

CONCERNS BOTH BRITISH INDIA
AND INDIAN STATES.

Political (1896) Department.

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G.O., No. 756

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INDEXED.

[Despatch Abstract.]

By the Church Fund. Communicating
the ~~Advocate General's~~ Report in Travancore
Gochoin the Advocate General's opinion
relative to the — of 3000 Pagodas deposit
to the Govt and requesting that officer to
ascertain and report whether the Rev
Mr Dionysius is prepared to
the capital, abandoning all fur
lains on the 8 per cent loan in

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

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G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
<i>1633/96</i>							

Government { 1896 } of Madras. POLITICAL.

Recd.

Regd.

1896.

Enclosures

Spare copies

G.O., No. 756, 30th October 1896.

OCTOBER.

Syrian Church Fund.

Communicating to the Resident in Travancore and Cochin the Advocate-General's opinion relative to the — of 3,000 pagodas deposited with Government and requesting that officer to ascertain and report whether the Most Reverend Mar Dionysius is prepared to receive the capital, abandoning all further claims on the 8 per cent. interest.

GOVERNMENT OF MADRAS.

POLITICAL DEPARTMENT.

READ—again G.O., R. No. 234, Political, dated 14th July 1896.

Read—the following paper:—

From J. THOMSON, Esq., Resident in Travancore and Cochin, to the Chief Secretary to Government, dated Camp Pirmad, 1st June 1896, Ref. on C. No. 972.

I have the honour to report occurrences since the receipt of G.O., No. 41 of 17th January 1893, relative to the claim made by the Most Rev. Mar Dionysius, "Syrian Metropolitan of Melankara," to the interest on the bond for 3,000 pagodas given by the Madras Government to "the regular superior for the time being of the ancient Syrian Church of Malayalam."

2. Copy of the order of 1893 was communicated to the claimant. His next application was by petition (enclosure I), dated 26th June 1895, in which he states that, having failed to obtain the co-operation of trustee Chandappilla Cathanar in the administration of the trust, he had sued for his removal, and, on the defendant's consent, the court had decreed it; that as he was thus removed, and, the other trustee had died, there was no room to doubt the competency of the co-trustees already elected (in 1892) and reported and not objected to—Mathen Catanar and Corah Oolahannan—and he therefore requested payment to be made on the receipt of the three of them.

3. On this it was pointed out to the Metran on 6th July 1895 that the election of 1892 relied on was probably void as there was no vacancy then of an ecclesiastic co-trustee, and that a fresh election would accordingly be necessary.

4. On 27th March last I received the Metran's letter (enclosure II) reporting the election of Mathen Catanar on 22nd November 1895, and claiming the interest due.

5. Meanwhile the other party in the Syrian Church has been active. On the 7th September 1894 a memorial (enclosure III) was received from certain "clergy and laity of the Syrian Church in Melankara" claiming to represent the "ancient autonomous Syrian Church of Melankara for which the beneficial interest in the British Government charity of 3,000 star pagodas has been assigned." This memorial ascribes the origin of the fund not to the Metran of the time, but to the Government of the East India Company from sympathy with an ancient church willing to be reformed, attempts to show that Government intended to control the management of it, claims that the Metran Manager contemplated was to be of the autonomous and not of any foreign (Antiochan) church and worthy of and subject to the approval of the British Government which Government ought not to be led by a decision of the Travancore courts that did not and could not cover this particular item of property, asserts that Metran Mar Dionysius was held unfit when a manager and trustees fell to be appointed in 1869 (Mr. Ballard's proposals), and that Metran Mar Thoma—the present head of the "autonomous" Church—is fit in himself and as head of that church; and declares that the trustees are under the panchayet (between the Syrian Church and Church Mission) decision of 1840 to be appointed by the community without regard to other offices they may hold. Adverting to Chandappilla Cathanar's

resignation of office, it requests Government, having regard to the intentions of the grant and assuming the position it took in 1869, to arrange for a public meeting under Metran Mar Thoma to elect co-trustees; but if the primary object of the trust—declared by memorialists and apparently admitted by their opponents to be the religious education of the clergy and laity of the Syrian race—requires an extended or altered management, that might be accomplished through neutral trustees, and this arrangement failing, the proceeds of the fund might be divided among the various sections of Syrians.

6. Metran Mar Thoma, by letter of 18th September, supported this memorial stating that he had been so requested by a representative meeting of the clergy and laity of his see.

7. On this petition Mr. Grigg ordered the following endorsement dated 3rd November 1894:—

The memorialists are informed that, pending the filling up of the vacant trusteeships, their recognition by the civil courts and the receipt of any demand from them for payment of the interest on their endowment the Resident considers it premature to take into consideration the various requests preferred in their memorial. On receipt of a demand for payment of interest the memorialists will be given an opportunity of representing their case afresh should they desire to do so.

8. The same parties sent in a further memorial (enclosure IV) on 2nd December 1895, with reference to the above endorsement and the one granted to Mar Dionysius on his application of June 1895. This memorial enforces Mar Dionysius' incompetency to be a trustee of such a fund,

* The other party is the Palayakoor—Romo Syrians—these being the divisions the whole Syrian Church fell into in 1653 on the revolt from Goan supremacy.

both personally and as subordinate to foreign authority, and urges that only the consent of the whole Puthencoor * Syrian community can confer the right to administer its church temporalities, and disapproval of the British Government, trustee in question "by calling together a few of his blind or interested followers who dandle on his dictation and making them appear as representatives of the whole Syrian Church," thus attempting "to turn the British Government charity fund to his own exclusive benefit." The enclosures to this memorial are translations unauthenticated, but probably genuine, of (1) a representation to Mar Dionysius from certain "clergy under the jurisdiction of the Most Rev. Mar Thoma, Metropolitan of Malabar," accusing Mar Dionysius of past misconduct in respect of trust funds and intended misconduct in respect of the approaching election of the trustee, in that only Jacobite Syrians rendering allegiance to the Patriarch of Antioch are cited, whereas the churchmen of both parties have the right to take part, and (2) of Mar Dionysius' reply claiming to have duly discharged his office and trust and scouting the persons he addresses as of an unrecognised order and schismatic, whose consent is not required in electing a trustee of property to which they had abandoned their claim, but declaring willingness to admit them to the meeting and to participation in the trust funds on their consenting "according to the decision of the Royal Court to conform to the tenets and submit to the head of the Syrian Church." This is only the continuation of the position he took up in 1869, exhibit 14, page 243, Volume III (forwarded to be returned), when addressing the Resident.

9. Without however vouching for the authenticity of these inter-communications, the *animus* of which is too evident, it is perfectly well known and accepted that the two parties of the Puthencoor Syrian Church continue in rancour with each other and are likely to be so for as long as need be taken account of. It is unnecessary to rehearse the view taken of the dispute by two of the members of the Supreme Court of Travancore disagreeing totally with the third member. So far as Travancore is concerned, the "Syrian Church in Melankara" owes spiritual allegiance to the Patriarch of Antioch and Mar Dionysius is recognised as its local head and entitled to possession of the church temporalities devolving on the Metrans; and it is difficult to see how he can be bishop to those who deny the external authority and the position the

courts have granted him or can treat such as other than schismatics. In respect of the matter now in dispute, however, the Mar Thoma or autonomous party otherwise called "The Reformed Syrian Church," or "The Church of St. Thomas Syrian" claims with right as members of the whole Syrian community to participate in benefits and management, and while the former might be possible the second is clearly impracticable even if they were able to secure the election of two of their own faith as trustees, for these could not serve along with the Metran whose faith they abjure in matters pertaining to "the religious education of the clergy and laity." I am not sure however on a perusal of the arbitration order of 1840 that this was regarded by the arbitrators as the necessary use of the fund.

10. It is well to recur to the starting point of this endowment. All that the papers in this office show is that Colonel Macaulay, as Resident, on 25th October 1808, reported to the Chief Secretary as follows:—

To POLITICAL DEPARTMENT.

G. BUCHAN, Esq.,

Chief Secretary to Government,

Fort St. George.

Sir,

A request has been preferred by the Rev. the Mar Thoma, Bishop of the Ancient Syrian Church of Malayalam, which, by his desire, I beg your submitting to Government; he solicits permission to pay into the treasury of the Honourable Company, as a loan in perpetuity for charitable uses solely, the sum of (3 000) three thousand star pagodas at the usual rate of interest for such loans; and he requests that the interest may be indulgently paid in Travancore and be subject to the management of the Bishop or Metropolitan *pro tempore* or other regular superior however denominated of that ancient church.

I have, &c.,

(Signed) C. MACAULAY,
Resident.

The Chief Secretary replied as follows on 12th November following:—

POLITICAL DEPARTMENT.

To

Lieutenant-Colonel MACAULAY,

Resident at Travancore.

Sir,

I am directed to acknowledge the receipt of your letter of the 25th ultimo, and to acquaint you that the Honourable the Governor in Council has been pleased to comply with the request therein submitted in the part of the Bishop of the Ancient Syrian Church of Malayalam, to be permitted to pay the sum of 3,000 pagodas in perpetual loan to the Company. The interest will be paid at 8 per cent. per annum, and will be made payable at Travancore.

I have, &c.,

(Signed) G. BUCHAN,
Chief Secretary to Government.

and the bond given on the 1st December 1808, and now lodged in the Resident's Treasury, runs:—

Star Pagodas 3,000.

Travancore,
1st December 1808.

I acknowledge to have this day received from the Mar Thoma, Bishop and Acting Metropolitan of the Syrian Church of Malayalam, as a loan in perpetuity to the Honourable Company,

the sum of 3,000 star pagodas bearing interest at the rate of 8 per cent. per annum and the interest annually payable in Travancore on the receipt of the Bishop or Metropolitan or other regular superior for the time being of that ancient church.

(Signed) C. MACAULAY,
Resident.

11. How this sum happened to be in Mar Thoma's (the Seventh's) hands and what purpose other than the obtaining of heavy interest prompted the deposit by him there is nothing to show. Mr. Milne Rae gives no authority for the statement made at page 281 of his work—"The Syrian Church in India"—that it was a recovery by Colonel Macaulay through the Travancore Government on account of injuries inflicted on the Syrian christians by their non-christian neighbours. The Residents then and later interested themselves in the Syrian Church to some purpose and exercised influence that told on it and its management in many ways.

12. When the Syrian Church, as it then was, and the Church Mission could no longer live in harmony, and arbitration as to property they had jointly amassed and enjoyed was resorted to in 1840, this money was the first item dealt with, and the award runs:—

Star pagodas 3,000.—This sum was vested in the Honourable Company's funds in the year 1808 through the then Resident Colonel Macaulay by the Rev. Mar Thoma, the then Bishop of the Ancient Syrian Church of Malabar, as a loan in perpetuity for charitable purposes solely at the usual rate of interest for such loans, viz., 8 per cent. per annum. This sum being indisputably the property of the Syrian community, we are of opinion that the Church Missionary Society have no claim or right whatever to any future interference in the management. We therefore award that Colonel Macaulay's bond or receipt for the said sum be returned to the Metropolitan of the Syrian Church, and that the purposes for which the high interest of 8 per cent. has been heretofore given by the Madras Government may be fully carried into effect; we further award that the disposal of the said interest shall in future be under the management of the Metropolitan for the time being of the Syrian church conjointly with two others—an ecclesiastic and a respectable Syrian of the same persuasion—to be selected by the Syrian community itself.

The Court of Final Appeal, paragraph 110, page 43 of the judgment (forwarded to be returned) of Krishnaswamy Row and Sitaramyyer, JJ., affirms the endowment as being the Metran's, but gives his name wrongly.

13. It may be supposed that the intention of the Resident, or of the Madras Government, or of both, in 1808, was to benefit in one way or other the Syrian community generally. The opinion and intention of the arbitrators are quite clear and ought now, if possible, to govern, action having been accepted and acted on so far by the parties to the award. I have no doubt also that the Resident approved of it, but cannot verify. The giving effect to the intention now however through one Metran, in the strained condition of the church parties, seems impossible whether Mar Dionysius or Mar Thoma is considered by the Madras Government to be the Metran of the church.

14. The perusal of Mr. Rae's book and of the judgments of the Supreme Court will leave on most minds that are without prejudice the conclusion that there is a large need for this benefaction, if devoted to education, among the whole people for whom it was set apart. There were dissensions even in 1840, but their virulence could then be neglected: "the regular superior" of the church "for the time being" to whom interest on the bond is due will now be Mar Dionysius or Mar Thoma and "that ancient church" will be the party headed by the one or by the other according as history is read or court decisions respected. So much is at least fairly certain—Mar Thomas VII who deposited this money was not consecrated by the Patriarch of Antioch. Neither were his five successors in office directly or indirectly. And it may safely be asserted that if the Government of Travancore had not withdrawn from the recognition of Metrans which it was in the habit of according Mar Thoma would have had no rival of consequence at the present day. The Travancore Almanac for 1896 gives 186 churches and sixteen chapels as under Mar Dionysius; St. Thomas Syrian claims to have 195 churches. In 1869 Mr. Ballard considered

Mar Athanasius, the brother and predecessor and consecrator or appointor of Mar Thomas Athanasius to have "a large and powerful majority." The Madras Government recognised him then as it did Mar Thomas Athanasius in 1878, and paid the interest on this bond till it ceased to be demanded in 1884. It is possible that Mar Dionysius, by virtue of his success in the courts, has now the larger following, but I know of no reliable statistics.

15. So far as I can see it is open to Government to pay the money to whichever Metran it chooses to consider the Metran; but it cannot pay to both, and a payment to either only would not be in furtherance of the arbitration award declaring it common property. It is to be noted further that the co-trustees are to be "of the same persuasion" as the Metran, and if that is interpreted narrowly there cannot be a representative board. Mar Dionysius is clearly determined to regard the persuasions of the two parties as different.

16. Division of the fund would, if possible, be the most equitable arrangement if parties would and could consent to that. Mar Thoma may; it is not likely that Mar Dionysius will; but Government will probably see a difficulty in that course and a possibility of further complexity by continued disintegration. A payment into a court and an interpleader suit would be safest, having regard to the readiness which all show for invoking the law. The money, however, was paid to Government in and the interest is payable "at Travancore," and there is no reason to think that the Final Court of Appeal would vary its judgment: so that the result is already certain and the interest might as well be paid to Mar Dionysius at once.

17. Considering the small moral good the benevolence of Government appears to have done to the Syrian Church since 1840 and the trouble it causes to the authorities, the bond contract might fittingly be put an end to by the legislature; if continued it requires to be so varied as to make possible what may be assumed to have been its original purpose. Custom has allowed the British authorities in the past to select the payee at its own will, but that cannot now continue when parties are clearly divided and one recognised finally by the courts.

18. I have the honour to ask for orders.

ENCLOSURE I.

From the Most Rev. MAR DIONYSIUS, Syrian Metropolitan of Malankara,
to the British Resident in Travancore and Cochin.

I beg to forward herewith, for your information, copies of the judgment and decree of the Zilla Court of Alleppey in O. S. No. 163 of 1069.

1. The Court of Final Appeal in Travancore having confirmed me as the duly appointed prelate entitled to hold the "insignia and office of Metropolitan of the Malabar Syrian Church and to possess and administer all the properties and moneys appertaining thereto with two other trustees as required by the award of arbitrators," and Punnatra Chandappilla Cathanar, the only surviving co-trustee having been removed from trusteeship by the unanimous vote and resolution of an assembly of representatives of Syrian parishioners held on the 30th and 31st March and 1st April 1892, I submitted an application to your predecessor, dated 27th August 1892, for payment of the interest of the 3,000 star pagodas invested in the British treasury, on the receipt of myself and the newly elected co-trustees Konattu Puthenpurayil Korath Mathen Cathanar and Coonoompurathu Corah Ulahannan.

2. Thereupon the then Resident, Mr. Hannington, entertaining doubts as to the advisability of paying the interest due in consequence of the opposition raised by the former co-trustee Chandappilla Cathanar and his adherents reported the matter to the Madras Government in an elaborate letter, No. 1429, dated 29th September 1892, in which he fully represented the circumstances of the case, treating the counter-petitioners as dissenters and admitting the justice of my claim. In fact he admitted in paragraph 6 of his report that his only objection to the disbursement of the

interest to me and the said newly elected trustees was the opposition of Chandappilla Cathanar, the surviving trustee and his not having been removed from the office of trustee by decree of court.

3. The Madras Government submitted the whole records for the opinion of the Honourable the Advocate-General who, in reply, dated 17th December 1892, expressed the opinion that on the face of the judgment of the Court of Final Appeal declining to remove Chandappilla Cathanar from trusteeship, he was to be considered as a "trustee entitled to act as such conjointly with the Metran."

4. The final order of the Government was to the effect that the Resident would be guided by the opinion of the Advocate-General.

5. Having failed in my earnest attempt to induce Chandappilla Cathanar to co-operate with me in due manner in the administration of the trust, and the Government having, on the authority of the Advocate-General, refused to consider Chandappilla Cathanar as having been lawfully removed from his office of trustee, I had to file the suit No. 163 of 1069 in the Zillah Court of Alleppey to oust the said Chandappilla Cathanar from the office of trustee. But when called upon to defend himself, he discovered the utter hollowness of his pretensions and relinquished his claim to the office of trustee and to the administration of the trust funds. The Zillah Court thereupon pronounced its judgment, removing Chandappilla Cathanar on his own consent from the office of trustee, as will be seen from the accompanying enclosures.

6. It is clear from the records in connection with this matter that your predecessor treated the counter-petitioners as dissenters and their objections as undeserving any consideration in the decision of the question at issue. The Advocate-General and the Government have in effect endorsed this view. For after stating fully the facts of the case, the only question to be decided, says the Advocate-General is, "has Chandappilla Cathanar been lawfully removed from his office of trustee;" and this has since been done by decree of civil court above mentioned.

7. You will thus see that the objections raised by the opposite party, when I last applied to your predecessor, for payment of the interest, were frivolous and vexatious, and urged with a view to defeat and delay the lawful administration of the trust. And I respectfully venture to submit that any objection they may have since raised or hereafter may raise is of the like nature to which no weight whatever can be lawfully attached.

8. Of the two former trustees, Ittiyachen Pyle being dead and Chandappilla Cathanar having been removed from office by decree of Court, there is no room to doubt the competency of my present co-trustees, Mathen Cathanar and Corah Ulahannan, who were duly elected in an assembly of the legally-elected representatives of the Syrian churches (copies of whose resolutions were submitted by me to your predecessor along with my application, dated 27th August 1892) and whose election Mr. Hannington in his letter to Government did not take exception to.

9. I regret much to inform you that for want of funds and non-payment of interest of the 3,000 star pagodas for the last ten years and upwards, the education of Syrian youths at the Syrian Seminary at Kóttayam suffers materially and the intentions of the donors of the fund are being virtually defeated and a large sum in the shape of accumulated interest is lying idle and perfectly useless in the Resident's treasury.

10. In view of these facts I request you to be kind enough to sanction the disbursement of the interest of the star pagodas which lies accumulated at the Residency treasury as well as the future interest on the receipt of myself and my co-trustees named above.

11. On hearing from you in reply to this representation, I shall be glad to forward the usual receipts signed by all the three trustees to receive payment of interest in the ordinary course.

IN THE ZILLAH COURT OF ALLEPPEY IN THE TRAVANCORE STATE.

Present:

C. S. RAMALINGA AIYAR, District Judge.

O.S. No. 163 of 1069 filed on 14th Magurom 1069.

Decreed 15th Edanom 1069.

Plaintiff.

Mar Dionysius, aged 61, President of the Malankara Jacobite Syrian Christian Association, residing at the Syrian Seminary at Govindapuram Kara, Kóttayam.

(By Vakils)

(Signed) K. KRISHNA IYEN.

AND

(,,) P. J. POONNEN.

Defendant:

Chacko Chandappilla Cathanar, aged about 50, of Poonathura House at Kóttayam Kara in Kóttayam Proverty.

(By Vakil)

(Signed) V. K. PADMANABHA PILLAI.

The suit is for a declaration that as the exercise of the right of management of the yearly interest of the 3,000 star pagodas invested in British Government securities on perpetual interest for the common benefit of the Jacobite Syrians of Malabar vests in the plaintiff and in the Clergyman, &c., appointed by him, the defendant has no right whatever to that interest, that the removal of the defendant from the office of trustee was properly made, and that as the defendant does not follow the faith, teaching practice and church government of the Syrians, he is incompetent to hold the office of trustee and manage the trust fund in accordance with the decision of the Panchayet or for such other relief as to the court may seem fit and also for costs.

Value of the suit for the removal of the defendant, 2,000 fanams.

Read the petition put in by defendant agreeing to his removal from the office of trustee, &c., and that put in by plaintiff offering to bear his own costs excluding half the amount of institution fees.

Decree.

It is decreed that defendant be removed from the office of trustee according to the consent of both the parties that half the institution fees be refunded to the plaintiff and that each party do bear his costs.

(Signed) C. S. RAMALINGAM IYER,

District Judge.

(True Copy.)

Name of applicant.—Vakil K. Krishna Iyen.
Date of application.—23rd Auny 1069.
Date of production of paper.—24th Auny 1069.
Date fixed to appear.—31st Avany 1070.
Date when copy ready.—31st Avany 1070.
Date when copy delivered.—4th K ni 1070.
Copying fee.—Two fanams.
Comparing fee.—One chuckrom.

(Copied S. Chinnasawmi Pillai.

(By order.)

(Signed)

. Sheristadar.

Seal.

IN THE ZILLAH CIVIL COURT OF ALLEPPEY, ORIGINAL SUIT No. 163
OF 1069.

Plaintiff.

Mar Dionysius, Metropolitan.
(By Vakils Krishna Iyen and
P. J. Poonnen.)

Defendant.

Chacko Chandappilla Cathanar.
(By Vakil P. R. Padmanabha Pillai.)

Decree.

As both the parties have given their written consent for a decree to remove the defendant from trusteeship and to bear their own costs excepting whatever amount will be received back, a judgment to that effect has been passed. Half of the court fee, namely fanams 50, must be returned. 15th Edanom 1069 (27th May 1894).

(Signed)

First Judge.

(True Copy.)

(By order.)

(Intld.) NAZIR,
for Sheristadar.

ENCLOSURE II.

From MAR DIONYSIUS, Syrian Metropolitan of Malankara, to the British Resident in Travancore and Cochin, dated Trivandrum, 26th March 1896.

I have the honour to inform you that in conformity to the course pointed out by your predecessor in his office No. 1969, dated 6th July 1895, a meeting of the duly elected representatives of the Syrian churches was again held in the Syrian Seminary at Kottayam on the 21st and 22nd November 1895 and a resolution unanimously passed re-electing Konattu Mathen Cathanar as a co-trustee (*vide* copy enclosed herein) to act in conjunction with me and the lay trustee Cunnumpurathu Corah Ulahannan formerly elected by them.

2. A reference to the previous correspondence on the subject in your office would show that the result of a protracted litigation was to declare me to be the lawful Metropolitan of the Syrian church of Malabar; that of the three former trustees to whose receipt the interest of 3,000 star pagodas used to be disbursed, Mar Thomas Athanasius, since deceased, was declared by decree of the Final Court of Appeal in Appeal Suit No. 3 of 1061 not to be a duly appointed Metran and as such disqualified to hold the office, that Chandappilla Cathanar, the ecclesiastical trustee, has been removed from his office by the decree of the Zillah Court of Alleppey in Original Suit No. 163 of 1069; that the lay trustee Ittiachen Pyle who died in 1060 was likewise removed from his office by the decree of the Zillah Court of Alleppey in Original Suit No. 439 of 1054; that at a formal meeting of the representatives of the Syrian churches held in April 1892, Mathen Cathanar and Cunnumpurathu Corah Ulahannan were duly elected trustees, that this subject of payment of interest has been dealt with from every conceivable point of view both by the Madras Government and your predecessors in office, and that every one of the objections raised has been satisfactorily met and removed.

3. You will further observe that the payment of interest has been withheld for the past more than ten years for one reason or other much to the detriment of the education of the Syrian youth at the Seminary.

4. Now that all objections have been removed, it remains for you to be good enough to order the payment of interest including the arrears that have accumulated at the Residency treasury and thus effectuate the objects of the trust and the laudable intentions of the donors.

Translation of the original Resolution passed in Malayalam.

The resolution passed under date the 10th Vrichigom (22nd November 1895) at a meeting of the representatives of the several parishes of the Malankara See of the Syrian Church, held in the Syrian Seminary at Kottayam in conformity to a circular addressed to all the parishes on the 3rd Thulam last by His Grace The Most Reverend Mar Dionysius, Syrian Metropolitan of Malankara.

That as Coolangara Ittiachen Pyle of Northern Paravoor, one of the trustees elected in 1045 M.E. agreeably to the directions contained in the Cochin Punchayet decision of 1840 A.D. is dead, and as the other trustee, Punnatra Chacko Chandappilla Cathanar of Kottayam disowns the spiritual authority of His Holiness the Patriarch of Antioch and has become an apostate, representatives from the several parishes of the Malankara See met on the 18th Meanom and the following days in the Syrian Seminary at Kottayam in accordance with a circular addressed to all the parishes on the 10th Kumbom 1892 by Mar Dionysius Metropolitan; unanimously elected Cunnumpurathu Corah Ulahannan, lay trustee, vice Culangara Ittiachen Pyle deceased, and Conattu Mathen Cathanar Malpan, ecclesiastical trustee, vice Punnatra Chandappilla Cathanar who has become an apostate; and these persons discharge the duties of co-trustees conjointly with the chief trustee, Mar Dionysius, Metropolitan. The Metropolitan made an application to the British Resident on the 27th August 1892 to disburse the interest of the 3,000 star pagodas on the receipt of Mar Dionysius and his co-trustees named above. The then Resident entertaining doubts as to the legality of paying the interest and as Chandappilla Cathanar was not removed from the office of trustee by the decision of the Royal Court of Final Appeal, the matter was referred to the Madras Government, which submitted the whole records for the opinion of the Honourable the Advocate-General. He informed that Chandappilla Cathanar should be removed by decree of the Civil Court and this view was communicated to the Metropolitan by the British Resident under date the 24th January 1893. Whereupon a civil suit (No. 163 of 1069) was filed in the District Court of Alleppey for removing Chandappilla Cathanar from his office of trustee and he was accordingly removed by decree of the said Court. Subsequently the Metropolitan applied to the British Resident on the 26th June 1895 to disburse the interest on the receipt of the Metropolitan and the co-trustees named above; to which the then Resident replied under date the 6th July 1895 that "the election of an ecclesiastical co-trustee held in 1892 vice Chandappilla Cathanar was void inasmuch as the office was not then vacant and that an election is now necessary whether of the trustee then elected or of any other, vice Chandappilla Cathanar since removed by a decree of the District Court of Alleppey. On hearing from you of the result of such election, I or my successor in office will take such further action as is then necessary."

Agreeably to the directions contained in that behalf in the Cochin Punchayet decision, viz., to give receipts and draw the interest due from the Resident's treasury at Trivandrum and in conformity to past usage to manage the affairs of the Seminary and supervise the education imparted therein conjointly with the Metropolitan and the lay trustee, Corah Ulahannan, it was proposed by Mattakel Puthukary Veetil Vydian Perumal Cochu Perumal, the representative of Niranam Parish and seconded by Puliyelil Cheriathu Kuruvilla, the representative of Mullanthuruthy Parish, that Conattu Puthenpurayil Corathu Mathen Cathanar Malpan should be re-elected ecclesiastical trustee, vice Chandappilla Cathanar removed by decree of the civil court and this election was unanimously carried out.

ENCLOSURE III.

MEMORIAL from the Clergy and Laity of the Syrian Church in Malankara, to the British Resident in Travancore and Cochin.

That your humble memorialists represent the ancient autonomous Syrian Church of Malankara—the church for which the beneficial interest in the British Government charity of 3,000 star pagodas has been assigned according to the intentions of the grant made in the year 1808 A.D.

2. That your memorialists beg to approach your honour in your honour's capacity as guardian and administrator of the charity—seeing that the last appointment of lawful trustees made by your predecessor with the sanction of the Government of Madras (*vide* Resident's endorsement, dated 29th December 1869, printed on page 247 of Volume 3, submitted herewith) has failed, by reason of death and refusal, to act.

3. That your memorialists thankful and assured as they are of your honour's due appreciation of the gravity of any action with regard to the fund in its present situation, beg humbly to bring to your honour's prominent notice, on the one hand, the general fact, that the negligence or bad faith of trustees usually causes irremediable failure of the object of trust, especially when the trusts are charities for the benefit of a community, and not for an individual beneficiary; and on the other, that the humble protest of a few members of their community has been even in the infancy of the fund, so far accepted as to stop the payment of the interest of the fund through a prelate-manager who had been appointed by the Madras Government in ignorance of his disqualifications for the trust. *Vide* pages 156 and 130 of Volume III.

4. That your memorialists beg to state that the primary object of this their memorial is to submit a humble and most respectful protest against the attempt of Mar Dionysius—*Firstly*, to obliterate the connection of the British Government as the originator and controller of the fund by misleading a non-Christian portion of a native court (which court is legally incompetent to adjudge the ownership of property held in British India) into the belief that the fund is the personal property of a former Metran—the misleading being effected by a practically clandestine joinder of the fund among certain causes of action properly lying in that court—such hidden joinder preventing an issue being framed as to the origin of the fund. *Vide* plaint in pages 2 and 3 of judgment submitted herewith; and *secondly*, to impose upon your honour's right of independent judgment as to who should be the manager of the fund, such imposition being intended to be performed (a) by professing that he is the head of the Syrian Christian Community intended to be benefited by the fund, and (b) by averring that a favourable decision in the native court with the only European Barrister-Judge in the court dissenting, could bind the free will and conscience of a British authority in the disposal of property deposited in, and controlled by, that authority.

5. That your humble memorialists beg to bring to your honour's memory the following facts as regards the object and history of the charity; and, in discharging this their duty as members of the community intended to be benefited by the charity, to pray that no alienation or failure of the intended benefit may be unwittingly caused by your honour's acceptance of self-appointed or self-seeking trustees; and that proper trustees may be duly elected by the beneficiary community under your honour's guidance and supervision in such manner and form as your honour may deem desirable or precedent may indicate, as best calculated to assure the faithful and successful promotion of the objects of the charity.

6. That the salient facts above referred to are:—

(A) That the grant of 3,000 star pagodas vested in the Honourable East India Company's fund in the year 1808 A.D., in the form of a loan in perpetuity for charitable purpose at the special interest of 8 per cent. per annum was a gift made by the then Government and was of the nature of a religious endowment made by that Government from its christian sympathy and religious affection towards an ancient church which, in spite of its being surrounded and tainted by idolators and mariolatrous creeds, showed its willingness to reform and be reformed if a helping hand was offered by the Church of England—that is, the established church of the Sovereign Defender of the christian faith. The character of the fund is patent from the special form of the investment and the high rate of interest, not to mention the tenor and substance of the correspondence that has taken place in the years 1806—1808 between the Rev. Dr. Buchanan, the then British Resident Colonel Macaulay, the Madras Government and the then Metran—as well as the conspicuous historical record—*vide* page 131 of volume III herewith submitted in the express words

“endowment of 3,000 star pagodas made by the Madras Government” as also the wording of the punchayet award of 1840, which distinguishes it from certain other properties known as “properties belonging to former Metrans” although it had no occasion to be explicit as to the origin of the fund seeing that the dispute was not between two rival parties in the same community but between the Church Mission Society on one side and the Syrian community and Metran on the other—*vide* pages 223—229 of Vol. III. The noble missionary spirit of the Church of England and of the ecclesiastical advisers of the Madras Government was kindled into flashing activity for this liberality by the vivid report of the Rev. Dr. Buchanan (who visited the Malankara churches under the auspices and introduction of the then Governor-General) on the helpless condition of the autonomous Syrian Church—supported as the report was by the powerful advocacy of the then Resident Colonel Macaulay and also by a written promise which, as the result of the Rev. Buchanan's personal visitation of the churches and conference with its dignitaries, the then Metran gave to encourage the education of the clergy and the religious education of the community in general and to reform the church in such a manner that the Church of England may with a clear conscience refrain from attempting to directly proselytize from the fold of a church shadowed by darkness and superstition. It was thus as the outcome of this promise and the visitation and Conference of the Rev. Dr. Buchanan that the above gift was made by the Madras Government. In dealing with this question therefore, there is, for the Government or your honour its representative no necessity for raising before its conscience the mist of any political scruple about religious neutrality or toleration seeing that the gift was made by the Government in its own personal religious or ecclesiastical capacity—*vide* pages 126, 127, 128 of Vol. III.

(B) That the fund was so secured that the Government itself would be the real depositary, guardian and administrator of the charity—the bond being in the name of the dignitary who promised to reform the church with the help of this gift. That the Government intended to retain the supreme control over the appointment of managers for the application of the interest of this fund and that it did exercise such control from time to time as occasion arose, are evident not only by its policy at the later stage of the history of the fund (that is in 1849, 1869, 1870, 1877 and 1878, when the late Mar M. Athanasius and his successor and the co-trustees with them were appointed in spite of the opposition of the present Mar Dionysius, &c.—*vide* orders and endorsements by Mr. Cullen, Mr. Ballard, Mr. Sullivan and Captain Faunce printed on pages 246, 247, 234, 235 and 236 of Vol. III), but also by its policy in its infancy as shown by its action in 1809 and 1813 (*vide* pages 128 and 130 of Vol. III), and by its refusing to pay interest during the interval. Mar Dionysius himself has acknowledged in his petition to your office, dated 8th October 1869, paragraph I “that the appointment of manager to this fund is an act of trust by the Government”—*vide* page 242 of Vol. III. Further the petition very lately given by this Mar Dionysius to the Alleppey Zilla Court where the resignation of one of the co-trustees was submitted shows that Mar Dionysius even now is not unaware of the Resident's power of acting independently of the decision of the Travancore Courts.

(C) That according to the intentions of the gift and by *all precedents* without exception, the prelate trustee or manager to be associated with the clerical and lay co-trustees of this endowment is thus shown to be a prelate of the *autonomous* church willing and competent to reform the church and known or hoped to be obedient to the wishes of the original granter by being enlightened and above superstition and in administrative compact and friendly amenities with the Church of England. It is evident that if the Church for whose benefit and reformation the gift was granted is to be one subjected to a foreign supermacy, the compact ought to be with such foreign primate, as a subservient prelate is incompetent to authorize any reform (*vide* Justice Ormsby's remarks on this phase of the question in page 42 of his judgment last 13 lines).

(D) That disputes between the Church Missionary Society and the Syrian Community in connection with the seminary and several endowments were settled in 1840 not by a civil court but by a special punchayet arranged through the instrumentality of the then Resident. Though the decision of the punchayet as regards the seminary

building was carried into effect by giving immediate undisputed possession to the then Metran still the disposal of the interest on this fund was not entrusted to that Metran evidently because he did not satisfy the British Government in the matter of qualifications required for entrusting the management of this fund. It was only in 1870 when the late reformer Mar M. Athanasius by his reforms and otherwise enlightened administration of the autonomous church satisfied the Government that the intentions of the grant would be faithfully carried out if the interest were entrusted to his management that he was selected prelate-trustee. This shows that even if a competent civil court decides the possession of the seminary for a dignitary, such decision does not entitle such dignitary to manage or bind the Government to entrust this fund. In the Travancore Court decision referred to by Mar Dionysius, however, the community had no hearing—*vide* Justice Ormsby's judgment, concluding that Mar Dionysius' acceptance by the people has not been proved (page 118 of his judgment). Further it has to be considered that Mar Dionysius has been adjudged to have failed to establish his claims by the judgment of the only European Barrister Judge of the Travancore High Court—who alone can be expected to grasp the religious and ecclesiastical questions involved in the case (the great majority of the authorities quoted by Dr. Ormsby being acknowledgedly sealed books to the Hindu Judges who presumed to differ from him in this eminently ecclesiastical case). Moreover, seeing that no special issue was framed for this fund in the suit and that the plaint referred to this fund in a covered manner, equity requires it to be treated as property not included in the plaint and for which independent suit is called for. But if it be considered that the Barrister Judge was in the minority and that therefore the different view taken by the Hindu Judges of the court should be followed by your honour, your memorialists beg to point out that the Travancore Court has no authority to sit in judgment about the ownership of property in British India—a property which is the grant of that Government, and is secured and administered under the paramount control of that Government, seeing that even the succession to an ordinary holder of a security deposited in the Residency treasury, is decided by the Resident himself. It would be subversive of the public confidence in British securities if your honour's judgment as to who should be the heir to a bond is made to follow the judgment of a Native State Court instead of being formed on your honour's own enquiry and opinion as to merits. But above all, your memorialists beg to submit that if the former decision of a judicial tribunal is to guide your honour in deciding who is the proper Metropolitan, the British Court of Calicut and the Madras High Court have decided *against* the contention of Mar Dionysius as to the supremacy of Antioch—*vide* pages 249—253 of Vol. III; and your honour's Government is bound to respect the British Court's opinion in preference to the Native State Court. Or if your honour requires a judicial ruling on the subject in the British Civil Courts, Mar Dionysius ought to be referred to the British Courts seeing that the late Mar Athanasius who was in lawful custody of the funds as manager has a lawful successor who satisfies all the conditions required, for your honour's normally constituting him prelate-trustee as his two immediate predecessors were.

(E) That the appointment of manager and trustees in 1870 in the terms of the panchayet decision of 1840, was made in a public meeting of the members of the autonomous church, held at Kóttayam at the residence of the then Senior Missionary of the Church Mission and in the presence of the British Resident, the Metropolitan Mar M. Athanasius, his then suffragan Mar Thomas Athanasius, the leading Missionaries and the clergy of the church under the supermacy of the above Mar M. Athanasius.

(F) That the objection then raised by the present Mar Dionysius to the above decision and appointments was overruled because he was not found to satisfy the conditions mentioned in clause (C) above, as to the qualifications of the prelate-trustee.

(G) That the present representative and successor of Mar M. Athanasius is the Most Rev. Titus Mar Thoma who by his training in the Madras Christian College and by his well-known integrity, piety, enlightenment and erudition and ecclesiastical dignity is beloved and honoured by the Church of England and that, among the several sections of the Syrian race including, Patriarchists, Papists

Babylonists, Nestorians, Armenians, Justusites, &c., it is only the autonomous Syrian Church under him that is in administrative compact with the Church Mission and the Church of England in the matter of intermarriages, &c.

(H) That the allegation made by Mar Dionysius in his plea before the Travancore Courts (*vide* page 43 of Judgment herewith) that the above sum of 3,000 star-pagodas is a private investment by a Syrian Metran is absolutely opposed to facts (*vide* clause A above) as will be proved by the records of the Residency itself and that this plea alone will convince your Honour of the real motive with which Mar Dionysius is claiming the trusteeship now. As regards the argument of the Hindu Judges for concluding that it is a private deposit it is patent that when once a money-gift is made for an investment, the investment will appear in the name of the trustee. Such name of a trustee in the accounts is not the proper record to settle the question of origin of the fund. The previous records of 1806 to 1808 ought to have been appealed to for reference.

(I) That the prelate-trustee and the clerical and lay trustees for the administration of this fund as per terms of the panchayet decision are to be appointed by the community by a special consensus at the time of such appointment. These trustees cannot continue their trusteeship in hereditary succession in their families or successions in other capacities. The decision of the Travancore High Court establishing that Mar Dionysius is the successor to the late Mar Athanasius in the possession of certain properties, cannot create a right to a succession to a trusteeship once lawfully held by the late Mar Athanasius—even if this Mar Dionysius were one who fulfilled the conditions mentioned in clause (C) as qualifying for proposal as prelate-trustee. Nor can an alleged consent or election by a non-beneficiary section of the Syrian race in a manner unsupported by precedent, confer any status on any person so alleged to be elected as a trustee to the above fund from Prelates or Clergy or Laymen.

7. That Mr. Hannington's report, dated 29th September 1892, on Mar Dionysius' petition to him, dated 27th August 1892, shows how he was overawed by the voluminous character of the records which have to be studied, if truth and justice have to be served, or how he was over-reached by the specious character of Mar Dionysius' statements and beguiled into a recommendation which, if it had not been overruled by the Advocate-General, would have caused a precedent for making the courts of a Native State sit in judgment in behalf of the Resident. Mr. Hannington in paragraph 2 of his report imagines that the Madras records may contain a certain record which is not in the Residency, but goes on to base his report on his imagination as to its contents though that record is a very essential one to decide about the nature of the fund. The records of 1806—1808 will show the conditions and intentions of the grant and will prove beyond doubt that the fund was not the private deposit of a Metran. But he did not stop to get the records and so even the Advocate-General had not the benefit of these original records most essential to a proper legal opinion. In paragraph 3 he surmises a cause for the non-application for the interest. This surmise is not at all supported by any communication from Mar Athanasius or his co-trustees. The Zilla Court decision which he presumes to be the cause was immediately appealed against and there could have been no bar on that ground under any circumstance for applying for the interest. In paragraph 4 he says that Mar Thomas Athanasius and "the very large body of Syrians who adhere to him must be considered dissenters." Paragraph 20 of the judgment even of the majority of the Judges of the Final Court of Appeal, Travancore (*vide* book herewith) explicitly states that the question of heresy was not raised distinctly. Paragraph 330 of the same judgment corroborates the above statement and adds that "the points of heresy alleged during the progress of the suit have not been shown to be such as to put him (trustee) beyond the pale of the Syrian sect and persuasion and thus to disqualify him to be a trustee." Paragraph 347 quoted by Mr. Hannington refers to foreign spiritual supremacy which as shown above incapacitates this subordinate Prelate Mar Dionysius from being entrusted with the management of this fund which has the question of reform and alliance attached among the intentions of the original donor—not to mention the serious objections to the Resident's opinion not being independent, that is, on fact and merit; but simply in mute subsequence of the non-Christian

judges of a non-unanimous tribunal in a Native State—Judges who in paragraphs 137—150 of their judgment refer to the “combined action of the C.M.S. Missionaries and the Dewan Resident,” &c., with feelings quite contrary to this self-effacing disposition. Paragraph 6 is therefore a wrong conclusion. Paragraph 9 refers to an attempt at appointing a substitute trustee before the trustee enjoined by the Court to be continued in office was lawfully removed. Paragraph 10 gives an opinion in favour of Mar Dionysius without assigning any ground, the only presumptions in the preceding paragraphs being unsupported by records as shown above, and notwithstanding the fact that his peculiarly antithetic report shows a very large body of Syrians to still adhere to Mar Thomas Athanasius and to oppose Mar Dionysius’ proceedings as illegal. As to the extract in paragraph 12 from the arbitrators’ award, it has to be remembered *firstly* that the arbitrators had no idea of a split among the Puthencoor Syrians as has now arisen; and *secondly* that all precedent is to associate the Metran of the autonomous Church for the management of this fund originally granted, as it was, for reform in that church. Paragraph 14 is wholly the result of misconceptions as to facts as shown above because the deposit was of a fund granted by the British Government in the hope of helping on reform in the autonomous church and also because the judgment does not declare Mar Thomas’ followers as heretics, but on the other hand positively declares his prominent follower as not disqualified for trusteeship.

8. That as regards the opinion of the Advocate-General on Mr. Hannington’s report, your memorialists beg to submit that the records of the case from 1806 showing the circumstances under which this fund was proposed and created, and all subsequent records showing the precedents up to date and the decisions of the Government against the attempts of non-reforming subordinate prelates to have management of the fund, have to be perused before a final opinion can be given. The wording of the arbitrators was such as to serve their then purpose and so no indirect deductions can be taken from their wording, either as to the origin of the fund, or as to the beneficiary community. But the opinion of the Advocate-General so far as given, it will be seen, supports the statements in this memorial. Paragraph 2 says that the British Resident suggested the personnel of trustees and preferred the autonomous church Metropolitan as the Manager in spite of dissensions headed by the present Mar Dionysius; paragraph 3 says that the successor of Mar Athanasius in the autonomous church was accepted as manager in lieu of his predecessor. From paragraph 4 the opinion is unfortunately rendered unauthoritative as the Advocate-General evidently had only Mr. Hannington’s report to instruct him about facts before 1840—facts which in the face of the original papers herewith submitted, and remarks above made, could not be maintained as correct. The founder’s intention cannot be gathered from the arbitrator’s award inadvertently called “Endowment deed” But even in ignorance of those intentions the ecclesiastical co-trustee Chandappilla Cathanar, who is a prominent follower of the autonomous church metropolitan, has been declared as qualified to be a co-trustee. The intentions of the founder have however been referred to in the above paragraphs, showing that the autonomous reforming church alone is the church to find the manager and trustees from. As the Advocate-General’s opinion according to the last sentence of his report is seen to be based only on the award of 1840 without the light of previous records, it is very essential that these facts and precedents should be brought to his notice for further advice, if any further step is now intended to be taken as based on his report.

9. That a new phase has now come over the question by the above co-trustee, Chandappilla Cathanar’s resignation of his trusteeship having been accepted by the Alleppey Zilla Court. Copy of his letter of resignation showing the grounds of his taking such a step is herewith submitted. It is evident therefrom that it is the impracticability of honourable and faithful joint action when yoked with Mar Dionysius, that has pressed him to resign. The possibility of making such conjoint action practicable depends on the stringency of supervision and the imposition of strict conditions which the Government may now enjoin. But as according to the intentions of the grant the management has, as shown above, to be entrusted to the autonomous church, the time has now arrived for the Government to adopt drastic measures to discharge its duty to the intentions of the original grant about the management and to take steps similar to those of 1869 by inviting the Most Revd. Titus Mar Thoma to

arrange for a public meeting under your Honour’s supervision for the election of co-trustees. The autonomous church has purchased extensive grounds at a convenient locality for erecting a seminary pending the election of a co-trustee in the place of Ittyachen Piley who died about the year 1884 and whose death was the real cause of the late Mar Athanasius not applying for the interest that has already fallen due.

10. That if however your Honour in your Honour’s controlling authority considers that the beneficiary community of the trust, as constructed by precedent and practice as above, does not exhaust the range of benefit which on ecclesiastical or political considerations the original granter (the British Government) would wish to extend it to, your memorialists have only to submit to any decision your Honour may come to, after considering the facts abovementioned as well as the fact that if sections of the Syrian race acknowledging foreign jurisdiction like the Roman, Antiochan, Babylonian and other yokes, are to be included in the range of benefit, the administration of the fund will, to secure success and efficiency have to be managed through neutral trustees such as the dignitaries of the Church of England, special rules being framed for carrying out through such agency the primary object of the trust, namely the religious education of the Clergy and Laity concerned. This arrangement if it can be well carried out will not materially disappoint the autonomous church for it does not wish either to make the fund serve any private purpose other than religious reform and education, or to exclude any person willing to accept or be benefited by such reform and education.

11. That a neutral management as above indicated is not impossible will be seen from the fact that the Cambridge Nicholson Institution attached to the Travancore Church Mission now helps the memorialists by appointing a Syriac Malpan for freely teaching such of their young men as are without other means of sound religious education, the only burden imposed on the memorialists community being the pay of the Malpan. On the other hand that this proposal for neutral management, if autonomous management is rendered impracticable, is made from want of a less unsatisfactory alternative and not from any exclusive spirit, will naturally occur to your Honour if your Honour will either directly or through the Dewan of Travancore call for a reliable and early report on the following points connected with the public funds adjudged to Mar Dionysius by the Travancore Courts:—

(a) Is there regular tuition of Syrian Clergy now conducted in the Syrian College adjudged to his management? If not how long has it been in discontinuance?

(b) What is the value of public property of all sorts that has come into his possession by the Court decision and what is their annual income?

(c) What is the amount he has changed into cash by sale of property and revoking advances on mortgages, &c.?

(d) Has the account of daily expenditure and annual balance sheet of these public funds been duly written and published and audited as required by rules? Can they be sent for your Honour’s inspection within 15 days from receipt of an order to that effect? Are the items of expenditure fair?

(e) Has any portion of the public fund been transferred to or expended for the institution known in his name as “Mar Dionysius Seminary?” Is that institution claimed as his personal property or is it an institution of which the legal claim for ownership is mingled with Roman Catholic Syrians both for site and building? Is that institution self-supporting by fees or does it require extraneous help for maintenance?

12. That if the appointment of such neutral trustees is not considered possible and if the section of the Syrian race under foreign supremacy is to be brought within the benefit of the fund the only alternative which strikes your memorialists as feasible is separation and distribution between the sections willing to come under the benefit as was done by the panchayet of 1840, when joint-management of trusts by the Church Missionaries and the Syrian Metran was found impracticable, and as is now done by the Travancore Government with regard to its grants in aid of education. On this principle it will be observed that the autonomous church has in equity every justice for being allowed independent management of the further interest on this 3,000

star-pagodas, seeing that this capital is only a fraction of the fund withdrawn in 1870 as the accumulation of interest up to 1869 and invested by the late Mar M. Athanasius in Travancore property, but now adjudged by the Travancore courts for Mar Dionysius. If this principle of distribution be adopted by the British Government for separating the Antiochan section of the race (which as above hinted is through the channel of an endowment by Mr. Darragh, a Roman Catholic, in legal compact with the Roman Catholics) from future participation in this bond the autonomous church will, in abiding by the decision, be avoided the expensive litigation which the community has otherwise to go through to annul their present deprivation of the possession of the Kóttayam seminary and Travancore investments effected by Mar Dionysius in a suit in which the ywere not made defendants. Further if such separation takes place each section will, of course, be responsible to British Government for the fund entrusted to it, and it will be open to each such section to supplement the fund by its own resources and to make the best of the helping grant unfettered by party-feeling.

13. That in conclusion your memorialists humbly pray that your Honour may be pleased to give your Honour's calm and serious consideration to the above facts as well as to such other matters of ecclesiastical and political import that may occur to your Honour's mature wisdom and foresight as worthy of consideration in the appointment of trustees at this critical period of the fund's history; and your memorialists are confident that your Honour, as representing the authority and traditions of the Majestic Defender of the Faith of the Church of England and as constituting the administrator on whose interpretation of rules and precedents regarding the beneficiary community and qualifications of trustees, the intentions of the original grant depend for their support and fruition, will, under Divine guidance, be endued with the necessary grace to pass such orders as will make the fund—not a support for religious slavery and despotism, but a powerful instrument for advancing the elevation and enlightenment of an ancient autonomous, oriental church willing and ready, and already active in its co-operation with its noble occidental sister—the liberal mother of love—induced evangelization and missionary enterprise.

For which act of kindness the memorialists shall, as in duty bound, ever pray.

KÓTTAYAM,
29th August 1894.

(Signed) J. JOSEPH CATHANAR, C. N. I.,
and others.

ENCLOSURE IV.

To

JAMES THOMSON, Esq., C.S.,

British Resident in Travancore and Cochin.

The humble memorial of the undersigned Clergy and Laity of the Syrian Church in Malankara.

RESPECTFULLY SHOWETH,—That your humble memorialists beg respectfully to solicit your Honour's kind attention to your office endorsement, dated 3rd November 1894, kindly promising that, when the proper time arrives, your memorialists would, if they wish, be given an opportunity of inviting your Honour's consideration of certain requests made by your memorialists in a memorial, dated 29th August 1894, regarding the disposal of the British Government Charity Fund of 3,000 pagodas for the benefit of the Syrian community in Malabar, and that, in any case, the disbursement of the interest will not be made until proper trustees are duly elected and their election is recognised by civil courts and until the memorialists' objections to the same are heard.

2. That in the said memorial (printed copy herewith submitted) your memorialists had referred to the attempts made by certain self-seeking individuals to obliterate the connection of the British Government as the originator and controller of the fund and to prevent the assertion of, and thereby to extinguish, the rights and privileges hitherto exercised by the British Government in the nomination and appointment of managers and trustees of the fund, independently of the authorities of the Heathen States wherein the beneficiary community resides; and had also quoted facts and records throwing the necessary light on the object and history of the

charity and establishing that the endowment has been always managed by a prelate of the autonomous Syrian church, willing and competent to reform the church, and known or hoped to be obedient to the wishes of the enlightened grantor and in administrative compact and friendly amenities with the Church of England.

3 That in the terms of the endorsement above quoted, your memorialists have reason to believe that if any would-be-trustees, other than those to whom payments have been hitherto made, make any application for the fund or its interest, your Honour will, before accepting such application for final consideration, insist on such applicants' establishing their representative status and eligibility through the civil courts of British India where the fund is invested, and that when the eligibility or otherwise of the applicants is judicially settled, the question will be ripe for the Government in its grantor capacity to consider whether the administration of the fund is to be managed through them or otherwise so as to best serve the primary object of the charity in the present conditions of the Syrian community.

4. That your memorialists are, however, now constrained to approach your Honour with this representation as they find that Mar Dionysius, a dignitary who, under the Antiochan supremacy, is from motives of personal aggrandisement trying to lead a portion of the less educated section of the Syrian community to a relapse to the Roman superstition, has, in his organ, the *Edavagay Pathrica*, published a description of an alleged endorsement from your office, dated 6th July 1895 (copy, with translation, herewith submitted), which, if true, would tend to the impression that your Honour has not been put in possession of the anterior endorsement to your memorialists, dated 3rd November 1894, above quoted; and that the hollowness of the tactics adopted by Mar Dionysius to turn a domestic farce into a public representative election has not been brought to your Honour's observation.

5. That your memorialists beg to invite your Honour's kind attention to the following facts showing the irregularity and barrenness of Mar Dionysius' claims and proceedings:—

(a) Mar Dionysius being by admission simply a subordinate of a foreign prelate, is incompetent to accept a trust which presumes a tacit or explicit engagement for reform and religious education worthy of the present age of liberality and civilization (*vide* Dr. Ormsby's judgment, page 42, in the printed Royal Court judgment submitted with the memorial above quoted). Such a compact necessary for the attainment of the primary object of the fund is possible only with the autonomous church for whom the fund is intended and whose prelates are ecclesiastics of liberal education and are conversant with the English literature and the religious thought of the more advanced nations of Europe.

(b) The award of 1840 (*vide* page 223 of Volume III, exhibits in case No. III of 1061 in the Final Court of Travancore already submitted) settles that the "Syrian community" is the undisputed beneficiary of the fund. The decision therein given about the management of the interest of the fund shows that, in the contemplation of the deciding panchayet, the Syrian church at that time was co-extensive with the Syrian community and that there was then only one Metropolitan in the Syrian nationality in the State. The Staticons produced in the case above quoted show that at present this religious title is conferred on at least seven prelates in the section under the sway of the Patriarch of Antioch; though in an administrative sense the title is properly inapplicable to any of them, as none of them has independent authority in the diocese. The Metropolitan of the autonomous church alone has, and can strictly claim, that title inasmuch as he alone exercises independent authority in his diocese. It is also evident from the provisions of the panchayet decision about the election of co-trustees, as well as from the Travancore Final Court decision about the Patriarch's having no jurisdiction over the temporalities of the church, that whatever spiritual dignity may be conferred on an ecclesiastic by the imposition of prelate hands. Such dignitary's authority for taking part in the administration of the temporalities of the Syrian community is derived from no source other than the consensus of the community in whom is vested the ownership of the temporalities. This community resides in both the Native States of Travancore and Cochin as well as in the British district of

Malabar. It cannot therefore be contended that a decision in Travancore in a suit, where not even the Syrian Christians in that State itself was properly made a party, can affect the beneficiary rights of the whole Syrian community in these three States. Further, even taking the dictum of a non-ecclesiastical and heathen court in a purely ecclesiastical matter of the Christian subjects of Travancore, viz., the Royal Court judgment which Mar Dionysius quotes as his credential, paragraphs 20 and 330 of the judgment, explicitly state that the tenets of the autonomous church then under Mar Thomas Athanasius are not such as to put the members of the autonomous church beyond the pale of the Syrian sect and persuasion and thus to disqualify them from becoming trustees of the temporalities of the Syrian church.

The right of selecting or nominating the person for the managing prelature and for the clerical and lay trusteeships is thus, both by the award of 1840 and by the Travancore judgment advanced by Mar Dionysius, clearly vested in the whole Puthencoor Syrian community without reference to the divisions or variations in customs which may have crept in among them subsequent to the award.

The Travancore High Court in its judgment, in case No. 34 of 1062 between the adherents of the autonomous church and of the Patriarch of Antioch, discusses the question of election of representatives of a mixed congregation, and in the following words establishes the voting capacity as belonging to both sections together, and insists that even if one section forms the majority, it cannot exclude the minority from taking part in the deliberations for election (from paragraph 41 of the judgment): "The question then is—has the fifth plaintiff been so elected or elected at all by the whole body of the congregation in the above or in any other lawful mode The alleged appointment was at a time when the congregation of the church was divided into two factions—the party of Dionysius or of Patriarch and the party of Athanasius. . . . There is internal evidence that the party of Patriarch treated their opponents as heretics and not entitled to the membership of their church. There is nothing to show that even informal notice of the election of the so-called committee was given to the church congregation as a body or that even all the leading members of the congregation were invited to take part in the election. . . . It may perhaps be inferred though there is no direct evidence on the point that the leading members of the Patriarch's party acquiesced in the arrangement made by the members of their party; but the members of the other faction so long as they form part of the church congregation are entitled to vote at the election of Kykars, or managing committee. . . . There is nothing to show that the difference in the doctrines professed by the Athanasian party and those professed by the party of Patriarch is such as to disentitle the former to the membership of the Cheriapally church. The great issue between the two factions was whether consecration by the Patriarch of Antioch or his delegate was necessary to constitute a duly appointed Metran of the Syrian church, and although points of heresy were alleged against the Athanasian party by their opponents, the allegation has not been established The minority are as much members of the church as the majority, and have their rights, and those rights must be protected by the courts. The opinion of the majority of church congregations in questions of trust management as on the other questions would bind the minority only in cases where the latter has had the opportunity given them of deliberating upon the question and of letting their views be known to the majority before a decision is arrived at by them."

These facts along with the incidents of the method adopted on the last occasion of the election of the trustees (*vide* paragraph E of the memorial above quoted) show that it is necessary that the whole Puthencoor community should join in the deliberation on the matter in a public meeting countenanced and helped by the representatives of the brother churches and of the ruling and supreme Governments.

(c) The right of approving and appointing or disapproving the nomination of the Syrian community in this matter and the general control of the personnel managing the fund has been, both before and after the award of 1840, always vested in the British Government; such appointment having always fallen upon a prelate in conscientious sympathy with the Church of England and his adherents (*vide* order and endorsement from Resident's office printed on pages 246, 247, 234, 235, 236, and

also references on pages 128 and 242 of Volume III already submitted), and when such a prelate was not available, on a pious ecclesiastic of any lower order satisfying these qualifications (*vide* reference on page 130 of Volume III).

(d) The opinion given by the Advocate-General on Mr. Hannington's reference was confined to a single phase of the question, and was an advice, not for a positive exercise, but only for a negative exercise of the controlling power of Government and was acknowledgedly given without perusing the most important record about the origin or object of the fund (*vide* paragraph 1 of opinion printed on page 4 of G.O., No. 41, of the 17th January 1893, and paragraph 11 of Mr. Hannington's letter printed on page 1 of the order). The learned authority states to the effect that he satisfied himself with the papers actually sent to him simply because the prevention of the payment of the interest at that time was so clearly found to be the proper step without reference to such papers as would be essential to guide him in an opinion about further points. He has, however, amply shown it, as his opinion, that the adherents of the autonomous church are entitled to the benefit of the fund by supporting the trusteeship of Chandappilla Cathanar, the prominent adherent of that section of the general community.

(e) The disconnection of the trustee Chandappilla Cathanar, which the Advocate-General treats as a condition precedent to the consideration of the question of fresh trustees, is evidently a disconnection which he contemplated as judicially settling the question of *qualification* (*vide* paragraph 5 of his opinion) by expressing distinct judgments on issues as to the origin and object of the fund and as to whether the qualification to claim the benefit of the fund and participation in its management is dependant on nationality or on religion; and as to what articles of faith and ceremonial form the essential characteristic of such religious qualification if any. There is little doubt about this intention as in the case in which Mar Dionysius relies, the community in whom the proprietary right to the benefit is vested was not made a party. But the disconnection of that Chandappilla Cathanar has been since caused by *resignation* and not by a judicial decision about any disqualification by reason of matters of faith or adherence to any specific spiritual superior (*vide* paragraph 9 of memorial above quoted and enclosure therein referred to). It will thus be seen that the opinion of the Advocate-General given on a former occasion is irrelevant to the actual conditions now existing.

It is, however, evident from the local court judgment advanced by Mar Dionysius that no issue was framed in that case about the origin and object of the fund and that the most avowed member of the autonomous church was by that judgment confirmed in his trusteeship with the express remark that "the points of heresy alleged during the progress of the suit and sought to be proved by the evidence against him have not been shown to be such as to put in beyond the pale of the Syrian sect and persuasion and thus to disqualify him to be a trustee." A subsequent judgment of the Final Court of Travancore in another case (No. 1 of 1067) between the adherents of the autonomous church and those of the Antiochian supremacy explains and amplifies the above conclusion as follows: "His (Chandappilla Cathanar's) alleged ex-communication by the Patriarch and the Metropolitan Mar Dionysius without a regular inquiry, and principally because he stood in the way of the successful assertion of the foreign Patriarch's claim to the ecclesiastical supremacy of the local church, cannot justly be allowed to affect his temporal rights This court found in Second Appeal No. 3 of 1061 that the defendant, who was the second defendant in that case, was not disqualified to discharge the office of trustee of the seminary at Kottayam, though possession of the seminary was decreed to Mar Dionysius Further—and this is a strong point for the defendant—it was decided in Appeal No. 3 of 1061 that the Patriarch's jurisdiction over the Syrian church of Travancore was essentially spiritual and that his authority did not extend to the government of the temporalities of the church. The office of trustee being temporal, the Patriarch's bull cannot affect the defendant's position as such." It will thus be seen that the rights exercised and possessed by the autonomous church and its trustees as regard to the temporalities of the community are unaffected by the decree which Mar Dionysius quotes as establishing his claim.

(f) With reference to the attempt now made by Mar Dionysius to meet the requirements of the alleged endorsement to him from your Honour's office above referred to, copies of an application made to him by a few members of the autonomous church now attending the Divinity class of the Cambridge Nicholson Institution, Kottayam, and of Mar Dionysius' reply thereto, are herewith submitted, with translation, for your Honour's perusal. It will be seen therefrom that Mar Dionysius tries to bring forward himself and his own confidants as trustees of the British Government Charity Fund, by calling together a few of his blind or interested followers who dandle on his dictation, and making them appear as the representatives of the whole Syrian church—that he intentionally excludes the members of the autonomous church from any participation in the so-called public meeting, for the election of trustees, notwithstanding the fact that the highest tribunal of Travancore has explicitly acknowledged their right to take part in the election of trustees for and in the enjoyment of the benefit of the fund—and that even from among the members of the section acknowledging the Patriarch's supremacy, there is no proper congregational selection of representatives by all the members, nor a voluntary assignment of authority to properly elected representatives. It is needless to mention that the proceedings of a meeting constituted as above could not be conducted with any assertion of free will or with any rule or gravity that could give weight to the papers prepared to be sent forth as the result of public discussion and deliberation in the meeting.

6. That your memorialists humbly trust that a consideration of these facts along with those mentioned in their previous memorial above quoted will convince your Honour that Mar Dionysius' attempt to turn the British Government Charity Fund to his own exclusive benefit is unauthorised and improper and unsupported by precedent or by the decisions of the highest court of Travancore; and that your Honour, under such conviction and as the representative of the grantor and controller of the fund, and of the sovereign defender of the true faith of Christ, appreciate your Honour's right and duty to come to an independent decision as to how and through whom the fund is to be administered to subserve the primary object of the charity; and that your Honour will, from on high, be endued with the necessary grace to exercise that privilege and prerogative in such a manner as to stifle all endeavours for the avaricious abuse of the public trust, and to protect the religious mind of the Syrian community from the clutches of the litigious aspirants for power, as well as to promote peace and concord in the general community and to support the dissemination of true Christian knowledge in the community by liberating it from the trammels of helpless ignorance and enslaving superstition.

For which act of charity the memorialists shall, as in duty bound, ever pray.

(Signed) J. JOSEPH CATHANAR,
KOTTAYAM,
30th November 1895.
Assistant Vicar, Cheriapally, Kottayam,
and others.

Order—R. No. 234, Political, dated 14th July 1896.

G O., No. 200, Eccl., dated 15th Dec. 1869.
" " 99, Pol. " 18th Feb. 1878.
" " 41 " " 17th Jan. 1893.

The Resident's letter with its enclosures and copies of the marginally-noted proceedings will be referred to the Advocate-General for favour of opinion.

(True Extract.)

(Signed) J. F. PRICE,
Chief Secretary.

To the Government Solicitor.

Read—also the following papers:—

From the Government Solicitor, dated 29th July 1896, No. 356.

ABSTRACT.—Submitting the following opinion of the Advocate-General, dated 28th July 1896:—

OPINION.

In the papers submitted to me, I can find nothing to warrant the assertion that the 3,000 star pagodas formed a religious endowment made and controlled by Government*. It is, no doubt, referred to as such an endowment in the document marked *W.W.* printed in Volume III in Case No. 3 of 1061 in the Royal Court of Appeal, Travancore, at page 131, but this is inconsistent with the extract from the same document on page 126, and is only an assertion of the writers of that document. *Ex. 14*, paragraph 1, page 242.

2. The letter of the Resident dated the 25th October, the reply thereto dated the 12th November, and "the bond" given by the Resident on the 1st December 1808, clearly show that the money was deposited "in perpetuity" with Government. The deposit was made and the interest is payable at Travancore.

The "deposit" is referred to as such in the following exhibits printed in Volume III in Case No. 3 of 1061 in the "Royal Court of Final Appeal":—*Z.* page 60, *N.V.* page 104, *W.W.* at page 128 (extract from paragraph 2, page 159). *Ex. 3*, page 223, *Ex. 9*, page 234, *Ex. 10*, page 235, and the Resident's endorsement thereon printed on the same page, *Ex. 12*, page 236, *Ex. 18*, page 247. It is also referred to in the judgments in the said appeal as a "deposit." See pages 4 and 83 of Ormsby J.'s judgment, and page 43, sections 109, 110, of the judgment of the Chief Justice, L. Sitarama Iyer, J.

3. The "loan in perpetuity" was an investment of money belonging to the Syrian community, and the management of the interest was, by consent and according to the award made in 1840, entrusted to three persons, one of whom was to be the Metropolitan for the time being and the other two were to be elected by the community. This award has been recognised by Government when paying the interest due on the deposit.

4. Under these circumstances, I think that the position of Government with regard to this money is similar to that of a banker who accepts a fixed deposit at interest with notice that the account is a trust account. So long as the deposit continues, the stipulated interest must be paid to the persons legally entitled thereto. In the present case, those persons are the Metropolitan of the Syrian Church for the time being and the two persons elected by the Syrian community to act with him in the management of the fund.

5. The Resident considers that "the bond contract might fittingly be put an end to by the legislature,"† but legislation is unnecessary.

† Paragraph 17 of his letter.

The deposit is "in perpetuity," but that cannot affect the right of Government to put an end to the arrangement after due and sufficient notice to all concerned. If Government decide upon adopting this course, notice should be given that from and after the date fixed therein, no further interest will be paid. The time fixed for the repayment of the deposit should be reasonably sufficient to enable those entitled to the money to arrange for its re-investment when paid. If this course be adopted, the persons entitled to receive the deposit are those mentioned in the preceding paragraph.

6. The suggestion that the fund should be divided between the rival claimants cannot be carried out. Government has no power to make such a division, as the fund belongs to the Syrian community and Government is merely in the position of a banker. In the "Rayapuram Church Case," a similar suggestion was made to, and was rejected by, the Madras High Court on the ground that it had no power to divide

About A.D. 200.—Dissensions having occurred, the church applied for the first time to Demetrius, Bishop of Alexandria, for an ecclesiastical superior. It does not appear whether the application was attended to.

A.D. 345.—Under instructions from Eustathius, Bishop of Antioch, Thomas Cama, otherwise Knai Thomas, otherwise Mar Thomas, an Armenian merchant living on the West Coast, was placed in charge of the church. The Syro-Chaldaic ritual was now introduced. The church became independent of the Native States in everything but criminal matters, the ecclesiastical superiors of the church holding all the temporalities and administering to the people all civil justice. For several centuries after the death of Mar Thomas communication with the Syrian Patriarch seems to have been abandoned. At this period there were five superior bishops in the Christian church, styled the Patriarchs of Rome, Constantinople, Alexandria, Palestine, and Antioch, respectively. The Antioch Patriarch, living in the monastery of St. Ananias near the city of Mardin, was in charge of the whole body of Asiatic Christians. As a colleague he had attached to his see the "Maphrian," or Primate of the East, residing in the monastery of St. Matthew near Mosul; this office seems to be identical with that of the Bishop of Babylon, otherwise Bishop of Selucia Parthorum.

A.D. 825.—In this year two bishops for the Malabar Church, Mar Saul and Mar Ambrose, were sent out by the Patriarch of Antioch. From this time till A.D. 1500 seems to have been the golden period of the church, but few details are available. Syrian Bishops continued to rule. At one time the church set up even independent Rajas; eventually, however, they fell under the Raja of Cochin.

A.D. 1501.—Cabral putting into Cranganore discovered the church and took the news of it to Portugal.

A.D. 1502.—Vasco de Gama arrived in India. The principal officer of the Christian church was then the Bishop of Angamali, appointed by the Maphrian of Mosul. Under this bishop were the local catenars or priests. The Portuguese took no notice of the Christians till the year.

A.D. 1545.—When the Jesuits of Goa began to attempt proselytizing. A Franciscan friar named Vincent was sent by Joan D'Albuquerque, First Archbishop of Goa, to endeavour to induce the whole church to acknowledge the Papal supremacy. Not being successful in this, he established an educational college at Cranganore, and offered a free education to the Native Syrian Christians. Later on another college was opened at Vaipicotta giving education in the Syrian language. The Jesuits gained no immediate advantage by these measures, but it appears that they gradually consolidated their power by other means. A faction among the Syrians broke out about this time, and one side was assisted by the Goa party. Mar Thomas, the nominee of the

Babylon Patriarch, was ejected from his Metropolitanship. And Mar Abraham put in by the Jesuits. Mar Abraham was sent to Rome for consecration by the Pope, and remained nominally the dependent of the Goa Church; but he seems to have virtually maintained his independence.

A.D. 1579.—Mar Simeon sent by the Nestorian Patriarch at Mosul attempted to supplant Mar Abraham, but the latter called in the Goa party, and got rid of him.

A.D. 1597.—In this year Mar Abraham died, but before dying attempted to open communication with Mosul with a view to the appointment of his successor. Communication being stopped by the Romish party, he himself appointed an Archdeacon named George to succeed him.

A.D. 1599.—This was the weakest period for the Syrian Church. George had not even any credentials, and seems to have had small influence. Advantage was taken of the situation to obtain from him and his followers a declaration of subscription to the Church of Rome. This was by the Synod of Diampar.

A.D. 1600.—The Portuguese destroyed the archives of the Malayala Church at Angamali.

A.D. 1601.—François Roy, a Jesuit, was appointed by the Pope Bishop of Angamali. The Syrian Church thus for the first time became part of the Archbishopric of Goa; for 1300 years previously that bishop had been regarded as the Primate of India.

A.D. 1605.—Pope Paul V. transferred the bishopric from Angamali to Cranganore, and restored the title of Archbishop, leaving the office however subject to the See of Goa. Fifty years of inaction.

A.D. 1653.—A number of Syrian Christians assembled at Alanghat; renounced their oath of submission to Rome, and elected Thomas of Palahomatta, an Archdeacon, to be their Metropolitan, pending the result of an application to Antioch. Communications with Antioch being interrupted, application was made to the Coptic Patriarch at Grand Cairo, who nominated Attila, otherwise Mar Ignatius; this bishop previously to coming to India, went to Mosul and obtained from the Nestorian Patriarch letters of appointment. On arrival in India he was imprisoned at Mylapore, but his spiritual supremacy was acknowledged by Mar Thomas. He never took charge of his office. The section of the church under Mar Thomas remained independent, and was the foundation of the present Nestorian Syrian Church in Travancore.

A.D. 1660.—Jose de Sancta Maria, a Carmelite, was despatched by the Pope to enter into treaty with the Archdeacon Thomas, and succeeded in gaining over Alexander of Palahomatta with 45 churches to the Latin See.

A.D. 1661.—The Dutch attacked and took Quilon; then Cranganore; then Cochin.

A.D. 1665.—The Portuguese Archbishop left India, and the Syrian Christians were left unmolested. They were now permanently divided into two parties. The Palahomatta family being the hereditary owners of the dignity of "local Metropolitan" naturally took many followers with them when they joined the Roman Catholics, as above mentioned. These Christians took the name of Syro-Roman or old Christians, and while allowing the supremacy of the Pope retained many of their own observances, as, for instance, the use of Syrian in the liturgy, and the nature of the liturgy itself. They have ever since remained under the See of Goa. Captain Swanston, writing in 1833, says that they numbered 97 parishes and 90,000 souls. The followers of Archdeacon Thomas who maintained those independence were called Syrian Christians proper, or new Christians; they are sometimes called Jacobites or Schismatics. They are, however, the original church of St. Thomas and maintain their ancient liturgy and constitution to the present day. Their history will be traced down to the years 1833 in the extracts which are printed with Mr. Ballard's letter. In the year 1833 they had 57 churches and numbered about 70,000 souls as there stated.

3. On the 25th October 1808 Colonel Macaulay, the Resident in Travancore, submitted to Government a request of the Rev. the Mar Thoma, Bishop of the ancient Syrian Church at Malayalam, for permission to pay into the treasury of the Honourable Company, as a loan in perpetuity for charitable purposes, the sum of 3,000 pagodas (Rs. 10,500) to bear interest at the usual rate, the interest being made payable in Travancore, subject to the management of the Bishop or Metropolitan *pro tempore*, or the regular Superior, however denominated, of that ancient church.

4. The Government complied with this application, and it was intimated to the Resident that interest would be allowed for the sum of 3,000 pagodas at the rate of 8 per cent. per annum and be made payable in Travancore.

5. Colonel Munro, the Resident in Travancore and Cochin, in a report dated 30th March 1818 on the condition of Christianity in those States, reported that arrangements had been made for erecting a college at Kottayam for the education of the clergy and the Syrian youth in general and that

Her Highness the Rani of Travancore, who uniformly displayed towards them a generous and kindly feeling, had presented the sum of Rs. 20,000 to the college at Kottayam as an endowment for its support, to be vested in the purchase of land.

6. In alluding to certain internal dissensions which then prevailed amongst the Syrian Christians, Colonel Munro observed that he had experienced some difficulty in improving their condition; that the arrival about that time of two respectable Missionaries of the Church Mission Society, Messrs. Norton and Bailey, had enabled him to carry out certain measures which appeared to be requisite for the general amelioration of the Syrian community; that with that view the Revd. Mr. Bailey had been attached to the Kottayam College with the fullest approbation of the Syrian Bishop and the whole of the Syrians; and that Mr. Bailey in unison with the Syrian Bishop had carried into gradual effect some of the arrangements which were considered necessary for the improvement of the Syrian Church.

7. In consequence, however, of the differences that ^{had arisen} arose between the Syrian Metropolitan and the Missionaries of the Church Mission at Kottayam, it ^{had been} was deemed desirable by

From the Resident of Travancore and Cochin, dated 18th May 1838.
From the Resident of Travancore and Cochin, dated 23rd May 1838.
E.M.C., No. 1004, dated 12th June 1838.

the parties concerned to effect a separation of interests, and in order to accomplish this object, Colonel Fraser, the Resident, caused the whole amount of the property at Kottayam, then in the joint possession of the Syrian Metropolitan and the Missionaries, to be divided, and proposed to restore to the Syrian authorities such portion of it as was incontrovertibly their own and to vest in the management of the Missionaries exclusively for the benefit of the Syrian community "according to the intention of the donors" such portion as the Syrian Church could not claim unless willing to act in unison with the Mission. The following schedule of the property in question shows the manner in which the Resident proposed to dispose of the several items:—

SCHEDULE.

	Whence derived.	Value in	Through whose influence.	Manner in which the Resident recommended the disposal.
	<i>Proposed portion for Syrians.</i>	RS. A. P.		
1809	Bond in the Company's Funds	10,500 0 0	Colonel Macaulay ..	To be placed under such management and trust for the benefit of the Syrians as shall be determined by the Syrian community itself.
1816	From Estate of a late Metran	1,173 14 0		
	Do. do.	62 7 0		
1820	From amount of jewels sold	655 12 5		
1821	„ amount of a debt due to Metran received.	12 12 0		
1822	Jewels sold	204 8 0		
1822	A debt due to Metran received	46 2 9		
1823	Received of Joseph Cattamar of Angamali & the property of Metran.	701 12 1		
1824				
1830	A debt received	70 2 9		
1831	Jewels sold	239 9 3		
1832	Do.	14 12 0		
1830	From the property of the late Mar Dionysius.	952 4 0		
	Estate at Cuddamatam in land and money	761 7 0		
	Total	15,394 7 3		
	<i>Proposed portions of the Missionaries.</i>			
1816	Presented by Her Highness the Rani of Travancore.	8,000 0 0	Colonel Munro ..	To be placed under the management of the missionaries at Kottayam under their trust conjointly with that of the Resident for the exclusive benefit of the Syrians.
1818	Grant from Her Highness the Rani	21,000 0 0	Do. ..	
1825	Subscription raised from Europeans	14,035 1 6	The Missionaries ..	
	Loan from Church Mission Society	2,475 0 0		
1826	Donation by Revd. J. Ferm,	1,000 0 0		
	Total	46,510 1 6		
	Munro Island		Colonel Munro ..	To be converted into its equivalent in money and the amount placed under the management of the missionaries at Kottayam under their trust conjointly with that of the Resident for the exclusive benefit of the Syrians.

8. With respect to "Munro Island" (the last item in the Schedule) the Resident suggested to the Diwan of Travancore that, in conformity to the usage of the Sirkar in regard to similar endowments of land when alienated from the grantees, a pecuniary equivalent should be allowed by the Sirkar in compensation, the amount to be lodged in temporary deposit in the Residency treasury, with such of the proceeds as might have been realized from the sale of the land and other buildings purchased with the funds placed at the disposal of the Syrian Metropolitan and the Church Missionaries.

9. In noticing the foregoing proceedings of the Resident, Government requested that officer to abstain from making any division of the property until furnished with further instructions.

To the Resident, No. 1004,
dated 12th June 1838.

10. After a careful and elaborate review of the whole of the circumstances connected with the case, E

E. M. C., No. 398, dated 3rd April 1839.

the Government came to the conclusion that no better mode of adjustment could be suggested than that of a commission, to which the Syrian Metropolitan and the Missionaries should each nominate a member and the Travancore Government a third. In the event of this arrangement not meeting with the approval of both parties and an amicable adjustment being rendered ineffectual, Government

considered that the subject should be disposed of in the local courts, to which both parties were amenable. This suggestion received the approval both of the Government of India and of the Court of Directors.

From Government of India, No. 618, dated 5th June 1839.
In E. M. C., 6th August 1839.
Despatch from Honourable Court of Directors, No. 12, dated 23rd March 1841, pages 75 and 79.

the Government of India and of the Court of Directors.

11. On the 4th January 1840 the Resident informed Government that a committee of arbitration had assembled at Cochin for the purpose of adjusting the disputes between the contending parties, and with his communication of

E. M. C., No. 56, dated 14th January 1840.

the 29th June following he transmitted a copy of the award of the arbitrators. The award ran as follows:—

"Star Pagodas 3,000.—This sum was vested in the Honourable Company's funds in the year 1808 through the then Resident Colonel Macaulay by the Rev. Mar Thoma, the then Bishop of the ancient Syrian Church of Malabar, as a loan in perpetuity for charitable purposes solely at the usual rate of interest for such loans, viz., 8 per cent. per annum. This sum being indisputably the property of the Syrian community, we are of opinion that the Church Missionary Society have no claim or right whatever to any future interference in the management. We therefore award that Colonel Macaulay's bond or receipt for the said sum be returned to the Metropolitan or the Syrian Church, and that the purposes for which the high interest of 8 per cent. has been heretofore given by the Madras Government may be fully carried into effect; we further award that the disposal of the

said interest shall in future be under the management of the Metropolitan for the time being of the Syrian Church conjointly with two others—an ecclesiastic and a respectable Syrian of the same persuasion—to be selected by the Syrian community itself.”

12. The Syrian Metran appealed against the

From Mar Dionysius, No. 473.

award. On this appeal the Government observed, that although the Metran had not bound himself,

E.M.C., No. 777, dated 13th July 1840.

as he ought to have done, by a formal document to abide by

the decision of the arbitrators, still from the circumstance of his having agreed to submit his claims to arbitration and having himself nominated one of the arbiters, Government was of opinion that he should submit to the decision which had been passed by them, and in consequence declined to interfere further in the matter.

13. In noticing the objectionable way in which the name of the Resident of Travancore had appeared in the proceedings of the arbiters coupled with those of the Church Missionaries as joint trustees of certain money for missionary purposes, Government desired the Resident not to associate himself in the appropriation of funds which were contested and disputed by the very parties for whose benefit they were raised. At the same time Government observed that although under other circumstances advantage might have resulted from the Resident being allowed to exercise some sort of supervision over the distribution of the sums granted by the Travancore Sirkar for the education of the Syrian community, such superintendence should not, in the state of feeling then existing, be exercised, and that the opinion of the Resident, if not officially connected with either of the contending parties, would be esteemed more impartial than if he were a co-trustee with either.

14. With regard to Munro Island, the Government ^{remarked} observed that as the resumption by the Travancore Sirkar of that land was considered to be a desirable measure, there could be no objection to its being effected; ~~and~~, the Sirkar negotiating for the same with the missionaries at Kottayam and the Secretary of the Corresponding Committee of the Church Missionary Society.

15. The Court of Directors approved of the instructions issued to the Resident and considered that if the Syrian Metropolitan still refused to abide by the decision of the arbitrators, the disputes as to ^{the} property in contention ~~must~~ ^{should} be settled by a Court of Justice.

16. In his letter noted in the margin the Resident reported that the Metran of the Syrian Church was dissatisfied with the award of the arbitrators, and requested to be informed whether the foregoing opinion of the Court of Directors should be communicated to the Syrian Metropolitan, to the Missionaries and to the Diwan of Travancore. The Resident at the same time stated that, in accordance with the decree of the committee of arbitration, he had disbursed from his treasury the whole of the funds awarded to the missionary society.

17. In directing the Resident to communicate the views of the Court of Directors to ~~the parties~~ ^{those} concerned, Government suggested that the parties who had received the amount awarded to the missionaries should refund the same, in order that the contested property might be settled by a Court of Law. It was further observed that this course appeared to be not only the most becoming under the circumstances of the case, but indispensable in the absence of the sanction of the Court of Directors to the proceedings of the arbitrators.

18. The Resident subsequently informed Government that Letter No. 421, dated 18th May 1842, prior to a compliance with ~~its~~ ^{the} requisition for a refund of the ~~funds~~ ^{amount} paid to the missionaries, it was the purpose of the Madras committee of the Church Mission Society to refer the matter to the parent committee in England for instructions.

19. The further proceedings in this case were brought to the notice of the Court of Directors, in reference to which they stated that they still held the opinion that the disputes between the contesting parties could only be settled in a Court of Justice. The Court observed further that it was much to be regretted that the larger part of the property in

dispute should have been paid to the missionaries before the disputes were settled, as the difficulty of a settlement would be materially increased by the precipitate disposal of the property.

20. In his letter No. 318, dated 22nd September 1853, the Resident reported that the aggregate sum paid over to the Church Mission Society was Rupees 47,484-3-9 $\frac{3}{4}$, and that the balance consisting of the loan acknowledgment for 3,000* pagodas and a sum of Rs. 6,080, being the share of the proceeds of the sale of the Syrian College lands and property allotted to the Syrian community by the award of the arbitrators, had since that date continued in the Residency treasury, no application having so far been made for their restoration by the present Syrian Metropolitan Mar Athanasius. The Resident further submitted that since the orders of the Court of Directors,

conveyed in E.M.C.,
No. 380, dated 19th

April 1842, were communicated to the Church Mission Society, no steps had been taken by that society to restore either the funds which had been paid to them, nor Munro Island, to the latter of which the Syrian Metran Mar Athanasius, who had recently been formally acknowledged by the Syrian Clergy and the Travancore

Sirkar, had submitted
a claim on the

part of the Syrian College, as being in accordance with the original intention of the Travancore Sirkar and the views of the Court of Directors on the subject. The Resident proposed to suggest to the members of the Church Mission at Kottayam the restoration of Munro Island, or its re-appropriation to the purposes originally contemplated, viz., the benefit of the Syrian community.

21. The Government observed that the matters at issue between the Syrian Metropolitan and the Missionaries were precisely in the position in which they stood on the receipt of the despatch of the Court of Directors, No. 7, dated the 30th May 1843, wherein the Government were informed that in the opinion of the Court the disputes between the contesting parties could only be settled in a Court of Justice. It seemed

* Note.—The interest on this sum at the rate of 8 per cent. per annum had been accumulating for 18 years, viz., from 1835 when the separation of interests between the Syrian Metran and the Church Mission establishment at Kottayam took place.

to Government that its interference was as little called for then, as it was ten years previously. As regards the loan acknowledgment or bond, the Government remarked that it was awarded to be made over to the Metran conjointly with two others, an ecclesiastic and a layman to be elected by the Syrian community. The sum of Rs. 8,000 stood in the same position. Munro Island, it was observed, was awarded to the Missionaries whose occupation the Government would not be warranted in disturbing. On the whole Government resolved to refer all parties concerned to the orders passed by the Court of Directors in 1843 and caused it to be intimated to them that, pending the settlement of their claims by a judicial tribunal, matters must remain as they were. The Committee of the Church Mission Society were requested to state what answer had been received from the Committee in England to their reference on the subject of a refund of the amount made over to the Society in 1842 and if the refund had been disallowed, for what cause.

22. The foregoing proceedings were duly reported to the Court of Directors.
Despatch, No. 3, dated 9th February 1854, paragraphs 17-21.

23. In a letter, No. 21, dated 14th July 1854, the Officiating Secretary to the Madras Correspondence Committee of the Church Mission Society submitted the reply received from the Joint Secretaries in England, who observed that the award of the arbitrators was equivalent to the sentence of a recognised Judicial Court at Panchayet; that it was so regarded at the time appeared manifest from the fact that the decision was soon after carried out with the knowledge of the Rajah of Travancore by the Resident, who with the permission of the Government, handed over to the Church Mission Society the sums awarded to them; that the Society had continued to employ those funds, with the addition of grants from their general fund, to the purposes of a liberal education in the Kottayam College, of which the Syrian community gladly availed themselves; that the committee therefore respectfully, but firmly, insisted upon the award as conclusive and beyond the control of the governing authorities; and that even if it were not so, the committee would represent to the Governor in

Council the danger to the general interests of the Syrian community of allowing this question to be re-opened, on the part of a section of that communion adverse to the very object for which the funds in question were originally destined, and for which the Society had long and not unsuccessfully laboured.

*Des. N. 6 dated 29th
Augt 1855 - paras 14 & 15*

25. The Syrian Metropolitan at one time threatened to take legal proceedings against the Missionaries with a view to recovering all or portion of what had been made over to them. In 1855, however, the then Metropolitan waived objections and requested that the funds allotted to the Syrian authorities might be made over to him and certain trustees named (three ecclesiastics and one layman). On receipt of the Metran's application, the Government desired the Resident to report why three ecclesiastics instead of one had been named and whether the sense of the Syrian community had been taken as to the individuals. The Metropolitan, on reference, again fell back on the old objections, urging that the polity of the Church would not admit of a Metran placing himself on a par with any of his clergy or laity, and that consequently the provisions of the award could not be carried out. The Government declined * to re-open the question, and it again lay dormant for some time.

* G.O., No. 575, Financial,
dated 15th November
1864.

26. In 1869 the Resident reported that he had recently received a communication from Mar Athanasius, the generally-acknowledged Metropolitan of the Syrians in these States, expressing his desire to have the

34. The purport of this letter was communicated to the Court of Directors in continuation of the despatch referred to in para 23 supra. The Court ^{as the} in reply intimated that Syrian Metropolitan withheld his acquiescence in the award of the arbitrators, the Madras Govt. was right in declining to make ~~another~~ ^{any} partial payment to him; that the refusal of the Church Missionary Society to refund the amount paid to them under the award which they accepted in its entirety was natural; and that unless the Metropolitan of ~~the~~ Syrian Christians likewise accepted the award, there was no course open but for Govt. to retain possession of the share adjudged to that communion till the question ^{was} settled by some agreement between the parties themselves or decided by an adequate legal tribunal.

funds made over to him and two trustees in the terms of the award for due administration. The award, the Resident pointed out, required the trustees to be appointed by the Syrian community, but unfortunately there was considerable jealousy and division among its members. Not a few seemed inclined to support the claims of one Mar Koorilos to be Metran; a considerable section supported those of one Mar Dionysius. The Resident had, however, no hesitation in affirming that a very large and powerful majority acknowledged Mar Athanasius as Metropolitan, and indeed he has been formally recognised as Metropolitan by both Sirkars for many years. The Resident did not consider it desirable to call formally for a general expression of opinion on the part of the Syrian Christians on the question under consideration: As they did not even agree as to their Metropolitan, they would never agree as to trustees; feeling already ran high; the Sirkar officers were the only persons through whom the attempt formally to elicit an expression of the general opinion of the Christians by vote could be made; official returns so gathered would at best be looked upon with suspicion by the people, and the attempt to gather them would greatly increase the rankling ill-feeling, bring it as it were to a head and probably lead to serious breaches of the peace. General opinion had, ~~been~~ ^{been} very fairly elicited in a less formal but more efficacious manner, than by attempting to call for votes. The fact that the question of the disposal of the funds has been under ~~the~~ ^{the Resident's} particular consideration had been universally known for some time. He had visited a number of the principal Syrian Churches and had had interviews with the Metropolitan and rival Bishops as well as with a large number of the Katanars and their congregations mainly on the subject of the funds, and had received innumerable petitions purporting to be signed by great numbers of the Syrian community about their disposal. The partisans of Mar Koorilos and Mar Dionysius generally stated that Mar Athanasius ^{had been} ~~was~~ excommunicated several years previously by the Patriarch of Antioch; that he was then deposed from the office of Metran; that further his doctrine and teaching was heterodox; that he was personally unfitted to be entrusted with the administration of money; and that the funds should not be entrusted to him

as there was much diversity in the Syrian body. The partizans of Mar Athanasius pointed to him as the recognised Metropolitan and desired the funds to be given in accordance with the award. The result of his observation and inquiry was, the Resident stated, that agreement amongst the rival factions was utterly hopeless then; but that a large and powerful majority acknowledged Mar Athanasius as Metropolitan. He must clearly be taken as *de facto* Metropolitan. The followers of Mar Athanasius ap-

proved the trustees*
 * Katanar.
 Poonathora Alexander.
 Layman.
 Varidoo Coonjee Pylo.

they were suitable persons to be jointly entrusted with the administration of the funds. The Resident trusted, there-

	RS.
† Cash	6,080
Bond for Star	
Pagodas 3,000,	
say	10,500
Interest due on	
said bond at	
eight per cent.	
per annum,	
1835 to 1868 ..	28,560
Total	45,140

fore, that Govern-
 ment would sanction
 his making over the
 funds † then in the
 Resident's treasury,
 according to the
 award of 1840, to
 Mar Athanasius and
 the trustees men-
 tioned above for the

purposes of the Trust. He strongly recom-
 mended, however, that, with the consent
 of the parties (which he did not think there
 would be any difficulty in obtaining) two
 or four more trustees should be associated
 with the Metran and the two trustees
 abovesaid, one ecclesiastic and one layman
 or two ecclesiastics and two laymen being
 nominated as the case may be. The Resi-
 dent thought that this arrangement would
 be acceptable to the Syrian community
 and it would at least tend to secure a
 liberal and popular administration, whilst
 clearly it in no way contravened the spirit
 of the award. The disposal of the ques-
 tion in itself would, he trusted, allay much
 of the ill-feeling prevailing, whilst the due
 administration of the Trust could not fail
 to have a very beneficial effect on the
 community.

27. The Governor in Council, having
 given the matter his
 careful consider-
 ation, resolved to
 sanction the transfer

G.O., No. 200, Ecclesi-
 astical, dated 15th De-
 cember 1869.

of the funds then in the Resident's Treas-
 ury, amounting to Rs. 45,140, to the
 Syrian Metropolitan Mar Athanasius and
 to the two trustees named by him and of

whom the Resident approved. The Gov-
 ernment did not consider that there would
 be any advantage in departing from the
 strict terms of the award given by the
 arbitrators in 1840, which provided that
 the funds in question should be made
 over to the Syrian Metropolitan and two
 trustees, one of whom was to be an ecclesi-
 astic and the other a layman. It was
 unable, therefore, to approve of the Resi-
 dent's proposal to increase the number of
 the trustees.

28. The bond for the loan was accord-
 ingly made over to Mar Athanasius, the
 arrears of interest on it were paid to him
 and the subsequent interest was likewise
 disbursed annually as it became due.

29. In 1875 the Patriarch of Antioch
 arrived in Travancore, when the contend-
 ing claimants for the Metropolitanship
 appealed to him. In consequence of his
 action the Travancore Darbar, in March
 1876, notified that their formal recog-
 nition of the late Mar Athanasius as
 Metropolitan had been withdrawn. The
 interest on the bond, however, was still
 paid to him as having been the once-
 recognised Metropolitan to whom Govern-
 ment had formally handed over the Kô-
 tayam College funds.

30. In July 1877 Mar Athanasius, who
 was then on his death-bed, wrote to the
 Resident stating that he had appointed his
 Suffragan Bishop, Mar Thomas Athana-
 sius, as his successor in the Metropolitan-
 ship and requested that the annual interest
 on the bond might be paid to him. Mar
 Thomas Athanasius accordingly succeeded
 the late Mar Athanasius as Metropolitan,
 was recognised as such by one section of
 the Syrian Church, and claimed the
 interest on the bond which had become
 due.

31. In soliciting the orders of Govern-
 ment the Resident
 Letter, No. 19, dated 11th
 February 1878. stated his opinion
 that the interest
 should be paid as claimed by the present
 Metran, Mar Thomas Athanasius, the
 Suffragan Bishop appointed by the late
 Mar Athanasius, who was the *de facto*
 Metropolitan of the Syrian Church in
 Malabar; it having been always the
 custom previous to the late Metropolitan's
 consecration by the Patriarch for the
 Metropolitan for the time being to nomi-
 nate his successor.

I 32. The Government approved the Resident's proposal on the understanding that the two Trustees were in possession of the bond and joined with Mar Thomas Athanasius in giving a receipt.

33. Payments of interest were made to Mar Thomas Athanasius up to 21st December 1884, subsequent to which no applications for payment were received by the Resident, inasmuch as Mar Dionysius was declared by a decree of the Zillah Court of Alleppey, dated 28th June 1884, to be duly ordained Metropolitan, and consequently Mar Thomas Athanasius to be an unauthorized Bishop, having no legal status in the Syrian Church. An appeal against this judgment preferred to the Travancore High Court was rejected on the 13th November 1885 and the decree of the Zillah Court was finally confirmed by the Final Court of Appeal on the 12th July 1889.

J 34. In a letter to the Resident, dated 27th August 1892, the Reverend Mar Dionysius forwarded copies of this judgment of the Court of Final Appeal and of the proceedings of a meeting of the representatives of the several parishes of the See of Malankara held at Kottayam in March 1892. He stated that although he had obtained possession of the Seminary in execution of the decree of the High Court, the defendants carried further their case to the ~~Royal~~ Court of Final Appeal; which that the latter had stayed execution of the High Court decree, pending disposal of the appeal preferred to that Court, and eventually confirmed the decrees of the Courts below so far as they related to the first defendant, Mar Thomas Athanasius, and reversed them as regards the second defendant, Chandapilla Katanar; that after the decision of the case in the Zillah Court, the lay trustee, Ittyachan Pyli, of Northern Paravoor, died; that since 1886 when he had been put in possession of the Seminary, he had been doing his best to carry on the education with the help of charitable gentlemen, though not in receipt of the interest of the fund endowed expressly for that purpose; that he had hitherto been precluded from a variety of causes which he had endeavoured unsuccessfully to overcome, from applying for payment of interest which had accumulated at the Residency treasury since the date of the decision of the Zillah Court of Alleppey;

amongst which the opposition of surviving ecclesiastical trustee Chandapilla Katanar,

that all efforts of himself and those of the chief of his followers to bring about a reconciliation had borne no fruit, because Mar Thomas Athanasius and Chandapilla Katanar and their party totally refused to acknowledge the Patriarch of Antioch as their ecclesiastical superior, and professed not to be of the Syrian persuasion; that as ~~finding that~~ for more than seven years the education at the Seminary had not been carried on regularly in fulfilment of the trust and the funds set apart for the same not utilised, ~~that~~ a successor to the lay trustee Ittyachan Pyli deceased had to be elected, and the attitude of inaction and indifference if not of active hostility displayed by the surviving ecclesiastical trustee had to be brought to the notice of the parishioners and their wishes ascertained on the subject, he had sent a circular to all the parishes requesting to send representatives to the Seminary at Kottayam; and that in response, the several parishes of the Malankara See sent in duly-appointed representatives who met at Kottayam on 30th, 31st March and 1st April 1892, and passed the resolutions, copies of which were enclosed, electing Kunnumpurathu Kora Oolahannan in the place of the lay trustee deceased, and Konattu Puthenpurayil Korathu Mathen Katanar as the ecclesiastical trustee in the place of Chandapilla Katanar who they ~~thought~~ ^{considered} was no longer eligible to continue as trustee.

35. Under these circumstances the Rev. Mar Dionysius considered that the representatives of the parishioners had acted rightly in removing Chandapilla Katanar from his office of trustee and electing another in his stead and he informed the Resident that on hearing from him he would forward the usual receipt, signed by all the three trustees to draw the interest which had accumulated at the Residency treasury.

36. The Resident asked * for the instructions of Government as to the course to be pursued. He pointed out that the proceedings of the members of the parishes of the Malankara section were opposed and declared illegal by a body of the other section of the Syrian Church, and he doubted whether the existing sole trustee could be ousted without proceedings at law; ~~that~~ when the arbitrators gave their

* Letter No. C. 1429, dated 29th September 1892.

He further observed

decision in 1840 they did not, of course, contemplate the division of the Church when they spoke of the benefit of the "whole Syrian community"; and that the deposit made by the Bishop of the Syrian Church in 1808 could not have been intended to be for the benefit of dissenters or heretics, as Mar Thomas Athanasius and consequently his followers had now been declared to be by the decision of the Final Court of Appeal.

37. The opinion of the Advocate-General was requested.

G.O., No. 696, Political,
dated 30th November
1892.

That officer observed that in confirming the decision of the Zillah Court of the 28th June 1884 the Court of Final Appeal at Travancore directed* (amongst other things) Mar Thomas Athanasius to surrender the *insignia* and office of Metropolitan of the Malabar Syrian Jacobite Church and "give up possession of all the properties and moneys appertaining thereto which he now holds to the respondent (Mar Dionysius), who would assume and take possession of the properties, &c., to be administered with two other trustees as required by the Endowment deed (Exhibit III)". It seemed to be clear from paragraph 312 of the judgment that the "Endowment deed" referred to in paragraph 347 was the award of 1840. With regard to Chandapilla Katanar, a co-trustee with Mar Thomas Athanasius, who was one of the respondents in the judgment of the Court of Final Appeal, decided that no cause of action had been alleged in the plaint or proved and, reversing the decree of the lower court directing his removal from trusteeship, dismissed the suit against him. In paragraph 328 of this judgment it was stated that Punnathara

* Judgment of Court of
Final Appeal, paragraphs
328 to 332.

Chandapilla Katanar "had been duly elected Trustee of the church funds and properties under the Endowment deed (Exhibit III)." He could not, the Advocate-General considered, be removed from office without sufficient cause, no misfeasance, malfeasance or neglect of duty "was charged against this trustee", that it had not been alleged or proved that he had put himself beyond the pale of the Syrian sect and persuasion and thus disqualified himself to be a trustee, or entertained or expressed opinions contrary to

the founder's intention*. The Advocate-General was of opinion that Chandapilla Katanar had not been lawfully removed from his office of trustee and that he was still one of the trustees and entitled to act as such conjointly with the Metran under the terms of the award made in 1840.

38. The Advocate-General's opinion was communicated to the Resident, who was directed to be guided by it.

39. Events since 1893 are set out in the currents now for disposal. On the order of 1893 being communicated to the Most Revd. Mar Dionysius, he instituted a fresh suit in the zillah court of Allepey for the removal of the trustee Chandapilla Katanar. As both parties gave their written consent to the removal of the defendant from the trusteeship the court decreed† accordingly on the 27th May 1894.

40. Meanwhile, on the 7th September 1894, a memorial was received by the Resident from certain "clergy and laity of the Syrian Church in Melankara" claiming to represent the "ancient autonomous Syrian Church of Melankara for which the beneficial interest in the British Government charity of 3,000 star pagodas has been assigned." The summary of this memorial in paragraph 5 of the Resident's letter of 1st June 1896 is reproduced below for convenience of reference:—

It ascribes the origin of the fund not to the Metran of the time, but to the Government of the East India Company from sympathy with an ancient church willing to be reformed, attempts to show that Government intended to control the management of it, claims that the Metran Manager contemplated was to be of the autonomous and not of any foreign (Antiochan) church and worthy of and subject to the approval of the British Government which Government ought not to be led by a decision of the Travancore courts that did not and could not cover this particular item of property, asserts that Metran Mar Dionysius was held unfit when a manager and trustees fell to be appointed in 1869 (Mr. Ballard's proposals), and that Metran Mar Thoma—the present head of the "autonomous" church—is fit in himself and as head of that church; and declares that the trustees are under the panchayet (between the Syrian Church and Church Mission) decision of

1840 to be appointed by the community without regard to other offices they may hold. Adverting to Chandapilla Katanar's resignation of office, it requests Government, having regard to the intentions of the grant and assuming the position it took in 1069, to arrange for a public meeting under Metran Mar Thoma to elect co-trustees; but if the primary object of the Trust—declared by memorialists and apparently admitted by their opponents to be the religious education of the clergy and laity of the Syrian race—requires an extended or altered management, that might be accomplished through neutral trustees, and this arrangement failing, the proceeds of the fund might be divided among the various sections of Syrians.

41. The Metran Mar Thoma, in a letter of the 18th September 1894, supported this memorial stating that he had been so requested by a representative meeting of the clergy and laity of his see.

42. The Resident informed the memorialists that, pending the filling up of the vacant trusteeships, their recognition by the civil courts and the receipt of any demand from them for payment of the interest on their endowment, he considered it premature to take into consideration the various requests preferred in their memorial and that on receipt of a demand for payment of interest the memorialists would be given an opportunity of representing their case afresh should they desire to do so.

43. The Most Revd. Mar Dionysius then applied to the Resident, forwarding copy of the decrees, referred to in paragraph 39, and contended that as the other trustee Ittiyachen Pillai had died there was no room to doubt the competency of the trustees elected in 1892, and requested payment of interest on the 3,000 star pagodas to be made on the receipt of himself and these two trustees.

44. The Resident pointed out to the Metran that the election of an ecclesiastic co-trustee held in 1892 *vice* Chandapilla Katanar was void inasmuch as the office was not then vacant and that a fresh election was necessary *vice* Chandapilla Katanar since removed by the decree of the zillah court of Allepey.

45. The Metran Mar Dionysius had meanwhile convened a meeting of the duly elected representatives of the Syrian Churches at Kottayam on the 21st and 22nd November 1895 at which a resolution

Endorsement, dated 3rd November 1894.

Petition, dated 26th June 1895, on pages 5 and 6 of the printed currents.

Letter, No. 1969, dated 26th July 1895 (Enclosure III to C. No. 1046).

was unanimously passed ^{regarding} electing Konaten Mathen Katanar as co-trustee to act in conjunction with the Most Revd. Mar Dionysius and the lay trustee Corah Ulahaman formerly elected. A copy of

this resolution was forwarded* to the Resident with the

Metran's petition of the 26th March 1896 and payment of the interest again claimed.

46. The parties referred to in paragraphs 40—42 *supra* submitted a further memorial to the Resident on the 2nd December 1895, with reference to the endorsement of the 3rd November 1894, and the one granted to Mar Dionysius on his application of June 1895. This memorial enforced Mar Dionysius' incompetency to be a trustee of such a fund, both personally and as subordinate to foreign authority, and urged that only the consent of the whole Puthencoor Syrian community could confer the right to administer its church temporalities, such consent being subject to the approval of the British Government, whereas Mar Dionysius had carried out the recent election of the ecclesiastical trustee in question "by calling together a few of his blind or interested followers who dandle on his dictation and making them appear as representatives of the whole Syrian Church," thus attempting "to turn the British Government charity fund to his own exclusive benefit."

The enclosures to this memorial are, the Resident states, translations unauthenticated, but probably genuine, of (1) a representation to Mar Dionysius from certain "clergy under the jurisdiction of the Most Revd. Mar Thoma, Metropolitan of Malabar," accusing Mar Dionysius of past misconduct in respect of trust funds and intended misconduct in respect of the approaching election of the trustee, in that only Jacobite Syrians rendering allegiance to the Patriarch of Antioch are cited, whereas the churchmen of both parties have the right to take part, and (2) of Mar Dionysius' reply claiming to have duly discharged his office and trust and scouting the persons he addresses as of an unrecognised order and schismatic, whose consent is not required in electing a trustee of property to which they had abandoned their claim, but declaring willingness to admit them to the meeting and to participation in the trust funds on their consenting "according to the decision of the Royal Court to conform to the tenets and submit to the head of the Syrian Church." This is only the continuation of the position he took up in 1869 when addressing the Resident.

47. The Resident submits the correspondence for orders. He does not vouch for the authenticity of the inter-communications referred to in the preceding paragraph, the *animus* of which is evident, but he observes that it is perfectly well known and accepted that the two parties of the Puthencoor Syrian Church continue in rancour with each other and are likely to continue so; that so far as Travancore is concerned, the Syrian Church in Melankara owes spiritual allegiance to the Patriarch of Antioch and Mar Dionysius is recognised as its local head and entitled to possession of the church temporalities devolving on the Metrans; that it is difficult to see how he can be bishop to those who deny the external authority and the position the courts have granted him or can treat such as other than schismatics; that, in respect of the matter now in dispute, the Mar Thoma or autonomous party otherwise called "The Reformed Syrian Church," or "The Church of St. Thomas Syrian" claims with right as members of the whole Syrian community to participate in benefits and management; and that while the former (participation in benefits) might be possible the second (anticipation in management) is clearly impracticable even if they were able to secure the election of two of their own faith as trustees, for these could not serve along with the Metran whose faith they abjure in matters pertaining to "the religious education of the clergy and laity." The Resident is not sure, however, that this was regarded by the arbitrators as the necessary use of the fund. He refers to the terms of the letter from the Resident to the Chief Secretary to Government dated 25th

Page 3 of printed currents.

October 1808 of the reply to the same dated 12th November 1808, and of the bond of 1st December 1808 now lodged in the Resident's treasury, and points out that there is nothing to show how this sum happened to be in Mar Thoma's (the Seventh's) hands and what purpose other than the obtaining of heavy interest prompted the deposit. Mr. Milne Rae, on page 281 of his work "The Syrian Church in India"—states that it was a recovery by Colonel Macaulay, the then Resident, through the Travancore Government on account of injuries inflicted on the Syrian christians by their non-christian neighbours, but the Resident points out that no authority for this statement is given.

The intention of the Resident, or of the Madras Government, or of both, in 1808 was, Mr. Thomson considers, to benefit in one way or other the Syrian community generally; the opinion and intention of the arbitrators was quite clear and ought now, if possible, to govern, action having been accepted and acted on so far by the parties to the award. The giving effect to the intention now however through one Metran, in the strained condition of the church parties, appears to the Resident to be impossible, whether Mar Dionysius or Mar Thoma is considered by the Madras Government to be the Metran of the church. A perusal of Mr. Rae's book and of the judgments of the Supreme Court leads, the Resident observes, to the conclusion that there is a large need for this benefaction, if devoted to education, among the whole people for whom it was set apart; "the regular superior" of the church "for the time being" to whom interest on the bond is due will now be Mar Dionysius or Mar Thoma and "that ancient church" will be the party headed by the one or by the other according as history is read or court decisions respected. It is fairly certain, Mr. Thomson points out, that Mar Thomas VII who deposited the money was not consecrated by the Patriarch of Antioch and that neither were his five successors in office directly or indirectly; it may also safely be asserted that if the Government of Travancore had not withdrawn from the recognition of Metrans which it was in the habit of according, Mar Thoma would have had no rival of consequence at the present day. The Resident is unable to obtain reliable statistics as to the respective followers of Mar Dionysius and of Mar Athanasius, but so far as he can see it is open to Government to pay the money to whichever Metran it chooses to consider the Metran; it cannot, however, pay to both and a payment to either only would not be in furtherance of the arbitration award declaring it common property. It is to be noted further, he remarks, that the co-trustees are to be "of the same persuasion" as the Metran; if that is interpreted narrowly there cannot be a representative board. Division of the fund would, if possible, be, he considers, the most equitable arrangement if parties would and could consent to that; Mar Thoma may, it is not likely that Mar Dionysius will. That course may possibly involve further complexity by continued disintegration.

A payment into a court and an interpleader suit would perhaps be safest. The money, however, was paid to Government in and the interest is payable "at Travancore," and the Resident sees no reason to think that the Final Court of Appeal would vary its judgment, so that the result is already certain and the interest might as well be paid to Mar Dionysius at once. Considering the small moral good the benevolence of Government appears to have done to the Syrian Church since 1840 and the trouble it causes to the authorities, the bond contract might, Mr. Thomson suggests, fittingly be put an end to by the legislature; if continued it requires to be so varied as to make possible what may be assumed to have been its original purpose.

48. The papers have been forwarded to the Advocate-General for his opinion. This is contained on pages 21 and 22 of the printed currents. He states that he can find nothing to warrant the assertion that the 3,000 star pagodas formed a religious endowment made and controlled by Government; on the other hand the preponderance of evidence is in favour of the view that the money was deposited "in perpetuity" with Government. The position of Government with regard to this money is, the Advocate-General considers, similar to that of a banker who accepts a fixed deposit at interest with notice that the account is a trust account; so long as the deposit continues, the stipulated interest must be paid to the persons legally entitled thereto. In the present case, those persons are the Metropolitan of the Syrian Church for the time being and the two persons elected by the Syrian community to act with him in the management of the fund.

49. As regards the Resident's view that "the bond contract might fittingly be put an end to by the legislature," the Advocate-General is of opinion that legislation is unnecessary. The deposit is "in perpetuity," but that cannot, he points out, affect the right of Government to put an end to the arrangement after due and sufficient notice to all concerned. If Government decide upon adopting this course, notice should be given that from and after the date fixed therein, no further interest will be paid. The time fixed for the repayment of the deposit should be reasonably sufficient to enable those entitled to the money to arrange for its re-investment when paid. If this course were

adopted, the persons entitled to receive the deposit would be those mentioned in the preceding paragraph.

50. The suggestion that the fund should be divided between the rival claimants cannot, in the Advocate-General's opinion, be carried out. Government has, he observes, no power to make such a division, as the fund belongs to the Syrian community and Government is merely in the position of a banker. In the "Ráya-puram Church case," a similar suggestion was made to, and was rejected by, the Madras High Court on the ground that it had no power to divide the funds, which belonged to the whole caste or body of Christian boat-owners. Government can, he considers, pay the deposit only to the Syrian community as represented by the Metropolitan for the time being of the Syrian Church, by the predecessor of whom the deposit was made.

51. The Advocate-General cannot agree with the Resident that it is open to Government to pay the money to whichever it chooses to consider the Metran. According to the bond or fixed deposit receipt, Government undertook to pay the interest to "the Bishop or Metropolitan or other regular superior for the time being". The Court of Final Appeal at Travancore has, by a majority of the judges, decided that Mar Dionysius is the present Metran, and as such he alone can give a valid receipt for the money, whether principal or interest.

52. As the award of 1840 has been recognised by Government, the Advocate-General thinks that Government should, if it is decided to put an end to the present arrangement, require those who have been duly elected to assist the Metropolitan in the management of the interest payable on the deposit to join in the receipt for the principal when paid. If, at the time of such payment, difficulties arise as to the persons entitled to the money and legally competent to grant a receipt therefor, the question of the necessity for an interpleader suit or of a friendly suit to settle the question might be considered.

53. C. No. 1046 is a petition from the Most Rev. Mar Dionysius which contains nothing fresh. The same may be said of C. No. 1081 which contains a petition from the other party the St. Thomas Syrian Christians.

C.S.
11.9.96

Syrian Church Endowment.

Mt. the Governor & Co.

The Comtee of Treas. having finally decided that Mar Dionysius is (with the other trustees) the person entitled to the income due under the bond it should be paid him. I can not however concur with the Adv. Genl. that the Govt. can claim to repay the principal sum deposited with it. In 1808, the Adv. Genl. wrote accepting the money as a "perpetual loan" and that arrangement is still binding, in my opinion, so that the Govt. cannot claim to have the right to pay off the loan. It is but a parallel case. I happen to hold (as a trustee) some 5% perpetual Debenture Stock of a Canadian Ry, which could now, I suppose, borrow at 3 1/2% or something like it. Again, the Westland Ry Co. has outstanding over 27 millions of 4% perp. & pref. stock. I suppose this Ry could now easily borrow at less than 2 3/4% - But does any one suppose that in either case the perpetual liability could be discharged by borrowing at a lower rate and paying off? And, if not a Ry Co., why the Govt.?

BS
28/9/96

I consider that this view of the case should be adopted.

ASH 22.9.96

I do not see how we can be good faith nullify the promise made in 1808

C 1819 C 25/9

R 1819 R 28/9

Political Dept.

Nos. 1020, 1046 & 1081.

FOR ORDERS

The above currents relate to a bond for 3000 ^{star} pagodas which is held by the Resident in Travancore on behalf of the ancient Syrian Church of Malabar. - Those from the Resident and the Advocate General have been put in type for convenience of reference and the past history has been brought together as far as possible in the printed note at the top of the file.

2. The A.G. ^{drocati} ^{enrolled} apparently considers that Govt. can put an end to the arrangement made in 1840 after due notice to all concerned (para 49 of the printed note), that Mar Dionysius is the proper person to grant a receipt for the money (para 51) and that if it is decided to amend the present arrangement, the Syrian Christians who have been duly elected to assist the Metropolitan in the management of the interest payable on the deposit should be required to join in the receipt for the principal when paid. (para 52).

3. Orders are solicited whether the Govt. is prepared to adopt this view of the case and whether the Resident should be instructed to take the steps sketched out by the A.G. and referred to in paras 49, 51 & 52 of the printed note.

CS.
14.9.96.

This is a case where with regard to which any arrangements between

the contending parties is utterly hopeless. Things cannot be submitted be allowed to go on as they are. The course suggested by the Advocate General appears to be only one to follow. ~~It is suggested that~~ God will then free itself of this very troublesome case and that Dionysius and his opponent can be left to fight the claim to the 3000 pagodas or a share of it out in the established Court of Travancore.

22
17/9/96.

has we wd accept a loan ~~of~~ perpetuity and pay interest on the money lent at 8% for ever. The money must be paid to the individual who has been declared } the Court of Travancore } was the Metropolitan

But if the party or parties who now represent the party or parties with whom the engagement was originally made, - consent to the termination of the engagement in the manner suggested by the Advocate General, - would there be any obstacle to carrying it out? I would suggest that Mr. Pies be asked to report whether Mr. Dionysius would receive the capital sum, abandoning all further claim on the 8 per cent interest.

22/10/96

There wd. of course be no objection to this

22/10/96
25/10/96

75.927/96
75.952/96

Each
G.O. No 200 Pt. 915.12.69.
G.O. No 99 Pt. 918.2.78.
G.O. No 41 Pt. 917.1.93.

PRINTED BY THE
GOVERNMENT
OFFICE
ROUTINE SERIES
No 234
Date 14/7/1896

Medical Dept

Order R No 234 D 14 July 1896.

The Resident's letter with its enclosures and copies of the marginally noted proceedings will be referred to the Advocate General for favour of opinion

C.S.
9.7.96

11/7/96

Govt Solicitor (with papers as above)

Despd

14/7/96

Note

Office

After review return me the file with separate spare copies of the 8v's marked above of the present correspondence and with the Note in Mr. Maclean's handwriting dated 11.8.96. Enc. No 8. Act. 7. 5. Jany 54 taken out from the present place and put along with the 8v's on the same copy.

CE
9/7

The papers referred to will be sent presently

15/7

Political Dept.

Syrian Church Endowment.

Resubmitted to H.E. the Governor with
reference to the notes of Hon'ble Members.

C.S.
28.9.96.

At 29.9.96.

Note for C.S.

This is too heavy a
file, it is submitted, to
follow H.E. on tour. Perhaps
it will suffice if the current
accounts are sent & the
remainder of the file kept
back.

C.S.
28/9

Will Return the Melqui
Library book to S.A. on
return of this file from C.S.

Clad

Let the file be
kept for H.E.'s return.
At 29.9

Recirculated to

The Hon'ble Mr. Bliss. C. D. S.

The Hon'ble Mr. Srode. C. D. S.

With reference to H.E. the Governor's
note of 17.10.96.

C.S.
19.10.96

e.21/10

THE SYRIAN CHURCH ENDOW- MENT IN TRAVANCORE.

NOTES.

There are, amongst the records, various notes on the subject of the above endowment and, for convenience of reference, these have been thrown together here, the history of the subject being at the same time brought up to date.

2. It will be best to begin with the following précis of the history of the Syrian Church written by Mr. C. D. Maclean when Under Secretary to Government:—

I do not find after reading Geddis's History of the Church of Malabar and Captain Swanston's Memoir on the Primitive Church of Malayala, that they throw any light on the official relations between the Travancore Syrian Church and the Government, or that they give any information as to the Antioch supremacy beyond what is embodied in paragraphs 10 and 11 of Mr. Ballard's letter, dated 10th October 1875. The history of the church, however, seems somewhat obscure, and the following précis of facts taken from the two books named above may serve at any rate to make this clearer. Geddis's History of the Malabar Church was published in London in 1694, and professes to be translated "from the Portuguese," but of whom does not appear; it gives a detailed history of the period between 1501 and 1599, during which the greater part of the Syrian Church was engaged in dealings with the representatives of the Church of Rome. Captain Swanston's Memoir is a sketch of the history from the earliest times and brings it down to the year 1833:—

A.D. 51.—In this year St. Thomas came to India, landed at Cranganore on the Malabar coast—a town no longer in existence,—and found there a colony of Jews, claiming to be a portion of the tribe of Manasseh carried away from Palestine by Nebuchadnezzar. He converted a number of these and established the first Christian church in India. Brahmins and others joined the church; a special liturgy was appointed; the Syrian language adopted for use in the liturgy. St. Thomas went over to the Coramandel coast.

About A.D. 150.—Christians belonging to Mylapore, also founded by St. Thomas, were driven over to Malabar by persecutions, and joined there the West Coast Christians. The church thus spread over a large part of Travancore and the Zamorin's dominions. It occupied, in fact, the whole of the south end of the Western Ghats.

File with 141.
756 Roll in 24/10/16

About A.D. 200.—Dissensions having occurred, the church applied for the first time to Demetrius, Bishop of Alexandria, for an ecclesiastical superior. It does not appear whether the application was attended to.

A.D. 345.—Under instructions from Eustathius, Bishop of Antioch, Thomas Cama, otherwise Knai Thomas, otherwise Mar Thomas, an Armenian merchant living on the West Coast, was placed in charge of the church. The Syro-Chaldaic ritual was now introduced. The church became independent of the Native States in everything but criminal matters, the ecclesiastical superiors of the church holding all the temporalities and administering to the people all civil justice. For several centuries after the death of Mar Thomas communication with the Syrian Patriarch seems to have been abandoned. At this period there were five superior bishops in the Christian church, styled the Patriarchs of Rome, Constantinople, Alexandria, Palestine, and Antioch, respectively. The Antioch Patriarch, living in the monastery of St. Ananias near the city of Mardin, was in charge of the whole body of Asiatic Christians. As a colleague he had attached to his see the "Maphrian," or Primate of the East, residing in the monastery of St. Matthew near Mosul; this office seems to be identical with that of the Bishop of Babylon, otherwise Bishop of Selucia Parthorum.

A.D. 825.—In this year two bishops for the Malabar Church, Mar Saul and Mar Ambrose, were sent out by the Patriarch of Antioch. From this time till A.D. 1500 seems to have been the golden period of the church, but few details are available. Syrian Bishops continued to rule. At one time the church set up even independent Rajas; eventually, however, they fell under the Raja of Cochin.

A.D. 1501.—Cabral putting into Cranganore discovered the church and took the news of it to Portugal.

A.D. 1502.—Vasco de Gama arrived in India. The principal officer of the Christian church was then the Bishop of Angamali, appointed by the Maphrian of Mosul. Under this bishop were the local catenars or priests. The Portuguese took no notice of the Christians till the year.

A.D. 1545.—When the Jesuits of Goa began to attempt proselytizing. A Franciscan friar named Vincent was sent by Joan D'Albuquerque, First Archbishop of Goa, to endeavour to induce the whole church to acknowledge the Papal supremacy. Not being successful in this, he established an educational college at Cranganore, and offered a free education to the Native Syrian Christians. Later on another college was opened at Vaipicotta giving education in the Syrian language. The Jesuits gained no immediate advantage by these measures, but it appears that they gradually consolidated their power by other means. A faction among the Syrians broke out about this time, and one side was assisted by the Goa party. Mar Thomas, the nominee of the

Babylon Patriarch, was ejected from his Metropolitanship. And Mar Abraham put in by the Jesuits. Mar Abraham was sent to Rome for consecration by the Pope, and remained nominally the dependent of the Goa Church; but he seems to have virtually maintained his independence.

A.D. 1579.—Mar Simeon sent by the Nestorian Patriarch at Mosul attempted to supplant Mar Abraham, but the latter called in the Goa party, and got rid of him.

A.D. 1597.—In this year Mar Abraham died, but before dying attempted to open communication with Mosul with a view to the appointment of his successor. Communication being stopped by the Romish party, he himself appointed an Archdeacon named George to succeed him.

A.D. 1599.—This was the weakest period for the Syrian Church. George had not even any credentials, and seems to have had small influence. Advantage was taken of the situation to obtain from him and his followers a declaration of subscription to the Church of Rome. This was by the Synod of Diampar.

A.D. 1600.—The Portuguese destroyed the archives of the Malayala Church at Angamali.

A.D. 1601.—François Roy, a Jesuit, was appointed by the Pope Bishop of Angamali. The Syrian Church thus for the first time became part of the Archbishopric of Goa; for 1300 years previously that bishop had been regarded as the Primate of India.

A.D. 1605.—Pope Paul V. transferred the bishopric from Angamali to Cranganore, and restored the title of Archbishop, leaving the office however subject to the See of Goa. Fifty years of inaction.

A.D. 1653.—A number of Syrian Christians assembled at Alanghat; renounced their oath of submission to Rome, and elected Thomas of Palahomatta, an Archdeacon, to be their Metropolitan, pending the result of an application to Antioch. Communications with Antioch being interrupted, application was made to the Coptic Patriarch at Grand Cairo, who nominated Attila, otherwise Mar Ignatius; this bishop previously to coming to India, went to Mosul and obtained from the Nestorian Patriarch letters of appointment. On arrival in India he was imprisoned at Mylapore, but his spiritual supremacy was acknowledged by Mar Thomas. He never took charge of his office. The section of the church under Mar Thomas remained independent, and was the foundation of the present Nestorian Syrian Church in Travancore.

A.D. 1660.—Jose de Sancta Maria, a Carmelite, was despatched by the Pope to enter into treaty with the Archdeacon Thomas, and succeeded in gaining over Alexander of Palahomatta with 45 churches to the Latin See.

A.D. 1661.—The Dutch attacked and took Quilon; then Cranganore; then Cochin.

4
A.D. 1665.—The Portuguese Archbishop left India, and the Syrian Christians were left unmolested. They were now permanently divided into two parties. The Palahomatta family being the hereditary owners of the dignity of "local Metropolitan" naturally took many followers with them when they joined the Roman Catholics, as above mentioned. These Christians took the name of Syro-Roman or old Christians, and while allowing the supremacy of the Pope retained many of their own observances, as, for instance, the use of Syrian in the liturgy, and the nature of the liturgy itself. They have ever since remained under the See of Goa. Captain Swanston, writing in 1833, says that they numbered 97 parishes and 90,000 souls. The followers of Archdeacon Thomas who maintained their independence were called Syrian Christians proper, or new Christians; they are sometimes called Jacobites or Schismatics. They are, however, the original church of St. Thomas and maintain their ancient liturgy and constitution to the present day. Their history will be traced down to the year 1833 in the extracts which are printed with Mr. Ballard's letter. In the year 1833 they had 57 churches and numbered about 70,000 souls as there stated.

3. On the 25th October 1808 Colonel Macaulay, the Resident in Travancore, submitted to Government a request of the Rev. the Mar Thoma, Bishop of the ancient Syrian Church at Malayalum, for permission to pay into the treasury of the Honourable Company, as a loan in perpetuity for charitable purposes, the sum of 3,000 pagodas (Rs. 10,500) to bear interest at the usual rate, the interest being made payable in Travancore, subject to the management of the Bishop or Metropolitan *pro tempore*, or the regular Superior, however denominated, of that ancient church.

4. The Government complied with this application, and it was intimated to the Resident that interest would be allowed for the sum of 3,000 pagodas at the rate of 8 per cent. *per annum* and be made payable in Travancore.

5. Colonel Munro, the Resident in Travancore and Cochin, in a report, dated 30th March 1818, on the condition of Christianity in those States, reported that arrangements had been made for erecting a college at Kottayam for the education of the clergy and the Syrian youth in general and that

5

Her Highness the Rani of Travancore, who uniformly displayed towards them a generous and kindly feeling, had presented the sum of Rs. 20,000 to the college at Kottayam as an endowment for its support, to be vested in the purchase of land.

6. In alluding to certain internal dissensions which then prevailed amongst the Syrian Christians, Colonel Munro observed that he had experienced some difficulty in improving their condition; that the arrival about that time of two respectable Missionaries of the Church Mission Society, Messrs. Norton and Bailey, had enabled him to carry out certain measures which appeared to be requisite for the general amelioration of the Syrian community; that with that view the Revd. Mr. Bailey had been attached to the Kottayam College with the fullest approbation of the Syrian Bishop and the whole of the Syrians; and that Mr. Bailey in unison with the Syrian Bishop had carried into gradual effect some of the arrangements which were considered necessary for the improvement of the Syrian Church.

7. In consequence, however, of the differences that had arisen between the Syrian Metropolitan and the Missionaries of the Church Mission at Kottayam, it had been deemed

desirable by the parties concerned to effect a separation of interests and, in order to accomplish this object, Colonel Fraser, the Resident, caused the whole amount of the property at Kottayam, then in the joint possession of the Syrian Metropolitan and the Missionaries, to be divided, and proposed to restore to the Syrian authorities such portion of it as was incontrovertibly their own, and to vest in the management of the Missionaries exclusively for the benefit of the Syrian community "according to the intention of the donors" such portion as the Syrian Church could not claim unless willing to act in unison with the Mission. The following schedule of the property in question shows the manner in which the Resident proposed to dispose of the several items:—

From the Resident of Travancore and Cochin, dated 18th May 1838.
From the Resident of Travancore and Cochin, dated 23rd May 1838.
E.M.C., No. 1004, dated 12th June 1838.
Resident's letter, dated 18th May 1838.
Paragraph 17 of Resident's letter, dated 23rd May 1838.
E.M.C., No. 1004, dated 12th June 1838.

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SCHEDULE.

SCHEDULE.

Whence derived.		Value in			Through whose influence.	Manner in which the Resident recommended the disposal.		
		RS.	A.	P.				
<i>Proposed portion for Syrians.</i>								
1809	Bond in the Company's Funds	10,500	0	0	Colonel Macaulay ..	To be placed under such management and trust for the benefit of the Syrians as shall be determined by the Syrian community itself.		
1816	From Estate of a late Metran	1,173	14	0				
	Do. do.	62	7	0				
1820	From amount of jewels sold	655	12	5				
1821	„ amount of a debt due to Metran received	12	12	0				
1822	Jewels sold	204	8	0				
1822	A debt due to Metran received	46	2	9				
1823	Received of Joseph Cattamar of Angamali & the property of Metran.	701	12	1				
1824								
1830	A debt received	70	2	9				
1831	Jewels sold	239	9	3	Colonel Munro ..	To be placed under the management of the missionaries at Kottayam under their trust conjointly with that of the Resident for the exclusive benefit of the Syrians.		
1831	Do.	14	12	0				
1832	From the property of the late Mar Dionysius.	952	4	0				
1830	Estate at Cuddamatam in land and money	761	7	0				
	Total	15,394	7	3				
<i>Proposed portions of the Missionaries.</i>								
1816	Presented by Her Highness the Rani of Travancore.	8,000	0	0			Colonel Munro ..	To be placed under the management of the missionaries at Kottayam under their trust conjointly with that of the Resident for the exclusive benefit of the Syrians.
1818	Grant from Her Highness the Rani	21,000	0	0				
1825	Subscription raised from Europeans	14,035	1	6				
	Loan from Church Mission Society	2,475	0	0				
1826	Donation by Revd. J. Fermi	1,000	0	0	The Missionaries ..			
	Total	46,510	1	6				
	Munro Island				Colonel Munro ..	To be converted into its equivalent in money and the amount placed under the management of the missionaries at Kottayam under their trust conjointly with that of the Resident for the exclusive benefit of the Syrians.		

8. With respect to "Munro Island" (the last item in the Schedule) the Resident suggested to the Diwan of Travancore that, in conformity to the usage of the Sirkar in regard to similar endowments of land when alienated from the grantees, a pecuniary equivalent should be allowed by the Sirkar in compensation, the amount to be lodged in temporary deposit in the Residency treasury, with such of the proceeds as might have been realized from the sale of the land and other buildings purchased with the funds placed at the disposal of the Syrian Metropolitan and the Church Missionaries.

9. In noticing the foregoing proceedings of the Resident, Government requested that officer to abstain from making any division of the property until further instructions.

To the Resident, No. 1004,
dated 12th June 1838.

10. After a careful and elaborate review of the whole of the circumstances connected with the case, the Government came to the conclusion that no better mode of adjustment could be suggested than that of a commission, to which the Syrian Metropolitan and the Missionaries should each nominate a member and the Travancore Government a third. In the event of this arrangement not meeting with the approval of both parties, and an amicable adjustment being rendered ineffectual, Government considered that the subject should be disposed of in the local courts, to which both parties were amenable. This suggestion received the approval both of the Government of India and of the Court of Directors.

From Government of India,
No. 616, dated 5th June
1839. In E.M.C., 6th
August 1839.
Despatch from Honour-
able Court of Directors,
No. 12, dated 23rd March
1841, pages 75 and 79.

the Government of India and of the Court of Directors.

11. On the 4th January 1840 the Resident informed Government that a committee of arbitration had assembled at Cochin for the purpose of adjusting the disputes between the contending parties, and with his communication of the 29th June following he transmitted a copy of the award of the arbitrators. The award ran as follows:—

"Star Pagodas 3,000.—This sum was vested in the Honourable Company's funds in the year 1808 through the then Resident Colonel Macaulay by the Rev. Mar Thoma, the then Bishop of the ancient Syrian Church of Malabar, as a loan in perpetuity for charitable purposes solely at the usual rate of interest for such loans, viz., 8 per cent. per annum. This sum being indisputably the property of the Syrian community, we are of opinion that the Church Missionary Society have no claim or right whatever to any future interference in the management. We therefore award that Colonel Macaulay's bond or receipt for the said sum be returned to the Metropolitan of the Syrian Church, and that the purposes for which the high interest of 8 per cent. has been heretofore given by the Madras Government may be fully carried into effect; we further award that the disposal of the

said interest shall in future be under the management of the Metropolitan for the time being of the Syrian Church conjointly with two others—an ecclesiastic and a respectable Syrian of the same persuasion—to be selected by the Syrian community itself."

12. The Syrian Metran appealed against the award. On this appeal the Government observed, that although the Metran had not bound himself, as he ought to have done, by a formal document to abide by the decision of the arbitrators, still from the circumstance of his having agreed to submit his claims to arbitration and having himself nominated one of the arbiters, Government was of opinion that he should submit to the decision which had been passed by them, and in consequence declined to interfere further in the matter.

13. In noticing the objectionable way in which the name of the Resident of Travancore had appeared in the proceedings of the arbiters coupled with those of the Church Missionaries as joint trustees of certain money for missionary purposes, Government desired the Resident not to associate himself in the appropriation of funds which were contested and disputed by the very parties for whose benefit they were raised. It was at the same time observed that although under other circumstances advantage might have resulted from the Resident being allowed to exercise some sort of supervision over the distribution of the sums granted by the Travancore Sirkar for the education of the Syrian community, such superintendence should not, in the state of feeling then existing, be exercised, and that the opinion of the Resident, if not officially connected with either of the contending parties, would be esteemed more impartial than if he were a co-trustee with either.

14. With regard to Munro Island, the Government remarked that as the resumption by the Travancore Sirkar of that land was considered to be a desirable measure, there could be no objection to its being effected; the Sirkar negotiating for the same with the missionaries at Kottayam and the Secretary of the Corresponding Committee of the Church Missionary Society.

15. The Court of Directors approved of the instructions issued to the Resident and considered that the Syrian Metropolitan still refused to abide by the decision of the arbitrators, the disputes as to the property in contention should be settled by a Court of Justice.

16. In his letter noted in the margin the Resident reported that the Metran of the Syrian Church was dissatisfied with the award of the arbitrators, and requested to be informed whether the foregoing opinion of the Court of Directors should be communicated to the Syrian Metropolitan, to the Missionaries and to the Diwan of Travancore. The Resident at the same time stated that, in accordance with the decree of the committee of arbitration, he had disbursed from his treasury the whole of the funds awarded to the missionary society.

17. In directing the Resident to communicate the views of the Court of Directors to those concerned, Government suggested that the parties who had received the amount awarded to the missionaries should refund the same, in order that the contested property might be settled by a Court of Law. It was further observed that this course appeared to be not only the most becoming under the circumstances of the case, but indispensable in the absence of the sanction of the Court of Directors to the proceedings of the arbitrators.

18. The Resident subsequently informed Government that prior to a compliance with the requisition for a refund of the amount paid to the missionaries, it was the purpose of the Madras committee of the Church Mission Society to refer the matter to the parent committee in England for instructions.

19. The further proceedings in this case were brought to notice of the Court of Directors by a letter from the Resident dated 30th May 1842, paragraph 76.

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as the difficulty of a settlement would be materially increased by the precipitate disposal of the property.

20. In his letter No. 318, dated 22nd September 1853, the Resident reported that the aggregate sum paid over to the Church Mission Society was Rupees 47,484-3-9 $\frac{3}{4}$, and that the balance consisting of the loan acknowledgment for 3,000* pagodas and a sum of Rs. 6,080, being the share of the proceeds of the sale of the Syrian College lands and property allotted to the Syrian community by the award of the arbitrators, had since that date continued in the Residency treasury, no application having so far been made for their restoration by the present Syrian Metropolitan Mar Athanasius. The Resident further submitted that since the orders of the Court of Directors, conveyed in E.M.C., No. 30, dated 19th April 1842, were communicated to the Church Mission Society, no steps had been taken by that society to restore either the funds which had been paid to them, nor Munro Island, to the latter of which the Syrian Metran Mar Athanasius, who had recently been formally acknowledged by the Syrian Clergy and the Travancore Sirkar, had submitted a claim on the part of the Syrian College, as being in accordance with the original intention of the Travancore Sirkar and the views of the Court of Directors on the subject. The Resident proposed to suggest to the members of the Church Mission at Kottayam the restoration of Munro Island, or its re-appropriation to the purposes originally contemplated, viz., the benefit of the Syrian community.

21. The Government observed that the matters at issue between the Syrian Metropolitan and the

E.M.C., No. 3, dated 5th January 1854.

Missionaries were precisely in the position in which they stood on the receipt of the despatch of the Court of Directors, No. 7, dated the 30th May 1843, wherein the

Government were informed that in the same with the Court the disputes between and the Secretary of Justice. I recommended the Committee of the Society.

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over to the Metran conjointly with two others, an ecclesiastic and a layman to be elected by the Syrian community. The sum of Rs. 8,000 stood in the same position. Munro Island, it was observed, was awarded to the Missionaries whose occupation the Government would not be warranted in disturbing. On the whole Government resolved to refer all parties concerned to the orders passed by the Court of Directors in 1843 and caused it to be intimated to them that, pending the settlement of their claims by a judicial tribunal, matters must remain as they were. The Committee of the Church Mission Society were requested to state what answer had been received from the Committee in England to their reference on the subject of a refund of the amount made over to the Society in 1842 and, if the refund had been disallowed, for what cause.

Despatch, No. 3, dated 9th February 1854, paragraphs 17 to 21.

22. The foregoing proceedings were duly reported to the Court of Directors.

23. In a letter, No. 21, dated 14th July 1854, the Officiating Secretary to the Madras Correspondence Committee of the Church Mission

Society submitted the reply received from the Joint Secretaries in England, who observed that the award of the arbitrators was equivalent to the sentence of a recognised Judicial Court or Panchayet; that it was so regarded at the time appeared manifest from the fact that the decision was soon after carried out, with the knowledge of the Rajah of Travancore, by the Resident, who with the permission of the Government, handed over to the Church Mission Society the sums awarded to them; that the Society had continued to employ those funds, with the addition of grants from their general fund, to the purposes of a liberal education in the Kottayam College, of which the Syrian from the office of availed themselves as heterodox; that he was therefore unfitted to be entrusted with the administration of money; and that the funds should not be entrusted to him

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were originally destined, and for which the Society had long and not unsuccessfully laboured.

24. The purport of this letter was communicated to the Court of Directors in continuation of the despatch referred to in paragraph 22 *supra*. The Court, in reply,* intimated

* Despatch, No. 6, dated 29th August 1855, paragraphs 14 and 15.

that as the Syrian Metropolitan withheld his acquies-

cence in the award of the arbitrators, the Madras Government was right in declining to make any partial payment to him; that the refusal of the Church Missionary Society to refund the amount paid to them under the award which they accepted in its entirety was natural; and that unless the Metropolitan of the Syrian Christians likewise accepted the award, there was no course open but for Government to retain possession of the share adjudged to that communion till the question was settled by some agreement between the parties themselves or decided by an adequate legal tribunal.

25. The Syrian Metropolitan, at one time, threatened to take legal proceedings against the Missionaries with a view to recovering all or portion of what had been made over to them. In 1855, however, the then Metropolitan waived objections, and requested that the funds allotted to the Syrian authorities might be made over to him and certain trustees named (three ecclesiastics and one layman). On receipt of the Metran's application, the Government desired the Resident to report why three ecclesiastics instead of one had been named, and whether the sense of the Syrian community had been taken as to the individuals. The Metropolitan, on reference, again fell back on the old objections, urging that the polity of the Church would not admit of a Metran placing himself on a par with any of his clergy or laity, and that consequently the provisions of the award could not be

carried out. The Government were carried out. The Court the dissent declined to open the effect; the Court of Justice. I want for same with the mission at its interference, and the Secretary of the Corresponding Committee of the Church Missionary Society.

funds made over to him and two trustees in the terms of the award, for due administration. The award the Resident pointed out, required the trustees to be appointed by the Syrian community, but unfortunately there was considerable jealousy and division among its members. Not a few seemed inclined to support the claims of one Mar Koorilos to be Metran; a considerable section supported those of one Mar Dionysius. The Resident had, however, no hesitation in affirming that a very large and powerful majority acknowledged Mar Athanasius as Metropolitan, and indeed he has been formally recognised as Metropolitan by both Sirkars for many years. The Resident did not consider it desirable to call formally for a general expression of opinion on the part of the Syrian Christians on the question under consideration. As they did not even agree as to their Metropolitan, they would never agree as to trustees; feeling already ran high; the Sirkar officers were the only persons through whom the attempt formally to elicit an expression of the general opinion of the Christians by vote could be made; official returns so gathered would at best be looked upon with suspicion by the people, and the attempt to gather them would greatly increase the rankling ill-feeling, bring it as it were to a head and probably lead to serious breaches of the peace. General opinion had been very fairly elicited in a less formal but more efficacious manner, than by attempting to call for votes. The fact that the question of the disposal of the funds has been under the Resident's particular consideration had been universally known for some time. He had visited a number of the principal Syrian Churches and had had interviews with the Metropolitan and rival Bishops as well as with a large number of the Katanars and their congregations mainly on the subject of the funds, and had received innumerable petitions purporting to be signed by great numbers of the Syrian community about their disposal. The partisans of Mar Koorilos and Mar Dionysius generally stated that Mar Athanasius had been excommunicated several years previously by the Patriarch of Antioch; that he was then deposed from the office of Metran; that further his doctrine and teaching was heterodox; that he was personally unfitted to be entrusted with the administration of money; and that the funds should not be entrusted to him

as there was much diversity in the Syrian body. The partizans of Mar Athanasius pointed to him as the recognised Metropolitan, and desired the funds to be given in accordance with the award. The result of his observation and inquiry was, the Resident stated, that agreement amongst the rival factions was utterly hopeless then; but that a large and powerful majority acknowledged Mar Athanasius as Metropolitan. He must clearly be taken as *de facto* Metropolitan. The followers of Mar Athanasius approved the trustees*

* Katamar.
Poonathora Alexander.
Layman.
Varideoo Coonjee Pylo.

they were suitable persons to be jointly entrusted with the administration of the funds. The Resident trusted, therefore, that Govern-

† Cash	Rs.
Bond for Star	6,080
Pagodas 3,000,	
say	10,500
Interest due on	
said bond at	
eight per cent.	
per annum,	
1835 to 1868 ..	28,560
Total	45,140

ment would sanction his making over the funds † then in the Resident's treasury, according to the award of 1840, to Mar Athanasius and the trustees mentioned above for the purposes of the Trust. He strongly recommended, however, that, with the consent of the parties (which he did not think there would be any difficulty in obtaining) two or four more trustees should be associated with the Metran and the two trustees abovesaid, one ecclesiastic and one layman or two ecclesiastics and two laymen, being nominated as the case may be. The Resident thought that this arrangement would be acceptable to the Syrian community, and it would at least tend to secure a liberal and popular administration, whilst clearly it in no way contravened the spirit of the award. The disposal of the question in itself would, he trusted, allay much of the ill-feeling prevailing, whilst the due administration of the Trust could not fail to have a very beneficial effect on the community.

27. The Governor in Council, having given the matter his careful consideration, resolved to

G.O., No. 200, Ecclesiastical, dated 15th December 1869.

sanction the transfer of the funds then in the Resident's Treasury, amounting to Rs. 45,140, to the Syrian Metropolitan Mar Athanasius, and to the two trustees named by him, and of

whom the Resident approved. The Government did not consider that there would be any advantage in departing from the strict terms of the award given by the arbitrators in 1840, which provided that the funds in question should be made over to the Syrian Metropolitan and two trustees, one of whom was to be an ecclesiastic and the other a layman. It was unable, therefore, to approve of the Resident's proposal to increase the number of the trustees.

28. The bond for the loan was accordingly made over to Mar Athanasius, the arrears of interest on it were paid to him and the subsequent interest was likewise disbursed annually as it became due.

29. In 1875 the Patriarch of Antioch arrived in Travancore, when the contending claimants for the Metropolitanship appealed to him. In consequence of his action the Travancore Darbar, in March 1876, notified that their formal recognition of the late Mar Athanasius as Metropolitan had been withdrawn. The interest on the bond, however, was still paid to him as having been the once-recognised Metropolitan to whom Government had formally handed over the Kótayam College funds.

30. In July 1877 Mar Athanasius, who was then on his death-bed, wrote to the Resident stating that he had appointed his Suffragan Bishop, Mar Thomas Athanasius, as his successor in the Metropolitanship and requested that the annual interest on the bond might be paid to him. Mar Thomas Athanasius accordingly succeeded the late Mar Athanasius as Metropolitan, was recognised as such by one section of the Syrian Church, and claimed the interest on the bond which had become due.

31. In soliciting the orders of Government the Resident stated his opinion that the interest should be paid as claimed by the present Metran, Mar Thomas Athanasius, the Suffragan Bishop appointed by the late Mar Athanasius, who was the *de facto* Metropolitan of the Syrian Church in Malabar; it having been always the custom previous to the late Metropolitan's consecration by the Patriarch for the Metropolitan for the time being to nominate his successor.

32. The Government approved the Resident's proposal on the understanding that the two Trustees were in possession of the bond and joined with Mar Thomas Athanasius in giving a receipt.

33. Payments of interest were made to Mar Thomas Athanasius up to 21st December 1884, subsequent to which no applications for payment were received by the Resident, inasmuch as Mar Dionysius was declared by a decree of the Zillah Court of Alleppey, dated 28th June 1884, to be duly ordained Metropolitan, and consequently Mar Thomas Athanasius to be an unauthorized Bishop, having no legal status in the Syrian Church. An appeal against this judgment preferred to the Travancore High Court was rejected on the 13th November 1885 and the decree of the Zillah Court was finally confirmed by the Final Court of Appeal on the 12th July 1889.

34. In a letter to the Resident, dated 27th August 1892, the Most Reverend Mar Dionysius forwarded copies of this judgment of the Court of Final Appeal and of the proceedings of a meeting of the representatives of the several parishes of the See of Malankara held at Kottayam in March 1892. He stated that although he had obtained possession of the Seminary in execution of the decree of the High Court, the defendants carried their case to the Court of Final Appeal; that the latter had stayed execution of the High Court decree, pending disposal of the appeal preferred to that Court, and had eventually confirmed the decrees of the Courts below so far as they related to the first defendant, Mar Thomas Athanasius, and reversed them as regards the second defendant, Chandapilla Katanar; that after the decision of the case in the Zillah Court, the lay trustee, Ittyachan Pyli, of Northern Paravoor, died; that since 1886 when he had been put in possession of the Seminary, he had been doing his best to carry on the education with the help of charitable gentlemen, though not in receipt of the interest of the fund endowed expressly for that purpose; that he had hitherto been precluded from a variety of causes which he had endeavoured unsuccessfully to overcome, chief amongst which was the opposition of the surviving ecclesiastical trustee Chandapilla Katanar, from applying for payment of interest which had accumulated at the

Residency treasury since the date of the decision of the Zillah Court of Alleppey; that all efforts of himself and those of the chief of his followers to bring about a reconciliation had borne no fruit, because Mar Thomas Athanasius and Chandapilla Katanar and their party totally refused to acknowledge the Patriarch of Antioch as their ecclesiastical superior, and professed not to be of the Syrian persuasion; that as for more than seven years the education at the Seminary had not been carried on regularly in fulfilment of the trust and the funds set apart for the same not utilised, as a successor to the lay trustee Ittyachan Pyli deceased had to be elected, and as the attitude of inaction and indifference if not of active hostility displayed by the surviving ecclesiastical trustee had to be brought to the notice of the parishioners and their wishes on the subject ascertained, he had sent a circular to all the parishes requesting to send representatives to the Seminary at Kottayam; and that in response, the several parishes of the Malankara See sent in duly-appointed representatives who met at Kottayam on 30th and 31st March and 1st April 1892, and passed resolutions, copies of which were enclosed, electing Kunnumpurathu Kora Oolahaman in the place of the lay trustee deceased, and Konattu Puthenpurayil Korathu Mathen Katanar as the ecclesiastical trustee in the place of Chandapilla Katanar who they considered, was no longer eligible to continue as trustee.

35. Under these circumstances Mar Dionysius considered that the representatives of the parishioners had acted rightly in removing Chandapilla Katanar from his office of trustee and electing another in his stead and he informed the Resident that on hearing from him he would forward the usual receipt, signed by all the three trustees to draw the interest which had accumulated at the Residency treasury.

36. The Resident asked* for the instructions of Government as to the course to be pursued.

* Letter No. C. 1429, dated 29th September 1892.

He pointed out that the proceedings of the members of the parishes of the Malankara section were opposed and declared illegal by a body of the other section of the Syrian Church, and he doubted whether the existing sole trustee could be ousted without proceedings at

law. He further observed when the arbitrators gave their decision in 1840 they did not, of course, contemplate the division of the Church when they spoke of the benefit of the "whole Syrian community;" and that the deposit made by the Bishop of the Syrian Church in 1808 could not have been intended to be for the benefit of dissenters or heretics, as Mar Thomas Athanasius and consequently his followers had now been declared to be by the decision of the Final Court of Appeal.

37. The opinion of the Advocate-General was requested.
G.O., No. 696, Political,
dated 30th November
1892.

Zillah Court of the 28th June 1884 the
Judgment paragraph 347.

That officer observed that in confirming the decision of the Court of Final Appeal at Travancore directed* (amongst other things) Mar Thomas Athanasius to surrender the *insignia* and office of Metropolitan of the Malabar Syrian Jacobite Church and "give up possession of all the properties and moneys appertaining thereto which he now holds to the respondent (Mar Dionysius), who would assume and take possession of the properties, &c., to be administered with two other trustees as required by the Endowment deed (Exhibit III)". It seemed to be clear from paragraph 312 of the judgment that the "Endowment deed" referred to in paragraph 317 was the award of 1840. With regard to Chandapilla Katanar, a co-trustee with Mar Thomas Athanasius, who was one of the respondents in the appeal, the judgment of the Court of Final Appeal decided that no cause of action had been alleged in the plaint or proved and, reversing the decree of the lower court directing his removal from trusteeship, dismissed the suit against him.

* Judgment of Court of
Final Appeal, paragraphs
328 to 332.

In paragraph 328 of this judgment it was stated that Punna-thara Chandapilla Katanar "had been duly elected Trustee of the church funds and properties under the Endowment deed (Exhibit III)." He could not, the Advocate-General considered, be removed from office without sufficient cause; on misfeasance, malfeasance or neglect of duty "was charged against this trustee"; it had not been alleged or proved that he had put himself beyond the pale of the Syrian sect and persuasion and thus disqualified himself to be a trustee, or entertained or expressed opinions contrary to

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the founder's intention*. The Advocate-General was of opinion that Chandapilla Katanar had not been lawfully removed from his office of trustee and that he was still one of the trustees and entitled to act as such conjointly with the Metran under the terms of the award made in 1840.

* Attorney-General
Pearson 7 Simon 290.
Attorney-General
Shore, *ib.* 309.

38. The Advocate-General's opinion was communicated to the Resident, who was directed to be guided by it.

39. Events since 1893 are set out in the currents now for disposal. On the order of 1893 being communicated to the Most Revd. Mar Dionysius, he instituted a fresh suit in the zillah court of Allepey for the removal of the trustee Chandapilla Katanar. As both parties gave their written consent to the removal of the defendant from the trusteeship the court decreed† accordingly on the 27th May 1894.

† Judgment on page 3 of
the printed currents.

40. Meanwhile, on the 7th September 1894, a memorial was received by the Resident from certain "clergy and laity of the Syrian Church in Melankara" claiming to represent the "ancient autonomous Syrian Church of Melankara for which the beneficial interest in the British Government charity of 3,000 star pagodas has been assigned." The summary of this memorial in paragraph 5 of the Resident's letter of 1st June 1896 is reproduced below for convenience of reference:—

It ascribes the origin of the fund not to the Metran of the time, but to the Government of the East India Company from sympathy with an ancient church willing to be reformed, attempts to show that Government intended to control the management of it, claims that the Metran Manager contemplated was to be of the autonomous and not of any foreign (Antiochan) church and worthy of and subject to the approval of the British Government which Government ought not to be led by a decision of the Travancore courts that did not and could not cover this particular item of property, asserts that Metran Mar Dionysius was held unfit when a manager and trustees fell to be appointed in 1869 (Mr. Ballard's proposals), and that Metran Mar Thoma—the present head of the "autonomous" church—is fit in himself and as head of that church; and declares that the trustees are under the panchayet (between the Syrian Church and Church Mission) decision of

Enclosure III pages 9—10
of the printed currents.

1840 to be appointed by the community without regard to other offices they may hold. Advertising to Chandapilla Katanar's resignation of office, it requests Government, having regard to the intentions of the grant and assuming the position it took in 1869, to arrange for a public meeting under Metran Mar Thoma to elect co-trustees; but if the primary object of the Trust—declared by memorialists and apparently admitted by their opponents to be the religious education of the clergy and laity of the Syrian race—requires an extended or altered management, that might be accomplished through neutral trustees, and this arrangement failing, the proceeds of the fund might be divided among the various sections of Syrians.

41. The Metran Mar Thoma, in a letter of the 18th September 1891, supported this memorial stating that he had been so requested by a representative meeting of the clergy and laity of his see.

42. The Resident informed the memorialists that, pending the filling up of the vacant trusteeships, their recognition by the civil courts and the receipt of any demand from them for payment of the interest on their endowment, he considered it premature to take into consideration the various requests preferred in their memorial and that on receipt of a demand for payment of interest the memorialists would be given an opportunity of representing their case afresh should they desire to do so.

43. The Most Revd. Mar Dionysius then applied to the Resident, forwarding copy of the decree, referred to in paragraph 39, contended that as the other trustee Ittiyachen Pillai had died there was no room to doubt the competency of the trustees elected in 1892, and requested payment of interest on the 3,000 star pagodas to be made on the receipt of himself and these two trustees.

44. The Resident pointed out to the Metran that the election of an ecclesiastic co-trustee held in 1892 *vice*

Chandapilla Katanar was void inasmuch as the office was not then vacant and that a fresh election was necessary *vice* Chandapilla Katanar since removed by the decree of the zillah court of Allepey.

45. The Metran Mar Dionysius had meanwhile convened a meeting of the duly elected representatives of the Syrian Churches at Kottayam on the 21st and 22nd November 1895 at which a resolution

The intention of the Madras 1808 was

was unanimously passed re-^{was} Kona-
ten Mathen Katanar as co-trustee to act
in conjunction with the Most Revd. Mar
Dionysius and the lay trustee Corah
Ulahaman formerly elected. A copy of
this resolution was
* *Vide* pages 8 and 9 of the printed currents. forwarded * to the
Resident with the
Metran's petition of the 26th March 1896
and payment of the interest again
claimed.

46. The parties referred to in paragraphs
40—42 *supra* sub-
mitted a further me-
morial to the Resi-
dent on the 2nd December 1895, with
reference to the endorsement of the 3rd
November 1894 and the one granted to
Mar Dionysius on his application of June
1895. This memorial enforced Mar Diony-
sius' incompetency to be a trustee of such
a fund, both personally and as subordinate
to foreign authority, and urged that only
the consent of the whole Puthencoor
Syrian community could confer the right
to administer its church temporalities,
such consent being subject to the approval
of the British Government, whereas Mar
Dionysius had carried out the recent
election of the ecclesiastical trustee in
question "by calling together a few of his
blind or interested followers who dandle
on his dictation and making them appear
as representatives of the whole Syrian
Church," thus attempting "to turn the
British Government charity fund to his
own exclusive benefit."

The enclosures to this memorial are, the
Resident states, translations unauthenticated,
but probably genuine, of (1) a representation to
Mar Dionysius from certain "clergy under the
jurisdiction of the Most Revd. Mar Thoma,
Metropolitan of Malabar," accusing Mar
Dionysius of past misconduct in respect of
trust funds and intended misconduct in respect
of the approaching election of the trustee, in
that only Jacobite Syrians rendering allegiance
to the Patriarch of Antioch are cited, whereas
the churchmen of both parties have the right
to take part, and (2) of Mar Dionysius' reply
claiming to have duly discharged his office and
trust and scouting the persons he addresses as
of an unrecognised order and schismatic, whose
consent is not required in electing a trustee of
property to which they had abandoned their
claim, but declaring willingness to admit them
to the meeting and to participation in the trust
funds on their consenting "according to the
decision of the Royal Court to conform to the
tenets and submit to the head of the Syrian
Church." This is only the continuation of the
position he took up in 1869 when addressing
the Resident.

47. The Resident submits the correspondence for orders. He does not vouch for the authenticity of the inter-communications referred to in the preceding paragraph, the *animus* of which is evident, but he observes that it is perfectly well known and accepted that the two parties of the Puthencoor Syrian Church continue in rancour with each other and are likely to continue so; that so far as Travancore is concerned, the Syrian Church in Melankara owes spiritual allegiance to the Patriarch of Antioch and Mar Dionysius is recognised as its local head and entitled to possession of the church temporalities devolving on the Metrans; that it is difficult to see how he can be bishop to those who deny the external authority and the position the courts have granted him or can treat such as other than schismatics; that, in respect of the matter now in dispute, the Mar Thoma or autonomous party otherwise called "The Reformed Syrian Church," or "The Church of St. Thomas Syrian" claims with right as members of the whole Syrian community to participate in benefits and management; and that while the former (participation in benefits) might be possible the second (anticipation in management) is clearly impracticable even if they were able to secure the election of two of their own faith as trustees, for these could not serve along with the Metran whose faith they abjure in matters pertaining to "the religious education of the clergy and laity." The Resident is not sure, however, that this was regarded by the arbitrators as the necessary use of the fund. He refers to the terms of the letter from the Resident to the Chief Secretary to Government, dated 25th

Page 3 of printed currents. October 1808, of the

reply to the same, dated 12th November 1808, and of the bond of 1st December 1808 now lodged in the Resident's treasury, and points out that there is nothing to show how this sum happened to be in Mar Thoma's (the Seventh's) hands and what purpose other than the obtaining of heavy interest prompted the deposit. Mr. Milne Rae, on page 281 of his work "The Syrian Church in India"—states that it was a recovery by Colonel Macaulay, the then Resident, through the Travancore Government on account of injuries inflicted on the Syrian Christians by their non-Christian neighbours, but the Resident points out that no authority for this statement is given.

The intention of the Resident, of the Madras Government, or of both, 1808 was, Mr. Thomson considers, benefit in one way or other the Syrian community generally; the opinion and intention of the arbitrators was quite clear and ought now, if possible, to govern action having been accepted and acted on so far by the parties to the award. The giving effect to the intention now however through one Metran, in the strained condition of the church parties, appears to the Resident to be impossible, whether Mar Dionysius or Mar Thoma is considered by the Madras Government to be the Metran of the church. A perusal of Mr. Rae's book and of the judgments of the Supreme Court leads, the Resident observes, to the conclusion that there is a large need for this benefaction, if devoted to education, among the whole people for whom it was set apart; "the regular superior" of the church "for the time being" to whom interest on the bond is due will now be Mar Dionysius or Mar Thoma and "that ancient church" will be the party headed by the one or by the other according as history is read or court decisions respected. It is fairly certain, Mr. Thomson points out, that Mar Thomas VII who deposited the money was not consecrated by the Patriarch of Antioch and that neither were his five successors in office directly or indirectly; it may also safely be asserted that if the Government of Travancore had not withdrawn from the recognition of Metrans which it was in the habit of according, Mar Thoma would have had no rival of consequence at the present day. The Resident is unable to obtain reliable statistics as to the respective followers of Mar Dionysius and of Mar Athanasius, but so far as he can see it is open to Government to pay the money to whichever Metran it chooses to consider the Metran; it cannot, however, pay to both, and a payment to either only would not be in furtherance of the arbitration award declaring it common property. It is to be noted further, he remarks, that the co-trustees are to be "of the same persuasion" as the Metran; if that is interpreted narrowly there cannot be a representative board. Division of the fund would, if possible, be, he considers, the most equitable arrangement if parties would and could consent to that; Mar Thoma may, it is not likely that Mar Dionysius will. That course may, possibly, involve further complexity by continued disintegration.

payment into a court and an interpleader suit would perhaps be safest. The money, however, was paid to Government in and the interest is payable "at Travancore," and the Resident sees no reason to think that the Final Court of Appeal would vary its judgment, so that the result is already certain and the interest ought as well be paid to Mar Dionysius at once. Considering the small moral good the benevolence of Government appears to have done to the Syrian Church since 1840 and the trouble it causes to the authorities, the bond contract might, Mr. Thomson suggests, fittingly be put an end to by the legislature; if continued it requires to be so varied as to make possible what may be assumed to have been its original purpose.

48. The papers have been forwarded to the Advocate-General for his opinion. This is contained on pages 21 and 22 of the printed currents. He states that he can find nothing to warrant the assertion that the 3,000 star pagodas formed a religious endowment made and controlled by Government; on the other hand the preponderance of evidence is in favour of the view that the money was deposited "in perpetuity" with Government. The position of Government with regard to this money is, the Advocate-General considers, similar to that of a banker who accepts a fixed deposit at interest with notice that the account is a trust account; so long as the deposit continues, the stipulated interest must be paid to the persons legally entitled thereto. In the present case, those persons are the Metropolitan of the Syrian Church for the time being and the two persons elected by the Syrian community to act with him in the management of the fund.

49. As regards the Resident's view that "the bond contract might fittingly be put an end to by the legislature," the Advocate-General is of opinion that legislation is unnecessary. The deposit is "in perpetuity," but that cannot, he points out, affect the right of Government to put an end to the arrangement after due and sufficient notice to all concerned. If Government decide upon adopting this course, notice should be given that from and after the date fixed therein, no further interest will be paid. The time fixed for the repayment of the deposit should be reasonably sufficient to enable those entitled to the money to arrange for its re-investment when paid. If this course were

1.
dent pe...at
statement is given.

adopted, the persons entitled to receive the deposit would be those mentioned in the preceding paragraph.

50. The suggestion that the fund should be divided between the rival claimants cannot, in the Advocate-General's opinion, be carried out. Government has, he observes, no power to make such a division, as the fund belongs to the Syrian community and Government is merely in the position of a baker. In the "Ráya-puram Church case," a similar suggestion was made to, and was rejected by, the Madras High Court on the ground that it had no power to divide the funds, which belonged to the whole caste or body of Christian boat-owners. Government can, he considers, pay the deposit only to the Syrian community as represented by the Metropolitan for the time being of the Syrian Church, by the predecessor of whom the deposit was made.

51. The Advocate-General cannot agree with the Resident that it is open to Government to pay the money to whichever it chooses to consider the Metran. According to the bond or fixed deposit receipt, Government undertook to pay the interest to "the Bishop or Metropolitan or other regular superior for the time being". The Court of Final Appeal at Travancore has, by a majority of the judges, decided that Mar Dionysius is the present Metran, and as such he alone can give a valid receipt for the money, whether principal or interest.

52. As the award of 1840 has been recognised by Government, the Advocate-General thinks that Government should, if it is decided to put an end to the present arrangement, require those who have been duly elected to assist the Metropolitan in the management of the interest payable on the deposit to join in the receipt for the principal when paid. If, at the time of such payment, difficulties arise as to the persons entitled to the money and legally competent to grant a receipt therefor, the question of the necessity for an interpleader suit or of a friendly suit to settle the question might be considered.

53. C. No. 1046 is a petition from the Most Rev. Mar Dionysius which contains nothing fresh. The same may be said of C. No. 1081 which contains a petition from the other party the St. Thomas Syrian Christians.

11-9-96.

(Intld.) C. M. S.

FOR ORDERS.

READ—Current Nos. 1020, 1046 and 1081.

The above currents relate to a bond for 3,000 Star Pagodas which is held by the Resident in Travancore on behalf of the ancient Syrian Church of Malayalam. The past history has been brought together as far as possible in the above note.

2. The Advocate-General apparently considers that Government can put an end to the arrangement made in 1840 after due and sufficient notice to all concerned (paragraph 49 of the note), that Mar Dionysius is the proper person to grant a receipt for the money (paragraph 51), and that if it is decided to amend the present arrangement, the Syrian Christians who have been duly elected to assist the Metropolitan in the management of the interest payable on the deposit should be required to join in the receipt for the principal when paid (paragraph 52).

3. Orders are solicited whether the Government is prepared to adopt this view of the case and whether the Resident should be instructed to take the steps sketched out by the Advocate-General and referred to in paragraphs 49, 51 and 52 of the note.

14-9-96. (Intld.) C. M. S.

This is a case with regard to which any arrangement between the contending parties is utterly hopeless. Things cannot, it is submitted, be allowed to go on as they are. The course suggested by the Advocate-General appears to be the only one to follow. Government will then free itself of this very troublesome case, and Mar Dionysius and his opponents can be left to fight the claim to the 3,000 Pagodas or a share of it out in the established Courts of Travancore.

17-9-96. (Intld.) J. F. P.

I consider that this view of the case should be adopted.

22-9-96. (Intld.) A. E. H.

The Courts of Travancore having finally decided that Mar Dionysius is (with the other trustees) the person entitled to the income due under the bond, it should be paid to him. I cannot, however, concur with the Advocate-General that the Government can claim to repay the principal sum deposited with it. In 1808, the Chief Secretary wrote accepting the money as a "perpetual loan" and that arrangement is still binding, in my opinion, so that the Government cannot claim to have the right to pay off the loan. I will put a parallel case. I happen to hold (as a trustee) some 5 per cent. perpetual debenture stock of a Canadian Railway which could now, I suppose, borrow at $3\frac{1}{2}$ per cent. or something like it. Again, the Midland Railway Company has outstanding over 27 millions of 4 per cent. perpetual preference stock. I suppose this railway could now easily borrow at less than $2\frac{3}{4}$ per cent. But does any one suppose that in either case the perpetual liability could be discharged by borrowing at a lower rate and paying off? and, if not a Railway Company, why the Government?

23-9-96. (Intld.) H. B.

I do not see how we can in good faith nullify the promise made in 1808 that we would accept a loan in *perpetuity* and pay interest on the money lent at 8 per cent. for ever. The money must be paid to the individual who has been declared by the Courts of Travancore to be the Metropolitan.

(Intld.) J. G.

Put if the party or parties who now represent the party or parties with whom the engagement was originally made consent to the termination of the engagement in the manner suggested by the Advocate-General, would there be any obstacle to carrying it out? I would suggest that Mr. Rees be asked to report whether Mar Dionysius would receive the capital now, abandoning all further claim on the 8 per cent. interest.

17-10-96. (Intld.) A. E. H.

There would, of course, be no objection to this.

22-10-96. (Intld.) H. B.

25-10-96. (Intld.) J. G.

Political (1896) Department.

CURRENT No. 1046

From

Mar Dionysius,
Syrian metropolitan
of Malankara

Order

No.

Dated 31st July 1896

Received } 4th August-96
Registered }

Enclosures one

Spare copies. -

SUBJECT.

Requesting that interest
on 3000 Star pagodas invested
in the Residents' Treasury
may be paid to him and
his duly appointed —
Co-trustees.

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

ENCLOSURE No. I.

Certified copy of the decision (English) of the Committee appointed to settle the disputes between the Syrian Metropolitan and the Church Missionary Society.

Certain controversies having arisen between the Metropolitan of the Syrian Church and the Corresponding Committee of the Church Missionary Society in regard to their rights in certain property connected with the College at Cottayom and the parties having agreed to submit their differences by arbitration, we, Conrad Baron Albedyhll, John Scipio Vernede and William Henry Horsley having been nominated and appointed by the Corresponding Committee of the Church Missionary Society, the Metropolitan of the Syrian Church and the Travancore Government respectively as Arbiters to enquire into and decide upon the points at issue; we have accordingly examined all the documents produced before us connected with the subjects in dispute; have heard what both parties have adduced in support of their respective claims and after a mature consideration of the whole case, have arrived at the following decision on the several Items submitted to our arbitration.

This sum was vested in the Honorable Company's funds in the year 1808 through the then Resident Colonel Macaulay, by the Reverend Star Pagodas 3,000. Mar Thoma the then Bishop of the ancient Syrian Church of Malabar, as a loan in perpetuity for charitable purposes solely, at the usual rate of interest for such loans, viz. 8 per cent. per annum. This sum being indisputably the property of the Syrian Community, we are of opinion that the Church Missionary Society have no claim or right whatever to any future interference in the management. We therefore award that Colonel Macaulay's Bond or Receipt for the said sum be returned to the Metropolitan of the Syrian Church, and that the purposes for which the high interest of 8 per cent. has been heretofore given by the Madras Government may be fully carried into effect; we further award that the disposal of the said Interest shall in future be under the management of the Metropolitan for the time being of the Syrian Church conjointly with two others, an Ecclesiastic and a respectable Syrian of the same persuasion to be selected by the Syrian Community itself.

* * * * *

Done at Cochin this fourth day of April in the Year of our Lord one thousand and eight hundred and forty.

(Signed) D' Albedyhll.
(") J. S. Vernede.
(") W. H. Horsely.

506 of the Court
ENCLOSURE No. II.

From

THE MOST REVD. MAR DIONYSIUS,
Syrian Metropolitan of Malankara.

To

The British Resident

IN TRAVANCORE & COCHIN,

&c.

&c.

&c.

TREVANDRUM.

Sir,

I BEG to forward herewith for your information copies of the Judgment and Decree of the Zillah Court of Alleppey in O. S. No. 163 of 1069.

1. The Court of Final Appeal in Travancore having confirmed me as the duly appointed Prelate entitled to hold the "insignia and office of Metropolitan of the Malabar Syrian Church and to possess and administer all the properties and moneys appertaining thereto with two other trustees as required by the award of arbitrators," and Punnatra Chandapilla Catanar, the only surviving co-trustee having been removed from trusteeship by the unanimous vote and resolution of an assembly of representatives of Syrian parishioners held on the 30th and 31st March and 1st April 1892, I submitted an application to your predecessor dated 27th August 1892 for payment of the interest of the 3000 Star Pagodas invested in the British Treasury, on the receipt of myself and the newly elected co-trustees Konattu Puthenpurayil Korath Mathan Catanar and Coonnoompurathu Corah Oolahannan.

2. Thereupon the then Resident, Mr. Hannington entertaining doubts as to the advisability of paying the interest due in consequence of the opposition raised by the former co-trustee, Chandapilla Catanar and his adherents, reported the matter to the Madras Government in an elaborate letter No. 1429 dated 29th September 1892, in which he fully represented the circumstances of the case, treating the counter-petitioners as dissenters and admitting the justice of my claim. In fact, he admitted in para 6 of his report that his only objection to the disbursement of the interest to me and the said newly elected trustees was the opposition of Chandapilla Catanar, the surviving trustee and his not having been removed from the office of trustee by decree of Court.

3. The Madras Government submitted the whole records for the opinion of the Honorable the Advocate-General who, in reply dated 17th December 1892, expressed the opinion that on the face of the Judgment of the Court of Final Appeal declining to remove Chandapilla Catanar from trusteeship, he was to be considered as a "trustee entitled to act as such conjointly with the Metran."

4. The final order of the Government was to the effect that the Resident would be guided by the opinion of the Advocate-General.

5. Having failed in my earnest attempt to induce Chandapilla Catanar to co-operate with me in due manner in the administration of the trust, and the Government having, on the authority of the Advocate-General, refused to consider Chandapilla Catanar as having been lawfully removed from his office of trustee, I had to file the suit No. 163 of 1069 in the Zillah Court of Alleppey to oust the said Chandapilla Catanar from the office of trustee. But when called upon to defend himself, he discovered the utter hollowness of his pretensions and relinquished his claim to the office of trustee and to the administration of the trust funds. The Zillah Court thereupon pronounced its judgment, removing Chandapilla Catanar on his own consent, from the office of trustee, as will be seen from the accompanying enclosures.

6. It is clear from the records in connection with this matter that your predecessor treated the counter-petitioners as dissenters and their objections as undeserving any consideration in the decision of the question at issue. The Advocate-General and the Government have in effect endorsed this view. For after stating fully the facts of the case, the only question to be decided, says the Advocate-General, is, "has Chandapilla Catanar been lawfully removed from his office of trustee"; and this has since been done by decree of Civil Court above mentioned.

7. You will thus see that the objections raised by the opposite party, when I last applied to your predecessor for payment of the interest, were frivolous and vexatious, and urged with a view to defeat and delay the lawful administration of the trust. And I respectfully venture to submit that any objection they may have since raised or hereafter may raise, is of the like nature to which no weight whatever can be lawfully attached.

8. Of the two former trustees, Ittiyachen Pyli being dead and Chandapilla Catanar having been removed from office by decree of Court, there is no room to doubt the competency of my present co-trustees, Mathen Catanar and Corah Oolahannan, who were duly elected in an assembly of the legally elected representatives of the Syrian Churches, (copies of whose resolutions were submitted by me to your predecessor along with my application dated 27th August 1892) and whose election Mr. Hannington in his letter to Government did not take exception to.

9. I regret much to inform you that for want of funds and non-payment of interest of the 3,000 Star Pagodas for the last ten years and upwards, the education of Syrian youths at the Syrian Seminary at Kottayam suffers materially and the intentions of the donors of the fund are being virtually defeated and a large sum in the shape of accumulated interest is lying idle and perfectly useless in the Resident's Treasury.

10. In view of these facts I request you to be kind enough to sanction the disbursement of the interest of the Star Pagodas which lies accumulated at the Residency Treasury as well as the future interest on the receipt of myself and my co-trustees named above.

11. On hearing from you in reply to this representation I shall be glad to forward the usual receipts signed by all the three trustees to receive payment of interest in the ordinary course.

I have the honour to be
Sir

Your most Obedient servant,
(signed)

Trevandrum,
26th June 1895. }

ENCLOSURE No. III.

Reference C. No. 1969.

RESIDENT'S OFFICE ON CIRCUIT,
Kulathupuzha,
6th July 1895.

From

J. D. REES Esq., C. I. E.,
S. P. T. RESIDENT

IN TRAVANCORE & COCHIN.

To

The Most Revd. MAR DIONYSIUS

SYRIAN METROPOLITAN.

Most Revd. Sir,

In reply to your letter of the 26th Ultimo, I have the honour to observe that I think that the election of an Ecclesiastic Co-Trustee held in 1892 vice Chandappilla Catanar was void in as much as the office was not then vacant and that an election is now necessary whether of the Trustee then elected or of any other, vice Chandappilla Catanar since removed by a decree of the Alleppy Zillah Court. On hearing from you of the result of such election I or my successor in office will take such further action as is then necessary.

I have the honour to be,
Most Revd Sir,
Your Most Obedient Servant
(Signed) J. D. Rees
Resident (S. P. T.)

ENCLOSURE No. IV.

From,

MAR DIONYSIUS,

Syrian Metropolitan of Malankara.

To

THE BRITISH RESIDENT

in Travancore and Cochin.

Sir.

I have the honour to inform you that in conformity to the course pointed out by your predecessor in his office No. 1969 dated 6th July 1895, a meeting of the duly elected representatives of the Syrian Churches was again held in the Syrian Seminary at Kottayam on the 21st and 22nd November 1895 and a resolution unanimously passed re-electing Konattu Mathen Catanar as a co-trustee (vide copy enclosed herein), to act in conjunction with me and the lay trustee Cunnumpurathu Corah Ulahannan formerly elected by them.

2. A reference to the previous correspondence on the subject in your office would show, that the result of a protracted litigation was to declare me to be the lawful Metropolitan of the Syrian Church of Malabar; that of the three former trustees to whose receipt the interest of the 3000 Star Pagodas used to be disbursed, Mar Thomas Athanasius since deceased was declared by decree of the Final Court of Appeal in A. S. 3 of 1061 not to be a duly appointed Metran and as such disqualified to hold the office, that Chandapilla Catanar, the ecclesiastical trustee, has been removed from his office by the decree of the Zillah Court of Alleppey in O. S. 163 of 1069; that the lay trustee Ittiachan Pyle who died in 1060 was likewise removed from his office by the decree of the Zillah Court of Alleppey in O. S. 439 of 1054; that at a formal meeting of the representatives of the Syrian Churches held in April 1892, Mathen Catanar and Cunnumpurathu Corah Ulahannan were duly elected trustees that this subject of payment of interest has been dealt with from every conceivable point of view both by the Madras Government and your predecessors in office, and that every one of the objections raised has been satisfactorily met and removed.

3. You will further observe that the payment of interest has been withheld for the past more than ten years for one reason or other much to the detriment of the education of the Syrian youth at the Seminary.

4. Now that all objections have been removed, it remains for you to be good enough to order the payment of interest including the arrears that have accumulated at the Residency Treasury and thus effectuate the objects of the trust and the laudable intentions of the donors.

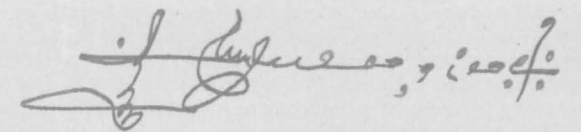
I have the honour to be,
Sir,

Your Most Obedient Servant;
(Signed)

Trevandrum,
26th March 1896.

True Copies.

Mar Dionysius Malankara.



To

His Excellency

THE GOVERNOR-IN-COUNCIL,

Fort St. George.

The Memorial of Mar. Dionysius,

Syrian Metropolitan of Malankara.

CHIEF SECRETARY
4. AUG. 1896
GOVERNMENT OF MADRAS

RESPECTFULLY SHEWETH,

That a sum of 3000 Star Pagodas was invested in the British Resident's Treasury so far back as 1808 on the express understanding that the interest was to be paid 'to the Metropolitan for the time being of the Syrian Church conjointly with two others, an Ecclesiastic and a respectable Syrian of the same persuasion to be selected by the Syrian Community itself.' (Vide Enclosure No. I.)

2. The origin of this fund and the fact of the accumulated interest having been paid to the late Mar Mathew Athanasius who was ordained and appointed to be the Syrian Metropolitan of Malankara by His Holiness the Patriarch of Antioch will be evident from G. O. No. 200 dated 15th December 1869.

3. A few years later Mar Mathew Athanasius forgetful of his original ordination and appointment, and ambitious of perpetuating the succession to the Bishopric in his own family, nominated his cousin, the late Mar Thomas Athanasius, to be his successor and requested the Resident to pay the interest to him.

4. Mr. H. E. Sullivan, the then Resident, thought proper to recommend to the Madras Government that the interest should be paid to Mar Thomas Athanasius, and Government approved of the step "on the understanding that the two Trustees are in possession of the Bond and join with Mar Thomas Athanasius in giving a receipt." (Vide G. O. No. 99 dated 18th February 1878.)

5. Soon after this, Your Excellency's Memorialist instituted legal proceedings against the late Mar Thomas Athanasius and his Co-trustees for the establishment of his rights as the lawful Metropolitan of Malankara and the removal of the former trustees, Chandappilla Catanar and Ittyachen Pyli, with the result that Your Memorialist was declared to be the lawful Metropolitan and Mar Thomas Athanasius was declared not to be a duly consecrated Bishop and incompetent to hold the office of Metropolitan and was further ordered to deliver over to Your Memorialist along with other moveable and immoveable properties the Bond for the 3000 Star Pagodas.

6. Thereupon Your Excellency's Memorialist convened a meeting of the representatives of the Syrian Church, at which resolutions were passed, (a) electing Kora Oolahannan vice the former lay trustee Ittyachen Pyli deceased, (b) deposing Chandappilla Catanar from his trusteeship for his misconduct, and (c) electing Mathan Catanar in his stead.

7. When Your Excellency's Memorialist applied to Mr. Hannington, the British Resident, to disburse the interest to himself and the newly elected trustees, that officer referred the matter for the orders of Government who in G. O. No. 41 dated 17th January 1893 decided that as Chandappilla Catanar was not lawfully removed from his trusteeship, he was entitled to act as such conjointly with Your Memorialist.

8. A fresh suit for the removal of Chandappilla Catanar from his trusteeship was thereupon instituted by Your Memorialist with the result that he was removed accordingly by decree of Court.

9. A second application, enclosing copy of the above decree, for payment of interest was made to the Acting Resident, Mr. J. D. Rees, who thought the election

1896
Political Dept.
Enclos. No. 1
To
G. No. 1046

of Mathen Catanar *vice* Chandappilla Catanar before the latter was removed from trusteeship was void and recommended a fresh election. (Vide enclosures II and III.)

10. A meeting of the representatives of the Syrian Church was again convened, at which the prior election of Mathan Catanar was confirmed and the fact was intimated to Mr. J. Thomson (who had succeeded Mr. Rees) and payment of interest was sought on the receipt of Your Memorialist and his Co-trustees. (Vide Enclosure No. IV.)

11. Though four months have elapsed since my application to Mr. Thomson, Your Excellency's Memorialist has not been favoured with any reply, and further learns, that officer is of opinion that no payment should be made to Your Memorialist and his Co-trustees on the ground that the faction consisting of a handful of the followers of the late Mar Thomas Athanasius object to such payment.

12. In this connection and by way of meeting Mr. Thomson's arguments Your Excellency's Memorialist would simply refer

- (a) to the previous correspondence on the subject briefly set out herein;
- (b) to the fact of payment to the late Mar Mathew Athanasius and Mar Thomas Athanasius in the face of similar and weightier opposition;
- (c) to the expressed opinion of an officer of ten years' standing and experience of the country like Mr. Hannington who distinctly says in his letter to Government dated 29th September 1892, 'of the right of Mar Dionysius to deal with the money in conjunction with two other trustees I have no doubt,' and again 'the deposit made by the Bishop of the Syrian Church in 1808 could not have been intended to be for the benefit of dissenters or heretics, as Mar Thomas Athanasius, and consequently his followers, have now been declared to be, by the decision of the Final Court of Appeal;'
- (d) to the express wording of enclosure No. I, which lays down 'We further award that the disposal of the said interest shall in future be under the management of the Metropolitan for the time being of the Syrian Church conjointly with two others, an Ecclesiastic and a respectable Syrian of the same persuasion to be selected by the Syrian Community itself;'
- (e) to the fact of the Bond at present being in the possession of Your Excellency's Memorialist by virtue of the decree of the Royal Court of Final Appeal;
- (f) to the opinion of the Advocate-General embodied in G. O. No. 41;
- (g) to the fact of the members of the opposition party being so few not amounting even to a tenth of those who remain faithful to their Church and Metropolitan;
- (h) to the intentions of the donors of the fund whose sole aim was the instruction of the Catanars or Priests of the ancient Syrian Church in Syriac and study of the Scriptures and other religious works in that language;
- (i) and lastly to the well known and established fact that the funds dedicated to the support of the charities of one denomination cannot be applied or diverted to the maintenance of charities of a different denomination.*

* Attorney-General *vs* Clifton—32 Beavens Report p. 596.

Baker *vs* Lee—8 House of Lords cases p. 495.

Attorney-General *vs* St. John's Hospital. Law Reports Chancery 2-1875-6 p. 554.

Lady Hewley's case—Shore *vs* Wilson 16 Sim. p. 210.

In conclusion Your Memorialist respectfully prays that Your Excellency may be pleased to order the disbursement of the accumulated interest which is lying idle in the Resident's Treasury much to the detriment of the laudable intentions of the donors and the charities endowed by them, to the Memorialist and his duly appointed Co-trustees.

For which act of charity Your Memorialist shall,
as in duty bound, ever pray.

Mar Dionysius Malankara,

[Signature]

Trivandrum, }
31st July 1896. }

Political (1896) Department.

CURRENT No. 1081

From J. C. J. Pharoo & 13 others
Kunnamkulam Town

Order

No. -

Dated 8th August 1896

Received - 10th 1896

Registered

Enclosures 3 and 2 books.

Spare copies. -

SUBJECT.

Requesting that the interest on 3000 Star pagodas deposited in the British Treasury Trivandrum may be paid to Bishop Titus Mar Thoma Metropolitan.

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

To,

*Printed in paper
9-16 of the Current*
H. B. Clegg, Esq. C. J. C.

BRITISH RESIDENT IN TRAVANCORE & COCHIN.

The humble memorial of the undersigned Clergy and Laity of the Syrian Church in Malankara,

Respectfully sheweth,

THAT Your humble memorialists represent the ancient autonomous Syrian Church of Malankara—the church for which the beneficial interest in the British Government charity of 3000 star pagodas has been assigned according to the intentions of the grant made in the year 1808 A. D.

2. That Your memorialists beg to approach Your Honour in your Honour's capacity as guardian and administrator of the charity—seeing that the last appointment of lawful trustees made by Your predecessor with the sanction of the Government of Madras (Vide Resident's endorsement dated 29th. December 1869, printed on page 247 of Vol. 3. submitted herewith) has failed, by reason of death and refusal, to act.

3. That Your memorialists are thankful and assured, as they are, of Your Honour's due appreciation of the gravity of any action with regard to the fund in its present situation, beg humbly to bring to Your Honour's prominent notice, on the one hand, the general fact, that the negligence or bad faith of trustees usually causes irremediable failure of the object of trust—especially when the trusts are charities for the benefit of a community, and not for an individual beneficiary; and on the other, that the humble protest of a few members of their community has been even in the infancy of the fund, so far accepted as to stop the payment of the interest of the fund through a Prelate-manager who had been appointed by the Madras Government in ignorance of his disqualifications for the trust. Vide pp. 156 & 130 of Vol. III.

4. That Your memorialists beg to state that the primary object of this their memorial is to submit a humble and most respectful protest against the attempt of Mar Dionysius—*firstly*—to obliterate the connection of the British Government as the originator and controller of the fund by misleading a non-Christian portion of a native court (which court is legally incompetent to adjudge the ownership of property held in British India) into the belief that the fund is the personal property of a former Metran—the misleading being effected by a practically clandestine joinder of the fund among certain causes of action properly lying in that court—*suc'* hidden joinder preventing an issue being framed as to the origin of the fund. Vide *Plaint* in pp. 2 & 3 of judgment submitted herewith; and *secondly*—to impose upon Your Honour's right of

independent judgment as to who should be the manager of the fund—such imposition being intended to be performed (A) by professing that he is the head of the Syrian Christian Community intended to be benefited by the fund, and (B) by averring that a favourable decision in the native court with the only European Barrister Judge in the court dissenting, could bind the free-will and conscience of a British authority in the disposal of property deposited in, and controlled by, that authority.

5. That Your humble memorialists beg to bring to Your Honour's memory the following facts as regards the object and history of the charity; and, in discharging this their duty as members of the Community intended to be benefited by the charity, to pray that no alienation or failure of the intended benefit may be unwittingly caused by Your Honour's acceptance of self-appointed or self-seeking trustees; and that proper trustees may be duly elected by the beneficiary community under Your Honour's guidance and supervision in such manner and form as Your Honour may deem desirable or precedent may indicate, as best calculated to assure the faithful and successful promotion of the objects of the charity.

6 That the salient facts above referred to are:—

(A) That the grant of 3000 star pagodas vested in the honorable East India Company's Fund in the year 1808 A. D. in the form of a loan in perpetuity for charitable purpose at the special interest of J P: C: per annum was a gift made by the then Government and was of the nature of a religious endowment made by that Government from its Christian sympathy and religious affection towards an ancient Church which, in spite of its being surrounded and tainted by idolatrous and mariolatrous creeds, showed its willingness to reform and be reformed if a helping hand was offered by the Church of England—that is, the established church of the Sovereign Defender of the Christian Faith. The character of the fund is patent from the special form of the investment and the high rate of interest, not to mention the tenor and substance of the correspondence that has taken place in the years 1806—1808 between the Revd. Dr. Buchanan, the then British Resident Col: Macaulay, the Madras Government and the then Metran—as well as the conspicuous historical record vide p. 131 of Vol: III. herewith submitted in the express words "endowment of 3000 star pagodas made by the Madras Government" as also the wording of the Panchayet award of 1840 which distinguishes it from certain other properties known as "properties belonging to former Metrans" although it had no occasion to be explicit as to the origin of the fund seeing that the dispute was not between two rival parties in the same community but between the Church Mission Society on one side and the Syrian Community and Metran on the other vide pp. 223—229 of Vol: III. The noble missionary spirit of the Church of England and of the Ecclesiastical advisers of the Madras Government was kindled into flashing activity for this liberality by the vivid report of the Revd. Dr. Buchanan (who visited the Malankara Churches under the auspices and introduction of the then Governor-General) on the helpless condition of the autonomous Syrian Church—supported as the report was by the powerful advocacy of the then Resident Col. Macaulay and also by a written promise which, as the result of the Revd. Buchanan's personal visitation of the Churches and Conference with its dignitaries, the then Metran gave to encourage the education of the Clergy and the religious education of the community in general and to reform the Church in such a manner that the Church of England may with a clear conscience refrain from

attempting to directly proselytize from the fold of a Church shadowed by darkness and superstition. It was thus as the outcome of this promise and the visitation and Conference of the Revd. Buchanan that the above gift was made by the Madras Government. In dealing with this question therefore, there is for the Government or Your Honour its representative no necessity for raising before its conscience the mist of any political scruple about religious neutrality or toleration seeing that the gift was made by the Government in its own personal religious or ecclesiastical capacity. Vide pp. 126, 127, 128 of Vol. III.

(B) That the fund was so secured that the Government itself would be the real depositary, guardian and administrator of the charity—the bond being in the name of the dignitary who promised to reform the Church with the help of this gift. That the Government intended to retain the supreme control over the appointment of managers for the application of the interest of this fund and that it did exercise such control from time to time as occasion arose, are evident not only by its policy at the later stage of the history of the fund (that is in 1849, 1869, 1870, 1877, and 1878, when the late Mar M. Athanasius and his successor and the Co-trustees with them were appointed in spite of the opposition of the present Mar Dionysius &c. vide, orders and endorsements by Mr. Cullen, Mr. Ballard, Mr. Sullivan and Captain Faunce printed on pp. 246, 247, 234, 235, and 236, of Vol. III.) but also by its policy in its infancy as shown by its action in 1809 and 1813 (vide pp. 128, and 130 of Vol. III.) and by its refusing to pay interest during the interval. Mar Dionysius himself has acknowledged in his petition to Your office dated 8th. October 1869 para. I. "That the appointment of manager to this fund is an act of trust by the Government" vide p. 242 of Vol. III. Further the petition very lately given by this Mar Dionysius to the Alleppey Zilla Court where the resignation of one of the Co-trustees was submitted shows that Mar Dionysius even now is not unaware of the Resident's power of acting independently of the decision of the Travancore Courts.

(C) That according to the intentions of the gift and by all precedents without exception, the prelate trustee or manager to be associated with the clerical and lay Co-trustees of this endowment is thus shown to be a prelate of the autonomous Church willing and competent to reform the Church and known or hoped to be obedient to the wishes of the original granter by being enlightened and above superstition and in administrative compact and friendly amenities with the Church of England. It is evident that if the Church for whose benefit and reformation the gift was granted, is to be one subjected to a foreign supremacy, the compact ought to be with such foreign primate, as a subservient prelate is incompetent to authorize any reform vide Justice Ormsby's remarks on this phase of the question in page 42 of his Judgment last 13 lines.

(D) That disputes between the Church Missionary Society and the Syrian Community in connection with the seminary and several endowments were settled in 1840 not by a civil court but by a special Panchayet arranged through the instrumentality of the then Resident. Though the decision of the Panchayet as regards the seminary building was carried into effect by giving immediate undisputed possession to the then Metran still the disposal of the interest on this fund was not entrusted to that Metran evidently because he did not satisfy the British Government in the matter of qualifications required for entrusting the management of this fund. It was only in 1870 when the late reformer Mar M. Athanasius by his reforms and otherwise enlightened administration of the autonomous Church

satisfied the Government that the intentions of the grant would be faithfully carried out if the interest were entrusted to his management that he was selected Prelate-trustee. This shows that even if a competent civil court decides the possession of the Siminary for a dignitary, such decision does not entitle such dignitary to manage or bind the Government to entrust this fund. In the Travancore court decision referred to by Mar Dionysius, however, the Community had no hearing, vide Justice Ormsby's judgment, concluding that Mar Dionysius' acceptance by the people has not been proved. (p. 118 of his judgment.) Further it has to be considered that Mar Dionysius has been adjudged to have failed to establish his claims by the judgment of the only European Barrister Judge of the Travancore High Court—who alone can be expected to grasp the religious and ecclesiastical questions involved in the case (the great majority of the authorities quoted by Dr. Ormsby being acknowledgedly sealed books to the Hindu Judges who presumed to differ from him in this eminently ecclesiastical case). Moreover seeing that no special issue was framed for this fund in the suit and that the plaint referred to this fund in a covered manner, equity requires it to be treated as property not included in the plaint and for which independent suit is called for. But if it be considered that the Barrister Judge was in the minority and that therefore the different view taken by the Hindu Judges of the court should be followed by Your Honour, your memorialists beg to point out that the Travancore Court has no authority to sit in judgment about the ownership of property in British India—a property which is the grant of that Government, and is secured and administered under the paramount control of that Government, seeing that even the succession to an ordinary holder of a security deposited in the Residency treasury, is decided by the Resident himself. It would be subversive of the public confidence in British securities if Your Honour's judgment as to who should be the heir to a bond is made to follow the judgment of a native state court instead of being formed on Your Honour's own enquiry and opinion as to merits. But above all, Your memorialists beg to submit that if the former decision of a judicial tribunal is to guide Your Honour in deciding who is the proper Metropolitan, the British Court of Calicut and the Madras High Court have decided *against* the contention of Mar Dionysius as to the supremacy of Antioch vide pp. 249—253. of Vol. III; and Your Honour's Government is bound to respect the British Courts' opinion in preference to the Native State Court. Or if Your Honour requires a Judicial ruling on the subject in the British Civil Courts, Mar Dionysius ought to be referred to the British Courts seeing that the late Mar Athanasius who was in lawful custody of the funds as manager has a lawful successor who satisfies all the conditions required, for Your Honour's normally constituting him Prelate-trustee as his two immediate predecessors were.

(E) That the appointment of manager and trustees in 1870 in the terms of the Panchayet decision of 1840, was made in a public meeting of the members of the autonomous Church, held at Cottayam at the residence of the then Senior Missionary of the Church Mission and in the presence of the British Resident, the Metropolitan Mar M. Athanasius, his then suffragan Mar Thomas Athanasius, the leading Missionaries and the Clergy of the Church under the supremacy of the above Mar M. Athanasius.

(F) That the objection then raised by the present Mar Dionysius to the above decision and appointments, was overruled because he was not found to satisfy the conditions mentioned in clause (C) above, as to the qualifications of the Prelate-trustee.

(G) That the present representative and successor of Mar M. Athanasius is the Most Revd. Titus Mar Thoma who by his training in the Madras Christian College and by his well known integrity, piety, enlightenment and erudition and ecclesiastical dignity is beloved and honoured by the Church of England and that, among the several sections of the Syrian race including, Patriarchists, Papists Babylonists, Nestorians, Armenians, Justusites &c. it is only the autonomous Syrian Church under him that is in administrative compact with the Church Mission and the Church of England in the matter of intermarriages &c.

(H) That the allegation by Mar Dionysius in his plea before the Travancore Courts (vide page 43 of Judgment herewith) that the above sum of 3000 star-pagodas is a private investment by a Syrian Metran is absolutely opposed to facts (vide clause A above) as will be proved by the records of the Residency itself and that this plea alone will convince Your Honour of the real motive with which Mar Dionysius is claiming the trusteeship now. As regards the argument of the Hindoo Judges for concluding that it is a private deposit it is patent that when once a money-gift is made for an investment, the investment will appear in the name of the trustee. Such name of a trustee in the accounts is not the proper record to settle the question of origin of the fund. The previous records of 1806 to 1808 ought to have been appealed to for reference.

(I) That the prelate-trustee and the clerical and lay trustees for the administration of this fund as per terms of the Panchayet decision are to be appointed by the community by a special consensus at the time of such appointment. These trustees cannot continue their trusteeship in hereditary succession in their families or successions in other capacities. The decision of the Travancore High Court establishing that Mar Dionysius is the successor to the late Mar Athanasius in the possession of certain properties, cannot create a right to a succession to a trusteeship once lawfully held by the late Mar Athanasius—even if this Mar Dionysius were one who fulfilled the conditions mentioned in clause (C) as qualifying for proposal as prelate-trustee. Nor can an alleged consent or election by a non-beneficiary section of the Syrian race in a manner unsupported by precedent, confer any status on any person so alleged to be elected as a trustee to the above fund from Prelates or Clergy or Laymen.

7. That Mr. Hannington's report dated 29th. September 1892 on Mar Dionysius' petition to him dated 27th. August 1892 shows how he was over-awed by the voluminous character of the records which have to be studied, if truth and justice have to be served, or how he was over-reached by the specious character of Mar Dionysius' statements and beguiled into a recommendation which, if it had not been overruled by the Advocate-general, would have caused a precedent for making the courts of a native state sit in judgment in behalf of the Resident. Mr. Hannington in para 2. of his report imagines that the Madras records may contain a certain record which is not in the Residency, but goes on to base his report on his imagination as to its contents though that record is a very essential one to decide about the nature of the fund. The records of 1806—1808 will show the conditions and intentions of the grant and will prove beyond doubt that the fund was not the private deposit of a Metran. But he did not stop to get the records and so even the Advocate-general had not the benefit of these original records most essential to a proper legal opinion. In para 3 he surmises a cause for the non-application for the interest. This surmise is not at all supported by any communication from Mar Athanasius or his Co-trustees.

The Zilla Court decision which he presumes to be the cause was immediately appealed against and there could have been no bar on that ground under any circumstance for applying for the interest. In para 4 he says that Mar Thomas Athanasius and "the very large body of Syrians who adhere to him must be considered dissenters". Para 20 of the judgment even of the majority of the Judges of the Final Court of Appeal, Travancore, (vide book herewith) explicitly states that the question of heresy was not raised distinctly. Para 330 of the same judgment corroborates the above statement and adds that "the points of heresy alleged during the progress of the suit have not been shown to be such as to put him (trustee) beyond the pale of the Syrian sect and persuasion and thus to disqualify him to be a trustee". Para 347 quoted by Mr. Hannington refers to foreign spiritual supremacy which as shown above incapacitates this subordinate Prelate Mar Dionysius from being entrusted with the management of this fund which has the question of reform and alliance attached among the intentions of the original donor—not to mention the serious objections to the Resident's opinion not being independent—(that is—on fact and merit) but simply in mute subsequence of the non-Christian judges of a non-unanimous tribunal in a native state—Judges who in paras 137—150 of their judgment refer to the "combined action of the C. M. S. Missionaries and the Dewan Resident". &c. with feelings quite contrary to this self-effacing disposition. Para 6 is therefore a wrong conclusion. Para 9 refers to an attempt at appointing a substitute trustee before the trustee enjoined by the Court to be continued in office was lawfully removed. Para 10 gives an opinion in favour of Mar Dionysius without assigning any ground, the only presumptions in the preceeding paragraphs being unsupported by records as shown above, and notwithstanding the fact that his peculiarly antithetic report shows a very large body of Syrians to still adhere to Mar Thomas Athanasius and to oppose Mar Dionysius' proceedings as illegal. As to the extract in para 12 from the arbitrators' award, it has to be remembered *firstly* that the arbitrators had no idea of a split among the Puthencoor Syrians as has now arisen; and *secondly* that all precedent is to associate the Metran of the autonomous Church for the management of this fund originally granted, as it was, for reform in that Church. Para 14 is wholly the result of misconceptions as to facts as shown above because the deposit was of a fund granted by the British Government in the hope of helping on reform in the autonomous Church and also because the judgment does not declare Mar Thomas' followers as heretics, but on the other hand positively declares his prominent follower as not disqualified for trusteeship.

8. That as regards the opinion of the Advocate-general on Mr. Hannington's report, Your memorialists beg to submit that the records of the case from 1806 showing the circumstances under which this fund was proposed and created, and all subsequent records showing the precedents up to date and the decisions of the Government against the attempts of non-reforming subordinate Prelates to have management of the fund, have to be perused before a final opinion can be given. The wording of the arbitrators was such as to serve their then purpose and so no indirect deductions can be taken from their wording, either as to the origin of the fund, or as to the beneficiary community. But the opinion of the advocate general so far as given, it will be seen, supports the statements in this memorial. Para 2 says that the British Resident suggested the personnel of trustees and preferred the autonomous Church Metropolitan as the Manager in spite of dissensions headed by the present Mar Dionysius; Para 3 says that the successor of Mar Athanasius in the autonomous Church was accepted as

manager in lieu of his predecessor. From para 4 the opinion is unfortunately rendered unauthoritative as the Advocate-General evidently had only Mr. Hannington's report to instruct him about facts before 1840—facts which in the face of the original papers herewith submitted, and remarks above made, could not be maintained as correct. The founder's intention cannot be gathered from the arbitrators' award inadvertently called "Endowment deed" But even in ignorance of those intentions the ecclesiastical Co-trustee Chandappilla Cathanar who is a prominent follower of the autonomous Church Metropolitan, has been declared as qualified to be a Co-trustee. The intentions of the founder have however been referred to, in the above paragraphs, showing that the autonomous reforming Church alone is the Church to find the manager and Trustees from. As the Advocate-General's opinion according to the last sentence of his report is seen to be based only on the award of 1840 without the light of previous records, it is very essential that these facts and precedents should be brought to his notice for further advice, if any further step is now intended to be taken as based on his report.

9. That a new phase has now come over the question by the above Co-trustee, Chandapilla Cathanar's resignation of his trusteeship having been accepted by the Alleppey Zilla Court. Copy of his letter of resignation showing the grounds of his taking such a step, is herewith submitted. It is evident therefrom that it is the impracticability of honourable and faithful joint action when yoked with Mar Dionysius, that has pressed him to resign. The possibility of making such conjoint action practicable depends on the stringency of supervision and the imposition of strict conditions which the Government may now enjoin. But as according to the intentions of the grant the management has, as shown above, to be entrusted to the autonomous Church, the time has now arrived for the Government to adopt drastic measures to discharge its duty to the intentions of the original grant about the management and to take steps similar to those of 1869 by inviting the most Rev. Titus Mar Thoma to arrange for a public meeting under Your Honour's supervision for the election of Co-trustees. The autonomous Church has purchased extensive grounds at a convenient locality for erecting a seminary pending the election of a Co-trustee in the place of Ittyachen Piley who died about the year 1884 and whose death was the real cause of the late Mar Athanasius not applying for the interest that has already fallen due.

10. That if however Your Honour in Your Honour's controlling authority considers that the beneficiary community of the trust, as constructed by precedent and practice as above, does not exhaust the range of benefit which on ecclesiastical or political considerations the original granter (the British Government) would wish to extend it to, Your Memorialists have only to submit to any decision Your Honour may come to, after considering the facts above mentioned as well as the fact that if sections of the Syrian race acknowledging foreign jurisdiction like the Roman, Antiochan, Babylonian and other yokes, are to be included in the range of benefit, the administration of the fund will, to secure success and efficiency have to be managed through neutral Trustees such as the dignitaries of the Church of England, special rules being framed for carrying out through such agency the primary object of the trust—namely the religious education of the Clergy and Laity concerned. This arrangement if it can be well carried out will not materially disappoint the autonomous Church for it does not wish either to make the fund serve any private purpose other than religious reform and education, or to exclude any person willing to accept or be benefited by such reform and education.

11. That a neutral management as above indicated is not impossible will be seen from the fact that the Cambridge Nicholson Institution attached to the Travancore Church Mission now helps the memorialists by appointing a Syriac Malpan for freely teaching such of their young men as are without other means of sound religious education, the only burden imposed on the memorialists community being the pay of the Malpan. On the other hand that this proposal for neutral management, if autonomous management is rendered impracticable, is made from want of a less unsatisfactory alternative and not from any exclusive spirit, will naturally occur to Your Honour if your Honour will either directly or through the Dewan of Travancore call for a reliable and early report on the following points connected with the public funds adjudged to Mar Dionysius by the Travancore Courts.

(A) Is there regular tuition of Syrian Clergy now conducted in the Syrian College adjudged to his management? If not how long has it been in discontinuance?

(B) What is the value of public property of all sorts that has come into his possession by the Court decision and what is their annual income?

(C) What is the amount he has changed into cash by sale of property and revoking advances on mortgages &c.?

(D) Has the account of daily expenditure and annual balance sheet of these public funds been duly written and published and audited as required by rules? Can they be sent for Your Honour's inspection within 15 days from receipt of an order to that effect? Are the items of expenditure fair?

(E) Has any portion of the public fund been transferred to or expended for the institution known in his name as "Mar Dionysius Seminary"? Is that institution claimed as his personal property or is it an institution of which the legal claim for ownership is mingled with Roman Catholic Syrians both for site and building? Is that institution self-supporting by fees or does it require extraneous help for maintenance?

12 That if the appointment of such neutral trustees is not considered possible and if the section of the Syrian race under foreign supremacy is to be brought within the benefit of the fund the only alternative which strikes Your memorialists as feasible is separation and distribution between the sections willing to come under the benefit as was done by the Panchayet of 1840, when joint-management of trusts by the Church Missionaries and the Syrian Metran was found impracticable, and as is now done by the Travancore Government with regard to its grants in aid of education. On this principle it will be observed that the autonomous Church has in equity every justice for being allowed independent management of the further interest on this 3000 star-pagodas, seeing that this capital is only a fraction of the fund withdrawn in 1870 as the accumulation of interest up to 1869 and invested by the late Mar M. Athanasius in Travancore property, but now adjudged by the Travancore courts for Mar Dionysius. If this principle of distribution be adopted by the British Government for separating the Antiochan section of the race (which as above hinted is through the channel of an endowment by Mr. Darragh a Roman catholic, in legal compact with the Roman Catholics) from future participation in this bond the autonomous Church will, in abiding by the decision, be avoided the expensive litigation which the community has otherwise to go through to annul their present deprivation of the

possession of the Cottayam seminary and Travancore investments effected by Mar Dionysius in a suit in which they were not made defendants. Further if such separation takes place each section will of course be responsible to British Government for the fund entrusted to it, and it will be open to each such section to supplement the fund by its own resources and to make the best of the helping grant unfettered by party-feeling.

13. That in conclusion Your memorialists humbly pray that Your Honour may be pleased to give Your Honour's calm and serious consideration to the above facts as well as to such other matters of ecclesiastical and political import that may occur to Your Honour's mature wisdom and foresight as worthy of consideration in the appointment of trustees at this critical period of the fund's history; and Your memorialists are confident that Your Honour, as representing the authority and traditions of the Majestic Defender of the Faith of the Church of England and as constituting the administrator on whose interpretation of rules and precedents regarding the beneficiary community and qualifications of trustees, the intentions of the original grant depend for their support and fruition, will, under Divine guidance, be endued with the necessary grace to pass such orders as will make the fund—not a support for religious slavery and despotism, but a powerful instrument for advancing the elevation and enlightenment of an ancient autonomous, oriental Church willing and ready, and already active in its co-operation with its noble occidental sister—the liberal mother of love—induced evangelization and missionary enterprise.

For which act of kindness the memorialists shall, as in duty bound, ever pray.

IN THE APPEAL COURT OF COCHIN.

A. S. NO. 62 of M. E. 1062.

:O:

Panakel Iyakko Mathoo and two others. } *Plffs:* *Appus:*
Pulikotil Poulose Cathanar and 22 others. } *Defts:* *Respdts:*

Appeal from the decree of the Trichoor Zillah Court in Original Suit No. 30. of M. E. 1061 on its file.

JUDGMENT.

This appeal is brought from the decision of the Zillah Judge of Trichoor in Original Suit No. 30 of M. E. 1061.

The pleadings are given very fully in the Judgment of the Lower Court and it is unnecessary for us to repeat them here. The facts of the case briefly stated are as follow :—The Plaintiffs who are the Chief Wardens and Trustees of certain churches belonging to the Syrian Christian community in the Trichoor Zillah, pray for a decree declaring them to have a right to appoint priests to the churches.

The Defendants contend that the Plaintiffs have not the power claimed by them in the plaint; that the right of appointing priests to the churches is vested in the parishoners (*Yogakars*), and further that Plaintiffs are followers of Mar Athanasius, and desire to introduce into the churches priests ordained by that prelate, who has been suspended by the Patriarch of Antioch, the Supreme Head of their Church, for departing from the ancient ritual and tenets of their religion, and who is therefore not recognized as their *Metran* in this State, and cannot have the power to ordain priests. They also object to the valuation of the suit. This objection, however, was over-ruled by the Zillah Judge, and was not revived by them in this appeal.

The Zillah Judge framed nine issues, and after discussing them in an elaborate Judgment passed a decree giving the Plaintiffs the power to appoint two priests to the churches mentioned in the plaint, but ordered that the priests to be appointed should not be ordained by Mar Athanasius, but by a Jacobite Syrian *Metran*. This being virtually a decree in favour of the Defendants, the Plaintiffs appeal to this Court against it.

We may observe that this suit is one of many suits which have arisen during the past few years in Cochin and Travancore in consequence of the rival claims of the two *Metrans*—Mar Athanasius and Mar Dionysius—to control the spiritual affairs of the Syrian community in the two States, and be recognized as the Head of their Church. The result of this rivalry has been the division of the Syrian Christians in almost every town and village into two parties, known as the Athanasian and Dionysian parties, each of these factions supports one or other of the two *Metrans*. Each is numerically strong, influential and wealthy, and both appear determined to have their respective claims over almost every church brought to the test of a judicial decision. The result has been disastrous to the Syrian Church, but the battle is still being fought regardless of consequences.

The issue in this suit, however, is not whether Mar Athanasius is a duly consecrated *Metran*, or whether he has been or can be superseded by Mar Dionysius, or whether the Patriarch of Antioch is the Supreme Head of the Syrian Church in this country though the Defendants appear to have made strenuous efforts to import these questions into the case for adjudication. And here we are obliged to remark that the Zillah Judge has allowed the parties to burden the record with a mass of unnecessary documentary evidence, the greater part of which is totally inadmissible.

It must be borne in mind that the Plaintiffs only seek to replace priests who, they assert, died in M. E. 1059, after officiating in the churches for over twenty years. This is the point on which the whole case turns, and the Zillah Judge need not have travelled beyond it. The issues that bear on this point are the following.



4th Issue.

"Whether or not priests under Mar Athanasius officiated in the churches in question."

5th Issue.

"Whether or not priests under Mar Athanasius can be allowed to officiate in the churches in question."

6th Issue.

"Which faction forms the majority the Parishioners,—Plaintiffs or Defendants?"

7th Issue.

"What are the powers of the *Melkykars* (1st and 2nd Plaintiffs) over the church."

The first of these issues was decided in favour of the Plaintiffs by the Zillah Judge. We think there can be no doubt that priests ordained by Mar Thomas Athanasius, the present *Metran*, and by his predecessors, Mar Athanasius and Mar (Chepat) Dionysius, did officiate in the churches in dispute. Defendants 2 to 18 in para: 4 of their written statements admit this fact when they say that Mar Thomas Athanasius's priests did not "exclusively" celebrate the services in the churches. Ittoop, the priest that died in M. E. 1059, was undoubtedly acting directly under the orders of the late Mar Athanasius and his predecessor till about the year M. E. 1052 (vide Exhibit IV). The 3rd Defendant in his deposition given in the Injunction Proceedings in this suit says, "Ittoop *Cathanar* who was one of the *Cathanars* living at the time of this suit deposed that he was the follower of the deceased Mar Athanasius, and after that *Metran's* death he did not belong to the party of any other *Metran*. I think Ittoop *Kathanar* died in M. E. 1058 * * * * * * * This deceased Koladi Ittoop *Cathanar* jointly with the first five Defendants officiated in the churches. He and we conducted services alternately in the churches." This evidence satisfactorily disposes of the Fourth issue. But we may refer to the evidence of Plaintiffs' second witness. He is apparently the *Cathanar* that was appointed to succeed the deceased Ittoop *Cathanar*. It was after his appointment that a serious dissension occurred, which culminated in a Police prosecution and this suit. He says he officiated in the churches for four months and was under the orders of Mar Athanasius. We have therefore the admission from the mouths of the Defendants themselves that the *Cathanars* of Mar Athanasius conducted services in the churches in dispute alternately with the *Cathanars* under Mar Dionysius. The witnesses for the defence did not admit this fact. They have, one and all of them, denied in the most emphatic manner that the churches were ever used by *Cathanars* acting under the order of Mar Athanasius. They admit Ittoop *Cathanar* conducted services in them but they assert that he was under Mar Dionysius. This bare-faced denial and assertoin detracts greatly from the value of their testimony. It indicates how far they are prepared to go in supporting the claims of their party. The oral evidence is supported by Exhibits D; E; M; T; U; W; and IV.

We shall now consider the Fifth issue. It is in deciding this issue that the Zillah Judge has travelled into questions which are not necessary for its decision. If the churches in dispute have been used in common by the parties to this suit, and if priests under the two *Metrans*, Mar Athanasius and Mar Dionysius, have conducted services in them alternately for over twenty years as is alleged by the Plaintiffs, we really cannot see on what grounds the Athanasian party can be absolutely excluded from them now. To exclude them would mean the making over of the churches, which have hitherto been used by both parties, for the exclusive use of one party.

The 20th Defendant, a man who knows all about the history of the disputes between the two parties and who brought a suit in M. E. 1055 (Original Suit No. 76 of M. E. 1055) to obtain the office of Head Trustee to the churches in dispute, says, as Plaintiffs' 12th witness, that disputes occurred between Mar Thomas Athanasius and Mar Dionysius, the present rival *Metrans* in the year M. E. 1055. Prior to that year disputes occurred between the late Mar Athanasius and the present Mar Dionysius who arrived in this country in M. E. 1041. Before his arrival disputes existed between Mar Curilos and Mar Athanasius. Mar Curilos

arrived in M. E. 1022. It is, therefore, clear from the statement of this witness, who sought to depose the 1st Plaintiff from the office of Head Trustee in M. E. 1055, and is one of his strongest opponents in this suit that the split amongst the Parishioners of these churches has existed for nearly forty years. The Agreement executed in M. E. 1039 between twelve men who were appointed Trustees, and the Head Trustees, is further evidence that the division is not of recent origin. This agreement has been filed as Exhibit 16 by the Defendants. When two Defendants themselves admit that the dissension has existed since the year M. E. 1022, it becomes unnecessary for us to seek for evidence on the side of the Plaintiffs in proof of this point. Both the parties have used the churches in common for a long number of years, conducting services in them alternately, and would have continued so to use them, if the priests of the Athanasian party had not been removed by death. When they died the Dionysian party seized the opportunity for making the churches exclusively their own, by opposing the introduction of new priests into them. It is an unfortunate circumstance that two parties so strongly opposed to each other in religious matters as these are, should be obliged to use the same churches in common. Disputes must be of frequent occurrence between them, but we cannot exclude one party to the advantage of the other when both possess equal rights to use these buildings as places of worship. This is not the only instance of churches being used jointly by two opposing parties. In the very Zillah in which this suit was brought there are churches belonging to the Roman Catholic Community, where services are conducted alternately by what is called the *Verapoly* and *Goa* factions. It must not be forgotten that the Head Trustees (the 1st and 2nd Plaintiffs) belong to the Athanasian party. They and their ancestors before them have held this office from time immemorial. They are in possession of the churches, and we do not think it would be equitable to compel them to join the followers of Mar Dionysius or leave the churches exclusively for their use, as the decision of the Zillah Court compels them to do. The most equitable course is to maintain the *status quo*, and order both parties to continue to use the churches in the future as they have done in the past.

We have refrained from entering into the question whether the plaintiffs' *Metran*, Mar Athanasius has departed from the ancient doctrines of the Syrian Church. Admitting, for the sake of argument, that he has made innovations in the ritual and tenets of the Church, which are unwelcome to a large body of the Parishioners, the Reforms were introduced in these churches so far back as M. E. 1022, and the Defendants can scarcely object to them after the lapse of so long a period.

The Sixth issue is not easy to decide in the face of the strongly biased statements of the witnesses on both sides. The Plaintiffs' 2nd witness, the *Cathanar*, says that when he officiated in the churches the congregation numbered from three hundred to five hundred people. The Defendants' witnesses estimate the numerical strength of the Plaintiffs' party at fifteen to fifty families and their own party at one thousand families. This is an absurd statement, and must be taken for what it is worth.

We agree with the Zillah Judge in thinking that the former are much stronger in number though they may not be quite so many as represented. There can be no doubt, however, that the latter are an influential and powerful party.

The Seventh issue bears upon the right claimed by the Plaintiffs to appoint their own priests. The Plaintiffs assert that they are owners of the churches and that the Defendants have no right to question their power to appoint priests thereto. If we regard the Plaintiffs and Defendants as representing two distinct parties entitled to the use of the churches, each for its own religious services, we do not see how one party can object to the other party appointing its own priests. We do not think the Zillah Judge is right in holding that the office of Head Trustee is nothing more than one of dignity; nor are we prepared to admit the proprietary right claimed by the 1st and 2nd Plaintiffs over the churches in dispute, though such a right might possibly rest in a Trustee who built a church at his own expense and held it as his private property, being Trustees only as regards money, furniture or plate given by the Parishioners for the carrying on of worship in the church. The Plaintiffs in this suit have not proved that the churches were built solely at the expense of their ancestors, much less have they proved their ownership. It is probable their two *Tarawads* contributed the greater part of the funds by which they were erected, the other members of the community contributing according to their means. But even if the churches

had been built by the ancestors of the Plaintiffs, it would be reasonable to presume an implied grant of the buildings to the whole body of Parishioners from the fact of long user. The churches have been used by the people from time immemorial, the members of the community have been appointed Trustees of them and letters from the Metran announcing the appointment of priests have been addressed to the Trustees and Parishioners. These facts militate against the contention of the 1st and 2nd Plaintiffs. The office of Warden or Trustee has, however, something more than mere dignity attached to it. The Trustees have general control over the affairs of the church, the custody of property belonging to it, the collection of its income and the expenditure of money for purposes connected with its services &c. They are the officers to whom the Metran looks for the proper conduct of the affairs of the church. They may appoint or remove *Kyars* if such power has been vested in them by the Parishioners. They receive the priests appointed by the Metran to the church, and, we think, they have the power to exclude an objectionable priest from the church. The Plaintiffs as Head Trustees must be taken to possess these powers, and if they are supported by the followers of Mar Athanasius, the Defendants can raise no objection to their receiving priests appointed by their Metran to the churches mentioned in the Plaint. We are unable to find any valid reasons for the Zillah Judge's order limiting the number of priests to be appointed by the Plaintiffs to two. The Defendants are said to have five priests to officiate in the churches and attend to the spiritual wants of their party and the Plaintiffs may reasonably claim to have the same number of priests. It matters little how many priests each party has, provided they use the churches alternately and do not interfere in the services of the other priests and obstruct them in the discharge of their priestly functions. The difficulty lies in the two parties coming to an agreement to use the churches in common and refraining from interfering in each other's religious services. But as there was such an agreement before, we trust they will have the good sense to strictly adhere to any future arrangement they make and prevent future litigation.

Our findings are that priests ordained by Mar Athanasius can officiate in the churches mentioned in the plaint; that the Plaintiffs are entitled to introduce into the churches for the purpose of conducting religious services therein priests ordained and appointed by the said Metran; that both parties have the right to use the churches in common, and neither party has the right to obstruct the other in the performance of religious services.

We reverse the decree of the Lower Court and decree in terms of the above Findings.

Each party will bear his own costs in both Courts.

25TH KUMBHOM M. E. 1063.

6TH MARCH A. D. 1883.

(Signed)

V. SUBRAMANYA PILLAI,

First Judge

(")

W. T. A. COSBY,

Ag. Second Judge.

(True Copy.)

Ezd.

(Signed)

P. N. VELAYATHAN PILLAI,

Ag. Hd. Writer for

C. SOOBARAYA IYER,

(Signed.)

Registrar.

PRINTED AT THE VIDHYA RETNA PREBHA PRESS, KUNNANKULAM, 1893.

In the High Court of Judicature at Madras.
Regular Appeal No. 22 of 1862.

Judgment

Suit brought by plaintiff alleging himself to be Metropolitan of all Syrian Churches in Malabar, to have himself declared and to recover property of the ~~Lower~~ ^{Togur} church alleged to have been wrongfully withheld from his possession by the defendants.

First defendant alleged that he was himself Metropolitan & that the 2nd defendant was appointed Metropolitan of this church on the death of the late incumbent who he during his life quite independently of the plaintiff.

Second defendant sets up substantially the same case.

The Civil Judge dismissed the suit on the ground that the plaintiff's appointment by the patriarch of Antioch gave him no right to interfere with the temporalities of this or any other church and because there was no evidence, whatever, that the plaintiff had ever had possession of the property of this church.

It is wholly unnecessary to determine the question whether an appointment by a foreign prelate of any person as Metropolitan would justify the Courts of this Country in ejecting from a Church a person in the situation of the 2nd defendant, because there is literally no evidence that the patriarch of Antioch has possessed to confer any such authority upon the plaintiff. That he has been ordained by that priest, as the first & 2nd defendant & others have been, appears probable, that he is commonly called a Metropolitan is also probable, & it seems that every priest of every separate church in Travancore & Cochin bears the same appellation. In truth, the evidence in the case on both sides, discloses a system of Church Government wholly unlike that administered

Political

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1087

at Canterbury and Modern Rome but much more resembling those early days of Christianity, in which Bishops were not superintendents of groups of churches but of a particular church. It is conceded that the church in question has been filled by a succession of priests, each called a metropolitan & each appointed by his immediate predecessor. There is not a scintilla of evidence on the side of the plaintiff establishing the supremacy of any one of the incumbents of Syrian churches over any other. Certain witnesses have delivered opinions upon the question but have spoken to no single fact from which the existence of such supremacy can be reasonably deduced.

It, however, it was conceded that the power of appointing a metropolitan lies with the patriarch of Antioch and that he had actually appointed the plaintiff, not a single step would have been taken to the establishment of the plaintiff's claim, for it would be quite consistent with the evidence in this case that such nomination would render him a priest only. It only remains to consider whether the evidence that on the death of the last incumbent the church & property were placed in the custody of the 2nd defendant solely as the agent of the plaintiff is to be believed. Two witnesses depose that they came over from a neighbouring church as agents of the plaintiff sealed up the property & delivered the key into the custody of the 2nd defendant, who has since fraudulently withheld the church & property from the plaintiff. There can be no hesitation in declaring this evidence unentitled to the least attention. No reason appears for the interference of the neighbouring priests and, if sent to secure the plaintiff against that resistance to his assumed authority which many of the Syrian churches had displayed, it is clear that they would not have delivered this property into the hands of one known

to be a rival claimant. There seems to exist no doubt that this nomination of this 2nd defendant followed the custom which has long prevailed in this particular church & there being no reliable evidence whatever that the plaintiff has ever had possession of this church or its property, or that his title to interfere with it has ever been acknowledged, either by the tenants of that property or those whom they represent, the result is that this appeal will be dismissed with costs.

28th May 1863.

(Signed) H. Fice - } Judges.
(Do) W. Holloway }

(True Copy)

(signed)
Deputy Registrar.

I

His Excellency the ^{Honorable} Governor in10 AUG 1896
GOVERNMENT OF MADRAS

Fort St. George

&c. &c. &c.

The humble petition of
the undersigned St. Thomas
Syrian Christians of Malabar
residing in Kunnankulam
Town.

Most humbly sheweth,

That Petrs. beg to bring to your
Excellency's Kind and serious consideration that
the payment of the interest of the 3000 star Pagodas
in the British Treasury endowed for the education
of the Syrian youths has been withheld for some years
in consequence of the disputes between the two rival
parties amongst their community, the one party
being joined to the Jacobite Patriarch of Antioch
while the other (Petrs. party) remained steadfast in
its ancient doctrines & belief.

Mar Dionysius the Bishop of the
Patriarchal party lately claimed before the British
Government of Travancore & Cochin for the payment of
the said interest on the plea that he is the lawful
Bishop of the Syrian Christians in Malabar
by virtue of a decision passed by the High Court
in Travancore, but Petrs. beg to say that the

Copy of the Judgment
of the High Court
of Madras.

1896
Political
3
1081

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1081

Appeal Court (High Court) in Cochin decided in a case that their Bishop has also an equal claim in the Syrian churches in Malabar. A copy of which is enclosed. And moreover the Madras High Court decided in a case that the Patriarch of Antioch is not entitled to confer any authority upon any one to rule the Syrian churches in Malabar. A copy of which is also enclosed.

That on the said representation made by Mar Dionysius, Bp. hear, the Resident held that the interest should be paid for the joint benefit of both parties or it should be divided between the two parties & he reported on the matter to your Excellency in Council.

Revs Community also addressed a memorial to the Resident, and as a copy of which is herein enclosed your Excellency will clearly see from it the various just reasons that Revs party & their present Bishop Titus Mar Thoma Metropolitan are alone entitled to receive the said interest.

That Revs beg to state that Mar Dionysius has made possession of the old Syrian Seminary at Cottayam and its large endowment by virtue of the decision of the High Court in Travancore, which he is misusing now, and that Revs Community has now very lately started a small College at Cottayam for the education of their clergy & laity from the general subscription collected from the respective members of their Community. These facts & all other circumstances in connection with their church are well known

to the Rt Rev. Lord Bishop of Madras, Dr. Miller, and other Missionaries of the Anglican Church. A copy of the said judgment of the Travancore Royal Court of Final Appeal is despatched By Book Post. A careful perusal of which will clearly show that the judgment of the Hindu Judges is illegal & the dissenting one of the Barrister Judge Dr. Ormsby is legal & just. A Review of this judgment has been published by G. N. Rae in the Christian College Magazine page 892 under the heading of Ten years of Litigation. A copy of which is also despatched by Book Post.

Revs Community are in great distress as they are unable to conduct high Education in their said College for want of fund, and they believe your Excellency will take the cause of the poor & distressed into your Excellency's kind consideration and afford them redress.

Therefore Revs humbly pray your Excellency may be kindly pleased to devote a few minutes of your Excellency's precious moments to the careful perusal of these papers & be kind enough to order the British Resident to pay the said interest to their Bishop Titus Mar Thoma Metropolitan and thereby assist a poor Community a member of the ancient church of St. Thomas to promote education amongst their community and enable them to diffuse the light of the True Gospel of our Lord who shed His Precious Blood for the Sinner.

For which act of kindness & justice Revs, as in duty bound, shall ever pray.

Kunnam Kullam
near Puttambay
8th August 1896.

J. C. J. Tharoor

Ch. C. Chakkunni. (C)

J. K. Othooper. (C)

J. V. Cheros. (C)

P. I. Cheriakoo. (C)

C. C. Thavoo. (C)

K. P. Verghese. (C)

P. C. Ittikooru. (C)

K. C. Ittoop. (C)

M. K. Chakkunni. (C)

C. C. Verghese. (C)

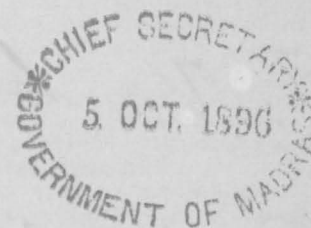
K. M. Ittoop. (C)

K. E. Cheros. (C)

C. M. Rathappan. (C)

Political (1896) Department.

CURRENT No. 1330



From

H. A. Stuart Esq. Secy.
Private Secretary to
H. E. The Governor.

Order

No.

Dated 1st October 1896.

Received 5th }
Registered 7th } Do

Enclosures "

Spare copies."

SUBJECT.

Transfers a petition dated
29 September 1896 from
J. C. J. Thavoo of Kunniam-
-Kalam Town, Malabar Dist.
praying for the payment of
the interest on Rs 3000 invested
in the British Treasury for
the education of Syrian youths
in the S.A.

The previous contents
on the Subject - 10816

/By Order

H. A. Stuart

Private Secretary

C
and this to the
file Ann 8710

They are to go to the
M. H. P. S. A. 1190

BACK PAPERS.

G.O.	No.	Department.	Date.
Dec 10/96			

FURTHER PAPERS.

G.O.	No.	Department.	Date.

CURRENT No. 1350

To
C
H
30/9

His Excellency Sir Arthur
Havelock K. G. C. S. I.
Governor of Fort St. George
and its dependencies

The humble petition of the
undersigned St. Thomas Syrian
Christians of Malabar residing
in Kunnamkulam town.

Most Respectfully Sheweth,

That the Petrs have humbly submitted
a petition on the 8th ultimo regarding the payment of
interest of the 3000 Star Pagodas endowed in the British
Treasury for educating the youths of the Syrian Christian
Church in Malabar.

That the Community which the petitioners
represent is undergoing great trials and difficulties in
consequence of their unwearied resistance against the oppression
of the Patriarch of Antioch to taint the purity & independence
of their ancient Church. The long standing litigation to which
their church has been exposed to by the illegal interference of
the Patriarch has most painfully deteriorated the social and
religious condition of their community.

That the Community to which the petitioners
belong is the only true representative of the ancient Christian Church

of Malabar, this fact, the Pts. beg to state, has been very clearly proved by Dr. Drumsby the late Barrister of the Travancore High Court, in his exhaustive & learned judgment. The petitioners exclusive claim for the interest of the said Pagodas has been clearly advocated by the Rev. Dr. G. M. R. M. & the late Secretary of the Free Church of Scotland Mission in the Colum of the Christian College Magazine. Copies of the above references with other papers are already submitted to your excellency for a kind perusal.

The Pts. therefore humbly pray that your excellency be graciously pleased to order the payment of the said interest to their Metropolitan the Most Rev. Titus Mar Thoma and thereby promote the Cause of Education among the laity & the clergy of their Community.

For which act of Kindness & generosity the Pts. shall, as in duty bound, ever pray.

Kuman Kullam } J. C. J. Tharoo (24)
29th September 1896 }

C. C. David. (24)

C. Chenn (24) P. Piloonny (24)

P. J. Cheriakoo (24) J. C. Thikooro (24)

J. C. Chakoonny (24)

C. C. Chakoonni (24) K. Chennkooty (24)

C. Ittiachen (24) C. Othuppro (24)

P. Vareed (24)

Political (1896) Department.

CURRENT No. 1399

C
*Link with the file when
I return from circ*
Cus
24. 2. 96

Order

From Mar to mysin
Syrian Metropolitan of
Malankara.

No.

Dated	17	} October 96
Received	20	
Registered	22	
Enclosures	-	mil
Spare copies.		mil

SUBJECT.

Requesting that the interest
in the Syrian Church Fund
Endowment invested in the
British Resident's Treasury
in Travancore may be
paid to the memorialist at
an early date.

*add to
previous
file*
Cus {1020, 1040
1081, 1330}
Circ 5 Nov 20/10

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

CURRENT No. 1st

1/2

His Excellency
The Governor-in-Council,
Fort St. George.

The Memorial of Mar Dionysius,
Syrian Metropolitan of Malabar Kara

CHIEF SECRETARY
20. OCT. 1896
GOVERNMENT OF MADRAS

Respectfully Sheweth,

That in continuation
of his memorial dated 31st July 1896 in respect
to the subject of the interest of the Syrian
Endowment invested in the British Residents
Treasury in Travancore, your Excellency's
Memorialist respectfully begs to remind
your Excellency that the long delay in
disbursing the interest is likely to affect
the education of the Syrian Clergy, contraven-
plated by the donors of the endowment.

That in conformity to the
terms of the trust and in anticipation
of an early and favorable disposal of
the question, your Excellency's Memorialist
has

been carrying on the education of the Syrian clergy with no small pain and perseverance.

That apart from the evidence and arguments pointed out in his memorial of the 31st July last, your Excellency's Memorialist respectfully begs to draw your Excellency's attention to a comparatively recent ruling of the High Court of Madras in Ammunni versus Herishna, reported in J. L. R. Madras Vol: XVI page 405, where in a dispute about the right of succession to draw the interest accrued on certain Government Promissory Notes, by parties domiciled in Native Cochin, it was held that the Plaintiff should have established his right by a suit in the Court of Native Cochin and then applied to the British Resident. In other words, the High Court was of opinion that a decision by the Court of the Native State was quite sufficient
to

to establish the right of the parties to ^{the} interest due on Government Promissory Notes and that the British Resident was to follow such decision in the disposal of the question of interest.

That the position held by your Excellency's Memorialist exactly conforms to the views of the High Court expressed in the above decision. The Supreme Court of Travancore fully established the rights of your Memorialist to receive and administer the fund in question, and declared the counter-petitioners to be mere dissenters, having no right to the temporalities and spiritualities of the Syrian Church. The only course then which the Resident could legally follow was to uphold the legally established rights of your Memorialist.

your Memorialist therefore requests your Excellency to be kind enough to order the payment of the accumulated
interest

Trust of the Syrian Church Endowment
to your Memorialist and his co-trustees
as early as possible so that the work of
educating the Syrian clergy now ma-
naged with pecuniary difficulties
may be well conducted and improved
in terms of the trust. For which act of
charity your Memorialist shall, as
in duty bound, ever pray.

Mar Dionysius Malankara

[Signature]

Kottayam
Travancore
17th October 1896

* MC Recd. since the
papers were
C.B.

28 Political Dept
(Original) Q
C. No 1020, 1046 + 1081, 1330 + 1399.

Order. P.S. No 756 of 30-10-96.
The Advocate General's opinion
will be communicated to the
Resident in Travancore & Cochin, with
the request that he will ascertain
& report to Government whether
the Most. Revd Mar. Dionysius
is prepared to
~~would~~ receive the capital of the
bond, abandoning all further
claims ^{on the 8 per cent} to interest

(From Order)

C.B.
26.10.96.

At 29.10.96.

Resident in Trav. Lt. Dept 13/11

have notes printed on yellow
paper - including C.B. & H.M. & H.S.
C.B.

First copy sent to Press. 30/10

Retained for signature.

Despatched in print.

READ AGAIN G.O., No.
189

DATED

Refers to G. No.

GOVERNMENT

GOVERNMENT

WITH DITTO

READ UP, BRING FOR DESPATCH
ORIGINAL

N.B. -

- A = Print in full.
- B = Not to be printed.
- P = Print abstract only.
- Q = Print heading only.