M.R.O. 1—39,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 923-924 Press Mis-

146-148

Dated 23-7-18.60.

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Not to be folded or roughly handled

10-4-30

Proceedings of the Madras Government, Judicial Department,
23rd July 1860.

No. 146. Read the following letter from C. F. CHAMIER, Esq., Registrar of the Sudder Court, to T. PYCROFT, Esq., Chief Secretary to Government, Fort Saint George, dated 13th July 1860, No. 63.

1. I am directed by the Judges of the Sudder Court to acknowledge the receipt of the Proceedings of Government, dated the 3rd November 1859, and the several proceedings of subsequent dates connected therewith, forwarding for the opinion of the Judges a correspondence relating to the office of Kázi.

2. On the 24th December last, the Judges issued a Circular to the Lower Courts, calling upon them "to report the number of Kázis within their jurisdiction, distinguishing between those holding appointments from the Courts under Regulation III of 1808, and those appointed by the Mahommedan community; and at the same time to state the nature of their functions, and whether they were paid by private contributions, or by grants either of land or money from Government."

3. The Judges presume, from the great delay that has taken place in furnishing this information, that the Collectors, to whom the Civil Judges had to apply, were unable without reference to the Táluq Officers to state the necessary details respecting the remuneration of the Kázis, in cases where they were appointed by the Mahommedan community and received no specific allowance either in money or land from the Government.

4. The information required from Chingleput is still due; but the Judges have enough before them to enable them to express an opinion upon the general question, whether the connection of the British Government with the ceremonial observances of the Mahommedan community in the person of their Kázi, may not be severed without detriment to the rights and privileges of that body.

5. From the digest of the reports from the provinces, which accompanies this letter, it will be seen that there are (exclusive of Chingleput) 80 Kázis appointed under Regulation III of 1808, and 672 elected by the Mahommedan community. It appears, however, that many of the latter are remunerated by the Government, though holding no sunnud of appointment.

6. The allowances granted to the Kázis vary in each Zila, and do not seem to have been made upon any fixed scale, or upon any consideration of the services to be performed. Thus, some even of those Kázis who hold sunnuds receive no allowance from the State, while others are largely remunerated.

7. The practice of presenting the Kázi with a Khilát, or dress of honor, does not appear to prevail in any part of this Presidency. In Salem, however, it is customary to make a small money payment at the time of the two principal festivals, viz., the Bukreed and Ramzán.

8. It will be observed that the functions of the Kázis are largely connected with the religious observances of the Mahommedans; it being their duty to offer prayers during the festivals, read the Kurán, celebrate marriages, circumcise children, and perform funeral ceremonies.

9. The Judges are of opinion that the Kázi-ul-Kuzát of the Sudder Court will always be required, to settle any difficulty of Mahommedan Law which may arise at the hearing of a suit; and that so long as the present system of administering criminal justice continues, the Mufties in the Provinces cannot be dispensed with. These appointments, however, can be open to no objection, as the persons holding them are remunerated by fixed salaries, given for the performance of prescribed official duties.

10. With regard to the Town Kázis, whose functions are chiefly of a religious character, the Judges consider that the present relations between the Government and those representatives of the Mahommedan community should not be maintained. Measures might, they think, be at once taken to sever those relations; but many years must elapse before that end can be fully attained, unless some general system of commutation be introduced as respects these and similar grants.

11. The Judges would recommend that no sunnuds be hereafter conferred on new candidates, as lapses occur; and that steps be taken to procure the repeal of Regulation III of 1808. The money allowances would then cease with the present incumbents.

confirm

12. In the case of grants of land, whether held by Kázis appointed under the said Regulation or by Kázis elected by the people, and also in the case of money allowances enjoyed by Kázis of the latter class, the Judges think that such grants and allowances should be assigned to the Mahommedan community, as endowments for their Kázis, to be appropriated without any further interference on the part of the public authorities.

13. It does not appear to the Judges necessary to make provision for the registration of marriages among the Mahommedans under legal authority. Questions of this kind, if raised in a Court of Justice, can be decided upon evidence, and the Kázi can, if requisite, be called and examined.

14. With respect to the registration of Deeds of Dower, &c., the Judges do not consider it necessary or expedient in this Presidency to give the Kázis legal powers for this purpose.

Abstract of replies received from the several Collectors.

BELLARY.—38 Cazees, of these 7 hold sunnuds and the others are appointed by the community the former receive from Government Rupees 22-2-8 monthly in money and enjoy lands valued at Rupees 627-13-2, and the latter are paid Rupees 1-3-5 monthly by Government and enjoy lands to the value of Rupees 163-6-0. All these Cazees are also paid by private contributions.

CALICUT.—69 Cazees, 5 appointed by Government and 64 by the community, and they are all remunerated by fees; receiving nothing from the Government.

CHICACOLE.—There is only 1 Cazee, who is appointed by Government, and receives a salary of Rupees 20 per mensem from the Government.

CHINGLEPUT.— * * *

CHITTOOR.—There are 8 Government Cazees, of whom 1 receives from Government a monthly allowance of Rupees 89-9-10, 1 an annual allowance of Rupees 180, and 1 Rupees 42 annually, with land to the value of Rupees 226-4-9; 1 has no fixed source of income, and the others are in the enjoyment of grants of land. All these Cazees receive in addition, fees averaging from 1 Rupee to 1 Rupee 6 Annas for each marriage, &c. There are also 15 private Cazees of whom 6 are appointed by other Cazees, 4 by the community, and the others, although not regularly appointed, perform the requisite ceremonies. All these Cazees are paid by fees.

COIMBATORE.—There are 197 Cazees, none of whom hold sunnuds from the Government. Of these, 134 enjoy Inam lands granted by Government of the annual value of Rupees 3,430-2-1; 25 are in receipt of contributions from the community in addition to Government Inam lands to the value of Rupees 161-14-7, and 38 are supported by contributions only.

COMBACONUM.—There are 79 Cazees appointed by the community, who are paid by contributions, only 14 enjoying Inam land granted by the late Rajah to the extent of 1 vali, 15 maws and 97¼ goolies.

CUDDAPAH.—There are 25 Cazees, 16 appointed by the Government and 9 by the community. Of the 16 appointed by Government, 5 are in the enjoyment of lands to the value of Rupees 1,289-4-5, 2 receive an annual allowance in money of Rupees 47-12-1 and enjoy land to the value of Rupees 1,289-4-5, and 4 receive an allowance of Rupees 20-12-0 annually. Of the 9 private Cazees, only 5 enjoy lands to the value of Rupees 204-7-3, all the Cazees are paid by fees on occasions of marriages, &c., the fees averaging from 1¾ Annas to Rupees 2½.

CUDDALORE.—Of 18 Cazees, only 3 hold sunnuds from Government. These 3 with the Cazee appointed by a former Jagheerdar are paid by Government, while the 14 appointed by the community are remunerated by fees.

GUNTOOR.—There are 3 Cazees, 2 appointed by Government, and 1 by the community. Of the 2 former, 1 is in the enjoyment of a Jagheer village, and the other, 12 kuchelas of land and a monthly stipend of Rupees 20. All these receive fees for celebrating marriages, &c.

HONORE.—29 Cazees, of whom 7 hold sunnuds from Government and 22 are appointed by the community. Of the 29 Cazees 15 receive grants of money from Government, 3 grants of land, and 3 both money and land, 3 are paid by private contributions, and the others receive gratuities whenever they perform any nuptial or other ceremony.

MADURA.—There are 29 Cazees appointed by the community, whose services are compensated by fees varying from 1 to 5 Fanams, paid by the parties enjoying their services.

MANGALORE.—39 Cazees, of whom 5 hold sunnuds from Government and receive annually Rupees 478-8-0, of the 34 appointed by the community, 22 receive yearly allowance of Rupees 579-8-4 from Government, the other 12 being paid by private contributions.

MASULIPATAM.—3 Cazees, all holding sunnuds from the Government, of whom 1 receives annually from Government Rupees 52½, and 1 is in the enjoyment of 4 out of the 38 cutties of land acquired by his ancestors, the rest being enjoyed by other members of his family. The other Cazee receives no allowance, the lands appertaining to his office having passed into the hands of others by sale, mortgage, &c. These 3 Cazees receive fees on occasions of marriage and other ceremonies.

NELLORE.—16 Cazees, of whom 2 are appointed by the Government. Of these, 1 has lands to the extent of about 110 acres and receives also from the Government Rupees 360 annually in money, and the other possesses about 127 acres of manium land. Of the remaining 14, the majority of whose offices were established by the former Mahomedan Government and by Zemindars, 2 possess about 76 acres of manium land, 1 receives a money allowance from Government of Rupees 257-15 annually, 2 possess lands given by the community and 1 receives monthly from a Zemindar grain to the value of Rupees 10. The others are paid only by fees.

NUNDIAL.—12 Cazees, of these 7 are holding sunnuds from Government, 5 of whom are in the enjoyment of about 2,803 acres of land, 3 receiving also money allowance of Rupees 764 annually from Government, and 2 are paid by private contributions. Of the 5 appointed by the community, only 2 are in the enjoyment of about 967 acres of land. All the Cazees in this District, receive fees on occasions of marriages, funerals, &c.

RAJAHMUNDRY.—2 Cazees, 1 appointed by the Government and 1 by the Native community, the former receiving an annual income of Rupees 300 from private contributions, and the latter being in the enjoyment of 2 putties of Inam land. They receive fees on occasions of marriages, &c.

SALEM.—35 Cazees, 8 appointed by the Government and the others either by the community or the other Government Cazees. The 8 appointed by Government are in the enjoyment of lands to the value of Rupees 1,105. Of the 27 appointed by the community, 18 enjoy lands to the value of Rupees 1,395, some having been granted by Tippoo Sultan; 5 receive about Rupees 337 from private contributions, and the rest are paid by fees on occasions of marriage, &c.

TELLICHERRY.—17 Cazees, 3 appointed by the Government and 14 by the community; who are all remunerated by fees.

TINNEVELLY.—99 Cazees, of whom 1 only holds a sunnud and receives Rupees 14-5-2 annually from Government, in addition to fees from the community. Of the others the majority are remunerated by fees, and some have small Inams and money allowances from Government.

TRICHINOPOLY.—18 Cazees, of whom 1 only holds a sunnud from Government, all these Cazees are paid by fees.

Their duties are chiefly confined to priestly functions, such as offering prayers during festivals, reading the koran, celebrating marriages, performing funeral and other ceremonies, circumcising children and instructing the ignorant. They also register and attest deeds, and enquire into and settle disputes. In Tinnevelly a Cazee is required to report to the Collector all lapses of Inams, and he also attends all investigations into disputes regarding Inams. In Trichinopoly also a Cazee reports to the Collector all lapses of Inams and also enquires into and disposes of complaints referred to him by the Civil and Military authorities; in Cuddalore, a Cazee disposes of cases referred to him by the Revenue authorities, and in Nellore a Cazee is required to answer questions on Mahomedan law in matters referred to him by the Collector, Judge, Commanding Officers or Tahsildars.

Proceedings of the Madras Government, Judicial Department,
23rd July 1860.

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No Khilats appear to have been furnished to any of the Cazees, and in only one instance does it appear that payments are made to the Cazee at the two chief festivals of Ramzan and Buckreed.

There are 80 Cazees appointed under Regulation III of 1808.
672 by the community.

Total 752

(Signed) THOS. WILKINS,
Acting Deputy Registrar.

No. 147. ORDER THEREON, 23rd July 1860, No. 923.

Resolved that a copy of the above letter and of its enclosure be forwarded to the Government of India.

2. The Government concur generally in the views of the Sudder in respect to the Kazis' office. With respect however to the money allowances received by the Kazis holding sunnuds from the State, it does not appear whether these were newly conferred in the year 1808 when the Regulation was passed, or whether they are of older date and continued from the time of the Native Government, or in lieu of fees or other emoluments enjoyed under the Native Régime. The Governor in Council requests that the Judges will be so good as to make further inquiry on this point and to report the result. If it should prove that the money allowances in question are of the latter class, the Government are decidedly of opinion that they should not lapse on the death of their present holders but should be treated as has been proposed by the Sudder (para. 12) in the case of the other grants, viz., assigned to the Mahomedan community as endowments for the Kazis' office.

(Signed) T. PYCROFT,
Chief Secretary.

No. 148. To the Secretary to the Government of India, Home Department, dated Fort Saint George, 23rd July 1860, No. 924.

From the Secretary to the Government of India,
Do. *do.* *7th Oct.* 1859, *No.* 2,094.
Do. *do.* *22nd Nov.* ,, ,, 2,331.
Do. Under do. *6th Dec.* ,, ,, 2,418.
Do. *do.* *17th Jan.* ,, ,, 109.
Do. *do.* *20th March* ,, ,, 599.
To *do.* *5th April* 1860, ,, 417.

With reference to the correspondence noted in the margin, I am directed by the Honorable the Governor in Council to forward, for submission to the Government of India, the enclosed copy of a letter from the Sudder Court, and of the precis which accompanied it relative to the office of Kazi at this Presidency.

2. From this it will be perceived that (exclusive of the District of Chingleput from which no return had been received,) there are 80 Kazis appointed under Regulation III, 1818, of the Madras Code, and 672 elected by the Mahomedan community, many of the latter being remunerated by Government although they hold no Sunnud of appointment.

3. The allowances granted to the Kazis vary in each Zillah, and do not seem to have been made upon any fixed scale, or upon any consideration of the services to be performed. Thus, some even of those Kazis who hold Sunnuds, receive no allowance from the State, while others are highly remunerated.

4. Their functions are largely connected with the religious observances of the Mahomedans; it being their duty to offer prayers during the festivals, read the Kurán, celebrate marriages, circumcise children, and perform funeral ceremonies. The Sudder think that the Kazi ul Kuzat, will always be required in the Sudder to settle any difficulty of Mahomedan Law which may arise at the hearing of a suit, and that the Mufties attached to the Sessions Courts in the Provinces must be retained so long as the present system of administering Criminal Justice continues. To this there can be no objection, the appointments being merely Judicial offices, with prescribed duties, and remunerated by fixed salaries.

5. The Judges recommend that no Sunnuds be hereafter conferred on new candidates, as lapses occur, and that steps be taken to procure the repeal of Regulation III of 1808. The money allowances would, they state, then cease with the present incumbents. In the case of grants of land, whether held by Kazis appointed under the said Regulation, or by Kazis elected by the people, and also in the case of money allowances enjoyed by Kazis of the latter class, the Judges think, that such grants and allowances should be assigned to the Mahomedan community, as endowments for their Kazis, to be appropriated without any further interference on the part of the Public Authorities. The Judges do not think it necessary to make provision for the registration of marriages among the Mahomedans under legal authority; nor to give them legal powers for the registration of deeds of dower.

6. This Government, I am desired to state, concur generally with the Sudder in their views as above recited. With regard, however, to the money allowances received by the Kazis, holding Sunnuds from the State, it does not appear whether these were newly conferred in the year 1808, when the Regulation was passed, or, whether they are of older date, and continued from the time of the Native Government, or in lieu of fees or other emoluments enjoyed under the Native Regime. On this point more inquiry will be made, and meanwhile these papers are transmitted to avoid further delay. If it should prove that the money allowances in question are of the latter class, the Government are decidedly of opinion that they should not lapse on the death of their present holders, but should be treated as has been proposed by the Sudder (p. 12) in the case of the other grants, viz., assigned to the Mahomedan community as endowments for the Kazis' office.

7. It will be remarked, that the practice of presenting the Kazi with a Khilat, or dress of honor, does not appear to prevail in any part of this Presidency. In Salem, however, it is customary to make a small money payments at the time of the two principal festivals, viz., the Bukreed and Ramzán. This payment should be continued, but disconnected from the festivals, and made at some other season of the year.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. F. Cartledge.

Pro 10th Nov 1859 ch 708-
" 10th Dec " ch 142
" 31st " " ch 22-23.
" 10th Feb 1860 ch 1-2.
" 10th April " ch 15+16
29 to 31.
" 20th " " ch 33-34.
Mis: ch 364
" 1st Aug 1860 ch 708- V

21-4-94

Pro 26 July
Judicial 1860 Departt

No 44a
83

From the Registrar
of the Sudder Court-

To The Chief Secretary
to Govt

Dated 13th July 1860
Received 14th " 1860

with one Enclosure

No 1134 (No 63)

Submitting the
remarks of the Judges
with reference to the
Despatch from the
Secretary of State for
India relating to the
Office of Kazi-

S.D. No 923
1860

C 19 July
R 20 "

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It is desirable that a letter of the form of this Enclosure should be addressed to the Judges of the Sudder Court

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Judicial Department.

Proceedings of the Madras Government

Read the following letter from the Registrar of the Sudder Court.
(Here enter 13th July 1860, No 63.)

Order thereon 23d July 1860 No 923.

Resolved that a copy of the above letter and of its enclosure be forwarded to the Government of India.-

2.- The Government concur generally in the views of the Sudder in respect to the Kazis Office - with respect however to the money allowances received by the Kazis holding Inamds from the State, it does not appear whether these were newly conferred

Sudder Court,
Registrar's Office,
13th July 1860.

To
The Hon'ble the Chief Secretary to Govt.
&c &c &c

Sir,

I am directed by the Court to forward for the information of Government a copy of a letter from the Kazi of Kurnool, and of the enclosure therein mentioned.

I have &c
(Signed) [illegible]
Registrar.

conferred in the year 1808 when the regulation was passed, or whether they are of older date and continued from the time of the Native Government, or in lieu of fees or other emoluments enjoyed under the Native Regime. The Governor in Council requests that the Judges will be so good as to make further inquiry on this point and to report the results. If it should prove that the money allowances in question are of the latter class the Govt are decidedly of opinion that they should not lapse on the death of their present holders but such should be treated as has been proposed by the Judr (p. 12) in the case of the other grants

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grants, viz: assigned to the Mahomedan community as endowments for the Kazis office. —

Sadr Adalat. Dispd 24th

81 Dec 67

Sept 23rd
for Oct 5th

This letter contains
2 very clear, & ably
& temperate Min. Cons.
A&C

Judicial Dept.

No. 924

To

The Secretary to the Govt. of India
Home Dept.

Sir,

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2. From this it will be perceived that (exclusive of the district of Chingleput from which no return had been received) there are 80 Kazis appointed under Reg: III. 1818 of the Madras Code, and 672 elected by the Mahomedan Community many of the latter being remunerated by Govt. altho' they hold no Summud of Appointment.

The

Rec'd 7 Oct 1859 No 2094.
do 22 Nov " " 2331.
do 6 Dec " " 2410.
do 17 Jany " " 109.
do 20 March " " 599.
do 5 April 1860 " 417.

H S W.

Rec'd July
Judicial 1859 Madras

No 923.

Proceedings of Govt

Dated 23 Sept 59

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1860.

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5.— The Judges recommend that no Summuds be hereafter conferred on new candidates, as lapses occur, and that steps be taken to procure the repeal of Regulation III of 1808. The money allowances would then State then cease with the present incumbents. In the case of grants of land, whether held by Kazis appointed under the said regulation, or by Kazis elected by the people, and also in the case of money allowances enjoyed by Kazis of the latter class, the Judges think that such grants and allowances should be assigned to the Mahomedan

Community

Community, as Endowments for their Kazis, to be appropriated without any further interference on the part of the public authorities. — The Judges do not think it necessary to make provision for the registration of marriages among the Mahommedans under legal authority; nor to give them legal powers for the registration of deeds of dower.

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7. It will be remarked that the practice of presenting the Kazi with a Khilat

Khilat, or, dress of honor, does not appear to prevail in any part of this Presidency. In Salem, however, it is customary to make a small money payment at the time of the two principal festivals, viz: the Bakrid and Ramzaun. This payment should be, continued but disconnected from the Festivals, and ~~paid~~ made at some other season of the years.

Fort St George
23d July, 1860.

Copy to the Judge.

Letter & Encls. to follow

21-4-94
21-4-06 ✓

26-a-25
18/10/20 ✓
23-12-20. ✓
19-5-22 ✓
12-7-1924 II ✓

Extract

Judicial 1860 Departt

No. 924

To

The Secretary to the
Government of India

Dated 23rd July 1860
Rect No. 1853.

Forwarding copy of a letter from the Sudder Court and its enclosure respecting the Office of Hazee at the Madras Presidency.

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