

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

Judicial.

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*Proceedings of the Madras Government, Judicial Department,
for the month of December 1859.*

No. 1. Read the following letter from W. GREY, Esq., Secretary to the Government of India; to J. D. BOURDILLON, Esq., Secretary to the Government of Fort Saint George, dated Fort William, the 22nd November 1859, No. 2331.

Home Department.

In continuation of my letter, No. 2094, dated 7th Ultimo, relating to the office of Kazee, I am directed to transmit for the information of His Excellency the Governor in Council, the accompanying copy of a communication from the Government of Bengal, with its enclosures.

From E. H. LUSHINGTON, Esq., Officiating Secretary to the Government of Bengal; to the Secretary to the Government of India, Home Department, dated Fort William, the 18th October 1859, No. 6063.

Judicial.

With reference to Mr. Under Secretary R. B. Chapman's letter, No. 656, dated 28th March last, requesting the opinion of the Lieutenant-Governor, on a proposal by the Government of the North-Western Provinces, to discontinue the allowances of Kauzees and to repeal all Laws recognizing those Officers, I am directed to forward, for submission to the Honorable the

* No. 1138, dated the 27th August 1859.

President in Council, the accompanying copy of a letter* from the Register of the Sudder Court and of the Minutes by the Judges of the Court to which it gave cover, together with copy of a communication † from the Commissioner of Bhaugulpore which was referred to them for consideration.

† No. 101 Ct., dated the 11th March 1859, with enclosure.

The Lieutenant-Governor desires me to state that he concurs with the Honorable the Lieutenant-Governor of the North-Western Provinces in the opinion that all State allowances, whether in the name of Khilluts or otherwise, to Kauzees as such should cease; and that full compensation in the shape of pension for this loss should be made to well conducted incumbents. This condition the Lieutenant-Governor thinks is required both in justice and policy.

But while he agrees with all the Officers consulted in the opinion that the office of Kauzee, as an office of the State, should no longer be continued in its present form, the Lieutenant-Governor coincides with Mr. Yule and Mr. Samuells, as he understands them, in thinking that either the office, as that of an official Notary and Registrar for Mahomedan marriages, should be retained; or that at least before that phase of the office is abolished, Government and our high Judges should be in possession of more complete and certain information than they now have, respecting the substitute which it will be possible for Her Majesty's Mahomedan subjects to set up for doing what the Kauzee now does in respect to their marriages, their deeds of dower and (it is presumed) their divorces.

The Lieutenant-Governor, however, does not concur with Mr. Samuells in thinking it advisable to retain to such Officers, any power of registering ordinary deeds, which are not peculiar to Mahomedans in relation to marriage. Such functions he considers to be useless; as there is otherwise provision made for the registration of deeds.

From one of the papers before him, the Lieutenant-Governor infers that an idea exists that Kauzees, in their relation with Mahomedan marriages, perform some sacerdotal or religious office. But if this idea exists, it is certainly a mistake. A Mahomedan marriage, like a Scotch marriage, or a Civil marriage in Continental States, or a marriage before a Marriage Registrar in England or India, is not a religious ceremony, but a Civil contract; the Kauzee, it is believed, performing the mere part of a Notary or a Marriage Registrar; a part which in Scotland is, or lately was, unfortunately wanting. A Kauzee, like a Notary Public, the Lieutenant-Governor believes, is as purely a legal Officer as it is possible for a Mahomedan legal Officer to be.

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To suppose that there is any thing approaching to State interference with religion, in the appointment by Government of Officers before whom, accordingly to immemorial custom, marriage contracts shall be signed, and by whom they shall be sealed and registered, is not reasonable.

As yet the Government do not know what the result would be if this function of the office were summarily abolished. The Lieutenant-Governor cannot believe that it is right to take away public Marriage Registrars from Her Majesty's Mahomedan subjects, when such Officers have only lately been provided for Christian sects of all denominations; at least, not until it has been carefully ascertained that the twenty millions to be effected by the measure, will be put to no inconvenience thereby.

From A. W. RUSSELL, Esq., Register of the Sudder Dewanny Adawlut; to E. H. LUSHINGTON, Esq., Officiating Secretary to the Government of Bengal, dated August 1859, No. 1138.

I am directed to acknowledge the receipt of your letters No. 1851, dated 22nd March 1859, and No. 2275, dated 5th April 1859, each with enclosures, relative to Cazees of Towns and Pergunnahs; and to forward for submission to His Honor the Lieutenant-Governor, copies of the Minutes recorded by the Judges of the Court, upon these papers.

2. With reference to the former of these communications, a correct translate is submitted herewith of the form of Sunnud which Mr. Toogood saw, and described to the Commissioner of the Bhaugulpore Division, and a translate of the form which has been in use since 1851, when the late Mr. J. R. Colvin, substituted an improved form in lieu of the old one. It is only necessary to add, with regard to this portion of the papers under consideration, that Cazees have no power to delegate their functions to deputies; and that any irregularity of this nature discovered in the case of the Caze of Teghra should have been brought for correction to the notice of Judge of the Zillah.

5. With reference to your second letter &c., under reply, the accompanying Minutes will shew to the Lieutenant-Governor, that the majority of the Court concur with His Honor the Lieutenant-Governor of the North-Western Provinces, in thinking that the office of Caze, both of Towns and Pergunnahs, of whom the former only receive salary, might be abolished. Adverting to the Minutes by Messrs. Samuells and Loch, it is proper to state, for the information of the Lieutenant-Governor, that from the records in this office it appears the City Cazees of Patna, Moorshedabad, and Dacca do not perform any of the duties of Law Officers of Sessions Courts, neither do they exercise any Magisterial powers.

4. The Court would be understood as not recommending the abolition of the office of the Caze* of the Sudder Court, though his designation might be altered, to one denoting his real functions, the exposition of Mahomedan Law.

MINUTES BY THE JUDGES.

MR. RAIKES.—The Court has been requested to report upon two distinct matters one (letter No. 1851,) referring to Mr. Toogood's report to the Commissioner of Bhaugulpore, regarding the Sunnuds of certain Cazees which he examined; and the other (No. 2275,) relating to a proposal from the Lieutenant-Governor of the North-West Provinces to abolish the office of Caze and abrogate all Laws recognizing their appointments and emoluments.

First with regard to letter No. 1851.

Regulation XXXIX of 1793, enjoins the appointment of Cazees to be "stationed in the Cities of Patna, Dacca and Moorshedabad, and in the principal Towns and in the Pergunnahs" for the performance of certain religious and secular duties therein enumerated. They were first nominated by the Zillah Judge and appointed by the Governor-General in Council, and the

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Regulation provides that "the person who may be appointed to the office, shall be furnished with a *Sunnud* of appointment, under the Official Seal of the Head Caze, in which the date of his appointment is to be specified."

Regulation VIII of 1809, Section IV, empowers the Court of Sudder Dewanny Adawlut, to confirm the appointment and removal of the Cazees of Cities, Towns and Pergunnahs, and this is the state of the Law at present.

The form of Sunnud to which exception has been taken by Mr. Toogood, was the form in use previous to August 1851, and was probably drawn up in the first instance by the Head Caze in compliance with the requisition of XXXIX of 1793, to furnish the Cazees with a Sunnud of appointment; and remained unnoticed by the Court when the transfer of authority took effect, until August 1851, when Mr. J. R. Colvin altered the form by striking out some objectionable passages, and all Sunnuds issued since that date have been drawn up in the revised form, copy of which may be sent up to Government with our report. Mr. Toogood, however, gives far too wide a meaning to the words and intent of the old document, it can only be understood as relating to Mahomedans, and it is a piece of exaggerated absurdity on the part of Mr. Toogood, to say that "in this Sunnud, provision is made in the person of this Caze or Mahomedan Law Officer for the spiritual wants of Her Majesty's subjects of all denominations and creeds *volens*; and that they are to consider his acts in all prescribed duties as irrevocable and to recognize his signature and seal in all title deeds and other documents as valid."

The preamble of Regulation XXXIX of 1793, notifies that Cazees are appointed "for the purpose of preparing and attesting deeds of transfer and other law papers, celebrating marriages, and performing such religious duties and ceremonies prescribed by the Mahomedan Law as have been hitherto discharged by them under the British Government." A translation of the form of Sunnud used by the Court up to 1851, has been put up with these papers. The terms are not quite so singular, as those used by Mr. Toogood in his version of the Sunnud translated by him; but it might as well be said that the preamble above quoted was intended to apply to Her Majesty's subjects of all denominations and creeds as that the Sunnud was to be so understood in that sense. There is no doubt that the performance of religious duties or ceremonies prescribed by the Mahomedan Law enjoined by the Regulation was to be confined to Mahomedans, and that the formal attestation of deeds of transfer were to be recognised as done under the authority of Law. To this extent and no further can the Sunnud be said to recognise the acts of the Cazees, and it seems to me that we are indebted to Mr. Toogood's imagination for the rest.

The Cazees have no power under the Law of exacting fees; their services are to be remunerated by voluntary donations only; nor can they legally delegate their functions to Deputies as has apparently been done in Monghyr. These irregularities should have been brought to the notice of the Judge who has full authority to enquire into such illegal practices.

With regard to the proposition referred to in the Government letter No. 2275, of the 5th April last, for abolishing the office of Caze and rescinding all Laws and Regulations sanctioning their official appointment or prescribing the emoluments to be attached to the office, I would intimate my entire concurrence, if, as I suppose, it is intended to extend the principle of non-interference to Bengal, Behar and Orissa.

There are I believe in Bengal only four subordinate Cazees, who receive a salary from the Government.

These four are stationed at Calcutta, Dacca, Moorshedabad and Patna; and draw a salary of 150 Rupees per mensem. Their duties are the same as the other Cazees; and the only official acts performed by any of them now, consist of the attestation and registry of deeds of transfer of property.

It is perfectly notorious that deeds so attested derive little or no weight in our Courts from this attestation; and that no reliance is placed on a Caze's registration as evidence; that the deed itself had been recognized and registered by the parties interested. The loss of this element of proof in Judicial proceedings need not therefore affect the question of the abolition of the office; and in all respects I think the arguments of His Honor the Lieutenant-Governor

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of the North-West, and the obvious conclusions they lead to, sufficiently show the uselessness of the Officers employed, and the impolicy of keeping up such Officers in connection with the Government of the Country, while that Government professes to recognize no distinction of creed, and to place its subjects on an equality in all matters of religion. This cannot be the case so long as preferment in this shape is exclusively bestowed upon the Mahomedans, and that those who administer to them the rites and ceremonies enjoined by their faith, are officially appointed be the Officers of Government, and in some instances receive a salary for discharging these duties.

I do not intend to include the abolition of the office of Head Cazeer of the Sudder Dewanny Adawlut but in these remarks. He would of course, if the subordinate Cazeers are abolished, cease to be denominated head Cazeer, but he now discharges the duties of expounder of Mahomedan Law, and for this purpose it is necessary to retain his services. It would be sufficient to re-appoint him with this object only.

(Signed) H. T. RAIKES,

Judge.

5th July 1859.

MR. PATTON.—The office of Cazeer in its operation does more harm than good and the sooner it is abolished the better; except in this Court. I record my entire concurrence in the sentiments above expressed by my colleague, Mr. Raikes.

(Signed) J. H. PATTON,

Judge.

6th July 1859.

MR. TREVOR.—The views recorded by Mr. Raikes, on the proposition for the abolition of the office of Cazeer and for the repeal of all Laws recognizing their appointments and emoluments, I entirely concur.

Regarding the other point referred, it appears to me that it is unnecessary to justify the wording of the old Sunnud, it will be sufficient to show that Sunnuds now issued are in a new and improved form and to remark that Cazeers have no power to delegate their functions to Deputies and that any irregularity of that sort should have been brought to the notice of the Judge who is armed with authority to put a stop to it.

(Signed) C. B. TREVOR,

Judge.

1st August 1859.

MR. SAMUELLS.—I think before taking any steps in this matter, it would be advisable to know precisely what are the functions of the Cazeers of Dacca, Moorshedabad and Patna and what is the number and description of deeds which they and the Pergunnah Cazeers annually register. I am under the impression that the Cazeers of the cities I have mentioned are also Law Officers of the Zillah Courts and are called upon for their futwas in cases where questions of Mahomedan Law arise. If they are not Law Officers and perform no other duties in connection with the Courts, then I see no reason why they should receive pay from the public purse. But it may still be a question whether they should not continue to be appointed like our own Marriage Registrars and the Registrars of Deeds by Government or the Court and paid by a fixed scale of fees. I believe that they register almost all deeds connected with the marriage and dower of Mahomedans and a vast number of petty deeds of which the makers cannot afford our registration fees. Our object, it seems to me, should rather be to extend the machinery of registration than to curtail it and it will no doubt be a serious infliction on the community both Mahomedan and Hindoo if people are henceforward compelled to register all their deeds, petty or otherwise, at the Sudder Offices. The Courts, it is true, do not place much reliance on the registration certificate of a Cazeer upon a deed of importance unconnected with marriage, but this is not the case with regard to Kubinamas (deeds of dower) or petty contracts. If the Cazeers are to be abolished, some machinery of a cheap and simple nature ought, it seems to me, to be established to perform the duties they now undertake. It is quite a mistake, it appears to me, to regard their duties of registration with which alone we are

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concerned as religious duties, and I think it as much to be regretted that the Hindoos could not like the Mahomedans be induced to register their marriages and all matters connected therewith in public offices. The reason of their not doing so is to be found in the very different position as regards property which Hindoo and Mahomedan wives occupy. On the whole, I think enquiry should precede action in this matter, though I quite agree with the Lieutenant Governor of the North-Western Provinces, that we should cease to give Khilluts or confer marks of honor on persons in the position of Cazeers.

(Signed) E. A. SAMUELLS,

Judge.

4th August 1859.

MR. LOCH.—The Mahomedans in Bengal are divided into so many sects that comparatively few of them apply to the Cazeers appointed by Government for the performance of religious ceremonies, and therefore I think the Regulations mentioned by the Lieutenant-Governor of the North-Western Provinces might be repealed without objection. The Ferazees who occupy Eastern Bengal have their own Cazeers. In Purneah the people have in many places their own appointed Cazeers whom they prefer to those having the Government Sunnud, because their charges are lower. In consequence of this defection among the faithful, the remuneration of the Government appointed Cazeers has fallen very low. When at Purneah, I had more than one petition from Cazeers in reduced circumstances, praying that I would notify by beat of drum that people should employ the regular Cazeer in celebrating marriages &c., and put a stop to people going to whom they thought fit. And more than one Cazeer disappointed of his marriage fees, sued bridegroom, bride's family and the interloping Cazeer to recover the amount of fees to which he thought himself entitled, though he had taken no part in the ceremony. A similar state of things is, I believe, prevalent throughout Lower Bengal and may be also in Behar; and as all the public acts, such as registration of deeds, sale of distrained property, &c., for the performance of which the Cazeers were specially recognised, have been otherwise provided for, I think the people might be left to choose whom they please for the performance of religious ceremonies.

If the Cazeers of Moorshedabad, Patna, and Dacca, do not act as Mahomedan Law Officers in the respective City Courts, their appointments should be abolished, or if the incumbents are fitted for that duty, they might be appointed to that office on the next vacancy. All Khilluts and other marks of special honor should be withdrawn.

Mr. Samuells suggests that the Pergunnah Cazeers might continue to be appointed by Government or the Court for the registration of deeds and marriages similar to our Marriage Registrars. No doubt the lower classes frequently resort to the Cazeers for their attestation to various deeds, and if Native Agency for the registration of deeds be permitted as at present, or be required by any new system of registration which may be introduced (and in order to make registration available to the poorer classes, some cheap and ready agency such as is now in use is necessary, the present Cazeers might be employed and remunerated by fees at fixed rates and be designated Pergunnah Registers or Deputy Registers and as incumbents die out or are otherwise removed, their successors will be appointed simply to the office of Register and bear that title, so that the retention of the services of the present Pergunnah and Town Cazeers need not prove a bar to the repeal of the Regulations relating to this class of officials.

(Signed) G. LOCH,

Officiating Judge.

10th August 1859.

Translation of form of Sunnud as seen by Mr. Toogood.

Know ye all those Officers who are and will be, hereafter, residents of Thannah Soodaram, Zillah Tipperah, within the jurisdiction of the Calcutta Sudder Court, and all the Mahomedans, Chowdhries, Canoongoes, Zemindars, Cultivators and all other inhabitants of the said place, that the office of Cazeer of Soodaram has been, under the orders of the Presidency Sudder Court, conferred upon one Moulvie Golam Nujuff, who is hereby directed to exert himself in

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honestly issuing the religious Commandments, in causing the people to assemble for saying their prayers on Friday and other days, in encouraging the people to perform their legal obligations, in getting the Mahomedans married, and in settling disputes and quarrels between people.

He is not to overlook any of the above points and never to act against the orders of the "Huzoor." He will treat the subjects with utmost civility and thereby keep them content and satisfied. On the other hand, the subjects ought also to consider him as a permanent Cazeer of that place and to consider his seal and signature in legal matters sufficient and valid. The above orders are peremptory and must be acted upon accordingly.

Seventeenth Ramzan 1267 Hijree, corresponding with the 17th July 1851.

Translation of form of Sunnud used in the Sudder Court since 1851.

Be it known to the Officers and employes of within the jurisdiction of the Sudder Court of Calcutta, who are at present employed, and those who may be hereafter employed as well as all the Mahomedans, Chowdhries, Canoongoes, Zemindars, Cultivators, and others, inhabitants that the office of Cazeer of* * is by order of the Judges of the Court of Sudder Dewanny entrusted to

He is required to exert himself in performing, with the utmost fidelity, the service of Nikah or marriage of Mahomedans, maintaining peace between people and acting according to, and enforcing the provisions of Regulation XXXIX of 1793, or any other Law concerning the matters connected with the office of Cazeer, without omitting any of the duties enumerated above. He must not act against orders; and must endeavour to give satisfaction to people by the proper discharge of his duties. The people of the locality should likewise acknowledge and regard him as Cazeer of the place, and consider his seal and signature, in matters connected with the Mahomedan Law, valid and trustworthy. The above orders should be strictly carried on, and acted up to, as hereby directed.

Dated Hijree, corresponding with

* A. D.

From G. U. YULE, Esq., Commissioner of the Bhaugulpore Division; to the Secretary to the Government of Bengal, dated the 11th March 1859, No. 101Ct.

I have the honor to forward herewith a report from Mr. Toogood, Officiating Magistrate of Monghyr, No. — of the 7th Instant, regarding Cazeers. I would beg to call the Lieutenant-Governor's attention to the wording of the Sunnud appointing a Cazeer, of which Mr. Toogood gives a translation. It certainly astonished me to find a Mussulman Officer appointed by the orders of the Sudder Dewanny Adawlut, required by a document under its seal to be diligent in giving publicity to the injunctions, of the faith in establishing assemblies of the faithful, and stimulating their religious observances. With regard to the appointment of Deputies and the farming out parts of their jurisdiction by Cazeers, the practices are not uncommon and might easily be stopped. In several Districts with which I am acquainted, the Cazeers have lost all influence. I know one office of the kind whose income some fifteen years ago, was about 4,000 Rupees a year, and is not now as many hundreds. I do not recommend that we should no longer appoint such Officers, for I have not sufficient information as to the estimation in which they are held in many parts of Behar and Bengal; but the Sunnuds ought certainly to be altered and their power to register deeds withdrawn. We should look on them only as Marriage Registrars for the Mussulmans and nothing else.

From O. TOOGOOD, Esq., Officiating Magistrate of Monghyr; to the Commissioner of the Bhaugulpore Division, dated the 7th March 1859.

Referring to my letters noted in the margin, relative to slavery as practised throughout Bengal, I brought prominently to your notice and that of the Honorable the Lieutenant-Governor of Bengal, the degree of participation the Cazeer or Law Officer of Monghyr had in these

No. 405, dated 27th July 1858.
No. 406, " 28th " "

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matters. He has however been acquitted by the Sudder Court, and by a resolution of that Court has been restored to the office from which he was suspended.

2. For the last three months I have been on Circuit in the interior of the district and have had frequent opportunity of conversing with the poorest as well as the richest subjects therein. I have listened to all representations made to me appertaining to their immediate wants and welfare and to other matters indirectly operating upon themselves. My attention was more particularly directed to the Cazeers, of whom there are several in this District, and of the position these officials hold in the country.

3. Referring to the Sunnuds of appointment which they hold, copies of two of which are

(Seal of the S. D.)

Faziloolrahman Khan Bahadur, Chief Cazeer of Bengal and Behar, 1846, A. D. Be it known to all persons, principals and dependents, who are at present established or who may be hereafter established in business in Teghra Thannah, Zillah Tirhoot, Presidency of Calcutta, and be it also known to all Mussulmans, Chowdhries, Canoongoes, Zemindars and Agriculturists, and to all the inhabitants that Syud Nessar Hoossen has been appointed to discharge the duties of a Cazeer in the said Thannah by the orders of the Officers of the Sudder Dewanny of Calcutta.

It is required that the Cazeer in all honesty be diligent in giving publicity to the injunctions of the faith, in establishing the assemblies of the faithful, in stimulating the moral and religious observances of the people, in reading the matrimonial service, and in making peace between contending parties; and also that he neither exceed nor fall short of any thing in these items, and that he do nothing contrary to the orders of the Huzoor, and that he by his kindness and affability keep the Ryots obedient and well affected, and it is required of the party that they consider his acts in all prescribed duties as irrevocable and recognize his signature and seals in all Title Deeds and other documents as valid, and let these premises be well attended and practised.
12th Roolowal 1267, Hijree.
26th January 1851.

marginally annexed, I find the Cazeer of Teghra, by name Nessar Hoossen, was appointed in 1846 under the orders of the Sudder Dewanny Adawlut by the Chief Cazeer of Bengal and Behar, attached to the Sudder Court. In this Sunnud issued by a Civil Court of Judicature, and that Court the highest tribunal in the land, provision is made in the person of this Cazeer or Mahomedan Law Officer for the spiritual wants of Her Majesty's subjects of all denominations and creeds,

nolens volens, and that they are directed to consider his acts in all prescribed duties as irrevocable and to recognize his signature and seal in all Title Deeds and other documents as valid.

4. On the 14th of January last, this Cazeer attended my camp, and on enquiry told me he held a jurisdiction over four Pergunnahs in this District. It appears he was appointed, as I have observed, in 1846 by the Honorable Robert Forbes, Judge of Tirhoot, the Principal Native Judge having reported on his qualifications for office, but no one examined him. He stated he receives certain fees for attesting and sealing deeds either one or two Rupees for each, and for performing marriage ceremonies, from eight Annas to one Rupee four Annas, according to the means and conditions of the party. He moreover stated he had fifteen Deputies appointed by him under a Sunnud for life, of whom a very few can either read or write and they receive one-fifth of the profits, remitting the remainder to him. The deeds he registers he enters in a book which, when filled up, is sent to the Civil Judge for signature. He does not write the deeds himself, but keeps two assistants for the purpose, because they do it better than he can: of course I received only as much information from this person as he thought proper to favor me with.

5. I now annex as per margin, a copy of another Sunnud held by one Elihee Bux, a

Nessar Hoossen, Cazeer of Teghra.

Be it known to all the assemblies of Mussulmans and to all the of the faithful of Mouzah Akberpore, &c., Pergunnah Mulkee, Province of Behar, that Syud Elihee Bux has been appointed as a Deputy reader of the matrimonial service in the undermentioned villages. It is necessary and incumbent on the said person to discharge truly and faithfully the above duty according to the prescribed laws, and whatever may be the prescriptive fees, besides his own fixed dues, he faithfully remit the same without any diminution to me, and it is required that the said Deputy be recognized as the sole reader of the matrimonial service of that place, and that persons raise no objections or act contrary to these premises but act up to these.

Names of the villages.

Akberpore.	Ramderree.	Parthama.
Sehama.	Sonebursa.	Sandpoor Sallah.
Khottha.	Peparrya.	Robepore.
Ramchanderpoor.	Rahapore.	Jitwarpoor.
11th Roolowal Sanee 1271 Hijree.		

Bulliah. I discontinued sending for any other of these officials as I found they had been instructed to answer only certain questions.

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6. My object in drawing your attention to the position of this class of Officers is to ask you whether the position they are actually placed in by order of the highest Civil tribunal, is quite in accordance with Her Majesty's Proclamation on the Assumption of the Government of India, and of the principle of non-interference with religion as enjoined therein. Do not these Sunnuds give to the Mahomedan religion, in the person of their Cazees, an undue exercise of official influence and power, to the detriment of other creeds professed in this country? Why should not Hindoos be vested with such authority? Why not the teachers of Christianity? Lord Stanley, the Secretary of State for India, has stated that the intention of the Home Government is to assert "that the sphere of Government and the sphere of theological belief is absolutely and entirely separate" and that "neutrality in the matter of religion was neutrality as regarded the action of Government." Neutrality between the theological tenets of a Christian nation and the theological tenets of the Natives, it would appear that as regards the Mahomedan religion, this neutrality is not observed judging from the Sunnud granted to the Cazees, and now under consideration, and why I would respectfully ask, should a power be thrown into the hands of the Mahomedans alone which is possessed by no other representatives of the many religions professed in this great country? and this leads me in the second place to consider the effect of this wide-spread authority being vested in such hands under the orders of the said Court.

7. I am told, and I believe that the various Cazees and Deputy Cazees armed with the Sunnuds in question exercise an authority throughout their jurisdictions, difficult at first to be believed. Not content with receiving fees for marriages averaging from 4 Annas to 200 Rupees per ceremony, they levy a species of black mail in the shape of tithes upon articles grown, manufactured or consumed throughout their Divisions, receiving also fees for circumcision and for permission to bury the dead, yet several of these Deputy Cazees vested with these appointments can neither read nor write and are illiterate to a degree, having a jurisdiction over three or four villages, whilst others take several villages in lease from the Cazees, their chief, paying him a yearly rent for the same.

8. I would venture respectfully to suggest that the time has now arrived for making some change in this state of affairs, and that if the Sudder Court considers the nomination of Cazees to different parts of a District, necessary for giving "publicity to the injunctions of the faith," in "establishing the assemblies of the faithful and in stimulating the moral and religious observances of the people, and in reading the matrimonial services," the Mahomedans themselves should be allowed to nominate persons they may wish for such duties, but to appoint Cazees for making peace between contending parties is, and never has been, of the least advantage. Moreover such duties are not required of them as long as we have Magistrates and Sub-Divisions established throughout the length and breadth of the land.

9. Now if the Government did away with the official appointment of Cazees throughout Bengal, the question would be asked, who was to perform the duties hitherto entrusted to these persons? I have ventured to think that the necessity of the Sudder Court providing persons to perform Mahomedan religious ceremonies is not required, the remaining duties relative to marriage ceremonies (and this being both a civil and religious ceremony and considered rather in the light of the former, both being equally valid in Law) could be performed by license, for obtaining which a tax might be levied. It is quite evident that the present system of taxation by Land Revenue together with Salt and Opium is inadequate to meet the present wants of the existing Government. Adam Smith has stated that every man should contribute to the burdens of the State according to his ability, but in India this is not the case. Nearly the whole of the Revenue is derived from land: the inhabitants of towns and cities which, for the most part, are composed of bankers, merchants and tradesmen, rarely pay one farthing of Revenue to the State and nearly all taxation falls upon labor. Natives will readily spend any sum in a marriage and the ostentation and debauchery connected with it, why should they not be called upon to obtain a license for the same, by the payment of a sum commensurable with their position and standing in society. I venture to think no reasonable objections could be made, but that on the contrary it would add to the proof of a marriage having really taken place, and be the means of doing away with much of the litigation which so often arises on this question, and the result of such a measure would be a considerable increase to the Revenue of the State.

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for the month of December 1859.*

No. 2.

ORDER THEREON, 1st December 1859, No. 1620.

Ordered to be communicated to the Judges of the Sadr 'Adalat, in continuation of Proceedings of the 3rd Ultimo, No. 1475.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. F. Cartledge.

Just

N^o: 1020 - 1^{re} December 59

Ordered to be communi-
cated to the Judges of the
Sad^r Adalat in continu-
ation of Proceedings of
the 3rd Ilto. N^o: 1475.

JP

The Judges of the }
Sad^r Adalat. } *Dispt 15*

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Ordered to be examined
and to the effect of the
order of the court
the 3. 11. 18. 18. 18.

[Signature]

Have the honor to be
Dear Sir
Yours truly
John W. Smith

[Signature]

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