the matter. The copy of the draft Bill is herewith returned.

(5)

Proceedings of the meeting, Rajaghiri, Tanjore, dated 6th December 1918.

This meeting is of opinion that no legislation should be introduced in the Legislative Council with regard to the marriage and divorce of Muslims on the following grounds:—

(1) That the existing state of law as regards marriage and divorce of Muslims is quite satisfactorily working.

(2) That no new legislation need be introduced in the Legislative Council as it is against the principles of the Muslim faith and as it will ultimately lead to much confusion and other troubles.

(3) That when we are agitating for self-Government, it will be quite imprudent on our part to allow Government's interference in matters of religion.

(4) That the Hon'ble Mr. Yaqub Hasan is hurriedly pushing through his Bill without considering the opinions of the several hundred thousands of Muslims in this country as he fears that in the reformed councils he cannot introduce this legislature.

Accordingly wires have been sent to His Excellency the Governor of Madras, Hon'ble Yaqub Hasan and Khan Bahadur Aziz-ud-din Sahib.

(6)

Letter—from the Chairman-Delegate, Papanasam Union, Tanjore.
To—the Collector of Tanjore.
Dated—the 18th December 1918.

The resolution of the panchayat referred to above is submitted to the Collector of Tanjore with reference to his No. R.C. 1328/G. & B. of 1918 together with the letter of the Secretary of the Anjuman Committee and with the opinion of the Muhammadan assembly of Rajagiri.

Sub-Enclosure

Proceedings of the Union Panchayat, Papanasam, dated 17th December 1918.

* * * * * * *

Read letter R.C. No. 1328/G. & B. of 1918 of the Collector of Tanjore on the registration of the Mussalman marriages and divorces and the Tamil translation Bill thereof and a letter of the Secretary of the Anjuman Committee with the opinion of Muhammadan assembly of Rajagiri.

Resolved that the resolution passed at the meeting of the Anjuman Muhammadans of Rajagiri be forwarded to the Collector of Tanjore.

(7)

Letter—from T. K. Sheik Ahmad Sahib Bahadur, Secretary, the Anjuman-i-Auzum, Tanjore.
To—the Collector of Tanjore.
Dated—the 14th January 1919.

With reference to your R.C. No. 1328/G. & B., dated 27th November last, forwarding to me copies of the proceedings of the meeting of the Legislative Council relating to the Bill for the registration of Mussalman marriages and divorces and some other papers connected therewith, I have the honour to inform you that there was a public demonstration over the birthday of

our Prophet on the 2nd day of January 1919 and not less than 4,000 persons excluding the females were sumptuously fed and the papers relating to the registration of Mussalman marriages and divorces were read and explained to them but the opinion of the majority of persons who were present at that time is in favour of the resolution of this Anjuman passed at the special meeting held at the Juma majid on 13th November 1918 and so the resolution sent already on the subject is confirmed.

The proposed Bill need not be passed into law, and I have the honour to request you to report to the Government that the Mussalmans of Tanjore are not in favour of the Bill and it need not be passed into law.

(8)

Letter—from Mr. Saduk Azam Sahib, B.A., Tanjore.
To—the Collector of Tanjore.
Dated—the 28th January 1919.

A copy of our opinion regarding the Hon'ble Mr. Yaqub Hasan's Bill for Mus'im marriage and divorce is herein attached. As our opinion thereon was required by the Honourable mover of the Bill and as it concerns our religion and Muslim society, we have sent a copy to him also.

It is needless to question the usefulness of the proposed legislation regarding the registration of the Muslim marriages and divorces as it is essentially necessary to safeguard the abuses which do not come to light. Some Mussalmans do not appear to be keen observers of such social abuses as do in fact exist. Instances of the kind are too numerous to mention. It may be of interest to the Muslim world if two typical cases of such abuses that occurred recently are cited here. A certain young Muslim of the north, a scholar in Persian and Arabic, who could repeat the whole of Masnavai Sharief verbatim, a few years ago passed for a peer-o-murshad (spiritual leader) and began making mureeds (deciples) of both sexes. His first field of operation was Madura, where, in the midst of his spiritual activities, he contracted a matrimonial alliance with one of his mureeds. After a short stay there, he disappeared altogether, leaving his helpless bride to her own fate. His next campaign was in Trichinopoly, where the same process repeated itself. Among the many spiritual followers that he enlisted there was a very young and pious Mussalman widow whose virtue and religiosity were a bye-word in the neighbourhood. To such a woman, the so-called spiritual leader laid seige, and ultimately made her a captive to his passion. With an idea of receiving more religious instruction if she took him to her husband, she became his married wife. After a month or so, the Madura wife learnt the whereabouts of her husband, went to him to Trichinopoly and claimed him as such. Finding that his vile machinations had seen the light of day, he deserted both of them and disappeared altogether from the place, not to be heard of again. The poor Trichinopoly wife is reported to have ended her life miserably. What fate awaited the Madura wife, is not known. Such kinds of easy and selfish marriages for one's own convenience and such cruel desertions at will, could have been minimised, if there had been such a registration as is propsed in this Bill. To quote another instance, the high priest or town Kazi Sahib, of a certain town, I am informed, was recently requisitioned at about eleven in the night to perform a certain Nikha, at a certain public choultry. The Kazi Sahib on arrival at the place, found that about a dozen Mussalmans with a bridegroom in their midst were awaiting him. Finding the strangeness of the situation and the low status of the people assembled, he learnt secretly from one of the people assembled that the bride was already married at another place a few years back and on account of her husband's maltreatment she was brought back to the said town by some of her relations a year ago. She fell in intimacy with the present bridegroom and hence the hurried arrangement for the Nikah. Naturally enough, the Kazi Sahib, out of suspicion made more direct inquiries of the guardian, who gave evasive answers telling him first that, she was divorced by the order of a Khazi, and then, in the same breath, by a judicial court and that the certificate would be produced next morning, if the Nikha was celebrated at once. The guardian, at the same time, tried to bring round the Kazi Sahib by handing him a currency note for Rs. 10. This annoyed the upright and tenacious Kazi who quietly returned home. The next morning, to his utter dismay, the guardian turned up only to taunt him that what he could not do for Rs. 10 was accomplished by another for Rs. 5. What a deplorable insecurity for a bride in the absence of such a legislation as is proposed in the Hon'ble Mr. Yaqub Hasan's Bill! How many more might there be suffering in silence, the All-merciful alone knows. I would, rather, go even to the extent of suggesting that the proposed legislation might be made compulsory. However, on a fair perusal of the Bill and the discussions made thereon in the Legislative Council, I would like to make the following observations:—

(i) I do realise the need for an enactment for the registration of Mussalman marriages and divorces, inasmuch as it systematizes the institution of Moslem marriages and divorces, and serves as a check to malpractices apprehended in some cases, such as, claiming of mahar and the shares of wives and children in secret marriages, etc., and in such marriages as are instanced supra.

(ii) I do approve of the appointment of the Moslem registrars, making it obligatory on them to enter all the marriages they solemnize in the registers supplied to them by Government and to have the register signed by the parties and witnesses to the marriage, the mark of an illiterate being regarded as a signature.

(iii) It is found that if a licensed Moslem registrar neglects to register a marriage solemnized by him at the time of marriage and in the presence of the parties and witnesses concerned or having so registered the marriage fails to inform the district registrar as laid down in the Bill, no penal provision is made against him for the enforcement of the rule so as to make the Bill operative.

(iv) Another problem for consideration is that in the case of voluntary registration, if a party wishing to get his marriage registered is obliged to have his marriage solemnized by a Moslem other than a licensed Moslem registrar, for want of a licensed registrar in the locality, his interest cannot be safeguarded unless it is made obligatory on the said Moslem who solemnizes the marriage to transmit the information to the nearest licensed registrar under penalty of some fine.

These observations, I am constrained to think, may not be complete, without drawing attention to a few salient points in the adverse criticisms appearing in the papers and showing thereby how shallow and unreasonable they are.

(*a*) It is an undeniable fact that the light of religious education has not illuminated the hearts of a majority of the Mussalmans of Southern India. As such, they do not seem to understand what this Bill proposes to do. They are under the impression that the enactment of the Bill might lead to an enhancement of the fee of the solemnizer of nikah and the levying of extra charges for registration of the marriage—which, they apprehend, would bring on 'hardship to the poor and inconvenience to the rich.'

(*b*) The various resolutions passed in all the meetings, merely state that the proposed legislation is an uncalled for interference 'with the tenets of Moslem faith' and with 'the existing state of law as regards marriage and divorce of Moslems.' But no one has yet pointed out how and wherein is the apprehended interference. The Bill under discussion, it is obvious, does not intrinsically affect the established law, but is as extrinsic in its working as the Kazis Act of 1880. It is worth while, in this connexion, to note how our Bengali Muslim brethren have already had such a legislation for warding off such social abuses. The more enlightened 'they' are now none the worse for it; how are 'we', the less cultured of this Presidency, likely to be any the worse?—for, what is found beneficial to our brethren of the North cannot be otherwise to us of the same faith.

(*c*) What passes beyond one's comprehension is that even those who, realizing the necessity of such a Bill some years back, wanted to have their names immortalized in the Statute book by introducing a similar Bill, should now stand as champions to oppose the present one when another public-spirited gentleman comes out to introduce it.

In conclusion it is hoped that in view of the interest and wellbeing of the Moslem community, all fair-minded Muslims would heartily co-operate with the Honourable mover of the Bill to make it a real success.

(9)

Letter—from M. Sultan Marakkayar, Negapatam.
To—the Collector of Tanjore.
Dated—the 29th January 1919.

[Hon'ble Mr. Yaqub Hasan's 'Bill to provide for the voluntary registration of Mussalman marriages and divorces.']

With reference to the above Bill, the undersigned humbly begs to inform that he is very strongly in favour of, and supports, the Bill.

LIX

Letter—from A. F. G. Moscardi, Esq., I.C.S., Collector of Ramnad at Madura.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—the 7th February 1919.
No.—R.O.C. 1358/B. & G. of 1918.

With reference to Government Memorandum No. 1519-8, dated 12th October 1918, I have the honour to forward the opinions of the Muhammadan gentlemen who were consulted on the provisions of the Bill for the voluntary registration of Mussalman marriages and divorces. The majority of Muhammadans seem to be opposed to the introduction of the Bill which they regard as an innovation and therefore objectionable. The educated few have no objection to it, as the registration is voluntary. One of the leading Muhammadans in the district is positively in favour of it.

Enclosures

(1)

Letter—from P. C. M. K. Muhammad Abdul Rahiman Marakkayar, Chairman, Union Panchayat, Pamban.
To—the Tahsildar of Ramnad.
Dated—the 5th January 1919.
No.—R.O.C. 295-Pn./18.

With reference to your R.O.C. No. 2331-Sup. of 1918 on my personal discussion with many Muslim priests and inhabitants of this place which also coincides with mine according to the majority, I am also of opinion that it is not at all necessary to take away the rights and privileges that are now maintained by Muslim communities conducting marriages by local priests according to the custom of this place. Moreover the question of mahar and many like questions rest upon the will and pleasure of bride, etc.

(2)

Letter—from Dubash D. K. Muhammad Ebrahim Sahib, Landlord, Abiramam.
To—the Revenue Divisional Officer, Ramnad.
Dated—the 20th January 1919.
No.—12.

With reference to your R.O.C. No. 1654, dated 9th instant, addressed to my brother Mr. Dubash Saiyid Ebrahim Sahib regarding the Bill for voluntary registration of Mussalman marriages, I have the honour to state that he is away at Rangoon on business of our firm. A reply to this effect was made to the Deputy Tahsildar, Mudukulatur, on 4th January 1919. I am of opinion that the proposals are not applicable to this locality.

(3)

Letter—from Khan Bahadur P. R. M. Qasim Muhammad Marakkayar, Mandapam.
To—the Tahsildar of Ramnad.
Dated—the 29th December 1918.

With reference to your letter R.O.C No. 2331-Sup., dated 24th December 1918, I have the honour to state that, though I am not inclined for any radical changes being introduced in the Muhammadan Law, I have nothing to oppose in this particular Bill, inasmuch as it deals only with voluntary registration.

(4)

Letter—from Dubash D. K. Muhammad Ebrahim Sahib, Landlord, Abiramam.
To—the Revenue Divisional Officer, Devakottai.
Dated—the 4th January 1919.
No.—5.

With reference to your R.O.C. No. 1819, dated 18th December 1918, regarding the Bill regarding Mussalman marriages and divorces, I have to state that in my opinion the proposals contained in the Bill are not applicable to this locality as voluntary registration has been invariably effected in proper order at the mosques. It may be introduced in places where it may be considered necessary.

LX

Letter—from F. Hannyngton, Esq., I.C.S., Collector of Bellary.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—the 5th February 1919.
No.—D. Dis. 532.

With reference to Government Memorandum No. 1519-8, dated 12th December 1918, regarding the Hon'ble Mr. Yaqub Hasan's Bill to provide for the voluntary registration of Mussalman marriages and divorces, I have the honour to forward herewith the views of the marginally-noted seven Muhammadan gentlemen who have been consulted as to its provisions.

1. Munshi Muhammad Hussain Sahib Bahadur.
2. Roshan Minulla Nanne Hussain Sahib Bahadur.
3. Mirza Muhammad Beg Sahib.
4. Hajee Ahmed Sahib Bahadur.
5. Khan Bahadur Abdul Karim Sahib.
6. Sowdagar Abdul Gaffur Sahib Bahadur.
7. Yasan Peer Sahib Bahadur.

2. Of the individuals noted in the margin Nos. 1, 2, 3, 5 and 7 support the Bill for the following reasons:—

(*a*) That the records or registers of marriages and divorces now maintained by Kazis or naib Kazis are very unsatisfactory and sometimes unreliable and give rise to abuses of various kinds.

(*b*) That the proposed legislation gives a basis for the validity of marriages and divorces and will put a stop to or lessen the number of marriages and divorces that are ruining several Mussalman families at present.

Individual No. 2 suggests that 'mahar' or bridal dowry suits may also be included in the Bill and individual No. 5 considers that the registration, which is to be voluntary, should be made compulsory after some time. No. 7 is of opinion that Kazis or naib Kazis of Mussalman marriages and divorces should be made liable for punishment for any breach of the rules of the Bill.

3. Haji Ahmad Sait Bahadur (No. 4), while sympathizing with the object of the Bill so far as it seeks to provide measures to protect possible fraud and malpractices under the present system of registration by Kazis, considers that voluntary registration will not be necessary if at the time of the marriage settlement of 'mahar' a deed of settlement is drawn up and registered. Such a deed, he considers, will obviate litigation and will also serve as a proof of marriage.

4. Sowdagar Abdul Gaffur Sahib Bahadur (No. 6) is not in favour of the Bill. He is of opinion that no legislation is at present needed as the present system of maintaining registers satisfies both the contracting parties to the marriage and that the introduction or appointment of Mussalman registrars would create a good deal of misunderstanding and competition among some members who are living in harmony under one Kazi. He adds that, as trustee of the Jama-i-Masjid, he discussed the Bill with his co-religionists and that none of them who were present were in favour of the Bill.

5. The local Anjumani-i-Islamia, which is here concerned chiefly with education, has expressed itself against the Bill. Local opinion would therefore seem to be on the whole against legislation and previous experience of permissive legislation of this kind argues that the latter view is a sound one.

Enclosures

(1)

Letter—from Munshi Muhammad Hussain Sahib of Bellary.
To—the Collector of Bellary.
Dated—the 22nd November 1918.

With reference to your honour's office No. 1428, dated the 5th November 1918, furnishing me with a copy of the Bill introduced by the Hon'ble Mr. Yaqub Hasan as regards the voluntary registration of Mussalman marriages and divorces, and asking me to give my opinion on the Bill, I most respectfully beg to state—

As a matter of fact in many a place the functions of a Kazi (the ceremony called nikah khani or the solemnization of marriages) are being performed by persons who are neither Kazis recognized by Government, nor naib Kazis appointed by such Kazis. The records or registers of marriages and divorces maintained by such people are loose, unsatisfactory and sometimes unreliable, because they are not written out in some systematical way and taken sufficient care of. Hence this faulty way of keeping records gives rise to abuses of various kinds. It is therefore found imperative necessity for introducing a better and much safer system of registering Moslem marriages and divorces, so that the Judicial Department, in times of necessity (during inquiries), may be facilitated and led to true facts.

If my memory serves me right, it was so many years back as 1900 or 1902, when I was Recordkeeper in Bellary Collector's office, a question arose that some legal provision should be made for an effective registration of Moslem marriages and divorces, the Government decided that the time had not arrived for making any such legislative enactment. In my humble opinion, I think such time has now come.

I quite appreciate and approve of every item referred to in the Bill submitted by the Hon'ble Mr. Yaqub Hasan providing for the registration of Mussalman marriages and divorces. The registration to be *voluntary* and not compulsory.

The Moslem registrars to be licensed or appointed under this Act should be acquainted with English besides knowing their own mother tongue 'Urdu'. Then only all records and accounts, etc., will be maintained according to English system, and give easy and correct access for the supervision of District Registrars and Inspector-General of Registration.

(2)

Letter—from Roshan Nanhay Minulla Hussain Sahib Bahadur of Adōni.
To—the Collector of Bellary.
Dated—the 30th November 1918.

With reference to your letter No. 1428-B. & G., dated 5th November 1918, bearing a copy of the Bill on voluntary registration of Mussalman marriages attached, I beg to say that the Bill

as it is drawn up fully satisfies an existing want among Mussalmans. It is quite true that the introduction of some authorized registry of marriages and divorces was a long felt necessity and the Bill if passed is sure to put a stop or at least very much lessen the number of marriage and divorce suits that are actually ruining so many Mussalman families. I beg further to add that the voluntary nature of the Bill is specially appealing to me.

One item that I would like to draw your kind attention to is, that besides marriage and divorce suits dower or as it is called in Hindustani 'mahar' suits also deserve the kind attention of the Government; and these suits are so closely connected with marriage and divorce suits that it is almost impossible to neglect them while the Government is considering a Bill to check the evil effects accruing in connexion with marriage and divorce for the lack of registration. It generally happens that a married woman on her death bed or at the death bed of her husband or even at a prior stage during their lifetime voluntarily withdraws her claims to her dower or 'mahar' or a part of dower or 'mahar' but afterwards, after the demise of her husband or a later stage during the lifetime of her husband when she is divorced by the husband, she files a suit for 'mahar' against the successors of her husband or against him as the case may be and thus unnecessarily puts him or his successors into trouble. However, I beg to recommend that along with the marriage and divorce registry if the Government provides for the voluntary registry of the forfeiture of dower of 'mahar' it shall still facilitate the questions of Mussalman marriages and the bad results accruing from them for want of any controlling machinery.

In conclusion I beg to offer my thanks for the chance offered to me to express my humble opinion on such an important question.

(3)

Letter—from Mr. Hajee Ahmed Sait of Messrs. Ebrahim Sait & Co., Bellary.
To—the Collector of Bellary.
Dated—the 4th December 1918.

Referring to your B & G. No. 1428, dated 5th November 1918, I beg to enclose herein copy of my letter to the Hon'ble Mr. Yaqub Hasan expressing my views in the matter of the Moslem Marriage Registration Bill.

Sub-Enclosure

Letter—from Messrs. Hajee Ahmed Esmail and Zackeria Esmail of Messrs. Ebrahim Sait & Co., Bellary.
To—the Hon'ble Mr. Yaqub Hasan, Madras.
Dated—the 4th December 1918.

We thank you very much for the honour done to us by sending us copies of your Bill to provide for the registration of Mussalman marriages and divorces together with your letter of the 13th November 1918 and the proceedings of the Madras Legislative Council connected with the Bill.

I am quite in sympathy with the objects of the Bill in so far as it seeks to provide measures to protect possible fraud and malpractices under the present system of registration by the kazis and under the Kazis Act. But I believe whatever may be the practice elsewhere I understand that in this Presidency the validity of a Mussalman marriage does not entirely depend upon the entries made in a kazi's book, but the fact of the marriage is testified to by independent evidence of the relations or other respectable persons who attended the wedding. If, however, any individual chooses to adopt the additional preliminary of formally registering his or her marriage, I see no objections to his voluntarily registering so under your Bill. But such registration cannot be made compulsory, as it will introduce a lot of hardship to poor and indigent members of the Moslem community; moreover, the compulsory registration of Moslem marriages will tend to remove from such marriages the element of religious sanctity. I am not therefore in favour of compulsory registration.

I rather think that even voluntary registration will not be necessary if, at the time of the marriage settlement of *mahar*, a deed of settlement is drawn up and registered. This will safeguard all litigation as to property, etc., and will also serve as a proof of marriage.

(4)

Letter—from Khan Sahib Mirza Muhammad Beg Sahib Bahadur, Zamindar and President, Majli-se-Islamia, Yemmiganuru.
To—the Collector of Bellary.
Dated—the 5th December 1918.

With reference to your letter B. & G. No. 1428, dated 5th November 1918, forwarded with a copy of the Bill on voluntary registration of Moslem marriages and divorces introduced by the Hon'ble Yaqub Hasan Sahib in the Madras Legislative Council and asking for my opinion for the same.

I have the honour to express that the principles of the Bill are commendable in general and very necessary for the present day society. The old system of registering has been very disorganized and unreliable since want of definite rules and of inspection by a recognized

authority. Not to say of untold difficulties that used to crop up especially when any question of litigation comes. This present Bill brings chaos into order and gives a strong basis for the validity of the marriage or the divorce.

I fully endorse my opinion in support of the Bill and enthusiastically wish that it will come into force within a short time. A copy of the resolution passed at a mass meeting of Muhammadans held here also is herewith enclosed.

Sub-enclosure

Moslem Marriage Bill.

A mass meeting of the Muhammadans of Yemmiganuru (Bellary district) and its suburbs held at Zuma-masjid, Yemmiganur, under the presidency of Khan Sahib Mirza Muhammad Beg Sahib Bahadur, Zamindar, passed a resolution accepting heartily the principles of the Bill introduced by the Hon'ble Yaqub Hasan Sahib. Further resolved to request the opponents not to oppose the Bill totally as the time has come for introducing a better method of registration at least to minimise the scandals that have disgraced the fair name of Islam in the courts of law.

(5)

Letter—from Khan Bahadur Abd-ul-karim Sahib, Bellary.
To—the Collector of Bellary.
Dated—the 18th December 1918.

With reference to your letters B. & G. No. 1428, dated 5th November 1918, and also dated 30th November 1918, kindly sending for my opinion the Bill for the voluntary registration of Mussalman marriages introduced by the Hon'ble Yaqub Hasan Sahib in the local Legislative Council, I have the honour to send the following remarks on the Bill:—

It is a notorious fact that the present records of Mussalman marriages kept by kazis and other people are very unsatisfactory. Sometimes old books cannot be traced and sometimes are missing and various poor widows are deprived of their legal rights for want of good registers systematically kept by the said men. I therefore strongly recommend the adoption of the present Bill of the Hon'ble Mr. Yaqub Hasan in toto for the present as a small instalment before the said Act is made compulsory after some time.

(6)

Letter—from Sowdagar Abd-ul-ghafur, Bellary.
To—the Collector of Bellary.
Dated—the 22nd January 1919.

In thanking you for your selecting me to express an opinion on the Bill presented by the Hon'ble Mr. Yaqub Hasan forwarded with your letters B. & G. No. 1428, dated 8th November 1918 and 30th November 1918, I beg to state that I went through the Bill carefully individually myself and as trustee of the Jamai Masjid I placed it for consideration of my brethren in a meeting convened by me for the purpose, and I beg to state that we have come to one unanimous resolution that no legislation is at present called for, since the present state of ~~officers~~ affairs prevailing in the several districts of the Presidency and particularly in Bombay have been running on smoothly and the present system of maintaining the kazi's registers which were the outcome of a similar movement in 1901 satisfies my condition of both the parties, the bride and the bridegroom. In case where any of the parties or both the parties feel that they should be made sure that proper registration of their marriages has taken place they are quite welcome or rather they are quite at liberty to obtain extracts from the kazi's register then and there on the very nikah day signed by the kazi by parties to marriage and also by some gentlemen present on that day.

The introduction or the appointment of Moslem registrars as contemplated in the Bill only creates a good deal of misunderstanding and competition among some members of the community which is living in harmony under one kazi. I would rather like to have only one officer and one head to represent all communal ceremonies that have too many cooks to spoil the broth. If on the other hand any legislation be introduced to strengthen the present state and position of *the kazi*, I think our representatives would be doing immense good to the community as a whole, instead of introducing legislation against the very man whom they select as their kazi and at the same time distrust him and his records of marriage registration.

I am also a member of local Anjuman here. In one of its meetings presided over by Mr. Munshi Saiyid Ahmad Sahib in which the draft Bill of the Honourable Member was discussed in full, it was resolved unanimously that the proposed suggestion regarding registration of marriages voluntarily and the introduction of the Bill with Government interference are not suitable at present.

(7)

Letter—from Khan Sahib Yesan Peer Sahib, Kamalapur.
To—the Collector of Bellary.
Dated—the 28th January 1919.

With reference to your B. & G. No. 1428, dated 5th November 1918, I beg to state that the Bill on voluntary registration of Mussalman marriages and divorces introduced by the Hon'ble Mr. Yaqub Hasan Sahib may kindly be passed so as to ensure correct entries and safe custody of records as these informations are very valuable when needed since the present system is flimsy.

A clause may be added in the Bill that the kazi or naib kazi of Mussalman marriages and divorces shall be liable for punishment for any breach of rules of the Bill. The control of Government is necessary on registration and every marriage or divorce must be got registered.

LXI

Letter—from A. Galletti, Esq., I.C.S., Acting Collector of Chittoor.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—Chittoor, the 20th February 1919.
No.—L. Dis. 2131.

In continuation of my letter D. Dis. No. 4468 of 1918, dated 1st February 1919, forwarding the opinion of certain persons on the proposed Bill for the voluntary registration of Mussalman marriages and divorces, I have the honour to forward herewith the reply since received from Saiyid Mir Husain Sahib Bahadur of Chittoor.

Enclosure

Letter—from Sowcar Saiyid Mir Husain Sahib Bahadur, Chittoor.
To—the Collector of Chittoor.
Dated—the 14th February 1919.

In reply to your letter No. 4468, dated 5th November 1918, requesting me to give my views on the Moslem Voluntary Marriage and Divorce Bill I have the honour to state the following :—

(1) In the first place it directly interferes with the Islamic religion. Any such proposal is against the apostles of Holy Koran. From the time of our Prophet Muhammad down to the present time we are getting on well with the present system, and by passing this Bill into law, our religion is meddled with.

(2) All learned men and Ulemas have more than once expressed their views against the Bill, well quoting verdicts from Holy Koran and they are all of one opinion against it and with one voice protest against the Bill in question. I say if this Bill is passed into law it will certainly injure the feelings of the Muhammadans.

(3) In short I am quite against the Hon'ble Yaqub Hassan Sahib Bahadur's Bill, and request the Government not to give any support to it.

LXII

Letter—from H. G. Gharpurey, Esq., M.A., I.C.S., Acting Collector of Cuddapah.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—the 24th February 1919.
No.—D. Dis. 496 Rev.

I have the honour to forward herewith, in original, the opinions obtained by the divisional officers from representative Muhammadans and Muhammadan bodies in respect of the Bill for the voluntary registration of Mussalman marriages and divorces called for in Government Memorandum No. 1519/8, dated 12th October 1918 and No. 1519/9, dated 4th November 1918.

The Divisional Officer, Cuddapah, submits the views of the following representative Muhammadans and Muhammadan bodies in Cuddapah town :—

(1) Anjumanai Ahlai Hadis.
(2) Some Mosque Committeedars.
(3) Members of a public meeting held in Bhadir Khan Musjid street on 17th November 1918.
(4) Khaji Saiyid Mustafa Husain Sahib.
(5) Muhammad Abdulla Sahib Ahale Hadis.
(6) Anjumanai Jalsai Islamia.
(7) Do. Mufidai Islam.

3. Nos. 1, 2, 3 and 5 agree with No. 4 and are in favour of the Bill. Nos. 3, 4 and 5 however require the registration to be compulsory. Nos. 1 and 5 (Ahlai Hadees) require the appointment of Kazi by Government to be from the members of the existing Kazi family and insist on the Government appointing only a person who is well educated, learned in Arabic and who passes the Kazi test. No. 5 proposes penalty for unauthorized registration and also requires only one Moslem Marriage Registrar to be appointed by the Government for the whole district, the registrars in taluks and villages being regarded as Naibs of the District Moslem Marriage Registrar. No. 4 suggests that in section 9, instead of fixing Rs. 1-4-0 as registration fee, the full fee according to the practice obtaining in each locality should be imposed and that provision in the Bill be made to the effect that in the absence of the Moslem Registrar at the nikah ceremony, the person who solemnizes the marriage should be made responsible for the registration of the marriage in the registers of the Moslem Registrar.

4. No. 6 does not agree with No. 4. This body however appreciates the Bill as a considerable improvement on the existing Kazi Act but requires section 3 to be so completely amended as to substitute section 2 of the existing Kazi Act for it or bring it into conformity with the same, so as to enable not only different sects of Muhammadans as contemplated by section 3 of the proposed Act but also any considerable number of Muhammadans of each sect—where there are differences in their religious beliefs and observances among members of the same sect—to elect one or more Kazis with power of registration according to the necessities of each case or area, as, otherwise, the limitation in section 3 of the proposed Bill will, according to them, seriously curtail the vested rights and privileges of Muhammadans to choose their own Kazi according to their own inclinations when such a body is considerable and when such an appointment is necessary in the interest of the Muhammadan community.

5. A mahazar signed by a very large number of Muhammadans of Cuddapah addressed to Jalsai Islamia (No. 6) has since been received from Government with Endorsement No. 121/B-1, dated 23rd January 1919, through the Collector of Anantapur. They protest against Government interfering with their religious affairs and say that if they do interfere, Saiyid Sha Amin-ulla Huseni Chisti-ul Kadiri, who has been officiating as Kazi for the last seven or eight years may be appointed as Government Kazi in the place of the present Government Kazi, Saiyid Mustafa Husain Sahib.

6. No. 7 which is an educational society, declines to give any opinion as a body either in favour of or against the Bill but the members generally approve of the Bill with great pleasure but say that sections 3 and 23 require to be so amended as to make provision for the determination of qualifications required from persons to be appointed as Moslem Registrars by a Moslem body consisting only of Ulemas approved by the Moslem public and for fixing in the Act itself the remuneration for the attendance of Moslem Registrars at the celebration of marriages, which attendance is regarded as absolutely necessary in the mufassal.

7. The Divisional Officer, Jammalamadugu, reports that the Muhammadans in his division are against the passing of the Bill. The Divisional Officer, Rajampet, submits the opinion of the leading Muhammadans in Badvel who are not in favour of the Bill. The Divisional Officer, Rayachoti, submits opinions of the leading Muhammadans of Pulivendla and Rayachoti. The Muhammadans of Pulivendla are not in favour of the Bill while those of Rayachoti are in favour.

8. In my opinion the purpose of the Bill is good and some provision is considered essential by enlightened Muhammadans against the malpractices due to want of control over the registration as it is at present. The difficulty, however, will be in the working of the law when the appointment of a particular man as Kazi may not be in consonance with the religious predilictions of a particular class of Muhammadans. Such a state of things actually obtains at Cuddapah at present, where the Kazi appointed by Government is not regarded as one by a large number of Muhammadans who recognize another gentleman, viz., Saiyid Shah Amin-ulla Huseni Chisti-ul Khadiri as their Kazi. Unless there is found out a way by which the practical

difficulties as indicated above which are likely and almost sure to arise in some way or other, may be got over, the Bill, if passed into law, might be a source of great future trouble, involving, as it does, the interference of the State in matters which are essentially social and governed by religious sentiment.

Enclosures

(1)

Letter—from the Secretary, the Anjumanai-Ahlai-Hadis, Cuddapah.
To—the Deputy Collector, Cuddapah division.
Dated—the 7th November 1918.

With reference to your No. 1103, Sup., dated 30th October 1918: requesting this Anjuman to give its opinion on the proposals of the Hon'ble Yaqub Hassan Sait Sahib Bahadur, regarding the registration of Mussalman marriages, divorces, etc., I have the honour to inform you that this Anjuman, after full discussion in its meeting held on the 3rd instant, passed the following resolutions approving with great pleasure the proposals of the Hon'ble Yaqub Hasan Sait Sahib Bahadur and finds them to be very advantageous for Mussalmans.

Resolutions—

(1) That this Anjuman approves with great pleasure the proposals of the Hon'ble Yaqub Hasan Sait Sahib Bahadur regarding the registration of Mussalman marriages, divorces, etc., and further resolves that the Kazi should be a well educated man specially versed or certified in Arabic, must know all the rules and regulations of Muhammadanism and should without fail pass the Kazi test.

(2) That the appointment of Kazi possessing the abovesaid qualifications should be made by Government.

(3) That preference should be given to members of the Kazi's family who should also have passed the Kazi test.

(2)

Proceedings of the meeting of the members of the Muhammadan Mosque Committee, dated 15th November 1918.

Read letter Ref. No. 1103/Sup., dated 30th October 1918, from the Deputy Collector, Cuddapah division, asking opinions regarding the voluntary registration of Mussalman marriages and divorces, etc., as proposed by the Hon'ble Yaqub Hasan Sahib of Madras.

Resolution.—Resolved unanimously that the Bill proposed by the Aliyanab Hon'ble Yaqub Hasan Sait Sahib of Madras is a very good one. We express our approval and state that it is quite necessary to be passed in the interest of the public.

A copy of this resolution must be submitted to the Deputy Collector.

Khazi Saiyid Mustafa Husain.
Hakim Saiyid Kamal-ud-din.
Hakim Muhammad Ali.

(3)

Proceedings of the meeting of the Cuddapah Muhammadans, held in Bhadir Khan mosque, dated 17th November 1918.

Khan Bahadur Hakim Abdul Majid Sahib—*President.*

Resolutions.—(1) The contents of the Bill were read and explained by Muhammad Abdullah Sahib and the same was approved with thanks.

(2) The meeting unanimously proposes an enactment for compulsory registration.

(4)

I agree with the subject matter of the Bill subject to the following amendments :—

(1) This enactment should be made compulsory instead of optional.

(2) In section 9 instead of Rs. 1-4-0, the existing customary fee may be substituted to prevent mischievous persons from presiding at the performance of nikah as otherwise such persons would receive the full amount and pay the Registrar only Rs. 1-4-0 misappropriating the balance which will result in the mere filling of the memorandum of nikah without filling the columns of Register No. 1. In such cases there will be no difference between the practice now existing and the one proposed to be adopted. In case of the full amount reaching the Moslem Registrar, the mischievous persons would not preside at the nikah as they get nothing.

(3) In the absence of the Moslem Registrar, the person presiding at the nikah should write up a memorandum of mahar on a piece of paper and obtain the signatures of parties and witnesses and produce such paper before the Registrar for registration and should himself attest the entry in the register. Any person acting contrary to this should be made liable to punishment by fine. This suggestion may be added as section 26 of the Bill.

Khaji Saiyid Mustafa Husain.

(5)

Letter—from Abdulla Sahib, Skin Merchant, Masapet, Cuddapah.
To—the Deputy Collector, Cuddapah.
Dated—the 30th November 1918.

I most respectfully beg to state as follows :—

1. The Bill No. 7 of 1918 of the Madras Government, regarding the registration of the Mussalman marriages and divorces proposed by the Hon'ble Yaqub Hasan Sait Sahib has been found to be very advantageous and most important for Muhammadans and is well appreciated with great pleasure by all. But the most important point to be considered is whether the registration should be either compulsory or optional.

2. (*a*) With reference to paragraph 3 of the above reference, the Registrar of the Mussalman Marriages, etc., will be appointed by the Government.

(*b*) With reference to paragraph 5 of the same Bill the Moslem Registrar will be supplied with registers, stamps, etc., by the Government.

(*c*) With reference to paragraph 24 of the same Bill it will be seen that the Moslem Registrar will be treated as a Government official.

The above clauses proposed to be introduced are no doubt very advantageous and beneficial for the Mussalmans. In these circumstances, if the registration is made optional, the introduction of the above clauses will be of no use, consequently the adherence of the rules of the resolution will be at stake and it is feared that the resolution will be proved unsuccessful. Further, this inference is drawn with the experience of the existing optional registration by unauthorized men. Compulsory registration is, therefore, desired.

3. With reference to paragraph 3 (2) of the Bill the fault of the registration of marriages, etc., against the rules should lie in the unauthorized Naib, for which he should be punished suitably by levy of fine.

4. Sub-paragraphs (2) and (3) of paragraph 3 of the Bill are very essential and advantageous and I beg to propose the following also to be included in it so that it will be still more advantageous and the object of paragraph 24 may be found true and beneficial :—

(*a*) Only one Registrar of Mussalman marriages and divorces should be appointed for the district just like one District Judge and one Collector for a district.

(*b*) The District Registrar should be well versed with the rules of Muhammadanism, certified in Arabic and should have passed the Kazi test.

(*c*) All the Moslem Registrars of the taluks and villages in the district should be designated only as Naibs of the District Registrar of Marriages.

(*d*) As the District Moslem Registrar (i.e., Sar Kazi) is a religious and honorary official, he should have passed the Kazi test also besides being well educated as per paragraph 23 (*a*) supra.

(*e*) Preference should be given to a member of the Kazi's family who should have also passed the Kazi test and well educated.

(6)

Extract from the Proceedings of the Jalsai Islamia, dated 15th November 1918.

Read communication from the Division Deputy Collector, Cuddapah, requesting to give opinion regarding the voluntary registration of Mussalman marriages and divorces.

Resolution.—It is resolved that the proposed Bill in question is a considerable improvement on the existing Kazi Act, provided, section 3 of the proposed Act is so completely amended as to substitute section 2 of the existing Kazi Act, or bring it into conformity with the same, so as to enable not only different sects of Muhammadans as contemplated by section 3 of the proposed Act, but also any considerable number of Muhammadans of each sect, where there are differences in their religious beliefs and observances among themselves, to elect one or more Kazis with power of registration, according to the necessities of each case or area, as otherwise, the limitation in section 3 of the proposed Bill will seriously curtail the vested rights and privileges of Muhammadans to choose their own Kazi according to their own inclinations when such a body is considerable, and when such an appointment is necessary in the interests of the Muhammadan community.

S. Qadir Muhi-ud-din,
President.

(7)

Letter—from the President, Anjumanai Mufedi Islam, Cuddapah.
To—the Divisional Officer, Cuddapah.
Dated—the 14th November 1918.
No.—122/18.

With reference to your C. No. 1103, dated 30th October 1918, I beg to intimate to you that the Executive Committee of the Anjuman regrets that the Anjuman cannot give its opinion on the subject as it is such that the Anjuman has no jurisdiction to discuss being as it is, at present, chiefly an educational society.

However, the Committee taken severally is of opinion that the Bill provides for considerable improvement on the present system of registration of Moslem marriages, and hopes that it will meet with public approval should sections 3 and 23 be so amended as to make provision (1) for the determination of qualifications required from persons to be appointed as Moslem Registrars by a Moslem body consisting only of Ulemas approved by the Moslem public, (2) for fixing in the Act itself, the remuneration for the attendance of Moslem Registrars at the celebration of marriages (which attendance is unavoidably necessary in mufassal).

(8)

Statement of S. Nazermohideen Sahib, (2) *K. Sulaiman Sahib*, (3) *Mahmad Sab Bitni*, (4) *Nagath Khadir Hussain Sahib, before the Tahsildar of Badvel on* 16*th December* 1918.

We have read the contents of the Bill introduced into the Legislative Council by the Hon'ble Yaqub Hasan and have understood it through a copy supplied to us in Hindustani. Nikah and talak are found described in Koran and as such are more of a religious character. These are registered under the rules given by Muhammad, the founder of Moslem religion and are in vogue from time out of mind. We are therefore not in favour of the new Bill being enacted into law.

(9)

Extract from the meeting held by the Anjumani Ta-ullim Ahalai Islam Pulivendla on Tuesday the 31*st December* 1918 *at* 3 *p.m.*

Present:

(1) Janab Kazim Sahib, Kazi, Chairman.
(2) ,, Kurnool Haji Papamiah Sahib.
(3) ,, Muhammad Umar Sahib.
(4) ,, Nalhand Fakruddin Sahib.
(5) ,, Husain Miah Sahib.
(6) ,, Madar Sahib.
and (7) ,, Muhi-ud-din Sahib.
Chairman: Kazim Sahib, Kazi.

Read copy of the translation in Hindustani of the Bill to provide for the registration of Mussalman marriages and divorces which the Hon'ble Mr. Yaqub Hasan Sahib Bahadur desires to introduce.

Resolution.—Unanimously resolved that Muhammadanism is founded on the reading of "Kalmah" subject to two conditions "Ekrarun and Tasdikun" viz., one by promise and the other settling the promise at heart. While the origin of the Muhammadanism itself depends upon only the reading of Kalmah the others are merely instruments to the religion and need not require registration not being beneficial to the religion in any way.

Qazim Sahib Kazi,
Chairman.

(10)

Extract of the resolution of the meeting of the Muhammadans held at Rayachoti, dated 9*th January* 1919.

Present:

(1) Janab Khaji Saiyid Khadir Badshaw Husaini Sahib.
(2) ,, Naib Khadir Sherif Saib.
(3) ,, Bephari Khaja Meah.
(4) ,, G. Muhammad Yusaf Sahib.
(5) ,, Khalil Sahib.
(6) ,, K. Hayath Khan.
(7) ,, Gajula Ahmad Sahib.
(8) ,, Banasari Dade Sahib.
(9) ,, A Mahaboob Khan.
(10) ,, Rustum Khan.
(11) ,, Atam Alli Sahib.
Chairman: Khaji Saiyid Khadir Badshaw Husaini Sahib

Read copy of the translation in Hindustani, of the Bill to provide for the voluntary registration of Mussalman marriages and divorces which the Hon'ble Mr. Yaqub Hasan Sahib Bahadur desires to introduce.

Resolution.—Unanimously resolved that we fully assent to the introduction of the Bill for the registration of Mussalman marriages and divorces, in the form suggested by the Honourable Member.

LXIII

Copy of the resolution passed by the Muhammadans of Kodambakkam on the 8*th February* 1919.

'The Muhammadans present at the meeting strongly protest against the Mussalman Registration Marriage Bill as it is against the Muhammadan law.'

LXIV

Letter—from J. C. Stodart, Esq., I.C.S., Acting Collector of South Arcot.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—Cuddalore, the 17th February 1919.
No.—R.O.C.-Petition 821.

In continuation of my letter D. Dis. No. 169 Cor., dated 29th January 1919, forwarding the views of certain Muhammadan bodies and gentlemen on the Bill to provide for the voluntary registration of Mussalman marriages and divorces, I have the honour to forward herewith a petition since received from certain Muhammadans of Kasba, Vriddhachalam, who are in favour of the Bill.

Enclosure

Petition—from the Muhammadans of Kasba Vriddhachalam.
To—the Collector of South Arcot.
Dated—the 4th February 1919.

We, Shaik Fatha Sahib and other Muhammadans of Kasba, Vriddhachalam and Pudupet, most humbly beg to bring the following few lines to your honour's kind consideration, regarding the registration of Muslims' marriages or Muhammadans' divorces in support of the Bill proposed by the Hon'ble Mr. Yaqub Hasan Sahib, 123, Moor Street, Madras.

2. We beg to say that the Muslim marriages and divorces are going on then and there in towns and villages every year. The concerning Kazis, Moulvis, the Muhammadan priests do not at all take care to keep up a permanent register of Muslim marriages and divorces with serial numbers at the times of marriages.

3. They are so negligent as to make a temporary entry in bits of paper, in the times of nikkas or marriages, and they may either enter it in the times of their leisure or may fail to enter in the book.

4. This piece of their laziness and negligence to make entry then and there in the book, leads them very often, to slip or lose the bits of papers which they made entry in, and there is no possibility and probability of putting the Muslim marriages written in the permanent book.

5. Hence we beg to say the records of Muslim marriages are not at all available whenever we are in need of them to be produced in any public office of the Government, if necessary, nor the Kazis or Moulvis do produce them to the Government when we are unavoidably in need of it, and that is why we beg of your honour to enforce the registration of Muslim marriages after bringing them to the Legislative Council.

6. By so doing we not only save the sufferings and troubles we are to undergo in getting the records of Muslim marriages, but also we are apt to get the copy of the entry of marriages in the book by the Kazis.

7. Further we beg to say we perused the Supplement Gazette of Muslim marriages published by the Board of Revenue, and we are ready to follow or go in accordance to the contents of it.

8. Under the above reasons, we are of opinion that the registration of Muslim marriages and divorces is the best arrangement, and the great help to the Muhammadan community, and we agree in saying that the Bill of Hon'ble Mr. Yaqub Hasan Sahib is the pearl of great price.

9. It may even be called either a gem or an emerald which cannot be bought even for the world and we are driven by the call of necessity to esteem the Bill to so great a degree.

10. Hence we beg of your benevolent honour, the Bill of Mr. Hon'ble Yaqub Hasan Sahib to be admitted by the Government, and to bring the entry of Muslim marriages, by Moulvis, to the force of being registered in the Government book of registration, in accordance to the virtues of the abovesaid Bill, as we are of the same opinion as that of Hon'ble Hasan Sahib.

LXV

Letter—from P. C. Dutt, Esq., B.A., I.C.S., District Magistrate, North Arcot.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—Vellore, the 22nd February 1919.
No.—Dis. 196.

Adverting to Government Memorandum No. 1519-8, dated the 12th October 1918, regarding the voluntary registration of Mussalman marriages and divorces, I have the honour to forward herewith the reports received from Mussalman gentlemen of this district expressing their views on the Bill.

2. A list of the Muhammadan gentlemen who have expressed their views is enclosed.

Enclosures.

(1)

1. Report from the Subdivisional Magistrate, Ranipet, No. 2381 D., dated 5th December 1918.
2. Letter from Saiyid Shah Ahmad Kadiri, High Priest of Arcot.
3. Letter from Mr. Badruddin Dulvi, Manager, Messrs. Parry & Co., Ranipet.
4. Letter from Khan Sahib T. Salar Sahib, Tiruppattur.
5. Letter from Saiyid Sultan Moyatheen Sahib Kadiri, Secretary, Anjuman-Govindapuram, Vaniyambadi.
6. Letter from the Inspector of Police, Tiruppattur.
7. Letter from Janab Moulvi Hakeem Abdul Khyoom Sahib, Unani Doctor, Pernambut.
8. Letter from M. Hussain Khan Sahib Bahadur, Municipal Councillor, Gudiyattam.
9. Letter from Haji P. Shaik Mira Sahib Bahadur, Union Chairman, Pernambut.
10. Letter from the Muhammadan residents of Arkonam.
11. Letter from C. Abdul Hakim Sahib, Wallajah, Member of North Arcot District Board.
12. Letter from H. Muhammad Nafurddin Sahib, Jaghirdar of Virudambat.
13. Letter from Moulvi Abdul Wahab, Muhammad Abdul Jabar and Shaik Adam.
14. Letter from Moulvi Abdul Bazith, 3rd Assistant, Lathifia Arabic College, Hazarath Makhan, Moulvi Shahabudur, 4th Assistant, Lathifia Arabic College, Moulvi Muhammad, 5th Assistant, and Ahmad Koya, and Assistant, Lathifia Arabic College.
15. Letter from Mohideen Saiyid Abdul Latif Qadiri.
16. Letter from Abdul Jamal, Headmaster, Madrasa Latifia, Vellore.
17. Letter from Muhammad Kutb-ud-din Sahib, Naib Kazi, Chandapet, Arcot.
18. Letter from Moulvi Abdul Rahiman Sahib, Ambur.

(2)

Letter—from M.R.Ry. N. Narayanaswami Nayudu Garu, Revenue Divisional Officer, Cheyar, Tiruvetipuram.
To—the Collector of North Arcot.
Dated—the 5th December 1918.
No.—Dis. 2381.

With reference to your endorsement No. 2003/Magl., dated 9th November 1918, I have the honour to inform you that I consulted the leading Muhammadans of this division and they are in favour of passing this permissive measure.

(3)

Letter—from Saiyid Shah Ahmad Qadiri, High Priest of Arcot.
To—the Revenue Divisional Officer, Ranipettai.
Dated—Arcot, the 1st December 1918.

With reference to your communication No. 1869, dated 22nd November 1918, which reached me on the 28th instant, I have the honour to inform you that I do not for a moment consider it necessary to introduce any Bill to provide for the voluntary registration of Mussalman marriages and divorces. I consider that the rules laid down by our Holy Prophet on the subject are more than enough and do not require any amendment by any Honourable Member.

(4)

Letter—from Mr. Badiruddin Dulvi.
To—the Revenue Divisional Officer, Ranipettai.
Dated—the 30th November 1918.

With reference to your communication No. 1869, dated 22nd November 1918, which reached me on the 28th instant, I have the honour to inform you that I do not for a moment consider it necessary to introduce any Bill to provide for the voluntary registration of Mussalman marriages and divorces. I consider that the rules laid down by our Holy Prophet on the subject are more than enough and do not require any amendment by any Honourable Member.

(5)

Letter—from Khan Sahib T. Salar Sahib, Tiruppattur.
To—the Sub-Collector, Tiruppattur.
Dated—the 5th December 1918.

With reference to your letter R.O.C. No. 1920/Sup., dated 16th November 1918, I beg to submit that the Bill in question relates primarily to a religious function hitherto for so many centuries performed without any serious inconvenience or results by the community itself without the interference of the Government. There have not been many instances in which the community has suffered prestige and the intervention of the Government was sought for to rectify matters. Secondly social rules among Mussalmans have not undergone such changes in the recent times to call for a legislature of this kind—though it may be made to avert short drawbacks in individual cases which are quite capable of being rectified by the society itself in the light of their religious principles by their religious headmen.

The above is also the opinion of Mussalmans which I have been able to gather. I have personally no objection to the principle involved in the Bill in question but the community seem to think that there is no necessity for the introduction of the new Bill involving a purely religious function as held by the Mussalmans. The abuses are so rare as not to warrant the introduction of the Bill proposed by the Honourable Member.

(6)

Letter—from Saiyid Sultan Muhi-ud din Sahib Qadiri, Secretary, the Anjuman, Govindapuram, Vaniyambadi.
To—the Sub-Collector, Tiruppattur.
Dated—the 5th December 1918.

In acknowledging with thanks the receipt of your letter No. 1920/Sup., dated 16th November 1918, about the draft Bill to provide for the voluntary registration of Mussalman marriages and divorces I beg to state that in a public meeting held in Vaniyambadi on Sunday the 1st instant at Nellikolly Madarasa, a resolution was passed as follows:—

"The Holy Koran has given us perfect and needful lesson regarding all matters and it is the indispensable duty of any Mussalman to act to its commands and hence the Bill for the voluntary registration of Mussalman marriages and divorces is unnecessary one." Such being the case I do not think it is necessary to go against that resolution.

In face of the above resolution and other circumstances the Bill brought forward is useless and uncalled for according to my opinion.

(7)

Letter—from M. Rahim Sahib, Inspector of Police, Tiruppattur.
To—the Sub-Collector and Joint Magistrate, Tiruppattur.
Dated—the 9th December 1918.

With reference to R.O.C. No. 1920/Sup., dated 16th November 1918, regarding the introduction of Mussalman Marriages and Divorces Bill I beg to submit that in my opinion there is no need as the present system of working is going on very easily and even poor and innocent people are conducting their marriages according to their religious rites very easily.

(8)

Letter—from Janab Moulvi Hakim Abdul Qaiyum Sahib, Unani Doctor, Pernambut.
To—the Sub-Collector, Tiruppattur.
Dated—the 12th December 1918.

With reference to your office letter R.O.C. No. 1920/Sup., dated 11th December 1918, asking my opinion regarding the registration of Bill pertaining to Mussalman marriages and divorces, etc., I beg to offer my opinion as follows:—

The question of Mussalman marriages and divorces is purely a religious one. I don't see the reason of its registration.

Hence I regret to say that I am not in sympathy with the Hon'ble Yaqub Hasan Sahib Bahadur's Bill.

(9)

Letter—from M. Husain Khan Sahib Bahadur, Municipal Councillor, Gudiyattam.
To—the Sub-Collector, Tiruppattur.
Dated—the 13th December 1918.

In acknowledging the receipt of your letters No. 1920/Sup., dated 16th November 1918, and 8th December 1918, I have the honour to state that I am not in favour of the Bill for the registration of Muslim marriages. This is also the popular opinion of respectable Muhammadans of this town.

(10)

Letter—from Haji P. Shaikh Mira Sahib Bahadur, Union Chairman, Pernambut.
To—the Sub-Collector, Tiruppattur.
Dated—the 17th December 1918.

With reference to your letters R.O.C. No. 1920/Sup., dated 16th November 1918, and 8th December 1918, requesting me to offer my views regarding the Bill which the Hon'ble Yaqub Hasan Sahib Bahadur desires to introduce in the Legislative Council to provide for the voluntary registration of Mussalman marriages and divorces, I beg to state as follows.

Since so many years the Mussalman marriage rituals are being read over by hereditary Kazis, Peish Imams of the localities concerned.

Since one or two years in certain places and four or five years in some other places few persons get the marriage rituals read over by some other different persons other than the said Kazis. In so doing, it not only causes a loss to the hereditary professional Kazis and as well creates disunion among the communities of the places.

Since a year that is being read over at Pernambut through a different person and that new system is being followed in four or five houses and that has caused disturbance to the peace.

It will be highly desirous if the Government were to pass an order to the effect that none-else other than the hereditary Kazis of the localities concerned ought to read the marriage rituals. Those who get it read through different persons other than the hereditary permanent Kazis ought to be made liable for penalty.

The records (i.e.) marriage registers ought to be made to be maintained only by the said hereditary Kazis and the registers ought to be well maintained duly bound by leather and printed. Kazis have to be made to report to the authorities as to the period from which they have been maintaining the register and they have also to certify to the authorities about the safe custody of the registers.

A town Kazi may be appointed at Vellore. The marriage rituals and the divorce are of purely a religious affair. Hence I am not in sympathy with the Bill that is being proposed by Hon'ble Yaqub Hasan Sahib Bahadur.

(11)

Letter—from Hakim Sabith Ali Shah, etc., Muhammadan residents of Arkonam.
To—the Collector of North Arcot.
Dated—Arkonam, the 14th January 1919.

We, the undersigned Muhammadans of Arkonam, wish to support the Bill which the Hon'ble Mr. Yaqub Hasan Sahib wishes to introduce in the Council for the registration of Muhammadan marriages and divorces.

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(12)

Letter—from C. Abdul Hakim Sahib, Member, North Arcot District Board.
To—the Collector of North Arcot.
Dated—Hirasatpuram, the 23rd January 1919.

I am in complete accord with the purport of the Bill for the registration of Muslim marriages and divorces which the Hon'ble Mr. Yaqub Hasan wishes to introduce in the Legislative Council. Please communicate this opinion of mine to the Government and oblige.

(13)

Letter—from H. Muhammad Nasurddin Sahib, Jagirdar of Virudampet.
To—the Collector of North Arcot.
Dated—the 8th February 1919.

As I am requested to communicate my opinion about the Bill of the Hon'ble Mr. Yaqub Hasan, a member of the Legislative Council of Madras Government in the matter of the Muslim marriages and divorces, I beg to state that though the said Bill is good, the Moulvis and general public and learned persons of Madras are objecting to it, being a religious matter, and I therefore follow their opinion.

(14)

Letter—from Moulvi Abdul Birth, etc.
To—the Deputy Collector, North Arcot.
Dated—the 8th December 1918.

Our opinion regarding the proposed Bill of the Hon'ble Mr. Yaqub Hasan relating to the optional registration of marriage and divorcement is, that this question is of a religious nature. It is evident from the Royal Proclamation that the rulers of the time will not interfere with religious functions of any community. By introducing the proposed Bill, the marriage and the divorcement which are legal by Muhammadan Law, will in the absence of registration in Government will be considered doubtful and illegal, by which, difficulties will arise in the present liberties of religion and conveniences, and which will not be agreeable to Mussalmans. In accordance to the aforesaid Royal Proclamation, the rulers of the time will not approve of the interference in such matters.

(15)

Letter—from Muhi-ud-din Saiyid Abdul Latif Qadiri.
To—the Collector of Vellore.
Dated—the 13th February 1919.

I having been asked to give my opinion with regard to the Marriage and Divorce Bill proposed by Hon'ble Mr. Yaqub Hasan Sahib I hereby give my opinion and reply that marriage totally is a devoted duty. To bind over this by law like the social or worldly affairs is against the Muhammadan Law.

(16)

Letter—from Abdul Jamal, Headmaster, Madrasa Lathia, Vellore.
To—the Collector of Vellore.
Dated—the 13th February 1919.

It is submitted that I went through the contents of the marriage Bill proposed by Hon'ble Mr. Yaqub Hasan Sahib. It is based on the lines that marriage is considered by the Muslim people as temporal function, but not as a religious one, and therefore like other business such as a sale-deed, etc., should come under the rules or bind over by laws and regulations, the repudiation and the divorce, etc., which are temporal should also be governed by rules.

In this connexion I am of opinion that marriage or any other thing in connexion therewith is not temporal. But it is very clear from the religious books and the sayings of the Prophet that the marriage is a proved devoted duty. 'Saying' 'To marry is the order of the Prophet' and 'To marry after attaining puberty is very essential and from time immemorial this comes under the devoted duties and correspondingly 'Thou shalt marry' is the precept of the Holy Koran. The precept or commandment is either for obedience or abstinence.

In the great religious commentary book Imam-a-Razi has written that in the Khaliphhood of Oomer Farook, the Kaliph, proposed to fix such an amount so that the mahar should not be allowed to exceed that amount and that the burden of the Mahar on the Muslim community be reduced. With this object when he consulted his followers, an old woman requested and said to the Khalip 'how far your suggestion will be valid against the precept or commandment. The precept of the Holy Khoran says'. 'Thou shall pay (Mahar) to one woman one leather bag (of money). If it is so very clear how it will be possible to fix a certain or limited sum, but it may be raised to any extent and it is allowable and the word 'bag' of the precept is an evidence on this; then the Khaliph Oomer Farook withdrew his proposal and the mahar was left without any

limit. When such a powerful and learned Khaliph did not interfere in modifying the marriage rules—because they came under religious devoted duties—the rules, etc., that were formed in the precept of the Holy Koran were left as they were how it will be possible to make any additions against the established rules or conditions.

(17)

Letter—from Muhammad Kutub-ud-din Sahib, Naib Kazi, Chandapet, Arcot.
To—the Collector of North Arcot.
Dated—the 20th February 1919.
No.—R.O.C. 2003-Mgl.

With reference to Hon'ble Mr. Yaqub Hasan's Bill for the registration of Muslim marriages and divorces I am of opinion that the Bill is a useful measure and strongly recommend its being passed into a law. Every Kazi or Naib Kazi should welcome it because it raises his position to the status of a public officer and his records and certificate will be more acceptable in the courts of law than is the case now.

Please place this opinion of mine before the Legislative Council and oblige.

(18)

Letter—from Janab Maligai Abdul Rahiman Sahib, Headman of the Muhammadan community of Ambur.
To—the Collector of North Arcot.
Dated—the 15th February 1919.

I have the honour to forward herewith a printed copy of the resolutions adopted at a public meeting of all Ambur Muhammadan Jamayet held on Monday the 10th instant, protesting against the acceptance of the Bill introduced by the Hon'ble Mr. Yaqub Hasan Sahib in the Madras Legislative Council requiring the registration of the Muhammadan marriages, etc., and to request that the same may have the favourable consideration of the authorities concerned.

LXVI

Proceedings of the Public meeting of all Ambur Muhammadans Jamayet, held in Chouk Majid premises at 10 a.m. on Monday the 10th February 1919 to consider about Moslem Marriage Bill introduced by Hon'ble Mr. Yaqub Hasan Sahib in the Madras Legislative Council.

President—Janab Maligai Abdul Rahiman Sahib Bahadur, Headman of the Muhammadan community, Ambur.

The following resolutions were unanimously passed :—

1. This meeting of all Ambur Muhammadan Jamayet most emphatically protest against the acceptance of the Bill introduced by the Hon'ble Mr. Yaqub Hasan Sahib in the Madras Legislative Council regulating the registration of the Muhammadan marriages, inasmuch as such registration is likely to seriously interfere with the religious and social sentiments of the Muhammadan community, and, as the Muhammadans are not, under any circumstances supposed to abide by any other rules or regulations except those that are enforced by the Holy Koran in the matter of the marriages and divorces. Besides the present system of registering the marriages by Kazis is quite satisfactory and sufficient to meet the requirements of the law.

2. This meeting further submits that a resolution already communicated by the Secretary of the Local Muhammadan reading room accepting the Bill is only the individual opinion of the said Secretary and the said resolution does not in any way convey the views and opinion of the entire Muhammadan community of Ambur.

3. The President of this meeting is requested to communicate copies of the above resolutions to—

(1) The Secretary to the Government of Madras, Legislative Department.
(2) The Collector of North Arcot.
(3) The Hon'ble Mr. Yaqub Hasan Sahib.

LXVII

Demi-official—from the Hon'ble Diwan Bahadur R. Ramachandra Rao, Secretary to Government, Home (Miscellaneous) Department.
To—the Hon'ble Yaqub Hasan Sahib Bahadur, Non-official Additional Member of the Madras Legislative Council.
Dated—the 3rd March 1919.
No.—1878-1.

With reference to your demi-official, dated the 13th February 1919, I write to say that the Government regret that they are unable to give you any advance information regarding the opinions furnished by bodies and individuals consulted on your Bill for the registration of Mussalman marriages and divorces.

LXVIII

Letter—from R. W. Davies, Esq., I.C.S., Collector of the Nilgiris.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—Ootacamund, the 22nd February 1919.
No.—D. Dis. 346.

With reference to the Memorandum of Government, Home Department (Miscellaneous), No. 1519-8, dated 12th October 1918, I have the honour to submit the opinions obtained from representative Muhammadans and Muhammadan bodies in the district.

Enclosures.

(1)

List of representative Muhammadans and Muhammadan bodies from whom opinions on the Bill to provide for voluntary registration of Mussalman marriages and divorces have been obtained by the Collector of The Nilgiris.

1. Saiyid Ahmad Sahib, Government Kazi, Ootacamund.
2. Khan Bahadur A. R. H. Fakir Muhammad Sait, Landlord and Planter, Ootacamund.
3. Saiyid Shah Fakruddin Sufi, Persian and Urdu Munshi, Breck's school, Ootacamund.
4. S. Muhammad Qasim Sahib, Secretary, Wellington Mosque, Wellington.
5. The Secretary of the Anjumani Islamia, Ootacamund.

(2)

Letter—from Saiyid Ahmad Bagdadi-ul-Qadiri Sahib, Government Kazi, President, Moslem Society, Ootacamund.
To—the Collector of the Nilgiris.
Dated—the 11th November 1918.

With reference to your letter No. 1232, dated 29th October 1918, forwarding for expression of my opinion a Bill to provide for the voluntary registration of Mussalman marriages and divorces, I have the honour to state that in due consultation with select members of the Muhammadan community, the early passing of the Bill is most desirable as the salutary provisions contained in it have the sanction of the Moslem religious books and will supply a much-felt want.

In my experience of twenty-four years as the Government Kazi at Ootacamund I have found that such provisions are absolutely necessary to check uncertified and irresponsible persons from fraud and malpractices and creating disunion, a fact in this town which requires no comment. What is most essential is that power should be taken by Government to frame rules so as to check such fraud by suitable penal provisions and select Muhammadan gentlemen be asked to discuss and frame the draft rules in committee for criticism of the public.

(3)

Letter—from Khan Bahadur H. A. R. Hajee Fakir Muhammad Sait, Landlord and Planter, Ootacamund.
To—the Collector of the Nilgiris.
Dated—the 12th November 1918.

I have the honour to acknowledge receipt of your Circular letter No. B.G. 1232 of 1918, dated 26th/29th ultimo giving cover to a draft Bill the Hon'ble Mr. Yaqub Hasan wishes to introduce in the Legislative Council and requesting me to express my opinion thereon.

After a careful perusal of the Bill and its objects the Bill seems unnecessary to me.

(4)

Letter—from Khan Bahadur H. A. R. Hajee Fakir Muhammad Sait, Landlord and Planter, Ootacamund.
To—the Collector of the Nilgiris.
Dated—the 30th December 1918.

I have the honour to acknowledge receipt of your R.B. & G. No. 1232/18 with its enclosures and beg to inform you that I have nothing more to add to what I have said in my letter to you of 12th November 1918.

The Bill seems quite unnecessary.

(5)

Letter—from Saiyid Shah Fakruddin Sufi, Persian and Urdu Munshi, Breeks' school, Ootacamund.
To—the Collector of the Nilgiris.
Dated—the 4th November 1918.

I acknowledge with thanks the receipt of your letter, dated 29th October 1918, with a copy of the draft Bill to provide for the voluntary registration of Mussalman marriages and divorces, and beg to state that I went through the Bill very carefully and my humble opinion is as follows:—

(1) The foundation of the Islamic laws and regulations is laid down by the Almighty God in his Holy Koran which was sent to his people through his beloved Prophet Muhammad the Great where the traditions and commands are perfect which no human being can dare to rectify or modify.

(2) It is more than 1,300 years ago that Koran was sent by God and all these years the laws governed so well which needed no modification or rectification.

(3) The excellence of the Islamic law is admitted by world-wide reformers for an example. Divorce was allowed among Muhammadans ever since the Koran was received and till about 30 years ago there was no divorce in Europe, but having found its wisdom after 1,300 years ago the Europeans admit divorce now.

(4) The Holy Koran has given us a perfect and needful lesson regarding all matters and it is the indispensable duty of every Mussalman to act to its commands and hence the Bill for the voluntary registration of Mussalman marriages and divorces is an unnecessary one.

(5) Under these circumstances no Mussalman who has the least knowledge of his religion will agree to bind and sacrifice his religious liberty and freedom which the Almighty has granted him by getting himself yoked under the so called Bill which the Honourable Member desires to introduce in the Local Legislative Council.

It is satisfactory to note that the Honourable gentleman in paragraph 25 (*a*) of his Bill himself confesses the simple manners of the Islamic law of marriage and divorce and also adds the same principle in conclusion of his statement.

In face of his own confession and under all the above circumstances the Bill stands useless and uncalled for.

(6)

Letter—from Saiyid Shah Fakruddin Sufi Sahib, Persian and Urdu Munshi, Breeks' school, Ootacamund.
To—the Collector of the Nilgiris.
Dated—Ootacamund, the 3rd January 1919.

I acknowledge with thanks the receipt of your letter, dated the 4th December last, with 4 enclosures sent by the Hon'ble Mr. Yaqub Hasan Sahib concerning the Bill to provide for the voluntary registration of the Mussalman marriage and divorce, and beg to state that I went through the papers very carefully and my humble opinion is as follows:—

(1) I adhere to my opinion which I submitted to you on the 4th November 1918.

(2) Ulma and Mashaikheen of Madras have passed a religious resolution against the Bill in question, and have declared the invalidity of the subject matter of the Bill, in face of the Moslem Religious Law, which needs no modification, also similar resolutions have been passed in various places of the Madras Presidency.

(3) The orthodox Mussalmans who are in duty bound to safeguard the honour of the Religious Law, are offended by the Bill in question, the best solution for the same on the part of the Hon'ble Mr. Yaqub Hasan Sahib is to withdraw the said Bill.

(7)

Letter—from S. Muhammad Qassim Sahib, Secretary, Wellington Mosque.
To—the Collector of the Nilgiris.
Dated—the 26th November 1918.

In acknowledging receipt of R.B.G. 1232/18 of 29th ultimo and the letter dated 14th November 1918 I humbly beg to submit that the delay in reply is entirely due to the consulting I have had from my co-religionists for which I beg your pardon.

The Bill to provide for voluntary registration of marriages and divorces of the Mussalman community introduced by the Hon'ble Yaqub Hasan Sahib Bahadur into the Local Legislative Council (in the opinion of my community) will be of an invaluable benefit and it is a step which will lead them towards vital communal progressive requirements.

(8)

Letter—from F. Fakir Muhammad Sait, Secretary, Anjumani Islamia, Ootacamund.
To—the Collector of the Nilgiris.
Dated—the 11th November 1918.

I have the honour to acknowledge receipt of your Ref. B. & G. No. 1232/18 of 26th October 1918 with copies of the draft Bill and statement of objects and reasons which the Hon'ble Mr. Yaqub Hasan desires to introduce in the Legislative Council and to enclose herein copy of a resolution passed by the leading Moslem of this place at a meeting held at the Anjuman Hall on the 10th November 1918.

"The members of this association and the Moslems of Ootacamund in general agreeably and unanimously resolve that the introduction of this Bill into the Legislative Council, seems unnecessary, and as such do not support it."

(9)

Letter—from F. Fakir Muhammad Sait, Secretary, Anjumani Islamia, Ootacamund.
To—the Collector of the Nilgiris.
Dated—the 3rd January 1919.

In reply to your letter No. 1232, dated 4th December 1918 giving cover to copies of Proceedings of the Legislative Council, the Hon'ble Mr. Yakub Hasan's Bill, etc., I have the honour to append hereunder copy of resolution passed at the public meeting held at the Anjuman Hall on the 29th instant:—

"That this Anjuman and the Moslems of Ootacamund do not see the need to change their opinion already recorded in the meeting held on the 10th November 1918, and communicated to the Collector of the Nilgiris on the proposed Bill to be introduced by the Hon'ble Mr. Yaqub Hasan to provide for the voluntary registration of Moslem marriages and divorces, that the members of this association and the Muslims of Ootacamund in general agreeably and unanimously resolve that the introduction of this Bill into the Legislative Council seems unnecessary and as such do not support it."

LXIX

Letter—from H. T. Reilly, Esq., I.C.S., Collector of Trichinopoly.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—the 25th February 1919.
No.—R.C. 1339/B. & G. of 1918.

With reference to Government Memorandum No. 1519-8, dated 12th October 1918, calling for the views of representative Muhammadans and Muhammadan bodies on the Bill to be introduced by the Hon'ble Yaqub Hasan, I have the honour to report that the marginally-noted individuals and bodies including the Government Kazi referred to in Government Memorandum No. 1519-9, dated 4th November 1918 were consulted in the matter.

Muhammadan gentlemen.

(1) Town Kazi.
(2) Moulvi Saiyid Murtuza Sahib.
(3) Kalifulla Sahib, M.A., B.L.
(4) Agent to the Prince of Arcot.
(5) Subadar-Major Mir Abbas Sahib.
(6) Muhammad Zinda Sahib Bahadur, Tahsildar.
(7) The Assistant Inspector of Schools, Muhammadan Range.
(8) Inamdar of Eachampatti, District Board Member.

Muhammadan bodies.

(1) Coronation Commercial Moslem League, Palakkarai (Kanji Mean Sait).
(2) Secretary, Muzzi-li-ululama, Palakkarai.
(3) Literary Moslem Society, Fort (Secretary Abdul Salam).

2. The opinion of (1) the Government Kazi, (2) the Agent to the Prince of Arcot, (3) Muhammad Zinda Sahib Bahadur, Tahsildar, (4) Subadar-Major Mir Abbas Sahib Bahadur and (5) The Moslem Literary Society and a copy of the proceedings of a public meeting held by some of the leading Muhammadans of the town are now available and are submitted herewith. Except Subadar Major Mir Abbas Bahadur, all support the Bill. They have not criticized the Bill in detail, but have offered only two suggestions, viz., that the seal of the Mussalman Registrar should be in the Arabic character instead of the Persian, and that the Kazis and Pesh Imams should be appointed by Government in consultation with the leading Muhammadans of the respective locality. Subadar Major Mir Abbas-Bahadur, on the other hand, thinks that existing system sanctioned by the Muhammadan law is quite good and that any reformation should come from within. He is opposed to State legislation in religious matter as it would be viewed with suspicion.

3. The conservative Muhammadans will no doubt be against the Bill but the educated will support it.

4. The views of other Muhammadan gentlemen will be submitted on receipt.

Enclosure

(1)

Proceedings of the public meeting of the Mussalmans of Trichinopoly dated 7th December 1918.

Present :

1. Town Kazi.
2. V. S. Muhammad Ibrahim Ravuttar Bahadur.
3. Moulvi Muhammad Fazi Sahib Bahadur, Secretary of the Muzzili-ul-ulima, Palakkarai.
4. Moulvi Abdul Wahab Sahib Bahadur.
5. Khan Sahib Sheik Ismail Sahib Bahadur.
6. Moulvi Saiyid Murtuza Sahib Bahadur.
7. Abdul Salam Sahib Bahadur, Secretary of the Literary Moslem Society, Fort.
8. P. Kalifulla Sahib Bahadur, M.A., B.L.
9. T. Muhammad Sulaiman Sahib Bahadur.
10. Aziz-ud-din Ahmad Sahib Bahadur, B.A.
11. Gulam Khadir Sahib Bahadur, B.A., T.S.M.

Resolutions.—

I. Resolved that this meeting of the leading Mussalmans of Trichinopoly accords its cordial support to the Bill for the voluntary registration for Mussalman marriages and divorces. The meeting further suggests that the seal of the Mussalman Registrar be in Arabic characters instead of Persian characters as stated in the draft bill.

Proposed by Moulvi Saiyid Murtuza Sahib Bahadur.

Seconded by the Town Kazi.

Supported by Khan Sahib Sheik Ismail Sahib Bahadur.

Carried unanimously.—

II. That this meeting is further of opinion that the Kazis and Pesh Imams to be licensed by the Government under the Bill should be so licensed after consultation with the leading Mussalmans of the respective localities.

Proposed by Moulvi Muhammad Fazi Sahib Bahadur.

Seconded by Moulvi N. Abdul Wahab Sahib Bahadur.

(2)

Letter—from Mir Abbas Sahib Bahadur, Subadar-Major, Trichinopoly.
To—the Revenue Divisional Officer, Trichinopoly.
Dated—the 14th February 1919.

In returning herewith a copy of the Bill to provide for the voluntary registration of Mussalman marriages and divorces I beg to state that the old system instituted by Muhammadan law is quite good and I therefore do not see the necessity of providing any new law for it.

If any defects exist they can easily be rectified by the community itself. As this is a religious matter Government intervention will certainly be viewed with suspicion which should be carefully avoided, there being more harm in it than any good.

Every department has its own faults so the Registration of Mussalman marriages, etc., has some. But very few serious mistakes have resulted for centuries past. I therefore, object to Mr. Yaqub Hasan's Bill.

(3)

Letter—from Saiyid Shah Mustafa Sahib Qadiri, Government Kazi, Singartope street, Trichinopoly.
To—the Revenue Divisional Officer, Trichinopoly.
Dated—the 15th February 1919.

With reference to your letter R.C. No. 162/Sup., dated 9th February 1919, I have the honour to inform you that I cordially accord my support to the Bill to provide for the voluntary registration of Moslem marriages and divorces introduced by the Hon'ble Mr. Yaqub Hasan Sahib and that I further suggest that in case of a need for any subsequent rule or amendment for the working of the Bill the same should be framed only after getting the consent of the Moslem public.

(4)

Letter—from Maulvi Muhammad Abdur Rahman Sahib Bahadur "Shatir," Agent to the Prince of Arcot, Amir Mahal, Madras.
To—the Revenue Divisional Officer, Trichinopoly.
Dated—the 16th February 1919.
No.—265.

With reference to your letter R.C. No. 162 Sup., dated the 9th instant and despatched on the 11th instant, inviting my opinion on the provisions of the Bill for the voluntary registration of Mussalman marriages and divorces within three days at the latest which reached me only to-day as will be seen from the cover herein enclosed, I have the honour to state that I have hardly sufficient time to express my views in detail on the subject. However I must say that I agree with the main principles of the Bill and am inclined to think that unless and until the Kazi's Act is so amended as to meet the present requirements and put a stop to the prevalent vices, some such legislative measure as the one under contemplation is imperatively necessary. I may also mention that the provisions of the Bill do not in the least militate against the injunctions of our religion.

(5)

Letter—from Muhammad Zinda Sahib Mahajir, B.A., Tahsildar of Trichinopoly.
To—the Revenue Divisional Officer, Trichinopoly.
Dated—the 13th February 1919.
No.—D. Dis. 377/Rev.

In reply to your R.C. No. 162/Sup., dated 9th February 1919, I beg to state that I am in full accord with the principles underlying the Bill proposed to be introduced by the Hon'ble Mr. Yaqub Hasan.

(6)

Letter—from Muhammad Abdul Salam Sahib, Secretary, the Moslem Literary Society, Trichinopoly.
To—the Revenue Divisional Officer, Trichinopoly.
Dated—the 13th February 1919.
No.—123.

With reference to your letter R.C. No. 167-Sup., I have the honour to send a copy of the resolutions passed at a public meeting of Muhammadans of Trichinopoly under the auspices of the Moslem Literary Society, Trichinopoly, to consider the Bill to provide for the voluntary registration of Moslem marriages and divorces on the 2nd and 3rd instants with Janab Moulvi Qadir Pacha Sahib Khatheeb and Janab Saiyid Shah Mustafa Sahib Khadri Khatheeb, Kothaval Chavadi mosque, respectively, in the chair.

Sub-enclosure.

Extract from the public meeting of the Moslem Literary Society, Trichinopoly, held on the 2nd and 3rd instants.

Resolution.—That this public meeting of the Mussalmans of Trichinopoly gladly gives its strong support to the Bill of voluntary registration of Moslem marriages and divorces introduced by the Hon'ble Mr. Yakub Hasan and further suggests that the following amendments should be made :—

(*a*) Moslem registrars should be appointed with the consultation of the Mussalmans of the locality.

(*b*) In case of a need for any subsequent regulation or rule for the working of the Bill, the same should be framed only after getting the consent of the Moslem public".

LXX

Letter—from Muhammad Abu-Bakar Faqir-ud-din Ahmad Sahib, Kazi of Madras.
To—the Secretary to Government, Legislative Department (through the Collector of Madras).
Dated—the 25th February 1919.

I am the Kazi of Madras, chief priest and sermon preacher attached to the Big Mosque, built by the late Nawab Wallajah in Georgetown, Madras, appointed by Government.

As Kazi of Madras, I am solemnizing marriages in the town of Madras from the time I attained majority and, prior to this, my forefathers and ancestors had done this business for two hundred years and over, that is to say, the post I hold is a hereditary and ancestral one.

As Kazi of Madras, I am attending also to the duty of divorces (i.e., breaking of marriages, i.e., separation of husband and wife).

As the jurisdiction over which I preside is so extensive that it is not possible for one individual to attend to these onerous duties and consequently I have appointed several deputies under me to attend to these multifarious duties, who, as per my orders, do the work and enter them in the general register maintained by me.

Now I find from my personal experience that there are certain cases of sham and foul marriages and divorces brought to civil and criminal courts for trial and that no step has yet been taken by the Muhammadan community to put a stop to this illegal and frivolous habits and that no Muhammadan leader or representative has taken the least pains to remedy these evils which the Muhammadan community is labouring under, and if these evils are allowed to exist without nipping them in the bud, it is likely that shame and ignominy would be the result and the community will ultimately lose its prestige and estimation in the eyes of other communities.

I am glad to learn that this point has just struck the present Muhammadan Legislative Member the Hon'ble Mr. Yaqub Hasan Sait, may 'God bless him' and that he has taken sufficient pains to remove these evils.

The Bill he has submi ted to the Council, copy of which has recently been circulated to one and all, is a clear proof of his sympathetic views necessary for the welfare of his community. In that, he has founded sufficient means to safeguard the interests and bring about a reasonable reconciliation both for the rich and the poor. His means of registration of marriages is paramount and unshaken, and does not interfere with our religious rights nor is it in any way against the doctrines or the precepts of the 'Koran'. It does not give any loop-hole for the fabrication or the falsification of any marriage or divorce.

In these circumstances, I beg to support cordially the suggestions made in the said Bill framed by the Honourable Member and request that all the members of the Legislative Council of Fort St. George will unanimously pass it into an Act.

In this connexion, I beg to submit that the Muhammadan public whom I consulted jointly and severally are of opinion that the proposed Legislation is not productive of any hardship but, on the other hand, it will do immense good to the public and save them from all stains and blots that they are at present subjected to.

With these my humble views.

N. Dis. No. A-662, *dated* 1*st March* 1919.

Forwarded to the Secretary to Government, Home (Miscellaneous) Department in continuation of my R.O.C. No. 1351/B. & G. of 1918, dated 27th January 1919.

A. Toitenham,
Collector.

LXXI

Letter—from H. T. Reilly, Esq., I.C.S., Collector of Trichinopoly.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—the 12th March 1919.
No.—R.C. 1339/B. & G.

In continuation of this office R.C. No. 1339-B. & G. of 1918, dated 25th February 1919, I have the honour to submit herewith the views of the marginally * noted two Muhammadan gentlemen on the Bill for the registration of Mussalman marriages and divorces. They both agree to the provisions of the Bill.

* (1) A. Ahmad Sahib B.A., Sub-Assistant Inspector of Schools.
(2) Saiyid Shah Abdul Latif Sahib Shuttari, inamdar of Kalpalaiyam.

Enclosures.

(1)

Letter—from Saiyid Shah Abdul Latif Sahib Shuttari, Inamdar of Kalpalaiyam, Trichinopoly.
To—the Revenue Divisional Officer, Trichinopoly.
Dated—the 22nd February 1919.

I was in receipt of your letter No. 152/Sup., dated 9th February 1919, and the Kazis Act on 13th February 1919. As I had been to Negapatam I was not able to reply you earlier. I beg to be excused for the same.

I went through the Act completely. I do not find anything objectionable therein. Any person may get his marriage registered by a licensed kazi if he likes. If not, there is no compulsion, nor is he fined. The registration fee is only Rs. 1-4-0 as usual. It does not exceed that. If the marriage is a registered one, a copy is furnished to the bridegroom and the bride. There is all the benefit. So I beg to state that the Bill for registration will be beneficial to the Mussalmans greatly especially to those in the village parts.

(2)

Letter—from A. Ahmad Sahib, B.A., Sub-Assistant Inspector of Schools, Trichinopoly Muhammadan Range.
To—the Revenue Divisional Officer, Trichinopoly.
Dated—the 21st February 1919.
No.—R.C. 10-Gl.

With reference to your R.C. No. 162-Sup., dated the 9th February 1919, I have the honour to state that I am in perfect agreement with the provisions of the Bill for the voluntary registration of Mussalman marriages and divorces. In my opinion the Bill undoubtedly provides a system calculated to safeguard Mussalman interests and put an end to many malpractices that are prevalent under the present defective method of maintaining records of Mussalman marriages.

LXXII

Letter—from A. F. G. Moscardi, Esq., I.C.S., Collector of Ramnad.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—Madura, the 13th March 1919.
No.—D. Dis. 769-Rev.

In continuation of this office R.O.C. No. 1358 B. & G. of 1918, dated 7th February 1919, I have the honour to forward the opinion of another Muhammadan gentleman, Ayyathurai alias Peer Muhammad Ambalam, in the district on the provisions of the Bill for the voluntary registration of Mussalman marriages and divorces.

LXXIII

Letter—from A. Galletti, Esq., I.C.S., Collector of Chittoor.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—the 4th March 1919.
No.—L. Dis. 2620.

In continuation of my letter Dis. No. 4468 of 1918, dated the 1st February 1919, forwarding the opinions of certain persons on the proposed Bill for the voluntary registration of Mussalman marriages and divorces, I have the honour to forward a letter, dated the 25th February 1919, received from Kazi Saiyid Ismail Sahib of Punganur.

Enclosure.

Letter—from Khazi Saiyid Ismail Sahib, Punganur.
To—the Collector of Chittoor.
Dated—the 25th February 1919.
No.—2620.

I most submissively state that I herewith submit my humble opinion to the Government of Madras in Urdu in connexion with the Bill to provide for the voluntary registration of Mussalman marriages and divorces and to say that the same may be passed and humbly crave your honour will kindly submit the same to the Government of Madras.

LXXIV

Letter—from Kazi Saiyid Abdul Gaffur Sahib alias Ghudu Sahib, Hospet.
To—the Collector of Bellary.
Dated—the 17th February 1919.

Salams—In this letter I express my opinion (about Hon'ble M. Yakub Hasan's bill).

Where there is no kazi or naib kazi, the pesh imam of the hohalle or anybody else may be appointed and Government can under its superintendence arrange strong and compulsory registration.

2. Where there is a kazi with jagir or inam or he is hereditary they should be asked by Government to keep compulsory or voluntary registers and they should be entitled to the fees paid.

3. Government can arrange the recording, filing, etc., of all registers for every one.

4. Government should arrange to supply books to all jaghirdar, inamdar and hereditary kazis.

5. In some places where there is a kazi or naib kazi some persons work deceitfully in order to usurp the rights of rightful persons. Government should arrange to stop these (fictitious kazis).

6. Wherever there be two sections, whether large or small, no one except hereditary kazi can have the right of keeping register books (however learned he may be). Government should arrange this carefully.

7. If the inamdar and hereditary kazi has not ability in him Government should assist him with a deputy kazi and it is hoped Government will arrange to educate that kazi.

No. Dis. on C.P. No. 317, *dated 4th March* 1919.

Submitted to Government (Home Department) in continuation of this office report D. Dis. No. 532, dated 5th February 1919.

J. Hannyngton,
Collector.

To the Secretary to Government, Home (Miscellaneous) Department.

Sub-enclosure.

Petition from Kazi Saiyid Ismail Sahib, dated 25th February 1919.

As the irregularities caused by men officiating at marriages and errors in the marriage registers are on the increase owing to the weakness of the Kazi Act of 1880, hence an Act for the Registration of Marriages and Divorces is urgently required.

I approve the Bill published by His Excellency the Governor in 1918.

At present there being no one to supervise marriage registers and persons officiating at marriages, they, being quite independent, not only destroy the pages of the registers, but are also breaking the sacred law.

If their actions be viewed in accordance with the sacred law they will be regarded as deserving of severe punishment. For the eradication of all these evils and irregularities Mr. Yaqub Hasan's Bill will be a sort of machine.

There is no need for any amendment in the Bill as it has already been carefully drafted.

As the Bill proposes the registration of marriages should be voluntary.

There is no need for making registration compulsory, for when the registrars' offices are Government institutions the public, high and low, will have recourse to them. It is probable all marriages will be registered.

LXXV

Letter—from J. R. Huggins, Esq., I.C.S., Collector of Tanjore.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—the 16th March 1919.
No.—D. Dis. 1133/Rev.

In continuation of my D. Dis. No. 550-Rev., dated the 6th February 1919, reporting on the Bill for the voluntary registration of Mussalman marriages and divorces, I have the honour to submit herewith another communication on the subject from K. T. Abdul Rahim Sahib, Special Magistrate, Bench Courts, Tanjore.

Enclosure.

Letter—from K. T. Abdul Rahim Sahib, Special Magistrate, Bench Courts, Tanjore.
To—the Collector of Tanjore.
Dated—the 7th March 1919.

As requested by Janab Hon'ble Yaqub Hasan Sait, Madras, I have the honour to communicate my view through you to the Government about the Bill brought by him before the Legislative Council, Madras, for the voluntary registration of Mussalman marriages and divorces, I may state that the Bill has my whole hearted support and think that the registration should be made compulsory.

LXXVI

Letter—from J. K. Lancashire, Esq., I.C.S., Acting Collector of South Canara.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—Kasaragod, the 18th March 1919.
No.—D. Dis. 597/Rev.

With reference to Government Memorandum No. 1519–8, dated the 12th October last, I have the honour to forward herewith the views of representative Muhammadans and Muhammadan bodies in this district on the provisions of the Bill to provide for the voluntary registration of Musalman marriages and divorces. All those who have been consulted with the exception of Saiyid Ishaq Sahib of Karkal are strongly in favour of the Bill. Saiyid Ishaq Sahib proposes that, instead of imposing upon the Muslim public an Act which will be viewed as an innovation, some amendment may be introduced into the existing Kazi Act, XII of 1880.

2. Muhammad Schamnad Sahib of Kasaragod and Saiyid Ishaq Sahib suggest that the registration of Mussalman marriages and divorces should be made compulsory but the majority are of opinion that it should not be made compulsory at any time.

3. The changes proposed in sections 10 and 11 of the Bill by Khan Sahib Haji Abdullah Haji Qasim Sahib and Muhammad Usman Yusuf Sahib seem desirable.

4. Janab Government Kazi Sahib, Kasaragod, referred to in Government Memorandum No. 1519–9, dated 4th November 1918, is reported to have died on 1st December 1918; so it was not possible to obtain his views on the subject.

Enclosures.

(1)

Letter—from Khan Sahib Haji Abdullah Haji Qasim and Muhammad Usman Yusuf, B.A., LL.B. (Alig).
To—the Divisional Officer, Coondapoor.
Dated—Udipi, the 19th November 1918.

With reference to the Bill No. 7 of 1918, we humbly beg to submit as follows.

After due consideration over the provisions of the Bill for the voluntary registration of Mussalman marriages and divorces, we are fully convinced of the necessity of such legislation and therefore we entirely support it.

The Bill will undoubtedly be very beneficial to the Muhammadan community, as it will save many Mussalman families from being involved in unnecessary litigation.

But, we think that it should not be made compulsory at any time and that the following change in its provisions should be introduced, viz.:—

1. That where the parties to a marriage are illiterate their thumb impressions shall be taken in addition to their usual marks of signatures (section 10).

2. That the Mussalman Registrar shall deliver copies of the entries to the parties, whether they apply for them or not, immediately after the registration of marriage or divorce (section 11).

3. That in section 22, after the words "shall be filed" the words "after it is exhausted" must be introduced.

In conclusion we thank the Hon'ble Mr. Yaqub Hussan Sahib Bahadur for his sevices to the community and also to the Local Government in anticipation that it will give its full support to the Bill.

(2)

Letter—from M.R.Ry. P. N. Krishna Rao, Tahsildar of Karkal taluk.
To—the Divisional Officer, Coondapoor.
Dated—the 20th December 1918.
No—Dis. 1227 D./Rev.

With reference to your endorsement Ref. on C.C. No. 1613-Rev., dated the 5th ultimo, I beg to submit herewith the views of the leading Muhammadans of Karkal on the subject of voluntary registration of Mussalman marriages and divorces obtained through Mr. Saiyid Isaac Sahib Pensdenes, Karkal, and I have no remarks to offer thereon.

Sub-Enclosure

An enactment for the registration of Mussalman marriages and divorces is a necessity which has long been felt and is therefore highly desirable. For, in that case the evils attending the present system which is growing apace will be mitigated. As things stand, the system is open to malpractices which are difficult to control. The enactment proposed would keep all such abuses in check and confer uniformity and security on the registration.

2. The appointment of Muslim Registrar, making it obligatory on them to enter all the marriages that are solemnized in the registers supplied by Government with the attestation of parties, witnesses, etc., is also a necessity that cannot be overlooked. Because such appointments would fall to the lot of really deserving candidates and the unscrupulous and shabby manner in which such duties are performed by irresponsible persons would be brought to an end. And to make it obligatory on them to enter the marriages in the register supplied by Government, would obviate the haphazard manner in which the entries are made on any paper they liked and at any time they wished and ensure uniformity and correctness of the entries which preclude the chance of being tampered with.

3. Under the present conditions, the registration is optional, and if, as is proposed in the Bill, the registration continues to be permissive, I do not see what good will come out of the Bill, except it be that a new Act has been introduced by way of reformation to provoke the feelings of the Muhammadans. All the time and labour devoted to the subject will have been spent in vain. Unles the registration is made compulsory, no benefit will accrue; because no marriage would be invalid for want of registration. Seeing that the Bill is lax on that point the people would naturally avoid such registration and be free to have their own way; and we will be no way better off. The evil propensities will continue as before.

The compulsory character of registration would give better status to the function and its validity would be assured. It will thus have far-reaching significance, without entrenching on the religious and social susceptibilities. When compulsory registration is adopted, the additional sections as suggested by the mover of the Bill, will have to be taken into account.

If, instead of imposing upon the Muslim public an act which will be viewed as an innovation, not palatable to many, some amendment be introduced into the existing Kazi Act XII of 1880, incorporating therein the necessary clause regarding the compulsory nature of the registration on the lines proposed by the mover of the Bill with penalty for non-compliance with the said terms, it will, I hope, answer the purpose. This will probably not raise hue and cry which is inevitable whenever a new Act is brought into discussion as in these times such things are viewed in suspicious and prejudicial light, irrespective of the fact that it would do good to them. If this suggestion be upheld, there is no apprehension of the clause being misconstrued as the people are already aware of the recording of the marriages by persons solemnizing the marriages; and this clause, instead of becoming a subject of controversy, will be taken as a slight improvement on the existing system.

No doubt, this clause may not be applicable in some parts of this presidency, where there are no Government Kazis. But as the proposed system is bound to work systematically and satisfactorily throughout the places served by the Government Kazis, there will be strong incentive to those in the unrepresented parts, the people whereof will necessarily come forward and insist upon having either Government Kazis appointed for their respective areas or to have the local Kazis invested with the powers attached to the Government Kazis.

(3)

Letter—from M.R.Ry. R. Siva Rao, Acting Tahsildar of Coondapoor taluk.
To—the Revenue Divisional Officer, Coondapoor Division.
Dated—the 11th December 1918.
No.—958-D/Rev.

With reference to your order Ref. on C.C. No. 1613, dated the 9th instant, I beg to report as follows:—

2. I convened a meeting of the marginally noted Kazis and Mussalman committee members of this taluk on 22nd November 1918, read over and explained to them in Kanarese, the provisions of the Bill No. 7/18 which the Hon'ble Yaqub Hasan Sahib Bahadur intends to introduce into the Legislative Council and obtained their views on the provisions of the same. They generally approve the

(1) Muhammad Hayath Khan Sahib, Naib Kazi, Coondapoor kasba.
(2) Nakwa Ahmad Haji Sahib, committee member, Koondapoor taluk.
(3) Abdul Khader Sahib, son of Haji Ibrahim Sahib, Gangolli.
(4) Khaji Muhammad Moilar Sahib, Hanglur.

Bill which they consider as a boon with reference to their present loose system of registering marriages and divorces, but they make the following suggestions, which, they wish, may be incorporated in the Bill—

(1) *In cases of marriage registration*—(*a*) That the amount of "mahār (dower to be given by the husband to the wife at the time of marriage) should be settled at the time of 'nikah' (marriage) and registered as a first and prior debt against the husband at the time of registering the marriage.

(*b*) That the 'nikah' of a person who marries at a place other than his reputed residence, should not be registered unless the Kazi or Muslim Registrar of the place is satisfied from a certificate or letter from the Kazi of the applicant's former place of residence, that the applicant has not contracted a previous 'nikah', or if he has, that he has fully discharged the onus of his first 'mahār'.

(2) *In cases of registration of divorces other than khula*—(i) If a woman is divorced (by means of talāk) by her first husband, her marriage with a second person should not be registered until and unless 'Iddat', i.e., a period of three months and ten days, elapses after the divorce. Neither the husband nor the wife should have any right to decrease or to increase the amount of 'mahār' once settled on the score of its being heavy or light.

(ii) If the husband of a 'Sayyib' (or a girl who has been married during her minority) divorces her by means of 'talāk' during her minority, or if he dies during her minority, the marriage of such a girl with a second person before she attains age should not be registered.

(*c*) Even if a husband divorces his wife by uttering talāk twice to her, the divorce should not be registered until and unless a period of three months and ten days elapses from the date of uttering the second '*talāk*' as such registering would be invalid. As to the suggestion of certain of the Mussalman gentlemen referred to above that the age and place of residence of the parties to a marriage should be registered, I beg to state that provision has already been made for it in columns 2 to 4 of Book I in Form A referred to in schedule to sections 6 and 10 of the Act appended to the Bill.

Their statement obtained by me are submitted herewith.

Ref. C. C. No. 1613, *dated* 28*th December* 1919.

Submitted to the Collector of South Kanara in continuation of this office report Ref. on C.C. No. 1613-Rev. of 1918, dated the 9th instant.

R. Siva Rao,
Revenue Divisional Officer.

(4)

Letter—from M. Muhammad, Khan Sahib, Retired Sub-Magistrate, Mangalore.
To—the Revenue Divisional Officer, Mangalore.
Dated—the 31st December 1918.

With reference to the Bill to provide for the voluntary registration of Mussalman marriages and divorces I beg to state that I went through the provisions of the Bill very carefully and that I have no changes or modifications to suggest. It will undoubtedly be a boon to the Mussalman community as it will save many families from unnecessary litigation. The introduction of the Bill is therefore an absolute necessity.

(5)

Letter—from M. Muhammad, Khan Sahib, Retired Sub-Magistrate, Mangalore.
To—the Revenue Divisional Officer, Mangalore Division.
Dated—the 30th November 1918.

Adverting to your reference C.C. No. 1732 Rev. 1918, dated 21st instant (received yesterday), forwarding to me copy of the Bill to provide for the voluntary registration of Mussalman marriages and divorces, I beg to express my views on its provisions briefly as follows.

2. If the Registrar of marriages is the Kazi or Naib Kazi, etc., who performs the nikah ceremony he should register the marriage at the time and receive no fee for the registration inasmuch as he generally gets a nikah fee of five rupees at a marriage. In cases where the Registrar is other than the nikah performing gentleman, he should, while going on invitation to attend at the marriage, take with him his register so as to record it on the spot. He should also be paid carriage allowance when necessary. Clause (*c*) of section 25 of the Bill may be revised accordingly. This course will save all the trouble and inconvenience to the parties and their witnesses resorting to him afterwards.

3. The fee of Rs. 1-4-0 fixed by section 9 of the Bill for the registration of a marriage or divorce is high. It may be reduced to four annas and if not, many a poor man will, of course, avoid making application for the registration. The fee of one rupee provided by section 15 for a certified copy of an entry in the register may also be reduced to four annas as it will be in but few lines.

4. After the word "parties" in the last line of clause (*c*) to section 25 the words "or their guardians or relatives" may be necessarily inserted.

5. I see no other remarks against the Bill being passed into Law.

(6)

Letter—from Chilmi Nizamuddin Sahib Bahadur.
To—the Revenue Divisional Officer, Mangalore Division.
Dated—Chilmi Mangalore, the 7th December 1918.

I am in receipt of your letter of reference No. 1732, dated 21st November 1918, and the copy of Bill No. 7 of 1918, to provide for the voluntary registration of Mussalman marriages and divorces, introduced by the Hon'ble Yaqub Hasan Sahib Bahadur in the Provincial Legislative Council to be passed as an Act.

I went through the Bill and I am of opinion that the rate of fees charged under section 9 of the Bill for the registration of marriages and divorces, and under section 15, for the grant of copies, is too high, and thus will prevent rather than encourage, the voluntary registration of marriages and divorces; for it is a known fact that in general, the Muhammadan community of our district is rather hard pressed financially.

Moreover, I think it is better that the registration of a marriage or divorce should take place immediately after the marriage or divorce is being effected rather than "within one month" as stated under section 9 of the Bill; for, this change will put an end to many abuses which will otherwise be forthcoming and will prevent further misrepresentations.

Nevertheless I am of opinion that the Bill, if passed into an Act of the legislature, will be beneficial to the Mussalman community.

(7)

Letter—from the C. Abdur Rahman Sahib, Merchant, Mangalore.
To—the Revenue Divisional Officer, Mangalore.
Dated—the 12th December 1918.

In reply to your reference C.C. No. 1822 Rev., dated 9th December 1918, I beg to state that after going through the Hindustani copy of the Mussalman Marriage and Divorce registration Bill received therewith I find that there is no objection to the Bill being passed as it will be conducive to the interests of the Mussalmans. But I am of opinion that as the Nikah performing gentlemen (Kazi, Naib Kazi, etc.,) will be appointed Registrars of marriages, etc. they should register the same on the spot and as they receive a handsome Nikah fee, a separate fee for registration may be dispensed with in their case. So section 9 of the Bill may be amended in that direction, also the copy fee of one Rupee mentioned in section 15, may be reduced to four or five annas.

(8)

Letter—from Mahammad S. Chamnad Sahib Bahadur, President, Izzatul Islamia Club and Honorary Secretary, Muslim Educational Association, Kasaragod.
To—the Tahsildar of Kasaragod.
Dated—the 3rd December 1918.

With reference to your reference on C. No. 2482 Sup., 1918, regarding Hon'ble Mr. Yaqub Hasan's Bill for the voluntary registration of Mussalman marriages and divorces, I have the honour to inform you that I consulted the members of Muslim Educational Association and Izzatul Islamia Club, Kasaragod, about this Bill and also other leading gentlemen and moulvis here and we have resolved as follows:—

(i) There is urgent need for an enactment providing for the registration of Mussalman marriages and divorces.

(ii) It is necessary to appoint Muslim registrars whose duty it will be to enter all the marriages solemnized by them as well as those solemnized by others if reported in due time and proper form, in registers supplied by Government and to have the registers signed by the parties, witnesses and himself or by the solemnizer and himself as the case may be.

(iii) It is further necessary to make some alterations in the Bill in order to make registration of marriages and divorces compulsory. The Muslim registrars shall be held responsible for the registration of all marriages and divorces solemnized in their presence as well as of those done by others if reported within a fixed time and in the proper form. The other solemnizers shall be responsible to report all the marriages and divorces conducted by them, to the proper Muslim Nikah Registrar within a fixed time say 15 days—and in an authorized form.

If the muslim registrar or the other solemnizer fails in his duties, he shall, on conviction thereof, be punished with a fine not exceeding rupees two hundred.

(9)

Proceedings of the meeting of the members of the Mufiegrul Islamia Majlis at Puttur, dated the 1st February 1919.

* * * * * *

Read letter dated 31st January 1919, from the Tahsildar of Uppanangadi taluk, forwarding for remarks a copy of the Bill to provide for the voluntary registration of Mussalman marriages and divorces moved by Hon'ble Mr. Yaqub Hasan, dated 13th August 1918, and requesting to convene a meeting and communicate a copy of the resolution of the meeting.

Resolution.—Resolved unanimously to adopt the rules laid down in the "Masoodai Khanoos" written in Hindustani language.

H. Makhdum Ismail,
President.

LXXVII

Letter—from R. Narayana Ayyar, Esq., M.A., I.C.S., Bar.-at-Law, Acting Collector of Coimbatore.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—Coimbatore, the 21st March 1919.
No.—R.O.C. 1650/B. & G. of 1918.

In reply to Government Memorandum No. 1519-8, dated 12th October 1918, I have the honour to submit herewith the views of representative Muhammadans and Muhammadan bodies in this district on the "Registration of Mussalman Marriages and Divorces" Bill which the Hon'ble Yaqub Hasan Sahib Bahadur desires to introduce into the Legislative Council.

2. Among those consulted, the following are those who support the Bill:—

(1) The Kollegal Islamiah Anjuman.
(2) A. K. Muhammad Husain Sahib, Bhavāni taluk.
(3) I. A. Alaud-din Sahib ,,
(4) C. Nanu Sahib, Bhavani taluk.
(5) K. Badshah Sahib ,,
(6) P. M. Muhammad Hasan Sahib, Bhavani taluk.
(7) J. W. Hasan Sahib ,,
(8) Quazi Babjan Sahib ,,
(9) I. K. Abdur Rahman Sahib ,,
(10) T. A. Muhammad Usman Sahib ,,
(11) G. Salar Khan ,,
(12) B. M. Hayath Badshah Sahib ,,
(13) Quazi Jamaldeen Sahib ,,
(14) E. Asanud-din Sahib ,,
(15) Khaja Muhammad Sahib, Gobichettipalaiyam taluk.
(16) P. K. Khadir Mohideen Sahib ,,
(17) Muhammad Mullick Sahib ,,
(18) Muhammad Sheriff Sahib ,,
(19) (Signature illegible) ,,
(20) Syed Ismail Sahib ,,
(21) Mohid-din Khan Sahib ,,
(22) Khadir Badshah Sahib ,,
(23) Khan Sahib Saiyid Diwan Abdur Razak Sahib Bahadur, Chairman, Municipal Council, Udamalpet and President, Anjumanai Islamiah, Coimbatore, Udamalpet taluk.
(24) W. S. Khader Khan Sahib, Udamalpet taluk.
(25) U. K. Sinna Saiyid Ravuthar, private vakil and committee member, Muhammadan mosques, Udamalpet taluk.
(26) C. Muhammad Husan Sahib of Anamalai, late Union Chairman and Taluk Board Member, Pollachi taluk.
(27) Quazi Saiyid Jami Alan Sahib, Udamalpet taluk.
(28) Khader Muhiud-din Ravuttar ,,
(29) K. Rasul Ravuttar ,,
(30) The Pesh Imam, Erode, Erode taluk.
(31) Hafi Muhammad Rafi-ud-din Ravuttar Sahib, Municipal Councillor, Dharapuram taluk.
(32) Muhammad Abdur Rahim Alim Sahib, Pesh Imam, Dharapuram taluk.

From the views of the above-mentioned gentlemen, I gather that the Muhammadan community general is alive to the grave abuses of the prevailing system of registration of marriages and divorces, and that there is evidence of a general desire

among its members for some reform. The Kollegal Islamiah Association go so far as to suggest that registration should be made compulsory. Khan Sahib Saiyid Devan Abdur Razak Sahib Bahadur and Khan Sahib G. A. Ghulam Husain Sahib Bahadur cite certain notorious instances to prove the unsatisfactory nature of the present system which makes it possible for bogus claims to be set up and genuine ones suppressed. The following are some typical cases :—

(1) A Police constable Shaik Ahmad Sahib died intestate at Coimbatore in 1903, leaving property worth about Rs 27,000. He was a bachelor. He had made a will for Rs. 24,000 in favour of two minors, Babji Sahib and Mianji Sahib of Madura. These relations obtained a succession certificate in C.M.P. No. 199 of 1904; but soon after two women Mariam Bi and Kathem Bi also obtained a succession certificate claiming to be the deceased's wife and daughter cancelling the claim of the relations (C.M P. No. 327 of 1904). The second succession certificate was confirmed by the High Court. The marriage register maintained by the Khazi was brought to the Court on the first day of hearing but was subsequently reported to have been stolen. Some days after the hearing of the case, the register was discovered floating in the well of the mosque.

(2) In Pollachi, a husband gifted his properties to his wife some ten years ago. His own relations, out of enmity to the wife tore off the page in the marriage register showing the entry of marriage with the connivance of the Kazi and contended that the 'mahar' amount was much below the properties originally assigned.

(3) In another case, Bani Bi, daughter of one Kasim Sahib, was married to one Qadir Batcha alias Sodalai of Kolinjamparai. Some days after this, one Ali Bak again married her, Kazi Muhammad Jehanghir officiating. The woman was not divorced from her first husband. Qadir Batcha alias Sodalai complained to the Subdivisional Magistrate (R.C. No. 1 of 1902). During the trial of the case, the Kazi who performed the second marriage when examined as fifth accused stated on 27th February 1902 that he did not maintain the register though he had one, but only made the entries of 'nikka' and 'thalak' in loose sheets of paper.

Such cases are said to be not at all uncommon.

4. Among those who oppose the Bill are —

(1) B. Muhi-ud-din Khan Lodi Sahib Bahadur, Revenue Divisional Officer, Erode.
(2) K. A. Qadir Muhi-ud-din Sahib Bahadur, Taluk and District Board Member, Erode.
(3) Town Kazi Sahib, Erode.
(4) Khaja Qadir Muhi-ud-din Sahib, Erode.
(5) D. M. Abdul Karim Sahib Bahadur, Taluk and District Board Member, Dharapuram.
(6) Janab Government Kazi Sahib, Coimbatore.

But even the opponents of the Bill mostly condemn the existing practice and while fully alive to its defects, they are unable to suggest the best way to remedy them.

5. The criticisms advanced against the principle of the Bill fall mainly under two heads. Firstly, it is urged that registration is opposed to the spirit of freedom of the Muhammadan Law of marriage and is therefore repugnant to their religious sentiments, and secondly, that as a permissive measure only, it is not likely to remedy present evils. It is also stated that the proposed Bill would create an invidious distinction between registered and unregistered marriages and divorces and that the latter while perfectly valid under the Muhammadan Law will, in course of time, come to be viewed with suspicion, and the result will be increase of litigation and unsettlement of homes.

6. The Hon'ble Yaqub Hasan Sahib Bahadur indeed contemplates a time when no respectable family will perform a marriage without the precaution of registering it under the proposed law. I am not at all sure that he is right in this forecast. So long as the law of Muhammad which requires no record but only witnesses holds, many a marriage in respectable families will continue to be performed without the formality of registration and Courts of Law cannot safely make any presumption against their genuineness.

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7. The amendments and criticisms in respect of the provisions of the Bill are detailed below :—

The Chairman, Municipal Council, Udamalpet, suggests the following amendments—

(1) *Section* 3.—The words "unless more than one person has been doing such work in the place in which case the Governor in Council may appoint more than one person to meet the requirements of the locality" should be added to the first proviso.

(2) *Section* 3.—The words "and every Pesh Imam of the Mosque" should be added at the end of the second proviso as Pesh Imam also perform ceremonies and as their custody of the registers is preferable to that of the khazis.

(3) *Section* 4.—The words "or the Pesh Imam" should be added at the end.

(4) *Section* 19.—The words 'and deliver a copy of his order to the party who applied for registration" should be added to section 19.

(5) *Section* 20.—After the words "and the registrar" the words "after such inquiry as he thinks fit" should be added and in line 7 the words "and the order passed by the Registrar on appeal shall be final" should be deleted and the following words added "against this order one appeal is allowed to the Inspector-General of Registration whose order shall be final. The Inspector-General may, before passing such order, direct further inquiry and shall in his decision be guided by the Muslim Council of Ulemas at Madras to be specially constituted by the Government for the purpose. The number of Ulemas shall be five and the Council shall be presibed over by the Inspector-General."

(6) *Schedule form A.*—The words "and signature" should be added to the 12, word "name" in columns 2, 3, 5, 6, 7, 8 and 16.

(7) *Schedule form B.*—After the word "name" in columns 2, 3, 8, 9, 10 13 and 4, the words "and signature" should be added.

The Revenue Divisional Officer, Erode, offers the following criticisms against the provisions of the Bill :—

(1) *Section* 8.—Muhammadan brides being gosha women, they would find it very difficult to secure agents to get the marriages registered.

(2) *Section* 9.—(*a*) The fee of Rs. 1-4-0 proposed to be paid to the registrar will be an unnecessary expense.

(*b*) Since parties are given one month's time to get the marriages registered, difficulties will arise in the course of the inquiries which the registrar has to make before registration.

(*c*) It will not always be possible for the parties to adduce evidence a month after the marriage occurred.

(3) *Section* 10.—The brides will never be willing to appear before the registrar and to sign the record and any signatures by the representatives will give room for fraud.

(4) *Section* 11.—An honorary registrar will not be willing to give a copy of the entry in the register free of charge.

(5) *Section* 16.—An honorary registrar is sure to resent the control of Government official.

(6) *Section* 19.—Registrars will mostly be irresponsible men and their indiscriminate refusal to register marriages will result in much litigation.

(7) *Section* 21.—Since there is no public office for registrars they will have to keep the registers in their houses and this will give room for fraud.

(8) *Section* 23.—(*d*) Registrars will not be willing to pay the cost of seals, registers, etc., supplied to them and it is not worth while for the Government to incur any expense for these, especially as the fee of Rs. 1-4-0 levied is proposed to be given to the registrar.

(9) *Section* 24.—No honorary registrar will undertake the heavy duties involved on the office without remuneration and the Government might not be prepared to incur any expenditure on this account especially as there is nothing on the receipt side and as the fee of Rs. 1-4-0 levied is intended to be given away to the registrar.

(10) *Section* 25.—Since unregistered marriages and divorces are not rendered invalid and since registration itself is optional, the Bill is not likely to bring about any improvement.

(11) The Act as it stands at present, makes no provision for the framing of rules.

(12) The present evils could be removed by increasing the existing number of kazis appointed under the Kazis Act XII of 1880 and by issuing some departmental orders requiring them to notify to the Collector all appointments and the removals of Naibs under them.

8. I agree generally with the amendments proposed by the Chairman, Municipal Council, Udamalpet. But I doubt the efficacy of the provision relating to second appeals. The registrar's order should be final in the sense that it cannot be challenged by way of a departmental appeal but only by a suit. Amendments Nos. 6 and 7 also do not appear to be necessary in view of the provisions contained in section 10. I have no remarks to offer on the criticisms made by Mr. Muhi-ud-din Khan Lodi Sahib Bahadur except that some of the arguments are feeble and that the criticism is purely destructive.

9. There is no doubt that the present state of things is unsatisfactory. The question is whether the Bill is likely to improve it and whether the criticisms levelled against it are sound. Some improvement is certainly likely to result and much of the criticism is unimportant. The real opposition to the proposed measure is directed against the attempt to bring the free law of Islam in regard to marriages and divorces under control—especially official control. Permissive as registration is under the proposed law, I think its promoters are too sanguine about the benefits that will flow from it. At the same time, I believe that any law which seeks to make registration of marriage and divorces compulsory will be met with very serious opposition from the community as a whole as against the genius of the Law of Islam.

Enclosures.

(1)

Proceedings of the Kollegal Islamiah Anjuman at its special meeting dated the 6th November 1918.

Read letter from the Revenue Divisional officer, Kollegal, R.O.C. No. 946 Rev. Supr., dated the 29th October 1918, asking the opinion of the Anjuman regarding the Bill proposed by the Hon'ble Yaqub Hasan Sahib Bahadur to provide for the voluntary registration of Mussalman marriages and divorces.

Read also the said Bill published in the *Fort St. George Gazette*, dated the 8th October 1918.

Resolution.—The meeting resolves that the introduction of the Bill referred to is absolutely essential and that it should be made compulsory.

(2)

Letter—from the Kazi Saiyid Jami Alam Sahib, Udamalpet.
To—the Tahsildar of Udamalpet.

With reference to your order No. R.O.C. 1898 Sup., dated 14th November 1918, communicating copy of resolution of the Hon'ble Yaqub Hasan Sahib Bahadur, I have the honour to inform you that the people of my faction concur with the opinion of the said Honourable Member.

(3)

Letter—from U. S. Radir Khan Sahib, Udamalpet.
To—the Tahsildar of Udamalpet.
Dated—the 17th November 1918.

With reference to your order No. R.O.C. 1898 Sup., dated 14th November 1918, communicating copy of resolution of the Hon'ble Yaqub Hasan Sahib Bahadur, I have the honour to inform you that the people of my faction concur with the opinion of the said Honourable Member.

(4)

Letter—from U. K. Sinna Saiyid Ravuther, Vakil and Committee Member of Muhammadan Mosques, Udamalpet.
To—the Tahsildar of Udamalpet.
Dated—the 20th November 1918.

With reference to your endorsement R.O.C. No. 1893/Supr., dated 31st October 1918, calling for remarks on the Bill to provide for the Voluntary Registration of Mussalman Marriages and Divorces, I have the honour to report as follows.

2. The contents of the Bill were explained to the Mussalmans of the place and also to the Pesh Imams of the mosque and all agree that the facilities afforded therein to strengthen the rights of the couple and to prevent the abuses too common at present, are absolutely necessary to meet the needs of the present days.

3. The allegation that the provisions of this Bill contravene the sacred tenets of Islam is absolutely untenable as it is not obligatory on all to get their marriages and divorces registered in the books. A variety of circumstances has led to the abuses which the Bill tries to prevent in future. The complete absence of control over the Kazis, their poverty which makes them dance to the tunes of rival factions in villages, want of proper check over the momentary impulses of mankind, all these causes have led to a great scandal in the registration of marriages, etc., as at present conducted, so much so that with a few noble exceptions becoming fewer every day—it is not altogether impossible to tamper with the amount of the dowry or with the actual entries made in the Kazis books. It is therefore felt that some sort of public registration is absolutely necessary and if the Bill tends to reduce—if it does not altogether prevent—the abuses now so keenly felt by the Muhammadans, the mover of this Bill as well as the Government will be entitled to the gratitude of the community, the sober element of which stand staggered and helpless at the amount of mischief wrought by some of the Kazis and the misery involved on the poor and ignorant masses. Nor can it be said that the Bill is too early as the need has been felt for the past two decades. A police constable died intestate at Coimbatore ten years back. He was found to have had money dealings to the extent of 30 thousands. Every one knew him to have been an old bachelor. But when his distant relations from Madura came to claim the money it was contested up to the High Court that the man had married, had left a widow and married daughter whose minor sons claimed a share of the monies. I do not remember the decision of the High Court but all knew too well that the so-called widow and her daughter were only street women put up in the courts to admit the husbandship of the deceased constable. There was a Kazi who came up with an old book to say that the marriage had taken place some fifty years back. In Pollachi when a husband gifted some properties to his wife ten years back, his own relations out of enmity to her and with the connivance of the Kazi tore off the sheet of the marriage book and contended that the *mahar* amount was much below the value of the properties assigned. Such instances can be easily multiplied. Again the question of dowry and mahar is too important to be written on mere scraps of paper as is done at present. So also divorce which is resorted to mostly by the lower classes. The existing practice is extremely faulty and gives rise to very great abuses and much misery. The community mostly feel therefore that the fears expressed by the Hon'ble Muhammad Aziz-ud-din Hussain Sahib Bahadur are more imaginary than real.

4. I am also of opinion that the registration of marriage, etc., must for some time more, be left to the option of the community as the masses are not advanced so far as to welcome the remedy without misunderstanding the motives of the legislators. But the safeguard available in getting the registry made in a book supplied by Government are so apparent that in the course of a few years the Mussalman public will reject the old system and take to the new one wholeheartedly when, perhaps, and not till then, the Government or the Muslim leaders may try to make the registration compulsory. For these reasons I do not agree with the proposal of the Hon'ble Khan Bahadur Ahmad Tambi Marakkayar that the registration should be made compulsory.

5. I do not also share his fears that the Bill will be of no use without the element of compulsion and of punishment in default. Government cannot take the full or initial responsibility of effecting improvement in the interior socio-religious conditions of any community. Nor can the Acts of any legislative body however stringent its provisions are, lift the masses out of their ignorance without subjecting the legislature to a vast amount of suspicion and of misguided opposition. Even the Hon'ble Mr. Yakub Husain Sahib does not claim for his Bill the miraculous power of getting all the miseries remedied with one magic wand. All that he claims to do—and that is the only thing possible at present—is to afford to the Mussalman public an option to seek registration and avoid future troubles or to ignore the facility now placed before them and perpetuate the various miseries under which the community is groaning silently and helplessly.

6. I propose the following alterations in the Bill:—

(*a*) *Section 5.—Add* to the first proviso the words "unless more than one person has been doing such work in the place, in which case, the Governor in Council may appoint more than one person to meet the requirements of the locality."

This will add to the convenience of the public who must always have a choice to make in order indirectly to exercise a check over the vagaries of the registrars.

(*b*) *Section 3, second proviso.—Add* at the end "and every Pesh Imam of the mosque." Pesh Imams or leaders of prayers in all mosques also perform marriages and are generally resorted to by the intellectual portion of the community. Their custody of the registers is far more preferable to that of the Kazis. The registers should be left in the custody of the Muthavalli when the Pesh Imam leaves the mosque for good.

(*c*) *Section 4.—Add* the words "or the Pesh Imam" at the end.

(*d*) *Section 19.—Add* "and deliver a copy of his order to the party who applied for registration."

(*e*) *Section* 20.—After the words "and the Register" *add* "after such inquiry as he thinks fit." In sentence 7 delete the words "and the order passed by the Registrar on appeal shall be final" and *add* "against this order, one appeal is allowed to the Inspector-General of Registration whose order shall be final. The Inspector-General may, before passing such order, direct further inquiry and in his decision, be guided by the Muslim council of Hemas at Madras to be specially constituted by the Government for the purpose. The number of Ulamas shall be five and the council shall be presided over by the Inspector-General."

My object is not to make final the decision of a Sub-Registrar who is not conversant with the requirements of the community.

(*f*) *Form A, Book* 1.—After the word "Name" in columns 2, 3, 5, 6, 7, 8, 16, *add* "and signature."

(*g*) *Form B, Book* 2.—After the word "Name" in columns 2, 3, 8, 9, 10, 12, 13, 14, *add* the words "and signature."

(5)

Letter—from Khan Sahib Saiyid Devan Abdur Razak Sahib Bahabur, President, Anjuman Islamiah, Coimbatore, Member, District Board, Coimbatore, Vice-President, Taluk Board, Pollachi, and Chairman, Municipal Council, Udamalpet.
To—the Revenue Divisional Officer, Pollachi.
Dated—Udamalpet, the 22nd November 1918.

With reference to your endorsement R.O.C. No. 1293/Supr., dated 31st October 1918, calling for remarks on the Bill to provide for the voluntary registration of Mussalman marriages and divorces, I have the honour to report as follows.

2. The contents of the Bill were explained to the Mussalmans of the place and also to the Pesh Imam of the mosque and all agree that the facilities afforded therein to strengthen the rights of the married people and to prevent the abuses too common at present, are absolutely necessary to meet the needs of the present days.

3. The allegation that the provisions of this Bill contravene the sacred tenets of Islam is absolutely untenable as it is not obligatory on all to get their marriages and divorces registered in the books. A variety of circumstances have led to the abuses which the Bill tries to prevent in future The complete absence of control over the Kazis and their poverty which makes them dance to the tunes of rival factions in villages have led to a great scandal in the registration of marriages, etc., as at present conducted, so much so, that with a few noble exceptions—becoming fewer every day—it is not altogether impossible to tamper with the amount of the dowry or with the actual entries made in the Kazi's books. It is therefore felt that some sort of public registration is absolutely necessary and if the Bill tends to reduce—if it does not altogether prevent—the abuses now so keenly felt by Muhammadans, the mover of this Bill as well as the Government will be entitled to the gratitude of the community, the sober element of which stands staggered and helpless at the amount of mischief wrought by some of the Kazis and the misery involved on the poor and ignorant masses. Nor can it be said that the Bill is too early, as the need has been felt for the past several decades. A police constable died intestate at Coimbatore ten years back. He was found to have had money dealings to the extent of Rs. 30,000. Every one knew him to have been an old bachelor. But when his distant relations from Madura came to claim the money it was contended up to the High Court that the man had married, had left a widow and a married daughter whose minor son claimed a share of the monies. I do not remember the decision of the High Court, but all knew too well that the so-called widow and her daughter were only street-women put up in the courts to admit the husbandship of the deceased constable. There was a kazi who came up with an old book to say that the marriage had taken place some fifty years back. In Pollachi when a husband gifted some properties to his wife ten years back, his own relations out of enmity to her, and with the connivance of the kazi, tore off the sheet of the marriage book and contended that the mahar amount was much below the value of the properties assigned. Such instances can be easily multiplied. Again the question of dowry and mahar is too important to be written on mere scraps of paper as is done at present. So also divorce which is resorted to mostly by the lower classes. The existing practice is extremely faulty and gives rise to very great abuses. The community keenly feel therefore that the fears expressed by the Hon'ble Muhammad Aziz-ud-din Husain Sahib Bahadur are more imaginary than real.

4. I am also of opinion that the registration of marriage, etc., must for some time more be left to the willingness of the community as the masses are not advanced so far as to welcome the remedy without misunderstanding the motives of the legislators. But the safeguard available in getting the registry made in a book supplied by Government are so apparent that in the course of a few years the Mussalman public will reject the old system and take to the new one whole heartedly when, perhaps—and not till then—the Government or the Muslim leaders may try to make the registration compulsory. For these reasons I do not agree with the proposal of the Hon'ble Khan Bahadur Ahmad Tambi Marakkayar that the registration should be made compulsory at once.

5. I do not also share his fears that the Bill will be of no use without the element of compulsion and of punishment in default. Government cannot take the full or even initial responsibility of effecting improvement in the internal socio-religious conditions of any community. Nor can the acts of any legislative body—however stringent its provisions—lift the masses out of their ignorance without subjecting the Legislature to a vast amount of suspicion and of misguided opposition. Even the Hon'ble Mr. Yaqub Hasan Sait does not claim for his Bill the miraculous power of getting all the evils remedied at once with one magic wand. All that he claims to do—and that is the only thing possible at present—is to afford to the Mussalman public an option to seek registration and avoid future troubles, or, to ignore the facility now placed before them and perpetuate the various miseries under which the community is groaning silently and helplessly.

6. I propose the following alterations in the Bill:—

(*a*) *Section* 3.—*Add* to the first proviso the words "unless more than one person has been doing such work in the place, in which case, the Governor in Council may appoint more than one person to meet the requirements of the locality." This will add to the convenience of the public who must always have a choice to make in order, indirectly, to exercise a check over the vagaries of the kazi registrars.

(*b*) *Section* 3, *second proviso.*—*Add* at the end 'and every pesh imam of the mosque' pesh imams or leaders of prayers in all mosques also perform marriages and are generally resorted to by the intelligent portion of the community. Their custody of the registers is preferable to that of the kazis. The registers should be left in the custody of the Mutavalli when pesh imams leave the mosque for good.

(*c*) *Section* 4.—*Add* the words 'or the pesh imam' at the end.

(*d*) *Section* 19.—*Add* 'and deliver a copy of his order to the party who applied for registration.'

(*e*) *Section* 20.—After the words 'and the registrar' *add* 'after such inquiry as he thinks fit.' In sentence 7, *delete* the words 'and the order passed by the registrar on appeal shall be final' and *add* 'against this order, one appeal is allowed to the Inspector-General of Registration whose order shall be final. The Inspector-General may before passing such order direct further inquiry and shall in his decision, be guided by the Muslim Council of Ulamas at Madras to be specially constituted by the Government for the purpose. The number of Ulamas shall be five, the council shall be presided over by the Inspector-General.' My object is not to make final the decision of a District Registrar who is not conversant with the requirements of the community.

(*f*) *Form A, Book* 1.—After the word 'name' in columns 2, 3, 5, 6, 7, 8, 16 *add* 'and signature.'

(*g*) *Form B, Book* 2.—After the word 'name' in columns 2, 3, 8, 9, 10, 12, 13, 14, *and* the words 'and signature.'

7. The community is fully convinced that the Government will confer a boon on the Muslim subjects if they pass this Bill into an Act which will prevent the scandalous litigations that have wrecked the happiness of so many pleasant homes in this country.

(6)

Letter—from K. Rasul Ravuttar Sahib, Tanner, Udamalpet.
To—the Tahsildar of Udamalpet.
Dated—the 22nd November 1918.

With reference to your R.O.C. No. 1898 Sup., dated 14th November 1918, forwarding G.O. No. 1519-8, dated 12th October 1918, about the Bill to provide for the voluntary registration of Mussalman marriages and divorces, Hon'ble Yaqub Hasan Sahib Bahadur desires to introduce into the Local Legislative Council, I have the honour to state that I support the Bill generally provided that it is modified on a few minor points which have been dealt with by Khan Sahib Saiyid Diwan Abd-ur-Razack Sahib Bahadur of Udamalpet in the report on the subject.

(7)

Letter—from Muhammad Jehangir Khandani (Hereditary) and Government Kazi, Coimbatore.
To—the District Magistrate, Coimbatore.
Dated—the 16th December 1918.

With reference to your letters, dated 11th November and 4th December 1918, that for the voluntary registration of Mussalman marriages and divorces, I have the honour to forward herewith my views on the subject in Urdu.

Sub-enclosure

Translation of the note containing the views of Muhammad Jehangir, Government Kazi, Coimbatore, forwarded with his letter, dated 16th December 1918.

The Government having called on the learned religionists and kazis to offer their opinion on the draft Bill introduced in the Madras Legislative Council by Hon'ble Yaqub

Hasan Sahib regarding the registration of Muhammadan marriages and divorces Muhammad Jehangir Sahib, hereditary and Government kazi, is of the following opinion.

The proposed rules regarding the marriages and divorces of Muhammadans and also other communications on the subject forwarded by the Government to me were all duly received. The writer went through the whole correspondence from the beginning to the end and considered the question well. The Bill is against the Muhammadan religion and law. It is against religious principles that we should curtail the liberty in religious matters which has been given to us. Till now our benign Government which is always in favour of freedom did not tolerate interference in any religious matters and the proclamation made by it proves it. It clearly states that the Government will not interfere with the religion of any person and that every man may freely follow his own religion. Such being the case the rules under contemplation will result in the curtailment of the religious liberty of the Muhammadans. The followers of Islam are unanimously of opinion that the introduction of the registers is against the Islamic principles and that it will unnecessarily entangle them in difficulties. The rectification of the defects in the existing registers relating to the marriages and the divorces is a matter which could be easily done. Though it is said that in the draft Bill, that the registration of marriages and divorces will be purely voluntary yet this serious difficulty will arise, that the marriages and divorces which may be otherwise alright as per religion will be looked upon as suspicious or will not be accepted in course of law on account of non-registry in the registers prescribed by Government. Thus there is likelihood of great difficulties arising by Government interference in religious matters of Muhammadans which is against the proclamation. From any point of view interferences like the present are not in the least beneficial to the Muhammadans, but on the other hand will produce evil. The work of registering marriages should be done by the town kazi or his deputies alone. But now some uncertified and unselected men such as leaders in prayers and teachers in religious schools who have nothing to do with the work of a kazi unnecessarily interfere and celebrate marriages. This is not their duty and they have no register. As a result of their unauthorized action the legal rights and mahar of many of the females are made extinct. It is therefore better that such acts are done by the resident kazi of the place. It is also stated in the Bill that on the completion of the registers they should be handed over to the Registration department. If this is intended merely for their safe custody the kazi himself can become their custodian, as he who had been the custodian till their completion may also guard them easily after completion. The continuance of the register with the kazi will be in times of emergency beneficial to the public for urgencies require now and then. It is not advisable to create restrictions in matters in which Islam has allowed freedom. At any rate the Bill contemplates the registration of marriages in the prescribed register and to submit to the rules laid therein will be to curtail our own liberties.

Muhammad Jehangir,
Hereditary and Government Kazi.

(8)

Letter—from B. Muhi-ud-din Khan Lodi Sahib Bahadur, Revenue Divisional Officer, Erode Division.
To—the Collector of Coimbatore.
Dated—Camp Erode, the 18th January 1919.
No.—106 Rev.

With reference to your endorsement R.O.C., No. 1650-B. & G. dated 26th September 1918, and your further reference thereon, dated 4th December 1918, I have the honour to report that there are no formally constituted Muhammadan bodies within my jurisdiction. I, however, consulted some of the leading Muhammadan gentlemen of Erode and Dharapuram, two important Muhammadan centres of my division and their names are noted in the margin and I have distributed to them the Tamil and Hindustani pamphlets that were received with your second reference. In Erode, Nos. 1, 2 and 4 are against the Bill and No. 3 is in favour of it. In Dharapuram, No. 1 is against it and Nos. 2 and 3 are in favour of it. But generally, so far I have ascertained the views of the Muhammadans at large, they are against any statutory interference of the Government in this respect and that seems to be also the opinion of the majority of the Mussalmans of the Madras Presidency from what I see from the newspapers. I also see from the papers a party belonging to the Hon'ble Mr. Yaqub Hasan Sahib, the author of the Bill, is working with a view to popularising the provisions of the Bill and this party seems to have come into existence ever since the Hon'ble Mr. Aziz-ud-din Sahib opposed the Bill in the Council. My own humble opinion is that there is a good deal of force in the arguments that were put forward by the Hon'ble Mr. Aziz-ud-din

Erode—
1. K. A. Kadir Muhi-ud din Sahib Bahadur, a rich ryot and landlord and the late Vice-Chairman of the Municipality and now a Taluk and District Board Member.
2. Town Kazi Sahib.
3. Peish Imam, i.e., the priest that leads the prayers in the Mosque.
4. Khaja Kadir Muhi-ud-din Sahib, Retired Revenue Inspector and a venerable old man of 80.

Dharapuram—
1. D. M. Abdul Karim Sahib Bahadur, Municipal Councillor and Taluk and District Board Member.
2. Haji Muhammad Rafi-ud-din Rowther Sahib Bahadur, Municipal Councillor.
3. Muhammad Abdur Rahim Alim Sahib, Peish Imam of the Mosque.

Sahib in opposing the Bill. It is a fact that a similar attempt was made towards the registration of Muhammadan marriages and divorces some years ago. I remember that well, and that was when I was a Tahsildar in the Tinnevelly district. I was one of the Muhammadan officials that were consulted and I was against the measure, and there was generally then a great opposition to that measure and that was dropped. It is admitted on all hands that the circumstances of the Muhammadan society have not altered since then so as to justify the revival of that proposal. The Muhammadan marriage, it must be admitted, is not a religious institution and it is a simple social contract as conceded by the Hon'ble Mr. Yaqub Hasan Sahib himself. The consent of the parties and the settlement of the mahar, or the marriage consideration, and two witnesses to testify to these facts are all that are wanted to consummate a marriage and to render it valid under the Muhammadan Law. No doubt a record of the marriages is not required by the Muhammadan Law, but a record is invariably being made so far I know, both in towns and villages. No doubt these records are in different forms and methods, but it is immaterial. In Erode, I know the record is so complete that it satisfies the conditions that are now proposed to be imposed by the author of the Bill. Such being the case, I don't see any necessity for any Government interference and to institute a separate record of its own. No doubt the Bill is intended to make this record optional, but the provisions of the Bill, when they are being carried into effect, will begin to make an invidious distinction between a record made under the Act and a private record that is now being maintained, and will, I am afraid, rather tend to increase the evils and abuses and augment litigation than obviate the same, as is anticipated by the Hon'ble gentleman. There is not much litigation at present regarding marriages and divorces and I know very few cases go to civil court, and if I am permitted to say, the statement of the Hon'ble gentleman in this respect is an exageration. So much about the proposal.

2. Coming next to the provisions of the Bill, I am afraid, the procedure proposed is much complicated.

Section 8 *of the Bill.*—The Muhammadan brides are always 'gosha women' and it will not only be a great hardship but costly for these women to find agents to register vakalats in their names and to get the marriages registered.

Section 9 *of the Bill.*—A fee of Re. 1-4-0 proposed to be paid to the marriage registrar will be an additional and at once uncalled for expense to these parties, because they will have to pay as they do at present a fee to the kazis or other persons, or in many instances, to the village fund whenever marriages are consummated. Secondly, one month's time is given under this section for the parties to get the marriages registered and the marriage registrar is expected to make inquiries whether any such marriage really occurred. I am afraid this will give room for complications and any party of mischievous tendency will try his best to throw in all sorts of obstacles in the way. Thirdly, the kazi is asked to make inquiries about the identities of the parties and of the right of the representatives. It cannot always be possible for the parties to produce the very same witnesses and representatives or adduce evidence thereof, a month after the marriage occurred. The point in view of the author of the Bill is to make obligatory on the part of the registrars to make a record of any marriage that was solemnized or of a divorce that was effected. But the author of the Bill has made it optional for any party to go to a licensed registrar, leaving thus a large number of marriages not so registered. Then the object of the author will not be gained unless the registration itself is made compulsory as the Hon'ble Mr. Ahmad Tambi Marakkayar put it in the Council, and any such compulsory registration is certainly out of question at present.

Section 10.—The brides will never be willing to appear before the registrar and to sign the record and any signatures by the representatives will also give room to fraud.

Section 11.—I don't think an honorary registrar will be willing to give a copy of the entry free of charge, and even if fees are proposed to be charged, the system will become still more complex.

Section 16.—An Honorary Registrar is sure to resent the proposal to place him under the superintendence and control of the Government official.

Section 19.—I am unable to see how a registrar could refuse to register a marriage unless he is not satisfied with the conditions that are imposed under section 9, and these refusals which are bound to be many, because most of the registrars will be irresponsible men, and this will open another way for a great litigation.

Section 21.—I don't know where the author of the Bill expects the registrars to keep the originals of these records and any public office for this man is out of question, because the Bill makes no provisions to make the office stipendary. Therefore, these registrars have to keep the records in their houses and the danger which the author of the Bill proposes to remove is not likely to disappear.

Section 23.—I don't think the registrars will be willing to reimburse to the Government the cost of the seals, registers, stationery and other articles which are proposed to be supplied to them by the Government, nor will it be worthwhile for the Government to incur the expenses itself, because Government gets nothing out of this measure, and a fee of Rs. 1-4-0 is proposed to be given away to the registrar himself. If so, I don't see the necessity for the Government to supply all these articles.

Section 24.—I am sure no honorary registrar can afford to undertake the task of solemnizing marriages, effecting divorces, preparing the proposed registers A and B and their indexes, to furnish copies to the parties, sending up copies and other statements to the higher authorities, etc. There will be much correspondence in this respect and a point of remuneration is sure to rise then, and I don't think the Government will undertake to incur an expenditure unless there is anything on the receipt side. The Bill makes no provision for any such receipts and the only fee that is proposed to be levied for the registration under section 9 is intended to be given away to the registrar himself.

Section 25.—The provisions of this section seem, in my humble opinion, suicidal to the object in view of the author of the Bill. If a marriage or divorce which is not registered under this Act is not rendered invalid, or vice versa, if a registered marriage or divorce does not become valid, then where is the benefit of this registration? And if things are allowed to go on as they are, where is the necessity for the registration? But the caution that is resorted to by the Honourable Member under this section is no doubt necessary as it would otherwise be opposed to the spirit of the Muhammadan Law, and so long as the registration is optional, this caution cannot be done away with and therefore a caution of this kind is quite unnecessary to be provided for in the present Bill, and so long as this caution is proposed to be maintained, the necessity for the Bill itself will vanish.

3. In the and, I am of opinion, no case has been made out in favour of the Bill, nor do the provisions of the Bill seem salutary and workable. I would, however, suggest for the present, a large number of kazis may be appointed under the Kazis Act, XII of 1880, and the Act itself amended and the provisions amplified. The number of kazis that have been appointed under the Act are few and far between, and the increase in their number will, I am sure, tend to obviate the difficulties and the evils that are referred to by the Hon'ble Mr. Yaqub Hasan Sahib. The men that are so appointed are men of some status and influence in the localities in which they are appointed and feel themselves more responsible to the Government as well as to the public. They will carry a greater weight in the estimation of the public than any licensed registrar under the proposed Act. For all practical purposes, they can be considered to be the licensed registrars, but with a greater status. Their number is, however, at present very inadequate and in my opinion, one for each taluk is necessary. He will have his own naibs (deputies) in the various Muhammadan centres of the taluk nominated by him under section 3 of the Act, and the business would go on very well then. There is no restriction in the Act with regard to the number and it is clear from section 2 of the Act that any number may be appointed for any local area. The best thing would be to appoint one kazi for each taluk, or more if there be sufficient Muhammadan population, and to leave him to select his own naibs to work under him; but I would suggest in this connexion that Government kazis so appointed should be asked by some departmental orders to report the names of his naibs and their removal also to the Collector so that there may be a record of such persons with the Government. The naibs will then think that they have some status and feel more responsible than at present. The Act, as it stands at present, makes no provision for framing of rules So, the Act may be amended, and until that is done, a departmental order will, I think, suffice for the present.

LXXVIII

Letter—from H A. B. Vernon, Esq., I.C.S., Collector of Vizagapatam.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—the 30th March 1919.
No.—D. Dis. 791.

Adverting to Government Memorandum No. 1519-8, dated 12th October 1918, I have the honour to report that the representative Muhammadans and Muhammadan bodies of the district have been consulted on the provisions of the Bill for the voluntary registration of Mussalman marriages and divorces which the Hon'ble Yaqub Hasan Sahib desires to introduce into the local Legislative Council.

2. The representative Muhammadans of the taluks noted in the margin object to the passing of the Bill into law on the ground that the registration referred to in the Bill is contradictory to the Muhammadan law and regulations and is also against the long existing practice, and that females cannot appear before the registrar to sign their names or affix their thumb impressions on account of the gosha system. As the registration proposed is voluntary and not compulsory these objections need not in my opinion be taken into consideration.

Salur.	Anakapalle.
Jeypore.	Vizagapatam.
Viravilli.	

3. The representative Muhammadans of the other taluks in the district are in favour of the Bill being passed into law, as the registration of marriages by duly appointed kazis is already in vogue in some parts of the district and as the present Bill provides only for the systematic maintenance of the registration.

4. I agree with the views of these latter and accordingly recommend that the Bill may be passed into law.

The opinions received are herewith submitted.

Enclosures.

(1)

Letter—from the Union Chairman and Stationmaster, Salur.
To—the Deputy Tahsildar, Salur.
Dated—the 24th December 1918.

I have the honour to state that I convened a meeting of the Mussalman community of this place to-day at 4 p.m. in the residence of Mr. Saiyid Imam Sahib for the purpose of obtaining their views on the Bill to be introduced into the Provincial Legislative Council by the Hon'ble Mr. Yaqub Hasan regarding the voluntary registration of Mussalman marriages and divorces. I am sorry to state that the whole of the Mussalman community of this place is dead against the Bill. The Government Order is herewith returned.

(2)

Letter—from Rahim Khan Sahib of Jeypore.
To—the Deputy Tahsildar, Jeypore.
Dated—the 15th January 1919.

I read the point moved by Yaqub Hasan Sahib Bahadur before all the Muhammadans of this village. They want to continue the sastrams which they are adopting since 1300 years. So they objected from adopting the new registration, etc.

(3)

Letter—from Saiyid Amir Sahib, Kazi, and others, Chodavaram.
To—the Deputy Tahsildar, Chodavaram.
Dated—the 31st November 1918.

This is our opinion as regards the registration of Mussalman marriages and divorces. The Bill is in no way useful to us. It is quite contrary to our sastrams. It is not written anywhere in our sastrams that registration books No. 1 and 2 should be published and that money should be taken for registration. So we do not like that the Bill be passed into law.

(4)

Letter—from the Kazis of Vizagapatam.
To—the Collector of Vizagapatam.
Dated—the 9th January 1919.

We the two Muhammadan chief town kazis, viz., Janab Muhammad Isak Sahib and Kazi Janab Maulana Muhammad Abd-ul-haq Sahib of Gunner Street mosque of Vizagapatam most submissively beg to state that the proposal moved by the Legislative Councillor, the Honourable Yaqub Hasan Sahib Bahadur at the Legislative meeting of Madras regarding the registration of a Bill of Muhammadan marriages and divorces, etc., we beg to state that the registration of the Bill in question is utterly contradictory to Muhammadan regulations. That it in no way seems proper to our apprehension for its being adopted as it is quite contradictory to our Muhammadan law.

Translation.

Opinion of Mr. S. A. Wahid Sahib and other Muhammadans of Parvatipur.

We wish that the Bill published at page 863 of the *Fort St. George Gazette*, dated 8th October 1918, be passed into law.

Statement of the Muhammadans of Yellamanchille, Sarvasiddhi taluk, that Mussalman marriages have not been registered for the last 13 or 14 centuries, that the marriages have not been got registered by their ancestors, that the marriages are being registered only by their own kazis and that they therefore cannot go against their religion. They want to stick up to their Muhammadan law.

Sheik Rahimtullah Sahib.
Abdul Subhan.
Saiyid Ali Sahib.
Sheik Madina Sharif.
Rahman Sharif.
Saiyid Ahmad.

Statement of certain Muhammadans of Sarvasiddhi taluk accepting the provisions of the Mussalman marriages and divorces Bill.

Sheik Imam.
Saiyid Muhi-ud-din.
Saiyid Ibrahim.
Pir Ahmad.
Sheik Abdulla.
Sheik Mira Sahib.

(5)

Letter—from all the Muhammadans of Nowrangapur.
To—the Deputy Tahsildar, Nowrangapur.

There are more than one hundred houses of Muhammadans in this place and also in other places around this. So to these places a separate kazi may be appointed to perform the marriages of the Muhammadans.

(6)

Letter—from all the Muhammadans of Narasapatnam.
To—the Tahsildar, Narasapatnam.

We wish that the Bill published at page 863 of the *Fort St. George Gazette*, dated 8th October 1918, be passed into law.

LXXIX

Letter—from Khan Bahadur S. M. V. Usman Sahib Bahadur, B.A., B.L., District Magistrate, Guntūr.
To—the Secretary to Government, Home (Miscellaneous) Department, Madras.
Dated—the 31st March 1919.
No.—R. C. 2300 Magl. of 1918.

With reference to Government Memorandum No. 1519-8, dated 12th October 1918, forwarding the Bill to provide for the voluntary registration of Mussalman marriages and divorces, with instructions to obtain and forward the views on the provisions of the Bill of representative Muhammadans and Muhammadan bodies in the district, I have the honour to state that the marginally-noted representative gentlemen were consulted in the matter and copies of their reports containing thier views on the Bill are herewith enclosed.

1. The Kazi, Guntūr.
2. The Tahsildar, Palnad, Janab Muhammad Imam Muhi-ud-din Sahib Bahadur.
3. The Secretary, Anjumani Islamia, Guntūr.
4. T. S. Muhammad Husain Sahib Bahadur, Retired Assistant Inspector of Schools, Guntūr.
5. Saiyid Qasim Sahib Bahadur, Inspector of Police, Vinukonda.
6. Pesh Imam Sahib Bahadur, Guntūr.

2. Copy of letter, dated 26th November 1918, received from the Hon'ble Mr. Yaqub Hasan, together with copies of the proceedings of the meeting of the Legislative Council relating to the debate on the Bill in English and Hindustani received from the Honourable Member, were also forwarded to the above gentlemen and copies of the replies received from Nos. 2, 3, 4 and 6 are herewith enclosed. Reports to that reference have not been received from the Government Kazi, Guntūr, and the Inspector of Police, Vinukonda, who have again been reminded. Their reports will be submitted on their receipt.

3. The gentlemen from whom replies have been received appear to be in favour of the Bill. But I am not in favour of it.

4. The object of the Bill as put forward appears to be the *preservation of evidence* of marriages, their terms and divorces as the loose form of registers as at present maintained by Kazis and others, who solemnize marriages, are either not forthcoming or not forthcoming in the state originally recorded. There is nothing, against religion in the preserving of evidence. On closer examination it seems to me that the chief aim of the Bill is the preservation of terms of marriage contract and not so much its factum nor of divorce or its *terms*. The marriage itself is not disputed in very many cases. Muhammadan marriages are generally registered by the Kazis and other persons who solemnize them. To prevent their records being subsequently tampered with or secreted, it is sufficient to make due provision for their preservation. That can be done by amending the Kazi Act (Act XII of 1880) making it incumbent on a Government Kazi or his deputy to attend marriages, if invited, and maintain register of marriages in a prescribed form.

5. There may have been some necessity for the Bengal Act of 1876 as no Kazi Act, I understand, was then in force there. In his treatise of Muhammadan Law, Vol. II, page 328, foot note (third edition), the Right Hon'ble Mr. Amir Ali observes as regards the working of the Bengal Act as follows:—

"It has since been acknowledged that great difficulties arise in the administration of justice from the permissive character of the Act."

In Bengal the Mussalmans are of better enlightenment and social position. An enactment which does not satisfactorily work in Bengal is not a fit measure to be experimented upon in this Presidency, where the Mussalmans are in less favourable position in every respect.

6. There seems to be no reason for divorces being registered. Divorce is being considered a sin and condemned by the Prophet himself. It is only in unavoidable cases it is resorted to and when accomplished the parties evince a desire to forget the past relationship and to keep it as little exposed as possible. When the dissolution is effected both the parties naturally take special care to create private record of the fact for future free action and to prevent the one setting up any claim against the other.

Enclosures

(1)

Letter—from Janab Muhammad Imam Muhi-ud-din Sahib Bahadur, Taluk Magistrate, Gurizala.
To—the District Magistrate, Guntūr.
Dated—the 6th November 1918.

Adverting to your R.C. No. 2300-Magl. of 1918, I beg to state to the great satisfaction of the educated Mussalmans of the Madras Presidency the long-expected Bill to provide for the voluntary registration of Mussalman marriages and divorces has now seen the light of day. The Mussalmans of the Presidency have been in urgent need of a legal enactment of the kind. The existing system of registration of Mussalman marriages and divorces is very loose and unsystematic and consequently many Mussalman families are being ruined on account of this loose system of registration. The objects and reasons given by the Honourable Member in the statement attached to the Bill are actual facts. There is every reason to believe that by passing this Bill into an Act the evils of the present system of registration will be removed and a better regulated system will be provided. There are no Muhammadan bodies or educated Muhammadans who know anything of the Muhammadan law in this taluk to be consulted with. As for my personal views on the provision of the Bill, I beg to state that the present loose system of registering marriages and divorces is capable of giving room to abuses of gravest nature and if the present Bill is passed into law it would provide a better regulated system.

(2)

Letter—from the Secretary, Anjumani Islamia.
To—the District Magistrate, Guntūr.
Dated—the 26th November 1918.

In reference to your R.C. No. 2300, I have the honour to inform you that all the members of the Anjumani Islamia assembled at a meeting held on 24th November 1918, at the Anjumani Islamia buildings, after full and careful consideration of the Bill to provide for the voluntary registration of Mussalman marriages and divorces have resolved unanimously to express their opinion that the Bill if passed will be a great boon to the Moslem community as there is no proper system now in existence about such sacred performances as those referred to in the Bill. The present system of keeping records of such ceremonies is so shabby and useless that it does greater evil than good to either party, the record being capable of being tampered with in any way as either party may like. No record is as complete as to be admissible in evidence. The forms for application for registration and for register to be maintained by the Moslem Registrar are sufficiently full and complete. But at present it is recommended that the registration may only be voluntary; as it gains popularity it may be made compulsory after some time for trial. In fact when the Moslem community feels its usefulness as time goes on, the whole community will one day be compelled to have recourse to the registration and appreciate it long before we attempt to make it compulsory.

(3)

Letter—from Saiyid Kasim Sahib, B.A., Inspector of Police, Vinukonda.
To—the District Magistrate, Guntūr.
Dated—the 23rd November 1918.

In obedience to R.C. No. 2300-Magl. of 1918, I beg to report as follows:—

The Bill now introduced by the Hon'ble Yaqub Hasan Sahib Bahadur deals as a matter of fact about two matters—one relating to marriages and the other to divorces. These two subjects though treated together require to be viewed from two different standpoints.

I. As regards marriages there can be no two opinions as to the necessity of devising a method by which the interests of the contracting parties to a Mussalman marriage are safeguarded against the abuse which now exists in the system, by which the present day Kazis or their Naibs maintain their records. The names of the contracting parties, the amount of the mahar are noted on slips of paper at the time the marriage is solemnized and the entries in the Kazi's register are made from these slips. The entries thus made are very often incorrect and are open to doubt. To provide against all such irregularities, an act of the nature now under consideration is quite necessary.

The Bill has been very carefully drafted and calls for no changes. Anyhow, I would wish to have the words "duly authorized vakil" used in several places in the bill defined, and certified copies required to be given under section 11 are made obligatory and the necessity of an application being made is dispensed with.

This enactment, as every such measure dealing with Moslem usages and customs, is sure to meet with opposition from the orthodox sections of the Muhammadan community. But in this case the voluntary nature of the enactment will be a sufficient answer to such opposition.

II. The case of divorces stands on a different footing. Divorce is such a rare thing and the parties thereto wish to maintain so much secrecy in the matter that the inclusion of this subject in the Bill will be viewed with disfavour by the Mussalman community in general and will raise a storm of protest from the orthodox among us. This measure also is voluntary and the passing of the Bill into an Act need not necessarily give cause for much apprehension of the Government interference in a custom solely peculiar to the Mussalman community. Yet the question of divorce is a matter affecting the social position of the parties and of the families to which they belong. It is resorted to in exceptionally unavoidable circumstances and all publicity is eschewed. I am afraid that the inclusion of this subject in the Bill may take away from it much of the support it might otherwise receive.

My humble opinion is that at first the registration of marriages may be tried for sometime, and then as experience is gained the question of divorces may be raised and discussed.

(4)

Letter—from Muhammad Abdur Rahim Beg, Trustee and Jaghirdar, Big Mosque, Guntūr.
To—the District Magistrate, Guntūr.
Dated—the 2nd December 1918.

With reference to your R.C. No. 2300-Magl. of 1918 and reminder No. I. dated 15th November 1918, I beg to state that (in consultation with a large number of Mussalmans assembled for Juma prayers in the Big Mosque) after due and careful consideration of the "Bill to provide for the voluntary registration of Mussalman marriages and divorces," recently introduced into the Legislative Council, Madras, if passed into a law will indeed be a real boon to the Moslem community at large, as the record of these performances is nowhere in the Presidency kept in a proper and systematic way.

The system at present in vogue is so shabby that it will be of no use either in judicial or criminal courts. The registers to be maintained are so complete and the different columns are so closely connected with each other that they cannot be tampered with.

But section 20 says "order passed by the Registrar on appeal is final." Here a non-Muhammadan who is not conversant with Muhammadan law is made a final authority. I am of humble opinion that the Inspector-General of Registration, Madras, may be final authority, who will pass a final order after consulting the Honorary Moslem Registrar-General, to be appointed, who will also be in Madras.

(5)

Letter—from T. S. Muhammad Husain Sahib Bahadur, Retired Assistant Inspector of Schools, Guntūr.
To—the District Magistrate, Guntūr.
Dated—the 25th December 1918.

In reference to your R.C. No. 2300-Magl., dated 28th October 1918, I have the pleasure to remark that "The Bill to provide for the voluntary registration of Mussalman marriages and divorces" will be a great boon to the community if it is made an Act, as it has done much good to Bengal Muhammadans.

2. At present the registration may be made *voluntary* as proposed by the mover; its advantages will surely compel the others in a short time and it may become practically compulsory. If it be made compulsory in the very beginning, there is the fear of its becoming unpopular since the ignorant are always ready to hate everything that is new; not because it is bad but because it is new.

3. My absence from Guntūr for a fortnight was the cause of delay, for which I hope you will kindly excuse me.

(6)

Letter—from Janab Muhammad Imam Muhi-ud-din Sahib Bahadur, Tahsildar, Palnad taluk.
To—the District Magistrate Guntūr.
Dated—the 20th January 1919.

With reference to your R.C. No. 2300-Magl., dated 24th December 1918, I beg to state as follows.

2. It is admitted by both parties that the present system of maintaining records of Moslem marriages and divorces is faulty and is capable of giving rise to and has been found to have given occasion to abuses of the gravest nature and that there is an imperative necessity for substituting for a better regulated system of registration. The three representatives of the Moslem community of the Presidency in the Legislative Council also have expressed their unanimous opinion during the debate on the motion for the permission sought for, to introduce the Bill, that a Legislative enactment is necessary to safeguard Mussalman interests in connexion with the registration of marriages, and in support of their arguments they have quoted some instances of the possibilities of the records maintained under the existing system being tampered with, when a dispute arises as to the mahar. It is also said that the Right Hon'ble Mr. Amir Ali in his book on Muhammadan Law has expressed his view about the advisability of making the registration compulsory. It is thus evident that the present system of registration is insufficient to check the corrupt practices prevailing at present.

3. The other two representatives of the Moslem community are in sympathy with the mover's desire to effect some sort of legislation to provide for better registration of Mussalman marriages, but one of them is of opinion that, unless the registration is made compulsary the Bill which is proposed to be introduced would fail to bring about the desired effect. The other representative expresses his sympathy in the matter and is strongly of opinion that some legislative measure is necessary to safeguard the Moslem interests in the matter, but at the same time he is against the introduction of either voluntary or compulsary registration of Moslem marriages at this juncture, on the ground that the interference of Government with religious matters will be resented by the Muslim community. It is an admitted fact that marriage according to Moslem Law is simply a civil contract and its validity does not depend upon any religious ceremony. Under these circumstances, how could a measure introduced for the better registration of the Moslem marriage which is only a civil contract be considered as an interference with religious matter. Our Ulamas and Kazis after the establishment of civil courts in this country have lost all their powers except in the matter of marriages and divorces and they are quite unwilling to lose the little power which they have and which is remunerative to them in disputed cases. The educated Moslems except the illiterate masses who are ignorant of the advantages of the legislation on the matter and the so called Ulamas and Kazis, for the reasons stated above, are in favour of the proposed legislation. If it is passed into law, it will very much safeguard the interest of the community.

(7)

Letter—from Abdur Rahim Beg, Muthavalli and Jaghirdar, Big Mosque, Guntūr.
To—the District Magistrate, Guntūr.
Dated—the 4th February 1919.

With reference to your letter R.C. No. 2300-Magl. and P.S.R., dated 26th December 1918, and in continuation of my letter dated 2nd December 1918, I beg to state that, after careful reconsideration of the Bill in question, my humble self and a large number of Mussalmans assembled for Juma prayers in the Big Mosque came to an unanimous conclusion that section 3 of the Marriage Registration Bill (Urdu translation) is quite inadequate and defective. This section provides that no more than one Moslem registrar be appointed within certain specified limits. If the wording of the section be kept as it is, it will occasion more harm than good. There are many places in our Presidency where the existence of cliques (pertaining to Kazi) among the Muhammadans is a common thing. If licence to register marriages and divorces be not granted to any other person except the Kazi and his Naib according to the provision of law, this will cause a great injustice to the party or clique that does not stand in good graces of Kazi. Not only this but it will tend to intensify the animosity on both sides and create great many intrigues which will in the long run drag them to court of law for justice. Indeed it is a matter of great regret to say that there will be no end to this. In the interest of the general public and to remove such unwelcome intrigues, party feelings, litigation, I humbly suggest to grant licence to the leaders or representatives of the parties concerned as the case may be. If it is not granted, the real sense of the Bill will be entirely lost and cause to increase the party feelings more than before, so I am of humble opinion that Bill should not be passed into law and save the Moslem public from undergoing undue unnecessary troubles. This will indeed be a real boon for the community as not even a slightest room for animosity is given on either side. I think I need not tell you about the deplorable condition of the existing local Kazi cliques and increasing litigation on both sides as you are well aware.

In conclusion, I humbly beg to say that this suggestion and the one that was laid down in my previous letter, dated 2nd December 1918, relating to final authority in divorces are indispensable.

(8)

Letter—from T. S. Muhammad Husain Sahib, Retired Assistant Inspector of Schools.
To—the District Magistrate, Guntūr.
Dated—the 4th February 1919.

In reference to your R.C. No. 2300-Magl, dated 26th December 1918, I beg to inform you that on a previous reference on the same subject I remarked that the Bill in question was very useful to the Muhammadan community and that it was a real boon for it will prevent so many evils now existing. I hold the same opinion even now.

LXXX

Letter—from J. T. Gwynn, Esq., I.C.S., Acting Collector of Kistna.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—Masulipatam, the 2nd April 1919.
No.—D. Dis. 8392-18-16.

With reference to your Memorandum No. 1519-8, dated the 12th October 1918, I have the honour to state that the following Muhammadan associations and individual Muhammadan gentlemen have been consulted about the Bill. Practically all of them are in favour of the Bill and several of them desire compulsory registration. The suggestions made have been briefly referred to in the enclosed statement.

Names of representative Muhammadans and Muhammadan bodies consulted.	Their views.
Bandar division.	
1. Abd-ul-qadir Munshi Muhammad, Kazi of Masulipatam.	Want the Bill.
2. Mir Azim Ali, Secretary, Anjuman-E-Imanniah, in a meeting held at Masulipatam.	Do.
3. Mr. Muhammad Haidar Ali Sahib, Retired Police Inspector and Taluk Board Member, District Board Member and Honorary Magistrate, Masulipatam.	He is in favour of compulsory registration of marriages and divorces. He makes mention of qualifications for the Mussalman registrars.
4. Muhammadans of Masulipatam in a public meeting held on 26th November 1918 under the presidency of Muhammad Anwar-ud-din Sahib, Retired Tahsildar.	They are in favour of compulsory registration of marriages and divorces.
5. Another meeting on 18th December 1918 held by Muhammad Usman Sharif, Secretary of the Anjuman Nural Islam, Masulipatam.	Want the Bill.
6. Muhammad Wahhab Ali, unani doctor, Masulipatam.	He does not want any legislation.
Gudivāda division.	
7. Muhammadans of Kaikalur, one section	Want the Bill.
8. Do. another section	Do not want the Bill.
9. Muhammadan of Mallayapalem, Gudivāda taluk ..	Want the Bill.
10. Daggumilli Muhammadans (nine)	They are silent. They referred the matter to the Kazi at Kondapalli.
11. Kattavanichervu Muhammadans	Want the Bill.
12. Muhammad Akbar, Gudlavalleru, timber merchant..	Do.
13. Pamarru Muhammadans	Want the Bill. They wish to have a Muhammadan clerk in District Registrar's office.
Bhimavaram division.	
14. Muhammadans of Akividu, one a Kazi named Haji Muhammad Talel-ud-din.	Want the Bill, but not as a compulsory measure.
15. Abd-ul-jalil Sahib, native of Bhimavaram	He wants the Bill.

Narasapur division.	
16. Abd-ul-qadir Khan, Kazi of Narasapur	He wants compulsory legislation.
17. Attili Muhammadans	They want the Bill.
18. Mulaparru Mahammadans	Do.
Ellore division.	
19. Ellore Muhammadans	They want the Bill and propose Re. 1 and Rs. 2-4-0 as Kazi's conveyance charges for attending marriages at homes.
Bezwada division.	
20. Tiruvur Muhammadan, Muhammad Akbar Kazi ..	Want the Bill.
21. Vuyyuru leading Muhammadans	They want the compulsory legislation.
22. Mr. Abd-ul-sattar Bēg, Jaghirdar, Bezwada.. ..	He wants the Bill. He proposes that the new registrars should be known as Naibs and Kazis.
23. President, Young Men's Muhammadan Association, Bezwada, Muhammad Muhi-ud-din.	He wants the Bill. He proposes that the Inspector-General of Registration and District Registrars should have nothing to do with the Bill but only the Kazi and Nazimai Kazis should have their powers.
24. Abd-ur-rahman, Gannavaram on behalf of the Muhammadans, Gannavaram.	He wants the bill.

LXXXI

Letter—from Khan Bahadur S. M. V. Usman Sahib Bahadur, District Magistrate, Guntūr.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—the 22nd April 1919.
No.—D. Dis. 444-Magl.

With reference to Government Memorandum No. 1519-8, dated 12th October 1918, and in continuation of this office R.C. No. 2300-Mag., dated 28th March 1919, submitting report on the Bill for the registration of Mussalman marriages and divorces, I have the honour to submit a copy of the report received from Moulvi Muhammad Raza Sahib Belgami Bahadur, Government Kazi, Guntūr, containing his views on the matter.

2. Saiyid Qasim Sahib Bahadur, Inspector of Police, Vinukonda now working at Ongole, states that he has nothing to add to what he had already expressed.

Enclosures.

(1)

Letter—from Moulvi Muhammad Raza Sahib Belgami Bahadur, Government Kazi, Guntūr.
To—the District Magistrate, Guntūr.
Dated—the 2nd April 1919.

With reference to R.C. No. 2300 Magl. of 1918, regarding the Bill for the registration of Mussalman marriages and divorces, I beg to submit the following.

Before proceeding to the subject, I think it necessary to describe the position of a Kazi in Moslem society. At one time the Kazi was the chief civil and criminal authority. He was responsible for the civil and criminal administration of a given local area. It was left to his option to have as many deputies or naibs under him as he found necessary. He exercised every variety of executive power. In every religious affair it is his duty to issue fatwas or decisions.

With the change in Government, the Kazi's position has undergone a change. The Kazis Act of 1882 has deprived him of civil and magisterial powers. He has no executive power of any sort now.

Another sad effect of the time is that the Muhammadan religious law is hardly studied, and knowledge of Persian and Arabic languages has become rare. Thousands of Mussalmans can speak, read and write vernacular languages such as Tamil, Telugu, but not even one in ten thousand can speak, read and write Persian or Arabic.

In short the Kazi's position is most deplorable. The respect in which the position was once held, has considerably suffered. In almost every town there are factions opposed to the Kazi, and he is hardly cared for. Whatever may be the good wishes of the author of the Bill, the position of the Kazi will suffer still more, if the Bill becomes law. No doubt it is necessary to secure in the best way possible the evidence regarding marriages and divorces. If this can be effected with a little amendment of the Kazi Act, there will hardly be any necessity for a fresh legislation as is aimed at in the Bill.

The Bill as it is throws unnecessary burden on the Registration department. At the time of nikah some customary fees are paid to the Kazi and the Naib. According to the Bill extra fees will have to be borne under certain circumstances. There will be unnecessary interference on the part of the Registration department officers with the Mussalman Marriage Law, etc., when disputes arise.

Hence I recommend that the Bill may be dropped and the Kazi Act amended.

(2)

Letter—from Saiyid Qasim Sahib, Inspector of Police, Ongole.
To—the District Magistrate, Guntūr.
Dated—the 17th April 1919.

In obedience to R.C. No. 2300, dated 26th December 1918, regarding the Bill for the Mussalman marriages and divorces, I beg to report that I have nothing to add to what I have already reported on 23rd November 1918.

LXXXII

Memorial—from K. S. Muhammad Abd-ul-qadir Alim Sahib, President of the public meeting held in the big Jumma Masjid, in Koothanallur, Tanjore district.
To—His Excellency the Governor in Council.
Dated—the 9th April 1919.

The resolutions passed at a meeting of the public of this place held in the big Jumma Masjid here on the 28th of the last month are as follows.

The public of this place, besides unanimously opposing "the Mussalman Marriage Registration Bill" introduced into the Madras Legislative Council by the Hon'ble Mr. Yaqub Hasan beg to submit that the Bill is unnecessary and that the affair referred to therein, which is to be governed by religious laws, should not be linked with other things. Therefore the prayer most humbly submitted to His Excellency the Governor of Madras on behalf of the public of this place is: The Bill is one which is likely to cause inconvenience to Muhammadans in many ways. Further, the passing of this Bill will be deemed to be contrary to the promise given by our Queen Victoria that (there) will be no interference with the religious affairs of the Muhammadans. I therefore entreat that your Excellency may be graciously pleased to reject this Bill which is prejudicial to the interests of the Moslems and not to pass it.

LXXXIII

A resolution, based on Moslem Holy Law, passed against the Bill for the Voluntary Registration of Moslem Marriages and divorces by the Managing Committee of the Religious Branch of the Anjumani Muhammadi.

A special meeting of the Managing Committee of the Religious branch of the Anjuman-i-Muhammadi was held under the presidency of Moulana Moulvi Haji Mufti Mahmud Sahib at its premises, Dewan Sahib's Gardens, Royapetta, in which the following resolutions were passed:—

(1) That last year the Hon'ble Mr. Yaqub Hasan Sait Sahib brought in a Bill for the voluntary registration of Moslem marriages and divorces owing to which a great agitation was created. Pamphlets and fatwas were issued against it and the Government was informed that the Bill was against the Moslem Holy Law. Now newspapers announce that the matter has again been moved. This has renewed the anxiety of Mussalmans. The attention of the Government is, therefore, invited to the said fatwa (religious decree) with a strong hope that the Government will, in pursuance of its non-intervention policy in religious matters, reject the Bill and thus remove the anxiety.

(2) That copies of the resolution may be submitted to the Government and every member of the Legislative Council.

Gulam Muhai-ud-din Moulvi,
Secretary, Religious Branch.

LXXXIV

Memorial—from Moulvi Shah Muhammad Kadir Hussain Sahib Kadari, No. 19, Ice House Road, Royapetta, Madras and others.
To—His Excellency the Governor of Madras.
Dated—the 6th April 1920.

May it please Your Excellency,—We the undersigned members of the Moslem community who being learned religiously and spiritually, are thoroughly acquainted with, and act according to, the Holy Law, beg to represent that last year the Hon'ble Mr. Yaqub Hasan Sait Sahib brought in a Bill for the registration of Moslem marriages and divorces against the Holy Law. When the orthodox portion of the community in the city and in the districts wrote to Government against it, only some Mussalmans of the commercial and official class, not fully acquainted with the tenets of Islam, supported him. The Bill was postponed.

Now the *Hindu* of the 10th instant reports that the Honourable Member has moved the matter again, and hence we take the liberty to represent to His Excellency the Governor in Council that the Honourable Member is a merchant belonging to the Sait community about which it is alleged that it is guided by the Hindu Law of partition. He knows little about religious laws and questions. He troubles and disturbs the Government unnecessarily. His statement that marriages and divorces are secular functions and not religious are entirely erroneous. Marriages and divorces are religious affairs. The Quran, the Traditions and Jurisprudence contain many arguments in connexion therewith. The celebrations of marriages, the effecting of divorces and the maintaining and safeguarding of the records—all these duties should be done by Mussalmans alone and not by non-Moslems. The Honourable Member has thus deceived ignorant Mussalmans and also the Government. We issued a pamphlet and a religious decree explaining matters connected with marriages and divorces for the benefit of Mussalmans in general, a copy of which has also been submitted to the Government. It seems that it has produced no effect on him and so being firm in his opinion he has created great anxiety for Mussalmans in general and for the orthodox section in particular.

We and other Moslem brethren, therefore, strongly hope that His Excellency the Governor in Council will kindly reject the Bill in pursuance of their non-intervention policy in matters of religion owing to which every community enjoys perfect freedom in religion. If on the other hand the Bill is passed, we declare openly, suspicion would be created as to that policy.

Order—No. 1076, Home (Miscellaneous), dated 11th June 1920

Recorded.

(True extract)

R. Ramachandra Rao,
Secretary to Government.

NOTES CONNECTED WITH G.O. No. 1076, HOME (MISCELLANEOUS), DATED 11TH JUNE 1920

[SUBJECT.—*Bill to provide for the Voluntary Registration of Mussalman Marriages and Divorces.*]

Previous papers :

G.O.	800, *Judicial*,	20*th May* 1899	*G.O.*	128, *Legislative*	23*rd Sep.* 1916
,,	826 ,,	5*th June* 1901	*Letter*	61 ,,	25*th July* 1917
,,	910 ,,	20*th* ,, ,,	*G.O.* 357–58, *Home (Mis.)*,		8*th Apr.* 1918
,,	1807 ,,	1*st Dec.* 1902	,,	52, *Legislative*,	2*nd July* ,,
,,	504, *Public*,	31*st Mar.* 1915	,,	76 ,,	14*th Sep.* ,,
Letter	122, *Legislative*,	28*th Aug.* 1916			

HOME (MISCELLANEOUS) DEPARTMENT.

I

From the Government of India, Legislative Department, dated 9th May 1918.

Please see paragraph 2 of this department note on pages 2–3 of notes to G.O. Nos. 357–58, dated 8th April 1918. The telegraphic reply of the Government of India does not state definitely whether the Bill falls within the classes specified in section 79 (3) of the Government of India Act, 1915, or not. Apparently, the telegram amounts to a sanction, if any sanction were necessary under the section, and no further sanction seems required. The Legislative Department may now grant permission to move for leave to introduce the Bill. No further action is called for in this department, until the motion for leave to introduce it is carried in the Council (next meeting is expected to be at the end of July or in the beginning of August), and the Bill with its Statement of Objects and Reasons is published in the *Fort St. George Gazette* by Legislative under Rule 32 of the Council Rules. The suggested inquiry to the Bengal Government in regard to clause 10 of the Bill may be made after the motion to introduce it is accepted and the Bill is published. After the publication, the question of consulting any officers concerned, and if necessary of obtaining public opinion on the provisions of the Bill may also be taken up in this department.

The case may now be transferred to Legislative Department u.o. for necessary action.

M.D.R.—15–5–18.

P.DER.—18–5–18.

C. RAMANUJA ACHARIYAR—20–5–18.

The Government of India evidently contemplate the inquiry to Bengal before the introduction of the Bill.

Please draft.

R. RAMACHANDRA RAO—21–5–18.

Draft letter to the Chief Secretary of the Bengal Government is submitted.

M.D.R.—22–5–18.

P.DER.—23–5–18.

C.R.—28–5–18.

R.R.—29–5–18.

II

Letter No. 1519–1, *dated* 30*th May* 1918.

Demi-official—from L. BIRLEY, Esq., C.I.E., I.C.S., Secretary to the Government of Bengal, Revenue Department.

To—the Hon'ble Diwan Bahadur R. RAMACHANDRA RAO Avargal, Secretary to the Government of Madras, Home (Miscellaneous) Department.

Dated—Darjeeling, the 18th June 1918.

No.—51-T.R.

In continuation of my letter No. 617-T.R., dated the 18th June 1918, relating to section 10 (acceptance of gratuity by a Muhammadan registrar) of a Bill for the voluntary registration of Muhammadan Marriages and Divorces which it is intended to introduce in the Madras Legislative Council, I am desired to forward herewith a copy of the accompanying proceedings of this Government together with a copy of notification No. 4000-Regn., dated the 30th April 1918, publishing revised rules under the Bengal Act, I of 1876

Registration A Proceedings for November 1917, Nos. 1–4, (file 1-A/3 of 1916 and 1-A/1 of 1917).

I am to say that the notes on pages 5, 6, 9 and 11 of the proceedings explain the case. It is requested that they should be considered as privileged.

III

From the Secretary to the Government of Bengal, Revenue Department, dated 18th June 1918.

From a perusal of the papers forwarded by the Bengal Government, it will be seen that the provision in section 10 of Bengal Act, I of 1876, under which a Muhammadan marriage registrar is 'not prohibited from receiving' a gratuity voluntarily offered, has led to abuse in Bengal, and that attempts were even made to amend the Act by legislation. Reference is solicited to paragraph 4 (iii) of the letter of the Inspector-General of Registration of Bengal, submitting a draft Bill for the amendment of the Act, and the notes side-lined in pencil on pages 5, 6, 9, 11 and 12 of the proceedings. The reasons which then weighed with the Bengal Government against the amendment will be found set out in paragraph 5 of their resolution. In this connexion, they observed ". . . the present position is not unlike that which prevails in the Christian community when the bridegroom gives such fee to the officiating and registering clergymen as his own means can afford". It will, however, be observed that the Indian Christian Marriage Act, 1872, does not contain any provision for the acceptance of extra fee or gratuity. It is for consideration whether instead of combating the evil of the abuse of gratuities which, as is shown by experience in Bengal, follows closely upon the statutory permission to receive gratuities, it is not desirable to take steps for the omission of all mention of gratuity in the Bill if it should be finally approved, leaving it to the good sense of the Muhammadan community either to grant a gratuity or not according to the means of the parties concerned.

From Rule 23 of the rules issued under Bengal Act, I of 1876, it will be seen that Bengal Government have fixed the amount of gratuity that may be demanded by a Muhammadan marriage registrar to Rs. 3 plus a travelling allowance at the rate of three annas a mile.

M.D.R.—28-6-18.

P.DER.—5-7-18.

C. RAMANUJA ACHARIYAR—7-7-18.

We may take it that subject to the remark below India has no objection to leave being granted to the introduction of the Bill.

H.F.W.G.—10-7-18.

2. The only doubt is about clause 10 of the Bill declaring legal receipt of gratuities voluntarily paid. There was a similar provision in the Bengal Act of 1876. India suggested our inquiring how it worked there. Bengal has replied.

3. It is clear that the provision has been abused. When the Act came up for revision, the Inspector-General there, the Muhammadan Committee and the Honourable Member (Muhamadan) all were for repealing the section. But on the whole it was considered desirable not to repeal the provision already in the Act.

Yes.
H.F.W.G.—10-7-18.

4. The question before us is whether the Government should advise the Additional Honourable Member to omit clause 10.

For orders.

R. RAMACHANDRA RAO—9-7-18.

A draft letter to the Honourable Additional Member conveying the suggestion is submitted.

M.D.R.—15-7-18.
P.DER.—17-7-18.

C.R.—18-7-18.
R.R.—19-7-18.

IV

From the Local and Municipal (Legislative), dated 24th June 1918.

[Letter No. 1519-2, dated 20th July 1918—V.]

VI

From the Hon'ble Mr. Yaqub Hasan, dated 6th August 1918.

The Additional Member accepts the suggestion to omit clause 10 of the Bill. The correction will be carried out in the revised copy of the Bill. The file may now be submitted to the Honourable Member for information.

M.D.R.—9-8-18.
P.DER.—9-8-18.

C.R.—9-8-18.

I have already mentioned this to Honourable Member.

To Honourable Member (in Madras) for use at the Legislative Council meeting. Meanwhile to Legislative for information and return.

R.R.—9-8-18.

LOCAL AND MUNICIPAL (LEGISLATIVE) DEPARTMENT.

Seen and returned with thanks.

R. A. GRAHAM—9-8-18.

Circulate to Honourable Member at Madras.

C.R—9-8-18.

Leave to introduce was given at the Council meeting of 13th August 1918.

This is a Bill in regard to which it is of the greatest importance that Government ~~would~~ should obtain the opinion of representative Muhammadan associations and individuals. I wish therefore that the Bill should be circulated to selected Anjumans, Ulemas and leading Muhammadans for an expression of their views. Hon'ble Mr. Aziz-ud-din may be asked for a list of persons, etc., who should be consulted.

H. F. W. G[ILLMAN]—13-8-18.

A draft demi-official is submitted.

J.P.—13-8-18.

C.R.—13-8-18.
R.R.—14-8-18.

Demi-official—from the Hon'ble Diwan Bahadur R. RAMACHANDRA RAO Avargal, Secretary to Government, Home (Miscellaneous) Department.

To—the Hon'ble M. AZIZ-UD-DIN HUSAIN Sahib Bahadur, Khan Bahadur, C.I.E., I.S.O.

Dated—the 14th August 1918.

No.—519-4.

With reference to the Bill of the Hon'le Yaqub Hasan Sahib Bahadur to provide for the voulntary registration of Mussalman Marriages and Divorces, to introduce which permission was given at the Council meeting held on 13th August 1918, I am directed to state that

the Government consider it to be of the greatest importance that they should obtain the opinion of representative Muhammadan associations and individuals thereon, that the Bill should accordingly be circulated to selected Anjumans, Ulemas and leading Muhammadans for an expression of their views, I am to request that you will be so good as to furnish the Government with a list of persons and associations whom it would be profitable to consult.

We may remind Mr. Aziz-ud-din. The following draft is for approval:—

Demi-official—from the Hon'ble Diwan Bahadur R. RAMACHANDRA RAO Avargal, Secretary to Government, Home (Miscellaneous) Department.

To—the Hon'ble M. AZIZ-UD-DIN HUSAIN Sahib Bahadur, Khan Bahadur, C.I.E., I.S.O.

Dated—the 12th September 1918.

No.—1519-5.

I am to refer you to my demi-official No 1519-4, dated 14th August 1918 regarding the Bill to provide for the voluntary registration of Mussalman Marriages and Divorces and to ask for an early reply.

VII

From the Local and Municipal (Legislative), G.O. No. 76, dated 14th September 1918.

The Bill has been published in the *Fort St. George Gazette* in English and the several vernaculars—vide G.O. No. 76, Local and Municipal (Legislative), dated 14th September 1918, now received. The Bill has now to be referred to the High Court and other departmental officers. Please see paragraph 2 of this department note on page 3 of notes to G.O. No. 76, Legislative, dated 14th September 1918. Mr. Aziz-ud-din's reply to the demi-official has not yet been received. Meanwhile, the question may be considered of referring the Bill to the High Court, etc. The Post Puberty Marriage Bill introduced by the Hon'ble Mr. Srinivasa Sastri in 1914 was referred to the High Court Judges, the Advocate-General and the Collectors of districts, in addition to prominent non-officials (G.O. No. 860, dated 3rd June 1915).

The present Bill may also be referred to these officers for opinion. It would appear desirable to consult Collectors, as the Bill affects the Muhammadan population of the several districts. Perhaps the Collectors of Ganjām, Vizagapatam, Gōdāvari, Chingleput, Coimbatore, The Nilgiris and Anjengo districts which contain a comparatively less number of Muhammadan population need not be consulted. The Collector may be asked to obtain the views of representative Muhammadans in their districts.

Draft letter to the High Court and memorandum to the Advocate-General and Collectors are submitted.

M.D.R.—7-10-18.

P.DER.—9-10-18.

C. RAMANUJA ACHARIYAR—10-10-18.

All the Collectors may be consulted.

R. RAMACHANDRA RAO—10-10-18.

H. F. W. G[ILLMAN]—11-10-18.

(A telegraphic reminder may also be sent to the Hon'ble Mr. Aziz-ud-din.)

C.R.—10-10-18.

R.R.—10-10-18.

H. F. W. G[ILLMAN]—11-10-18.

[Telegram No. 498, dated 10th October 1918.—VIII]

[Issud as Letter No. 1579-6, dated 2nd October 1918.—IX]

[Letter No. 1579-7, dated 12th October 1918.—X

[Official Memoradum No. 1579-8, dated 12th October 1918.—XI]

Demi official—from M. AZIZ-UD-DIN HUSAIN SAHIB, C.I.E., I.S.O., Commissioner of Land Revenue.

To—the Hon'ble Diwan Bahadur R. RAMACHANDRA RAO Avargal, Secretary to Government, Home (Miscellaneous) Department.

Dated—the 14th October 1918.

I send herewith a list of the Mussalman Ulamas who may be consulted in connexion with Mussalman Marriage and Divorce Bill.

I regret the delay in furnishing Government with the list but until recently I was busy with the War Loan Propoganda and other special work.

List of Ulemas and Qazis, etc.

1. Janab Shumsul-Ulema Haje Qazi Obid-ul-lah Sahib Bahadur Government Qazi for the town of Madras, Mobrey's Road Royapetta, Madras.
2. „ Moulavi Haje Mahmud Sahib, Professor, Arabic College, Madrasa-i-Muhamediah, Mobrey's Road, Royapetta, Madras.
3. „ Moulavi Muhammad Ghouse Sahib, Professor, Arabic College, Madrasa-i-Muhamediah, Mobrey's Road, Royapetta, Madras.
4. „ Moulavi Muhammad Habib-ul-lah Sahib, Diwan Sahib's garden, Royapetta, Madras.
5. „ Moulavi Haje Abd-ur-Rahman Sahib, Diwan Sahib's garden, Royapetta, Madras.
6. „ Saiyid Muhammad Abdul Qadir Sahib Bahadur, Editor, the *Mukhberi-Deccan* (Daily and Weekly), Peter's Road, Royapetta, Madras.
7. „ Muhammad Abdul Latiff Sahib Bahadur, Editor, the *Jarida-i-Rozgar* (Daily and Weekly), Peter's Road, Royapetta, Madras.
8. „ Moulavi Saiyid Shah Husain Sahib Qadiri, Priest of Carnatic family, Cutcherry Road, Mylapore, Madras.
9. „ Moulavi Hakim Haje Saiyid Shah Muhammad Faqir-ud-din Sahib Naqavi-ul-Fakhri Sujjadah, Khankha-i-Fakhriah, 8, Arundel Road, Mylapore, Madras.
10. „ Moulavi Tajammul-Husain, Khan Bahadur, Amir Mahal, Royapetta, Madras.
11. „ Moulavi Haider Ali Sahib, Presidency College, Madras.
12. „ Moulavi Haje Muhammad Tamim Sahib, Eadgah Mosque, Muttiyalpet, Madras.
13. „ Qazi Muhammad Fasih-ud-din Sahib, Muttiyalpet, Georgetown, Madras.
14. „ Moulavi Haje Muhammad Fazl-ul-lah Sahib, Godowns street, Madras.
15. „ Shumsul-Ulema Moulavi Shah Zahid Husain Sahib Qadiri, Big Mosque compound, Triplicane, Madras.
16. „ Moulavi Qudrath Halim Sahib Ansauri, Mirsapet, Royapetta, Madras.
17. „ Moulavi Madar Sahib, Professor, Jamaliah Arabic College, Perambur, Madras.
18. „ Moulavi Haje Ziya-ud-din Muhammed Sahib Bahadur, Angappa Naik street, Madras.
19. „ Moulavi Haje Ghulam Mohi-ud-din Sahib, Librarian, Muhammadan Public Library, Wallaja Road, Triplicane, Madras.
20. „ Moulavi Haje Saiyid Abd-ur-Rahman Sahib, Bazaar Road, Royapetta, Madras.
21. „ Moulavi Muhammad Shah-ud-din Sahib, retired teacher, Madarasa-i-Azam, behind Wallajah Mosque, Mount Road, Madras.
22. „ Moulavi Hakim Badr-ud-din Husain Sahib Safai, Veeraragava Mudali street, Triplicane, Madras.
23. „ Moulavi Shah Qadir Husain Sahib, naib-Qazi, Mirsapet, Royapetta, Madras.
24. „ Moulavi Hakim Saiyid Sah Valivullah Sahib Qadiri, Mosque street, Triplicane, Madras.
25. „ Shamsul-Ulema Moulavi Saiyid Shah Abdul Latiff Sahib Qadiri Sujjadah, Hazrath Mackan, Vellore.
26. „ Moulavi Abdul Jameel Sahib, Professor, Arabic Latifiah College, Vellore, North Arcot.
27. „ Shumsul-Ulema Moulavi Haje Shah Abd-ul-wahab Sahib Qadiri, Principal, Abrabic College, Baqiyatus-Salaihath, Vellore.
28. „ Moulavi Abdul Jabbar Sahib, Professor, Arabic College, Baqiyatus-Salaihath, Vellore.
29. „ Moulavi Shaik Ali Sahib, Professor, Arabic College, Baqiyatus-Salaihath, Vellore.

30. Janab Qazi Hakim Muhammed Shariff Sahib, Government Qazi, Vellore, North Arcot district.
31. ,, Moulavi Saiyid Shah Husaini Peeran Sahib Qadiri, Hazrath Mackan, Vellore.
32. ,, Haje S. A. K. Jeelani Sahib Bahadur, Government Qazi, Aushur Khana street, St. Thomas Mount (Chingleput district).
33. ,, Moulavi Muhammad Obid-ul-lah Sahib, Porto Novo (South Arcot district).
34. ,, Moulavi Muhammad Abd-ul-lah Sahib, President, Anjuman, Ahlai Hadis, Musapet, Cuddapah.
35. ,, Qazi Moulavi Saiyid Sahah Mustafa Sahib Qadiri, Government Qazi, Cuddapah town, Cuddapah.
36. ,, Qazi Nasir-uddin Ahmad Sahib Chidah, Government Qazi, North Palar, Chittoor.
37. ,, Moulavi Habib-ul-lah Sahib, Nellore.
38. ,, Ahmad Ali Sahib Junidi, Secretary, Muhammadan Educational Association, Fort, Salem.
39. ,, Khan Bahadur Muhammad Habib-ul-lah Sahib Bahadur, Municipal Chairman and President, District Board, Vellore.
40. ,, Moulavi Muhammad Badivuddin Sahib Dulvi Bahadur, Manager, Messrs. Parry & Co., Ranipettai, North Arcot district.
41. ,, Moulavi Saiyid Sahib Ahmad Sahib Qadiri, Priest, Arcot (North Arcot district).
42. ,, Moulavi Haji Abdul Majid Khan Sahib, Professor, Arabic College, High Road, Govindapur (North Arcot district).
43. ,, Moulavi Saiyid Shah Sultan Mohi-ud-din Sahib Qadiri, Secretary the Anjuman, Vaniyambadi (North Arcot district).
44. ,, Moulavi Qazi Haje Saiyid Sahah Abdul Gaffur Sahib Qadiri, Civil and Military Station, Bangalore.
45. ,, Moulavi Qazi Amjad Ibrahim Sahib, Qazi Mahallah, Madura.
46. ,, Moulavi Haji Faqir-ul-lah Sahib, Professor, Arabic College, Pernambat (North Arcot district).
47. ,, Moulavi Abdus Salam Sahib, Pernambat (North Arcot distrtet).
48. ,, Moulavi Haje Abdul Halim Sahib, Pernambat (North Arcot district).
49. ,, Moulavi Hakim Abdul Qiyoom Sahib, Pernambat (North Arcot district).
50. ,, Qazi Muhammad Irtaza Ali Sahib Tamrial, Government Qazi, Weavers street, Tinnevelly.
51. ,, Moulavi Muhammad Sharfuddin Saheb, Professor, Arabic College, Mosque, Pettah (Tinnevelly district).
52. ,, Moulavi Qazi Abd-ur-rahim Sahib, Government Qazi, Kurnool.
53. ,, Qazi Bahavuddin Sahib Shakir, Government Qazi, Minambore (South Arcot district).
54. ,, Government Qazi Sahib, Rajahmundry.
55. ,, Do. Vizagapatam.
56. ,, Do. Berhampore (Ganjam district).
57. ,, Do. Chicacole (do.).
58. ,, Do. Coimbatore.
59. ,, Do. Cannanore.
60. ,, Do. Kasaragode (South Kanara).
61. ,, Do. Calicut (Malabar).
62. ,, Do. Palghat (do.).
63. ,, Sajjadah Nishin Baba Fakhr-ud-din Durgah, Penukonda, Aantapur district.
64. ,, Moulavi Saiyid Ahmad Husain Sahib 'Hoorsh', Sowcar Snid Mir Husain Sahib Bahadur, Chittoor, Chittoor district.
65. ,, Goverment Qazi Sahib, Tanjore.
66. ,, Qazi Saiyid Sahah Mustafa Sahib Qadiri, Government Qazi, Singara Tope street Trichinopoly Fort.

The Hon'ble Mr. Aziz-ud-din forwards a list of 66 Muhammadan Ulemas and Qasis, etc. who may be consulted in connexion with the Bill. Their opinion may accordingly be obtained. Draft circular letter submitted.

M.D.R.—23-10-18.

P.DER.—23-10-18.

These requisitions may be sent through the Collector concerned. In Memorandum No. 1519-8, dated 12th October 1918, we have asked all Collectors to obtain the views of representative Muhammadans within their jurisdictions. They should therefore know to whom we are directly sending these requisitions.

C. RAMANUJA ACHARIYAR—24-10-18.

R. RAMACHANDRA RAO—25-10-18.

It will be better to send extracts from the list to the Collectors concerned and ask them to consult the persons named if this has not been done already.

H. F. W. G[ILLMAN]—25-10-18.

Revise draft.

R.R.—26-10-18.

Draft memorandum to the Collectors concerned advising them to consult the persons named is submitted. One of the persons mentioned in the list is in Bangalore—vide No. 44 in the list. A letter may perhaps be sent to him direct inviting his opinion. Draft letter also is submitted.

M.D.R.—30-10-18.

P.DER.—1-11-18.

C.R.—1-11-18.

Issue.

R.R.—1-11-18.

[Memorandum No. 1519-9, dated 4th November 1918—**XII.**]

XIII

[*Letter No.* 1519-10, *dated 4th November* 1918.]

XIV

From the Government Solicitor, Madras, dated 28th October 1918.

XV

From the District Magistrate, Anjengo, dated 1st November 1918.

XVI

From the Registrar, High Court, dated 5th November 1918.

XVII

Demi-official—from the Hon'ble Mr. YAQUB HASAN SAHIB, Bahadur Additional Member of the Madras Legislative Council.

To—the Hon'ble Mr. L. DAVIDSON, C.S.I., Member of Council.

Dated—the 9th November 1918.

With reference to my Bill to provide registration of Mussalman Marriages and Divorces, I understand that district Collectors are taking the opinion of Muslim associations and individuals about my Bill. I have myself as Secretary of the Muslim League, received a letter from the Collector of Madras, dated the 26th October (but delivered on the 7th instant) inviting my views on the same. I expected that this consultation would only begin after the publication of the Bill in the *Fort St. George Gazette* in all the languages mentioned in the G.O. No. 76 L. and M. (Legislative), dated the 14th September 1918. I found the Tamil version of the Bill in the Gazette of the 29th October, I concluded from this that the publication of the bill in the other languages will follow and I shall be supplied with copies in the usual course. But on inquiry yesterday I was astonished to learn from the Secretary, Legislative Department, that some translations have already been published in the Gazette of the 22nd and 29th ultimo of which no copies were sent to me, not even with the usual weekly copy of the Gazette and that the last translation in Malayalam has appeared in the Gazette of the 5th instant. I have asked the Secretary, Legislative Department, on the 30th ultimo to supply me with a number of copies in each language and I am still waiting for them.

2. A large majority of the members of Muslim associations and leading Mussalmans specially the Ulemas are ignorant of English, and it cannot be expected that they would appreciate the Bill, if English version of it alone is placed in their hands. Even the vernacular Bill is so couched in technical words and phraseology that ordinary laymen, whose knowledge of literary vernacular is generally limited and deficient, will find it difficult to understand without the help of an explanatory note in plain language. The Hindustani version is set in metal type to which Mussalmans are not used and even I find it difficult to decipher some words. Even the educated people who are well versed in English are able to judge a Bill only in the light of the criticism of it in the Council debates and the press. My community does not possess an English paper and the discussion of my Bill was not fully reported in the English press and only partly reported in one Hindustani paper. Now that the bill has been published in Hindustani, Tamil, Telugu, Malayalam and Kanarese languages the vernacular press will discuss it hereafter.

3. If the Government had also attached to the Bill the proceedings of the Council as far as they related to the debate on the Bill the people consulted in the matter would have been in a better position to form their judgment. I am getting the debate printed in English and the translation of my speech in Hindustani, Tamil and Malayalam. I should like to send copies of these papers through the district Collectors to all the people who are being addressed by them on the subject. If any associations, Ulemas and other persons have been asked by the Government, in addition to those whom the Collectors in the usual course would address, to express their opinion I shall thank you to let me have a list of them. I shall be much obliged if you would be so good as to forward the copies of the debate in English and translation of my speech in vernaculars, copies of which I hope to send to you on Tuesday next, to the Collectors for distribution to the persons and associations to whom they are referring my Bill. I shall thank you to let me know the number of copies required for the purpose.

4. If you would kindly read my speech in the Council proceedings you will see that it makes out a case for the need of legislation and, when read with the Bill, it will help in the unbiased consideration of the matter. I therefore request you to provide facilities for placing this question before my community as fully as possible before it is asked to declare its attitude towards this Bill.

5. I propose to supply these papers to you in order to avoid delay; otherwise I would have begged you to have the proceedings of the debate in English and vernaculars printed and issued with the respective Bills as 'connected papers.'

Please see what can properly be done to meet the Hon'ble Yaqub Hasan's wishes.

I have acknowledged receipt and told him I don't know the stage reached, or whether Home or Legislative should take action and am therefore sending this note to the Secretariat.

L. D[AVIDSON]—10-11-18.

HOME DEPARTMENT.

The Additional Member wants the Government to forward copies of the Council Proceedings in English, and the translations of his speech in Hindustani, Tamil and Malayalam to all Collectors for distribution to the persons whom they are consulting on the Bill. It is for consideration whether it would be advisable for Government to comply with his request. Such a course may perhaps create an impression in the minds of the public that Government are favouring the Bill. Again, besides the 66 persons whose names were suggested by the Hon'ble Aziz-ud-din Sahib Bahadur, Government have no idea as to who will be consulted by Collectors. It would thus appear that it is not easy to let the Additional Member know the approximate number of copies of the proceedings and of the translation of his speech that will be required, without asking the Collectors themselves. He may perhaps be furnished with the names of 66 persons, leaving him to obtain the names of others from the Collectors of each district.

2. The file may go to Legislative Department u.o. with reference to paragraph 1 of the letter.

M.D.R.—11-11-18.

PDE.R.—13-11-18.

I submit that there is obviously no objection to the papers referred to by the Honourable Additional Member being circulated. The Bill, which has been sent round, has appended to it a Statement of Objects and Reasons, framed by the Member; and his speech at the Council is apparently an elaborated edition of it. The proceedings of the meeting 'so far as they related to the debate on the Bill' should evidently

include the speeches of the Hon'ble Mr. Aziz-ud-din which fully represented 'the other side' of the case. A circulation of these proceedings will only place before the officers consulted the full materials necessary to form a proper estimate of the provisions of the Bill.

We have on our list of selected Muhammadan associations and gentlemen 66, and we may send a copy each to the Collectors (25) or in all 91 copies. We may tell Mr. Yaqub Hasan that for the present and allowing a copy to each Collector, in addition to one to each of those selected for consultation, we will want 100 copies. Collectors may also be asked to apply directly to Mr. Yaqub Hasan or to us for any additional copies that may be required. Mr Yaqub Hasan may also be informed of this.

C. RAMANUJA ACHARIYAR—14-11-18.

There are two requests in the Honourable Member's letter.

2. As evidenced by Mr. Aziz-ud-din's speech, Mr. Aziz-ud-din is likely to take a hostile attitude towards the Bill. Mr. Yaqub Hasan fears that one reason for the attitude is personal unpleasantness of feeling. He told me that he heard that some one, presumably on the advice of Mr. Aziz-ud-din, was going round amongst the selected individuals trying to induce them to give their opinions against the Bill. And considering the class of people who are consulted they are not likely to think (themselves) of arguments for. So Mr. Yaqub Hasan wants in his turn to start propaganda work on behalf of the Bill.

3. Mr. Yaqub Hasan Sahib wants first a list of the persons whom the Collectors have been specially asked to consult. He thinks that Government will attach special weight to their opinion and wants to present to them his side of the case. I see no harm in his having a list of those people with addresses. We may add that Collectors will probably invite the opinions of several others.

L.D.—15-11-18.

4. He next wants certain proceedings to be distributed *by Government* to Collectors for being sent round. I do not think that this is necessary. We may tell him that there is no objection in his sending any papers to Collectors for distribution and that the Collectors will probably distribute them amongst those whose opinions have been invited. A copy of this reply may go to all Collectors.

None. He may find out the number required by asking Collectors himself.

L.D.—15-11-18.

R. RAMACHANDRA RAO—14-11-18.

L. DAVIDSON—15-11-18.

Draft reply letter to the Additional Member is submitted.

M.D.R.—18-11-18.

P.DE.R.—19-11-18.

C.R.—19-11-18.

R.R.—19-11-18

Demi-official—from the Hon'ble Diwan Bahadur R. RAMACHANDRA RAO Avargal, Secretary to Government, Home (Miscellaneous) Department.

To—the Hon'ble Mr. YAQUB HASAN SAHIB Bahadur, Additional Member, Madras Legislative Council.

Dated—the 19th November 1918.

No.—1519-11.

With reference to your letter to the Hon'ble Mr. Davidson, dated the 9th November 1918, I am directed to append a list of persons who have been invited by the Government to express their opinion on the provisions of your Bill. The Collectors of districts to whom the Bill has been forwarded will no doubt obtain the views of several *other* representative Muhammadans also, but Government have no information at present who they are.

2. There is no objection to your sending copies of the Council Proceedings and vernacular translations of your speech to all Collectors for distribution to persons whom they consult. You can best ascertain the number of copies required for this purpose by yourself addressing the Collectors direct.

XVIII

From the Government Chief Qazi, Thousand Lights, dated 27th November 1918.

XIX

From the Anjuman-i-Islatul Muslimin, Mount Road, No. 20, *dated 29th November* 1918.

XX

From the Honorary Secretary to the Muthialpet Muslim Anjuman, dated 14th November 1918.

Proceedings of the First Anniversary of the Muslim League, Begampore, Dindigul, held on the 6th October 1918 at 10-30 a.m. under the presidency of the Hon'ble Nawab Mir Asad Ali Khan Bahadur, the Member of the Imperial Legislative Council, when the following resolutions were unanimously passed :—

* * * * *

9. That this League accords its heartfelt support to the Bill to provide for the voluntary registration of marriages and divorces among Mussalmans, and hopes the Bill soon becomes law. (Proposed by Janab Moulvi Saiyid Murtuza Sahib Bahadur and seconded by Janab M. J. Muhammad Mira Sahib Bahadur.)

* * * * *

Demi-official—from the Hon'ble YAQUB HASAN SAHIB Bahadur, Non-official Additional Member of the Madras, Legislative Council.

To—the Hon'ble Mr. RAMACHANDRA RAO Avargal, Secretary to Government, Home (Miscellaneous) Department.

Dated—13th February 1919.

In addition to the communications made to the Legislative Council by the Legislative Secretary on the 5th instant on my Bill for the registration of Muslim marriages and divorces you must have received communications from the Collectors giving cover to the statements of opinion on my Bill by the Musalmans and associations consulted by them in their districts. I shall one day call at your office to read these opinions ; in the meantime I shall feel highly obliged if you would let me have a districtwar list of the persons, associations and meetings who have expressed opinion with a remark against each as to whether that opinion is in support of or opposition to the Bill.

The Hon'ble Mr. Yaqub Hasan saw me to-day in office. He wishes to have a copy of the opinions for detailed study.

2. I do not think it right to give him a copy of the reports of officials (vide, e.g , the opinion of the Collector of Madras). But I see no objection to a copy of the opinions of non-officials. Several of these have already appeared in the Press.

R. RAMACHANDRA RAO—21-2-19.

I am not prepared to give Mr. Yaqub Hasan advance information regarding the opinions furnished in response to Memorandum No. 1519-8, Home (Miscellaneous), dated 12th October 1918. They were invited in order to enable Government to decide what attitude to adopt, with regard to this private Bill, and until they have been considered by Government, they should not be made available either to supporters or to opponents of the Bill. We have nothing to do with what may have appeared in the Press ; or may do so in future.

L. D[AVIDSON]—25-2-19.

Draft demi-official submitted for approval.

R.D.M.—27-2-19.
P.de.R.—1-3-19.
C.R.—1-3-19.

R. RAMACHANDRA RAO—3-3-19.

The following is the table of contents of the further notes :—

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A tabular statement of opinions received showing the number of persons for and against the Bill will be found below. Appendices I and II contain the names of all persons whose opinions have been received and their attitude towards the Bill :—

Tabular statement of opinions received showing the number for and against the Bill.

By whom consulted.	Total number.	Number for.	Number against.
Persons consulted.			
1. By Government	9	7	2
2. Opinions of Collectors	26	10*	† 5 (11 have not expressed any opinion.)
Persons consulted.	Number not specified—all in favour.		
3. By Collector of Kurnool	11	8	3
4. By * Collector of Tinnevelly	4	2	2
5. By * Collector of Ganjam	17	8	9
6. By † Collector of Malabar	12	8	4
7. By * Collector of Anantapur	39	7	32
8. By † Collector of Madras	7	7	Nil.
9. By * Collector of South Arcot	9	9	Nil.
10. By * Collector of Nellore	5	4	1
11. By Collector of Godavari	4	3	1
12. By Collector of Madura	8	6	2
13. By Collector of Chittoor	Number not specified—majority in favour.		
14. By Collector of Chingleput	11	10	1
15. By * Collector of Salem	6	3	3
16. By † Collector of Tanjore	3	1	2
17. By Collector of Ramnad	7	6	1
18. By † Collector of Bellary	12	8	4
19. By * Collector of Cuddapah	17	4	13
20. By Collector of North Arcot	5	2	3
21. By Collector of the Nilgiris	7	6	1
22. By Collector of Trichinopoly	9	9	Nil.
23. By * Collector of South Kanara	30	18	12
24. By * Collector of Coimbatore	Number not specified—majority against.		
25. By * Collector of Vizagapatam	9	8	1
26. By † Collector of Guntur	24	22	2
27. By Collector of Kistna	84	55	29
28. Those who have voluntarily expressed their opinions.			
Total ..	375	231	133

I. The following is a precis of the opinions received from some of the more important gentlemen who are in favour of the Bill :—

The Hon'ble Mr. Justice Kumaraswami Sastri.—The Bill, which is purely voluntary and which offends against no principle of Muhammadan law, is a step in the right direction and its provisions will tend to check litigation.

President, Public meeting, Nellore.—The present system of maintaining records of Mussalman marriages and divorces is extremely unsatisfactory; the proposed Bill is both necessary and timely.

President, Anjuman Islamia, Coimbatore.—The complete absence of control over the Kazis have led to great scandal in registration of marriages, etc. The need for public registration is therefore absolutely necessary.

C. C. O. Alipi Sahib Bahadur, District Munsif, Chowghat.—The proposed Bill is most essential in the interests of the well-being of the Mussalmans of this Presidency. In many cases unscrupulous men have avoided their legal liability to maintain their wives and children by a denial of the factum of marriage when the latter were unable to establish their case by good evidence.

Every attempt should be made to make the procedure of registration as simple as possible.

The Mahadunn Thangal, Ponnani.—The present unregulated system gives rise to unnecessary disputes as to the validity of marriages. Persons having no religious status and learning are now consecrating marriages which is highly objectionable (to Muhammadanism). The proposed Bill is therefore very necessary.

Collector of South Arcot.—The passing of the Bill will considerably reduce the difficulties in the administration of justice in disputed cases and set right the present unsatisfactory system of keeping records by ignorant Kazis or their agents. The measure will obviate false evidence and false records prepared by self-appointed Kazis and encourage uniformity of practice stimulating the community to make these functions regular.

M. Muhammad Hussain Sahib Bahadur, Registrar of South Arcot.—The exercise of powers by the Kazis and their agents without any checks imposed on them, not to speak of the endless disputes consequent on the solemnization of marriages by persons without the least shred of authority calls loudly for amendment. The system of recording marriages and divorces on slips of paper has given rise to abuses of a grave nature. The proposed Bill is therefore necessary.

Saiyid Ismail Albeez, retired Government Officer, Cuddalore.—It is absolutely necessary to take steps for the better preservation of Kazi's registers, especially in cases where some of the registers are lost or the witnesses to a marriage are no more and the parties find it very difficult to prove the factum of marriage or divorce and the mahar amount, etc.

Khan Sahib Muhammad Fazl-ul-lah Sahib Bahadur, Deputy Collector, Polavaram.—The present system of the registration of marriages and divorces is, from the irresponsible manner in which it has been left to drift, capable of abuses of a grave nature. The proposed Bill is calculated to provide a safeguard against interference with the conjugal rights of at least such of the community as would choose to profit by it.

Kaji Saiyid Batcha Sahib Bahadur, Harur.—The proposed Bill will put down all litigation which now arise out of the malpractices of unscrupulous persons in matters of marriage.

M. Tamiz-ud-din Sahib Bahadur, Divisional Officer, Usilampatti.—The introduction of an enactment of the kind proposed will be the first step towards setting at rest unnecessary litigation about 'Mahar' to some extent and towards observing a uniformity of procedure in the registration of marriages and divorces. There is a growing necessity for maintaining a permanent record of marriages in view of the fact that in civil suits importance is attached more to evidence of a documentary nature than to parol evidence which latter is not always reliable. Divorces also should be registered.

Nasir-ud-din Ahmad Sahib Cheeda, Government Kazi, Chittoor.—Feels sure that the proposed Bill will act as a very strong safeguard against the evil practices of some self-created Kazis and others. It will act as a deterrent to mischievous persons and protect hones and simple minded Mussalmans from the snares of evildoers.

Saiyid Ahmad Badsha Sahib Bahadur, Revenue Divisional Officer, Chittoor.—The present system of maintaining records of marriages and divorces is defective and gives room for grave abuses and malpractices. Those who oppose the Bill have not adduced any valid ground. They bring in religion as an excuse and appeal to Government to maintain its policy of non-interference.

Muhammad Naimur Rahman, Professor of Arabic, Muhammadan College, Madras.—Has had occasion to hear of numerous sad stories of the abuse of the sacred rite of marriage and how people have succeeded in subverting the principles of religion, law and custom to gain their own ends.

Saiyid Ghulam Hussain, L.M.S., Villupuram.—The proposed enactment is most urgently needed to put down the grave abuses that exist for want of a proper system of maintaining records of Muslim marriages and divorces.

U. A. Abdur Rahim Sahib, Treasury Deputy Collector, Salem.—The Bill is a long-felt want in the social life of the community and is sure to put a stop to many abuses that have crept therein. He is of opinion that the Bill is indispensable for the good of the community and the fair name of Islam. For want of a proper

system of registration of marriages and divorces men are afforded opportunities of committing frauds which lead to grave consequences: the present Bill is sure to put a check on such unscrupulous solemnizers and will tend to minimise unnecessary and scandalous litigation.

Muhammad Munir Khan Sahib, Divisional Officer, Salem.—There can be no doubt that the present method of registration gives room for malpractices, promotes litigation and causes failure of justice. Very often disputes arise as to the amount of Mahar fixed at the time of marriage. The Kazi, if he is dishonest, will feel no difficulty in making any entry he likes in the so-called register which he maintains. Depending mostly on such entries, people resort to courts. But for the possibility of getting such false entries made several Muhammadan families would have been saved costly litigation and ultimate ruin. Cases arise where the validity of a marriage itself is questioned in a court of law. In such cases also the Kazis play an important part. An unscrupulous man does not hesitate to make any entry he likes and this leads to much litigation. All Muhammadans know the difficulties under which they labour and are in favour of introducing some system by which the present abuses can be avoided.

Saduk Azam Sahib, B.A., Tanjore.—It is needless to question the usefulness of the proposed legislation as it is extremely necessary to check the abuses which do not always come to light. Some Mussalmans do not appear to be keen observers of such social abuses which in fact do exist. He realises the need for the proposed enactment, inasmuch as it systematises the institution of Muslim marriages and divorces and serves as a check to malpractices, such as false claiming of Mahar and the denial of the shares of wives and children in secret marriages.

Munshi Muhammad Hussain Sahib Bahadur, Bellary.—Roshan Hussain Sahib Bahadur, Adoni.—The records or registers of marriages and divorces now maintained by Kazis or naib Kazis are very unsatisfactory and sometimes unreliable and give rise to abuses of various kinds. The proposed legislation gives a basis for the validity of marriages and divorces for want of which several Mussalman families are being ruined at present.

Collector of Cuddapah.—Provision is considered necessary by enlightened Muhammadans against the malpractices due to want of control over the registration as it is at present.

Saiyid Ahmad Bagdadi-ul-Qadiri Sahib, Government Kazi, Ootacamund.—He considers the early passing of the Bill most desirable as the salutary provisions contained in it have the sanction of the Moslem religious books and will supply a much felt want. The provisions of the proposed Bill are necessary to check unauthorized and irresponsible persons from committing fraud and malpractices.

Muhammad Abu Bahar Faqir-ud-din Ahmad Sahib, Kazi of Madras.—Cases of sham marriages and divorces are sometimes brought to civil and criminal courts for trial. If these evils are allowed to exist, shame and ignominy will be the result and the community will lose its prestige and estimation in the eyes of other communities. The provisions of the proposed Bill do not give any loop-hole for the fabrication of false records of marriages or divorces.

A. Ahmad Sahib, B.A., Sub-Assistant Inspector of Schools.—The Bill undoubtedly provides a system of registration calculated to safeguard Mussalman interests and to put an end to many malpractices that are now prevalent under the present defective method of maintaining records of marriages.

Views of the leading Muhammadans of Karkal, South Kanara.—An enactment for the registration of Mussalman marriages and divorces is a necessity which has long been felt and is therefore highly desirable. The evils attending the present system which is growing apace will be mitigated. The present system is open to malpractices which it is difficult to check. The proposed enactment will prevent all such abuses.

Collector of Coimbatore.—The Muhammadan community in general is alive to the grave abuses of the prevailing system and there is evidence of a general desire among its members for some reform.

U. K. Sinna Saiyid Ravuttar, Vakil, Udamalpet and Khan Sahib Abdur Razak Sahib, Udamalpet.—A variety of circumstances have led to the abuses which the Bill tries to prevent in future. The complete absence of control over the Kazis, their poverty which makes them dance to the tunes of rival factions in villages, and other such causes have led to a great scandal in the registration of marriages, etc.

Janab Muhammad Imam Muhi-ud-din Sahib Bahadur, Taluk Magistrate, Gurizala.—The existing system of registration is very loose and unsystematic and many Mussalman families are ruined thereby. There is every reason to believe that the proposed Bill will remove the evils of the present system.

Secretary, Anjuman Islamia, Guntur.—The present system of keeping records is so shabby and useless that it does more harm than good to either party inasmuch as the records are capable of being tampered with in any way as either party may like.

Saiyid Kasim Sahib, Inspector of Police, Vinukonda.—At present, the names of the contracting parties, the amount of the mazar are noted on slips of paper at the time of marriage and the entries in the Kazis' registers are made from these slips. These entries are very often incorrect. To provide against such irregularities an Act of the nature proposed is quite necessary.

II. Some of the persons consulted, while convinced of the necessity for reform in the existing system, consider that it is sufficient if the existing Kazi Act be suitably amended. Their opinions are extracted below :—

Khan Bahadur S. M. V. Usman Sahib Bahadur, District Magistrate, Guntur.—"The chief aim of the Bill is the preservation of the terms of marriage contract and not so much its factum nor of divorce or its terms. The marriage itself is not disputed in many cases. Muhammadan marriages are generally registered by Kazis and other persons who solemnize them. To prevent their records being subsequently tampered with or secreted, it is sufficient to make due provision for their preservation. That can be done by amending the Kazi Act XII of 1880, making it incumbent on a Government Kazi or his deputy to attend marriages, if invited, and maintain a register of marriages in a prescribed form." Since the Bengal Act does not work satisfactorily he says that it is not a fit measure to be experimented upon in this Presidency where the Mussalmans are less enlightened.

The views regarding the amendment of the Kazis Act are also shared by the Hon'ble Khan Bahadur Ahmad Thambi Marakkayar and Khan Sahib P. A. Ammo Sahib Bahadur, Deputy Collector, Calicut.

Mr. Usman Sahib is also against the registration of divorces because the parties to the divorce naturally take special care to create private record of the fact.

III. The chief objections of those who oppose the Bill are given below :—

Muhammad Fazul-ud-din Sahib Bahadur, B.A., B.L., Subordinate and Assistant Sessions Judge, Tinnevelly.—(1) The Bill instead of aiming at the abolition or rectification of the loose forms of registers maintained by Kazis, will perpetuate it by creating a second voluntary registration. The Bill will lead to double registration and thus create confusion and embarrassment.

(2) Great inconvenience will be felt by the parties in complying with the provisions of the Bill. Unless the parties to the marriage, their agents, etc., happen to belong to the same locality, it will be difficult to bring them all together for the purposes of sections 8-10 of the Bill.

(3) The Bengal Act of 1876 does not work well in Bengal where the Muhammadans are of better culture and enlightenment; much less will it work in this Presidency.

(4) *Khan Sahib P. Koonjayan Sahib Bahadur, retired Deputy Collector, Mahé.* There is no demand for the proposed legislation: if parties desire to secure documentary evidence of marriages and divorces they can easily draw up a simple form of document and have it registered with very little expense and trouble and this will be far better than any record maintained by an uneducated and apparently irresponsible Registrar created by the Act.

(5) *Mr. A. R. Loftus-Tottenham, Collector of Madras.*—Whatever the evils may be that it is intended to remove (and Mr. Yakub Hasan's statement of objects and reasons is silent on this essential point) they only concern the Muhammadan community and no one else; and if that community acquiesce in them, clearly Government may do so too. As a matter of policy it seems highly undesirable to do gratuitously anything that may create unrest among Muhammadans at the present time.

(6) *Muhammad Usman Sahib Bahadur, B.A., Honorary Secretary, Muthialpet Moslem Anjuman, Madras.*—The passing of the Bill will be viewed with indignation as the introduction of the thin end of the wedge calculated to bring about the degradation of the very authority of the prophet as the sole legislator for Muhammadans in matters social and religious.

(7) *M. Hussain Mian Sahib Bahadur, Madras.*—The proposed Bill brings into contempt the simple procedure laid down by the prophet in connexion with marriages and divorces by giving a higher legal status to the proposed legislation.

(8) *Haji Muhammad Hanif Sahib, Khan Bahadur, Zamindar of Karingali.*—The Bill is contrary to Muhammadan law and the passing of it will lead to serious difficulties and inconveniences.

(9) *H. G. Gharpurey, Esq., Acting Collector of Cuddapah.*—The Bill, if passed into law, might be a source of great future trouble, involving as it does, the interference of the State in matters which are essentially social and governed by religious sentiment. [Against this, many Muhammadans (including Kazis) have expressed the opinion that the proposed enactment is not against Islamic law, nor is it an interference on the part of Government, for Muhammadan marriage is only a civil contract.]

(10) *Collector of Anantapur.*—The passing of the Bill will mean the employment of a large number of paid Kazis and Naibs and this will tell upon the purses of Muhammadans who are as a class poor.

(11) *The Hon'ble Mr. A. T. G. M. Ahmad Thambi Marakkayar, Khan Bahadur.*—Unless registration is made compulsory, there is no use. The Bill is merely a permissive measure and as such is not calculated to produce the desired effects.

IV. Of those consulted some desire that registration should be compulsory while others that it should be optional. Their opinions are extracted below:—

Mr. Yakub Hasan thinks that in the present state of society it will be too much of a drastic reform to jump from the present loose system of keeping records of marriages and divorces to a compulsory system of registration. As marriages in this Presidency are performed as a rule by certain functionaries, and seldom by private persons, and as all these functionaries will obtain licences and become Muslim Registrars under the proposed Act, he thinks that practically all marriages will come to be registered in the ordinary course.

Mr. Ahmad Tambi Marakkayar is of opinion that it is necessary to penalize the parties for neglect to register marriages without at the same time making such marriages invalid for want of registration. Penalizing parties for neglecting to register marriages without rendering the marriages void for registration is, he thinks, the only way by which the corrupt practices now prevailing could be checked.

The Advocate-General.—Is of opinion that a system of compulsory registration is necessary. In the absence of any statutory provision making registration compulsory, Indian Courts, in case of a dispute as to the factum of a marriage, are usually left to discover, or attempt to discover, the truth from a mass of conflicting and often very unsatisfactory evidence of witnesses. The Bill merely reproduces the provisions of Bengal Act of 1876 and it is not desirable to enact a law like this in Madras 40 years after the Bengal enactment. The Hon'ble Mr. Justice Sadasiva Ayyar wants compulsory registration at least as regards marriages taking place in municipalities and in towns where there are Registrars' offices established for the purpose.

The Hon'ble Mr. Justice Coutts-Trotter.—Regards registration as of little value unless made compulsory.

President, Public meeting of Mussalmans, Nellore.—Registration should be made compulsory, compulsion being enforced on pain of inadmissibility of unregistered marriages and divorces in evidence and also of a moderate penalty.

President, Anjuman Islamia, Coimbatore.—Is of opinion that registration must for some time be left to the willingness of the community as the masses are not so far advanced as to appreciate the motives of the legislators. Neither is the element of compulsion or of punishment in default called for.

P. N. Muhammad Miran Sahib, Deputy Collector.—The introduction of compulsory registration is opposed to the spirit of Muhammadan law of marriages and divorces. However, to render the proposed measure effective it is necessary to penalize the parties for neglect to register without at the same time making them invalid for want of registration.

Muhammad Ghouse Sahib Bahadur, Treasury Deputy Collector.—The Bill is an improvement on the existing state of things, but it will be a dead letter and will fail to bring about the desired effect, unless and until a provision is made therein making registration compulsory. But to provide that all Muhammadan marriages and divorces should be registered to make them valid is certainly opposed to the spirit of Muhammadan Law. An element of compulsion, such as penalizing the parties and their lawful guardians, should be introduced without at the same time rendering a marriage or a divorce void for want of registration.

Khan Bahadur Chekkutty Sahib Bahadur, Retired Inspector of Police, Manjeri.—The Bill provides only for voluntary registration and even if carried into law will practically be infructuous without compulsory registration. The case of the Malabar Marriage Bill is an instance in point. The Government wedded as they are to religious neutrality, may not make the Bill compulsory against the wishes of the people, but unless this is done, no useful purpose will be observed.

Khan Sahib P. Koonjayan Sahib Bahadur, Retired Deputy Collector.—In order effectively to guard against abuses nothing short of compulsory registration will be of any use. To think of enacting a law for compulsory registration at the present stage of secular education among the community is quite out of the question.

Collector of South Arcot.—The passing of the Bill as a purely permissive piece of legislation is greatly welcomed by the whole community, as it will considerably reduce the difficulties in the administration of justice in disputed cases and set right the present unsatisfactory system of keeping records.

M. Muhammad Hussain Sahib Bahadur, Registrar of South Arcot.—The necessity for legislation has already been acknowledged by such eminent jurists as Sir Ronald Wilson and Mr. Amir Ali. According to these authorities, compulsory registration would alone put a stop to the abuses of the present system; but caution is needed all the same, in view of the social aspects of the question involved. An optional measure will, on the other hand, serve to cover the transitional period necessary to reconcile the vested interests to a compulsory measure if and when it comes; but the latter task had best be left to the Government of India so that it may introduce a measure which would apply to the whole of India.

Haji Muhammad Habib-ul-lah Sahib, Nellore.—Registration should be made compulsory, the compulsion being enforced on pain of inadmissibility of unregistered marriages and divorces in evidence and also of a moderate penalty.

Yahya Ali, M.A., B.L., Vakil, Nellore.—I would wish registration to be compulsory, as I fear a voluntary system will prove practically a dead letter.

S. Ahmad Ali Sahib Bahadur, Revenue Divisional Officer.—It would have been more desirable to make registration of marriages and divorces compulsory, but it is feared that such a measure would encounter fierce opposition in certain quarters, where members of the community have not attained that breadth of vision which alone would enable them to welcome this salutary reform. The voluntary nature of the Bill has the double advantage of safeguarding the interests of those who want them to be safeguarded, and at the same time of not offending the susceptibilities of such ultra-orthodox members of the community, who are prepared to take the risks involved in the promiscuous form of registry now in vogue.

Collector of Tanjore.—The Bill is quite useless. It will not remedy the abuses complained of, for those who wish to misbehave will clearly not have their marriages or divorces registered. There is clearly no unanimity of opinion in regard to the matter and the Bill, if passed into law, is likely to remain a dead letter for a good many years.

Hajee Ahmad Sahib Bahadur, Bellary.—Considers that registration will not be necessary if at the time of the marriage settlement of 'mahar,' a deed of settlement is drawn up and registered. Such a deed, he considers, will obviate litigation and will also serve as a proof of marriage.

Muhammadans of Karkal, South Kanara.—If registration is permissive, no good will come out of it. Unless it is made compulsory no benefit will accrue, because no marriage would be invalid for want of registration. The compulsory character of registration would give better status to the function and its validity would be assured: it will have far reaching significance, without entrenching on religious and social susceptibilities.

Collector of Coimbatore.—Permissive as registration is under the proposed law, its promoters are too sanguine about the benefits that will flow from it. At the same time, any law which seeks to make registration compulsory will be met with very serious opposition from the community as a whole as against the genius of the Law of Islam.

U. K. Sinna Saiyid Ravuttar, Vakil, Udamalpet.—Registration must for some time more be left to the option of the community, as the masses are not advanced so far as to welcome the remedy without misunderstanding the motives of the legislators. In the course of a few years the Mussalman public will reject the old system and take to the new one whole-heartedly, when the Government or the Muslim leaders may try to make registration compulsory. For these reasons he does not agree with the proposal of the Hon'ble Khan Bahadur Ahmad Tambi Marakkayar that registration should be compulsory. He does not also share his fears that the Bill will be of no use without the element of compulsion and of punishment in default. Government cannot take the full or initial responsibility of effecting improvement in the internal socio-religious conditions of any community. Nor can the Acts of any legislative body, however stringent its provisions are, lift the masses out of their ignorance without subjecting the legislature to a vast amount of suspicion and of misguided opposition.

V. To sum up.

The Hon'ble the Advocate-General, though convinced of the necessity of some such legislation as the proposed Bill, is not in favour of it in its present form. The High Court generally is in agreement, though it suggests some modifications.

Of the leading Mussalmans consulted by Collectors, the Muhammadans in 17 districts are in favour, in 7 districts they are against the Bill: in the remaining two, opinion is divided in The Nilgiris, while, from Anjengo, there is no opinion.

Of the persons and bodies who have volunteered their opinions, 29 are against the Bill, 55 in favour of it.

On the whole, the general opinion of the Muhammadan community seems to be in favour of the Bill. Many of the opposers are Moulvis, who are under the apprehension that it will adversely affect their interests.

As one of the principal objections to the Bill is based on the assumption that Bengal Act I of 1876 does not work well in that Presidency, it is for consideration if the Bengal Government should be asked how far this assumption is correct. Attention is in this connexion invited to paragraph 2 of Bengal Government's Resolution on page 2, current file, from which it appears that, since the passing of the Act there, the Bengal Government have from time to time instituted inquiries as to the causes which hinder the extension of the practice of registering Muhammadan marriages and divorces, and though various proposals for amendment were considered, the law remains as it was enacted in 1876. As to the progress which has been made in attaining the purpose of the Act, please see paragraph 9 of the Resolution on page 4, current file. In the Dacca Division, where the Act is of primary importance, there

has been a steady and substantial progress which points to the expediency of adhering to the policy of patience in awaiting improvement. This policy was adopted by the Bengal Government in the early period when the Act was generally considered to be a failure.

VI. *The attitude that should be adopted by Government with regard to the proposed Bill.*—In October 1900 some of the Muhammadans of Triplicane petitioned Government to amend the Kazi Act XII of 1880 so as to provide that Kazis shall enter all marriages solemnized by them in a register to be maintained in a prescribed form, and that no entries in such registers shall be accepted as evidence in Courts unless they are authenticated by the signature of the husband, wife and witnesses (vide page 2 of G.O. No. 826, Judicial, dated 5th June 1901). The Government thereupon referred the matter to all the Collectors requesting them to ascertain and report to Government the opininion held by the leading Muhammadans in their districts. The Judges of the High Court were also asked to favour Government with their opinion as regards the extent of the litigation consequent on the non-registration of Muhammadan marriages—vide G.O. No. 826, Judicial, dated 5th June 1901.

2. After due consideration of all the opinions thus elicited, Government decided to drop the matter until there was a more pronounced and unanimous demand for legislation than there was then or until a lead was given by some of the provinces where the population contains a larger proportion of Muhammadans (vide G.O. No. 1807, Judicial, dated 1st December 1902). Attention is in this connexion invited to the remarks of Lord Ampthill, the then Governor, on page 8 of the notes to G.O. No. 1807, dated 1st December 1902, where he stated that " any further initiation must come from the Muhammadans themselves and they must be of one mind about it."

With regard to the Hindu Marriages Validity Bill, introduced by the Hon'ble Mr. Patel in the Imperial Legislative Council, this Government was of opinion, that the best course was to leave the Bill to be dealt with by the enlarged Council with an increased non-official element, which may come into existence under the impending Reform Scheme especially as it was not claimed for the Bill that it was an urgent piece of legislation that could not wait for a few years [G.O. No. 664, Home (Miscellaneous), dated 30th March 1919]. It is for consideration whether the same attitude may not be taken up by Government with regard to the present Bill also.

3. After Government have settled their attitude towards the Bill, the Government of India will have to be addressed with reference to Rule 10 (3) of the revised " Instructions to Local Governments regarding legislation in Local Councils " forming enclosure (2) to the Government of India letter No. 1473, dated 5th June 1918, recorded in G.O. No. 52, Local and Municipal (Legislative), dated 2nd July 1918. Please see in this connexion paragraph 2, sub-paragraph (3) of the Government of India letter No. 1475, dated 20th May 1919, which lays stress on the importance of the Local Government submitting its report as to the policy of a non-official member's Bill and *the attitude which it is proposed to adopt towards it*, " *without delay* (printed on page 2 of G.O. No. 75, Local and Municipal, dated 25th June 1919)."

VII.—The following remarks and suggestions on the detailed *provisions of the Bill* have been made for the consideration of Government :—

(1) *Section 3 Grant of licences to register marriages and divorces.*

Haji Muhammad Habib-ul-lah Sahib Bahadur of Nellore is of opinion that licences should be granted not to any person who applies for the same, but only to Kazis appointed under the Kazis Act XII of 1880, and where there is no such Kazi, to such persons as shall be appointed to such area by the Governor in Council.

The President, Anjumane Islamia, Coimbatore, is in favour of appointing more than one person to register marriages in any locality. He is also in favour of licensing Pesh Imams of mosques as they perform marriages and are generally resorted to by the intelligent portion of the community. The Anjumani Ahlai Hadis is, however, of opinion that a Kazi should be appointed from the members of the existing Kazi family and only persons who are well educated, learned in Arabic and who

have passed the Kazis' test, should be appointed. It is also suggested that Kazis and Pesh Imams should be appointed by Government in consultation with the leading Muhammadans of the respective locality and that provision should be made for the determination of qualifications required from persons to be appointed as Moslem Registrars by a Moslem body consisting only of Ulemas approved by the Moslem public.

The Revenue Divisional Officer, Erode, says that there are in many places cliques (pertaining to Kazis) among the Muhammadans. If licence to register marriages and divorces be not granted to any other person except the Kazi and his Naib, it will cause great injustice to the party or clique that does not stand in the good graces of the Kazi. It will also tend to intensify the animosity on both sides and give rise to great many intrigues.

(2) *Section 4—Seal of the Moslem Registrar.*

The Hon'ble Mr. Justice Spencer.—For the purpose of easily identifying the origin of marriage certificates of persons who do not know Persian, the name and place of the Registrar's office should be inscribed also in English and in the vernacular of the district.

Mr. Abdullah Moulvi, Manjeri.—The inscription on the seal should be either in Arabic or in the vernacular spoken in the locality.

C. C. O. Alipi Sahib Bahadur.—The seal should be in Arabic, not Persian, as there are more Muhammadans who know Arabic than Persian.

(3) *Section 6—Moslem Registrars to keep registers.*

The Hon'ble Mr. Justice Spencer.—The Bill does not state in what language the registers are to be kept. This should be made clear.

(4) *Section 8—Applications for registration.*

(*a*) *Hon'ble Mr. Justice Seshagiri Ayyar.*—Section 8 says that the application "shall be made to the Registrar orally". It should be made clear so as not to exclude written applications.

Abdulla Khan Sahib Ghori, Vakil, Tinnevelly.—Written applications also should be allowed and in case of refusal, the Registrar must give his grounds for refusal.

(*b*) *Hon'ble Mr. Justice Kumaraswami Sastri.*—The words "duly authorized" should be explained. The authority should be by a power-of-attorney attested by a responsible officer.

Haji Muhammad Habib-ul-lah Sahib of Nellore is of opinion that the vakil of a purda-nashin woman need not be a duly authorized one. It should be sufficient if such person is her vakil in accordance with the provisions of the Muhammadan law.

I. A. Peer Muhammad Sahib Bahadur (Revenue Divisional Officer).—The person authorized to attest the vakalat of a woman should be defined. He would propose any magistrate, any sub-registrar, any village headman, any gazetted officer, retired or in service, any title-holder, any municipal councillor, any member of the Taluk or District Board or union panchayat, any Revenue Inspector, Tahsildar or Deputy Tahsildar.

(5) *Section 9—Registration of marriages and divorces.*

(*a*) *Fee.*

Khan Sahib P. A. Ammoo Sahib Bahadur, Deputy Collector, Calicut.—The prescribed fee of Rs. 1-4-0 for the registration will exclude many a poor man desirous of registration. Registration must therefore be made free.

Collector of Anantapur.—The additional expense involved is generally objected to on the ground that Muhammadans are as a class poor. This objection has much force and the question how far the expenses of registration may be minimised deserves careful consideration. Fee may be fixed at annas eight in each case.

Khaji Saiyid Mustafa Hussain Sahib, Cuddapah.—Instead of fixing Rs. 1-4-0 as registration fee, the full fee according to the practice obtaining in each locality should be imposed.

(*b*) *Time for Registration.*

Collector of Anantapur.—Registration of marriages should take place at the time of marriage in the marriage house itself. It is urged that registration effected about a month after the marriage has not the same advantage as that made at the time of the marriage itself, and that if the registration takes place in the marriage house itself at the time of marriage, the expenses involved in securing before the Registrar the presence of witnesses and of authorized vakils in the case of purda-nashin ladies can be avoided.

(*c*) *Nizamuddin Sahib Bahadur, Mangalore.*—Registration should take place immediately after the event rather than 'within one month'. This will put an end to many abuses and will prevent further misrepresentation.

Revenue Divisional Officer, Erode.—Since parties are given one month's time to get marriages registered, difficulties will arise in the course of inquiries which the Registrar has to make before registration. It will not always be possible for the parties to adduce evidence a month after the marriage.

Moulvi Ziyauddin Muhammad Sahib, Madras.—It should be incumbent on the Moslem Registrar to be personally present on the occasion of the celebration of marriage and make all entries in his book which are necessary for the marriage. This procedure is quite essential in order to prevent bogus parties, bogus vakils and bogus witnesses from forming a conspiracy and having a marriage registered without the knowledge of the actual parties concerned.

The Hon'ble the Advocate-General.—Marriages at least, if not divorces, should be solemnized only before the Moslem Registrar whether he is a Kazi, Naib Kazi or other licensed person and no power should be given to a Marriage Registrar to inquire into the factum of a marriage after the event.

6. *Section* 10.—*Entries in the Register by whom to be signed.*

I. A. Peer Muhammad Sahib Bahadur, Revenue Divisional officer.—If the witnesses who were present at the marriage cannot appear before the Moslem Registrar, they may be represented by their agents duly authorized.

Muhammad Irtiza Ali Sahib Bahadur, Government Kazi, Tinnevelly.—Proposes that a provision be inserted to the effect that a certified copy of the marriage register under the Act may take the place of the original for production in court as evidence, so that the original may not in any event be removed from the custody of the Registrar.

C. C. O. Alipi Sahib Bahadur.—The provision making it compulsory that two witnesses should attest an entry, should be removed. It is enough if the entry contains particulars relating to the names, addresses, etc., of two witnesses.

(7) *Section* 14.—*Copies of entries in registers.*

Hon'ble Mr. Justice Spencer.—Provision is made in this section for copies which are furnished to persons applying for the same being sealed; but there is no provision for copies which are given to the parties, on conclusion of the ceremony under section 11, being sealed. Both the copies obtained by payment of fees and the copies that are furnished gratis to the parties equally require to be sealed as a guarantee of genuineness.

(8) *Section* 15.—*Fees for searches and copies.*

A suggestion has been made that the fee chargeable for certified copies of an entry should be 8 annas only instead of Re. 1.

(9) *Section* 16.—*Control and supervision of registrars.*

I. A. Peer Muhammad Sahib Bahadur, Revenue Divisional officer.—In the town of Madras also the District Registrar should have control and supervision over Moslem Registrars as it will be inconvenient for the Inspector-General of Registration to have direct supervision over them.

(10) *Section* 17.—*Inspector-General of Registration to exercise general superintendence.*

The Inspector-General of Registration should have power to make rules as to how the fees collected by Moslem Registrars are to be utilized.

(11) *Section* 20.—*Appeal against refusal to register.*

The Hon'ble Mr. Justice Abdur Rahim.—Doubts whether ordinary District Registrars who might not be familiar with the Muhammadan law relating to marriage would be the best tribunal to hear appeals. Special officers should be appointed to hear appeals if many crop up. *The Hon'ble Mr. Justice Kumaraswami Sastri* would confine refusal to register to cases where the Registrar is not satisfied as to factum of marriage or divorce. He would give a right of suit as in section 77 of the Registration Act.

President, Anjumane Islamia, Coimbatore and Chairman, Municipal Council, Udamalpet.—An appeal against an order of the District Registrar should lie to the Inspector-General of Registration whose order should be final. The Inspector-General may, before passing such order, direct further inquiry and should in his decision be guided by the Moslem Council of Ulemas at Madras to be specially constituted by the Government for the purpose.

The Collector of Coimbatore.—Does not agree to second appeals. The District Registrar's order, in his opinion, should be final in the sense that it cannot be challenged by way of a departmental appeal, but only by a suit.

Ghulam Muhammad Ghouse Sahib, Porto Novo.—An appeal should lie against an order of a Muhammadan Registrar refusing to register a marriage or divorce to the Civil Court.

The Collector of Ganjām.—Considers that appeal time should be extended to 30 days.

(12) *Muhammad Irtiza Ali Sahib Bahadur, Government Kazi, Tinnevelly.*—Suggests that it should be made clear whether the Mahar does or does not come under the Stamp Act.

But these are matters for later consideration primarily by the member who introduces the Bill.

R.D.M.—11-7-19.
P.DE.R.—12-7-19.

C. RAMANUJA ACHARIYAR—12-7-19.

The above is an excellent summary of the opinions received. It is not necessary at this stage to comment on the detailed suggestions put forward. The main question is what the attitude of Government should be towards the Bill. Mr. Gillman has noted that it is of the utmost importance that Government should obtain the opinion of representative Muhammadans. Of course it is never intended that Government should take any active participation.

2. The first point is whether the Bill should make registration compulsory. I can well conceive that, by not invalidating the marriage for want of registration and providing only secular penalties, such a provision cannot theoretically be held to be religious. But there will be a loud outcry and the dividing line between religion and the attestation of a civil contract in this affair is so thin that we cannot well support a compulsory registration, much less suggest such a course.

3. It is quite possible that a permissive Bill will practically be inoperative. But that is the concern of the community.

4. There is, however, reason to suppose that in the Muhammadan community a permissive Bill will be more operative than the Malabar Bill. Evidently there are several abuses now current especially in the matter of the terms of the Mahar. And once the community comes to learn that an easy registry of such terms in register at a time when there is no cause for misunderstanding saves a lot of unpleasantness and litigation in the future, the Bill is likely to be considerably resorted to at least in municipal areas.

5. The bulk of the opinion in quantity and in quality is, I think, decidedly in favour of the Bill, and we shall be justified in saying that the opinions received by Government justify them in not opposing a permissive Bill. After the orders of Government are obtained on this point, the detailed provisions will be examined with a view to ascertain if the mover should be asked to amend the Bill.

6. If the Honourable Member, Mr. Yaqub Hasan, is not returned to the new Council, I believe the Bill abates.

R. RAMACHANDRA RAO—15-7-19.

For orders as to circulation.

R.D.M.—5-8-19. S.A.—6-8-19. C. RAMANUJA ACHARIYAR—7-8-19.
R. RAMACHANDRA RAO—8-8-19.

I should be grateful to my Hon'ble Colleague Khan Bahadur Habib-ul-lah if he would kindly record his views on this case before I attempt and deal with it.

L. D[AVIDSON]—8-8-19.

I am sorry I have not had the time to wade through this mass of literature and record anything like a useful note for the benefit of my Honourable Colleague. As, however, I have to lay down the reins of office on the 20th instant, I return the file with many apologies.

M. H[ABIB-UL-LAH]—15-1-20.

Circulated.

R.R.—16-1-20.

It seems to me open to doubt whether Mr. Yaqub Hasan when he returns will not have other things to occupy him than the prosecution of his Bill which has by no means met with unanimous approval. I therefore do not think it worth while at present to wade through this enormous file in order to arrive at an opinion on a question which may never arise. I think we may wait till Mr. Yaqub Hasan does return and asks questions about the fate of his Bill. It is for him rather than for Government in the first instance to consider such amendments as will make it acceptable to the Council.

A. R. K[NAPP]—18-1-20.
C. G. T[ODHUNTER]—19-1-20.
P. R[AJAGOPALA ACHARIYAR]—24-1-20.
W[ELLINGDON]—30-1-20.

Extract of notes from Local and Municipal file regarding notice of motion for the introduction under Council rule 34 *of the Bill to provide for the Voluntary Registration of Mussalman Marriages and Divorces.*

LOCAL AND MUNICIPAL (LEGISLATIVE) DEPARTMENT.

From the Hon'ble Yaqub Hasan Sahib Bahadur, dated 3*rd March* 1920.

Under the rules the notice of motion is in time and in order (please see rules 23 and 34). Under rule 24 the motion should be entered in the Agenda paper. For orders whether they may be done.

2. The motion for leave to introduce the Bill (under rule 31) was carried in Council on 13th August 1918; and under rule 32, the publication of the Bill was directed in G.O. No. 76, L. & M. (Leg.), dated 14th September 1918. The opinions on the Bill were under consideration in the Home (Miscellaneous) Department and it is understood that the Bill has been ordered to lie over by Honourable Member, Home (Miscellaneous) Department, until the Honourable Additional Member himself moves again in the matter.

The Home (Miscellaneous) Department may be consulted u.o. before orders are taken as to the admission of the motion given notice of.

C.V.R.—3-3-20. L. A. CAMMIADE—3-3-20.

Honourable Member (Judicial) has spoken to me on this and he has doubtless given instructions to Home Department but formal reference is necessary.

None.
R.R.—4-3-20.

F. J. RICHARDS—3-3-20.

HOME (MISCELLANEOUS) DEPARTMENT.

The main file regarding Mr. Yaqub Hasan's Muhammadan Marriage Bill is with the Honourable Member. The case was ordered to lie over till Mr. Yaqub Hasan himself moved in the matter. The attitude of Government with regard to the Bill has not yet been settled and till that is done it does not seem desirable to have the Bill read in the Council. There are only five days more for the Council meeting and it does not seem possible to settle within such a short time what Government's attitude towards the Bill should be. The case may be submitted to Honourable Member for orders.

R.D.M.—4-3-20.

N. KAILASA SARMA—4-3-20.

R. RAMACHANDRA RAO—4-3-20.

B I attach the main file. I have spoken to Mr. Yakub Hasan who will be quite content if Government do not oppose him at the present stage while they reserve the right to do so later on should public opinion dictate such a change in attitude. On this understanding I do not see any reason why he should not introduce his Bill.

A Will Secretary please have a list put up of all the opinions received on the Bill, distinguishing those which have already, as Legislative Council papers, been communicated to Mr. Yaqub Hasan. We have to decide whether we can let him have all or any of the other opinions.

A. R. K[NAPP]—4-3-20.

Done.
B.R.—3-4-20.

Inform Legislative also.

R.R.—4-3-20.

With reference to Honourable Member's orders at **A** above a list* of all the opinions received on the Bill is put up. Those which have already been communicated to Mr. Yaqub Hasan as 'Council papers' and are also printed in the current file are marked in the list in *red ink*. These need not be communicated to him. As regards the rest attention is solicited to the Hon'ble Mr. Davidson's note, dated 25th February 1919 at page ante wherein he expressed the opinion that the papers should not be communicated till the Government had considered them and arrived at a decision. As the Additional Member has been allowed to introduce the Bill at the next meeting of the Council, the question what papers should be communicated to him may now be considered. There appears to be no objection to the communication to the Additional Member of the opinions of *private associations and individuals*—except No. XXXV—and also of the opinions of Muhammadan officials as these contain only their personal views on the merits of the Bill. It does not appear desirable to communicate at this stage the opinions of other officials or of the High Court, or the Advocate-General.

2. In this connexion it may be pointed out that *all* the opinions received on Mr. Raman Menon's Malabar Marriage Bill were furnished to him in G.O. No. 594, Public, dated 31st March 1915. They were also placed on Editors' Table for the information of the public. Please see the Hon'ble Sir Alexander Cardew's remarks on page 32 of the notes to the above Government Order.

3. Attention is solicited to paragraph 10 on page 3 of the notes to G O. No. 52, L. & M. (Leg.), dated the 2nd July 1918, and portion marked **B** on page 1 of notes to G.O. No. 78, L. & M. (Leg.), dated 25th June 1919, wherein the question whether the Government of India should again be addressed with reference to 10 (3) of the revised instructions for legislation in the local Councils was considered. No such action was then considered necessary.

The Hon'ble Mr. Gillman in his speech at the Legislative Council meeting held on the 13th August 1918 said that the attitude of Government in regard to this Bill would be '*entirely neutral.*' This attitude has not yet changed and till Government

* not printed

finally settle their attitude towards the Bill (vide Hon'ble Mr. Knapp's remarks at page 4 ante) it does not seem necessary to address the Government of India. The Government of India have already intimated that they see no objection to the principle underlying the Bill and this sanction appears sufficient for the present.

R.D.M.—6-3-20. B.R.—6-3-20. N. KAILASA SARMA—7-3-20.

I do not see much objection to XXXV also being communicated provided it be decided to communicate these opinions.

R. RAMACHANDRA RAO—7-3-20.

Regarding the communication of opinions to Mr. Yaqub Hasan, the matter must lie over.

2. I have spoken to Sir P. Rajagopala Achariyar and he agrees to speak on the Bill.

Please remove unnecessary put up files and submit pad to Honourable Member for Mark 'Council.' Bill will come on early to-morrow.

For the information of Honourable Member I wish to draw his attention to Hon'ble Mr. Knapp's note on page 23 **B** which is all that has to be expressed on behalf of Government at this stage.

R.R.—9-3-20.

~~(I understand that Bill was introduced in Council to-day : wait for proceedings.)~~

~~R.R.—10-3-20.~~

Demi-official—from the Hon'ble YAQUB HASAN SAHIB Bahadur.
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—the 11th March 1920.

If it suits the convenience of the Hon'ble Mr. Knapp I would suggest that a meeting of the Select Committee on the Registration of Muslim Marriages Bill be convened on the 28th instant, i.e., the day previous to the date of the next meeting of the Council. This will suit the mufassal members more than any other day. We shall then have a preliminary discussion and adjourn to some day in April before the departure of Government to the hills.

I wish to prepare a summary under each clause of the amendments and improvements suggested in the opinions received by you and the Secretary of the Legislative Department, and I shall, therefore, be glad if you can see your way to let me have the opinions received by you or at least their summary if one is made. I believe these papers will be placed before the Select Committee in the ordinary course and if I can have them in advance it will help me to be better prepared to deal with the Bill and quicken the deliberations of the Committee.

Please see the Hon'ble Mr. Yaqub Hasan's demi-official ~~on the previous page~~ above. He seems to think that *all* the opinions received by Government on the Bill will be made available for the Select Committee. It does not seem desirable to do this as the opinions were called for mainly to determine Government attitude towards the Bill. It is, therefore, for consideration whether *all* or *any* of the opinions received by Government may be communicated to Mr. Yakub Hasan. Attention is in this connexion invited to paragraphs 1 and 2 of the office-note on page 23 ante and the Secretary's note above. After it has been decided which of the opinions should be communicated to the Honourable Additional Member, extracts will be made and sent to the Additional Member.

2. It is also for orders whether the date proposed for the meeting of the Select Committee, viz., 28th March (Sunday) may be approved.

3. Copy of Council proceedings on the Bill has not yet been received from Legislative.

R.D.M.—16-3-20. B.R.—16-3-20. N. KAILASA SARMA—16-3-20.

The Hon'ble Mr. Yaqub Hasan tells me that he proposes to see Honourable Member to-morrow. So I submit the file.

2. I submit that there is no harm to communicate to him the opinions of all the non-officials and the Muslim officials.

Very well.
A.R.K.—17-3-20.

X

X

Please Substitute this for the pages struck 173 at on pages 25-27 of the note

Nat Stat's Pg 9/9/20

Extract from the Proceedings of a Meeting of the Council of the Governor of Fort St. George assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament, 5 & 6 Geo. V, Ch. 61.

The Council assembled at the Council Chamber, Fort St. George, at 11 a.m. on Wednesday, the 10th day of March 1920.

A BILL TO PROVIDE FOR THE VOLUNTARY REGISTRATION OF MUSSALMAN MARRIAGES AND DIVORCES.

The Hon'ble YAQUB HASAN SAHIB Bahadur then moved to introduce a Bill to provide for the voluntary registration of Mussalman marriages and divorces.

In doing so, he said :—" I beg to introduce my Bill to provide for the voluntary registration of Mussalman marriages and divorces and to move that it be read in Council. When moving in August 1918 for leave to introduce this Bill, I pointed out that my Bill is a very simple one. Moslem marriages are now as has always been the case performed generally by Kazis, Naib Kazis and Imams of mosques. The marriages are being recorded in registers kept by these functionaries. My Bill only requires that the Government should appoint these Kazis, Naib Kazis and Imams of mosques as Moslem registrars and that these Moslem registrars should enter all the marriages that they perform and the divorces that are effected through their agencies in registers which will be supplied to them by Government. It further requires that these Moslem registrars should send to the Government District Registrars of Assurances a monthly statement giving a list of all the marriages registered in their registers, also the divorces registered in their registers. Now the Government is already appointing Kazis under a Government of India Act and these Kazis are appointing Naib Kazis, but there are many other Kazis who are not appointed by Government. I ask the Government by means of this Bill to appoint, in the same manner as they appoint Kazis, the Kazis and Naib Kazis and Imams of mosques as registrars. In asking the Government to do that I am not making any novel request that would involve interference in a religious matter, because Government are already appointing Kazis and Kazis nowadays are only performers and registrars of marriages and they have no other functions to do which Kazis in the olden times under Muhammadan rule used to perform.

" My Bill was published in the *Fort St. George Gazette* in English, Hindustani, Tamil, Telugu, Malayalam and Kanarese. The Government invited opinions through the District Collectors of the leading Mussalmans and associations on this Bill. Some of these opinions have been placed before this Council in the form of communications. There are some others which have gone to the Judicial Secretary. All these opinions have been analysed and it is found that a very very large majority of them are in favour of my Bill. They recognize the necessity of legislation. I understand that several Judges of the High Court including all the Indian Judges are in support of my Bill. They consider that this is a piece of legislation in the right direction, the necessity of which they acknowledge. The quality and quantity of the support which this Bill has received is such that I feel sure that the Government will be induced to countenance my proposal. There has been, no doubt, some opposition to the Bill but this opposition when analysed shows that it is based more on misapprehension or misunderstanding than on anything else. For example in one of the opinions which is opposed to the Bill, it is said that non-compliance with the provisions of the Bill would relegate marriages and divorces effected on present orthodox lines to an inferior position of doubtful validity, and it is said that the acceptance of the Bill will be viewed with indignation as the introduction of the thin end of a wedge calculated to bring about the degradation of the very authority of the Prophet as the sole legislator of Muhammadans in matters social and religious. It is absurd to think that this legislation will interfere with the authority of the Prophet as the sole legislator of Muhammadans in matters social and religious, nor if this Bill is passed the marriages performed in the usual manner but not registered would be reduced to an inferior position of doubtful validity. In another opinion it was said that marriages and divorces performed according to Muhammadan religion would be liable to question in courts of law for want of such a registration. Marriages are now registered in the books maintained by Kazis and if the same marriages are registered in the books given by the Government to the same Kazis, it will not make any difference and no courts of law will question the validity of any marriage simply because it was not registered in the books given by the Government. In a fatwa given by certain Moulvis a question was asked what they thought of my Bill. They were asked 'to explain whether Islam allows any interference by the proposal of a

(Mr. Yaqub Hasan; Mr. Haji Abd-ul-lah Haji Qasim; Sir P. Rajagopala Achariyar; the President; Mr. Habib-ul-lah.) [10TH MARCH 1920.

Legislative Council except the four arguments (the Koran, the Tradition, etc.) in matters relating to religion.' And the answer given is this: 'He who acts in connexion with this matter against religious commandments is a reprobate' and further answer which is more relevant to this question is 'what is done by a Kazi if it is consistent with the sacred law will be enforceable, otherwise it is reprobated.' Now this Bill does not want any Kazi to do anything which is not consistent with the sacred law or existing practice among Kazis. I mention a few of these arguments just to show that the opposition is based on misapprehension or misunderstanding rather than on any serious objection to the provisions of the Bill.

"At this stage I am only asking the Government to allow this Bill to be referred to a select committee. The select committee will consider all the opinions placed before the Council and the opinions received by the Judicial Secretary and also the suggestions contained in some of them about alterations and amendments. When the report of the select committee is presented and the Bill as amended is printed and published in the *Fort St. George Gazette*, the Moslem community will again have an opportunity of expressing themselves about the amended form of the Bill and the Government will then of course be at liberty to decide in accordance with the opinion of the public. I feel quite sure that just as now there is a very very large majority in favour of the Bill, it will receive still further support at the later stage which will induce the Government to eventually accept the Bill. With these few words, I move that the Bill be read in Council."

The Hon'ble Khan Sahib HAJI ABD-UL-LAH HAJI QASIM SAHIB Bahadur:—"Your Excellency, as the Bill only provides for the voluntary registration of Mussalman marriages and divorces, I beg to second the resolution."

The Hon'ble Diwan Bahadur Sir P. RAJAGOPALA ACHARIYAR:—"Your Excellency, the attitude of the Government at this stage can be explained in a few words. We do not propose to oppose the motion made by the Hon'ble Mr. Yaqub Hasan. At the same time we want it to be clearly understood that we do not commit ourselves to any approval. As the Honourable Member has rightly pointed out, it will be for the Muhammadan community to consider the Bill in all its bearings and then to pronounce an opinion on it and it will be for the Government at a later stage, after knowing what the community concerned thinks of it, to decide what their own attitude should be. For the present therefore neither the Members of the Government nor any of the official Members will vote on the motion and we leave it to the non-official Members to dispose of the matter as they think best."

The proposition was put to the Council and carried.

The Secretary read the title of the Bill.

The Hon'ble YAQUB HASAN SAHIB Bahadur:—"Your Excellency, I propose that the Bill be referred to a select committee."

The Hon'ble Khan Sahib Haji Abd-ul-lah Haji Qasim Sahib Bahadur seconded the proposition.

His Excellency the PRESIDENT:—"The question now is that the Bill be referred to a select committee."

The proposition was put to the Council and carried.

The Hon'ble YAQUB HASAN SAHIB Bahadur:—"I propose that the following gentlemen form the members of the select committee:—

Myself.	The Hon'ble Khan Bahadur Muhammad Habib-ul-lah Sahib Bahadur.
The Hon'ble Khan Bahadur A. T. G. M. Ahmad Tambi Marakkayar Sahib Bahadur.	,, Mr. A. R. Knapp, C.B.E.
,, Khan Sahib Haji Abd-ul-lah Haji Qasim Sahib Bahadur.	,, the Advocate-General.
,, Khan Bahadur Muhammad Usman Sahib Bahadur.	,, Mr. P. Siva Rao.
	,, Mr. B. V. Narasimha Ayyar.

The Hon'ble Khan Sahib Haji Abd-ul-lah Haji Qasim Sahib Bahadur seconded the motion.

The Hon'ble Khan Bahadur Muhammad HABIB-UL-LAH SAHIB Bahadur:—"Before the motion is put to vote, Your Excellency, I beg to point out that while I am thankful to my friend the Hon'ble Mr. Yaqub Hasan for having included my name in the select committee, I regret that it will not be possible for me to accept the nomination, inasmuch as the Honourable Member is aware that my life in the Council is very brief. My connexion with the Council is only for the brief period of the consideration of the District Municipalities Bill and the moment the Bill is passed into law, I automatically cease to be a Member of the Council and as such I could take no part in the deliberations of the committee and regret I am not in a position to sit on it. Again I thank the Honourable Member for the honour done to me."

His Excellency the PRESIDENT:—"Does the Honourable Member wish to add another name?"

10TH MARCH 1920.] *(Mr. Yaqub Hasan; the President.)*

The Hon'ble YAQUB HASAN SAHIB Bahadur:—"When including his name I knew that his membership of the Council was only for a short time. Still I could not omit him as I thought he would be very useful. I think he may be included now and if there should be any vacancy, it might or might not be filled later on. Perhaps if the Municipal Bill is not passed in this session, he may continue till the next meeting and may have an opportunity to serve on the committee."

His Excellency the PRESIDENT:—"The Honourable Member has given the names of the Members of the select committee. Does the Council approve?"

The list was unanimously approved.

F. J. RICHARDS,
Acting Secretary to Govt., L. & M. (Legislative) Dept.

MADRAS: PRINTED BY THE SUPERINTENDENT, GOVERNMENT PRESS.

3. The Members of the Select Committee I understand are Honourable Members (2), four Muslim members, (3) B. V. Narasimha Ayyar, (4) P. Siva Rao.

R. RAMACHANDRA RAO—16-3-20.

I told Mr. Yaqub Hasan last week that I could not undertake that any Official Member would be able to attend Select Committee meetings before the next meeting of Council and I fear, so far as I am concerned, I must adhere to that.

Nor do I see any prospect of being able to attend a meeting in April as I shall probably be away from about the 6th.

A. R. K[NAPP]—17-3-20.

PROCEEDINGS OF THE LEGISLATIVE COUNCIL.

A Bill to provide for the Voluntary Registration of Mussalman Marriages and Divorces.

The Hon'ble YAQUB HASAN SAHIB Bahadur then moved for leave to introduce a Bill to provide for the Voluntary Registration of Mussalman Marriages and Divorces. In doing so he said :—"I beg to introduce my Bill to provide for the Voluntary registration of Mussalman Marriages and Divorces and to move that it be read in Council. When moving in August 1918 for leave to introduce this Bill I ~~have~~ pointed out that my Bill is a very simple one. Marriages ~~at present~~ as have been always the case with ~~Muhammadans are~~ performed by kazis, imams of mosques and other functionaries. These marriages are being recorded in registers ~~of their own~~. My Bill only requires that the Government should appoint these kazis and naib kazis and imams of mosques as Muslim registrars and that these Muslim registrars should enter all the marriages that they perform and the divorces that are ~~done~~ through their agencies in registers which will be supplied to them by Government. It further requires that these Muslim registrars ~~will~~ send ~~a monthly statement~~ to the Government District Registrars of Assurances, a monthly statement giving a list of all the marriages registered in their registers, also the divorces registered in their registers. Now the Government is already appointing kazis under a Government of India Act and these kazis are appointing naib kazis, but there are many other kazis who are not appointed by Government. I ask the Government by means of this Bill to appoint in the same manner as they appoint kazis, these kazis and ~~other~~ naib kazis and imams of mosques as registrars. In asking the Government to do that I am not making any novel request that ~~requires~~ interference in ~~any~~ religious ~~functions~~, because Government are already appointing kazis and kazis now-a-days are only registrars of marriages and they have no other functions to do which kazis in the olden times under Muhammadan rule used to perform. My Bill was published in the *Fort St. George Gazette* in English, Tamil, Telugu, Malayalam, Kanarese and Hindustani. The Government ~~have~~ invited opinions through the District Collectors of the leading Mussalmans and associations on this Bill. Some of these opinions have been placed before this Council in the form of communications. There are, ~~I understand~~ some others which have gone to the Judicial Secretary. If all these opinions ~~are~~ analysed it ~~will be~~ found that a very very large majority of them are in favour of my Bill. They recognize the necessity of legislation. I understand that several Judges of the High Court including Indian Judges are in support of my Bill. They consider that this is a piece of legislation in the right direction, the necessity of which they acknowledge. The quality and quantity of the support which this Bill has received is such that I feel sure that the Government will be induced to countenance my proposal. There has been no doubt some opposition too to the Bill but if this opposition is also analysed it will be found that it is based more on misapprehension or misunderstanding than on anything else. For example in one of the opinions which is opposed to the Bill it is said that ~~if this Bill is accepted it will~~ relegate marriages and divorces effected on present orthodox lines to an inferior position of doubtful validity and it is said that the acceptance of the Bill will be viewed with indignation as the introduction of the thin end of a wedge calculated to

bring about the degradation of the very authority of the Prophet as the sole legislator of Muhammadans in matters social and religious. Here it is thought that this legislation will interfere with the authority of the Prophet as the sole legislator of Muhammadans in matters social and religious and also that if this Bill is passed the marriages performed and which are not registered will be reduced to any inferior position of doubtful validity. In another opinion it was said that marriages and divorces according to Muhammadan religion would be liable to question in courts of law for want of such a registration. Of course these marriages are now registered in the books maintained by kazis and if the same marriages are registered in the books given by the Government to the same kazis it will not make any difference and no courts of law will question the validity of any marriage which will not be registered in the books given by the Government in another Fatwa given there was a question asked of the Moulvis and the answer is given; he who acts in connexion with matters relating to religion against religious commandments is a reprobate and further answer which is relevant to this is what is done by a kazi if it is consistent with the sacred law which is enforcible. Otherwise he is reprobate. Now it is mentioned here that if a kazi does a certain thing it will be upheld and if it is not sanctioned by sacred law it will not be upheld. Now this Bill does not want any kazi to do anything which is not upheld by the sacred law. I point out a few of these things just to show that the opposition is based more on misapprehension or misunderstanding rather than on any serious objection to the Bill. At this stage I am only asking the Government to allow this Bill to be referred to a Select Committee. The Select Committee will consider all these opinions and also the opinions which the Judicial Secretary has received and there are several suggestions. I understand, which have been made about alterations or amendments and when the report of the Select Committee is presented and the Bill as amended if printed and placed before the community, the community will again have an apportunity of expressing themselves about this amended form of the Bill and the Government will then of course be at liberty to decide in accordance with the opinion of the public. I feel quite sure that just now there is a very very large majority in favour of the Bill which will receive still further support at a later stage which will induce the Government to work up the Bill. With these few words I move that the Bill be read in Council."

The Hon'ble Mr. HAJI ABDULLA KASIM SAHIB:—"Your Excellency, as the Bill only provides for the Voluntary Registration of Mussalman Marriages and Divorces, I beg to second resolution."

The Hon'ble Sir P. RAJAGOPALA ACHARIYAR:—"Your Excellency, the attitude of the Government at this stage will be explained in a few words. We do not propose to oppose the motion made by the Hon'ble Mr. Yakub Hasan. At the same time we want it to be clearly understood that we do not commit ourselves to any approval. As the Honourable Member has rightly pointed out that it will be for the Muhammadan community to consider the Bill in all its bearings and then to pronounce an opinion and it will be for the Government at a later stage after knowing what the community concerned thinks of it, to think what their final attitude should be. For the present therefore neither the Members of Government nor any official members will vote for it and we will leave it to the non-official members to dispose of the matter as they think best."

His Excellency the GOVERNOR:—"The question is that the Bill be read in Council."

The proposition was carried.

Secretary read the title of the Bill.

The Hon'ble Mr. YAQUB HASAN:—"Your Excellency. I propose that the Bill be referred to a Select Committee."

The Hon'ble Mr. Haji ABDULLA KASIM SAHIB seconded the proposition.

His Excellency the GOVERNOR :—"The question now is that the Bill be referred to a Select Committee."

The proposition was carried.

The Hon'ble Mr. YAKUB HASAN :—"I propose that the following gentlemen form the Members of the Select Committee :—

Myself.
The Hon'ble Khan Bahadur A. T. G. M. Ahmad Tambi Marakkayar.
" " Haji Abdulla Kasim Sahib.
" " Muhammad Usman Sahib.
" " Muhammad Habib-ul-lah Sahib.
" Mr. Knapp.
" The Advocate-General.
" Mr. P. Siva Rao.
" Mr. B. V. Narasimha Ayyar.

The Hon'ble Haji Abdulla Qasim Sahib, seconded the motion.

The Hon'ble Mr. Habib-ul-lah Sahib .—Before the motion is put tovote, Your Excellency, I beg to point out that while I am thankful ~~for~~ my friend the Hon'ble Mr. Yaqub Hasan for having included my name in the Select Committee I regret that it will not be possible for me to accept the nomination, inas much as the Hon'ble Member is aware that my life in the Council is very brief. My period in the Council is only for the consideration of the District Municipalities Bill and the moment the Bill is passed into law I automatically cease to be a Member of the Council and as such I could take no part in the deliberations of the Committee and regret I am not in a position to sit in it. Again I thank the Honourable Member for the honour.

His Excellency the GOVERNOR :—"Does the Honourable Member wish to add another name ?"

The Hon'ble Mr. YAQUB HASAN :—"Before I included his name I knew that his life in the Council was only for a short time still I could not omit him as I thought he would be very useful. I think he may be included now and if there should be any vacancy it could be filled later on. Perhaps if this Bill is not passed in this meeting he may continue till the next meeting."

His Excellency the GOVERNOR :—The Honourable Member has given the names of the members of the Select Committee. Does the Council approve ?"

The list was unanimously approved.

HOME (MISCELLANEOUS) DEPARTMENT.

page 26 ante

An advance copy of the Legislative Council Proceedings on the Hon'ble Mr. Yaqub Hasan's Muhammadan Marriage Bill since received from Legislative has been added to the file. Please see above which contains information as to the official attitude adopted in regard to the Bill and the Members forming the Select Committee.

2. A draft demi-official furnishing the Honourable Additional Member with copies of the opinions of *all* the non-officials and the Muslim officials is submitted. The Honourable Additional Member may also be informed that the Hon'ble Mr. Knapp would find it inconvenient to attend a Select Committee meeting before the next Council, nor a meeting in April.

3. Copies of extracts of the opinions now supplied to the Hon'ble Mr. Yaqub Hasan may be given to all the Select Committee Members. A collection of these papers above may be printed separately and furnished to the Members through the Legislative Department.

4. The demi-official may go to Legislative for acceptance.

B.R.—19-3-20. N. KAILASA SARMA—20-3-20.
R. RAMACHANDRA RAO—20-3-20.

Demi-official.—from M.R.Ry. Diwan Bahadur R. RAMACHANDRA RAO Avargal, Secretary to Government, Home (Miscellaneous) Department.
To—the Hon'ble Mr. YAQUB HASAN Sahib, Additional ~~Un-official~~ Member of Legislative Council.
Dated—the 23rd March 1920. *No.*—1552-3.

As requested in your demi-official of the 11th March 1920, I forward herewith for your information extracts of opinions received by the Government from non-official associations and individuals and Muhammadan officials on the Bill to provide for the voluntary registration of Mussalman Marriages and Divorces.

2. As regards your suggestion to convene a meeting of the Select Committee on the 28th instant, I am to say that, owing to presure of work the Hon'ble Mr. Knapp cannot find it convenient to attend a meeting on that date, nor will we be able to attend a meeting in April as he will probably be leaving Madras in the first week of that month.

LOCAL AND MUNICIPAL (LEGISLATIVE) DEPARTMENT.

The draft demi-official may be accepted and the file returned to the Home (Miscellaneous) Department.

C.S.—20-3-20. L. A. CAMMIADE—22-3-20.

Home (Miscellaneous) u o. with thanks.

F. J. RICHARDS—22-3-20.

HOME (MISCELLANEOUS) DEPARTMENT.

May issue.

N. KAILASA SARMA—22-3-20. R. RAMACHANDRA RAO—22-3-20.

[Demi-Official No. 1552-3, dated 23rd March 1920.]

From Ghulam Muhi-ud-din Sahib, dated 26th March 1920.

Copies of this resolution have been sent to every Member of the Legislative Council and so it is not necessary to communicate this to the Hon'ble Mr. Yaqub Hasan. It may be filed with the previous papers.

R.D.M.—26-3-20. B.R.—26-3-20. N.K.—27-3-20. R.R.—29-3-20.

~~HOME (MISCELLANEOUS) DEPARTMENT.~~

Letter—from GULAM MUHAI-UD-DIN SAHIB, Moulvi,
To—the Secretary to Government, Home (Miscellaneous) Department.
Dated—the 22nd March 1920.
No.—1-1-1920.

I have the honour to submit herewith, by order of the Managing Committee, Religious Branch, Anjuman-i-Muhammadi, four copies of the resolutions passed against the Bill for the Voluntary Registration of Muslim Marriages and Divorces, at its meeting held on Saturday the 20th instant, for favourable consideration by the Legislative Council of His Excellency the Governor of Madras.

LOCAL AND MUNICIPAL (LEGISLATIVE) DEPARTMENT.

This may be printed as a paper relating to the Bill and reported to the Council at the meeting next after the coming one. It may be difficult to get printed copies ready for the ensuing meeting.

A copy will be sent as usual to the Home (Miscellaneous) Department.

C.V.R.—25-3-20. L.A.C.—26-3-20.

HOME (MISCELLANEOUS) DEPARTMENT.

From Moulvi Shah Muhammad Khadir Husan Sahib, Kadari, Royapetla, dated 6th April 1920.

Submitted that the petition may be passed on to Legistative, copy being kept in this department.

S.A.—19-4-20. C. RAMANUJA ACHARIYAR—20-4-20. R.R.—21-4-20.

Now that Mr. Yaqub Hasan has resigned his seat on the Legislative Council and the Bill has dropped it is for consideration whether the papers may be "Recorded."

S.A.—9-6-20. C.R.—10-6-20. R.R.—11-6-20.

[G.O. No. 1076, Home (Miscellaneous), dated 11th June 1920.]

Pers. The last page of the notes in the original is missing — Advance Office

14-7-20

179

Private and Confidential

G.NO. 733 Legs
9.3.20

THE HON'BLE KHAN BAHADUR
A. K. G. AHMEDTHAMBY MARICAIR.

"AHMED MAHAL,"
Madras, 9th March 1920.
~~Negapatam,~~ 19

To

The Secretary to Government,
Legislative Department,
Fort St George, Madras.

Sir,

I have the honour to inform you that I received an urgent telegram to go to Ramnad and I am accordingly proceeding by to-night's Boat Mail and hope to be back on the morning of the 12th instant, when I shall move the resolutions standing in my name which, I think, will not be reached before that time as there are a large number of amendments to be discussed in connection with the District Municipalities Bill. If, however, my resolutions are reached before that time, I shall be much obliged if you will kindly obtain His Excellency's permission to postpone them till my arrival.

I notice from the Agenda of tomorrow's meeting that the Hon'ble Mr. Yakub Hasan Sahib Bahadur will introduce a Bill to provide for the " Voluntary Registration of Mussal-
man

THE HON'BLE KHAN BAHADUR
A. K. G. AHMEDTHAMBY MARICAIR.

"AHMED MAHAL,"
Negapatam, 19

(2)

Mussalman Marriages and Divorces." In this connection I beg to invite your kind attention to the controversial nature of the Bill as will be evidenced from the discussions which took place when leave was sought for to introduce the Bill at the meeting of the Legislative Council held on the 13th of August 1918, when the late Khan Bahadur Mohamed Azizuddin Sahib Bahadur and myself have explained fully how the Bill is viewed by the Moslem public, and also invite your kind attention to the answer given by the late the Hon'ble Mr. Gillman from whose speech it will clearly appear that there are strong objections to the introduction of the Bill. You will also observe from the records that several leading Mussalmans and Ulemas have decided that the introduction of the Bill is opposed to the religious sentiments of the community as stated by the late the Hon'ble Khan Bahadur Mohamed Azizuddin Sahib Bahadur in his speech:"My fear is the Ulemas whose opinions in religious matters carry great weight with the Mussalmans might go the length of saying that India has become Darul Harab." On the other hand, you will also find from the records a large number of resolutions approving the introduction

Kept in main file.

180 2 30

Fair print

31.

181

THE HON'BLE KHAN BAHADUR
A. K. G. AHMEDTHAMBY MARICAIR.

"AHMED MAHAL,"

(3)

Negapatam, 19

introduction of the Bill have been received by Government from men who do not count for much in the estimation of the Muslim public, chiefly through the endeavours of the interested party.

I may furthur mention confidentially for the information of the Government that in the present highly disturbed state of Muslim feeling over the Turkish question it is not desirable for the Government to give countenance to the view that they interfere in the religious customs and habits of the Muslim community. As one who is interested in the peace and good government of the Province, I confidentially bring this important matter to the notice of His Excellency the Governor so as to enable His Excellency to be on the safe side.

I have the honour to be,

Sir,

Your most obedient servant,

A. K. Marikair

Draft/print

182

L O M (Leg.) Dept.

C No. 733, From the Haible Khan Bahadur A T & M Ahmad Tamli Marakkayar, Dated 9-3-20.

An extract of paragraph 1 of the letter has been taken and will be dealt with in this Dept.

The rest of the letter is for consideration in the Home (Mis) Dept to which the current may be transferred n.o. for disposal.

C.V.Q
9-3-20

L.M.
9.3.20

Rec'd Dt 10.3.20.

See Home Misc n.o

Home (Mis) Dept.

Ref

The main file on the subject is with H.M. The attitude which Govt should adopt towards the Bill has been indicated in the Hon'ble Dr. Khatpia-rate at pages 5 of the notes in the main file. The Govt. will be consulted for the present. These papers may, therefore, be submitted to H.M. in continuation of the main file.

(Two files combined)

EDM RBL 10.8.20 BR 10/8/20 MH 10/8/20

5

Dont print

183 33

I send Ahmed Jambi Marakayar's
letter for perusal.

However we are not committg Govt.
to any attitude
to anythg definite in the correspdce
already exchanged. The letter
& so perhaps
change that attitude

SECRETARY TO GOVERNMENT OF MADRAS
10-MAR-1920
HOME DEPARTMENT

10/3/20

Hm No. I think perhaps
change any attitude
H.E. Vide P 10/3/20

33

34// Home Dis CWO 155
62-3-20

The department of the Government of India.

I wish to prepare a Summary under each clause of the amendments and improvements suggested in the Opinions received by you and the Secretary of the Legislative Department, and I shall, therefore, be glad if you can see your way to let me have the Opinions received by you or at least their Summary if one is made. I believe these papers will be placed before the Select Committee in the ordinary course and if I can have them in advance it will help me to be better prepared to deal with the bill and guide the deliberations of the Committee.

Yours sincerely
Ja Kuk Haisan

LEGISLATIVE COUNCIL * MADRAS
GOVERNMENT OF INDIA
LEGISLATIVE DEPARTMENT
MAR 1920
HOME DEPARTMENT

M

1th March 1920

To The Secretary to the Government of India Legislative Department.

Dear Mr Ramchandra Rao,

If it suits the convenience of the Hon'ble Mr Knapp I would suggest that a meeting of the Select Committee on the Registration of Muslim marriages Bill be convened on the 28th instant i.e. the day previous to the date of the next meeting of the Council. That will suit the Muhammadan members better than any other day. We shall have a preliminary discussion and adjourn to some day when Mr Knapp is present before

L84
34

dear Sir

970

PRESS SLIP.

ORDINARY. PREFERENCE. URGENT. (a)

Sectt. II—38—2-15. Home (Mis) DEPARTMENT.

585
14 JUN 1920

Current No ..... dated ..... 191 .

G.O. No 1076, dated 11th June 1920.

Number of MS pages sent (b) Correspondence 138 (b1) Notes 48

Brief subject Muhammadan Marriage Bill

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[P.T.O.

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Supdt

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