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Negapatam Burial Case.

No. 20-A. *Read Petition from S. MUTTUKKISHNA IYER and others, to His Grace the Governor in Council, Fort St. George, dated Negapatam, 5th June 1876.*

MAY IT PLEASE YOUR MOST NOBLE GRACE,—We, the undersigned inhabitants of Negapatam, in the District of Tanjore, with due deference, beg to lay before your Most Noble Grace the following facts:—

A Native Brahmin of this town by name Voobavoo Sastrial, aged 85 years, breathed his last on the 30th April 1876. Two months previously he had entered upon the fourth and the holiest of the orders of life amongst the Sanyasis, technically termed in the Hindu Shastras as "Paramhamsasramum." His body, which became highly consecrated, as it were, under the above circumstances, was enshrined on the northern bank of the tank called Ackaraikolum, within the Municipal limits (apart from the town) of Negapatam. The deceased having been a highly educated Sastri in the Achara Prayachitta and Curmaconda portions of the Hindu Vedas and Shastras, and having been equally celebrated for his good and virtuous character, the procession to the burial ground was largely attended by multitudes of all classes of the Hindu community. The body was buried underground, 9 feet deep, in the midst of a large quantity of salt thickly poured on all sides as well as over and below. This mode of burying the dead body is dictated by the Vedantic system of Hindu Philosophy, with apparent view of avoiding percolation. The Shastras prescribe that bodies of the venerable men of the kind should be interred in places to which the public resort for bathing, making ablutions, and for meditating, and it is no bad idea that arrangements to commemorate the names and recollections of eminent ancestors are made by giving a residence to their sacred bones near tanks, and by the side of pleasant running brooks. On the banks of the aforesaid Ackaraikolum a long usage of burying the dead bodies of Sanyasis has prevailed even after the above-mentioned tank was brought under the operation of the Municipal Act. To prove this a visitor may, even to this day, meet with small columns of bricks or monuments erected over the burials in by-gone years. Over the bones of some of these the tree "Arasay" has been made to grow, and is still growing with its wide and leafy branches. Moreover, it is not a fashion obtaining in Negapatam alone, but is the orthodox usage, having force over the countries watered by the Ganges, Cauvery, Vigay, Godaveri, and other sacred rivers and tanks situated anywhere between Cape Comorin and the Himalayas. Under the highly-rigid rules of Hinduism, it is only one among thousands that is admitted into the rank of Sanyasi, and it is, indeed, to a very select few of them honorable burial of the above sort is accorded by the community at large. Between the spot of interment and the highest water-limit of the tank, there are about sixty feet of ground protected by long and strong brick steps and a brick platform to guard against percolation. Moreover, there is a wall with a deep foundation between the grave and the tank. The slope of the ground on the side of the grave being also northward, there is not the slightest chance of any contagion spreading. Under the above circumstances, we deeply regret to say that the Joint Magistrate of Negapatam, under Section 528 of the Criminal Procedure Code, by a notice,

issued to one of the sons of the deceased, dated 6th May, directing him to exhume the body of the deceased from the aforesaid spot to any other locality approved by the Municipality within the 13th May, has enjoined that the default will not only be punished under Section 188 of the Indian Penal Code, but the body will be removed to the place known as "Hathaway's Park," where all the night soil and dirt of the town are deposited and situated near the Pariah Street. The reason assigned by the Joint Magistrate was the chance of percolation affecting the waters. The disinterment of dead bodies is considered unhallowed by Europeans, and it is also a sacrilege according to our Shastras. It is highly dangerous if executive officers, municipal or magisterial, were arbitrarily to decide questions of the above nature and disturb by coercion the established current of religious opinion.

It is our humble belief that Section 133 of Act III of 1871 empowers Municipal Commissioners, whenever they deem it necessary, to close and open graveyards after issuing notice to the people and upon adopting several steps prescribed by it. A Joint Magistrate, in exercising his authority under Section 528 of the Criminal Procedure Code, should have regard for the reasons manifested by the Legislature in the Municipal Act. The proceedings in this case have, however, been hasty, and have wounded the feelings of the community. We, in due time, reported our grievance to the District Magistrate, but that officer did not help us. The sons of the deceased, for fear of criminal prosecution, removed the dead body to a neighbouring desecrated place.

In conclusion, we, the most dutiful subjects of your Most Noble Grace, most respectfully pray that your Most Noble Grace will be pleased to give to our representations proper consideration and to issue such orders as the justice of the case requires.

No. 943.

Referred to the District Magistrate of Tanjore for report.

OOTACAMUND,
20th June 1876.

(Signed) W. HUDLESTON,

Chief Secretary.

No. 20-B. Read also letter from H. S. THOMAS, Esq., District Magistrate of Tanjore, to the Hon. W. HUDLESTON, Chief Secretary to Government, Fort St. George, dated 22nd July 1876.

ABSTRACT.—Submitting the report called for on the foregoing petition.

No. 20-C. Read also petition from KISTNASAMY IYER, Head Sheristadar of North Arcot, to His Grace the Governor in Council, Fort St. George, dated Palmanair, 5th July 1876.

YOUR GRACE,—I beg most respectfully to lay the following few lines before your Grace for favorable consideration and orders, with the humble request that I may be pardoned for thus intruding upon your Grace's valuable moments.

2. My aged father (aged eighty-five years), having, at the close of his days, become a *Sanyasi* (Monk), died at Negapatam, in the Tanjore District, on the 30th April last. His remains were solemnly buried in the most public manner and in broad day-light at the customary Hindu burial-ground on the north bank of the Ackaraikolum Tank in the limits of the town of Negapatam. Five days after Mr. Weld, the Acting Joint Magistrate at that station, having taken objection to the burial in question, ordered its immediate removal, and the body was accordingly exhumed and re-interred in another locality; Mr. H. S. Thomas, the Magistrate of the district, to whom I appealed, having approved of and repeated the orders of the Joint Magistrate.

3. I have already prepared a memorial on this subject for submission to your Grace's Government, setting forth, in detail, the injustice done me in the matter. I sent it to Madras a week ago to be printed, so that your Grace may read it with ease, and I daily expect to receive it. The memorial will be submitted to your Grace very shortly.

4. Yesterday I heard from Tanjore that a mahazarnamah, addressed to your Grace by the inhabitants of Negapatam, animadverting the proceedings of the magistracy in this matter, having been referred to the Collector and Magistrate, Mr. Thomas, two or three days ago, submitted an unfavorable report to your Grace with regard to the burial in question and commentive upon my conduct.

5. I beg most respectfully to solicit the favor of your Grace's abstaining from passing final orders on the above report until after perusal and consideration of my memorial above mentioned, which will be submitted to your Grace within a very few days.

6. For this act of kindness, I shall, as in duty bound, ever pray.

No. 20-D. Read also petition from KISTNASAMY IYER, Head Sheristadar of North Arcot, to His Grace the Governor in Council, Fort St. George, dated Palmanair, 11th July 1876.

MY LORD DUKE,—I beg most respectfully to submit the following extraordinary proceedings of the Joint Magistrate Mr. M. R. Weld and of Mr. H. S. Thomas, District Magistrate of Tanjore, for your Grace's special consideration and orders. In doing so, I shall not intrude upon your Grace's valuable moments with lengthy arguments and criticisms, but confine myself to a concise statement of the whole facts of the case, with but few remarks thereon.

2. I am a native of Negapatam in the Tanjore District. I have a house there, and the whole of my family live in and about that place. I myself held various appointments under Government in that town and in the Tanjore District up to the end of 1870, when, on the recommendation of Mr. G. Lee-Morris, late Collector of Tanjore, I was sent for to this district by the Collector Mr. Whiteside as first-class Tahsildar of the Wallajah Taluq, and after three years' service in that appointment, I was promoted to the post of Huzur Head Sheristadar, which office I now hold.

3. In the month of April last, my father died at Negapatam, aged eighty-five years. He was a Sanskrit Pundit, and was universally respected for his wisdom.

and the purity of his life. He was famous for his extensive knowledge of the Hindu *Vedas* and *Shastras*. He was revered by the whole of the Hindu community of Negapatam, and I may say of the whole district. In his last days, he expressed a desire to become a *Sanyasi* (monk or saint) according to the principles of the Hindu religion, and, agreeably to his wishes, the necessary preliminary ceremonies of atonement were performed, and he, in the month of February last, became a *Sanyasi*. He breathed his last at about midday on the 30th April last.

4. According to the Hindu *Shastras*, the remains of *Sanyasis* are buried instead of being burnt in the usual manner. The burial must invariably take place on the borders of tanks or rivers or under the shadow of *Aswatha* (*Ficus religiosa*) trees, and generally at places set apart for the performance of religious ceremonies or for the resort of religious people. Over the graves of *Sanyasis*, *Pagodahs* or *Brindavanams* (equivalent to tombs) are constructed or *Aswatha* trees are planted in memory of the deceased: and flower gardens are also laid out at the spot planted with *Tulasi* (*Ocimum sanctum*) plants. For ten days after death, daily ceremonies and afterwards occasional ceremonies or *pujahs* are performed at the grave in honor of the deceased *Sanyasi*, as prescribed by the rules of Hinduism.

5. At Negapatam there is a large fresh-water tank or pond called *Ackaraikolum* in which almost the whole of the inhabitants of the town bathe, and the water of which is used for drinking and other purposes. It is situated in the limits of the Puttur village adjoining Negapatam; but a few years ago the tank was included within the Municipal boundaries. The northern, eastern, and western sides or banks of the above tank are, from time immemorial, used as the burial ground of Hindu *Sanyasis* of all castes who die at Negapatam, different portions of the banks being appropriated by different castes of the community. There are distinctive marks, such as masonry buildings and earthen platforms to show that burials have taken place there. Even after the said tank was included within the municipal

* Sent separately.

limits, there have been several burials on the tank-bund. The accompanying*

plan will give an idea of the situation of the different burial grounds, &c., on the banks of this tank.

6. About the place where the *Brahmins* bathe on the northern bank of the tank, the remains of *Brahmin Sanyasis* used to be interred from time immemorial; but the last such burial took place about thirty years ago, as, during the above period, no *Brahmin Sanyasi* died at Negapatam, except in one single instance, about fifteen years ago, when the body was, for the convenience of the deceased's relations, buried on the bund of a pond called *Kakkakolum*, situated in the heart of the town and much more frequented by the public than the *Ackaraikolum* above referred to. The bund of the *Ackaraikolum* tank, however, is the ancient and customary public place of burial of the Hindu *Sanyasis*.

7. It may here be mentioned that the above locality, where the bodies of *Brahmin Sanyasis* are buried is also used by a large section of the *Brahmin* community of Negapatam for the performance of religious obsequies of deceased *Brahmins* whether *Sanyasis* or otherwise. At the above spot there is an *Aswatha* tree with idols thereunder which is worshipped by *Brahmins* on certain occasions. Further, it would appear, the *Brahmins* have of late, and long before my father's demise,

under a license obtained from the Municipal Commissioners, enclosed this piece of ground with a compound wall to make the place more adapted for the above purposes. I must, however, here mention that, as I have many relations at Negapatam, the person, who so applied to the Municipal Commissioners on behalf of the *Brahmin* community, happens to be a relation of mine, and that my brother, like others, contributed towards the cost of constructing the said wall.

8. On the day of my father's death and burial, I was not present at Negapatam. It would appear that immediately after death the body was carried from my house to the above burial ground, in broad day-light, and in grand religious procession, accompanied by upwards of 2,000 inhabitants of the town consisting of all classes of people, such as *Brahmins*, *Chetties*, *Sudras*, both males and females, old and young. At about 4 P.M. the interment took place in the most solemn manner, the ceremonies being performed at a large expense.

9. On receiving intelligence of my father's demise, I left Chittoor and arrived at Negapatam on the 3rd May last, or the fourth day after the obsequies commenced. On the following morning, as I was going to the grave with the whole of my family and friends to perform the ceremonies of the fifth day, we heard to our great surprise that the Joint Magistrate Mr. Weld and the Municipal Vice-President Mr. Oliver were at the burial ground making inquiries about the burial. My brother Sashappien, who was Village Magistrate of Negapatam, but not of the locality where the burial ground is situated, at once appeared before the Joint Magistrate, and, strange to say, that officer by a verbal order immediately suspended my brother from his office, and directed the summary removal of the body of my father from the grave where it had been buried four days before. In the very next breath, Mr. Weld said that he dismissed my brother, and gave a week's time for the removal of the corpse. My brother, in vain, explained to that gentleman that the interment had taken place in the customary place of burial, and begged of him to inspect other tombs, &c., only a few yards from the spot and round the pond, and to make inquiries as to the customary right of the Hindus to use the place as a burial ground. He further pointed out that the order should not be passed so summarily in an important matter of this kind, and urged that he had committed no offence of any kind in his official capacity to deserve dismissal from his appointment in the service of Government. The Joint Magistrate, however, refused to listen to his prayers. My Lord, no words can express the confusion and dismay into which the whole of my family was thrown at the moment in consequence of the above arbitrary proceedings of the Joint Magistrate.

10. On making inquiries as to the cause of the Magistrate's interference in the matter, I learnt that Mr. Oliver, the Vice-President of the Municipality, had induced him to take this action. I at once went to Mr. Oliver in company with two of the native Municipal Commissioners, Mr. Swayambu Iyer and Sreeramulu Naidu, and we all impressed upon him the religious and solemn nature of the burial in question and the disgrace and ill-fame the removal of the body would bring upon my family and the Hindu community at large. I also pointed out to him that the interment took place in an ancient and customary public burial

ground. Mr. Oliver, admitting to me that he took the initiative in the matter, said that he was not aware of the importance of such burials, nor that the place was a customary burial ground, adding that, if he had been previously informed, he would not have taken any steps, and he would see Mr. Weld that evening, and, as Vice-President of the Municipality, waive all objections to the burial, which I believe he subsequently did.

11. I then hastened to Mr. Weld and stated the whole of my case to him. He said he would refer the matter to the Collector and Magistrate, and I had better go and see him on the subject. I begged of him to inquire into the point, whether the place was a customary burial ground or not. But he would not comply with this request of mine.

12. On the 5th May I proceeded to the headquarters of the Collector and Magistrate and saw Mr. Thomas, who had then on his table the Joint Magistrate's letter to him on the subject. I related to him all the circumstances of my case, especially calling his attention to the fact of the locality in question being the ancient and customary place of Hindu Sanyasi burials, and to the excessive shame and annoyance that I and the whole of my family would be subjected to by an order to disturb the body once solemnly and peacefully buried with all the ceremonies prescribed by my religion. The alleged necessity for the removal of the body being said to be the ultimate supposed injury to the water of the tank by the percolation of the decomposed matter of the body, and the consequent danger to the health and life of those who may drink the water, I expressed my willingness to adopt, at my own cost, any remedial measures which might be prescribed to prevent any possible future injury to the water of the tank. Mr. Thomas considered my proposition for awhile, and then suggested to me that a good quantity of lime thrown round the body in the grave might answer the purpose. I then informed him that no less than 240 seers of salt had been packed round the body in the grave, and that I was prepared to carry out his suggestions at any cost. He, however, said that the Doctors must be consulted on the point. I requested him to make the suggestion to the Doctor at Negapatam, or to any other Doctor. He told me I had better myself go and inform the Vice-President Mr. Oliver and the Joint Magistrate Mr. Weld of his suggestion. I begged of him to be pleased to write and tell those officers of the arrangement that he thought might be made in the matter. He then told me to take leave and go back to Negapatam, and began to write the letter. I left him. A few minutes after, however, he sent for me again and told me that he would not allow me the indulgence of adopting the remedial measure above referred to, but commanded that *within that evening* I should remove the body from the grave. It was then past 3 p.m., and I was at Vallum at a distance of about seven miles from the Tanjore Railway station, where the train was due just about that time. I represented to the Magistrate that it was impossible for me to carry out his orders, as I could not by any possibility catch the train or otherwise be at Negapatam before the evening. He then ordered me in very severe and stringent terms to remove the body within the following day, and warned me that, if I disobeyed his orders, he would see that I suffered the heaviest penalties of the Criminal law. I lastly solicited him, at least, to inquire whether the place in question was not an ancient burial ground, as alleged by me, and

then dispose of the case on its merits, and not to proceed so summarily in a matter of such grave importance to me. He then observed that I was impertinent, and threatened that he would report me to my Collector. I finally left him in great sorrow.

13. I returned to Negapatam and engaged two lawyers to appear before the Joint Magistrate and apply for a formal inquiry into the matter, and to file a statement of my objections (copy of which forms Appendix A to this Memorial). The Joint Magistrate received the petition, but made no inquiry. On the contrary, he caused to be served upon my brother, who was at the time present in his catcherry, a magisterial notice (translation of which forms Appendix B, and true copy of it Appendix C) to remove the body within a week. With this order in his hand, my brother returned home. My Lord, I here beg to request your Grace will be pleased to consider for a moment the extreme state of mortification and sorrow into which I and all my relatives and friends were thrown at this time.

14. On the night of the same day (6th May) which was the 7th day of the obsequies, a deputation of the Towns-people came to me to say that they were prepared to proceed to the Neilgherry Hills, and there see your Grace on the subject. After a careful deliberation of the matter, and considering my position under Government, I came, however, to the conclusion that I had better not take any such proceedings against the orders of the local European magistracy, whatever might be the amount of injury that I might thereby sustain; and with great difficulty I induced them to desist from their proposition.

15. Having no other alternative, I then resolved to remove the body at once in obedience to the magisterial notice, notwithstanding the disgrace and expense attendant thereon. I purchased out of my own pocket a piece of ground in the neighbourhood of the Tank, which was pronounced to be unobjectionable by Mr. Oliver, the Vice-President. On the night of the 7th May last I had the body removed, with no small amount of trouble, to the new place where, at a considerable cost, all the ceremonies, once already performed at the original grave, from the day of death up to that day, had to be repeated, in addition to certain other ceremonies of atonement on account of the removal of the body. My Lord, whenever I think of what transpired at Negapatam in connection with my father's burial, I cannot but call to mind with indignation the arbitrary proceedings of Messrs. Weld and Thomas.

16. This unfortunately is not all. My brother has since been formally dismissed from his office of Village Munsif and Puttamongar of Negapatam on the alleged ground that, as Village Magistrate, he ought not to have interred the body at the spot. My Lord, first of all my brother was not the village officer of the locality where the burial took place, and, as such he had no local jurisdiction of any kind there; and he simply did what every ordinary man would do under the circumstances: he interred the remains of his father at the usual and customary burial ground. This is the sin my brother is said to have committed and which, in the eyes of Mr. Weld and Mr. Thomas, is so heinous as to deserve summary removal from the service of Government. I pray that your Grace will be pleased to consider for a moment if there is any shadow of official connection on his part with the burial in question. Again, the Tahsildar of Negapatam, Venkatrayulu Naidu, who has served Government honorably and with credit for many years and

who has been decorated moreover with a valuable jewel as a special mark of the favor of Government on one occasion, has actually been compelled by Mr. Thomas to send in his resignation and apply for pension, because he is alleged to have assisted in the so-called objectionable burial; whereas he went to the spot merely in his private capacity to honor the occasion and show respect to the memory of my late father of whom he was a friend.

17. I beg to summarise below the several important points for your Grace's benign and favorable consideration:—

- I. The locality where the burial in question took place is an ancient and customary burial ground. There are many old residents of Negapatam who can prove this fact; there are also masonry and other marks on the ground to prove it. The Joint Magistrate Mr. Weld would not inquire into this matter, although I earnestly begged him to do so. Why he would not is a mystery to me. This point deserves your Grace's serious notice.
- II. As an old burial ground, if it was objectionable to allow further burials to take place there, the proper course, I need hardly point out, should have been for the Municipal Commissioners to close it under Section 134 of the Towns' Improvement Act III of 1871, and to provide a new burial ground, as required by Section 135 of the same Act. They have done neither. As similar burials have taken place within the last few years, or subsequent to the inclusion of the tank in question within the Municipal limits, it may be fairly assumed that these burials had the tacit consent and sanction of the Commissioners. At present, there exists no burial ground in the large town of Negapatam where the bodies of deceased Brahmin and other Sanyasis can be publicly and unobjectionably buried. I request your Grace to consider whether it was in any way just or legal, under the above circumstances, to order the removal of the body once interred in the customary burial ground. Moreover, the course adopted by the Joint and District Magistrates of Tanjore in the above case is in direct opposition to the spirit of the standing orders of Government with regard to ancient burial grounds (*vide* Board's Standing Order No. 31, Dalryell's Edition).
- III. Mr. Oliver, the Vice-President of the Municipality, who was indirectly the cause of all this trouble to me, apparently abstained from taking proceedings in the case under the Municipal Act, knowing full well that he must eventually fail, and that the Hindu community would establish their ancient right to bury at the spot. While so, the Joint Magistrate Mr. Weld hastily concluding that the burial in question was objectionable on sanitary grounds, took upon himself the responsibility of summarily ordering the removal of the body in an illegal manner, in the absence of any complaint from the people or of the Municipal Commissioners, and this in spite of our earnest and reasonable protests.
- IV. Even supposing that the burial in question was objectionable on sanitary grounds, could no remedial measure have been devised which,

as I assured Mr. Thomas, I would gladly carry out, no matter at what cost, instead of having recourse to the extreme measure of hastily and summarily ordering the removal of the body once properly buried? Throughout the whole country (Tanjore not excepted) Hindu and Mahomedan burials daily take place on the banks of tanks and ponds. What arrangements have been made to stop all these burials or to exhume and remove the bodies recently interred? Why, I would ask, should my case be treated with such exceptional severity and hardship? The body of my father was not, your Grace will perceive, carelessly buried; the large quantity of 240 seers of salt was laid under and placed all round and over it in a deep grave, so as to preserve the body from decomposition. Between the place of burial in question and the water in the tank there are solid flights of masonry steps, platforms, and walls with foundations, as will be observed from the accompanying plan. There was, therefore, really no fear of danger being occasioned to human health or life by contamination of the water of the tank, so as to justify the extreme measures adopted by the magistracy in this case. Ordinary people cannot comprehend the theory of decomposed matter from the body ever penetrating this masonry and coming in contact with the water of the tank. To none of the 2,000 inhabitants of the Town who were present on the occasion did it occur that the burial in question was objectionable on sanitary grounds. It did not so occur to the experienced Tahsildar and Magistrate Venkatrayulu Naidu who has been found fault with and punished so severely for being present on the occasion as stated above. How could it then occur to my brother, who is a man only of ordinary ability, and just then in deep grief at the loss of his beloved father, that the burial was so extremely objectionable, especially as the locality was always used for burials of the kind? That there was no secrecy about the burial in question will be clear from what has been stated above as to the place, time, and manner in which it took place, and yet not a single soul in the whole Town took objection to the burial either at that time or subsequently. People continued to bathe in the tank and to drink its water as usual from the moment after the burial took place.

18. Thus your Grace will observe that the disinterment of the body in question was quite unnecessary, and that the Magistrate has acted in a most indiscreet manner with entire disregard to the feelings of the Hindu community at large; and which is also altogether opposed to the ordinary principles of justice. The arbitrary procedure adopted by Mr. Weld is not less remarkable than the order for removal. First, there was a verbal order of suspension of my brother from his office; in the next breath, a verbal dismissal; the next moment, a verbal order to remove the body at once; when I sent two Lawyers to put in a statement of my objections, no inquiry whatever is held, and no redress is given me, but a written notice is served upon my brother, under what law or section of the Code of

Criminal Procedure, I am not informed. Whether this omission was not intentional, so as to give me no opportunity to question the order which the Magistrate saw I was protesting against, I leave it to your Grace to decide. The notice, if justifiable at all, ought to have been under Section 521 of the C. P. C. I was, under the provisions of the Code, entitled to the verdict of a jury or Panchayet, to be constituted by the joint nomination of myself and the Magistrate as to the injurious nature of the act complained of, and whether the body ought or ought not to be removed from the spot. I beg to ask, why should I be denied this right which the law gives to every one of Her Majesty's subjects in this country? Was it because I am the Head Sheristadar of an important district and my brother, a village Munsif, or because the Negapatam Taluk Magistrate happened to attend, as a friend, the funeral of my father? Not satisfied with the order for removal, not content with his arbitrary procedure, the Joint Magistrate Mr. Weld was pleased and thought it proper to treat the sacred remains of my father, a venerable Hindu Sanyasi, with contempt and insult as evidenced by his notice (Appendixes B and C), which enjoins that if, in accordance therewith, the body be not removed, not only would my brother be prosecuted under Section 188 of the Indian Penal Code, but also he (Mr. Weld) would cause the body to be removed on behalf of Government and have it re-interred in what he calls "Hathaway's Park." The so-called park is notoriously the place set apart by the Municipal Commissioners in the south-west of Negapatam for the deposit of the night soil and rubbish of the Town and where, I believe, dogs are buried! at all events, it is not a new burial ground provided by the Municipal Commissioners under Section 135 of the Towns' Improvement Act or an existing burial ground where decent human burials could take place. Surely, Mr. Weld could hardly expect me to understand that that place of filth was henceforward to form the future burial ground for Hindu Sanyasis. That cannot be. The use of the words "Hathaway's Park," therefore, in the notice in question was clearly to insult and annoy me and my family. I would earnestly ask your Grace, what necessity was there for the Magistrate to use this most improper and wholly uncalled for expression in his notice? Mr. Weld should, I submit, be required to answer this question to your Grace's satisfaction.

19. In conclusion, if the magistracy were acting under the *bonâ fide* belief that the removal of the body was absolutely necessary for the protection of public health, be it so. But it is the manner in which we were treated, the hasty and inconsiderate mode in which the order was given, the illegal and irregular procedure throughout adopted by the magistracy, the utter disregard of the sacred nature of the burial, the insulting and contemptuous treatment of the remains of the deceased Sanyasi, the high-handed manner in which the rights of a large section of the Hindu community have been trifled with, it is such conduct on the part of the Joint and District Magistrates that it is my chief object to bring to your Grace's serious consideration. In my particular case the mischief has been done and the odium incurred. Nothing, therefore, now remains for me to do but respectfully to lay these extraordinary and unprecedented circumstances before your Grace for such consideration and orders as your Grace may deem just and proper, after calling for the records of the case and the correspondence that passed between

the Joint and District Magistrates on the subject, in which, I believe, my timely remonstrances and prayers must have found place.

20. Finally, Mr. Thomas has, for some unknown reason, not as yet, written to my Collector, as he threatened he would, against my supposed misconduct in the matter in question. I wish he had done so; for, in that case, Mr. Whiteside, my official superior, would have been in a position to express freely his official opinion on the case.

APPENDIX A.

Statement of Objections filed before the Joint Magistrate of Tanjore.

The place where our father's remains have, at present, been interred is a locality which, from time immemorial, has been appropriated for the interment of *Brahmin Sanyasis* and others. There is no other place in the Municipality set apart for the same, nor has the Municipality or Magistracy ever expressed their disapprobation thereof by closing the ground or otherwise. No more than about three years ago there have been interments there of a similar nature which have been tacitly allowed.

2. The way in which the body has been interred is such as not to cause any harm to the sanitation of the public; because as much as 10 cullums of salt have been carefully thrown round the body so as to eat up any impurities that it may cause.

3. The interment of the body is one of a strictly religious nature. The deceased was a Sanyasi and a venerable old Brahmin of nearly 85 years, and such a halo of sanctity envelopes his tomb in the eyes of the public that should we be compelled to disturb it, it will be a grave sacrilege in the public opinion, not to speak of the extreme pain to our feelings it will cause. This opinion of the public may lead to grave social harm to ourselves which may even go the length of our excommunication from our caste.

We, therefore, beg that the honorable court, whatever it may think it judicious to order about matters of this sort in future, will be pleased to let this interment undisturbed in consideration of the foregoing circumstances.

(True Copy.)

(Signed) KISTNASAMY IYER.

APPENDIX B.

Translation of the Joint Magistrate's Notice.

Mr. M. R. WELD, Acting Joint Magistrate of Tanjore in charge, Hereby orders SASHAPPIEN, Village Munsif of Negapatam, that is to say—

Whereas you have buried the corpse of your deceased father on the bund of the Ackaraikolum Tank, attached to Negapatam, which contains fresh water, which is chiefly drunk by all the people; and whereas the water that will ooze out of the body so buried will go and fall into the water of the said Tank, situated close by and thereby it is likely to cause nuisance and disease to the people who drink the above water; you should, within the night of Saturday, the 13th instant, take out and remove the said your father's corpse. If you do not, within that time, take it away, not only will prosecution be taken against you, under Section 188 of the Indian Penal Code, the body will be removed on behalf of Government and buried in the place called Hathaway's Park or it will be dealt with in any other manner which may be convenient.

NEGAPATAM,
6th May 1876.

(Signed) M. R. WELD,
Acting Joint Magistrate.

(True Translation.)
(Signed)

KISTNASAMY IYER.

No. 20-E. *Read also letter from H. S. THOMAS, Esq., District Magistrate of Tanjore, to the Hon. W. HUDLESTON, Chief Secretary to Government, Fort St. George, dated 25th July 1876, No. 2815.*

ABSTRACT.—Submitting copy of an explanation from the Head Assistant Magistrate regarding his order for the removal of the body of the deceased Brahmin from its place of interment.

No. 20-F. *Read also letter from H. S. THOMAS, Esq., District Magistrate of Tanjore, to the Hon. W. HUDLESTON, Chief Secretary to Government, Fort St. George, dated 15th August 1876.*

ABSTRACT.—Submitting report and all connected papers in the case of the burial and exhumation of the body of the Sanyasi at Negapatam.

No. 20-G. ORDER THEREON, 2nd September 1876, No. 1585.

The Governor in Council has perused these papers with the utmost regret. It is clear that the place of interment was and had been a customary burial place for Brahmin and Sudra Sanyasis, and that no steps had been taken by any authority to prohibit such burials, or to prohibit the use of the place as a place of burial, under the powers of the Municipal, or any other law. There can be no doubt also that any danger of contamination by impurity from decomposition of one body buried at a distance of 15 or 20 yards from the water, with a thick wall and a large flight of steps intervening, might have been entirely prevented without the removal of the corpse from the grave.

2. Under such circumstances the Joint Magistrate hastily and without investigation of the circumstances proposed to put in force the utmost powers of the law, and, without taking warning from the doubt suggested by the letter of the Acting Collector, issued an order purporting to be under the Statute, but in which he incorporated a threat entirely unjustified by the Statute, and which was an insult to the feelings of the family and of the entire Brahmin and Hindoo community, as well as an outrage to decency.

3. Mr. Weld has shown himself to be at present, at least, entirely wanting in the qualifications essential to the due exercise of judicial or magisterial functions. He will accordingly be removed from his appointment as Acting Head Assistant in Tanjore, and suspended from all employment for two months; and it is further ordered that the exercise of all magisterial functions be withheld from him, until powers are again expressly conferred by order of Government.

4. The Governor in Council has also to consider the action of the Acting Collector in this matter, and while the Government is able with satisfaction to recognise Mr. Thomas's strenuous efforts for improved administration in Tanjore, and to allow due weight to the fact that cholera had for long raged in Negapatam and spread thence with most fatal effect over the length and breadth of the Presidency, and that he was ignorant of the crowning offence offered to the people concerned by his subordinate, they cannot disguise from themselves the fact that he omitted to institute close examination in a most delicate case where he admittedly entertained doubt, and that his action failed to secure reasonable

consideration for those who claimed protection from the acts of his customs of the community comments on the facts of the exaggerated idea of the imp subordinate in a town which had been and in a line of action which he thought the law. This feeling appears unfortunate large discretion granted by the Statute imposes a corresponding increased responsibility upon those who enforce it, and thus an unnecessary, harsh and unfeeling procedure was allowed against those whom it was his especial duty to protect from anything like oppression or wrong. His continued severity, however, in sanctioning the steps taken with regard to the Municipal officers, when he was aware that the case was under appeal to Government, appears not only to have been harsh in itself but unjustifiable and ill-judged in the extreme, and the Governor in Council regrets to be obliged to record his marked condemnation of it.

5. The Governor in Council directs that Seshappier, the son of the deceased, be at once restored to the post of Village Magistrate from which he was dismissed, and that the family be informed of the extreme regret with which Government have learnt the distress to which they have been subjected, and of the desire of Government to relieve them from all expense connected with the provision of the second burial place and the ceremonies on the re-interment. The Collector will endeavour to ascertain the amount from them, and will at once reimburse it, reporting his proceedings for confirmation.

6. The Municipal Commissioners will no doubt act in regard to their dismissed servants in accordance with the spirit of this decision.

7. The case of the Tahsildar appears to depend on some distinct considerations. The Government, however, desire that this present matter may in no respect prejudice its disposal.

8. In conclusion, His Grace the Governor in Council desires to record his marked approval of the course adopted by the family of the deceased and their fellow towns-people in the circumstances which arose after the funeral. The temper and moderation of their representations under extreme provocation, and their entire abstinence from any violent acts or language, under circumstances which were calculated to excite the warmest feelings of grief and anger, are entitled to the highest commendation.

(True Extract.)

W. HUDLESTON,
Chief Secretary.

To the District Magistrate of Tanjore.
.. the Board of Revenue, through the Revenue Department.
Extract from paragraph 3 to the Accountant-General.

Revenue
2256
Proceedings of the Madras Govt

Read over from A.S.
Secy 18th of Rev: of 18th September 1876
No 1499 requesting to send a copy of
of G.O 2nd September 1876 No 1505
in which the case of the Tahsil
of Nagapattinam is referred to.

Order thereon 28th September 1876 No 2256.

Ordered that a copy of
the G.O be furnished to the
Board as desired.

(True Extract)

1499 D. J. Harward
Secy to Govt

To

The Board of Revenue
with a copy of this No 2257.

Revenue Board Office

Secy to Govt

No 1499

18 September 1896

Official Memo.

The undersigned is directed to request that the officiating Under Secretary to Government Public Works Department will be good enough to furnish the Board, as soon as possible, with a copy of G. O. 2nd September 1896 No 1885 F. D. in which the case of the Tahsildar of Nagapattam is referred to. The G. O. is required for the disposal of a letter received from the Collector of Tanjore on the subject.

By order /

H. H. Thomas

By Secretary

The Offg Under Secretary to Government P. W. D.

W. H. Lockyer

C. S.

Revenue 76 Sept

No 2256

Secy of the Madras Govt

28 Sept 1896

No 1499

No 1498

Transferred to the Revenue Department
with reference to G.O. of 22 Sept 1906. N. 1585.
Hindi. Com? to that department for the informa-
tion of the Board of Revenue.

26 Sept 1906

W. D. L. S. R.

Revenue Department
H. D. S. R.

N. 4006A

From the Deputy to the
Board of Revenue
to the Off. Secy. Secy
S. D. S. R.

Del. Secy. Secy

22 Sept 1906

Revenue Department

22 Sept 1906

Revenue Department

Revenue Department

Revenue Department

Revenue Department

Revenue Department

Revenue Department

Revenue Department

Revenue Department

Revenue Department

Revenue Department

Revenue Department

To the Board of Revenue with a copy of the G.O. No. 2257.

Off. Secy.

MADRAS RECORD OFFICE