

EAST INDIA (MR. FULLER AND
MR. LEEDS).

COPIES of all CORRESPONDENCE relating to the
Case of Mr. *Fuller* and the Case of Mr. *Leeds*;
and, of the OPINIONS and DISSENTS of any of
the Members of the Indian Council.

(*Mr. Lowe.*)

Ordered, by The House of Commons, to be Printed,
24 April 1877.

EAST INDIA (MR. WELD).

RETURN to an Address of the Honourable The House of Commons,
dated 17 May 1877;—for,

“ COPY of CORRESPONDENCE and PAPERS relating to the Suspension, in April 1876, of Mr. *Weld*, of the Madras Civil Service, for, as Magistrate of *Negapatam*, Tanjore District, causing the EXHUMATION of a BODY of a SANIYASI buried on the Banks of Drinking Water Reservoir at that Place, and all OPINIONS or DISSENTS of the Members of the Madras Council and Indian Council, if any.”

India Office, }
31 May 1877. }

GEORGE HAMILTON,
Under Secretary of State.

(*Mr. Percy Wyndham.*)

Ordered, by The House of Commons, to be Printed,
14 June 1877.

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COPY of CORRESPONDENCE and PAPERS relating to the Suspension, in April 1876, of Mr. *Weld*, of the Madras Civil Service, for, as Magistrate of *Negapatam*, Tanjore District, causing the EXHUMATION of a BODY of a SANIYASI buried on the Banks of a Drinking Water Reservoir at that Place, and all OPINIONS or DISSENTS of the Members of the Madras Council and Indian Council, if any.

Financial Department.—No. 28 of 1876.

From the Government of Madras to the Secretary of State for India.

My Lord Marquis,

WE have the honour to forward, for your Lordship's information, copy of our proceedings, marginally noted, from which it will be observed that we have deemed it necessary to remove Mr. M. R. *Weld*, Madras Civil Service, from his appointment of acting head assistant to the collector and magistrate of Tanjore, and to suspend him from all employment for a period of two months.

Dated 2nd September 1876, No. 1585.

We have, &c.

(signed) *Buckingham and Chandos.*
W. Robinson.
R. S. Ellis.

Ootacamund, 28th September 1876.

PROCEEDINGS of the Madras Government, Financial Department,
2nd September 1876.—No. 1585.

NEGAPATAM BURIAL CASE.

(No. 20 A.)

READ Petition from *S. Muthookishna 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 "Paramhansasramum." 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 bygone 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 honourable 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 60 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 nightsoil 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.

(signed) *W. Hudleston*, Chief Secretary.

Ootacamund, 20 June 1876.

(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 favourable 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 85 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 daylight at the *customary* Hindu

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 on 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 unfavourable report to your Grace with regard to the burial in question, and commenting upon my conduct.

5. I beg most respectfully to solicit the favour 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, every 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 85 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 *brindavanums* (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 honour of the deceased *sanyasi*, as prescribed by the rules of Hinduism.

5. At Negapatam there is a large fresh-water tank, or pond, called *Acharaikolum*, 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 tanks, 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

Sent separately.

within the municipal 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 *Brahmins sanyasis* used to be interred from time immemorial, but the last such burial took place about 30 years ago, as during the above period no *Brahmin sanyasi* died at Negapatam, except in one single instance, about 15 years ago, when the body was, for the convenience of the deceased 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 *Ackaraikulam* 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, inclosed 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 daylight, 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, on 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

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 that time present in his cutcherry, 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 seventh day of the obsequies, a deputation of the townspeople 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 puttamonigar 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 honourably and with credit for many years, and who has been decorated, moreover, with a valuable jewel, as a special mark of the favour 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 honour 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 favourable 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 townspeople 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

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 punchayet, 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 taluq 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 reinterred 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 nightsoil 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 honourable 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 Acka-raikolum 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.

(signed) *M. R. Weld,*

Acting Joint Magistrate.

Negapatam, 6th May 1876.

(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

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 Hindu 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 and were entitled to claim from him protection from the acts of his subordinate, and a due regard for the religious customs of the community. They regret also to have to condemn the tone of his comments on the facts of the case. But they are willing to credit him with an exaggerated idea of the imperative necessity for supporting the action of his subordinate in a town which had been stricken with disease of a malignant type, and in a line of action which he thought could be held to be within the letter of the law. This feeling appears, unfortunately, to have led him to forget that the very 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 reinterment. 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-townpeople 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.

TELEGRAM from the Secretary of State for India to the Governor of Madras,
4 November 1876.

YOUR Financial Despatch, 28, forwards petitions against Mr. Weld, but no explanations from him or Mr. Thomas. Please send them at once.

Financial Department.—No. 36 of 1876.

From the Government of Madras to the Secretary of State for India.

My Lord Marquis,

REFERRING to your telegram of the 4th instant, we have the honour to forward herewith, the explanations of Mr. Thomas and Mr. Weld in the late Negapatam burial case.

2. We forward also an abstract of the vernacular record in the case, with copy of the English portion.

We have, &c.
(signed) *Buckingham and Chandos.*
Neville Chamberlain.
W. Robinson.
R. S. Ellis.

Fort St. George, 15 November 1876.

P.S.—Since this Despatch was drafted we have received from the magistrate of Tanjore a further letter of explanation in the case which we shall in due course forward to your Lordship, with our proceedings thereon.

PROCEEDINGS of the Madras Government, Financial Department,
2nd September 1876.—No. 1585.

NEGAPATAM BURIAL CASE, No. 20-B.

READ the following letter from *H. S. Thomas*, Esq., District Magistrate of Tanjore, to the Chief Secretary to Government, dated Agastiyampalli, 22nd July 1876:—

I HAVE the honour to submit the report required by the endorsement, No. 943, dated 20th June 1876.

* Not yet received back from the Head Assistant Collector. A reminder has been sent him.

2. The enclosed petition* is somewhat numerously signed certainly, but there are more than enough of idle or ignorant people who will sign almost anything but a bond, and I am quite sure that 50 times as many signatures could readily be procured to the very opposite of this petition, and that it does not really represent the feeling of the town of Negapatam.

3. Nevertheless I will review the points of the petition on their merits.

4. The burial of Saniyasis in the neighbourhood of frequented watering places was once as much a practice of the Hindu church as the burning of widows, the offerings to Jagganat, hook-swinging, fire-walking, and such like. But at the present date such burials are not, in my opinion, more defensible than the other practices aforesaid, nor more desired by the people even, though Government has declared against the other practices, but not been called upon, that I am aware of, to express an opinion on such burials. This petition claims, however, that they are in accordance with "the established current of religious opinion," which it is said to be "highly dangerous" for executive officers to disturb. It seems necessary, therefore, that Government should now pronounce on such burials.

5. If the joint magistrate had permitted the burial to remain unchallenged, and I too had countenanced his permission in the face of a petition which I had to the contrary,
and

and the natural result had followed, that by percolation the main drinking supply of the sown of Negapatam had been poisoned, and a goodly proportion of the hundreds, nay, thousands, that resort there daily, had died or suffered, I do not see how we could have justified ourselves in the eyes even of the people committed to our care, still less before the Government we represent and serve.

6. So much for the general claim to poison drinking-water by such burials. I turn now to the special claim that there is a right to bury Saniyasis in the particular place in point.

The joint magistrate's report on this point is clear, and runs as follows:—

“ Even if the place where the Saniyasi has been buried were clearly shown to be a burial-ground, and even to be private property, it would be no reason for not issuing an order to remove the nuisance. Nuisances created by factories, &c., are, as a rule, on private property, but a man may not use even his private property to the detriment of the public health.

“ There is, however, nothing to support the contention that the place is a burial-ground, except the vague assertion that someone was buried near the place some 30 years ago, and that a Sudra Saniyasi was buried on another part of the tank bank three or four years ago; but if the authorities were careless then it is no reason they should be so again; the fact that burials have been made round the tank at long intervals of time does not constitute the tank banks a burial-ground. It is entered in the Peimash as a Brahman's bathing-place.”

7. That the son who performed the burial well knew that there was no right to bury Saniyasis there is clearly shown by his action in the matter. He procured from the municipality the liberty to inclose the spot, not for the purpose of burying, but for making a bathing-place. The real object having thus been concealed, the grave too was stealthily dug under cover of the surrounding walls, and the gate furthermore was locked. I think it is clearly inferable that he well knew that if his intention had been foreseen by the municipality it would in the interests of sanitation have been prevented, and therefore he thought to gain his end by stealth.

8. In stealth also he would have failed had he not been himself the village magistrate, and had not the tahsildar been a man who was taking his pension in a month and without any further care for the good opinion of his superiors. The tahsildar accompanied the procession, and the police consequently suspected no necessity for their intervention. They saw indeed a burial procession which of course was public, but as the taluq magistrate was present they could not think the interment was about to be made in an objectionable locality, and it was this last intention that had been kept secret.

9. The use of salt in such burials is, I understand, to prevent mundane effluvia detracting during interment from the sense of sanctity attached to the body of the holy deceased. But its action can in a moist soil be only temporary, and both from subsequent personal observation, and from the report of the joint magistrate, it was obviously inevitable that the decomposed body must very shortly percolate into the tank, for it was in a purely sandy soil with no other drainage. This view is further supported by a medical opinion taken at the time and now enclosed.

10. The real hardship in the case was the exhuming. It caused me *much* pain to witness the distress of a younger son when appealed to, to prevent it. But it would have caused me more to have seen the death of hundreds accruing from my own weakness in yielding to my feelings, rather than being governed by my reason and sense of duty. I doubt not the joint magistrate went through a like conflict of personal feeling.

11. That he was as sympathetic as he could be in the discharge of his duty is indicated by the length of time he allowed for the reburial, time which would be ample for all religious ceremonial, and even for a personal visit to Madras to obtain from Government a cancelment of the order. The length to which he carried his consideration was only justified by the presence of salt, and the fact of the deceased being emaciated. Had low-caste hands performed the exhuming, at once there might have been room for complaint of disregard of caste scruples. As it was, it was left for the friends and fellow-castemen of the deceased to make their own arrangement, and the alternative of disobedience was of course the removal of the body by others, and none but pariahs would be at the disposal of the magistrate, so that there was no real threat conveyed in the explaining of this alternative; it was only a clear warning to the parties that the difficulty could not be met by a mere money fine, that the source of probable disease and death *must* be removed somehow, and therefore that it had best be done by the relatives.

12. If any seeming hardship still remained, it must be remembered that the buriers of the deceased brought it on themselves by the stealthy way in which they deliberately set at naught the authorities, and the health and lives of the community, to say nothing of their feeling of distaste to bathing in and drinking of water contaminated by the drainage from a decomposed human body. In short, he deliberately placed the authorities in a forced position, from which there was no escape, except by exhuming. He had therefore to reap what he sowed.

13. About the legality of the order under the peculiar circumstances of the case, I entertain no doubts, and I examined this question to the best of my ability. A copy of the order is enclosed. It was at the verbal instance of the vice president of the municipality that the joint magistrate moved.

14. The parade in the petition about removal to a desecrated place is hollow. It was simply a question of expense for extra religious ceremonial to sanctify the new spot, and that spot was a private spot of their own selection.

15. One of the sons who carried out this stealthy burial, in defiance of sanitation, of authority, and of public feeling, is a man who ought to have known better. He is Krishnasami Iyer, the head sheristadar of the Collector of North Arcot, and presumably not ignorant of the sanitation questions of the day. In the heat of his distress I pitied him, and did not report him to his Collector, but now that the matter is deliberately revived, and the right to such burials is seriously contended for, I venture to submit for consideration whether he might not in some way be given to understand that the Government view his conduct with displeasure. Police, municipal and other subordinates in this district who failed in their duty, have been severally dealt with.

Under Section 519, Criminal Procedure Code.

To *Seshappayan*, Village Munsif of Negapatam.

WHEREAS you have buried the body of your deceased father on the Akkaraikolom Tank Bank, which contains good water, useful to the public at large for drinking purposes, and whereas the impurities of the body by percolating through and polluting the water, will cause injury and sickness to those using the water, I do hereby direct and require you to remove the said body of your father before the night of Saturday the 13th instant. If you do not remove it within that time, you will not only be prosecuted under Section 188, Indian Penal Code, but also the body will be removed by the Government, and buried in the place called "Hathaway's Park," or will be disposed of in whatsoever manner it will be most convenient to do.

Negapatam, 6 May 1876.

(signed) *M. R. Weld*,
Acting Joint Magistrate.

(True Translation.)

(signed) *H. S. Thomas*,
District Magistrate.

From Surgeon *L. Beech*, Acting Zillah Surgeon, Negapatam, to the Sub-Collector of Tanjore, dated 7th May 1876, No. 90.

WITH reference to our conversation of the 5th instant, I have the honour to inform you that I visited the Akkaraikolum in company with Mr. Oliver, the vice president of the municipal commission, and it is my opinion that, notwithstanding there being a flight of steps which are between the tank and the grave of the deceased, organic and other decomposing matters must obtain entrance into the tank in question from the body of the Brahman, who was buried within 15 or 20 yards of the edge of the tank, and from the nature of the soil, which is sandy, the percolation would be carried on under the most favourable conditions imaginable.

(No. 20-c.)

READ also the following Letter from *H. S. Thomas*, Esq., District Magistrate of Tanjore, to the Chief Secretary to Government, dated Point Calimere, 25th July 1876, No. 2815.

IN continuation of my letter, No. 2764, dated 22nd July 1876, I have the honour to forward the enclosed, this day received from the head assistant magistrate, and to return the Government petition.

From *M. R. Weld, Esq.*, Acting Head Assistant Collector of Tanjore, to the Collector of Tanjore, dated 21st July 1876, No. 185.

WITH reference to your letter of the 14th July 1876, No. 2693, I have the honour to inform you, that I stated in the order, that if the body of the Saniyasi was not removed by the relatives, it would probably be buried in Hathaway's Park, because the vice president of the municipality on being asked by me where the body could be buried, replied that there was no other waste ground at his disposal, and that if we were obliged to remove the body, that was the only place in which we could put it.

2. I was, as you have observed yourself, very sorry for the sons, and suffered a great conflict of feeling when resisting their entreaties, and when Pleaders Saminda Iyer (late Government Pleader), and Amasami Iyer, old acquaintances of mine, came to speak about it, I consulted them as to the cemeteries, and times at which they should be observed, and settled the time specified in the order in accordance with what they told me. I am sure that they will bear me out when I say that I did all I could to render the matter as little hurtful to the feelings of the family as was consistent with insisting on the removal of the body.

(No. 20-D.)

READ also the following Letter from *H. S. Thomas, Esq.*, District Magistrate of Tanjore, to the Chief Secretary to Government, dated 15th August 1876, No. 3051.

I HAVE the honour, as directed, to submit all the papers* in the case of the burial and reburial of the Saniyasi at Negapatam.

* To be returned as per enclosed list.

2. To make them readily intelligible, I should explain that, immediately on the receipt of the Government endorsement, I sent it into the office for the preparation of a report, but not liking the office draft I drew up a report myself. This was on 28th June 1876, so that allowing for the postage to my camp it will be seen there was no manner of delay on my part.

3. I had then no knowledge that Hathaway's Park had been specified in the acting joint magistrate's notice, but hearing that it had been, I stayed my draft and wrote to the joint magistrate for a copy of his notice, and, finding that it was so, I wrote again wishing to know the reason for Hathaway's Park having been selected, and this was before Government asked that same question. Before I could get the reply I received stringent telegrams from Government, which impelled me to send them at once my draft, incomplete as it was, and to tell them what it was that I was waiting for to complete it. This then must be the explanation of the necessary incompleteness of my report as far as it touched on the Hathaway Park question. If I had not received such stringent and repeated telegrams, I should have had time to wait the last reply and recast my draft in the parts which refer to the Hathaway Park question. All the rest wanted no recasting.

4. On that question Mr. Weld's explanation† is now inclosed in his own words.

5. On the questions which concern the municipality the answer‡ of the vice president is also inclosed in his own words, for it is a correct answer and full in all respects but one, which is, that Brahmans do not bury, they burn their dead. Saniyasis, be they Brahmans or Sudras, are buried. Lingayats and a few other Hindus also bury, and it seems that Hindu children are buried; but the point has not arisen at all in the present case. If any number of burial grounds had been provided the Saniyasi burial now in question would still have been surreptitiously conducted in order that he might have been placed in that very spot as one of public resort, and one therefore in which the fame of the dead would have been prominent, albeit to the injury of the living.

† In the original to be returned. No. 34 in the List.

‡ In the original to be returned. No. 36 in the List.

6. It will please be borne in mind, however, that municipal questions have no proper pertinence to the action of the joint magistrate and myself in this matter. We had before us a body actually buried in close proximity to the main source of a drinking water of a large town. The question was not what ought or ought not to have been done by the municipality to prevent it, but what was now to be done by the magistracy to remove the evil of the existing fact; to remove the imminent danger to the health and lives of the community.

7. With reference to the remark, "Rule in Negapatam seems to be much disorganised," it may suffice to say that I imply no blame either to Mr. Weld or the vice president.

8. With reference to the tahsildar, I may mention that that too is a history of itself which is now separately before the Revenue Board.

PAPERS RELATING TO THE

9. With reference to the sub-magistrate I have made a thorough personal inquiry, and have thought best not to transfer him elsewhere even on equal pay.

10. The police also are not, in my view, to blame.

11. In the submission of this report there has been one day's delay. It has resulted from the innumerable interruptions on a return to headquarters. I am very sorry for it; but I could not possibly help it.

From *H. S. Thomas*, Esq., District Magistrate of Tanjore, to the Joint Magistrate of Tanjore, dated Vallam, 16th August 1876, No. 3065.

AMONG the several papers transmitted by you in connection with the burial of Ubbasastri, I found copies of some not attested by you. As I cannot attest them for you, and as there will necessarily be a further delay in returning them for your signature, I have submitted them to Government as received. Please see that no such omissions occur in future.

LIST of PAPERS submitted to Government with District Magistrate's Letter, dated 15th August 1876, No. 3051.

	From and to Whom.	Date and Number.	Subject.	Remarks.
1	From Joint Magistrate to District Magistrate.	160; 4 May 1876 -	Asking instructions as to whether an injunction may be issued to remove the body of a Brahman, under Section 519, Criminal Procedure Code.	
2	From District Magistrate to Joint Magistrate.	1724; 5 May 1876 -	Giving certain instructions with reference to the above, and calling for explanation from the officers concerned.	
3	From Joint Magistrate to Tahsildar and Magistrate of Negapatam.	55; 5 May 1876 -	Asking him to explain why he did not prevent the burial.	Copy.
4	Petition from Sadagopa Ayengar to Collector and Magistrate.	5 May 1876 -	Complaining against the burial of Ubbasastri.	
	Endorsement thereon - -	19 May 1876 - -	Petition rejected for want of stamp.	
5	Petition from some inhabitants of Negapatam to District Magistrate.	6 May 1876 -	Requesting that the burial may not be interfered with.	
	Order thereon - - -	6 May 1876 - -	Expressing his opinion that it was incumbent on the Joint Magistrate to cause the speedy removal of the cause of danger.	
6	Notice from Joint Magistrate Seshappien, Village Magistrate.	6 May 1876 - -	Informing that if the body is not removed before the 13th, he will be dealt with under Section 188, Indian Penal Code, and the body removed to Hathaway's Park.	Translation. Already sent up to Government with Letter, No. 2764, dated 22 July 1876. Copy.
7	Statement of objections from the sons of the deceased to the Joint Magistrate (by Va-	6 May 1876 - -	Objection to the removal of the body.	(Enclosure 1, Vakalat)
	Joint Magistrate's endorsement thereon.	6 May 1876 - -	Rejecting the above.	
8	From Joint Magistrate to the Vice President, Negapatam Municipality.	162; 6 May 1876 -	Informing that if the body be not removed by the sons it may be removed by the municipal servants to Hathaway's Park, or otherwise disposed of.	Copy.

CASE OF MR. WELD.

17

List of Papers submitted to Government with District Magistrate's Letter, dated 15 August 1876, No. 3051.—*continued*

	From and to Whom.	Date and Number.	Subject.	Remarks.
9	From Joint Magistrate to the Inspector of Police.	50; 6 May 1876 -	Asking him to assist, if necessary, the Vice President of the municipality in removing the body.	Copy.
10	From the Zilla Surgeon, Negapatam, to the Sub-collector.	90; 7 May 1876 -	Giving his opinion that the burial would injuriously affect the water of the tank.	Copy already sent up to Government, with Letter, No. 2764, dated 22 July 1876.
11	From Seshappien to Joint Magistrate.	7 May 1876 - -	Reporting the removal of the body.	
12	From Vice President, Negapatam Municipality, to Joint Magistrate.	36; 8 May 1876 -	Asking for a copy of the District Magistrate's letter on the subject.	Copy.
13	From Joint Magistrate to District Magistrate.	164; 8 May 1876 -	Reporting the removal of the body and the dismissal of the Village Magistrate, with some detailed information.	
14	From Joint Magistrate to Vice President.	167; 9 May 1876 -	Asking him to report about the truth or otherwise of the Village Magistrate's report that the body was removed.	Copy.
15	From the Sub-Collector to the Tahsildar of Negapatam.	610; 11 May 1876 -	Directing the dismissal of the Village Magistrate Seshappien.	Copy.
16	From the Tahsildar and Magistrate of Negapatam to Joint Magistrate.	36; 11 May 1876 -	Explaining his conduct in not preventing the burial.	Enclosure 1, English.
17	From the Town Magistrate, Negapatam, to Joint Magistrate.	112; 13 May 1876 -	Pointing out that the date is omitted in the notice* (to Seshappien to remove a certain wall) that accompanied Joint Magistrate's order,* No. 69, of 8th May.	* Enclosures 2.
18	From Joint Magistrate to Town Magistrate, Negapatam.	71; 15 May 1876 -	Rectifying the error above pointed out.	
19	From the Vice President, Negapatam Municipality, to the President, Negapatam Municipality.	52; 19 May 1876 -	Recommending the dismissal of the municipal servants that failed to give early information about the burial.	
20	From the Vice President, Negapatam Municipality, to the President, Negapatam Municipality.	54; 22 May 1876 -	Submitting the explanation of Beema Row, Municipal Overseer, about his conduct in connection with the burial case.	Enclosure 1.
21	From Town Magistrate to Joint Magistrate.	130; 6 June 1876 -	Requesting to know whether the Joint Magistrate has withdrawn his order about the removal of the wall as Seshappien states.	
22	From Joint Magistrate to Town Magistrate, Negapatam.	80; 8 June 1876 -	Asking that the enclosed two renewed notices† about the removal of the wall be served on the persons that put it up.	† Enclosures 2. Copies.
23	From the President, Municipal Commission, to the Vice President, Negapatam Municipality.	132; 17 June 1876 -	Asking him to obtain and submit explanations of the municipal servants about their conduct.	

PAPERS RELATING TO THE

List of Papers submitted to Government with District Magistrate's Letter, dated 15 August 1876, No. 3051—*continued.*

	From and to Whom.	Date and Number.	Subject.	Remarks.
24	From the Vice President, Negapatam Municipality, to the President, Negapatam Municipality.	78; 20 June 1876 -	Submitting certain explanation, and stating that no explanation was taken from the Registrar of Births and Deaths and the watchman, as their conduct is indefensible.	
25	From the District Magistrate to the Joint Magistrate.	2496; 1 July 1876 -	Asking for a copy of his order for the removal of the body.	
26	From Joint Magistrate to the District Magistrate.	231; 6 July 1876 -	Sending the above* with translation.*	* Enclosures 2.
27	From Town Magistrate, Negapatam, to the Joint Magistrate.	148; 11 July 1876 -	Reporting the removal of the wall.	Enclosure 1.
28	From the District Magistrate to Mr. Weld, Head Assistant Magistrate.	2693; 14 July 1876	Enclosing draft of his (District Magistrate's) reply to Government petition, and asking why Hathaway's Park was selected for the burial.	
29	From the Head Assistant Collector to the Collector.	185; 21 July 1876 -	Stating why Hathaway's Park was selected.	Copy already sent up to Government, with letter, No. 2815, dated 25 July 1876.
30	From the President, Municipal Commission, to the Vice President, Negapatam Municipality.	152; 27 July 1876 -	Sanctioning the dismissal of the municipal servants concerned.	
31	From the Collector to the Sub-Collector.	2891; 29 July 1876	Enclosing Government telegram of 28th July, and asking for all papers connected with the burial case.	† Enclosure 1.
32	From the Collector to Mr. Weld, Head Assistant Collector.	2901; 31 July 1876	Asking for an answer to Government telegram above referred to.	
33	From the Collector to the Vice President, Negapatam Municipality.	2931; 2 Aug. 1876 -	Requiring certain information for replying to the Government Official Memorandum, No. 1163, dated 29th July 1876.	Copy.
34	From the Head Assistant Magistrate to the District Magistrate.	123; 3 Aug. 1876 -	Explaining what Hathaway's Park is.	
35	From the Collector to the Vice President, Negapatam Municipality.	2988; 8 Aug. 1876 -	Enclosing copy of Government telegram of 4th August, and asking for an early reply to the questions referred to in Government Official Memorandum of 29th July.	† Enclosure 1.
36	From the Vice President, Negapatam Municipality, to the President, Negapatam Municipality.	109; 8 Aug. 1876 -	Replying to the questions asked in the Government Official Memorandum of 29th July.	

Vallam, 16 August 1876.

(True Copies.)

(signed) H. S. Thomas,
District Magistrate.W. Hudleston,
Chief Secretary.

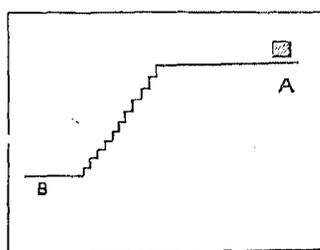
COPIES of the ENGLISH and ABSTRACT of the VERNACULAR RECORD in the
NEGAPATAM BURIAL CASE.

From *M. R. Weld, Esq.*, Acting Joint Magistrate of Tanjore, to the District Magistrate of Tanjore, dated Negapatam, 4th May 1876, No. 160.

I HAVE the honour to inform you that this morning Mr. Oliver, the Vice President, Municipal Commission of Negapatam, came to me, and informed me that the body of a certain Brahman was buried on the bank of the Akarakolam, the principal source from which the people of Negapatam obtain drinking water.

2. When I went to the place I found the information to be true, and that the burial took place on Sunday afternoon. The body is buried within 50 feet of the water, between which and the grave is a flight of steps and a brick platform. In this sandy soil the impurities of the body cannot fail to percolate through and pollute the water; the steps can be no protection.

3. The deceased is the father of the village magistrate of Negapatam, and of the Collector's Sheristadar of North Arcot. His body was buried, not burnt, as he was a Sanyasi. The burial was secretly performed, and I never heard of it till to-day. The worst feature in the case is that Venkatroyalu Nayadu, the Tahsildar of Negapatam, was there countenancing the business, and it was doubtless chiefly owing to his influence that the matter was kept quiet.



A. Grave
B. Surface of Water.

4. When I visited the spot I told the village magistrate that the body must be removed, and that I should dismiss him. Since then another of the sons, the North Arcot Collector's Sheristadar, has been up begging me not to enforce the removal of the corpse. He, as well as the village magistrate, represent that it is customary to bury bodies round this bank, but when asked when this was last done they replied that the last instance was some 30 years ago.

5. I consider that the officials concerned, including the Tahsildar, should be severely punished.

6. This burial has been premeditated for the past month, and all things got ready; amongst the rest a wall has been built round the ground intended for the tomb, which, as far as I am at present informed, is an encroachment.

7. I consider that an injunction should be issued to the sons, the village magistrate of Negapatam, and one North Arcot Sheristadar, to remove the body within say a week under Section 519, Criminal Procedure Code, and that they be warned that if they disobey it the body will be removed and they will be prosecuted under Section 188, Indian Penal Code. Shall I do so?

From *H. S. Thomas, Esq.*, District Magistrate of Tanjore, to the Acting Joint Magistrate of Tanjore, dated 5th May 1876, No. 1724.

I AM just in receipt of your letter, No. 160, dated 4th May 1876, and by the same train the North Arcot Collector's Sheristadar, who is the son of the deceased, has waited on me.

2. I cannot judge of the matter as you can, because I am not in possession of all the facts. For instance, the son states that it is a burial-place which has not been and cannot be closed except in due course under the Municipal Act; from your letter it is inferable, but it is not positively stated that this is not a fact.

3. If it be no burial-place there is no doubt that the body should be promptly removed. The son says it was buried with salt, which he was told was as much as 240 seers. If it was properly dispersed no harm may have yet ensued, but eventually decomposition must take place, and the percolation must naturally be in the direction of the water, which is the main drinking supply of the town of Negapatam.

4. If these premises then be so, I do not see how there is room to doubt that the burial must necessarily cause danger and annoyance to the persons who have occasion to use the public right of drinking the water of the Akarakolam, and that is the penal code definition of a public nuisance, and if these be the circumstances, I do not see why you should have delayed to do your duty where delay is dangerous; for if danger is to be averted it must

be by removal before decomposition, and this can be done by the sons under an order issued as you propose. Disobedience to such an order would in this case bring the disobeyer under the heavier penalties of Section 188 in that the disobedience tends to cause danger to human life and health.

5. I do not understand how the wall can have been built so close to the Akarakolam without the knowledge of the municipality; the son says it was with their sanction a month ago.

6. If it be, as I gather from your letter, that this glaring offence against sanitation has been premeditatedly done and supported by the tahsildar, then it is only another case coming close after the former, of the sub-magistrate opposing the proper action of the municipality, and a term must be put to such antagonism. It has long been decided that this tahsildar should be compelled to retire, and the recent postponement of it must now be cancelled, and he should be told to give in his resignation immediately, for even if it were a burial-ground he must have known it was an outrageous offence against sanitation thus to poison the main source of drinking water for the town, and he should have informed you, and at least discouraged it till your mind was known.

7. The village magistrate also should be promptly dismissed.

8. Was the town sub-magistrate also quite ignorant of what was being done, and did the police know nothing, and were there not municipal officers who should have known and informed you earlier than they did?

9. Rule in Negapatam seems to be much disorganised.

From *M. R. Weld*, Esq., Acting Joint Magistrate of Tanjore, to the Tahsildar and Magistrate of Negapatam, dated 5th May 1876, No. 55.

Vernacular record.

ABSTRACT.—Intimating that it appears that he (the tahsildar) was present at the burial on the bank of the Akarakolam tank of the dead body of the father of Sashappa Iyen, the village munsif of Negapatam, who died after having become a Sanyasi; and directing the tahsildar to report if he were at the burial, why he did not prevent it, specifying the reasons for the same.

GENERAL REGISTER of PETITIONS presented to the Collector of Tanjore, 1876.

General Register Number.	FROM WHOM.		Date of Petition.	Purport.	FINAL ORDER.	
	From such and such Village in such a Subdivision.	Taluq.			Purport.	No.
1.	2.	3.	4.	5.	6.	7.
712	Sadagopayengar, residing at Negapatam, Perumal Covil-street.	Negapatam	5 May 1876	Requesting that orders may be issued for not allowing the corpse of Oopasasasthriar, father of the village Munsif of Negapatam, to remain where it is buried on the side of the tank, it being injurious to the health of the people.	Returned being un-stamped.	183

(signed) *H. S. Thomas*,
Collector.

To *H. S. Thomas*, Esq., District Magistrate of Tanjore.

The humble Memorial of the undersigned Inhabitants of Negapatam.

Most honoured Sir,

WITH due deference we beg to state that, on Sunday the 30th ultimo, a Hindu gentleman of 85 years of age, named Oopasasasthriar, of Negapatam, breathed his last. About two months previous he had entered upon the fourth and the holiest of the orders of life amongst the Sanyasis, technically known in the Hindu Sashtras as "Paramhansa asramam." His body, which became highly consecrated as it were under the above circumstances, was enshrined on the said day of his soul's sacred departure on the northern bank of the tank called "Akarakolam." The deceased having been a highly-educated Sastry in the Auchara, Prayaschettar, and Carnacanda portions of the Hindu Vatas and Sashtras, and having been equally celebrated for his good and virtuous character, the procession to the burial-ground was largely attended by people of all classes of the local Hindu

Hindu community. The body was buried underground, nine feet deep, in the midst of a large quantity of salt thickly poured on all sides of it, as well as over and below it. This mode of burying the dead body is dictated by the Vadantic system of philosophy, with the apparent view of avoiding the corpse getting rotten below, and producing any result of a noxious nature. The Sashttras prescribe that bodies of worthy 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 said Akarakolam, a custom of burying the dead bodies of all classes of Saniyasis has been long since prevailing even after the said tank was included within the Municipality. By way of proving such a fact a visitor can even this day meet with the small brick columns erected over the dead bodies in bygone years; over the tombs of some of these the tree called "Arasu" 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 it is the orthodox usage having force over the countries watered by the Thamberpurny, the Vigai, the Cauvery, the Ganges, and all the sacred rivers and tanks situated anywhere between Comorin and Himalayas. Under the highly rigid rules of Hinduism it is only one among ten thousands that is admitted into the rank of Saniyasi, and indeed it is to a very selected few of them honourable burial of the above sort is accorded by the community at large. Between the place where the interment has taken place and the limit of the water of the said tank when it could be quite full, there is about 50 feet of ground, and percolation is strongly guarded against by the existence of brick ghauts, constructed with long steps one over another, and reaching a depth of 30 feet. Percolation is further prevented by the foundation of a wall between the grave and the tank. The sloping of the ground on the side of the grave being also northward, there is not the slightest chance whatever of any contagion spreading underground to the water.

2. The remains being no more than a skeleton, in consequence of the deceased having been too much advanced in age, it is apt to be speedily consumed by the quantity of salt poured all around it, and there is no reason to be afraid of the interment sending forth any contaminating effects.

3. Under such circumstances your Honor's humble memorialists deeply regret to say that the Joint Magistrate of Negapatam, under the powers given him by Criminal Procedure Code, Section 519, has ordered the disinterment and removal of the said sacred person's body within a week.

4. Exhuming the sacred body is, according to our Sashttras, a sacrilege, and is strictly prohibited under the belief warranted by our Sashttras, that any disturbance to such interment has, we beg to submit, the effect of producing a fatal and evil consequence to the religious and social welfare of the Hindus. We, your Honor's memorialists, beg to submit, for your Honor's gracious and liberal consideration, that 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 doctrine over all the land of India, with its millions of people, and that without any inquiry or investigation. It is our humble belief that as Act III. of 1871, by Section 133, gives to Municipal Commissioners (whenever they deem it necessary) power only to prevent the formation of new burial-grounds, the interment under consideration having taken place in a locality where such things are used to be done is in no way contrary to the municipal law.

5. Further, it is admittedly true that the spot in question has been more than once utilised by the people for this purpose, even after the tank was brought within the municipality, and the fact of the municipal authorities having been silent on those occasions, is undoubtedly to be construed as a connivance at such a practice, and impliedly conveys an assurance that they have sanctioned the practice. Had they been dissatisfied with this custom, they should have prohibited the same, by adopting the procedure contemplated by Section 134 of the above Act, and the absence of such a procedure on their part takes this act away from the scope of public nuisance, and in consequence, the interment being once done is not a thing to be criminally noticed, the above section strictly requiring the evidence of competent persons being gone into as to the dangerousness of the burial-ground, and authorising upon due notice and deliberate consideration alone the closing of a burial-ground after satisfying themselves about the existence of another suitable burial-ground situated near enough. We are of opinion that even the proceedings of a magistrate exercising full powers regarding the burial-ground should be regulated by sound consideration of the reasons manifested in the above section of the Municipal Act, and should have a due regard to the religious feelings of the community.

6. In conclusion, we beg to approach your Honor with this memorial, with a request that a liberal and equitable consideration may be paid, and that an order may be issued to the effect that the interment under consideration may not be disturbed to the prejudice of the religious feelings of the Sivah and Smarta classes of the Hindus.

(signed) S. Chucrapany and 64 others.

From *M. R. Weld*, Esq., Acting Joint Magistrate of Tanjore, to the Village Magistrate of Negapatam, dated 6th May 1876.

Vernacular record.

ABSTRACT.—Directing the removal, within the night of the 13th instant, of the corpse of his father, which has been buried on the bank of Akarakolam tank, whose water is used for drinking purposes by the inhabitants, as the humours from the dead body would percolate into the tank, and produce disgust and sickness to the people; and informing him that if he fails to do as directed, he will be prosecuted under Section 188 of the Indian Penal Code, and that the corpse will be removed and buried in Hathaway's Park, or disposed of in any other way which may appear convenient.

Statement of Objections.

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 Brahman Saniyasis 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 kalums 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 Saniyasi, and a venerable old Brahman, 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 own 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.

4. We therefore beg that the honourable 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.

(signed) *L. Saminada Pillay,* } Pleaders.
T. K. Munusami, }

From *M. R. Weld*, Esq., Acting Joint Magistrate of Tanjore, to the Vice President of the Municipal Commission, Negapatam, dated Negapatam, 6th May 1876, No. 162.

I HAVE the honour to inform you that I have issued an order under 519, Criminal Procedure Code, for the removal of the body buried on the banks of the Akarakolam, warning the persons concerned that if it is not removed before Tuesday next, 9th, that it will be removed.

2. I therefore request that you will see that it is removed, and if it is not removed on Tuesday, that you will on that day have it removed by the municipal servants. It may be buried in Hathaway's garden, or disposed of as may be most convenient.

3. I have sent the enclosed order to the inspector of police. Why did not the tank kavulgars or some of the other municipal servants give earlier information of the burial?

From *M. R. Weld*, Esq., Acting Joint Magistrate of Tanjore, to the Inspector of Police, Negapatam, dated 6th May 1876, No. 50.

Vernacular record

ABSTRACT.—Directing him to be present and to assist the Vice-President of the Municipality, if requested by him, in removing the dead body of the father of Sashappa Iyen, the village Munsif of Negapatam, which has been buried on the bank of Akarakolam tank.

CASE OF MR. WELD.

23

From Surgeon *L. Beech*, Acting Zillah Surgeon, Negapatam, to the Sub-collector of Tanjore, dated 7th May 1876, No. 90.

WITH reference to our conversation of 5th instant, I have the honour to inform you that I visited the Akarakolam in company with Mr. Oliver, the Vice President of the Municipal Commission, and it is my opinion that, notwithstanding there being a flight of steps which are between the tank and the grave of the deceased, organic and other decomposing matters must obtain entrance into the tank in question from the body of the Brahman, who was buried within 15 or 20 yards of the edge of the tank, and from the nature of the soil which is sandy, the percolation would be carried on under the most favourable conditions imaginable.

From *Sashappa Iyen*, Village Magistrate of Negapatam, to the Acting Joint Magistrate of Tanjore, dated 7th May 1876.

ABSTRACT.—Acknowledging the receipt of the order of the 6th instant, directing him to remove, within the 13th instant, the corpse of his father which had been buried on the bank of the Akarakolam tank at Negapatam. Reports that as he was informed that the joint magistrate wished at first to have the body removed within the 9th instant, he has this day, *i.e.*, the 7th instant, had it removed to the nunjah land, in the village of Jaggannathapuram and lying to the north of the above-said tank, which land he on the same day purchased and showed to the Vice President of the Municipality, and obtained a license from him and interred the dead body at that place. Vernacular record.

Representing that he is a poor man having a (large) family; that he has no other means of livelihood than his appointment; that he has already incurred large expense in the matter and sustained heavy loss; and that his conduct and ability would be evident if an inquiry be instituted. Requests that the joint magistrate will be mercifully pleased not to deprive him of his employment in any way.

From *F. Oliver*, Esq., Vice President of the Municipal Commission, Negapatam, to the Acting Joint Magistrate of Tanjore, dated Negapatam, 8th May 1876, No. 36.

I HAVE the honour to acknowledge your letter of the 6th May, No. 162.

2. The friends of the deceased person assured me that you allowed them time up to Saturday next to remove the corpse from the bank of the Akarakolam, and engaged to produce before me your written permission to that effect, but your letter under reply names Tuesday for the date I have to take notice of their default.

3. In the letter from the district magistrate on this subject which you kindly allowed me to peruse, there is more than one matter that the Commissioners should notice, and I shall be obliged by your sending me a copy if you see no objection to my request.

From *M. R. Weld*, Esq., Acting Joint Magistrate of Tanjore, to the District Magistrate of Tanjore, dated Camp Perellam, 8th May 1876, No. 164.

I HAVE the honour to reply to your letter of the 5th instant, No. 1724.

2. Even if the place where the Saniyasi has been buried were clearly shown to be a burial-ground, and even to be private property, it would be no reason for not issuing an order to remove the nuisance. Nuisances created by factories, &c., are, as a rule, on private property, but a man may not even use his private property to the detriment of the public health.

3. There is, however, nothing to support the contention that the place is a burial-ground except the vague assertion that some one was buried near the place some 30 years ago, and that a Sudra Saniyasi was buried on another part of the tank bank three or four years ago; but if the authorities were careless then it is no reason they should be so again; that fact that burials have been made round the tank at long intervals of time does not constitute the tank banks a burial-ground. It is entered in the Pimash as a Brahmans' bathing-place.

4. The wall was built with license from the municipality; the license permitted the erection of a wall, so as to make a place for Brahmans to bathe in, screened from the gaze of passers-by, provided he leaves it open to all desiring to use it. He built his wall, put a door to it, on which he put a padlock, and buried his father inside. I believe that

all through he was slowly preparing this place for his father's burial. The body was removed on Sunday, 7th; *vide* report of the village magistrate, which I enclose. I also enclose a letter from Dr. Beech on the subject, and the petition sent with your endorsement of the 6th instant, which directs me to return it.

5. I have directed Venkatroyalu Nayadu, the Tahsildar of Negapatam, to resign at once. I recommend that he be suspended at once, and his successor sent to take charge at Trivalore, that I may be able to go on with the Jummbundy on the 15th.

6. I have also dismissed the village magistrate, as you say rule in Negapatam is quite disorganised. I recommend that the town sub-magistrate be sent back to the police; he has shown himself quite unfit for his post. Even if he is frightened into proper behaviour for the present he will relapse on the first opportunity. He is the chief cause of the disorganisation of authority. I am certain he knew all about the burial, but I cannot prove it.

7. The police inspector, going by an old G.O. of 1866, believed the Akarakolam to be beyond the limits, and never kept a watch there. He has been set right on this point. I may remark that he once wrote asking the Commissioners to inform him what are the municipal boundaries, but got no answer. Mr. Oliver and the Commissioners foolishly, as I think, considering it *infra dig* to correspond with him, it is to be regretted they did so, thus displaying themselves a fine instance of that spirit of obstructiveness and want of harmony of which they complain in others.

From *M. R. Weid*, Esq., Acting Joint Magistrate of Tanjore, to the Vice President of the Municipal Commission, Negapatam, dated Perellam, 9th May 1876, No. 167.

WITH reference to your letter, No. 36, dated 8th instant, I have the honour to inform you that Sashappa Iyen, village magistrate of Negapatam, sent up a report to me yesterday, stating that his deceased father's body was removed from the Akarakolam tank bank on Sunday the 7th instant, and buried in a place approved of by you, and to request you to let me know if this is true.

2. As requested by you, I herein enclose a copy of the district magistrate's letter, No. 1724, of 5th instant.

From the Acting Sub-collector of Tanjore, to the Tahsildar of Negapatam, dated 11th May 1876, No. 610.

vernacular record.

ABSTRACT.—Informing him that Sashappa Iyen, the Village Munsif and Puttah Moniagar of Negapatam, has been, from the 6th instant, dismissed from his appointments on account of his having buried the dead body of his father close to the water of Akarakolam tank, which has been useful to many people for bathing and drinking purposes, so as to contaminate the water, while he is bound to prevent such acts on the part of others; and directing to strike off his name from the service register, and to recommend competent persons for the place, and send them to the Acting Sub-collector.

From *R. Venkatroyalu Nayadu*, Second-class Sub-Magistrate, Negapatam Taluq, to the Acting Joint Magistrate, Tanjore, dated Negapatam, 11th May 1876.

WITH reference to your Honor's Order, No. 55, dated 5th instant, calling upon me to explain my reasons as to why I did not prevent the burial of the Negapatam Village Munsif's deceased father (who took Saniasum and died) on the side of Akarakolam tank, if I had been to the spot on the occasion, I humbly beg to submit this explanation on the subject, fully trusting that it would meet with your Honor's approbation.

2. Just as the other inhabitants of Negapatam I was also informed, at about 2 p.m. on the 30th ultimo, that Voobasastrial, the father of the said Village Munsif, who took Saniasum, had died, that his body was being carried for interment, and that I should attend the ceremony.

3. The dead body, accompanied by about 2,000 inhabitants of Negapatam and with native music, &c., was brought to the northern side of the "Akarakolam," where it is customary to inter the bodies of Saniyasis who died at Negapatam. In conformity with the Hindu religion and custom, I went to the spot at 3 p.m. to reverence the dead body of the Brahman "Saniyasi" on the occasion of its burial. I saw a pit had been dug out for the interment of the deceased "Saniyasi," and also walls erected around the pit with a gateway

a gateway and door. I was given to understand that the said walls have been erected under a license obtained from the municipality.

4. At the time of the interment in question about 2,000 inhabitants of Negapatam of all classes, such as Brahmans, Chetties, Soodras, &c., who use the water of the "Akarakolam" were presented at the spot; they did not raise any objection to the burial in question on the score that it would cause danger to the health of those who use the water of the said tank; it is customary to bury the bodies of "Saniyasis" who died at Negapatam on the western, northern, and eastern sides of the said tank; the interments of the deceased "Saniyasis" on those sides of the tank were not objected to at any time either by the people or by authorities; the grave had been dug and other preparations made for the interment before I went to the spot; it did not occur to my mind that the said interment would cause danger to the health of the people who use the water of that tank; for these reasons I did not prevent the burial in question.

5. It will be apparent from the fact of my having often complained to the sub-collector and to the municipal commissioners that the inhabitants of Negapatam are in great need of good water, and that some measures should be adopted to meet the demand; that I am a stern advocate of the welfare of the people of Negapatam, especially with regard to their water supply, and that I would have strongly objected to and stopped the interment of the said deceased Brahman "Saniyasi" if I had thought in the least that the same would produce injury to the health of those who have a right to the use of the water of the "Akarakolam."

6. Under the above circumstances, I humbly beg that your honour will be pleased to see that I was not in a position to prevent the burial in question.

From *M. R. Weld*, Esq., Acting Joint Magistrate of Tanjore, to the Sub-Magistrate of Negapatam Division, dated Negapatam, 8th May 1876, No. 69.

ABSTRACT.—Informing him that a notice is sent herewith, to be served upon Sashappa Iyen, the village Munsif of Negapatam, enjoining him to pull down the stone wall which he has built on the northern bank of Akarakolam Tank, as it causes obstruction of way, and directing the sub-magistrate to get the notice served on the person named, and to report whether the wall is pulled down within the date specified in the notice. Vernacular record.

From the 3rd-Class Magistrate of Negapatam Division, to the Acting Joint Magistrate of Tanjore, dated 13th May 1876, No. 112.

ABSTRACT.—States that he received the Order, dated 8th instant, No. 69, but that in the notice, which was sent by the joint magistrate, ordering the removal of the wall which Sashappa Iyen built on the northern bank of Akarakolam Tank, causing thereby inconvenience to the passers by, the date within which the wall should be pulled down has not been inserted, and that the Notice has, therefore, been returned, with the request that it may be sent back to him after having the date inserted.

From *M. R. Weld*, Esq., Acting Joint Magistrate of Tanjore, to the Village Munsif of Negapatam, dated 15th May 1876.

NOTICE.—Directing him to demolish the wall built by him on the northern bank of Akarakolam Tank, causing thereby obstruction of way both to men and cattle, and to remove the obstruction within the 25th instant; and informing him that if he is unable to execute the above order, he should appear before the joint magistrate in person at 12 o'clock on the 15th instant, and state the reasons for the same.

From *M. R. Weld*, Esq., Acting Joint Magistrate of Tanjore, to the Town Magistrate of Negapatam, dated 15th May 1876, No. 71.

ABSTRACT.—Returning the Notice, sent with his urzi, dated 13th instant, No. 112, with the date inserted in it, and directing him to serve it if the wall has not yet been removed, but if the wall has been pulled down to return the notice unserved. Vernacular record.

From *F. Oliver*, Esq., Vice President of the Municipal Commission, Negapatam, to the President of the Municipal Commission, Negapatam, dated Negapatam, 19th May 1876, No. 52.

THE Commissioners considered in their meeting the late burial of a corpse on the banks of the Akarakolam, and also had before them copy of the district magistrate's letter to the joint magistrate, No. 1724, dated 5th May 1876.

2. I am desired to note for your information the following facts :—

3. On the 3rd February 1876, one Iyasami Iyen applied for permission to build a wall and verandah on the bank of the Akarakolam "where the Brahmans bathe." This was reported upon by the inspector, and, after a full discussion at a meeting, the permission was granted on condition that it be open to the public. This permission to Iyasami Iyen was evidently appropriated by Sashappa Iyen, the municipal registrar of births and deaths, and he built a walled enclosure on the site, and buried his father there without asking or obtaining the Commissioners' permission; and here I am to state that Commissioner R. Venkatroyalu Nayadu was both present at the meeting and took part in the discussion when the permission to Iyasami Iyen was granted, and the Commissioners learn that he was also present at the funeral of Sashappa Iyen's father. The Commissioners hold their servants responsible—

1st. For the unauthorized erection of a walled enclosure not being detected and reported to them.

2nd. For neglecting to report the intended burial of a corpse on the tank bank.

3rd. For neglecting to make any report whatsoever of the burial, even after it had taken place.

It has been satisfactorily ascertained that Mr. Muir, the inspector, was absent from the town on duty when the walled inclosure was erected and the burial took place, he is therefore acquitted.

Beema Row, the sanitary overseer, in immediate charge of the division; Sashappa Iyen, the registrar of births and deaths; Alagan, the divisional peon, and the tank watchman, are all guilty of one or all of the three offences, and I have the honour to recommend their prompt dismissal at the desire of the Commissioners.

From *F. Oliver*, Esq., Vice President of the Municipal Commission, Negapatam, to the President of the Municipal Commission, Negapatam, dated Negapatam, 22nd May 1876, No. 54.

I HAVE the honour to forward herewith a petition presented by Beema Row, the sanitary overseer, for your perusal.

From *Beema Row*, Sanitary Inspector, to the Vice President of the Municipal Commission, Negapatam, dated Negapatam, 20th May 1876.

To my great surprise and sorrow I heard this day that at the last meeting your honour passed a resolution that I and some other municipal servants should be removed, on the ground of our not having given due information to your honour of the burial of a corpse on the Akarakolam Tank bank, to which I humbly beg to submit this explanation, with a view that your honour will be pleased to take it into your favourable consideration :—

2. On the day the burial took place, and on the following two days, I was so busily engaged in going through the streets to look to sanitary arrangements both morning and evening that I did not hear anything about the burial at all. On the noon of the 3rd instant, when I went out as usual, I learnt that there was a corpse buried on the tank bank, and I immediately went over to the spot and inspected it. Finding that such was the fact, I made an entry of that in my diary, and reported the matter to your honour that very evening. Consequently the delay in giving information to your honour, and not on account of carelessness on my part, was caused.

3. I have been holding my present post for the last four years, and on no occasion was I found fault with for neglect of duty or for connivance at any violation of the Municipal Act by the people of the town, and I have been throughout giving entire satisfaction to your honour. I beg to say that in this burial case I was perfectly innocent, and I could have had no motive in keeping the matter secret and thereby bringing ruin upon myself. Under these circumstances I humbly beg that your honour will be graciously pleased to take my pitiable case into favourable consideration and allow me to hold my post. I have got a large family to maintain, and I entirely depend upon the bare pay I now draw for my support.

From the Third-class Magistrate of Negapatam Division, to the Acting Joint Magistrate of Tanjore, dated 6th June 1876, No. 130.

ABSTRACT.—Reports that the notice, received with the order, dated 15th May last, No. 71, was, on the 16th of that month, served on Sashappa Iyen, the village Munsif of Negapatam, but that he had not yet pulled down the wall which he has built on the way to the Akarakolam Tank, although ten days have elapsed since the date specified in the notice for the demolition of the wall; and that when questioned, Sashappa Iyen has replied that the joint magistrate told him that he need not remove the wall; but that no intimation of the same has been given to the third-class magistrate. Vernacular record.

Prays, therefore, to be informed whether the joint magistrate has withdrawn his order to remove the wall.

From *M. R. Weld, Esq.*, Acting Joint Magistrate of Tanjore, to the Sub-Magistrate of Negapatam Division, dated 8th June 1876, No. 80.

ABSTRACT.—Directing him to serve the notices herewith sent on Sashappa Iyen, the late village Munsif of Negapatam and on Iyasami Iyen, and to report in detail whether they have pulled down the wall built by them on the northern bank of Akarakolam Tank, so as to cause obstruction of way, within the date specified in the notices. Vernacular record.

NOTICE.

THE Acting Joint Magistrate of Tanjore hereby directs that Sashappa Iyen, the village Munsif of Negapatam, should remove, within the 14th instant, the wall which has been built by him on the northern side of Akarakolam Tank, causing thereby obstruction of way both to men and cattle; but that if he cannot carry out the above order, he shall appear before the joint magistrate at 12 o'clock on the 13th instant and report the same.

8 June 1876.

NOTICE.

THE Acting Joint Magistrate of Tanjore hereby directs Iyasami Iyen, residing at Negapatam, that as it has been reported to the joint magistrate that he (Iyasami Iyen) has raised a wall so as to cause obstruction to the way lying to the north of Akarakolam Tank and inconvenience to the men and cattle that pass by the way, he shall break down the wall and remove the obstruction within the 14th instant; but that if he cannot do so, he shall state the reasons for the same to the joint magistrate by appearing before him on the 13th instant at 12 o'clock, noon.

8 June 1876.

From *H. S. Thomas, Esq.*, President of the Municipal Commission, Negapatam, to the Vice President of the Municipal Commission, Negapatam, dated Point Calimere, 17th June 1876, No. 132.

WITH reference to your letter dated 19th May 1876, No. 52, I have the honour to request you will be good enough to obtain and forward to me any explanation that the municipal servants referred to may have to give, with your remarks thereon, before I can sanction their dismissal.

From *F. Oliver, Esq.*, Vice President of the Municipal Commission, Negapatam, to the President of the Municipal Commission, Negapatam, dated 20th June 1876, No. 78.

I HAVE the honour to acknowledge the receipt of your No. 132, dated 17th June 1876.

2. The explanation furnished by the overseer Beemah Row was forwarded on the 22nd May 1876, with my letter No. 54, and I have the honour now to enclose the explanation furnished by the Peon Alagappen. The registrar of births being the chief offender, I did not ask him for an explanation, as I consider his conduct and that of the watchman as indefensible.

From *Allagappen*, a Peon of the Municipality of Negapatam, to the Vice-President of the Municipal Commission, Negapatam, dated 27th May 1876.

STATES that he has served the municipality faithfully for the last ten years, during three of which he received no pay; that on a certain Sunday, a few days ago, he did duty up to twelve o'clock noon, and having obtained from his inspector leave of absence for the rest of the day, went to Nagore to be present at the celebration of a marriage in the house of one of his relatives; that when he returned to duty on the next morning he was told that the father of the village Munsif of Negapatam was dead, and that his body was buried on the bank of Akarakolam Tank by his relatives, in the presence of one of the municipal commissioners, the Tahsildar, and other native gentlemen; and that he did not report the occurrence, thinking no wrong had been done.

From *H. S. Thomas*, Esq., District Magistrate of Tanjore, to the Acting Joint Magistrate, Negapatam, dated Calimere Point, 1st July 1876, No. 2496.

I HAVE the honour to request you will be good enough to furnish me with a copy of the order issued by you to Sashappa Iyer and others for the removal of the corpse buried in the northern bank of the Akarakolam, to allow of my enclosing it in a report called for by Government.

From *M. R. Weld*, Esq., Acting Joint Magistrate of Tanjore, to the District Magistrate of Tanjore, dated Negapatam, 6th July 1876, No. 231.

WITH reference to your letter of the 1st instant, No. 2496, I have the honour to forward herewith a copy of the order (with a translation thereof in English) issued by me, under Section 519 of the Code of Criminal Procedure, to Sashappa Iyer, to remove the corpse buried in the northern bank of the Akarakolam at Negapatam.

Under Section 519, Criminal Procedure Code.

To *Sashappa Iyer*, Village Munsif of Negapatam.

WHEREAS you have buried the body of your deceased father on the Akarakolam Tank bank, which contains good water useful to the public at large for drinking purposes; And whereas the impurities of the body, by percolating through and polluting the water, will cause injury and sickness to those using the water; I do hereby direct and require you to remove the said body of your father before the night of Saturday, the 13th instant. If you do not remove it within that time, you will not only be prosecuted under Section 188, Indian Penal Code, but also the body will be removed by the Government and buried in the place called "Hathaway's Park," or will be disposed of in whatsoever manner it will be most convenient to do.

Negapatam, 6 May 1876.

(signed) *M. R. Weld*,
Acting Joint Magistrate.

From *T. S. Kistnasamy Chetty*, Third-class Magistrate of Negapatam Division, to the Acting Joint Magistrate of Tanjore, dated 11th July 1876, No. 148.

Vernacular record.

ABSTRACT.—Reports that the two notices received with the order dated 8th ultimo, No. 79, were, on the 12th of that month, served upon Sashappa Iyer and Iyavier, referred to therein, and that the wall constructed by them on the bank of the Akarakolam Tank has been completely demolished and the obstruction removed.

To the Negapatam Station Officer.

YOU are directed to serve the two notices herewith sent on Sashappa Iyer, the late village Munsif of Negapatam, and on Iyavier, residing at the same place, and to return this order, endorsing thereon the fact of the notices having been served upon the persons.

9 June 1876.

(signed) *T. S. Kistnasamy Chetty*,
Third-class Magistrate.

THE two notices referred to in this order have been served on the parties mentioned therein on the 12th instant.

12 June 1876.

(signed) _____,
Head Constable.

From *H. S. Thomas*, Esq., Collector of Tanjore, to the Head Assistant Collector, Tanjore, dated Calimere Point, 14th July 1876, No. 2693.

WITH reference to the enclosed Government petition, dated 5th ultimo, No. 1392, and my draft reply, both which please return, please put me in a position to explain the selection of Hathaway's Park as a place of interment, and offer any further remarks you wish. Why was Hathaway's Park preferred to other Hindu burial-places authorised by the municipality?

Please expedite your reply.

From *M. R. Weld*, Esq., Acting Head Assistant Collector, to the Collector of Tanjore, dated Tanjore, 21st July 1876, No. 185.

WITH reference to your letter of 14th July 1876, No. 2693, I have the honour to inform you that I stated in the order that if the body of the Saniyasi was not removed by the relatives, it would probably be buried in Hathaway's Park, because the vice president of the municipality, on being asked by me where the body could be buried, replied that there was no other waste ground at his disposal, and that if we were obliged to remove the body, that was the only place in which we could put it.

2. I was, as you have observed of yourself, very sorry for the sons, and suffered a great conflict of feeling when resisting their entreaties, and when pleaders Saminadiyar (late Government pleader) and Annasami Ayyar, old acquaintances of mine, came to speak about it, I consulted them as to the ceremonies and times at which they should be observed, and settled the time specified in the order in accordance with what they told me. I am sure that they will bear me out when I say that I did all I could to render the matter as little hurtful to the feelings of the family as was consistent with insisting on the removal of the body.

3. I return the enclosures.

From *H. S. Thomas*, Esq., Collector of Tanjore, to the Chief Secretary to Government, dated 25th July 1876, No. 2815.

IN continuation of my letter, No. 2764, dated 22nd July 1876, I have the honour to forward the inclosed, this day received from the head assistant magistrate, and to return the Government petition.

From *H. S. Thomas*, Esq., Collector of Tanjore, to the Vice President of the Municipal Commission, Negapatam, dated Point Calimere, 27th July 1876, No. 152.

I HAVE the honour to sanction the dismissal of the municipal servants referred to in your letters, Nos. 52 and 78, dated 19th May and 20th June 1876.

Telegram from the Chief Secretary to Government to the Collector of Tanjore, dated Ootacamund, 28th July 1876.

REPORT at once what is meant by Hathaway's Park at Negapatam, and what is it used for. Send at once Weld's report to you, and any other papers connected with case not already submitted.

From *H. S. Thomas*, Esq., Collector of Tanjore, to the Sub-Collector, dated 29th July 1876, No. 2891.

WITH reference to the accompanying copy of telegram from Government, please send me all the papers in the case.

Copy to Mr. Weld, and of enclosure for information.

From *H. S. Thomas*, Esq., Collector of Tanjore, to the Acting Head Assistant Collector, dated 31st July 1876, No. 2901.

WITH reference to the Government telegram which I have sent you, I shall be obliged if you can supply me with an answer for the papers I have asked the sub-collector.

From *H. S. Thomas*, Esq., Collector of Tanjore, to the Vice President of the Municipal Commission, Negapatam, dated Point Calimere, 2nd August, 1876, No. 2931.

PLEASE put me, with the least possible delay, in a position to reply to the enclosed questions* of Government.

Copy to sub-collector for information, with copy of enclosure.

From *M. R. Weld*, Esq., Acting Head Assistant Magistrate, to the District Magistrate of Tanjore, dated Tanjore, 3rd August 1876, No. 123.

IN reply to your letter, No. 2901, dated 31st ultimo, I have the honour to state that Hathaway's Park is a large piece of waste ground of which part, the south-east corner, next the salt creek, the Devanadi, is used as a place for burying night-soil; part, which is covered with a soil composed of old decomposed sweepings, is a garden; and part, the south-west corner, which is tolerably high, is not now used for any purpose; it was once, I believe, a salt-pan, and is now simply a piece of ordinary waste land separated by a valley from the place where the night-soil is buried, and from the garden.

2. As I have already informed you, I said in my order that if the body was not removed I might be obliged to bury it in Hathaway's Park, because Mr. Oliver told me that the municipality had no other piece of waste at their disposal. You will observe that I did not say I would certainly bury it there, but that I might be obliged to do so. This is all my words amount to. Had I been unable to find a better place, I should have been obliged to bury it there. I could not tell whether a better place was to be found till I tried, and I did not see the necessity of trying till I found myself obliged to exhume the body. It was as well to point out the worst that might happen if my order to exhume were not obeyed.

3. Had

* Official memorandum from Chief Secretary to Government to the Collector of Tanjore, dated Ootacamund, 29th July 1876, No. 1163.

With reference to his letter, dated 22nd July 1876, No. 2764, the Collector of Tanjore is requested to send replies to the following questions with the least possible delay:—

Has the Negapatam municipality prohibited burials on tank bund by any public order?

Is "Hathaway's Park" an established cemetery or burial ground?

Is it used as a place for depositing rubbish?

Have the municipality closed by order any and what burial grounds?

Have the municipality provided any new burial grounds for Brahmans?

(By order),
(signed) *W. Hudleston*, Chief Secretary.

3. Had I been obliged to exhume the body, I should certainly have consulted the Tabsildar and others as to how the business might be done, and where the body might be buried, so as to hurt the feelings of the relatives as little as possible. Because I, rather incautiously, mentioned Hathaway's Park in my order, it has been hinted to Government in the petition that I acted harshly and insolently, and so as to outrage the feelings of the relatives as much as possible. This is altogether the reverse of what I really did. I (as I have already stated) asked the Pleaders as to the times, &c., of the ceremonies, so that I might fix a time for the exhumation which would best suit the relatives, and I fixed the time according to what the Pleaders told me, after consulting the relatives. The Pleaders also told me that I would not have to exhume the body, as it would be exhumed by the relatives, so that actually, when I used the threat, I fully believed that I never would have to carry it out. They expressed themselves at the time grateful to me for the consideration shown them, but, Brahmin-like, they were ready to stab in the dark, and, seeing the advantage to be gained by my unguarded expression, have given the Government to understand that I acted with unfeeling insolence instead of with the fullest consideration compatible with enforcing my order.

Telegram from the Chief Secretary to Government, to the Collector of Tanjore, dated Ootacamund, 4th August 1876.

REPLY to memorandum of 29th July not yet received. Expedite despatch. Telegraph date.

From *H. S. Thomas*, Esq., President of the Municipal Commission, Tanjore, to the Vice President of the Municipal Commission, Negapatam, dated 8th August 1876, No. 2988.

WITH reference to enclosed copy of telegram, please expedite the reply sought in my letter, No. 2931, dated 2nd August 1876.

From *F. Oliver*, Esq., Vice President of the Municipal Commission, Negapatam, to the Collector of Tanjore, dated Negapatam, 8th August 1876, No. 109.

WITH reference to your letter, No. 2931, dated 2nd August 1876, I have the honour to reply to the questions of Government* as follows:

* See foot note, preceding page.

1. No, because the practice of burials on tank bund does not exist.
2. "Hathaway's Park" was a swamp, an abandoned salt vady, reclaimed by the municipality. It never was an established cemetery or burial-ground.
3. Yes, having been transferred to the municipality by Government for that purpose (G.O., Revenue Department, 8th December 1869, No. 3133).
4. The municipality have not closed any burial-grounds.
5. No Brahman burial or burning-grounds are situated within municipal limits. The only burning-ground used by Brahmans is situated just outside the town, near Toll-gate No. 2, Velipaliam, and there has never been any interference with it.

(True copies.)

W. Hudleston, Chief Secretary.

Judicial Department.—No. 5 of 1877.

From the Government of Madras to the Secretary of State for India.

My Lord Marquis,

IN the P.S. to our Despatch, dated 15th November 1876, No. 36, we mentioned that Mr. Thomas had just submitted a further letter of explanation which we would forward as soon as disposed of.

2. For this letter Mr. Thomas subsequently requested leave to substitute another which reached us on 12th January, and which we now transmit with the individual remarks of the Members of Government on it.

3. We see no reason to modify the decision in the case at which we originally arrived.

We have, &c.
(signed) *Buckingham and Chandos.*
Neville Chamberlain.
W. Robinson.
R. S. Ellis.

Fort St. George,
2 February 1877.

Government of Madras.—Judicial Department.—2nd February 1877, No. 285.

NEGAPATAM BURIAL CASE.

READ the following Papers:—

(No. 7.)

From *H. S. Thomas*, Esq., Acting District Magistrate of Tanjore, to the Chief Secretary to Government, Madras; dated Tanjore, 8th January 1877, No. 60.

IN their Order, No. 1585, dated 2nd September 1876, passed in the matter of a Sanyasi exhumation, the Government has censured me; I desire, therefore, to submit the following explanation in the hope that the Government may be pleased to remove that censure.

2. As the merits of my conduct are necessarily dependent on a just appreciation of the merits of the case in which I acted, and in which I stand condemned, I have no means of making a defence except by a representation of the whole case; and though this will involve the discussion of points on which the Government have already passed a judgment, points which might at first sight seem to be extraneous to my individual defence as a servant, still, I trust, it will be borne in mind that no point bearing on the merits of the case can properly be germane to the action taken thereon, or, consequently, to the explanation of the springs of that action. I entertain the hope, therefore, that, viewed in this light, a fair discussion of all the merits of the matter may be held to be no impropriety on my part.

3. I cannot hope to induce the Government to come to new conclusions, unless I can show that old premises are erroneous. I may be allowed, therefore, to sift those premises.

4. The first premise is an important one; it is seemingly the basis of the Order, the point from which the string of all the conclusions depends. I make bold to say that it is an erroneous premise, and to the proof of this I apply myself. I refer to the opening words of the Government Order: "It is clear that the place of interment was, and had been, a customary burial place for Brahmin and Sudra Sanyasis." I shall hope to make it clear that it was not so, and that the parties in the case, and the Government petitioner in particular, must have very well known that it was nothing of the sort.

5. In the papers which are referred to at the head of the Government Order as read, there are petitions from Krishnasawmy Aiyar, Head Sheristadar of North Arcot, dated 5th and 11th July 1876. Subsequent to the issue of the order of censure, I have seen one of these in the public prints, and find that this supposed fact, that the place of interment was, and had been, a customary burial place, this point at issue, is therein stated in very round terms as an indisputable fact, is strengthened by repetition, built up with all details about caste divisions, supported by plan, based on local knowledge of the best description, and, finally, assumed and argued on as admitted. The petition's opening statement on this head is that the "banks of the above tank are, from time immemorial, used as the burial ground," &c. "Time immemorial." It is an impressive statement certainly;

tainly; but it happens that the tank itself does not date from "time immemorial," neither do its banks, for they are of the same age as itself, being formed of the soil thrown up in its excavation from rice fields. The history of the tank is still within the grasp of memory, and a grandson and great grandson of the projector are living clerks now. About A.D. 1760, one Akkammal, a female lady's doctor, performed such kindly offices for the Dutch ladies that the Dutch Government dug for her the tank in question, and its proper name is not Akkaraikulam but Akkammal Kulam or Akkammal's reservoir. Thus passes away the implied Hindu religious origin, and the asserted immemorial usage of the European dug tank.

6. But without being drawn by the petition into looking at all the four sides of the large* reservoir as if they were one and the same piece of ground, it is better that I should keep strictly to the real point at issue, the place where the Sanyasi was actually interred. The real question is, was "the place of interment" "a customary burial place"?

7. It has already been distinctly stated in Mr. Weld's original report that the place of interment was "entered in the Pymaish as a Brahmin's bathing place." This, coupled with the fact that there was not even an assertion that there had been a burial there for 30 years was, I thought, sufficient and conclusive. All, therefore, that I said on this head was "The joint magistrates' report on this point is clear, and runs as follows:" and I quoted his two paragraphs, ending with the words "it is entered in the Pymaish as a Brahmin's bathing place." That the weight of the authority may be correctly appreciated, it seems necessary that I should explain, in some detail, the force of a Pymaish entry.

8. The Pymaish account is the Tamil, equivalent to the old Doomsday Book, with this difference, that in Tanjore the Pymaish account retains intact its original value. It was an account made here in Fasli 1238, answering to A.D. 1828-29, or 48 years ago. It was made on actual measurement, and all lands were entered consecutively, and each under a distinctive number; the entry describing minutely their dimensions, boundaries, and character. So minute was the Pymaish detail that even individual trees were ordinarily entered under their proper designations.

9. So particular was the Pymaish account in respect to the place of the Sanyasi's interment, that the extent is given as gulis $4\frac{2}{3}\frac{1}{4}$, and the descriptive entry runs "the Brahmins' bathing place, steps, oratory, with a thatched roof, including the enclosure on the west." While it thus particularised down to the very nature of the roof, and was punctilious to a fraction, it cannot be possible that such a very prominent caste-fact as "a customary burial place" can have been omitted by oversight. On the contrary, it can only be held that the silence on this point is conclusive evidence against the place in question having been "a customary burial place." ‡ This means 15 of an acre.

10. The men who prepared these Pymaish accounts were, in those days, invariably Brahmins; to this day the Curnums or village accountants are almost, without exception, Brahmins. A Brahmin would have been specially careful not to omit the mention of a burial ground, even if there were the remotest vestige of a single Brahmin burial in it; for if it is a Brahmin burial, it must be the burial of either a child or a Sanyasi, and if the latter, it is the burial of a God, a more than saint, a veritable God, and it is a place of worship. Such a fact no Brahmin could possibly overlook. Here, then, is still further security, extraordinary security, that 48 years ago no Brahmin burial was there traceable either by eye or tradition. Up to 1828, at least, it neither "was" nor "had been a customary burial place for Brahmin Sanyasis."

11. That it was a Sudra burial place can still less be contended, for if it were we should not find a Brahmin anxious to be buried in it. It would be defilement. Neither should we find Brahmins bathing there. It would be defilement. Brahmin bathings, it must be remembered, are not made for the simple enjoyment of cleanliness, but are exercises of a strictly religious character, purifying ablutions performed prior to devotion and eating.

12. This Pymaish account is then conclusive evidence of the best nature on two points, —one that 48 years ago there was no knowledge that the place then was, or formerly had been, a burial place, still less "a customary burial place;" and the other, that it was not to be a burial place thereafter, for it was authoritatively set apart for other purposes, to wit, the bathing of Brahmins.

13. In

* The waterspread of the reservoir is roughly 900 feet long by 500 feet broad, say, 450,000 square feet. The reservoir with its banks included, covers about 928,000 square feet, 21½ acres.

† 2. "Even if the place where the Sanyasi has been buried were clearly shown to be a burial ground, and even to be private property, it would be no reason for not issuing an order to remove the nuisance. Nuisances created by factories, &c., are, as a rule, on private property, but a man may not use even his private property to the detriment of the public health."

3. "There is, however, nothing to support the contention that the place is a burial ground, except the vague assertion that some one was buried near the place some 30 years ago, and that a Sudra Sanyasi was buried on another part of the tank bank three or four years ago; but if the authorities were careless, then it is no reason they should be so again; that fact that burials have been made round the tank at long intervals of time does not constitute the tank banks a burial ground. It is entered in the Pymaish as a Brahmin's bathing place."

13. In addition to all this, Mr. Weld gave me the assurance that, in point of fact, the spot had not been diverted from its proper use as a bathing place, that for 30 years, at least, it was known that there had been no burial there. I think it must be admitted that the evidence against its being "a customary burial place" was, as I have said, conclusive.

14. While Mr. Weld gave me this negative assurance, that for at least 30 years there had *not* been a burial in the spot in question, he made no admission that during the interval between the preparation of the Pymaish account and 30 years ago there *had* been a burial in that spot. The distinction should be carefully borne in mind. Mr. Weld's words were: "There is, however, nothing to support the contention that the place is a burial ground, except the vague assertion that some one was buried near the place some 30 years ago." "*Near the place*," it will be observed, not in the place; and I now find that the burial referred to was made in a perfectly distinct place, not "*the place of interment*," not Pymaish No. 297, but Pymaish No. 295, not in "the Brahmin's bathing place," but in a piece of private property.

15. To arrive at the truth in this matter, I must be allowed to keep strictly to the point at issue, and that point is "*the place of interment*," that and no other. The petitioner says it was a time-immemorial-used burial ground. I say that, on the contrary, it was a public Brahmins' bathing place, in which a burial would be the last thing permissible.

16. Pymaish numbers are distinct plots. They are called "numbers" because each distinct entry has its individual consecutive number, and by its number it is quoted and known and found in the account of the lands of that village; so that Pymaish No. 297 or 295 means, in simple English, lot No. 297 or 295 of that village.

17. Now, if 18 lots or plots of land were allotted in England, and utilised for various purposes, such, for instance, as a drinking reservoir, a theatre, and a church with churchyard, and so forth, would it be a fair deduction that the pantomime might be played in the church during service, or an interment made by the reservoir? Thus shown, the absurdity is apparent and preposterous. This, however, is just what the petitioner has done, and has claimed to have done rightly.

18. He, a Huzur Sheristadar, has treated all the 18 Pymaish numbers with which Akkammal reservoir is surrounded as if they were one and the same, as if they had no separate existence at all; has, as it suited him, taken the incidents of one, a private plot holding the remains of its owner, and applied these incidents to another, a public place, a place that had been explicitly set apart for a special purpose, Brahmins' bathing.

19. With equal truth and justice might he treat the rich sugar-cane of one Pymaish number and of one ryot as if it were the property of an adjoining possessor of another Pymaish number, and allow him to enjoy it. Does he deal thus promiscuously with Pymaish numbers when exercising his function as a Huzur Sheristadar? Most assuredly never.

20. With equal truth and justice might the mercantile premises of Messrs. Franck & Co. and the Banqueting Hall of the Governors of this Presidency be lumped together as if they were one and the same Pymaish number, and the attributes of one applied to the other, and that for the single reason that they are both on the sides of the Mount Road.

21. I trust to be pardoned the use of such startling parallels, because equally startling

to me, as a revenue officer, is the spectacle of the first revenue subordinate of a district gravely asking the Government to believe a line of argument based on a complete ignoring of distinctive rights in separate holdings, and special revenue entry of such rights. Whether the plan which he has put in is equally promiscuous I am unable to say, as I am under the disadvantage of not having seen it. I annex in the margin, however, the Pymaish particulars of the 18 separate holdings of which the banks of the Akkammal reservoir are composed, and of which plot No. 297 is the place of interment,—the place at issue. The petitioner, however, speaks of them as if they were all one vast burial ground.

22. This Pymaish account, which shows that round this Akkammal reservoir there are 18 separate holdings, three Government property, nine private property, and six public property, set apart each for a specified purpose, this same

Pymaish account is well known to every revenue officer; it is relied on by every tahsildar, referred to by every revenue inspector, conformed to by every petty village accountant on 6 rupees a month; nay more, every intelligent ryot or landholder is thoroughly well aware that it is the basis of the security and identification of separate holdings. Is it credible that of all people in the world, the highly-paid head native revenue subordinate of a district alone knew nothing whatever of the existence of such an account? His

letter

PYMAISH DESIGNATION.

No.	
283.	Newly enclosed for flower garden of Saravana Chetti.
284.	Path.
285.	Flower garden of Velipalayam Siva Temple.
287.	Flower garden of Soundarajaswami Temple.
289.	Path.
290.	Flower garden of Kristnaswami Temple.
291.	Dry (<i>i.e.</i> , unirrigated) Government waste land.
292.	Path.
293.	Government dry cultivable.
294.	Flower garden.
295.	Government dry cultivable waste.
296.	Flower garden of Tuesday Temple.
297.	Brahmin bathing place.
298.	Lane.
299.	Way to north bathing place.
300.	Flower garden of Sattaiyappar Temple.
301.	Flower garden of Soundarajaperumal's Temple.
302.	Flower garden of Neelayataksheamman Temple.

letter ignores it. Or is it credible that knowing of it, it never occurred to him to examine it, or to ask a question about the tenure of the land in which he meant to bury his father?

23. But even after allowing such an impossible possibility, his own admissions, that he is "a native of Negapatam, that he has a house there, and that the whole of his family live in and about that place, that he himself had various appointments under Government in that town:" these present fresh difficulties to credence. I note also the intimate knowledge he claims to have about the said Akkammal's reservoir, and lastly, I add thereto the nature of the buildings on the spot,* and ask, Did it *look* like a burial ground, or was it an obvious bathing place? Is it credible that all this personal, family, and official residence in the town, aided by the features of the spot, gave petitioner no real knowledge about the chief and most frequented reservoir, of which he himself professes to have such a thorough and particular knowledge?

Paragraph 2 of his petition.

Paragraphs 5, 6, 7, of his petition.

24. I found, and still find, it hard to believe both these things; firstly, that, though his avocation was one which involved a special responsibility for, and constant conservancy with, revenue entries of holdings, nevertheless it never once occurred to him to make an inquiry about the tenure of the land in which he meant to bury his father; secondly, that all his local knowledge had left his mind a perfect blank wholly unimpressed with the daily blatant fact that the part he selected was a much frequented Brahmin bathing place.

25. Nay more, is it credible, thirdly, that, whatever might be his simplicity in these matters, it was no way disturbed when he found the chief revenue officers and the municipal vice-president, all in extreme opposition to his claims. Even if he were so very very simple, that at any rate should have sufficed to arouse him to an examination of the correctness of his position, and then at least he must have known that he had made a mistake. But then it was, after all this it was, that he still deliberately sat down to pen his petition to Government.

26. What makes it still more hard to believe that he was in ignorance of the Pymaish entry is the singular coincidence that a few weeks before his father's death, a relation of his applying to the municipality for a portion of this very Pymaish number, applied for it in strict consonance with the Pymaish entry; applied for it not as a place for burial but as a bathing place.

27. He would have it believed that it was a mere coincidence that the person who made that application was a relative of his; and he implies that he himself was miles away in the North Arcot District. I am told, however, that he went to Negapatam during his father's lifetime and after the father was already known to be on his death-bed, and on consultation held with the Tahsildar and his own relations, and after considerable misgivings, and in eventual reliance on the local influence of the Tahsildar, he pre-arranged this very matter himself, and returning to his district left his brother and his relatives to carry it into execution.

Paragraph 7 of his petition.

28. He would have it believed that the enclosing was the work of "the Brahmin community" generally, and that his brother only "contributed like others." If so, and if it were really for a public bathing place for Brahmins, why was it locked up, and how came his brother to keep the key? My information is, that his brother bore the whole expense and supervision of the work. The reason for locking up was obvious; it was to conceal the fact that a grave was being dug the while inside the locked enclosure.

Paragraph 7 of his petition.

29. For this concealment there were cogent caste reasons. It was, of course, well known that a burial in that spot would be specially offensive to, and would be opposed by, other sections of Brahmins, as I shall explain hereafter; it was desired, therefore, to keep the fact, as long as possible, from the knowledge of the Vaishnavite Brahmins.

Paragraphs 36 to 45, *infra*.

30. They, however, got wind of it, and remonstrated with the Tahsildar as he was accompanying the procession to the burial. They entreated him to prevent it. In this way did the Tahsildar Venkatrayalu Naidu, the petitioner's brother Seshanpaiyar, who is village munsiff, and their friends know again that what they were doing was offensive to a section of the Brahmin community.

31. But even accepting the petitioner's own representation in his 7th paragraph, that it was "the Brahmin community" that was adapting the place for worship, how can he explain his straightway doing an act which would defeat that very object—an act which to a portion "of the Brahmin community" would most markedly defile the place, and render purity and worship impossible? Will he plead ignorance of such consequences? No Shaivite can pretend to ignorance of the fact that a burial ground is defilement to a Vaishnavite.

32. Furthermore, the spot was obtained from the Municipality under the two distinct provisions

* Gulis 35-56/64 out of Gulis 45-21/64 are occupied by buildings and steps, and only Gulis 9-32/64, or .031 of an acre are left uncovered.

provisoes that it should be a bathing place, and that it should be open to the public, which, if it means anything, means that Vaishnavite Brahmins should not be excluded. There are Vaishnavites as well as Shaivites on the Municipal Commission, and they took care of this. With this distinct proviso staring him afresh in the face, the petitioner, nevertheless, put the place to an exactly opposite use.

33. Before the application for the bathing place was ever made, petitioner's father was on his death-bed and the inference is, that the whole matter was plotted from the very first.

34. Thus, I think, I have shown—

- I. That the place of interment *was not* and *had not* been a customary burial place.
- II. That the petitioner *well knew* it was not a customary burial place.

35. But I beg to submit a few words on the force of the special Aiyangar and general Vaishnavite objection to which the petitioner and his friends knew they were running counter when they stealthily dug a grave in the common bathing place.

36. The petitioner is a Shaivite. The religious views of the Shaivites and the Vaishnavites are in direct antagonism in the matter of Sanyasi burials, and of the Vaishnavites the Aiyangar section are in the strictest opposition.

37. To a Shaivite a Sanyasi is one who by holy living has attained divinity before death. He is a *presens Divus*, not a mere saint to be honoured, but a living deity upon earth, and as such he must be worshipped even in his lifetime; gifts must be given him, and adoring prostration of the eight members must be made by every true believer he meets; and when he dies, this worship should be continued over his grave. His tombstone should be a temple.

38. To a Vaishnavite, however, and especially to an Aiyangar, his burial place is as defiling as any other burial place. Their rule is "enter a Shaivite place of worship you must not, even though pursued by an elephant."

39. It follows that while a Shaivite can perform his ablutions and go to his worship of the dead Sanyasi, the Vaishnavite's ablutions are undone by the defilement of the burial place, and he must bathe afresh elsewhere before he can pass to his devotion and his meal. By a Vaishnavite, therefore, such a bathing place must be henceforward abandoned.

40. This very bathing place was, however, a specially important one to Vaishnavites, for once a year their God Perumal is brought there in solemn procession, carried very close by the place of interment, and there is no other road available, taken to the edge of the water, and set on the top of the steps under cover of a not inexpensive brick and mortar building. There he is worshipped by the Vaishnavite Brahmins, who there purify themselves before him, and eat before and worship him. In passage by, and in close proximity to, the defilement of a burial place all this would be impossible, for the Aiyangar chief priest of the principal Vishnu temple at Negapatam told him that it is forbidden for their God to go within 100 bow lengths (say 300 yards) of a burial place, because it would be defilement. He said they looked upon the burial in question as a studied pollution, and that it was a necessary consequence that the place of worship must be abandoned by Vaishnavites.

41. As a matter of fact, that was exactly what followed. As soon as the Aiyangars found that, in spite of their protest to the Tahsildar, the defilement of the spot had been accomplished by the Shaivites, they held a meeting in their temple, and came to the decision that it was necessary to abandon the annual procession and customary local worship of their God Perumal.

42. Furthermore, there is a holy fig or pepal tree (*Ficus religiosa*) on the spot enclosed for the burial of petitioner's father. To walk round and round such a tree is a devotional exercise common to Vaishnavites and Shaivites. The burial of a body close to it, almost touching it, introduced defilement to Vaishnavites, and consequently excluded them from the devotional use of the tree.

43. Thus the burial of a body in the place selected by the petitioner and his friends for the burial of his father necessarily involved the driving of the Vaishnavites from the common bathing place and the monopoly of it by Shaivites; necessarily involved the prevention of the annual Vaishnavite procession and worship of their God Perumal, substituting for it the temple and worship of the Sanyasi; necessarily involved also the driving of the Vaishnavites from the holy fig tree and the monopoly of it by the Shaivites.

44. All these necessary consequences must, as a matter of course, have been thoroughly foreseen by the petitioner, by the Tahsildar Venkatrayalu Naidu, by the Village Magistrate Seshappaiyar and their colleagues. It is obvious that it was on account of these very consequences that that particular place was selected, and the whole matter decided upon in conclave on the occasion of petitioner's earlier visit to Negapatam.

45. Furthermore, the Tahsildar was entreated about it on the very way to the burial, and told the entreater not to get himself a bad name, which from a native magistrate was
in

in native eyes suggestive of possibly getting into trouble. Be that, however, as it may, it was a deliberate continuance by the Tahsildar in the gross injustice of utilising his influence as a magistrate for the subversion of the religious liberties of others. He was a friend to the deceased, and though a Vaishnavite, he was, from being a Vadagalai, no friend to the Tengalai Aiyangars, with whom he had had an old feud. Hence, he had no objection to joining their opponents.

46. The Aiyangars are at Negapatam numerically weak in comparison with the Shaivites; nevertheless, it was openly avowed that but for the presence of the Tahsildar magistrate, they would, at all risks, themselves have disinterred the Sanyasi.

47. These very strong and, among Hindus, well-known religious objections* to the burial in question, considered in connection with the Pymaish arguments,† indicate a thorough previous knowledge of the very grave nature of the wrong deliberately done.

* Paragraphs 35-46.
† Paragraphs 8-34, and specially 15-34.

48. My defence now carries me to the next point in the Government Order:—the point 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.”

49. Now that the first premise has, I hope, been proved fallacious and removed, the answer here is simple. The municipality could not move under section 134, Act III. of 1871, because the place never was a public burial ground; all that the municipality could do, it did do. When it found the bathing place under its charge encroached on, it appealed to the magistrate.

50. The other places round the Akkammal reservoir, in which a few burials, twelve in six spots in all, have ever taken place are essentially private property. With them the municipality could not interfere.

51. Whether the magistracy could there interfere on sanitary grounds is an open question; for those burials are all much further removed from the reservoir, and the liability to percolation into the drinking water is by so much less. Moreover, they mostly took place at an age when sanitation was not regarded even by Europeans; at an age when the penal code was not.

52. Coming next to the contamination question, I may state briefly that while the Zillah surgeon mentioned the distance from the grave to the water, perhaps from pacing and memory, as 15 or 20 yards, and Mr. Weld gave it as within 50 feet, the exact measurement is now given me as 36 feet.

53. The Government Order relies on “a thick wall intervening.” I do not like to seem to contradict, even in my own defence, but it will be scarcely doing justice to Mr. Weld and myself if I do not markedly state the fact that the wall was not thick and did not intervene. Why should the wall be thick when it had not any superstructure to support, and was not high? As walls go, it was as thin as it could be. Also it did not intervene, for the enclosed plan will show that a straight line drawn from the corpse to the reservoir will pass well wide of the lowest foundations of the wall.

54. The “large flight of steps intervening” were also not such as to prevent percolation, for they lack not abundant interstices.

55. The medical officer, who is the local sanitary adviser of the magistracy, was of opinion that “the percolation would be carried on under the most favourable conditions imaginable.”

56. As it happened, Mr. Weld and I were both of the same opinion as the medical officer. But even if we had differed we should have had some hesitation, and incurred heavy responsibility in preferring our own unprofessional opinions. On a former occasion of very great emergency a sub-collector did so, because he had a Government Order also on his side. Yet how were he and I blamed for it?

Government Order,
dated 10 August
1875, No. 286,
Marine Department.

57. The Government says: “There can be no doubt also that any danger * * * might have been entirely prevented without the removal of the corpse from the grave.” Had I known how this might be done, I should certainly have suggested it to the joint magistrate, Mr. Weld, for I was not then aware of the Vaishnavite objection. Even the petitioner admits that I discussed with him this last means of escaping the extreme measure of exhuming; and I might show that I did so in some detail, but that I fear to be wearisome; and I trust the Government will be satisfied that I did not fail carefully and thoughtfully to consider, to the best of my ability, how I could avoid pain to the relatives of the dead, while still doing my duty to the living.

His paragraph 12.

58. With reference to the Government objection to the use of “the utmost power of the law,” it is necessary to bear in mind that Mr. Weld and I were both fully persuaded that there lay on us the heaviest responsibility for the removal of the threatening cause of death to thousands. The petitioner had plainly told us that he would rather go to any expense than do this. It followed that no amount of fine would gain the necessary end. Nothing short of the prospect of rigorous imprisonment with magisterial removal of the body would ensure the end which we thought imperative. This is the reason why, in

paragraph 4 of my letter to Mr. Weld, No. 1724, dated 5th May 1876, this view of the position is set forth as it is. It should also be remembered, as explained in my former report, that it was the petitioner himself who had deliberately forced us into a position from which there can be no other retreat.

59. The Government Order censures me for having "omitted to institute a close examination." I venture to submit that the investigation I made was as thorough as was possible. I wrote to the responsible officer, and he referred me to the best evidence, the Pymaish account.

60. This Pymaish account is the basis of all our revenue work. To this do we go back in all questions. By this do the civil courts decree. When Mr. Weld reported to me that the place claimed as a burial ground was entered in the Pymaish as a Brahmin's bathing place, I felt that he had given me the most reliable evidence producible. I was satisfied, and I submit rightly satisfied.

61. The letter which I wrote was also penned by my own hand, though the number of letters that go in and out of this office in a single year is over 40,000, and in that letter I omitted no possible subject for inquiry. I venture to submit that I went into the matter very thoroughly, very carefully, very patiently also, and as considerably as possible.

62. This I did, too, under no slight provocation. For petitioner's interview was by no means a seemly one, as he had boisterously threatened me with the punishment of Government, and a riot that should overpower the police.

63. The tone of my comments on the facts of the case has been condemned. If they were ill expressed I can only regret it. What are the exact phrases to which objection is taken I do not know, or perhaps I might be able to explain that they were only a true reflection of the state of the case. For instance, I must still be allowed to maintain that the numerously signed Negapatam petition was not a representative one; and the Government will now doubtless recognise that I had very good grounds for looking at the matter from a very different aspect from that taken by Government.

64. I would beg the Government also to remember that I was hurried in this matter by frequent telegrams from Government, so much so that I was driven to submitting my office draft avowedly incomplete as it was, just to satisfy the Government that I was making no avoidable delay. Had I been allowed to retain my office draft till the inquiry was completed, I should have been able to recast it in some details, perhaps in some that have displeased the Government; but the tone of the Government telegrams was very pressing, and I had no option but to send off the unfinished draft with the explanation I did.

65. The Government is pleased to pass on me the following censure:—"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." I beg to submit for consideration that I did not anticipate that the Government would take the view it has; that I thought I was properly serving the Government by continuing to do what I thought my duty till I was ordered otherwise. I thought myself in duty bound to complete my executive action. I thought that the Government would not wish its executive to be paralysed by every petitioner, but rather that its officers should pursue their duty to it, trusting in its continued confidence, till it expressed disapproval.

66. When I first came to this litigious district I found my subordinates paralysed in just such a fashion.

67. As soon as a complainant or accused in a criminal case found that the evidence was going against him, off he ran to me with a petition for transfer of the case to some other sub-magistrate, on the ground that he could not expect justice from the sub-magistrate trying the case, as he was venal or biased. The sub-magistrate knowing from the petitioner that such a petition for transfer had been made to me, and not liking to proceed with the case under such a cloud over himself, stayed his proceedings, awaiting my orders on the petition for transfer. The consequence was, that not only was the sub-magistrate paralysed for a time, and his influence weakened by any petitioner who was sufficiently bold and vituperative, but the other parties, generally a number of innocent people, falsely accused criminally in what was really a civil matter, were kept awaiting the order from my distant court. I consequently issued the circular order, noted* below, by which sub-magistrates were directed to go straight forwardly on with their duty,

* No. 20, dated 16 December 1874. It has come to the knowledge of the district magistrate that parties expecting an unfavourable decision are constantly seeking a transfer of the case to another court, and that on hearing of such an application being made, sub-magistrates are in the habit of staying proceedings pending the order of the superior court. This is not right. The lower court should not be moved or stayed from the regular course of procedure by any such acts of the parties, and will be held responsible for improper delays thus allowed by it.

2. When the lower court itself sees cause for the transfer of the case from its own file, it will itself represent it to its superior court.

duty, quite irrespective of petitions to other courts, and this order I published in my District Gazette, so that petitioners might know that they must respect the local courts. I may add, that I also invariably refuse to transfer a case, because I would not cast such a slur on any court, except at its own request, and the petitioner's proper remedy is in appeal or review after the court of first instance has done with the case. This then being the rule which I laid down for my subordinates, it was also the rule which I had laid down for my own conduct as a subordinate to Government; and it never struck me that there was anything disrespectful, unjustifiable, or ill-judged in it; on the contrary, I thought I was thus best serving my masters and Queen.

68. But as the Government has markedly condemned such a principle of action as "unjustifiable and ill-judged in the extreme," my first impulse would be to obediently abandon it at once as regards myself, and, in every case of my knowing that a matter had been appealed to Government, to feel bound to stay my hand till I knew the Government pleasure. I am keenly sensible, too, of the heavy responsibility of not yielding this implicit and immediate obedience; and, perhaps, I should best serve myself by not incurring it. But I think I shall better serve the Government by seeking a re-consideration of the principle involved in this censure; and, as an old servant, I will, trusting in my past character, venture to take on me the risk of the submission; for if I did not, I fear that the administrative consequences would soon be very mischievous.

69. For instance, suppose I had felt tied down to await the orders of Government in the very case in point, the result would have been either a Vaishnavite riot for the removal of the body, or a body already so decomposed in the interim as to be past removal, and to be steadily percolating into the drinking water of the town. Cases in which delay would be similarly and even more fatal would be constantly occurring; and I think the Government would find it practically impossible to take the executive into its own hands.

70. But I await orders, and it is needless to say that whatever is the Government wish, that shall be loyally followed.

71. I come now to paragraph 5 of the Government Order. It has been duly reported in my letter, No. 3580, dated 15th September last, that the village munsiff was promptly reinstated, and the Government regrets communicated verbatim; that the bill for expenses was called for and passed by me, though it included even the cost of coming to see me on appeal, but that before it could be paid, the village munsiff bethought him that it would be degrading to receive it, and so the money remains unpaid. Having thus fully obeyed the orders of Government, even to the humbling of myself to being the mouthpiece of an apology to a village munsiff, who I felt all the while had been rightly dismissed for deceiving the Government officers, while it was his duty as a village magistrate to keep them informed; having thus fully obeyed, I think I may be allowed to submit the hope that, if the Government is now satisfied that he was a prominent actor in the plot laid by his brother the petitioner, and that his dismissal was therefore just, the Government will be pleased to order his re-dismissal.

72. The Government Order continues: "The municipal commissioners will, no doubt, act in regard to their dismissed servants in accordance with the spirit of this decision." This has been done. The law leaves dismissals and appointments to me as president; and though, in practice, I virtually leave them to the locally responsible vice-president, as his influence is dependent thereon, still as the Government wishes were concerned in this case, I took it on myself and ordered the re-appointments. The commissioners had nothing to do with it, and I judged it necessary not to consult them. Having here again gone out of my way to further the wishes of Government, perhaps the Government will be pleased to recognise that a municipality cannot work with wilfully disobedient servants. A valuable commissioner has since resigned in consequence.

73. The Government has desired (paragraph 7 of their Order) that this present matter may in no respect prejudice the case of the tahsildar. Now it has seen that it was the abuse of his authority that lay at the bottom of the whole matter, I hope it may think differently. But for his countenance it would never have been planned, but for his presence with the procession it could never have been carried out. He was the chief Native magistrate on the spot. To him the joint magistrate and I had a right to look for the maintenance of justice, yet he it is that set it aside. Not only did he err against sanitation in defence of which alone he should, I submit, have stayed the unsanitary burial, at least till the opinion of the joint magistrate or the municipality was known. He also deliberately set at naught the rights and religious feelings of the Vaishnavites. He also sanctioned by his presence an equally deliberate infringement of municipal authority over the land in question, which authority it was part of his duty as a magistrate to support. With reference to his case I beg a re-perusal of paragraphs 44, 45, 46 *supra*. If a tahsildar can thus set at naught sanitation, rights, religion, and authority, and yet be reinstated, in the face of his superior, that superior is paralysed, at least as regards his taluq, and all like-minded tahsildars are emboldened, and superior authority weakened.

74. In that my joint magistrate and I only serve the Government; anything that weakens our authority weakens the authority of Government itself. On this ground it is

that I am emboldened to hope the Government will think proper in its own interests to repair the breach that has been made therein.

75. Having thus submitted my explanation to the Order of Government, I will turn but briefly to the petition, for it does not seem necessary, though easy, that I should weary the Government by tediously dissecting seriatim all the many erroneous statements thereof. It may suffice in reference to the petitioner's 19th paragraph that I should submit, for the consideration of Government, that my magisterial conduct was not "hasty," not "inconsiderate," not "illegal," not "irregular," not "insulting," not "contemptuous," not "trifling in a high-handed manner with the rights of a large section of the Hindu community," but properly protecting those very rights from being high-handedly overridden. It may be allowed me to solicit the attention of Government to the fact that the man who has charged me with all these things is also a servant of Government. Perhaps the Government may think it necessary to take such notice of his conduct as will prevent a recurrence of the like reckless accusations in him or others.

76. The injury which the petitioner has succeeded in doing to my public character has been made as public as possible. It has been blazoned in every newspaper in all the three Presidencies, and has thence found its way into the public prints in England. It was not by me nor with my knowledge that the Government Order which censured me was made public, nor was it with the consent of Government. I know that a copy of the order of censure was in circulation among the Natives even before it was communicated to me by Government; and I know also that, before any part of it was officially made known by me, it was widely known throughout Negapatam, where the petitioner's brother and friends reside.

77. While seeking removal of censure, I desire to return my grateful thanks for the encomium with which the Government has been pleased to accompany it. On my acknowledged past character I have presumed to rely somewhat, and the pains I have taken to clear it from the present stain will show the value which I attach to its maintenance. That value is high, because the maintenance of an administrator's character means a continuance of the confidence of Government, and the public assurance of that lies at the root of his powers of usefulness. In these circumstances I count confidently on a patient hearing, lengthy as my defence unavoidably is.

(No. 8.)

MINUTE by the Hon. Sir W. Robinson, C.S.I., dated 19th November 1876.

AFTER a lapse of four months from the date of Government Order disposing of the Sanyasi burial matter, Mr. Thomas submits an explanation, in which contemporaneous fact and afterthought have become strangely confused. There are no new facts to be gathered amongst the mass of assertion and conjecture, and little that is fresh in argument is put forward.

2. It is impossible to follow this paper, paragraph by paragraph; but I may observe that I do not accept Mr. Thomas's conjecture as to the comparatively recent origin of the tank in question, although the Government Order says nothing of "immemorial." Be this as it may, I see nothing in Mr. Thomas's argument which negatives the fact that the tank-bank *passim* has been customarily used for the special sepulture of persons of the position of the deceased, as occasion arose.

3. Mr. Thomas attaches importance to the silence of the Pymaish (survey measurement of 1828-29) accounts as to this occasional use of the public portions of the tank-bank for such burials. The silence of the Pymaish account on such matters is natural, and in this case it is general; for the same silence pervades all the eighteen items of public and private lots set out in Mr. Thomas's letter; while obvious facts as to the use of parts of the bank *passim* for the purpose of such special burials, negatives absolutely the inference sought to be established from this silence. The fact is, the object—a revenue one—of the Pymaish account was wholly unconnected with the record of such casual usages as the one before us; their record would be out of place, and I should hold that the fact that the spot in question is described as being a public Brahmin bathing place or ghaut, rather favours than otherwise the contention that the spot in question has been used, as occasion arose, for the sacred and customary purpose alleged. Be this as it may, judicial inquiry upon this point was boldly challenged at the time, and was improperly avoided by the local officers. Government must not now be asked to accept Mr. Thomas's *ex post facto* estimate of one item of evidence which might have been put in and sifted at that inquiry, as sufficient explanation of grave neglect of the obvious duty of requiring careful judicial inquiry on this important point. But as an explanation of Mr. Thomas's ill-judged letter of the 5th May, the whole argument is out of place, for Mr. Thomas did not know of the Pymaish account until he received Mr. Weld's letter of the 8th idem. Neither of the inferences of paragraph 16, therefore, are sound. Silence of a revenue account does not qualify a practice which is proved *ab aliunde*; nor does the record that the spot in question

was

was used as a bathing place either alter, restrict, or interdict any local or occasional usage for other purposes; nor does such entry amount to a conveyance or setting apart of such spot for any special purpose to the exclusion of other usual purposes as Mr. Thomas seems to argue.

4. The argument that the subsequent perusal of this Pymaish account fulfilled that sufficient legal care and discretion which justified putting the utmost power of the law in force under the gravest coercion, simply shows that the executive Government is sometimes forced to repose confidence in indiscreet and hasty men.

5. I confess that I see no suitable name for the so-called "cogent caste reasons" put forward by Mr. Thomas, but *ad captandum* clap-trap; and we are asked to accept it without contemporary evidence or circumstantial confirmation of any kind whatever. Whatever the value of the claim put forward by Mr. Thomas in the Vaishnavite interest to equal participation in the use of the spot in question, the facts are that a Shairvite family got permission from the municipal commissioners—a mixed body—to erect a bathing place on the bank, which they shortly inclosed without remonstrance or complaint by the parties for whom the magistrate now appears as advocate. Shortly afterwards the public burial passed off in the presence of a Vaishnavite Tahsildar without petition or remonstrance from any contending party, and the continuous ceremonies of four or five days were proceeded with, without Vaishnavite complaint or interference; and to this day we have not in evidence, so far as I know, the scratch of a pen of complaint from that caste, as such, of caste grievance—unless the petition of a single Ayangar, presented without stamp, some five or six days after the burial and after Mr. Weld and Mr. Oliver had moved adversely to his rival caste man, is to be treated as such a remonstrance. But the abstract of the petition shows that no "cogent caste reasons," but sanitation only was the grievance of this one remonstrant. There is no contemporary evidence in support of the assertions contained in Mr. Thomas's letter against the tahsildar; and he is, after a lapse of six months' silence on the point, entitled, I think, to the benefit of any doubt even against the aspersions of the magistrate, uncorroborated as they are. The reasonable inference is that either the rival sect had no substantial interest in the matter such as Mr. Thomas now sets up on their behalf, or that they knew and acquiesced in the usage out of which this case has arisen. And I hold the latter by far the more probable inference. I see, therefore, no reason to doubt the soundness of the conclusion that the spot has been used for the purpose contended for as occasion arose from time to time with full caste approval.

6. I confess that I see no traces whatever in the contemporaneous circumstances of this case of "Special Ayangar and general Vaishnavite objection," alluded to by Mr. Thomas. His whole contention rests upon simple assertions of matter in respect to which there has been no evidence before us at any stage of the case, and in regard to which nothing occurs in either Mr. Thomas's or Mr. Weld's earlier letters. If, therefore, there be any present truth in the allegation, it seems to me to be *post facto* out-crop of that caste antagonism which is evoked by that grossly irregular conduct which the Government have already condemned. Be this as it may, the right and only reliable place for all this matter to appear was in the course of the investigation which was challenged at the time and refused; and Mr. Thomas is not the right person at this late period to find out for his own controversial purposes, caste rights and caste grievances which did not strike his clients at the proper time, and never have been officially advanced by them.

W. Robinson.

(No. 9.)

MINUTE by the Hon. R. S. Ellis, C.B., dated 28th November 1876.

I THINK Mr. Thomas should be informed that the Government have had under consideration his explanation, and that they see no reason to modify the Order against which Mr. Thomas appeals.

2. I have carefully read Mr. Thomas's explanation. It has in no respect altered the opinion which I have recorded on this case in my note of August last. I hold now, as I held then, that both Messrs. Thomas and Weld behaved in the matter of the exhumation of the body of a Brahmin Saniyasi (devotee) with the gravest indiscretion; that by their conduct they inflicted quite unnecessarily great pain and disgrace on a respectable Native family; and that their unreasonable and inconsiderate action in this case might have led to a most serious disturbance of the public peace.

3. It appears to me that, under these circumstances, it was the duty of the Government to repudiate the official acts of their servants, and to show their serious disapproval of their conduct.

4. The main acts which have been severely censured are, on the part of Mr. Weld,
265. F first,

first, the hasty order to exhume the body of a Saniyasi Brahmin who had been some days buried on the borders of a large tank, the borders of which had been customarily used for the burial of Saniyasis; and second, the aggravation of this intemperate and ill-judged order by the addition to it of the threat that unless the exhumation was speedily carried out by the relatives of the deceased, it would be done under the orders of the magistrate, and the body re-buried in a place generally known as the receptacle of the town-filth. So far as regards Mr. Weld.

5. Mr. Thomas has been severely censured, and, in my judgment, most deservedly, for not interposing his superior authority to prevent so grave a scandal as that which occurred at Negapatam.

6. The pretention advanced by Mr. Thomas that he has been condemned without being heard in defence, is unfounded. The petition presented by the inhabitants of Negapatam was referred to Mr. Thomas and Mr. Weld for their explanations, and it is on that petition and on those explanations that these officers have been judged and condemned.

7. In the explanation before Government, Mr. Thomas has devoted much time to showing that the place in which the Saniyasi was actually entombed was not a customary place of burial for Saniyasis; and to establish this point he describes the Pymaish or Native survey records in which the spot is entered as a Brahmin burial place. This is ingenious but beside the question, which was whether the borders of this tank had been customarily used for the burial of Saniyasis; and this Mr. Thomas is unable to deny. The Government never asserted that the actual site of the Sanyasi's interment had before been used for burying Saniyasis; what was asserted was that the tank-borders had been customarily so used, and that the municipality of Negapatam to whom, on the application to the Tanjore District of the municipal law, the tank had been transferred, had taken no steps to prohibit such burials. Mr. Thomas fails entirely to meet this statement. The entries in the Revenue survey accounts of portions of the borders of the tank as private property would not, according to Messrs. Thomas's and Weld's own views, have prevented the municipality prohibiting the use of private property to the injury of the public health if that idea had occurred to them.

8. The question as to how the interests of the Vaishnavite sect of Brahmins would be affected by the burial of a Shaivite Saniyasi at the Brahmin bathing places is a new issue raised by Mr. Thomas. But this like the whole of Mr. Thomas's explanation is beside the real question.

9. Both Messrs. Thomas and Weld have incurred the displeasure of Government by acting with imprudent harshness in exhuming the body of a man who was regarded with great reverence by the Hindu community, and Mr. Weld greatly aggravated his offence by adding a gross insult to this act of harshness. The grounds on which these officers affirmed that they had proceeded were distinctly sanitary, and it is neither candid nor useful to attempt to shift these grounds. Mr. Thomas's explanation now under notice, submitted long after the event, contains an elaborate disquisition as to the legality of the course pursued by the relatives of the Brahmin Saniyasi in burying him on the spot in question. These arguments would have been appropriate if Mr. Thomas had been dealing *ab initio* with an application to permit the burial of the Saniyasi in this particular spot; and I think that there would, on this question of title and on sanitary grounds, have been cause to refuse such burial.

10. But Mr. Thomas had to deal with the fact that the burial had taken place. I maintain that the proper and the only reasonable course was to have provided at the expense of those who had buried him in a place which might endanger the public safety, such precautions as would have reduced this danger to a minimum. The enclosure of the ground occupied by the body by masonry would have effected this, and such prohibition as was necessary to prevent future burials near the tank could have been issued.

11. It seems to me that it was as unnecessary as it was unwise to shock the public feelings, and to afflict a respectable Native family, by an exhumation which must have appeared a wanton outrage. It was a happy accident that this outrage on Native feeling passed off peaceably. The natives of Tanjore are not a turbulent race, but in many parts of India the indiscretion of Messrs. Thomas and Weld would most probably have caused a most serious disturbance of the peace. Under the circumstances of the case, what was required was consideration for Native feeling and ordinary prudence. Both these officers failed entirely in these essential qualities, and Mr. Weld went out of his way to add insult to injury.

12. I can find nothing in Mr. Thomas's explanation which, in my judgment, alters the view which Government have taken of the conduct of these officers.

R. S. Ellis.

(No. 10.)

MINUTE by His Excellency the Commander in Chief, dated 22nd January 1877.

The Negapatam Saniyasi Burial Case.

THE able review by Mr. Ellis of Mr. Thomas's appeal leaves me little to say.

2. As pertinently stated by my honourable colleague, the question at issue was not as to dealing with an application to permit a burial, but whether burial having taken place did Mr. Weld act with propriety and consideration, and was Mr. Thomas right in affording him his full support? If they were right, Government decided the case wrongly, and it would be our duty to admit our error and make amends to those officers. If Government was right, they were justly reproved, and Mr. Thomas's appeal should be dismissed.

3. The lengthy and strained argument now addressed by Mr. Thomas in explanation and in justification of the course pursued by Mr. Weld and himself ought not, however, under any circumstances to be now allowed to have the weight evidently claimed for it by him in order to prejudice the previous decision by Government.

4. Government had to come to a decision upon the information afforded to them, and if anything was then wanting for the full elucidation of the case, the blame rested with Mr. Thomas himself.

5. As regards the remark made in paragraph 64 of Mr. Thomas's appeal that "he was hurried by frequent telegrams from Government, &c., &c.," there is, in reply, the fact that the Saniyasi died and was buried on the 30th April, and that it was only towards the end of July that Government succeeded in obtaining from Mr. Thomas sufficient information to enable them to come to a decision on the case.

6. If conduct such as that practised by Mr. Weld and supported and justified by Mr. Thomas is to find support at the hands of Government, I do not see how we can expect to continue to govern India.

Neville Chamberlain.

(No. 11.)

MINUTE by His Grace the President, dated 25th January 1877.

MR. THOMAS'S explanatory statement received during my absence at Delhi has been so clearly reviewed by Mr. Ellis and my honourable colleagues that I do not think it necessary to offer any remarks upon it, except that it abundantly confirms the statement of Government as to the custom of burials upon the tank-bund, ignores the threat issued by Weld which was, in effect, to have the body removed to the common dunghill of the town, and which notice, moreover, and threat, were so headed as to make it appear that this outrageous threat was authorised by the law.

2. The suggestion that the first explanations were hurried is disposed of by a comparison of the date of the burial, the petition order and reply, in which reply, dated 22nd July, there is no suggestion of want of time to reply to the reference of 20th June.

3. It should also be noted in passing that the measurements of the grave from the tank, as stated in Government Order were based on the information forwarded by the collector himself to Government.

Buchingham and Chandos.

(No. 12.)

ORDER thereon, 2nd February 1877, No. 285.

MR. THOMAS will be informed that the Governor in Council sees no reason to modify his original decision.

2. Ordered that the above papers be forwarded for the consideration of the Secretary of State with the following Despatch:—

(True Extract.)

(signed)

W. Hudleston,
Chief Secretary.

LETTER from Mr. *Weld* to the Under Secretary of State for India; dated
20 February 1877.

Sir, 4, Royal-terrace, Weymouth,
20 February 1877.

I HAVE the honour to inform you that I was about to forward, through the Madras Government, an appeal against their order of the 2nd September 1876, censuring and punishing me for ordering the exhumation of a body which had been buried on the bank of the drinking water reservoir of the town of Negapatam, when I saw in the "Madras Mail" of the 20th ultimo a statement that the Secretary of State for India has called for the records of the case. If this is so it seems useless to send the appeal through the Madras Government, as it could not reach the Secretary of State till after the matter had been decided, but that it should be sent in direct for consideration with the records, if such a course is allowable.

I therefore have the honour to request that you will kindly inform me if the records have been sent for; and if so, if I may submit my Memorial direct, instead of through the Madras Government, for consideration with the records of the case.

I have, &c.
(signed) *M. R. Weld*,
Madras Civil Service.

LETTER from the Under Secretary of State for India to Mr. *Weld*.

Sir, India Office, 7 March 1877.
I AM directed by the Marquis of Salisbury to acknowledge the receipt of your letter of the 20th February, asking permission to submit directly a Memorial against the decision of the Government of Madras in your case, as you understand that the records have been called for.

2. In reply, I am directed to inform you that the complete correspondence has not yet been received from the Government of Madras, but that, as it is expected to arrive by an early mail, the Marquis of Salisbury will permit you to send in your Memorial direct.

I am, &c.
(signed) *Louis Mallet*.

LETTER from Mr. *Weld* to the Secretary of State for India.

My Lord, 83, Abingdon-road, Kensington, W.,
8 March 1877.

I HAVE the honour to forward my Memorial direct, as permitted in the letter of the India Office of the 7th instant.

I regret that I have no certified copies of the documents forming Appendices F., H., K., and M. I have put in uncertified copies, which I had intended to ask the Madras Government to have examined and certified; but as this cannot now be done, and as the originals will be before your Lordship, I trust that this will not stand in the way of the Memorial being considered.

I am also unable to put in a copy of the last report of the district magistrate of Tanjore to the Government of Madras, sent in since the promulgation of the Government Order; I trust that it will be amongst the correspondence now coming from Madras, as I am anxious that it should be considered with the other papers.

The Secretary of State for India. I have, &c.
(signed) *M. R. Weld*.

To the Right Honourable the Marquis of Salisbury, Secretary of State for India.

The humble Memorial of *Mathew Richard Weld*, of the Madras Civil Service.

Humbly sheweth,

THAT your Memorialist feels aggrieved by the enclosed order of the Madras Government, dated 2nd September 1876 (App. A.*), and desires to appeal against the same.

*See page 10.

2. Your Memorialist was assistant, and acting head assistant, to the collector and magistrate of Tanjore during the last five years, and was put in charge of the sub-division of that district, on or about the 28th of April 1876, as a temporary measure, on the death of the late Mr. Cameron, of the Madras Civil Service, pending the appointment of his successor. Shortly after the arrival of your Memorialist at Negapatam (the head quarters of the sub-division), early on the morning of the 4th of May 1876, Mr. Oliver, the vice-president of the Negapatam municipality, called and informed him that some four days previously, the village magistrate of Negapatam, one Sheshappayyan, had caused the corpse of his father to be buried on the bank of the Akkarri Kulam (tank), the principal, indeed almost the only, source from which the inhabitants of Negapatam obtain their drinking water, and which has been duly set apart for that purpose by the municipality, so that its defilement is a penal offence. Your Memorialist went to the place with Mr. Oliver, and found that a small court yard had been built on the tank bank, on looking over the wall of which he saw the grave. It appeared to him that the body had been buried so close to the water that, as it decomposed, organic impurities from it must find their way into the water, the more readily as the soil consists almost entirely of sand. The marginal sketch shows the position of the grave, distant from the water about 36 feet. Between the courtyard and the tank lay a brick platform, composed of bricks laid flat upon the surface of the ground, and a flight of steps; the walls of the courtyard, of brick in mud, with foundations less deep than the grave, did not interpose between the body and the water, so that there was nothing in the way of percolation except the flight of steps, of brick, not by any means solidly built, and little calculated to resist it.

3. Not willing to rely solely on the unprofessional opinions of himself and the vice-president, your Memorialist consulted the district surgeon, requesting him to inspect the place and give his opinion; this he did, at first verbally, subsequently in writing, a copy of his written certificate is enclosed (App. B.†), it is in accordance with the opinion of your Memorialist.

† Surgeon Beech to the Sub-collector of Tanjore, 7 May 1876, No. 90. Page 14.

4. As your Memorialist thought over the matter during the morning, before going to office, it occurred to him that as the body had been buried in salt (as he learnt) decomposition would be delayed (though not prevented), and there was, therefore, time to refer the matter for the orders of the district magistrate. He went to office resolved to do so. There he found awaiting him the Sheristedar of the North Arcot District, another son of the deceased, who prayed that the body might not be disturbed, and contended that the place where it had been buried was a customary burial place; but in support of this he could bring forward nothing but his own assertion that a corpse had been buried there some 30 years before. Your Memorialist informed him that he was about to refer the matter for the orders of the district magistrate, and that he had best apply to him.

5. That day (May 4th) your Memorialist wrote to the district magistrate (App. C.‡) reporting what had been done, and suggesting that an order be issued directing the removal of the corpse, and that the Government servants who had taken part in the objectionable burial should be punished. The principal of these were the tahsildar and subordinate magistrate (native) of Negapatam, who, instead of, as in duty bound, bringing the matter to notice, actually took part in the funeral, and the village magistrate, the son of the deceased. Next day the reply of the district magistrate arrived (App. D.§); he directed that the removal of the body should be ordered, if the place were not a customary burial ground, and that the Government servants concerned should be

‡ Mr. Welch to Mr. Thomas, 4 May 1877. See page 19.

Mr. Thomas to Mr. Weld, 5 May 1876. See page 19.

punished, and expressed some surprise that your Memorialist had not at once taken action. "If these be the circumstances," are his words, "I do not see why you should have delayed to do your duty where delay is dangerous." This letter, your Memorialist respectfully submits, amounts to a distinct order to have the corpse removed (unless he was prepared to report that the place was a customary burial ground, which he did not then and does not now believe to be the case), which order he was bound to obey, as the subordinate of the district magistrate.

6. In this letter the district magistrate also says, "I do not understand how the wall can have been built so close to the Akkarri Kulam without the knowledge of the municipality. The son (the North Arcot Sheristedar) says that it was "built with their sanction a month ago." This assertion of the Sheristedar is represented in his petition to Government; but the enclosed entry in the municipal proceedings book (App. E.*) shows that the persons who obtained license to build on the spot represented that they wished to build a covered ghât (flight of steps leading down to the water), and were permitted to do so on condition of their leaving it open to all who required to use it. Armed with this license, they built the wall, and under cover of the wall they dug the grave and got everything ready for the burial. There can be no reasonable doubt that they resorted to this deceit, because they were well aware that the Municipal Commissioners would not permit the burial of the body in that place.

*See paragraph 3 of Mr. Oliver's letter to President of Municipal Commission, dated 19 May 1876, on page 26.

7. After the receipt of the above-mentioned letter from the district magistrate, your Memorialist issued an order (App. F.†, translation of the same order), dated 6th May, directing the removal of the body within a week, and giving notice that if the order should not be obeyed the corpse would be removed and buried in a place called Hathaway's Park, or dealt with in any other manner which might be convenient. On the following day (7th May) the relatives removed the body and buried it in a garden, from the owner of which they obtained the site, not far from the first grave, but at a sufficient distance from the water.

† See page 22.

8. The time allowed in this Order was sufficient for the parties to appeal to Government against it, but no such appeal was made; and the North Arcot Sheristedar actually takes credit to himself for having dissuaded his friends from doing so. Why, it is difficult to understand.

9. To the above-mentioned letter of the district magistrate, your Memorialist replied (App. G.‡) that there was nothing to support the contention that the place was a customary burial-ground, except the bare assertion of the parties interested that a body had been buried there some 30 years before.

‡ Mr. Weld to Mr. Thomas, 8 May 1876. See page 23.

10. Subsequently the Madras Government received a petition from certain inhabitants of Negapatam, relatives and friends of the deceased (App. H.§), complaining against the action taken by your Memorialist. This was sent for report to the district magistrate of Tanjore, who called upon your Memorialist to explain why he had selected Hathaway's Park as a place of interment in preference to any other Hindu burial-ground authorised by the municipality. To this your Memorialist replied, on the 21st July (App. I.||), explaining that he had mentioned Hathaway's Park, because the vice-president had informed him that it was the only waste land at his disposal in which the body could be buried. There is no such thing as a "Hindu burial-ground" in Negapatam, as Hindus do not bury, but burn their dead. In the case in question, the relatives wished to glorify the deceased as a Saniyasi (religious ascetic), and accordingly buried his remains instead of burning them.

§ Petition, dated 5 June, from S. Muthookisland, Iyer, and others. See page 3.

|| Mr. Weld to Mr. Thomas, 21 July 1876. See page 29.

11. The North Arcot Sheristedar subsequently petitioned Government on the subject; his petition (App. K.¶) was not sent for report, and your Memorialist only knows of its contents from its having been published in the Madras papers after the promulgation of the Order appealed against.

¶ Petition from Kistnasamy Iyer, dated 11 July 1876. See page 5.

12. On the 22nd July, before the receipt of your Memorialist's letter of the 21st, the district magistrate sent in his report (App. L.***) on the petition of the inhabitants of Negapatam, in which he justified what had been done. On the 3rd August your Memorialist received a copy of a telegram from the Madras Government to the district magistrate, directing him to report what is meant

*** Mr. Thomas to the Government of Madras, 22 July 1876. See page 12.

by

by Hathaway's Park. Having by this time reverted to his post of head assistant, your Memorialist had returned to Tanjore, and was then very ill; this prevented his ascertaining and reporting accurately the details of the extent of Hathaway's Park, and the nature of the ground; but as it appeared that the Government demanded a report forthwith he wrote at once to the district magistrates (App. M.*) describing it, as well as he could, from memory. He has since ascertained that Mr. Oliver was right, that there is no other place to which he could have had the body removed had the relatives refused to obey his order, and had he then exhumed it; that the plot is over 30 acres in extent, and that, as he stated in that letter, though night-soil is buried in the south-east corner, the greater part is entirely free from anything that could be supposed to contaminate it. On the 15th August the district magistrate sent in a second report (App. N.†), enclosing your Memorialist's explanation.

*Mr. Weld to Mr. Thomas, 3 August 1876. See page 30.

†Mr. Thomas to Government of Madras, 15 August 1876. See page 15.

13. On the morning of the 5th September the district magistrate showed the Government Order to your Memorialist, who read it with the utmost astonishment and sorrow, as he was unaware that he had done anything deserving of censure, or that any such thing was pending. The Order of Government decides that the place where the body was buried is a customary burial ground, that your Memorialist acted hastily and without due inquiry, and that he wantonly insulted the feelings of the family of the deceased and outraged public decency by adding a certain threat to his order. This language shows that it has been assumed that the intimation that, if the order was not obeyed, your Memorialist would have the body removed to Hathaway's Park, is equivalent to a threat to bury it in the nightsoil. Against such an interpretation your Memorialist most emphatically protests, and submits that there is nothing to warrant it. He had not the slightest wish to hurt the feelings of anyone; on the contrary, he was anxious to do all he could to make his proceedings as little hurtful to their feelings as possible, consistently with obliging them to remove the body. He has always treated natives with whom he has been brought in contact with consideration and regard, and it is most painful to him to find himself accused of thus wantonly hurting the feelings of others from (as would appear from the Order of Government) a mere inhuman and diabolical love of inflicting pain. Had any such thing been the mainspring of his action, he could have gratified it by proceeding against the parties criminally under Section 277 of the Indian Penal Code, but he abstained from anything of this sort, and confined himself to enforcing the removal of the body.

14. Your Memorialist desires to draw attention to the following facts:—

(1.) Negapatam and the neighbourhood, in common with the rest of the Tanjore district, was at that time suffering from cholera. That epidemic, which has prevailed throughout the greater part of India since 1874, commenced there, and spread thence as from a centre. Government had repeatedly urged the Municipal Commissioners and the magistracy to use their utmost endeavours to check it. Your Memorialist was fully alive to the necessity of doing so, and his exertions to improve the sanitary state of his own division of the district (that of the head assistant) were mentioned with approval by the district magistrate in his report to the Board of Revenue. Your Memorialist had no personal interest in the matter, as his house was about two miles from the tank, and he did not use its water. He acted solely for the benefit of the people under his charge.

(2.) With reference to the assertion that the place is a customary burial-ground, it is not even pretended that anyone has been buried there for the last 30 years, and it is admitted that a Brahmin Saniyasi who died some 15 years ago, was buried in a different place. Supposing then that the assertion that a body was buried there some 30 years ago is true, does it follow that a burial there should be permitted now? Since that time attention has been directed to sanitation, the town has become a municipality, and the tank has been duly set apart as a drinking-water tank, so that its defilement is punishable under the Madras Towns Improvement Act.

(3.) The relations of the deceased showed by their conduct that they did not really believe that they had a right to bury the corpse in the place in question. They effected their object by deceitfully representing that they desired to erect a

covered ghât, and obtained a license to do so, under cover of which they were able to prepare the grave without their purpose being discovered.

(4.) Your Memorialist was moved to act by the vice-president of the municipality. The Sheristedar of North Arcot says in his petition that that officer promised, on the 4th of May, to see your Memorialist and waive all objections to the burial, but he never did so, and at all subsequent meetings he appeared to adhere to his original opinion.

(5.) Your Memorialist did not rely on his own opinion solely, but obtained the best he could for his guidance, that of the district surgeon; nor did he take any steps till he had obtained the instructions of the district magistrate, and he was, in fact, only obeying his superior in issuing the order to remove the body.

(6.) The body being buried in salt would not prevent, but only delay, decomposition. Indeed the salt would make matters worse in the end, and would assist the percolation of the impurities through the slight obstacle presented by the steps.

(7.) The intimation that the body might be buried in Hathaway Park does not amount to an indecent threat to bury it in the nightsoil pits. The friends of the deceased, in the hope of exciting indignation against your Memorialist, have represented the place as a sort of dung heap, where all the filth of the town is deposited, and their account appears to have been accepted as true by the Madras Government, but this is far from being so. The place is named after Mr. Hathaway, late of the Madras Civil Service, who, when sub-collector and joint magistrate of Tanjore and vice-president of the Negapatim municipality, obtained this piece of land for that body with the intention of making of it a public garden or park. It is over 30 acres in extent, and of considerable length from east to west. The surface being uneven, consisting of hills and hollows, and the soil of the hollows being impregnated with salt, owing to their being overflowed by the sea-water at high tide, and so unfit for cultivation, the town sweepings are used to fill them up to the level of the more elevated portions. The elevated portions, therefore, which occupy fully half the entire surface, have not even had sweepings thrown on them, and are free from anything that could be thought to contaminate them; one of these, some four or five acres in extent, lies in the south-west corner, surrounded on three sides by a valley, and having on the fourth the railway boundary hedge; this is entered in the old survey accounts (Painish) part as a salt platform and part as a burning ground. It is no longer used for these purposes, as the salt depôt has been removed to another place, and the railway has cut it off from the main portion of the burning ground which is still in use. The nightsoil pits, which are in the south-east portion of the park, are very far away. This place would have afforded a perfectly unobjectionable site for the grave, and it is most unfair to your Memorialist to suppose that he would have passed over it to select a site in the objectionable south-east portion. As the vice-president told your Memorialist, there was no other Government waste land available to which your Memorialist could have had the body removed.

(8.) The order to remove the body was delivered to the village magistrate of Negapatam, one of the sons of the deceased, in the joint magistrates' court-room. he being then present with his pleaders, and had he or his friends felt aggrieved by the mention of Hathaway's Park in the order, there was nothing to prevent them saying so, and asking to have it omitted. That your Memorialist was far from wishing to insult or annoy them is shown by the fact that on their telling him that a week would be required for the performance of the ceremonies necessary on the removal of the body, he at once allowed that period in the order. They well knew that he wished to spare their feelings as much as possible, and at the conclusion of the proceedings, so far from complaining of anything in the order, they thanked him for the consideration shown them.

(9.) It was necessary that the parties concerned should clearly understand what would ensue if they did not themselves remove the body within the liberal time allowed, lest they should elect to endure punishment rather than obey, and perhaps frustrate, the object of your Memorialist by deferring the exhumation till it could be plausibly argued that decomposition must have already occurred, and that therefore it was useless to remove the body.

15. Your Memorialist understands that the district magistrate has sent in a fresh report on the subject; he will request the Madras Government to attach a copy of it to this Memorial (as Appendix O.). He respectfully begs to draw attention to this and to Appendices L. and N., as they deal with the question most fully and ably, and show the opinions entertained on the subject by an experienced magistrate of about 22 years' service.

Mr. Thomas' letters to the Government of Madras, dated 22 July and 15 August 1876. See pages 12 and 15.

16. The delay in submitting this Memorial is due to ill-health. The very day your Memorialist received the Government order, he became so ill that he was sent home on medical certificate as soon as it was safe to remove him, and he has since been far from well.

17. The stigma cast on the character of your Memorialist by the order of the Madras Government, against which he now appeals, is most serious, and is likely to affect the whole of his future career. He therefore humbly begs your Lordship to annul the said order so as to remove the stigma from his character.

For which act of justice your Memorialist, as in duty bound, will ever pray.

41, South-street, Dorchester, Dorset, (signed) *M. R. Weld.*
15 February 1877.

From the Under Secretary of State for India to Mr. *Weld.*

Sir,

India Office, 3 May 1877.

THE Secretary of State for India has had under his consideration in Council your letter dated the 8th of March, forwarding a Memorial addressed by you on the 15th of February to the Marquis of Salisbury, relative to the case of a Sanyasi who was exhumed by your orders at Negapatam. In reply, I am desired to inform you that Lord Salisbury has declined to interfere with the proceedings of the Madras Government with regard to this matter.

To M. R. Weld, Esq.

I am, &c.
(signed) *George Hamilton.*

From Mr. *Thomas* to the Secretary of State for India.

Bella Luce, Guernsey, 13 April 1877.

THE humble Memorial of Henry Sullivan Thomas, Esq., of the Madras Civil Service, at present acting collector and magistrate of Tanjore, and absent from duty on three months' privilege leave.

2. Your Memorialist, feeling aggrieved by an order of the Madras Government, No. 1585, dated 2nd September 1876, passed in the matter of a Sanyasi exhumation, thought it necessary to appeal to your Lordship, but, trusting in the strength of his case, he did not doubt of convincing the Madras Government; and, rather than appear in conflict with his immediate superiors, wished that they should first have the opportunity of themselves rectifying their mistake without any necessity for your Lordship's intervention. He therefore submitted his explanation, No. 60, dated 8th January 1877, in the first place to the Madras Government. Now that the Madras Government has declined to be moved thereby, he appeals to your Lordship.

3. When your Memorialist left his post in India on the 2nd March, he was not aware that the Madras Government had passed any order on his letter of explanation, No. 60, dated 8th January 1877, and was patiently awaiting its communication to him in the usual way; but no copy, nor even the purport of the order having been given him, he has been unable to appeal earlier, and even now he is in no fair position for appealing, as he only knows verbally, and that accidentally, of the bare existence of an unfavourable order, and is in complete ignorance of its details. If the Madras Government has set forth any fresh reasons for its order, your Memorialist begs to be allowed to see them in order that he may clear himself, as he is confident he can. He therefore prays that your Lordship will be pleased to grant him a copy of the order of the Madras Government, and to delay decision thereon till his appeal is with all dispatch submitted.

4. If nothing fresh is brought forward in the last order of the Madras Government, your Memorialist will not trouble your Lordship with any addition to his letter, No. 60, dated 8th January 1877; for though much, very much, might be added thereto were it necessary, he trusts it is a sufficient exposition of the case. Relying on your Lordship's sense of justice, your Memorialist, as in duty bound, will ever pray.

(signed) *H. Thomas.*

From the Under Secretary of State for India to Mr. *Thomas.*

Sir, India Office, 3 May 1877.
I AM directed to acknowledge the receipt of your Memorial, dated 13th April, in which you complain of the orders passed by the Government of Madras relative to the case of a Sanyasi who was exhumed at Negapatam.

2. In reply, I am desired to inform you that the Marquis of Salisbury has declined to interfere with the proceedings of the Madras Government in regard to this matter.

3. I am to add that the submission of your Memorial direct to the Secretary of State, instead of through the Government to which you are subordinate, was irregular.

To H. S. Thomas, Esq.

I am, &c.
(signed) *George Hamilton.*

EXTRACT from Minutes of a Meeting of the Council of India, held on Tuesday, the 24th April 1877;—

PRESENT:

THE MARQUIS OF SALISBURY, in the Chair.

Sir H. Rawlinson.
Mr. Cassels.
Hon. E. Drummond.
Sir Barrow Ellis.
Mr. R. S. Ellis.
Sir F. Halliday.
Sir H. Maine.

Sir R. Montgomery.
Sir W. Muir.
General Strachey.
Sir A. Wilde.
Sir G. Wolseley, and
Colonel Yule.

The Despatch to Madras in the Judicial Department.—Case of Mr. Weld, which was laid before Council on the 17th instant, was read. After a long discussion, the Question being put, "To approve the said Draft," the same passed in the affirmative.

Ayes, 7.

Sir H. Rawlinson.
Mr. R. S. Ellis.
Sir F. Halliday.
Sir R. Montgomery.
Sir W. Muir.
Sir A. Wilde.
Sir G. Wolseley.

Noes, 5.

Sir B. Ellis.
Sir H. Maine.
Mr. Cassels.
General Strachey.
Colonel Yule.

Whereupon the Draft was approved accordingly.

To His Excellency the Most Noble the Governor in Council, Fort St. George.

(Judicial—No. 4.)

My Lord Duke, India Office, London, 26 April 1877.
Para. 1. THE Despatches of your Excellency in Council in the Financial Department, dated 28th September and 15th November, Nos. 28 and 36 of 1876, and

and in this department the 2nd of February, No. 5 of 1877, relative to the circumstances under which you have deemed it your duty to remove Mr. M. R. Weld, of the Civil Service, from his appointment of acting head assistant to the collector and magistrate of Tanjore, and to suspend him from all employment for a period of two months, have been considered by me in Council.

2. I have also received and considered in Council a Memorial addressed to me by Mr. Weld, who is now in England, protesting against the proceedings of your Excellency in Council in his case.

3. It appears that on the 30th April 1876 an aged Sanyasi died, and was, on the same day, in the presence of a very large concourse of people, buried on the north side of a tank, called Akkaraikulum, within the municipal limits of Negapatam.

4. On the 6th of May the acting joint magistrate, Mr. Weld, addressed an order to Seshappa Jyen, the village munsiff of Negapatam, a son of the deceased Sanyasi, directing him to exhume and remove his father's body, and informing him that if this order were not complied with on the 13th May, a prosecution, under Section 188 of the Penal Code, would be commenced against him. It was added, that the body would then be "removed on behalf of Government and buried in the place called Hathaway's Park." The village munsiff, Seshappa, was also dismissed from his post.

5. The justification alleged for these proceedings was, that the proximity of the spot in which the Sanyasi was buried to the tank would render the water liable to contamination, and that, therefore, on sanitary grounds it was necessary that the body should be at once removed.

6. The sanitary considerations appear to me exaggerated. The place of burial was from 15 to 20 yards distant from the tank, and was separated from it by a thick brick wall, and a large flight of steps; but it is not necessary to dwell upon this question; the real point for consideration is, whether Mr. Weld, when entertaining certain opinions on sanitary grounds, gave effect to those opinions in a proper and conciliatory manner.

7. I cannot think he did. He seems to me to have acted with great harshness. No attempt appears to have been made to induce the sons of the Sanyasi to render the grave impervious by the use of brick or concrete, or any other method. The exhumation of a body must always be repugnant to the religious feelings of natives, and, in the present case, Mr. Weld's order was addressed to the son of the deceased, a Brahmin Sanyasi, held in high respect for wisdom and piety, and was aggravated by the cruel threat that, if not removed by a certain date, the corpse would be taken up by direction of Government and buried in Hathaway's Park, a place in which rubbish was shot and nightsoil deposited.

8. It appears to me that in acting as he did, Mr. Weld altogether failed in that watchful regard for the religious feelings of the people which the English Government have traditionally exhibited, and which is one of the most essential qualifications of a civil servant.

9. I approve, then, of the proceedings of your Excellency in Council with respect to Mr. Weld; and I also concur in the condemnation of the tone of the comments of Mr. Thomas, the collector and magistrate of Tanjore, on the case. With respect to Mr. Weld, the censure with which his conduct has been visited will, probably, be sufficient to mark the views of your Government; and to impress on him the necessity of greater caution in the application of sanitary principles. Under these circumstances, your Grace in Council will, probably, be of opinion that the suspension of Mr. Weld from the exercise of magisterial functions need not be further continued.

I have, &c.
(signed) *Salisbury.*

DISSENT by MR. CASSELS.

24 April 1877.

I wish to place upon record my dissent from the despatch on this subject which, after much discussion, passed Council this day. It appears to me that the action of the Government of Madras in suspending Mr. Weld for two months, and in directing that the exercise of magisterial functions should be withheld from him, until powers should again be expressly conferred by order of Government, was not justified by the facts of the case; and that it is open to the charge of having been inspired by a wish to win popularity from the native population of the Presidency. I see reason to fear that the influence and authority of its own officers will be weakened by such action, and that the chasm which separates the European from the Native in India, will thereby be rendered even wider and deeper than it was before.

The Vice President of the Negapatam Municipality informed Mr. Weld that a burial had taken place in too close proximity to the tank from which the people of the town drew their drinking water. Mr. Weld visited the spot, and then consulted the surgeon in charge of the district as to the effect the decomposition of the body might be expected to have on the water, and the answer he received was that "organic and other decomposing matter must obtain entrance into the tank from the body." The distance of the grave from the tank is stated by Mr. Weld to be 36 feet. Mr. Weld, after receiving this confirmation of his fears, appealed to his superior officer the collector of the district, and he (Mr. Thomas) sanctioned his proposal that the body should be exhumed and removed to a greater distance from the tank. I fail to perceive how, with such advice and instructions before him, Mr. Weld could have done otherwise than insist upon the removal of the body.

It has been asserted that he acted harshly, and without due consideration for the feelings of the relations of the buried man. But I find no proof of this, and he affirms that the idea of wounding the feelings of the family never crossed his mind. The statements of Mr. Weld and of the relatives of the buried man are somewhat conflicting on several points of this part of the narrative, but I see no reason for disbelieving Mr. Weld and for placing reliance on the statement of the family. I cannot concur with those speakers in the discussion of to-day, who laid so much stress upon the necessity of respecting the feelings and religious customs of the people of India, and expressed alarm at the want of deference to those customs which they affirm to be manifested by English officers of the present time. If we ought to avoid all interference with the religious customs of the natives, how is it that we denounce, and to the best of our ability prevent, Suttee, which has been held to be a custom sanctioned by their religion? Where are we to draw the line between interference and non-interference? Mr. Weld had to think of the living as well as of the dead; the town was under his care; it had been, it is stated, a centre from which a wide-spread attack of cholera had sprung, and Government had repeatedly urged the municipal authorities to use their utmost endeavours to check the disease; I confess that in my opinion his conduct in the matter deserved commendation and not punishment. The introduction of sanitary reform has never been welcomed, nay, it has almost invariably been opposed by the natives of India, and it seems most undesirable to cast discouragement upon officers who, to the best of their ability, are striving to introduce reforms of this kind.

The Government of Madras state that abundant proof has been produced to show that the place where the body was interred was a customary place of burial; but I find no such proof in the papers that were attached to the despatch which passed Council this day; on the contrary, Mr. Weld asserts that there is nothing to show that any burial had taken place in the locality for 30 years. The final question resolves itself into this: Are the religious prejudices of the natives to be respected at the expense of the life of the community? There can, I submit, be but one reply to this, and in accordance with it, Mr. Weld must be supported. It seems to me that it was absolutely necessary to remove the body, and by doing so to impress upon the people the pernicious nature of the practice of interring dead bodies within a few yards of a tank from which they were in the

the habit of drawing their drinking water. It may be added that the defilement of the tank was a penal offence.

It has been alleged that Mr. Weld gave additional offence by saying that, failing other arrangements, the body should be removed to Hathaway's Park; but it must be borne in mind that he was informed by Mr. Oliver, the Vice President of the Negapatam Municipality, that there was no other place to which he could have had the body removed.

I am, therefore, of opinion that, under all the circumstances of the case, Mr. Weld has been harshly treated, and that the action of the Government of Madras in suspending him from office is calculated to weaken everywhere the authority of their own officers, and to arrest the progress of sanitary reform in India.

I have, &c.
(signed) *Andrew Cassels.*

DISSENT by SIR H. S. MAINE.

From Despatch in Mr. Weld's case, passed by Council on Tuesday,
24th April 1877.

Mr. Weld, an acting Joint Magistrate in Southern India, issued an order about a year ago by which he directed that a body which had been surreptitiously buried on the margin of a tank near Negapatam should be exhumed, adding a statement of the consequences which would follow if these directions were disobeyed. The order was made under section 519 of the Code of Criminal Procedure, and there was nothing unusual in its form or *primâ facie* in its substance; but, for making it, Mr. Weld has been severely rebuked by the Madras Government, and was suspended from all public employment for two months.

There is a very heavy presumption against the justice of this censure and punishment. Negapatam is gloomily known to scientific medical authorities as a suspected cholera centre; that is, it is believed to be a place in which cholera is permanently present as an endemic, and from which it spreads from time to time, as an epidemic, over a great part of India, and possibly over a great part of the world. The tank in question is the principal, if not the only, source of drinking water to the population of Negapatam; and one fact among the very few established respecting the origin of cholera is, that it springs from the contamination of drinking water by decayed or degraded organic matter. Even, therefore, if we rate at the highest point of earnestness the desire of the dead man's relatives to bury him in this particular place, and even if we attach the utmost weight to their reluctance that the body should be removed, we seem at most to have a conflict between the interests of a large portion of mankind and the feelings of a single family of Hindoos, disposing of their dead in a manner never followed by the vast majority of their co-religionists.

An order for the exhumation of a dead body, so buried that it may defile a source of drinking water near a seed-bed of cholera, stands *primâ facie* in need of no defence, and the functionary who issued it may well have been actuated by a sense of duty more than usually high, and by a care for the interests confided to him more than ordinarily far-reaching and far-sighted. Very extraordinary circumstances of precipitation, or of violence, or of coarseness, must be proved and appealed to if the condemnation of such an act is to be justified. But, on the evidence before us, Mr. Weld seems to have fenced round his proceedings with an abundance, which might even be called a superfluity, of precautions. Within a few days after his assumption of his public functions, he was informed of the surreptitious burial by the Vice-Chairman of the Municipality, the "sanitary authority" of Negapatam. He convinced himself by ocular inspection that there was danger of defilement to the water of the tank; but, not satisfied with his own conclusion, he consulted the member of the official Medical Service who was the scientific expert of the district, and this gentleman confirmed his opinion. Still hesitating, he referred the case to the superior

above him, and received from that authority, not merely an expression of agreement with his view, but a strong remonstrance for not having sooner discharged an obvious duty. At last he issued the order; and the relatives of the deceased, who had already been informed that there would be time to appeal to higher authority against its being made, were now allowed the interval which they themselves desired for carrying it into effect.

The charge against Mr. Weld rests wholly on his having mentioned in his order a contingency which might not necessarily occur, and which, in point of fact, did not occur. After directing the relatives to remove the body, and pointing out the penalty which the Indian Penal Code imposed on disobedience, Mr. Weld, following, I presume, the ordinary form of orders like his, stated what would have to be done if, through the neglect of the relatives, the duty of removing the body should ultimately fall on the magistrate himself. He said that it would be buried in Hathaway's Park, an extensive piece of waste ground belonging to the Government. Hathaway's Park was in one respect the least appropriate, in another the most appropriate, place for the burial of a Hindoo, since in one part of it the refuse of the town was deposited, while in another part Hindoos, who follow the all but universal usage of burning, were accustomed to burn their dead. By a highly artificial construction of the language of his order, Mr. Weld has been taken to mean that he would bury the exhumed body in the first-mentioned portion of the waste ground. But the whole tenor of his proceedings seems to me to entitle him, if his language is the least doubtful, to the exactly opposite interpretation.

I do not believe that Mr. Weld, by his proceedings, shocked or outraged the religious feelings of any person whatsoever. The persons who effected the burial showed by the secrecy of their acts, and by the false pretences employed to cover them, that they were perfectly prepared for the consequences which would follow detection; and I largely share the suspicion that, if the authors of the surreptitious interment had not been deprived of their offices under Government, we should never have heard of the case at all. If, however, it were necessary to enter upon the question, it would be easy to show that hardly any considerable sanitary improvement can be carried out in India without in some degree offending the religious prepossessions of a community for almost all of whose practices, good or bad, there is a supposed religious sanction.

(signed) *H. S. Maine.*

27 April 1877.

I concur in the above dissent.

(signed) *Richard Strachey.*

7 May 1877.

DISSENT by SIR B. H. ELLIS.

I dissent from the tenour of the despatch which approves the proceedings of the Madras Government in the case of Mr. Weld.

2. Mr. Weld had unquestionably a difficult task to perform. On the one hand, no duty is more clearly laid down for the executive officers of the British Government than that they should respect the feelings, and even the prejudices, of the native population; on the other hand, the necessity for improved sanitation, and for the observance of precautions against the outbreak of epidemic disease, has been urgently pressed on the attention of all local authorities. I do not profess to decide whether, judging from the latter point of view, the urgency was such as to justify the extreme measures taken by Mr. Weld, at the risk of hurting the susceptibilities of a section of the native community of Negapatam. On the point whether the danger to the public from the possible contamination of the tank water and consequent spread of disease, was so clear as to justify the exhumation of the buried sanyási, the Madras Government must have better means of deciding than we have, and I do not presume to question their judgment.

3. But even if it be admitted that Messrs. Weld and Thomas were not justified

fied by the facts in the course they adopted, and that they also acted harshly in removing from their situations the Native Government servant for their share in the burial of the Sanyási, and for the deception by which it had been accomplished, I yet think that the circumstances did not warrant the severe punishment awarded to Mr. Weld.

4. I find that he acted throughout in accordance with the law, and with caution and deliberation. He justified himself by the formal opinion of his sanitary adviser; he referred for instructions to his immediate superior, and received from him an order on which he acted; he allowed the friends of the deceased ample time to carry out his injunction, or to appeal against it, if they felt disposed (which they did not); and, moreover, a sufficiently reasonable explanation has been given of the reference to Hathaway's Park, on which so much stress has been laid.

5. Mr. Weld, therefore, even if he be pronounced to have erred, erred from a too zealous desire to enforce sanitary precautions for the public benefit, and he certainly acted in good faith and with great caution. I must record my opinion that to visit so severely the action of an executive officer under such circumstances, tends to affect most seriously the efficiency of the administration; and it is especially from this consideration, and not merely in justice to Mr. Weld, that we ought to withhold our full approval of the proceedings of the Madras Government.

6. I think the proper course would have been to write to Madras and express the sympathy of the Secretary of State with the Madras Government in their anxiety to avoid wounding the feelings of any section of the native population, and his concurrence in the propriety of severely noticing any want of such consideration on the part of their officers, but I would have added, that the punishment awarded to Mr. Weld was, under the circumstances, unduly severe. A hope might have been then expressed that the censure already recorded would be considered sufficient, and that what has passed would not prevent Mr. Weld, on his return from leave, receiving such an appointment as his position in the service and his merits might otherwise entitle him to.

7. Had this been done, the past proceedings of the Madras Government would not have been unduly interfered with, but the Secretary of State would not have given the stamp of his approval to so severe a penalty as degradation and suspension from pay and allowances, which the Madras Government has in this case awarded to an officer who tried honestly to do his duty, and who acted, moreover, with care and caution, and with the sanction of his immediate superior, and in a manner which, though disapproved by the Madras Government and a majority of the Council here, is nevertheless approved by many authorities of eminence.

(signed) *B. H. Ellis.*

30 April 1877.

MINUTE by Mr. R. S. ELLIS, C. B.

I wish to make a few remarks on the case of Mr. Weld, who was temporarily suspended by the Madras Government. I desire to do this because I was a party to the order in question.

The exhumation of the body of a sanyasi (saint), held in great reverence by the Brahmins of Tanjore, had excited great indignation among his co-religionists, and if, as was asserted, there was no necessity for so unusual a proceeding, and if the order had been carried out with unusual harshness the magistrates concerned had committed an error of the most serious character. The Madras Government had therefore two questions to deal with in this case: 1. Was there such urgent necessity on sanitary grounds, as would justify the exhumation of the sanyasi? 2. Did Mr. Weld enforce his order with undue harshness?

After most careful inquiry and consideration the Madras Government decided, I still think rightly, that there was no urgent necessity for the exhumation.

The tank in question was not, as supposed, a reservoir of pure water for the supply

supply of the town. It was one of the ordinary tanks of an Indian town, from which hundreds not only take water for household purposes, but in which they bathe and wash their clothes, and which they defile in the many ways familiar to those who know Indian habits. It may easily be supposed in what an impure state such a tank would be. An isolated case of interment on its border could hardly add to its impurity. It was further ascertained that the body of this aged saint had been buried on the sloping border of the tank with unusual precautions. His grave was at a distance of 40 or 50 feet from the water's edge, the body had been surrounded with a mass of salt, and it was separated from the water by a brick wall and a flight of steps.

It was also in evidence that before the order of exhumation was enforced, the relatives of the deceased offered to take any further precautions, such as casing the grave with stone, pouring lime round the body, as might be considered necessary by the European officials. So that, the interment having taken place, matters might have been arranged in a manner which would completely obviate all risk to the public health.

This would have been reasonable, and the relatives of the deceased had a fair claim to this amount of consideration, for it was shown that the border of the tank had been used, at long intervals, as the recognised burial-place for this class of devotees. No effort had been made by the municipality to forbid such burials, so that the relatives of the deceased could hardly be charged with any wilful illegality in having publicly buried the sanyasi in the usual place.

The exhumation of a body, except for the purposes of justice, is always a serious matter, but in the present case more than usual care was necessary. The corpse was that of a well-known saint who shortly before his death entered the holiest order of ascetics, whose death and burial were events of great importance in the district. His funeral had been performed with more than usual ceremony, and in accordance with usage his resting place should have become a place of prayer and pious offerings. Under the circumstances nothing but the strongest sanitary necessity could justify the order of exhumation. As above stated, the Madras Government failed to perceive such necessity, and deemed it necessary to censure Messrs. Thomas and Weld for their want of consideration in a matter which was certain to affect painfully the religious feelings of the native community.

They had then to consider the manner in which the exhumation order had been carried out by Mr. Weld.

It appeared that Mr. Weld on first hearing that the sanyasi had been buried on the border of the tank, gave a hasty verbal order for his immediate exhumation, and dismissed the village magistrate (a son of the deceased sanyasi) for not having prevented the burial on the tank border.

Even after he had time for inquiry and reflection his conduct was unaccountably inconsiderate, for in issuing the formal written order of exhumation, he added the threat that if his order was not obeyed he would cause the body to be exhumed and placed in Hathaway's Park, a waste piece of land used as the place where the night-soil and rubbish of the town were thrown. These proceedings appeared to the Madras Government to be inexcusably harsh and inconsiderate.

Instead of doing all that was possible to mitigate the severity of the order of exhumation, Mr. Weld was violent and hasty, and used a threat which was a deliberate insult, not only to the relatives of the deceased, but to the whole Hindu community.

This conduct placed Mr. Weld in a different position from that of Mr. Thomas,* and the Madras Government thought it necessary to mark their displeasure by adding the punishment of a brief suspension to official censure.

2 May 1877.

(signed) *R. S. Ellis.*

* Mr. Thomas had nothing to do with the threat of Hathaway's Park.

MINUTE by the MARQUIS of SALISBURY.

THE Papers have left upon my mind a different impression of the case from that which they have left upon the minds of some of the members of Council; and as the questions at issue are not argued in the despatch, I think it will be better to put on record the reasons which in my view justify the course taken by the Government of Madras. There is a good deal of conflicting evidence as to the facts, but I state them as they appear to me, on reading the Papers, to have occurred.

There is a tank in the neighbourhood of the town of Negapatam, on the margin of which, for some generations back, Hindu saints have been buried, it being the practice not to burn the bodies of those who have attained to an extraordinary degree of sanctity, but to bury them by the side of tanks and rivers. The cases in which this honour is accorded are very rare, and therefore the number of such graves on the margin of this particular tank are few. Some such burials, however, have taken place in recent times, and one is spoken of which occurred only three or four years ago. No objection on the part of the authorities appears to have been made to the practice at that, or at any other time. Whether the interment was or was not technically illegal appears to be much disputed.

On the 30th of April last year, a Brahmin saint died at the age of eighty-five. One of his sons, who was a village magistrate in the neighbourhood, buried him the same day in the neighbourhood of the tank, in accordance with the custom above-mentioned. The funeral procession was accompanied with native music, and was attended by about 2,000 people, among them some of the Native municipal authorities, and the interment took place at four in the afternoon. It can hardly therefore be described surreptitious. Five days afterwards, Mr. Weld, the joint magistrate of Negapatam, having received information of what had taken place, sent for the son, dismissed him from his office, and (according to Mr. Weld's own statement to Mr. Oliver) threatened him that, unless the body was exhumed within three days, and buried somewhere else, it should be buried in Hathaway's Park. Hathaway's Park is a reclaimed swamp belonging to the municipality, where night-soil is buried, and rubbish is thrown. If I rightly understand Mr. Oliver's letter of the 8th of August, no part of this ground has been used as a place for the burning of the dead. Nor did Mr. Weld confine himself to threats. He gave a formal order to Mr. Oliver, Vice President of the Municipal Commission, that if the body was not removed within three days, the threat was to be carried out. At the same time, Mr. Weld dismissed two of the municipal officers who had been present at the funeral.

For these proceedings the Madras Government punished him. They also censured, without punishing, the Collector, Mr. Thomas, to whom Mr. Weld had on the first instance applied for instructions. The threat concerning Hathaway's Park was, however, not suggested in that application, so that Mr. Thomas was in no way responsible for it, and the facts of the case were not quite adequately represented to him. He only therefore incurred blame for having somewhat hastily sanctioned the harsh proceeding of dismissing the officers.

Mr. Weld undoubtedly was of opinion that the burial of the saint on the margin of the tank was likely to contaminate the water which the people of Negapatam used for drinking; and in this view he was supported by the opinion of Mr. Oliver and Dr. Beech, the local officer of health. The Government of Madras do not attach much importance to this danger, and if it is safe to form a judgment on such a point at this distance, I am disposed to agree with them. The grave was about 50 feet from the water; it was nine feet deep; it was situated on a slope which slanted away from the tank; and a flight of stone steps intervened between it and the water. It is also worth remembering that, guided apparently by some sacred rule of their own, the relatives of the deceased had filled his grave with nearly a quarter of a ton of salt. Moreover, the water in the tank was not pure, as we understand purity. The whole town of Negapatam were in the habit of bathing there, and, I believe of washing their clothes. Under these circumstances I cannot rate the danger of contamination very high.

But it is not necessary to insist upon this point. Mr. Weld is to be praised rather than blamed for having held very high sanitary doctrine. But the course

which he took was not necessary. The difficulty, however high. The sons of the deceased offered to bear any expense necessary for preventing contamination rather than to suffer the disgrace of being obliged to give up their views, the sacrilege of exhuming their father's body.

The grave might, without the usual precautions, have been lined with masonry or concrete at the cost of the family, and the conceivable danger to the health of the inhabitants would have been avoided.

The heavy punishment inflicted on the dishonouring threat uttered and half-executed by Mr. Weld, was therefore necessary to the accomplishment of his sanitary objects. He stated, however, that when he gave the order for burial in Hathaway's Park, he had in his mind a part of Hathaway's Park which no night-soil or refuse had been thrown. The explanation is hardly an extenuation of his conduct; it implies that the necessity of respecting the religious feelings of the natives was so little present to his mind that the double insult which his words, according to their natural construction, were calculated to inflict, never occurred to him as a danger that was to be avoided.

The desire to amend the habits of the natives of India, in accordance with the latest results of European civilization, is, in the abstract, highly to be commended, but the object is sometimes pursued with a dangerous zeal. Without in the least depreciating the value of sanitary reforms, there are other considerations which it is even more urgent to remember, both for the welfare of the people themselves, and in the interests of our rule in India.

I cannot better express the nature of the apprehensions with which the occurrences inspire me than by quoting from the comments of two members of the Council of Madras, who know India well.

Mr. Ellis says :

“ It was a happy accident that this outrage on native feeling passed so peaceably. The natives of Tanjore are not a turbulent race, but in many parts of India the indiscretion of Messrs. Thomas and Weld would probably have caused a most serious disturbance of the peace.”

Sir Neville Chamberlain says :

“ If conduct such as that practised by Mr. Weld, and supported by Mr. Thomas, is to find support at the hands of Government, I do not see how we can expect to continue to govern India.”

4 May 1877.

(signed) Salisbury.

EAST INDIA (M.R. WELD)

COPY of CORRESPONDENCE and PAPERS relating to the Suspension, in April 1876, of Mr. *Weld*, of the Madras Civil Service, for, as Magistrate of *Negapatam*, Tanjore District, causing the EXHUMATION of a BODY of a SANYASI buried on the Banks of Drinking Water Reservoir at that Place, and all OPINIONS or DISSENTS of the Members of the Madras Council and Indian Council, if any.

(*Mr. Percy Wyndham.*)

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