1841-42 were subsidized by Capt. Rawlinson for service under General Nott in Candahar. For these services and others which he was able to render to Sir Charles Napier in his conquest of Sind in 1843-44 he received a pension of Rs. 3000 per month from the Government of India. In 1845 H.H. came to Bombay where and at Poona he and his son and grandson have been residing.

(The pension H.H. gets flows from the British Government on O.H. 227. Given 18th Aug 1856.)

In 1866 the well known Equity suit came on for trial which is reported in 12 Bom. H.C. Reports, the judgment wherein sets out the history of the Aga Khan and his followers which by the clearness of its arrangement and language has formed the basis of all subsequent enquiries. In that case Sir Joseph Arnould summing up the evidence before him declares it to

to be judicially proved that "Mahomed Hussain Hooseini, otherwise Aga Khan," or, as he is more formally styled when mentioned in official documents by the Indian Government, "His Highness Aga Khan, Mehelati," is the hereditary chief and unrevealed Imam of the Ismailis – the present or living holder of the nursund of the Imamate – claiming descent in direct line from Ali the Vicar of God, through the seventh and (according to the Ismaili creed) the last of the revealed Imams, Ismail, the son of Jaffir Seeduck.

Extent of the Influence of the Aga Khans

His influence is much wider than was supposed when he first arrived in Bombay. In India it probably does not extend much beyond the Khoja Community, who are chiefly settled in the maritime cities of the West, in Sindh, the Punjab, and Cashmere. But the members of Sir Douglas Forsyth's Mission to Yarkand ascertained that considerable communities of Shias who acknowledge "Aga Khan of Bombay" as their spiritual head, and send regular tribute to him through agents in Serinuggar and other

towns

towns of Northern India, are still to be found far north, surrounded by the implacable Sunnis of Turkestan and Afghanistan. These Imamee Ismaili Shias form the whole of the sparse population in many of the valleys leading down from the Pamir, the elevated "Roof of the World", on the banks of the higher Oxus, and its affluents - in Chitral, Gilgit, and in remote valleys between Kafiristan and Badakshan hardly known to us except by name.

In Persia, Khorasan, and Western Afghanistan there appear to be considerable numbers of the Aga's disciples, but they seldom, if they can help it, avow their allegiance to him whilst living under a Sunni government. In the maritime towns of the Persian Gulf and Eastern Arabia, especially under the comparatively tolerant rulers of Oman, the Khojas flourish, frequently having, in some form or another, a claim to protection as British Indian subjects. On the

African

African Coast they are found, ~~[illegible]~~ ~~[illegible]~~, in the same posts where Vasco de Gama found them as far south as Mozambique. It is probable that, to this day, if a traveller wished to visit the Central Lakes in Africa, or the Ruby or Jade mines of Badakshan in Central Asia, he could not do better than procure introduction from the descendants of the "Old Man of the Mountain" to his disciples in those parts.

Hassan Ali died in 1881 when Deft 1 was about 4 years old and was succeeded by his son Ali Shah who had been appointed by him as his Pir or religious Deputy during his lifetime. Ali Shah was the Aga Khan down to the year 1885 when he died, when Deft 1 was 8 years old. Ali Shah during his lifetime by a Firman appointed Defendant 1 the Aga Khan see Exhibits 51 & 52 in Commission T.C.R. But Defendant 1 at the time of his father's death being of tender age the management of the estate and

In the present case the witness do not know [illegible] the age from which [illegible] to the A. K. & [illegible] in Bombay were called [illegible] me. I personally do not [illegible] their minors for to one of [illegible] with their position might be dangerous on the return to [illegible] country of their leaders with [illegible]

and properties was taken up by Lady Ali Shah until the year 1893 1901 when Defendant 1 at the age of 16 years took them up, leaving however, the domestic portion of the management in his mother's hands to a certain extent.

The mode in which the funds of the h. H's Estate.

I now state, that the way in which the h. H lived & kept up their family.

As I have said it has not been proved that the 1st A. K retained any property in Persia and I think I may take it that when he arrived in Bombay he had to rely on his pension from Govt and the offerings of his followers. Gradually he acquired properties and there can be no doubt that he maintained his family and the probably large number of retainers who must have accompanied him from Persia. He gradually acquired immovable properties in Bombay and elsewhere permitted

the members of his family and some of his retainers to reside in his various houses. He also acquired property in Poona where he followed the same practice. As the family increased the requirements of the family increased and the property increased. In addition to that he fed from a common kitchen all the persons living on his properties. Allowances were granted in cash to some of the members of his family out of which they provided themselves or perhaps some were provided by him with horses, carriages and servants. The same system was ~~adopted~~ continued in the time of A.S. and after his death by Lady Aishah on behalf of Deft. 1 and after Deft. 1 entered upon his estate by Deft. 1. I have been unable to discover any evidence to show that these allowances of cash, food and residence proceeded from anything but grace and favour of the Aga Khan. And Exs. 211, 215, 216 & 217 show that Deft. 1 assisted and was begged to assist various members of his family with large sums of money.

~~have this primary destination. It is out of~~ the fund thus raised after consultation with the Wawas, agent of the Imam, that the necessary local public expenses of the various ~~Communities are de-~~ ~~frayed~~ ~~The Plaintiff's case is that the offerings made by the members of the family in aid of the Imam and in the A. K. are in the first instance a gift of the Imam. Now obviously the most important point in the case of the Imam is that with it known, the Plaintiff's case in the bill fails utterly. The last point in this head is that~~ The last of this most important one is the there is no assertion whatever in the Plaint that offerings were made to the Aga Khan for the benefit of the members of the family as well as for himself. Para. 2 of the Plaint says "as such Spiritual Head as aforesaid the 1st Aga Khan was the recipient of large and valuable presents from the Khojas as aforesaid and also from the Ismaili Shias. He also received an allowance of Rs. 3000 a month from the Government of India. All the said emoluments or the investments now representing the same form as the Plaintiff contends parts of the entire estate of the said family wherein she claims to have rights as hereinafter stated."

(that the offerings of the members for the benefit of the family & the A. K. for the A. K. alone.)

The Written Statement of the 2nd Defendant does not set up such

a claim. It simply says she has been receiving allowances as of right.

Defendant 4, the widow of Jungi Shah, in her Written Statement, expressly disclaims any such rights.

It is noticeable we get to Koochick's Written Statement that this point is specifically raised. Para. 2 of that Written Statement says:- The Defendants say that the offerings from time to time received by the successive Aga Khans beginning from Shah Hassan Ali 1st Aga Khan were and are received by them not for their individual benefit but for and on behalf of and for the benefit of all the members of the family as shown in the Pedigree Exhibit A to the plaint. These Defendants say that the whole family is held sacred by the devotees as the family

that

Supplying the Premium to the Tithe Income of the family

There are certain other specific circumstances which were pointed out by Mr. Inverarity in his reply. At page 78 of Bhownagar Commission, Mr. Dadachanji made two admissions (1) that the offerings made by the followers of Aga Khan in the various Jamatkhanas were made by them on the occasions which have already been mentioned by the witnesses who have given their evidence; (2) that these offerings were collected by the Menkhi and the Kamadia and sent to the Hazar Imam in Bombay either through the Pargannah Kamadia or the Kul Kamadia by means of hundies as deposed to by the witnesses. Then at page 110 Mr. Dadachanji says: "My case is that those relations of the Imam to whom the followers paid monies on kissing their hands paid the monies into the Treasury into which the Imam monies lay and the Imam and his relations lived together and enjoyed the benefits in these monies which were mixed up with the Imam's money." So at that time there was no suggestion

gestion that the Aga Khan is not the Hazar Imam. Then the Plaintiff's advisers were going on the theory that the Gnans directed that the payments should be made to the members of the family and they alleged that the meaning of the word Al was progeny, but unfortunately for this theory Vazir Cassum Ismail was called - a man of great dignity and good position - and he explained the expression - see page 104. - "The expressions Al Ali and the Aulad Ali which occur in the Gnans have always been understood by us followers to mean that descendant of Ali who is on the gadi of the Imam." And he quotes the actual gnan which is Ex. D. N. 292 and is to this effect:- "The Al Ali is the son of Shalamshah Raja. As is Ali so is the Imam thus says Kabirudin is what Pir Sadrudin has said. The followers who believe this will get Paradise." Shalamshah

Raja

Raja was the then Imam in the time of Pir Sadrudin. The commission shows Mr. Dadachanji absented himself when this witness was examined and did not turn up to cross-examine him and declined to give any reasons for his conduct.

At the hearing before me the Plaintiff and her supporters were driven to contend that the Ginans are a recent introduction of the Aga Khan.

That commission lasted from the 26th November 1906 to 2nd January 1907 and no question was there put challenging the fact that the Aga Khan was the Hazar Imam. Moreover, no question is put as to whether payments were made to the female members of the family with the exception of payments to the mother of the Imam – see pages 59, 87, 142, 183

183 and 184. As Mr. Inverarity points out this idea of the mother refers to the reference in the old Equity suit to the Mata Salamat, which referred to Hassan Ali's mother, who was appointed a Pir and therefore got offerings as a Pir.

Again at pages 183 and 202, questions are put exactly contrary to the Written Statement of Hoochick. At page 183 the question is this: "If I prove that there has been an old custom before Hassan Ali's time to divide the offerings among the family of the Imam what will you do?" At page 202, the question is: "Do you object to the custom in the Imam's family to divide the offerings among the family?" The answer was: "Yes." According to this case, then, there was an old custom before Hassan Ali's

time

time to divide the offerings. When we turn to the Written Statement of Roochick, we find it stated that the practice has grown up not to divide them.

Then in the 2nd Book - Commission at Rajkote, Calcutta etc. - there again there is no suggestion made that any offerings were made to the ~~family~~ female members of the H. A's ~~Aga Khan's~~ family except his mother. And reliance is placed on the Gnans as being the authority for giving the family a share in the offerings - see page 272. At page 246 you find the first suggestion that nephews of Ali Shah were paid their expenses at Rajkote. Then at page 335 you have the suggestion that the offerings were divided amongst the relatives in a fixed sum for each relative - see page 335. That commission lasted

from

from the 13th January to 3rd April 1907.

In the 3rd Book of commission no question is put challenging the Gnana or challenging the Doowa as having been recent inventions.

Then in the evidence on commission on behalf of the Plaintiff and the Defendants who support her, which lasted from 31st August to 31st October ~~1907~~ 1907, no suggestion was made that the Gnana and Doowa were recent inventions, but everyone who was asked admitted that he knew the Doowa and the Gnana as long as he could remember. Some of them said that they could not say whether the names of the 48 Imams

were

were recited because they were said so low that they could not hear.

An attempt has been made to the effect of the defts. counsel to show that the known injurious behaviour of officers to the members of the family but it is clear that the passage which on (F. to Mr. & Co.) (see p. 143 Sahib's Khan evidence) refers to "abuse" taken in law & not to offences such as those in question. I cite the passage Pertaining to his home Sahib's Khan & the Commentary on it see p. 143 & p. 103.

~~that supplies the Imam and that the~~

Aga Khan	for the time being is the	titular head and representative of

~~the family~~

Upon the first of the 2 main points in this case ~~Upon this point~~ a mass of evidence has been given, which of course I must deal with, and it may I think be divided conveniently into two heads (1) the evidence taken on commissions, (2) the evidence given before me.

Evidence on Commission
Evidence at hearing.

Pltffs' Evidence on Commission.

I propose to deal in the first place with the salient points in the Plaintiffs' evidence on commission. And I may say at once that the Plaintiffs' witnesses were called to prove generally that out of the offerings utensils of the Jamat are bought, furniture is bought, repairs of the Jamatkhana made, expenses of lighting the Jamatkhana made, wages of the servants of the Jamat paid, help is given to the poor persons belonging to the Jamat, and out of that whatever balance is left is sent to the

the Aga Khan and his family.

The first witness of the Plaintiff goes as far as to say that he considers H.H. Aga Khan and his family as his Murshed i.e. spiritual leader. After denying that there are already factions amongst the Khojas in Bhuj he admits that there are two factions amongst them. He says further that he knows some relations of the Aga Khan have filed a suit against him but he does not know what the case is about. He does not know that they claim to have a right to a share in the offerings which his followers make to the Aga Khan. No one spoke to him as to the nature of the claim in suit. He does not understand what ~~is~~ is meant by Ismaili nor what an Imami means. He does not understand what Shia

Ashmachalya

Asnacharya means although he understands what a Shia means. He does not know who the 12 Imams are. When their names are given to him he says he does believe in them. He says that he only regards "the male members as our Moursheds but we do not regard the females as our Moursheds. We regard them only as Bibis of the Moursheds." He concludes by saying that he is a Khoja but he is neither Ismaili nor an Asnacharya. He does not know the distinction between the two.

The 2nd witness Jaffer Mowji does know what is meant by Asnacharya Khojas. They believe in the 12 Imams only. He gives their names:- Ali, Hassan, Hussein, Zenalabedin, Mahomedbakar, Jafar Sadak, Moosa Kasam, Moosa Raza, Mahomed Taki, Alinaki, Hassan Askari and Mahomed Mehdi. He believes only in these

(34.) 10

12 Imams as the true Imams descended from Ali. He does not accept the present Aga Khan as his Huzur Imam. He says he ~~only~~ never heard a Doowa in his life and does not know that the names of the 48 Imams including the present Aga Khan are recited in the Doowa. His evidence is also very unsatisfactory as to there being two factions amongst the Khojas in Bhuj. He admits the Aga Khan is entitled to do with the monies i.e. offerings as he pleases. He cannot quote a single text from the Granis i.e. religious books of the Khoja faith directing that the members of the family ~~be~~ be recognised as Mursheds. Female members cannot be considered as Mursheds as they are merely Bibis.

The

The 2nd witness Bunde Ali denies that there are factions amongst the Khojas in Bhuj. He admits that "when the talikas are received in the Jamatkhana they are saluted and the seal thereon kissed by us," although he does not remember to have saluted or kissed a single talika. These talikas are from the Aga Khan Shaheb in his name. He admits that dozens of Khojas in Bombay and other places believe in the Aga Khan as their Huzur Imam as a Dhani of the Huzur Jamat and such Khojas are known as Shia Imami Ismailis. He does not consider anyone as Imam except the first twelve. The female members of the family he does not consider as Mumsheds. They are merely Bibis.

The 4th witness, Dalla Shiji,

does

does not know that in the Doowa the names of the 48 Imams are recited. He recognizes only one person as the Murshed that is the Aga Khan who shows him the path in religion and he considers him alone as his Murshed. The monies are sent to him for the reason that he is Murshed. The members of the family would be entitled to the maintenance out of the payment remitted to the Aga Khan only if they are Mursheds and not otherwise.

Pir Mahomed Sanyar, witness No. 1 on the Mandvi Commission, says that he regards Coochick as his Murshed. He regards the whole family of the Aga Khan as his Murshed. He regards every member of the Aga Khan's

family

family as his Murshed having the same position as the Aga Khan as Murshed. "We would give the same respect to any other Murshed from the family as we would give to the Aga Khan himself." He says he never kissed the hand of any relation of the Aga Saheb whenever such relation might happen to be with him. But has kissed the hand of Aga Saheb on two or three occasions. Although he knows that 48 names are recited in the Doowa he has not heard nor does he know the names, but he knows that 48 are the names from Huzrat Ali down to the present Aga Khan. He himself believes only in the 12 Imams. He says the Anjachayas believe in the 12 Imams including Moosa Kassam as the 7th and

the Ismailis believe in the Shah Ismail and his descendants as their Mushed. He is not prepared to swear that the Ismaili Khojas do not believe in the Shah Ismail and his successors on the Gadi up to the present Aga Khan as their Imams.

Veersey Dhandhoy, witness No. 2, says that out of the balance of the offerings monies are sent to the Dharamguru for the maintenance of himself and the family, and he gives specific instance of money being paid to Ali Shah for himself and his family. He is a daily labourer earning about Re. 1¼ a day the joint earnings of himself and his son. He has never heard the names of Shah Ismail and his descendants on the Gadi

down

down to the present Aga Khan recited in the Doowa. He would regard all the descendants of our Moursheds down to the present Aga Khan" as his Moursheds. He also says that "the female members of the descendants of Shah Ismail would not be our Moursheds. They are merely their Bibis."

Witness No. 3 Nathoo Virji is neither Shia Ismaili nor Shia Asnacharya. He cannot say what sort of a Shia Khoja he is. He does not understand what is meant by Shia Ismailis nor Shia Asnacharyas. But he believes only in the 12 Imams. He also says that the Bibis of the Moursheds are regarded only as their Bibis. He has never heard the Doowa in which the names of the 48 Imams are

recited

(40.)
recited. He admits that the Khojas of Kutch do not regard Coochick as Dharamguru as they regard the present Aga Khan, and he says as follows:- "The present Aga Khan is on the Gadi. I now say that my previous statement that all our Menusheds including the present Aga Khan are entitled to equal respect and reverence is not correct. I cannot give the name of a single member of Aga Shah Hassan Ali's family who has ever been regarded as Dharamguru by our Jamat or by any other Jamat anywhere else in the same way as they regard the present Aga Khan and his father and grandfather respectively as their Dharamgurus.

As a matter of fact the other members of Aga Shah Hassan Ali's family are not regarded by the Khojas as their Dharamgurus just as they regarded Aga Shah Hassan Ali and Aga Ali Shah as their Dharamgurus and do regard the present Aga Khan as one. These three persons have been on the Gadi."

He also mentions one occasion on which Jumabhai Ismail said that the Aga Saheb was coming to the Mandvi harbour and something should be given to him for the family of Shah Hassan Ali, and another occasion on which he said it is resolved to give the Aga as Nazrana Rs. 125. He cannot explain why on the second occasion no mention is made of the family of Shah Hassan Ali, and I should be disinclined to believe this witness altogether on this point. He says that except the present Aga Khan and Ruchick Shah he does not know the names of any members of the family of Shah Hassan Ali nor has he seen any.

Ladha Rahimtulla is a servant and he says whatever balance of the offerings is left is sent for the food of Defendant 1 for the family of Hassan Ali, and that the money is sent for that family in order that the children may be fed because Hassan

Ali

Ali is our Murshid. It appears, however, that he ~~has~~ earns only Rs. 10 a month. His evidence as to the entries in his books in cross-examination does not strike me as very satisfactory. He considers the present Aga Khan as his Murshed and apparently fences a ~~great~~ great deal on the questions he is asked. Q. Do you consider yourself bound to accept as your Imams such persons as Pir Sadrudin may have directed you to believe in? A. Yes. Even if Pir Sadrudin has directed us to recognize Salam Shah and his descendants on the Gadi as our Imams, I would not recognize Defendant 1 as Imam. My previous statement that I consider myself bound to accept as my Imams such persons as Pir Sadrudin may have directed us to believe in is not correct and is false."

Mahomed

Mahomed Nanji, commission agent and doing business on his own account, similarly says that the balance of the offerings is sent to Bombay for the family of Hassan Ali because he is their Murshed. He says that he was present when the Rs. 125 spoken by Nathu Viji was paid for the family of Hassan Ali and he says that it was said at the meeting that it was for the family of Hassan Ali. But although he says that he follows at present the Khoja Shia Ismaili faith he cannot explain what Shia Ismaili means, and to the question: if those who follow the Shia Ismaili faith believe in Hazrat Ali and those who have succeeded him on the Gadi down to the present Aga Khan as their Imams, do you still consider yourself as a Khoja following the Shia Ismaili faith, he answered "No," from which it would appear as if his views on the subject of his own religion

religion were somewhat obscure to say the least. Then he says he believed only in the 12 Imams. He does not consider himself at present bound to follow the Dowa in which the names of the 48 Imams are recited. He does not regard the Defendant 1 as his Hazar Imam. From this it would appear to me that this witness is a seceder. He further says: "When I said in my examination-in-chief that the balance after consulting the members of the Jamat is sent to Bombay for the family of the Aga Shah Hassan Ali, I stated simply what I had heard and not from my own knowledge. I have never seen since I have been acting as the Kamadia, or at any time before that, any writing in which it was mentioned that our payments were for Aga Shah Hassan Ali's family's maintenance, nor can I produce any such writing in support of my statement. I have not seen

any entry in the books of our Jamat stating that the payments made to the Aga Shah were for the maintenance of Aga Shah Hassan Ali's family." His cross-examination as to the payment of the Rs. 125 to the Aga Saheb tends to throw considerable doubt on my mind upon his evidence on the point. He further says that the amount which each member of Hassan Ali's family would get would not depend upon the nearness of the relationship to the Aga Khan and the males should get the same share as the females provided they are the members of that family. He cannot answer the question: would you prevent the Aga Shah from spending the monies as he likes. The note by the Commissioner at the foot of his examination shows that he is an unsatisfactory witness.

The next witness is Bandeali Dhalabhai

Dhalabhai. In cross-examination he says that he believes only in 12 Imams and not in the present Aga Khan as his Hazar Imam, whereupon his examination promptly concluded, and the Mandvi commission closed.

Rahimtulla Hamir, the first witness on the Mundra commission says as usual that whatever ~~the~~ balance is left is sent to the family of Hassan Ali for their maintenance by the Jamat. He then describes in detail the Memani which his master had given to the Aga Shah, but the first answer he makes in cross-examination is that he follows the Shia Asnashari faith and has been doing so for the last 20 years. Before that he followed the Shia Ismaili faith. At present as an Asnashari he believes

only

only in the 12 Imams. He goes on to say that as a Shia Asnashari he does not believe in Defendant 1 as his Hazar Imam. Those who believe in him as such are known as Shia Imami Ismailis. After he became an Asnashari he ceased making any payments to the Aga Khan and the Jamat Khana. When he was a Shia Ismaili he believed in Aga Ali Shah as his Dharamguru. Then he says: "I believed in him as my Murshed." He did not believe in him as being on the Gadi of Hazrat Ali. He did not believe in him as being on the Gadi of Murshedship. He cannot point out any text from the Granth directing that the Shah Ismailis should recognize the family of Hassan Ali as their Mursheds, and he further says when he said that Hassan Ali's family members were their Murshids

he

he said so simply from what he had heard from other people in his Jamat. He goes on to say that all that he stated in examination-in-chief as to the disposal of the monies by the Jamat was stated on hearsay. His cross-examination on the Memani incident shows that he is not very reliable on the subject.

Ladha Vali is a trader at Mundra. He believes in the 12 Imams as his Mursheds and follows the Asnashari faith. He does not say that the balance of the offerings is given to the family of the Aga Khan. In fact in cross-examination he says that no payments are made out of the collections made at the Masjid for the family of Hassan Ali or for any one else. They are not sent to the family of Hassan Ali because those who attend the Masjid do not regard them as their Mursheds and have nothing to do with them. He does not assist the Plaintiffs' case much.

Ladha Devsi says that the balance of the offerings is sent to the Aga Saheb for himself and his family by which he understands Ali Shah's brother, Aga Jungishah Zenalabedin. He also is an Asnashari and used to regard the Aga Khan as his Dharamguru. He mentions a Memrani given to Aga Saheb but on cross-examination

does

does not give very satisfactory account of it.

Adat Jiraj is an Asnashari. He also says that the balance of the offerings is sent to the family of Hassan Ali, and he says monies used to be sent to Hassan Ali and his family from the talikas which used to be received and which were read out in the Jamatkhana. He says these monies were sent to the Hassan Ali's family as Sayeds but the monies were never sent to them as Mousheds, and it is not correct to say that Hassan Ali and his family are the Mousheds of the Khojas.

Ladha Devji says the offerings were sent to the Bombay Jamat in order that they may be given to Hassan Ali's family. In cross-examination he says that he is an Asnashari and then he makes the astounding statement that during the 12 years that he

attended

attended the Bombay Jamatkhana he never either heard the Doowa which was used to be recited there nor did he know what sort of Doowa it was. He never heard the Ginans which used to be recited there and does not even know that there are Ginans of Pir Sadrudin and Pir Hasan Kadirudin. He says only the male members of the family of a Mukhi would be regarded as Mukhis. The female members would simply be the Bibies of the Mukhis. Hassan Ali never claimed to be an Imam. If he made such a claim it was a false one. He never saw the Bombay Jamat making any payment to any members of Hassan Ali's family and the statement that the Bombay Jamat used to make the payment of the monies remitted to the family of Hassan Ali was made from what he had simply heard from the other Khojas, but he cannot give the name of a single such

such Khoja.

Dalar Dina, witness No. 1 on the Bharapore commission, is a grocer. He says that the balance of the offerings was sent to the Bombay Jamat for maintaining the family of Hassan Ali. He first says he had not seen Hassan Ali. Then he says he had seen him but he does not know when and where. He never heard the Dooa recited in his life. He does not understand what Khoja religion is. He has no idea of what a talika means.

Merji Rahim the Patel of Bharapore and a cultivator says that the balance of offerings is sent to Bombay to Hassan Ali's family. He does not understand what is meant by Shiahi. He believes in the Imams whose names are recited in the Dooa. He regards the families of the 48 Imams from Hazrat Ali to Sultan Mahomed Shah as "Sun Mursheds." He ad-

mits

mits: "When Hassan Ali was alive he was our Sarkar Saheb. On his Gadi succeeded Ali Shah who then became our Sarkar Saheb. Sultan Mahomed Shah succeeded Ali Shah and he then became our Sarkar Saheb." He says that when the words "accept Maulana Sultan Mahomed Shah" used to be recited by the person who led the Doowa at the end of each Sujida we used to make obeisance. He cannot produce any writing, entry or document of any kind whatever to show that the monies remitted by the Jamat are for all the descendants of Hazrat Ali or for the family of Hassan Ali.

Aledina Moledina, Khoja by caste, is an inhabitant of Kera. He says the same as regards the balance of the offerings and says he sends the monies to the family of Hassan Ali knowing them to be "our Mursheds" so that they may maintain themselves. In cross-examination he says he believes at present only in the 12 Imams not in the 48. He considers Shah Ismail as a Sayed, as also all the ancestors of Hassan Ali. He says he may have read the Ginans of Pir Sadrudin but does not remember them. He regarded Hassan Ali as his Murshed because he gave Bodh to his grandfather who regarded him as his Murshed. He says that he heard Kuchick giving Bodh at Kera in March or April 1907. He says that Imam Shah

(58.) 12

Shah gave him Bodh in Bombay in Samvat 1932. He says there can only be one Mourshed. His name is Gadi Varas Aga Sultan Mahomed Shah. He says: "We consider our Mourshed as our Sarkar." He regarded Hassan Ali alone as the Sarkar Saheb. He cannot produce any document to show that ~~so~~ any monies were remitted by the Kera Jamat to Hassan Ali and his family. He may have read the talikas but he does not remember them. From his cross-examination with regard to the Police proceedings against him it is evident he is very hostile witness to Defendant 1.

The next witness Jaltu Gangji

Gangji believes only in the 12 Imams and not in the 48. He goes to the length of saying that although he has joined in the Doowa which is recited by the Khojas in the Khoja Jamatkhana he does not know how many names are recited in the Doowa and he has not heard a single name recited in the Doowa. He does not know how to recite the Doowa. He considers himself a Shia Khoja but not a Shia Imami Ismaili. He says that it is not recorded anywhere that the monies are sent for Hassan Ali's family. He speaks to Defendant 1 having Nazrana placed at his feet when he came to Kera in Samvat 1960. According to him the nearer relations of the

Aga

Aga must get a larger share out of the monies remitted than those who are distantly related.

After this witness Aledina Meoledina was recalled and his evidence shows that the books of the account of the Kera Jamat which he was directed by the Commissioner to produce in Court are not produced.

Abdulla Piradina in business at Kera speaks to the balance of the offerings being sent to Bombay for the family of Hassan Ali. In cross-examination he speaks to factions being in existence in the Jamat at Kera and his having been charged with rioting in the Police Court. He cannot account for the Kera Jamat being required

to

to as the Ismaili Jamat in the last hundies sent by the Kera Jamat except that it must have been by some mistake. He believes only in the 12 Imams. With reference to the Karsazis remitted to Bombay he wrote in the books of account of the Jamat that the monies were remitted to the Aga Khan Saheb in Bombay. He tries to explain why the books of account were not sent before the Commissioner.

Meherali Mahomed is a cultivator at Kera. He says that the balance of the offerings is sent to Hassan Ali's family by which he means those born of him for their expenses. In cross-examination he describes how Roochick came to Kera, made a speech to

the

the Jamat and they placed 200 Kories before him. These monies were paid for Koochick himself. He also believes only in the 12 Imams. He says that the Jamat does not recognize the Defendant as their Hazar Imam.

Haji Kasam Haji Dhala in business at Kera is also an Anabhaia and became one about three years ago. He says except the 12 Imams all the descendants of the Prophet must be treated as Sayads.

Meherali Rahim is the first witness at Anjar and is in business there. He says the balance of the offerings is sent to the Bombay Jamat for the family of Hassan Ali. In cross-examination he says that his religion is

is that of the Musjid i.e. belief only in the 12 Imams, which faith he has been following for the last 12 years. He does not know if Defendant's name used to be recited in the Doowa after he came to the Gadi. From the note taken during his cross-examination he seems to be a most unsatisfactory witness.

Jaffer Hasam of Nagalpore, in business there, says the balance of the offerings was sent to the Bombay Jamat for the family of the Aga Sahebs who are "our Dharamgurus." He is also an Asnashari and his father was before him. He does not know whose names are recited in the Doowa.

Hirji Visram of Simgra, a grocer, does not know what

is done with the payments made in the Jamatkhana. He also is an Asnashari. He believed in the Aga Khan before he became so.

Ladha Pira says that the balance of the offerings is sent to the Bombay Jamat for the family of Hassan Ali who are his Mursheds.

Ladak Ranji of Nagalpore says that the balance of the offerings is sent to Bombay for the Aga Saheb's family for their expenses as Hassan Ali was their Mursheed.

I have gone at length through each of the witnesses on commission called by the Plaintiff and it will be seen from my remarks upon them as I went along that they do not strike one as being of a very satisfactory character, nor are they in as good positions generally as the witnesses called on behalf of the 1st Defendant. Those witnesses were inhabitants of and were examined at Bhownagar, Junagadh, Rajkote, Calcutta, Rangoon, Jamnagar and various parts of Kutch and Karachi and Zanzibar. They are taken from every class of the Community. Looking at the mass of evidence they have given it would be impossible for me to go through each of them as I have done in the case of the Plaintiffs' witnesses. The most important are Essabhoy Dawood witness at 1 on the Bhownagar commission

Defendants' witnesses on Commission.

mission, Issabhai Nanji witness No. 2 on the same commission, Hassambhai Ismailbhai witness No. 20 on the Junagar commission, Hassam Sallay witness No. 79 on the same commission, Kala Ruda witness No. 3 on the Rajkote commission, Nanji Bhallu No. 11 on the same commission, Velji Vasanji No. 15 on the same commission, Goolamhussein Parpia No. 1 on the Calcutta commission, Jiva Jamal No. 10 on the same commission, Mamadbhai Coorji No. 1 on the Rangoon commission, Mahomedbhai Jasraj No. 2 on the same commission, Walibhai Pirani No. 1 on the Nagalpore commission, Pirmahomed Ibrahim No. 11 on the same and Moledina Meghji No. 33 on the same. I have selected these witnesses

Abdulla Latifbhai No. 1, Kaverbai Goolamhussein Valli Ditto, Kazanali No. 13 Ditto. I would special attention evidence at p. 336 Mitha Jana No. 1 in the commission evidence at p. 156 ff. Sayal Mahomed Ibrahim No. 5 specially page end of XX. and Valli witness No. 27