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TAMIL NADU ARCHIVES

GOVERNMENT OF TAMIL NADU

JUDICIAL DEPARTMENT

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Not to be folded or roughly handled

Read the following papers:—

No. 119-A. From H. WIGRAM, Esq., Acting Registrar of the High Court of Judicature at Madras, Appellate Side, to the Hon. W. HUDLESTON, Chief Secretary to Governmont, Fort St. George, dated Madras, 28th March 1873, No. 670.

I am directed to acknowledge the receipt of Mr. Chief Secretary E[illegible]'s letter to the Chief Justice, dated 31st January 1872, No. 119, forwarding Proceedings of Government of the same date relating to the amendment of the law regulating the administration of Native Religious Endowments together with a Draft Act on the subject prepared by the Hon. V. Ramiengar and requesting the opinion of the High Court, after communication with some of the most experienced Judicial Officers in the Mofussil, on the Draft Act and also on any points not dealt with therein on which the existing law may be considered to require amendment.

2. In reply, I am instructed to forward, for the information of the Government, the original replies received from the marginally-noted officers on the subject.

Civil Judge,	Calicut.
,,	Chingleput.
,,	Chittoor.
,,	Cuddalore.
,,	Cuddapah.
,,	Madura.
,,	Salem.
,,	Tanjore.
,,	Tellicherry.
,,	Tinnevelly.
Sessions Judge,	Chittoor.
,,	Combaconum.
,,	Cuddalore.
,,	Madura.
,,	Masulipatam.
Principal Sadr Amin,	Mangalore.
,,	Tanjore.
,,	Rajahmundry.

3. Mr. Justice Innes has recorded an opinion that the direction in which legislation is required is that of giving more control to the Committees over the Trustees and of giving the Courts the power of allowing legal expenses *bona fide* incurred to come out of Trust Funds. He further expresses his entire approval of Mr. Hutchins' suggestion as to the appointment of a Charity Commissioner, and regrets that he has no leisure to give more attention to the subject. The Chief Justice and the other Judges regret that they are unable from want of leisure to offer any observations on the subject.

From G. R. SHARPE, Esq., Civil and Session Judge of Calicut, to H. WIGRAM, Esq., Acting Registrar of the High Court of Judicature at Madras, Appellate Side, dated Calicut, 1st April 1872, No. 76.

I have the honour to reply to your letter, No. 532, of the 19th ultimo.

2. In this zillah we know nothing of Act XX. of 1863. Public opinion, assisted by the equity and good conscience of our Courts, affords ample protection to religious endowments, and the Bill now under consideration is quite unnecessary as far as Calicut is concerned.

From E. B. FOORD, Esq., Civil Judge of Chingleput, to H. WIGRAM, Esq., Acting Registrar of the High Court of Judicature at Madras, Appellate Side, dated Chingleput, 15th April 1872, No. 229.

With reference to your letter, dated 19th ultimo, enclosing Proceedings of Government, dated 31st January 1872, No. 118, I have the honour to state that, in my opinion, an amendment, or rather reconstruction, of the law now in force regarding the administration of religious endowments is much needed, the provisions of Act XX. of 1863 being quite insufficient to control the notorious abuses now prevailing.

2. The Hon. V. Ramiengar's Draft Bill seems to be, on the whole, well calculated to enforce a strict control over these institutions.

3. There are only a few points in which I think amendments are desirable.

4. *Section* 18.—Law charges should not, I think, be debited to the institution unless the Court which tries the case certify by its judgment that the said charges have been *bona fide* incurred for the benefit of the institution.

5. *Section* 22.—The words "by the Committee" should be inserted after the word "Madras" otherwise it is not clear who should move in the matter.

6. *Section* 23.—The penalty for default of printing and publishing the accounts in the District Gazette within two months of their being passed by the Committee should be the same as prescribed by Section 22.

7. *Section* 29.—The words "whether such office be hereditary or elective" should be inserted after the word "office."

8. *Section* 34.—I would not exempt suits and prosecutions under the Act from stamp duty as tending to encourage litigious and vexatious proceedings.

9. *Section* 35.—Hereditary or Merassi servants should not be liable to dismissal for misconduct by the Trustees. Such power would enable Trustees to fill the institutions with their own friends and supporters.

10. *Section* 37.—Trustees neglecting to invest surplus funds in Government Securities without lawful excuse should be liable to pay five per cent. per annum on the said surplus funds from the time they accrued, the said interest to be recovered by the Committee by a regular suit in the Civil Courts.

11. The consent of the Committee should be obtained before devoting surplus funds to the purposes stated in the concluding portion of this section.

12. I quite approve of the proposed remuneration of Trustees and Committees as being necessary to ensure a proper and faithful performance of their duties.

From C. G. PLUMER, Esq., Acting Civil Judge, Chittoor, to H. WIGRAM, Esq., Acting Registrar of the High Court of Judicature at Madras, Appellate Side, dated Chittoor, 29th March 1872, No. 15.

I have the honour to reply to your circular, No. 532, of the 19th instant, requesting my opinion on the Draft Act of the Hon. V. Ramiengar.

2. It is universally admitted that Act XX. of 1863 has utterly failed to fulfil the purposes for which it was passed, and that some further action on the part of the Legislature is necessary to prevent the misappropriation by Trustees of the religious endowments under their charge.

3. The question is, how far does the proposed Act meet the admitted existing evil and provide for its cure?

4. In my opinion, it is greatly to be regretted that the Act does not stop at the first section; that contains, in its modest proportions, the true and only cure for the deep-rooted disease.

5. By Section 1 the whole of Act XX. of 1863 is repealed, not excepting so much of it as repeals Regulation VII. of 1817.

6. I would recommend the Hon. V. Ramiengar slightly to alter his preamble: it might run thus, "Whereas experience has shown that Government acted unadvisedly in withdrawing from the direct supervision of its local offic[illegible] the religious and charitable endowments throughout the Presidency of Fort St. George; It is hereby enacted as follows."

7. Then he might let Section 1 stand as it is, or, if necessary to prevent all misconception, he might add, "and Regulation VII. of 1817 in its entirety is hereby declared applicable to the said territories."

8. Then he might put his pen through the rest of his Draft, and, if his Act were passed in that form, he would have the proud consciousness of knowing that he had been the author of the shortest and one of the most important Acts in the Statute Book.

9. I am speaking with all the seriousness which so important a subject deserves, and I am giving my own honest opinion, based partly on what I have seen and partly on what I have read.

10. What does the Officiating Secretary to the Board of Revenue, Lower Provinces, say in paragraph 2 of his letter to the Secretary to the Government of Bengal, dated 17th August 1869, No. 3,747-C? "It appears to the Board that the only really efficient and practical supervision possible at present is that which would be conducted by Government officials."

11. What do the Members of the Orissa Commission say on this point? Why, they say as plainly as they dare to say: "Let Government take back the endowments under its own care and place them once more under the supervision of its officers."

12. What a powerful censure in mild language paragraphs 18 and 19 of the report convey!

13. How forcibly and truly does paragraph 18 show that, though religious in name, the real object of most, if not all, of the endowments is that the hungry should be fed and the poor cared and provided for! And in paragraph 19 how convincing is the conclusion that institutions endowed for such purposes are fit subjects for the active interference on their behalf of a Christian Government!

14. Surely such language might well cause Government to ponder whether in such matters the opinion of a small body of religious enthusiasts is a safer and preferable guide to the unanimous opinion of its local officers and of the whole native community.

15. Can feeding the hungry and looking after the poor be said to be an encouragement of idolatry?

16. Let Government ponder well on Mr. Ravenshaw's words: "I believe I am correct in stating that the revenues of these endowments, *which have been made with the primary object of feeding the poor and destitute*, or affording assistance to travellers and pilgrims, are enormous, and that had they been applied properly (which no doubt would have been had the old Regulations been in force) and in furtherance of the original purposes of the grantors, the whole starving population of Orissa might have received the relief and assistance which has now been administered at the direct cost of the State," and Mr. Ravenshaw might have added, "and hundreds of thousands of lives would have been saved." Would such a result have been considered aiding and abetting idolatry?

17. Some objection may be taken to the sentence in the above paragraph in parenthesis; but it is well known, and the Hon. V. Ramiengar admits it in his letter to Government, that under Regulation VII. of 1817 the endowments were most prosperous, and that there was a large surplus in the hands of Government when it severed its connexion with these institutions.

18. I submit that it is time for Government honestly to admit the error which a too-faithful submission to the scruples of an influential but narrow-minded body of religionists in England led it to commit; that, instead of deliberating for months over an Act like the one under consideration (an Act which, if passed, I venture to predict would soon be found practically as useless as the present Act), Government should set its face against all sham legislation and should at once strike at the root of the evil, and, by repealing the whole of Act XX. of 1863, restore Regulation VII. of 1817 to its place in the Statute Book, and thus adopt the only really efficient means for the prevention of misappropriation of Trust Funds and for the due and proper supervision of all religious and charitable endowments throughout the Presidency.

19. I might, in criticising the present Draft, point out what appear to me defects; for instance, there is no definition of "religious endowment" or "Civil Court."

20. Then, why not say "Civil Judge" instead of "Civil Court." Perhaps this might be thought a too open recognition of the interference Section 4 et seq. of Government by one of its officers—a principle, by the way, which the Hon. V. Ramiengar evidently here and there throughout his Act quietly strives to enforce.

21. Why should the Civil Judge appoint the Auditing Committee? Why not the Collector? The fewer people a Civil Judge knows in the Section 19. zillah, the better. A Collector is bound to know

every one in his district, and he surely could best select a Committee. A District Magistrate selects the Jurors and Assessors; a Collector nominates the Members of the Local Fund Committee: why, in the name of all that is consistent, should he not nominate these Auditors?

22. Then, it is a complaint that under the present Act the Pagoda Committees do nothing. Who is to make the Auditors do their duty? That extraordinary product of the Act, an elector

Section 21 *et seq.*

I [illegible] ordinary elector be likely to move the Civil Judge to discredit his own nominees?

23. It is amusing to see how, by Section 6, the Hon. V. Ramiengar, bolder than Gladstone, dares to introduce universal suffrage; but, notwithstanding the idea of numbers which this bold stroke suggests, I venture to predict that in many instances the unfortunate Magistrate, when he comes to attend the solemn meeting of electors convened under Section 10, would find that the Curnam and Village Munsif, with a stray taliary and thoti, were alone present to represent the great body of electors.

24. The thin end of the wedge can be traced in Section 9, which provides that the appointments of Trustees shall be notified in the District Official Gazette; of course, if not gazetted the appointment would be invalid. Might not the great unwashed, even though endowed with the privileges of the franchise, jump to the conclusion that each appointment was an act of the Government?

25. These are a few of the defects which a perusal of the Draft has suggested to me, but I have no heart to criticise closely an Act which I feel convinced will prove utterly ineffectual. I deprecate all such tinkering legislation. I advocate a bold and, I believe, a wise course of policy which if adopted will, I am convinced, cure permanently the evils which it is admitted exist and which it is also admitted must or, at least, ought to be cured.

From P. R. SWINTON, Esq., Acting Civil Judge of Cuddalore, to H. THOMAS, Esq., Acting Registrar of the High Court of Judicature at Madras, Appellate Side, dated Cuddalore, 29th August 1872, No. 35.

I have the honour to acknowledge the receipt of your letter of the 19th of March together with an extract from the Proceedings of Government, under date the 31st of January 1872, and the Draft Act by the Hon. V. Ramiengar, C.S.I., for the better protection of Hindu and Mahomedan religious endowments, and for their due appropriation to the purposes for which they were made, and, as desired, proceed to make such observations on the subject as occur to me.

2. I judge from the papers accompanying the Proceedings that the Government has determined upon the principle of the Act as set forth in its preamble, notwithstanding that *prima facie* the effect of a law of such a kind will be to invigorate the erroneous religious systems of the country by sustaining its public places, ceremonials, and ministers; but—both because Government does not require the opinions of its officers on this policy, and because personally I can by no means clearly see that it is our duty now to remain quiescent and to permit the native religious institutions to decline by their own weight, and by the encumbrances which we have added, or more directly by the effect of the corrupt influences, common everywhere, towards personal gain overmastering religious feeling which law might restrain—I abstain from saying anything further on this head, but at the same time am unable to adopt the almost jaunty expression of opinion of the Revenue Board on this grave topic that "it is almost unnecessary to observe that the fact that the religion of the governing classes differs from the religion of their subjects is only a reason for treating religious feeling with the greater tenderness" when it is considered what these respective religions are, and what, but for the modifying and restraining influences of a Christian Government, might be the *actions* encouraged by the feelings referred to.

3. I had in view in the above remarks the endowments for the maintenance of such directly religious institutions as pagodas, and mosques, and mattams, termed "colleges" in Regulation VII. of 1817, sometimes also called monasteries, not charitable endowments, for the support of choultries, places of shelter, and occasionally of shelter and gratuitous distribution of food (to

a certain class), regarding the propriety of the [illegible] connexion of Government with which no doubts have ever been entertained; Act XX. of 1[illegible] did not relieve the Revenue Board of the supervision of such of these endowments as were taken under Regulation VII. of 1817, but whether in some cases as appendages to Devastanams (pagodas) they have not also been relegated to the care of Committees, I am not in a position to state.

4. Mr. Secretary Hume, in his letter, No. [illegible] of the 5th January 1871, was directed to state that it was the wish of the Government to abide [illegible] the leading policy of Act [illegible] of 1863, viz., the withdrawal of Government from any active concern with the management of the endowments (for religious purposes), and, on the other hand, the Revenue Board for the Lower Provinces (letter of the 17th August 1869) have observed that "the only really efficient and practical supervision possible at present is that which would be conducted by Government officials." Now, it appears to me that there is really no difference, in principle, whether the Government employ their Judges or any other Agents to regulate these affairs. The public time will be taken up equally, and the Courts will often not only have to make a decision but to execute (with all the power of the Government behind) various sorts of decrees, and to exercise, more or less heartily, various sorts of management, from the direction for the rebuilding of a tower to the right of this female servant to dance in priority to the other, or the hours or turns of different individuals to make their offerings or chaunt their hymns. Unless expressly guarded against, when the way for litigation is made more plain, every sort of ceremonial question may come before the Courts thus—I mean unless an attempt is made to render the Committee absolute in certain matters.

5. Section 35 of the proposed Act opens the question of what is "misconduct" in any hereditary official, and Sections 30 and 32 would bring before a Court every misapplication of the "funds or property." But, as apart from initiating measures which might prevent litigation and place things on a satisfactory basis, Government could not afterwards manage the religious institutions except through some Board or officers, and as disputes would come before such Agents in the form of suits, whether called summary or not, with the apparatus of plaints, and answers, and stamped papers, and examinations of witnesses, the most convenient course would be to relegate such differences to the ordinary Courts.

6. I have also to observe that it is questionable whether, or not, the unavoidable expense and uncertainty attending on a litigation made easier, and the consequent ill-feelings engendered, might not turn out as injurious to the establishments as the present state of affairs by which they are alleged to have become dead-locked out of the Courts. It is a trite observation that a Court may work as much harm as good.

7. It seems admitted by all that the present Committees have not answered the ends for which they were appointed; probably owing to the no-law period between about 1850 and 1863, during which under orders from Home the minutest degree of interference was required from public servants though they were still enjoined by law (Regulation VII. of 1817) to interfere.

8. Pagoda affairs were handed over, in an already-entangled state, to the Committees, and I am not aware that anything more was done in general than to give the Committees lists of the pagodas supposed to be put under their control with probably general circular orders to the Tahsildars or Huzur (Naib) Sheristadars to let them have any accounts required.

9. As to capabilities of Committees generally, the remarks of the Hon. Mr. Ramiengar at paragraph 12 of his letter of the 17th March are noteworthy; either the Committees were quite inactive, or, when strong enough to get into their seats, "became more potent for evil than good, carrying interference to unnecessary lengths, and giving uncontrolled power to personal dependents." This tone, however, could not be attributed to any informality in the first inception of their duties.

10. My impression has always been formerly when in closer contact with the people, and afterwards when in Civil Courts, that the pagodas were left much to manage themselves; more especially latterly from observing the futile attempts of people declaring themselves interested, or of Committeemen, to work the Act XX. of 1863; not unusually parties without being able to employ a Pleader in matters requiring the best skill and arrangement, both on account of the facts

to be brought out and the difficulty of the Act itself, vainly and informally petition a Court for leave to bring suits, and sometimes the Court itself could not find that summary appreciation of the merits of an application which the Act contemplated, or was hopeless that the litigation could successfully be carried on, so that applications for leave to sue hung on the file or were dismissed for informality. For instance, the state of the petition file in the Tinnevelly Civil Court at the end of 1867 illustrated this, and the mode in which I believe such petitions were eventually disposed of. Hindu institutions, it may be observed, are of much greater importance and more numerous in the southern portions of the Presidency than in the north.

11. There was an instance in point in the Tanjore Court when I left it this year. First, the Committeemen, or some of them, and their people having an interest in the institution had at different periods for three years been endeavouring to get leave to sue the Manager of the mosque at that place, their applications being for various informalities rejected, and only eventually granted; nobody, Judge included, was certain how to deal with the case.

12. The to discontinuance of the daily service in places, or diminished show at the greater celebrations and outside processions, or discontent of the pagoda servants for arrears of pay or allowances, or actual permanent alienation, I think a rare occurrence. Of temple lands I am not in a position to give particular instances, but upon this part of the subject the valuable remarks of the proposer of the new Act would have been more so had he, from his position of intercourse with native society, been able to adduce cases within his own knowledge or that of his friends where what I have adduced above had occurred.

13. I am surprised to see it stated at paragraph 16 of the letter above referred to that "there is nothing in common between the Hindu religious institutions in Southern India and those in other parts of the empire." I should rather suppose from the Bengal legislation required in 1810, and the same origin of these institutions and the same corrupting causes being at work, that Madura or Srirungum would be like Pooree (Juggernaut) or Benares, excepting, I suppose, that Mussulman dominion having been so much longer established in the north, there would be considerably less available (ancient) landed property, and that in Bengal the temples and their revenues had become inextricably imbedded with the other private rights of the great Zemindars.

14. As to the important question of remedial action or legislation, in the first place Act XX. of 1863 is a full and well-arranged piece of law, only partaking of the fault of much of our legislation of being made too much from above and from the English lawyer's point of view; the framers of it may have supposed that the important jurisdiction of the Board of Revenue had been more exactly defined. When its powers were given to Committees it was, too, and in a most crucial and important case, before all the Municipalities were thought of, one of the first instances of investing non-official natives of the country with independent action, and action requiring union among themselves, exposed as they are socially, more than a foreign race, to all the temptations on the good and bad sides of their nature to leniency or angry caprice towards individuals, and not supported or deterred by an enlightened public opinion accustomed to express itself over large areas.

15. It seems to me that that section which required the prior leave of a Court to sue was erroneous, not because a Judge would be afraid of prejudging matters, but because it might be granted too easily, or, from the usually complicated nature of such claims and the not-uncommon state of arrears in the Courts, might be left for as much consideration as a regular suit; besides making Pleaders unwilling to appear until they were sure leave would be granted to sue. The Act also may be said to have been above the working power of the Courts, the Judge not having time or inclination to pursue an abuse *con amore*, as he might be tempted to take up a pauper suit (where there is no Pleader), which unless pushed through by the Court always has a poor chance, and Pleaders generally not being able to guide him. Moreover, although leave might be given to bring a suit when the Court might wait for a carefully-drawn plaint, it was another thing to be asked under Section 19 to send for (before suit brought) a mass of accounts to lie unnoticed perhaps for a long time.

It would have entailed a Commission of Inquiry and have occupied a long time to have ascertained which institutions were, and which were not, within Section 3 [illegible] a considerable schedule to the Act; but this ought to have been [illegible] And the [illegible] ot attempt it.

17. I would venture upon the opinion that in this Presidency [illegible] some of the Zemindaries, there was no religious establishment (excluding [illegible] ch, in the language of Section 4, there was "land under the superintendence of [illegible] Revenue," but the nomination of a Dharmakartar ("Trustee, Manager, Superintendent") and not rest with the Collector of the district subject to the orders of the Board of Revenue, and that between 1817 and 1850 there was no question as to the possession of land [illegible] a considerable infusion in the decision of the right to it belonging to any of those institutions which was not freely decided by the Revenue authorities at the request of everybody concerned.

18. It has been well remarked by Mr. Ramiengar that the ship of the Committee was allowed to drift without any understandable compass or helm, that is in other words.

19. Under Section 14 it was a matter of doubt whether the "any person" who might sue the Committee might be a Member of the Committee or a Trustee, and it seemed that it was not allowable; and it is very true that a private individual, unless his right to land or in the bearing of some office in the establishment was injured, could not be expected to come forward upon such an undertaking. Could he have attempted a like matter formerly in England before Societies for such purposes were formed, and a thousand abuses looked up by the Legislature to clear the way?

20. It is one matter to look at the failure of the former legislation and a more adventurous matter to discuss a remedy.

21. In the first place, as far as I am aware, the *Government have not before it sufficient information for legislation.* It is the case that the records of the Government, of the Revenue Board, and of each Collectorate, in addition to the few decisions of the Courts, must contain together a great mass of information (I was not aware that there had been a "Blue Book" on [illegible], referred to in paragraph 9 of Mr. [illegible]iengar's letter) about temple and mosque property, but of necessity it is scattered over a long period. There are also, among the present and retired public servants (the Naib or Deputy Huzur Shoristadar used, I think, to be especially charged with the native correspondence in these matters), many with practical knowledge of these matters, besides the mass of Dharmakartars and Committeemen, if they would speak freely; and the actual number of the establishments likely to be legislated for, the present practical constitution of their managing power, and of their dependents, the extent and variety of the lands appertaining, with some reference to the interests of the Ryotwaree cultivators of the land; these matters should be put in form, especially to enable the Government with confidence to say such and such institutions only shall be exempted from the control of the authorities to be set up. This probably would require a special officer authorised by law to obtain or demand information, or to collect and digest the records existing, and it might be that from a complete examination of a few institutions in different localities sufficient information of a certain sort might be obtained from which to judge of the others.

22. I think it will be found that the only sufficient way to protect these institutions (now grants being considered out of the question for repairs or otherwise) will be to appoint a Government officer, or a conjunction of Government officers, of whom a proportion should certainly be Hindus or Mussulmans (call it Court or Board), and invested with superintendence of religious trusts. This Board, of course, must be paid, and might have honorary Members, and, as it is for the better protection of the religious institutions, funds must be appropriated as a first charge on these institutions; under any other scheme, be it remembered, the price of litigation may eventually come from the institutions. (See Section 18, the head "Costs" of Act XX. of 1863, and Section 34 of the proposed Act). It will be absolutely impossible for any Central Board to supervise such a mass of interests, and necessary that subordinate Boards, perhaps only of natives of the country, should be constituted in each revenue district of the Presidency, or fewer if proper, but which also must be of paid Government servants, with the addition of honorary Members; perhaps two Government and three honorary Members would do for the District Boards, and three paid and four honorary for

the Central Board, the President being of the rank and experience of a Member of the I Revenue.

23. An important question would be the relative position of the Central and District Boards. I am afraid, if it is to be matter of appeal from one to the other, there will not be sufficient satisfaction with any decision of the first, and too much delay; but certain of the lesser institutions might be primarily subjected to the District Board, and the principal* institutions left to the original management of the Central. Without a regular right of appeal the discretionary power of revision might be left with the Central Board.

* Many institutions do not belong to any particular dis. trict, as, for instance, Ramasséram and Tirupati, and multitudes have only concern with a few villages.

24. As to the action of the regular Courts of the country, it would be vain now to attempt to exclude their action, as was done with reference to inams and village servants. The Central Board must be liable to sue, and to be sued, in its corporate capacity; but it might be feasible to exclude by legislation classes of alleged injuries and to make the decision of the Central Board final—for instance, their decision as to the right of succession (a fertile cause of dispute) to any vacant offices, whether termed hereditary or not, and upon any point of inside or outside ritual, so to term it, or preference of one worshipper over another; for instance, such a question as that agitated by the ninety-three plaintiffs of Conjeveram to receive the money-value of certain holy cakes to which they alleged they were entitled.

"The plaintiffs, ninety-three in number, who are members of the Tengalai sect of Brahmins, sued the defendants, who are Trustees of the temple of Sri Devarajasami at Conjeveram, for the recovery of Rupees 167-3-8, being the money-value of certain holy cakes which they alleged they were entitled to receive from the defendants for commencing the recital of a Sanscrit verse called 'Sri Shailadayapatram' and reading the Tamil chant called 'Prabandum,' which offices they had the hereditary right of performing in the said temple."

25. As to the powers of the District or Central Committees over the Trustees or Dharmakartars in immediate possession of the lands and revenues of the temples, this is a question of more delicate and difficult arrangement than the position the Central Committee is to hold towards those in the provinces; in fact, it determines the degree of the responsible pecuniary connexion of Government with these institutions, and I am very diffident of offering an opinion, but the previous general inquiry I have suggested may make the course clearer.

26. I notice in paragraph 18 of the Honourable Member's letter that, while regretting the present incapability of action of the Pagoda Committees, he does not propose to go beyond giving them the power to call for accounts—a very searching power, however, when all the receipts and disbursements of a great temple are to be exposed to the light of printing in a Gazette; the remarks also at the conclusion of the same paragraph are just, that if powers of general interference and control are vested in the Committee they will prove mischievous by keeping alive and promoting that animosity and party-spirit which now too often interfere with the proper management of native religious institutions; but it must not be unnoticed that there is a great deal of room left also for litigation and its consequent ill-feelings, and in an arena of greater expense and delay by the proposed Act; for instance, under Section 5 the appointment of a successor to an hereditary trust by a Civil Court is to be made the subject of a regular suit in that Court, and under Section 15 the appointment to an elective trust is to be contested in the same way. Under Section 26 the Trustees may be sued for breach of trust, and by Sections 30 and 31 any elector or resident inhabitant may sue or prosecute the Trustees, and by Section 33 any elector or resident inhabitant may sue the Auditing Committee; and by Section 34 all such suits are in the first instance to be exempt from stamp duty, and by Section 35 hereditary or Merassi servants who are dismissed can bring their dismissal by regular suit before the Civil Court.

27. It does not need to inquire how, years ago, the Revenue Board and its local agents, without any exact definition of their powers, managed to exercise the required control. The times then did not crave definitions of the power of the Circar, and these powers were supposed in a different period to have descended on the Committees; now the powers must be defined by law.

If a Civil Court is properly presided over, if it is not in arrears, and can fairly attend to suits as brought on (I am afraid that such a state of business is the exception and not the rule), and if properly aided by honourable practitioners, I think I am bound to say that matters will be more exactly and conclusively determined than by a Committee; but I am also very conscious of the delay and expense attending a regular Court, and should be disposed to confer the necessary authority in the Committee, especially if, in addition to a paid Vice-President of the rank and experience of a Deputy Collector, it would be possible (when, as I hope will be the case, he is relieved of magisterial duties) for the Collector to be the President. It would be the duty of this Committee not to wait always until a complaint was made, but to take itself initiatory measures. The question of exemption from the Court fees might be settled by allowing all applications to be on some uniform low stamp, and perhaps leave might be required before professional Pleaders appeared.

28. I have had in view questions of succession to offices, of rights to hold office, of the proper disposal of funds or offerings; but there is another important sort of cases likely to arise, I mean between the ryots who occupy temple lands and the temple Managers (subordinated, however, as the Managers would be to the Committees), and I should not be disposed to leave such questions to a Committee. I should be afraid of their leaning towards the institutions too much they are framed to protect. The questions should still be decided under the Act of 1865 or any other improved law.

29. I am alive to the danger of the Trustees throwing everything on the Committee, and of the question of in whom the trusteeship of all the lands must eventually rest, also unless the Committee is simply made a Court with jurisdiction over certain questions of avoiding a confusion between the action of the regular Courts and these Committees.

30. At present there occur to me two practical measures without reference to an attempt at new legislation: the first is the repeal of Sections 18 and 19 of Act XX. of 1863, which arrange for the preliminary leave for suits to be brought, coupled with a direction that no pauper plaint of this nature is to be received or one not signed by one or more Court Pleaders. The *second is, in addition to the qualified persons described in Section 15 as those interested, to include the Government of the Presidency by the agency of the Collector of the district or others.* There would then the sooner be decisions, and in a practical manner the operation of the Act and the nature of the institutions to be operated upon would come out; the justice or policy of particular cases to be taken up among the many that would then be thrust upon notice would be a matter for selection of Government; the costs as already provided for good cases would be a charge upon the institution.

31. With reference to the proposed new Act, it does not seem as valuable as the letter of the Honourable Member introducing it. It proceeds upon imperfect information, and is not a sufficiently broad measure, besides attempting to be too minute; it is also open to the objection of having too many patches of procedure, if I may so term them, leaving it doubtful what procedure is to be followed in other cases. Without wishing to detract from the merit of the difficult task of legislating in such a field undertaken by the framer of the Act, it appears to bear marks of a greater familiarity with the habits of the Presidency than of the interior.

32. Section 2 confers upon Trustees the powers of landholders under Act VIII. of 1865, but they already have it. Section 3 binds Government not to resume any grants, but there may be cases in which such resumption would be just.

33. Instead of the terms "prescription" and "patent" in Section 4, "custom" and "sanad or other grant" would be more congenial, and the summary inquiry parenthetically referred to as to be made by the Civil Court (meaning the Zillah Court) in cases of disputed title to trusteeships must include the support, by execution, of one or other Trustee or family; in fact, a nest of litigation is attempted to be provided for in insufficient terms or the work of an initiatory Commission, and whether the summary order is to be open to appeal or not is left doubtful.

34. The "disputes" likely to arise under Section 5 and to be tried summarily are the same as those that would arise under Section 4. The terms "on the application of any individual permanently residing or possessing immoveable property" might include the claimant himself to the vacancy or not. The District Gazette notification is comparatively immaterial.

35. Sections 6 to 14 provide for a popular election of Churchwardens, as they are termed sometimes in the endeavour to suit English terms to such matters. It would be more suitable than this if it were placed in the power of the Committee or the Magistrate (who by Section 10 is to sit as a sort of dummy after having as Sheriff called together the villagers into his tent, one of whom is to be Chairman and to sign the proceedings, if he can write) to appoint whom they chose with due consideration to customs regarding succession and the wishes of the people, to be ascertained in any manner they might think proper.

36. It would be found in practice again that the Civil Court under Section 15 would have to pass summary orders, and the regular suits provided for in Sections 15 and 16 would be frequent.

37. *Section* 18.—The charging of expenses of litigation to the institution should be subject to the order of the Court before whom the litigation has been carried on.

38. *Section* 19.—No doubt the composition of a Committee so as to balance opinions will be a matter for consideration, but I am not sure but that the distinction between what are termed "Tengali Vishnuvites" and "Vadagali Vishnuvites" is only marked in particular localities and is not one between Brahmins generally. When once a good Committee, however, has been got together why should it be disturbed once a year, as proposed by Section 20?

39. Section 22 is, I think, too much in advance. How could the immense variety of offerings in kind or money be brought to into the ruled form of English accounts, and headings, and vouchers, and the light of print in a Gazette?

40. Section 26 provides an appeal to the High Court in a particular case leaving it open to argument that other cases are not appealable.

41. A fair distinction is made in Section 30 between private use of the funds and distribution of them from some use to another, but I think the general terms of the Indian Penal Code would be found sufficient without special legislation.

42. Under Section 31 it appears that those most likely to be cognizant of any misdoings of the Trustees, viz., pagoda servants, are not to be allowed to prosecute. I do not like the system of payment by fees of Section 32; it had better be kept out of the country as much as possible.

43. Section 33 lays down for what acts a Member of the Auditing Committee may be sued; as long as the Courts remain and the ingenuity of Pleaders there is no occasion for a special provision.

44. With reference to the exemption from stamp duty proposed by Section 34, I am afraid the facts will never come out clearly enough for a Court to pronounce neither party to be in fault; and, as happens in pauper suits when the pauper is cast he cannot pay and nobody pays, it might be better to lay down some favourable general rate in the stamp laws.

45. In Section 35, under which, indeed, most questions would arise, I object to the use of the term "Morassi" applied to servants of the institutions as ambiguous and unknown north of Madras. I believe all those appointments by the sort of process which has made the right to manufacture salt for Government hereditary, and which tends to make Court peons hereditary servants, have become hereditary, and the question raised in any suit would be that any dismissed servant should at least have the poor benefit of filing a suit.

46. Section 37, which provides for the surplus income being devoted to Sanscrit literature, of course only applies to the surplus income of Hindu institutions; but the mode of spending the money is too exclusive, though, too, it would save much heartburning to have it laid down by law what is to be done with the money.

From P. P. HUTCHINS, Esq., Acting Civil and Session Judge of Cuddapah, to H. WIGRAM, Esq., Acting Registrar of the High Court of Judicature at Madras, Appellate Side, — dated Ootacamund, 8th May 1872.

I have to apologize for my delay in replying to your circular letter, No. 532, with which you forwarded for remarks a Draft Bill by which it is proposed to supersede Act XX. of 1863, and other papers relating to the subject of the religious institutions of the country.

2. I have no doubt whatever that Act XX. of 1863 has been found defective, and that an amendment of the law is required; but, in my opinion, this may be done by extending and amplifying the provisions of Act XX. of 1863 better than by an entirely new Act. The causes of the failure are not difficult to find. In the first place there was a wholesale shifting on to novel and inexperienced bodies of powers which had never been accurately ascertained and are nowhere attempted to be defined. A lawyer might have been able to show that the powers were sufficient for the purpose, but there were no means of obtaining competent legal advice. These bodies were merely voluntary bodies: there was nothing to induce them to act with diligence, hardly anything for them to fear if they neglected their duties and let things take their own course; they were not even to be remunerated for any trouble they might take; and they had no means of reimbursing themselves for such expenses as the diligent discharge of their duties would necessarily entail.

3. I am not aware how far the Board of Revenue were able to furnish accurate lists of the endowments, but I suppose sufficient information was given to the Committees to enable them, if they were willing to take the trouble, to check the accounts to be furnished under Section 13; if not, it seems to me that there are ample grounds for the appointment of another Inam Commission; that, indeed, it will be hardly possible for the Committees to act efficiently without some such assistance. It may be worthy of consideration whether, in any case, there should not be a Charity Commissioner to assist and advise the different Committees.

4. A good deal has been said about the Committees' want of power to enforce their demand for accounts, but it seems tolerably certain that a refusal or neglect to comply with their demand would justify them in suspending or dismissing the Trustee, and the only difficulty would be in case of his forcible resistance. To meet such a case a provision might be inserted that any such order, signed by a majority of the Committee, may be executed by any Civil Court as if it were its own decree—of course, without prejudice to the Trustees' right to contest it by a regular suit. In every other respect, as it seems to me, the powers of the Committees are ample if they were only understood. They were certainly intended primarily to be what the Draft Bill calls "Auditing Committees," and the only other functions which they were ever intended to exercise seem to be the appointment of the superior officers of the different institutions, and perhaps of the subordinates on the superiors' nomination. If I am correct in supposing that the Committees already possess these powers—including, of course, the power to remove, for sufficient cause, those whom they have the power to appoint—the only object of defining their powers more exactly would be to prevent their improperly interfering with details of management and the conduct of ceremonies.

5. I am very decidedly of opinion that the Committees ought to be remunerated for their trouble, and that they ought to have funds with which to procure respectable legal advice in cases of difficulty. The Draft Bill proposes to give them two per cent. on the incomes of all institutions under their care. I am not in a position to test the adequacy of this allowance, but probably, if I am correct in supposing that every little village temple is included, the percentage on their aggregate income will be something considerable. Unless, however, M. R. Ry. Ramiengar is in possession of some reliable statistics, it will be safer to reserve to Government the power to vary the percentage.

6. The next important change proposed is to extend the auditing powers of the Committee to the other class of religious institutions, viz., to those in which succession to the trusteeship is hereditary or otherwise independent of the Board of Revenue. I believe the High Court have held that these are not "establishments to which the provisions of Act XX. of 1863 apply" within the meaning of Section 13; if so, I am decidedly of opinion that the Committees' power to call for accounts, and their power to visit any refusal or neglect with some condign punishment, such as suspension or dismissal, should be extended to them also.

7. There are one or two other material questions to which I wish to advert before proceeding to the details of the Draft Bill. The first is whether the Committee or the Trustees should be *elected*. At present the Committee are elected and appoint the Trustees, and I see no good reason why this procedure should be altered. I have never myself heard of any institution of the kind in which the office of Trustee passed by election: if there are none such Section 6 of the Draft Bill

seems useless. I do not recollect seeing any rules framed by the local Government under Section 10 to regulate elections, but I think it will be wise in this country to leave them power to frame and amend such rules at their discretion. I certainly could not concur with M. R. Ry. Ramiengar in introducing universal suffrage. If the principle of election is to be followed at all, and it is difficult to suggest a better one, the franchise should be a very limited one at first. Perhaps under present circumstances the best qualification, subject, of course, to the conditions of residence and religion, would be the payment of ~~income-tax or the holding of a~~ putta of a specific amount.

8. The next question is whether any *summary procedure* should be established to ascertain whether a particular establishment falls under the hereditary class or not. The Draft Bill proposes that this point shall be determined (upon whose motion is not stated) by the Civil Court after a summary inquiry, and no provision is made for an appeal. If any Commissioner is to be appointed I would make his decision final unless contested by a regular suit within three months from its publication; otherwise I still think some other authority should decide the point summarily in the first instance, and I do not see why that authority should not be the District Munsif.

9. Next, here is the question whether it is for the public good that any "elector," or any person interested, should be at *liberty to sue*, without risk or expense, either a Trustee or Member of Committee. I see that M. R. Ry. Ramiengar has attacked the provision of Section 18 that no suit under the Act shall be brought without the leave of the Court. I do not myself think that it is open to any great objection. The sole question for the Court is whether there are good *prima facie* grounds alleged, and that is nothing more than every Magistrate has to consider upon every complaint brought before him. A Judge or Magistrate must be wholly unfit for his office if he is, or fears to be, unwilling to acquit after a trial because he has committed himself to the opinion that there were *prima facie* grounds for a suit if all that was alleged was true! There being no one in this country capable of exercising the discretion vested in England in the Attorney-General (it would be impossible, I fear, to impose the duty either on the Advocate-General or the Government Pleader), I think the section should stand; but the leave of the Court might be dispensed with in the case of a Trustee if the Committee give leave, and in the case of a Committeeman if a sufficient sum to cover his costs, and a reasonable amount of damages to be summarily awarded, is deposited with the plaint.

10. Some rule should be laid down as to how the Court is to be informed that there has been a failure to supply a vacancy and that it is called upon to act. At present individual members of the Committee often address the Court by letter, and without stating the necessary facts. They have continually applied to me by letter for copies of the Act and advice.

11. With regard to the *alienation of endowments* the law seems sufficiently clear, but it would simplify questions of fact if *bona fide* purchases made with the sanction of the Committee (or Charity Commissioner) were declared absolutely valid and the remedy limited to a suit for damages against the Trustee and Committee, and if, on the other hand, purchases made without such sanction were made absolutely null and void.

12. I have now only a few brief observations to add on one or two of the sections of the Draft Bill. Of course, I do not propose to enter upon any verbal criticism.

Section 5.—The Manager to be appointed by the Court is, I suppose, to be a provisional Manager only, pending the adjustment of the disputes. The suit to be brought will then be, not to contest the Court's nomination, but to establish the plaintiff's title by custom or inheritance.

Section 6.—I have already said that I object to universal suffrage. In no case, except a mere village pagoda, should the franchise be limited to persons of a single hamlet. Query, Whether by "religion" is meant the particular sect of the religion?

Section 15.—It is difficult to see who could be aggrieved by the Court's order, seeing that *ex concessis* no one has a right to the office.

Section 16.—This implies—and, I conceive, ought to express—that the Court may remove any Trustee, whether hereditary or not, for any good and sufficient reason.

Sections 19 *and* 20.—A retiring Member should be eligible for reappointment. Is the Fifth Member not to be a Hindu at all? What is the good of a Fifth Member?

Proceedings of the Madras Government, Judicial Department,
23rd October 1874.

Section 21.—Why is the Court only empowered in the case of Mahomedan institutions, except that the author of the Bill is a Hindu? Why should it not be directed, as in the case of Hindus, to nominate a Committee of three or two, of whom one shall always belong to each of the two great sects?

Section 24.—Why should the Committee's power to examine the cash balance be limited to once a year?

Section 26.—If the Trustee is able to deceive the Committee he will be safe from a criminal prosecution! A Magistrate can always refuse to issue process if he believes the complaint to be false, and that seems to afford sufficient protection against vexatious prosecutions.

Section 28.—This is not very intelligible, nor does it appear why a Sub-Committee may not prosecute if any "elector" can.

Section 29.—What are they to be prosecuted for or convicted of? Is the meaning that if the Criminal Court finds the account to be false it is to presume that the money has been misappropriated by the Trustee, without reference to such considerations as whether he can read or write? Is an account to be taken as false unless supported by satisfactory vouchers?

Section 30 and *Section* 18 seem hardly necessary.

Section 31.—A year seems too long a period. I have no objection to the proposal that the accounts shall be published at the expense of the institution if it can afford it.

Section 35.—In this and other sections does the term "Civil Courts" include the inferior tribunals? There is no reason why District Munsifs should not take cognizance of suits for wrongful dismissal, and they would, I conceive, be able to do so without this special empowering clause. If only a Zillah Court is to entertain such suits it should have power to frame issues for trial by the District Munsif.

Section 37.—I would extend the proviso to all objects of public utility which may be approved by the Committee (or Charity Commissioner) and Government.

From J. D. GOLDINGHAM, Esq., Civil and Session Judge of Madura, to H. WIGRAM, Esq., Registrar of the High Court of Judicature at Madras, Appellate Side, dated Madura, 12th July 1872, No. 280.

With reference to the Proceedings of Government, dated 31st January 1872, the receipt of which I have the honour to acknowledge, I beg to offer the following observations for submission to Government.

2. There is doubtless a concurrence of opinion that the means designed in Act XX. of 1863 for the protection of the religious institutions of this country have signally failed in affording the slightest guarantee against their mismanagement by the Committees to whose custody the large endowments appertaining to these institutions have been transferred. The reasons for this failure are, in my opinion, chiefly these—(1), a want of public spirit and honesty of purpose in the persons of the individual Members; (2), their inability in law to exercise any real control over their subordinate officials; (3), because in numerous instances these responsible functions were delegated to men whose administrative abilities were unequal to the work imposed on them, it being impossible to obtain for the whole of the institutions severally in any one district a sufficient number of men possessed of the required qualifications.

3. At first in some few instances a little energy was displayed, but, when the novelty of the situation wore off, the different Members ceased, from want of inducement, to labour; and practically the Committees appointed under the Act left the whole working of these institutions to their unpaid and almost irresponsible Managers. In other instances squabbles arose among the Members themselves; power was usurped by the strongest mind or by a majority; and it is easy to see, in the absence of any feeling answering to honour, how profligate became the administration. Little or nothing has been done in the way of preserving the buildings from decay except in rare instances; the resources of most institutions have been sadly neglected; funds have been misappropriated and misapplied; rents and outstanding balances remain uncollected. Worse evils even have, there is every reason to believe, manifested themselves where endowments are superintended by

hereditary Trustees, and in certain instances I have reason to know that trust property has been most improperly alienated, the latter class of Trustees having come to regard such properties their own by right and intended solely for their own personal expenditure. This is the case more especially in connexion with such charities as are partly of a religious and partly of a secular character, and where the Huckdars, as they are called, have an undoubted right to be maintained from the incomes of the institutions. One instance of criminal mismanagement I cannot refrain from mentioning, viz., that a few years ago 16,000 Rupees in cash was taken from the treasury-room in the Great Meenachi Pagoda at Madura and recently a sum of 5,000 Rupees—a thing which would have been impossible under the old system, and which could not have occurred even under the present without the wilful connivance of the pagoda officials. The lost property has not, I believe, been recovered.

4. It is a mistake to suppose, however, that the Civil Courts in this and the Tinnevelly Districts, at all events, are never resorted to either for the purpose of filling up vacancies among the Members of the Committees or by "interested persons" desirous of prosecuting the Trustees for misfeasance. Many applications have been made to me on the former score, but I have generally found that they originated not so much in a desire to secure an efficient administration as to serve the interests of either of the surviving Members. It is curious that I never heard of an instance where the remaining Members proceeded to hold an election as provided in the early part of Section 10, even if such an election is practicable; and, whenever I have desired them to fill up a vacancy, I have never found them unanimous, the great aim of the remaining Members being to strengthen the party they belong to and so to make the power and influence which attaches to their offices subservient to their own private ends. With regard to suits brought under the Act I have had a certain number of them, but except in one particular instance I have always found private malice to be at the root of the application and of the evidence brought in support of the different charges of malversation, though the existence of malversation is in general, though not in particular, instances admitted.

5. If what I have stated is the case it is clear that no half measures but a very sweeping reform is needed, and, if I may be permitted to say so, or to repeat criticism, our present neglect of these religious institutions is in the eyes of the natives the one defect in the English administration. Having undertaken to govern this great country for their good, and for that alone, the natives as a body do not understand the fastidiousness with which we hold ourselves aloof from these objects which appeal to all their hearts, and the scruples which we feel, after having once charged ourselves with the duty, in not even appearing to be mixed up with any concern as to the proper application of the revenues of these endowments. It is also a painful fact, but one that is not the less felt by every intelligent native, that there is no thoroughly honest and effective supervision in this country apart from Government supervision, and consequently I am firmly of opinion that, unless this is in some sort of manner conceded, the best measure that can be devised will prove in the end inadequate.

6. The outline, therefore, of the scheme that I should propose is this: For each endowment which falls under Section 3 of the present Act a separate local Committee should be retained, the Members of which should be entrusted with the entire management of the property committed to their care, the extent and nature of their powers and duties being well defined. One of the first things to be done, therefore, should be to take an account of the property which each institution possesses, its yearly income, and to specify the objects to which it should be applied. Then in each district a strong Central Committee should be formed, their functions to be prescribed by the Government, with full and absolute control over the local Committees, over the Managers of the various endowments, and over the hereditary Trustees comprised in Section 4. To this Committee there should, in my opinion, be a paid Secretary and a sufficient number of Clerks, to be remunerated by a percentage from the funds of all the religious institutions in the district. Such institutions as are purely of a secular character, the management of which by Government agency would not be inconsistent with the policy of the Act of 1863, I would place under the direct supervision of this Committee.

Proceedings of the Madras Government, Judicial Department,
23rd October 1874.

7. The real difficulty in the case appears to me to be in the selection of Members. If the interests of the country and the wish of the natives is to be consulted, undoubtedly the President of such a Committee should be the Collector of the district. With him should be associated some of his subordinate Assistants, Covenant and Uncovenant, the Superintending Engineer when practicable, and a number of influential, educated, independent natives. I would make this Committee as strong numerically as may be considered expedient, in order to admit of a variety of work being performed by Sub-Committees. There would also be no objection to Members of local Committees, for instance the large Zemindars, serving in the Central Committee, provided they were not allowed to sit when their own management of any institution was called in question. To this Committee I would transfer all the executive duties which under the existing Act are performed by the Civil Court. I think they should fill up vacancies among the Members of the local Committees, entertain and inquire into complaints regarding their administration, and, where a reasonable cause appears, either give leave to "interested persons" to file suits in the Civil Court, the Committee stating precisely the specific charges to which proof should be adduced, or be empowered to pass a decision themselves after taking evidence; such a decision, if *against* the local Committee or Manager, liable to be set aside by a regular suit in the Civil Court but not otherwise. Then I would have them audit and publish the accounts yearly, periodically inspect the cash and jewels in each pagoda (one Member would be sufficient for this duty in any particular pagoda), or see that they have been inspected by local Committee, give permission to execute repair to the buildings in all cases where the proposed expenditure exceeds 100 Rupees, and give specific orders regarding the collection of the large outstanding balances due to the several institutions. Finally, I would have the Managers appointed under the local Committees salaried officials.

8. I will now proceed to what, in my humble opinion, are the defects and omissions in the Hon. V. Ramiengar's Draft Bill before me. With every respect, I think for the reasons I have stated the measure proposed is not sufficiently comprehensive; but, assuming that the Government are not prepared to go to the extent proposed by me, I offer the following observations: First of all, there are, in my opinion, objections on principle to any purely executive duties being performed by the Civil Courts. I think, as a rule, the Civil Judges are not the best competent to appoint to vacant offices. Except in rare instances of a Judge having been long employed in one district and in different capacities, Civil Judges have not, and cannot have, the same intimate knowledge of individuals as the Collectors have to enable them to make a proper selection, while they have no one about them whom they could conveniently consult on such an occasion. I think, therefore, any purely executive duties, such as are described in Sections 4, 5, 15, 19, 20, and 21 of the Draft Act, would be more efficiently performed if entrusted to the Collector of the district. I also candidly confess that if I were called upon to appoint five individuals as Auditors of accounts under Section 19 I do not at present know upon whom my selection would fall among those persons who if selected would accept the office. All the ability in the district is confined to a particular class, viz., the educated aspirants to office, and the official and ex-official employés including the Vakeels and Pleaders, and nearly all the men most worth having are at present employed in various ways and engaged in the duties of their several professions; and practically it would turn out that the field for selection would be very limited. I know a great many men well qualified whom I know would not accept the office. I would prefer, therefore, a system which had an unpaid Central Committee at its head, whether Government agency was introduced into it or not, and I think this would be most attractive to the independent native community. If, however, the Legislature in their wisdom prefer the system proposed in the Draft Bill, I would have the Auditors paid fixed salaries for auditing the accounts of the institutions of the whole district, the same to be levied by a percentage from the entire charitable funds, instead of a remuneration of two per cent. from the funds of each institution, as proposed in Section 32. I think 2,400 Rupees to be paid to each Auditor per annum would not be too much for the work they would have to perform in this district. I do not, however, see why there should be any restriction placed on religion the of the Auditors. If a Christian Judge can adjudicate between parties of all religions, why cannot a Sivite adjudicate accounts of a pagoda dedicated to Vishnu? If the principal duties to be performed are simply

auditing accounts, sect or religion is almost immaterial. Again, it may often happen that an Auditor belonging to the particular sect required is not procurable. In such a case what is to be done? I would not, however, have the Members of the local Committees paid on principle, as I think the persons whom it would be always desirable to appoint would not think of accepting remuneration, nor would the proposed remuneration in many instances be worth their accepting. If they were paid there would be competition among a low class of officials—men who would not otherwise seek the appointment, and whom I would exclude. But, as I said before, I would have their Managers salaried officials.

9. Turning to the Bill itself, I think I would omit Section 4. I do not see what mischief the section is intended to remedy.

In Section 5 I would substitute for the words "of the same religion as that of the institution" "being a worshipper at the institution," for Sivites worship in Vishnuvite pagodas and *vice versa*.

Sections 6 and 7 of the Draft.—I think the provision of these sections may, after a fair trial and under European supervision, exercise a beneficial effect in securing the appointment of Trustees who are generally acceptable to the community and qualified to fulfil the duties of the office. But to ensure a fair representation of the wishes of the community I think there should be prepared and corrected from time to time a list of voters entitled to vote. The provisions of Section 6 in this respect seem to me too limited as to the locality from which the voters should come, for I think persons residing within ten miles ought to be entitled to a vote whether the pagoda is situated in an uninhabited place or not. And in Sections 9 and 10 I would strike out "Deputy Magistrate" and require either the Magistrate or his Covenanted Assistant to be present.

Of Section 13 I cordially approve. At present there is no provision of law whatever prescribing what is to be done in case of a difference of opinion among the Members of a Committee, though judicial decision (*vide* page 443 Vol. IV, M. H. C. R.) has intimated the principle by which disputes of the kind should be determined.

10. I do not see much use in the concluding part of Section 15. If the office is *elective* and not hereditary, no person can reasonably be aggrieved by any order of the Civil Court filling up vacancies; on the other hand, it opens out the way to purely vexatious litigation. If insisted upon, I think stamp duty of some kind should be paid, and the plaintiff in such a suit be compelled to furnish security for the eventual costs of the defendant. The difficulty would be to fix a market-value on the claim; there is no standard by which it could be measured unless the Members of such Committees were paid salaries: then the market-value might be assessed at the amount of five or ten years' salary. Perhaps it would be better to fix the value according to some arbitrary standard. All such suits to be brought on a stamp not less in value than 100 Rupees.

Section 16.—It is very objectionable that Trustees should be entitled to hold office for life. Many a time a person who is thought to be a fit person when appointed turns out the reverse, and yet no positive misconduct may be proved against him justifying the Court taking the extreme measure of dismissing him. I think they should be appointed for three or five years. If a Trustee turns out well, he can be reappointed; if badly, he would go out of office at the expiration of his term. The knowledge that he might not be reappointed would act as a stimulus to exertion, and periodical changes in the personnel of the managing bodies are not without benefit to the institutions.

11. *Section* 17.—I have said before that I doubt the expediency of paying the Members of local Committees where the office is elective. In some cases an allowance of four per cent. out of the revenues of the institution would give Members of local Committees little worth accepting. In many instances hereditary Trustees are entitled to much more; for instance, in trusts where the main object of the grant was to provide for the maintenance of the grantee's family, the secondary object was to have prayers recited or poojah performed on certain festive occasions, or to keep lights in any particular durgah. I think, therefore, the provisions of this section would operate

Proceedings of the Madras Government, Judicial Department,
23rd October 1874.

unfairly in many instances and deprive men of their legitimate incomes. On the other hand, certain trust bodies would be remunerated, who, in principle, I think ought not to look to remuneration for their services.

Section 18 is, I think, a proper provision.

12. Section 19, I repeat, I think will not be found to answer for the reasons stated, and there will be still greater difficulty in this district in making the nominations required under Section 21. I would prefer a plan such as that I have imperfectly sketched with a strong Central Committee at its head with a few Mahomedan Members in its composition. Then, again, the provisions of Section 21 are permissive, not obligatory, and I am sure the Mahomedan charitable institutions require as much supervision as the Hindu. Though no complaints have reached me officially regarding their mismanagement still the evils complained of exist, and I know of a case where a pauper plaintiff, after recovering a large trust property from the hands of a Member of his family who was not entitled to manage it, deliberately applied to my Court to admit a third party as made-over plaintiff in the suit, on the ground that he had received from him the full value of the subject-matter of his claim. It is needless to add the applicatic was dismissed.

13. *Section* 22.—I would suggest that provision should be made in this Act for certain accounts, at all events such as a Ledger and Day Book, being kept on paper in bound books and not on cadjans. Where cadjan leaves are capable of being introduced at any moment in a body of accounts their correctness cannot be relied upon in judicial proceedings.

Section 24.—The Committee should have power to examine cash balances as often as they may deem it necessary.

14. *Section* 25.—I do not think any Auditor would accept office if he were liable to be dismissed at the suit of any elector. I think if they fail to publish the audited accounts, or are otherwise guilty of misfeasance, it would be better to authorize the Civil Court or Collector, on application by any person interested, to order them to do so; and then, on their refusal, to enable the Civil Court or Collector to dismiss them, not by a regular suit, but summarily on a miscellaneous petition.

15. *Section* 26.—After audit I would certainly free the local Committees from criminal responsibility, but civilly I would make the Auditors primarily responsible and the Trustees only secondarily so, where the Civil Court may for sufficient reasons deem it necessary to make them also responsible. I think this is desirable, in order to make the Auditors feel their own responsibility, and in order to place a check upon the vexatious litigation.

In Section 29 I would omit the words "Sections 403 and 404 of."

16. *Section* 31.—I think the provisions of this section are most salutary. All unfounded cases are brought about by the agency of dismissed servants of the institutions. I would, therefore, between the words "by the orders of the Trustees" and "shall be entitled" in line 5 add the words "or their undivided relations." I concur also with the Honourable Member that it is essential to prescribe some short period of limitation within which suits may be brought. I would further add a clause providing that, when a case has once been heard and determined at the suit of one elector, the same question shall not be raised again at the suit of any other elector in respect of the same cause of action. To complete the bar of *res judicata* there ought to be identity of subject as well as of object. The point may never arise, and the difficulty is only a technical one; but I think it as well that it should be clearly laid down that it is not open to any one to bring a suit upon a cause of action the object-matter of which has already formed the subject of prior litigation.

17. *Section* 34.—With proper checks imposed I agree with the Honourable Member that all proceedings taken and suits brought under this Act, save suits brought under Sections 15 and 35, should be exempt from stamp duty, and that, as a general rule, costs should be paid out of the [illegible]. But, supposing the funds of any given institution are barely sufficient to carry out the purposes of the endowment, how, in such a case, in the event of litigation taking place, are the costs to be

paid? Should plaintiff lose his case it is not fair to saddle the defendants with their own costs, and it is equally inequitable that a plaintiff should bear his costs when he has been successful. Would it be better to leave the matter as it stands, or to set aside a general fund on purpose for defraying the expenses of just litigation, and created by a deduction of a small percentage from the funds of all the charitable institutions in the district?

18. I don't quite understand the meaning of Section 38, or what is intended by a private endowment for one's own private use. But I think some specific provision should be made for the care of those private endowments which have been, or may be, dedicated wholly or in part to some religious or public use. The Central Committee, or local Committee, or Civil Court should have power to inquire into complaints regarding the misappropriation of such funds or alienation of the property. Suppose, for instance, A builds a muntapum and endows it. The uses to which such muntapum are put are that at certain festivals the gods are taken to them, poojahs performed, and food or other charities distributed. A dies, and his heir refuses to put the muntapum to the uses intended. This would be a fit case for the interference of the Committee.

19. There are two sections in Act XX. of 1863 that I am sorry to see omitted in the Draft Bill before me, viz., Section 16 and Section 18. The result of my experience teaches me that it is expedient to enable the Civil Courts to *order* any particular case to be settled by arbitration, and still more so to enable the contending parties to refer cases to be so settled if they desire it. In cases such as these the decisions of arbitrators are often attended with more substantial justice than the decisions of the Courts, and one great advantage is that they are not open to appeal. The advantages of this procedure are that arbitrators have more leisure to devote to a single case than any Judge can have, and they can investigate accounts in a manner that no English Judge can do. Under the Civil Procedure Code such questions are generally referred to Commissioners under Section 181, and, indeed, results are often not to be attained by any other mode of procedure. Again, they bring to bear upon the subject a more complete knowledge of the internal working of these institutions. I would not omit this section, especially if the new Bill is to be formed on the model of the Draft Bill, and, indeed, I would go further and provide for the remuneration of arbitrators when such is deemed by the Court to be necessary.

20. Upon the subject of Section 18 different opinions seem to be entertained. I incline to the opinion that it is a salutary check on improper litigation. I agree, however, with the Hon. V. Ramiengar that no conscientious Judge would commit himself to any particular view of a case beforehand save in very exceptional instances. The general practice of my Court is, on application being received by any interested person, to send notice to the other party to show cause; then, if a *prima facie* case appears on the back of the application, I give the necessary sanction. But on two specific occasions I remember deeming it advisable to refuse this sanction. One case was this: part of the Great Meenachi Pagoda became dangerous from disrepair, and the Superintending Engineer certified that unless it was pulled down loss of life might ensue, and yet, to gratify personal spite, a faction, to whom the Members of the Committee were opposed, asked for leave to institute a suit against the Trustees and compel them to stay proceedings *pendente lite*. The petition was put in from a sheer spirit of jealousy and opposition, and on seeing the Superintending Engineer's letter I refused sanction to sue as the works in progress were necessary and beneficial. Another case was professedly brought by a worshipper to oust the Superintendents of a private pagoda for malversation; it transpired, however, that the said worshipper was a man who claimed under a will of the founder to be himself the Manager and his suit was palpably intended as a suit for ejectment. No real case of malversation appeared on the face of the application, and I refused him permission to sue under the Act; of course, his remedy under the general law, if he had any right vesting in himself, remained untouched. I mention these two instances merely to show that the provisions of this section are not entirely devoid of utility. Although it is seldom that on a case stated a Court would refuse sanction to sue, the occasion may occur, and I think, therefore, I would rather not see this provision eliminated from the new Bill. I would, however, exempt all suits brought under Section 35 of the Draft Bill from the operation of the above section.

Proceedings of the Madras Government, Judicial Department,
23rd October 1874.

From E. F. ELIOTT, Esq., Civil Judge of Salem, to H. WIGRAM, Esq., Acting Registrar of the High Court of Judicature at Madras, Appellate Side, dated Salem, 13th April 1872, No. 22.

With reference to your letter, No. 532, dated 19th March last, requesting me, after perusal, to communicate my opinion on the Draft Bill prepared by the Hon. V. Ramiengar for the protection and due appropriation for the purposes for which they were made of all Hindu and Mahomedan endowments, &c., I have the honour to state that I have carefully perused the said Draft Bill and am of opinion that it fully meets all the requirements of its case, and that there is nothing that I can suggest either as an amendment or in addition to or deduction therefrom.

2. I duly circulated it amongst the best Pleaders of the Court also for any observations they might have to make with regard to it, but they are equally unable to suggest anything in amendment or otherwise, and express their entire satisfaction with it as drafted now.

From F. M. KINDERSLEY, Esq., Civil Judge of Tanjore, to H. WIGRAM, Esq., Registrar of the High Court of Judicature, Appellate Side, dated Tanjore, 1st May 1872, No. 128.

I have the honour to reply to your letter, No. 532, of the 19th ultimo, calling on me for my opinion on the Draft Bill prepared by the Hon. V. Ramiengar for the protection and due appropriation of religious endowments, and I regret that my time has been too fully occupied to prevent me replying earlier.

2. The Bill itself, I think, is calculated to work much good, and there can be no question but that some such measure is urgently needed, the present misappropriation of such endowments being notorious.

3. There are, however, a few points which I think require to be more clearly defined than they are in the Draft Bill.

4. The first point to which I will draw attention is the absence of any definition as to what is meant by "the Civil Court" and "the Civil Courts." In Sections 4, 5, 15, 19, 20, 21, 32, and 33 the term "the Civil Court" is used as if it signified the principal Civil Court in the district; but in Sections 26, 31, and 35 the words "the Civil Courts" are used as if referring to any Civil Court of competent jurisdiction. In Section 16 the words "a Civil Court" are used, though subsequently in the same section the term "the Civil Court" occurs. I think it should be clearly defined whether the principal Civil Court of a district alone has jurisdiction under the Act, or whether any Civil Court has jurisdiction (of course, within its usual limits); and, if the latter, then, whether any Civil Court has jurisdiction in all cases under the Act or only in certain cases, and in which.

5. Section 5 provides that the Civil Court may pass a summary order appointing "a person" to fill up a vacant trusteeship. I conceive the person should of necessity be of the same religion as the institution; and the same remark applies to Sections 9 and 15.

6. Under Section 19 I think it would be more convenient if the selection of the Auditing Committee was left to the Collector, who has many more opportunities of knowing the people of the district and is, therefore, more competent to select fit persons. If the selection rest with the Civil Court the Judge would almost of necessity have to apply to the Collector for a list of fit persons, and, if this be so, the Collector might at once select the Committee.

7. Another point under the same section is as to the filling up a vacancy in the Fifth Member's post. According to Section 19 such vacancy must be filled by a person of the same sect as the person who vacates. But, as the sect of the Fifth Member is left entirely to the discretion of the Court in the first instance, subject to certain provisos, it seems to me it would be only reasonable that it should, subject to the same provisos, always be left to the discretion of the Court. As the Bill is framed the Fifth Member might be a European, an East Indian, a Native Christian, or any other person, and such person might be a good selection at first as being a good Accountant; but there is no reason why, on a vacancy occurring, a person of the same sect or religion should be again selected. I would suggest that the clause in Section 19, "vacancies in the post of any one of the religionists shall be filled up by the said Court by one of the same religion or sect" be confined to the case of vacancies among the four Members whose sect is specially provided.

8. Under Section 22 it is, I think, a question whether there should not be a provision that rules might be made for keeping accounts in a regular form in books instead of on loose caljans, which are so easily tampered with.

9. Under Section 34 I think there should be a provision that at the termination of a suit the stamp duty which ought to have been paid should be calculated, and the Court should have the power of levying the same from the plaintiff if of opinion that the suit is brought maliciously or without any good cause, or from the defendants if of opinion that they were greatly in fault and necessitated the bringing of the suit. Unless some such provision be made it is probable that many suits may be instituted out of spite, the plaintiff knowing he can bring his suit for nothing.

10. Under Section 37 there should, I think, be a similar provision for the disposal of the surplus funds of Mahomedan endowments.

From J. W. REID, Esq., Acting Civil Judge of Tellicherry, to H. WIGRAM, Esq., Acting Registrar of the High Court of Judicature at Madras, Appellate Side, dated Tellicherry, 8th May 1872, No. 132.

I have the honour to submit my report called for in your letter marginally noted on the subject of the Proceedings of the Madras Government, No. 118, dated 31st January 1872.

Dated 19th March 1872, No. 532.

2. In the province of Malabar, in the District Court of the north portion of which I have attained all the experience which entitles me to give an opinion on the subject, there are, I believe, none but hereditary Trustees of Hindu religious endowments; no elective Trustees, as far as I am aware.

3. Among the indigenous Hindus in that district the larger proportion of property of all kinds held by hereditary right is held by a right residing in families whose co-parcenary interest is, as regards individuals, indivisible, and is managed by the senior male member of the family. Pagoda property is no exception to this rule. The right to manage the property of the religious endowment called generally "Urayima" resides in some family, and the senior male member of that family manages that property as he manages the family estate.

4. This right (Urayima) of managing the property religiously endowed is, however, not always entrusted only to one family. Frequently several families, otherwise independent, are joint Trustees (Uralens). In one, for instance the Taliparamba Pagoda, over thirty families of Brahmins enjoy Urayima rights.

5. No Committee of the nature mentioned in Act XX. of 1863 has been appointed in Malabar, and in the above circumstances under that Act there could not be a Committee, the trusts being hereditary and the nomination of the Trustee not vesting in nor having been exercised by, nor being subject to, the confirmation of Government.

6. Act XX. of 1863 then left the hereditary Uralens without any check save such as Sections 14 and 15, Act XX. of 1863, gives over them. There is no provision by which those interested can enforce production of any account showing how the trust property is administered, or can check abuses, unless such a suit as is mentioned in those sections is brought, and, I believe, no such suit has been brought or is likely to be brought. It requires some other incentive, such as profit to be gained, to prompt any one to bring a suit *pro bono publico*, and, when the checking dissipation and abuse of trust is no one's business, such a suit will, it is probable, never be seen.

7. As these Uralens are, in my opinion, undoubtedly Trustees, it is necessary that the check which the Board of Revenue could formerly exercise over them, and which now is taken from them by Act XX. of 1863, should be restored, taking care that the Government do not interfere further than is necessary to provide the proper machinery, for prevention of fraud with the management of the property of the religious institutions.

8. That now the endowments are not strictly applied I have reason to believe. The extent to which such misfeasance or malfeasance has gone it would, of course, be impossible to state without some inquiry. But some legislation is required.

Proceedings of the Madras Government, Judicial Department,
23rd October 1874.

9. I now proceed to express my opinion as to the Bill prepared by the Hon. V. Ramiengar. I omit all mention of sections, which I think may stand unchanged.

10. I would not allow a *summary* inquiry by the Civil Court, as proposed in Section 4, to be sufficient to determine the right to succeed to an hereditary trust. *Summary* processes being inexpensive, and giving right to possession only to be set aside by an expensive suit, *lead to litigation*. The right of possession is eagerly sought by the natives, they knowing that, if possession can only be secured by them, their adversary is thrown on to the necessity of filing a regular suit and proving his title. If a regular suit is brought, and there will always be persons ready to claim the right, Section 92 of the Code of Civil Procedure gives a Court ample interim powers to appoint a Manager. I would, therefore, omit the parenthesis and let the rest of the section stand.

11. Before considering Section 5 I would express my opinion that the Committee originally contemplated at the passing of Act XX. of 1863, if extended to *all* religious endowments, is the best machinery to carry out the duties formerly vested in the Board of Revenue. The Members of the Committee should be nominated by the Government in the first instance, and there should be one set for each taluq or other convenient *small* division of country. They should be required to audit the accounts and generally watch the behaviour of the Trustees. Being appointed, in the first place, to hold the office for five years, in case of all vacancies which might take place during the first two or three years after the passing of the Act, they should, I think, be appointed by Government, as the people will not have been yet accustomed to the idea of electing Members to any vacancies; after the two or three years had passed all vacancies should be filled by election. The election might take place in such way as the Government might be pleased to direct during the annual revenue settlement. To limit the chance of fraud I would confine the suffrage to those paying annually a certain amount of land revenue or income-tax, say 50 or 75 Rupees, and irrespective of that payment all Village Magistrates and Village Accountants; all so qualified to vote might be required to apply to the Tahsildar for voting papers certifying that the holder whose name, number in the "Kulavari Chitta," and any other requisite description should be entered in it, has the right to vote. I observe that the Hon. V. Ramiengar records his opinion that the machinery of Committees has been a total failure. In Malabar, at least, the experiment has not been tried, and I am inclined to think that if the Committees, as I propose, are selected from, and have the supervision of the Hindu religious endowment situated in, a smaller tract of country, their proceedings will be marked by less apathy, and the native public opinion of the locality will be brought to bear on them and make them perform their duties efficiently. I see that the Native Members of the Orissa Commission in their report (given in the papers read in the Proceedings to which this relates) have not condemned the "Committee" altogether but considered that their powers should be well defined.

12. I would substitute the word "Committee" for "Auditing Committee" where the latter is found.

13. In Section 5 and those following I would propose the following amendments.

14. *Section* 5.—For "the Civil Court" I would put "Committee hereinafter mentioned," and for "application of the Auditing Committee hereinafter mentioned" the words "on the motion of any of the Members of the said Committee."

Section 6.—I would substitute "in the Committee" for the words following "vest."

15. Section 7 I would omit. As to the 6th and 7th Sections I would observe that the community of Hindu worshippers will be sufficiently admitted to control over the institutions, whether elective or hereditary, by the power given to the principal inhabitants to elect the Members of the Committee, and I think the power to elect elective Trustees may safely be left to the Committee. I would also give them a correlative power to dismiss without a suit, giving the person dismissed right to impugn the propriety of the dismissal by a suit to be brought within three months date of such dismissal.

16. Sections 9 to 12 I would omit as unnecessary if the election to elective trusts is given to the Committee. In Section 15 I would read "Governor in Council or that person to whom he may delegate the power to" for "Civil Court," and I would omit the last two clauses.

17. The Civil Judge, whose duties do not take him among the people in a way to enable him to know the status and personal character of the leading Members of the population, is not a suitable person to appoint to this Committee. Government through their Revenue Officers will be best able to make a suitable selection.

18. For Section 19 I would substitute provisions carrying out the suggestions made in paragraph 11. I would have the number and sect of the Members as proposed by the Hon. V. Ramiengar, only providing that, in any district in which it might appear to the Governor in Council proper to make the appointments from any other castes or sects, it shall be lawful for the Governor in Council to appoint such persons.

19. Section 20 being omitted and Sections 21 to 24 being retained with the omission of the word "auditing," I would, as the funds of many of the institutions could not afford the cost of publication in the District Gazette, omit Section 25.

20. I see no reason to exempt the Trustees from liability to prosecution before the Criminal Courts, as proposed in Section 26.

21. To Sections 29 and 35 should be added a provision that the dismissal of an hereditary Trustee or servant shall affect only the individual and that the next member of the family entitled shall succeed to the vacant place.

22. Section 37 appears to me impracticable. Many Trustees do not know what a "Government Security" is, and investment in land is more consonant to native ideas. I would not lay down any rule leaving the Trustees to do the best for the institution they can.

23. I would omit the last sentence of Section 30, leaving the Criminal Court to decide in each case whether the intention was fraudulent or not.

24. For Section 33 I would substitute Sections 14, 15, and 16 of Act XX. of 1863. At the same time I see no reason to make the leave of the Court, as ordered in Section 18 of Act XX. of 1863, necessary to the institution of the suit. The Code of Civil Procedure gives the Court sufficient power to determine whether there is a cause of action.

25. At the commencement of this paper I mentioned that in Malabar many families unconnected with each other are joint Trustees of pagodas. It frequently happens that it is requisite to appoint a common Agent (Samudayam), and very often also designing men working on the mutual jealousies of the different families will get themselves appointed by a few of the Uralens and another man will be appointed by some of the others. In such cases some rule is required, and it would be well in the contemplated Act to provide that the man appointed by the majority shall hold the appointment, and that in the case of the Uralens being equally divided the majority of the Committee shall have the casting vote. I would require the appointment of the Agent to be in writing and registered in the records of the Committee. Those impugning an appointment made as above should be referred to a regular suit.

26. I also think provision should be made forbidding the appointment by the Uralens of any Agent for a term of more than one year. The same man might be continued in his place by the Uralens, but they should not be allowed to bind themselves or successors by appointment for a longer term than one year.

27. Such Agents should be declared to be equally with the Uralens liable to be prosecuted civilly or criminally under Section 26 or 29.

28. There is one more very important point which the opening up of this subject affords a good opportunity of considering and legislating on. I refer to the necessity of providing some machinery for enabling an hereditary Trustee of a religious endowment to give it up or transfer it. At present I think he cannot do so. Whatever opinions may be held on this matter, which is now [illegible] in the High Court of Madras, it is a matter of doubt which should be decided by an [illegible] may be many reasons why it may be desirous such a trust should be got rid of [illegible] time it is necessary that such a trust should not pass without

notoriety from hand to hand, and, therefore, some plan must be devised to allow the trust to be alienated or assigned in such a way as will ensure a proper person holding it. I would then recommend an addition to the Bill of some such provision as that should any hereditary Trustee, with the consent of those in co-parcenary with himself, be desirous for consideration or without consideration to give up his trust by conveying it to another or relinquishing it altogether, he may make known to the Committee his intention, stating all particulars connected with the proposed transfer, and that the Committee shall decide in the way most beneficial to the endowment whether such arrangement shall be permitted or not, and, in case of the trust being relinquished altogether, the Committee shall determine who is to receive the trust. After this decision of the Committee the trust should pass to the alience, assignee, or appointee as other property, every subsequent alienation, except devolution by inheritance, being in a similar way subject to the approval of the Committee. A provision should also be made preventing such alienation being made to a relation or connexion by marriage of a Member of the Committee, and any one interested should be allowed to bring a suit to determine whether the appointment or alienation sanctioned by the Committee should be allowed to stand or not.

From F. C. CARR, Esq., Civil Judge of Tinnevelly, to H. WIGRAM, Esq., Registrar of the High Court of Judicature at Madras, Appellate Side, dated Ootacamund, 23rd May 1872.

I much regret that, owing to pressure of work before closing my Court for the recess, I omitted to reply to your circular letter, No. 532, dated the 19th March 1872, with which you forwarded the Proceedings of the Madras Government, dated 31st January 1872, No. 118, Judicial Department, in which was the Draft Bill prepared by the Hon. V. Ramiengar relating to the administration of the Hindu and Mahomedan religious endowments.

2. I fully agree in the opinion expressed unanimously in all the letters embodied in the above Proceedings, that Act XX. of 1863 has been a failure, and that there is an absolute necessity to amend the law on the subject. I cannot, however, think that the Draft Bill would in any way remove the existing evil or improve the present law. It appears to be admitted on all hands that, so long as Regulation VII. of 1817 was in force with regard to religious endowments, no need of a new law was experienced; the endowments were devoted to their proper purposes, and the people were content. This is the recorded opinion of the Board of Revenue, and it is, as far as my experience goes, confirmed by the testimony of all respectable natives with whom I have spoken on the subject. The remedy, therefore, seems obvious, viz., to cancel Act XX. of 1863 and restore Regulation VII. of 1817. It is, however, almost certain that the Legislature would not entertain such an idea for a moment, and it is, therefore, necessary to attempt to make the new law as effective as possible.

3. The main new feature in the Hon. V. Ramiengar's Draft Bill is the appointment of Auditors. I am not, however, of opinion that Auditors in the present state of affairs would be of much use: before Auditors are appointed it is necessary that a Commission should clearly lay down what is the revenue of each temple or charity, and in what ways it is to be applied in accordance with the original grant or ancient usage, specifying definitively what amount is to be spent in religious services and in special feasts; what amount is to be given in general charity, and the feeding of Brahmins and others; what is to be the cost of the permanent establishment; and, lastly, to what proportion of the revenue the hereditary Trustees are entitled for the maintenance of themselves and their families. If this were clearly understood the door would be effectually closed against much fraud and alienation of endowments which is now carried on, the book-keeping of the Trustees would be greatly simplified, and the work of the Auditors would be feasible! Under existing circumstances it would be impracticable and, therefore, a farce. The worshippers and others interested would also know what they had a right to expect from the funds at the disposal of the Trustees, instead of, as at present, their having a vague conviction that they are cheated by the Trustees, though remaining ignorant of the amount to which the alienation extends.

4. I cannot agree in the proposed manner of appointing the Auditors as detailed in the 20th, and 21st Sections of the Draft Bill. *In the first place*, the Auditor ought to be appointed by the Collector of the district and not by the Civil Court. It is an administrative

the Civil Court has nothing to do, and it is to the Collector that the Auditor should report, and to him should he be responsible. *In the second place*, it is a needless restriction to confine the nomination of Auditors to particular religions and sects: their own religious persuasion is immaterial so long as they are responsible, intelligent, and honest officials. It is never asked what is the religion of a Judge: he may be Christian, Mahomedan, or Hindu; frequently he is of no religion at all, and if he, being so, is a competent judge in important matters connected with various religions, it is surely unnecessary to specify the particular religion of a man who has merely to audit accounts. *In the third place*, I object to the proposition of having unpaid Auditors. The experience of this country is undeviating that unpaid, irresponsible Committees are absolutely useless. In every district useful and competent officials can be obtained on very moderate salaries, but nowhere can be found public-spirited men to volunteer effective services. Even where such volunteers are associated in a Board with officials they are found to be mere dummies, the whole real work having to be done by the officials. And not only is it that there is no public spirit to animate private parties, but if they do come forward no respect is paid to them by the public. The wealthiest Chetty, or the largest Puttadar, or the most intelligent and highly-educated Brahmin, as the volunteer, unpaid Member of a Board, fails to command the respect that a junior gumastah on Rupees 10 a month, or even a taluq peon on Rupees 5 a month, everywhere receives. Theoretically it may look well to put the management and supervision of the accounts of the temples and charities into the hands of the leading members of the religious community to which they belong; practically it is to shirk a duty incumbent upon the Government of the country. The salary of the Auditor and his Clerks would, of course, be a percentage charge upon the endowments, and would not add to the expenditure of Government. Under this arrangement Section 33 is unnecessary; for if any one felt aggrieved by the performances of the Auditor, he might complain to his immediate superior, the Collector, or file a regular suit.

5. Next, I object most strongly to the idea of suits against Trustees being exempt from stamp duty, as proposed by Section 34. Under the present law these suits can be brought on a Rupee-10 stamp, but before being filed the complainant has to obtain the sanction of the Court, *i. e.*, he has first to make out a *prima facie* case; even if he fails in doing this he has partially succeeded in his object, for the preliminary inquiry has necessarily annoyed the Trustees. It is entirely a mistake of the Hon. V. Ramiengar to suppose that persons do not come forward to prosecute: the annals of this Court tell a very different story, and Tinnevelly experience shows that, in any town directly there is a "jid" against a Trustee or Committeeman, the hostile party set up a "worshipper" to file a Rupee-10 petition for leave to bring a suit for malversation. There is absolutely no reason whatever why a defrauded individual seeking to recover his own property should have to pay a heavy stamp duty before he is allowed to appear in Court, while an entire community having a spite against a Trustee can bring their vexatious suit exempt from stamp duty. Whatever be the law passed, this 34th Section must certainly be struck out and the parties left to the general civil procedure, wherein any possible hardship may be avoided by availing themselves of the pauper clauses.

6. Sections 6 to 15 appear to me to be utterly impractical, and the appointment of Trustees may be left in such cases to the Collector, otherwise to the present Vishnu and Siva Committees.

7. Further, I think that in every case, where it is practicable, money payments should be substituted for endowed lands. It is universally admitted that Pagoda Trustees are the worst landlords in the country, and it would undoubtedly save much litigation and injustice if in all cases the revenue were a clearly defined sum of money rather than a variable rent to be raised from land.

8. It will thus be seen that, in my opinion, what is wanted is to establish in all possible cases money payments; to lay down clearly what is the amount available by the Trustees of each temple and charity, and in what exact way it is to be disposed of; to leave undisturbed the appointment of Trustees or as it was under Regulation VII. of 1817; to require the Trustees to submit annual accounts which would be inspected and passed by a paid Auditor who would be appointed by, and report to, the Collector.

These remarks have been delayed too long to be of any use.

Proceedings of the Madras Government, Judicial Department,
23rd October 1874.

From H. P. GORDON, Esq., Acting Judge of the Chittoor Court of Small Causes, Vellore, to H. WIGRAM, Esq., Acting Registrar of the High Court of Judicature at Madras, Appellate Side, dated Vellore, 12th April 1872, No. 76.

With reference to your circular letter, No. 532, of the 19th ultimo, I have the honour to communicate my opinion on the Draft Bill prepared by the Hon. V. Ramiengar for the protection and management of religious endowments.

2. On the whole, I think the present Bill is a very marked improvement upon Act No. XX. of 1863. That Act is, as is pointed out in the correspondence accompanying the Draft Bill, practically inoperative, whereas the present Bill, if it becomes law, would seem to be capable of being worked with some effect.

3. The new provisions which appear to me to be valuable additions to the existing law are chiefly as follow:—

(i.) The creation of a central authority with power limited for the auditing of accounts and prosecution of fraudulent Trustees.

(ii.) The subjection thereto of the accounts of the trusts described in Section 4, Act XX. of 1863.

(iii.) The remuneration of the Auditing Committee and of Trustees, either hereditary or elected, on fixed scales.

4. The weakest features of the Bill appear to me to be the nature of the machinery provided for the appointment of the Auditing Committee and the absence of any effectual guarantee for the performance of its duties. The working of the Act will depend for its efficiency upon the energy and uprightness of that body, whilst the appointment of the Members thereof is vested in the Civil Judge, who has, from his position, very imperfect means of discovering the persons most eligible for appointment. I must admit, however, that the question is a very difficult one, and that it is not easy to find an alternative, appointment by election being apparently impracticable and appointment by the Collector (the official most competent, in my opinion, to make it) being precluded, I presume, by his character as the representative of Government.

5. The main guarantee for the performance of their duties by the Auditing Committee is their liability to a suit at the instance of any elector or resident inhabitant who may be public spirited enough to be at the expense and trouble of going into Court. Experience has proved in the case of the Committees appointed under Act XX. of 1863 that this guarantee is ordinarily ineffectual. The case is, however, somewhat different as regards the Auditing Committee, inasmuch as the emoluments of their office may possibly be sufficient to induce them to avoid giving an opening for hostile action, and the proposed constitution of the Committee is such as will probably prevent combination among its Members.

6. Without the direct interference of an officer of Government I do not think any satisfactory solution of the difficulties noted above can be arrived at, and perhaps the scheme of the present Bill is as good as any other that could be devised under the circumstances.

7. The proposal to exempt suits brought under the Act from stamp duty would appear to be justifiable only on the ground that it is idle, without such exemption, to expect any private individual to take legal action in protection of the rights of the community. The exemption, however, would only mitigate, not do away with the expense of litigation, and would give, in some cases, assistance to malice. I would propose in lieu of this provision that the use of stamps be dispensed with, but that at the conclusion of the trial the Court be authorized to calculate the stamp duty payable by the parties and to direct that it be recovered from the trust if in the opinion of the Court the suit be for its benefit, or from the plaintiff if the suit appear to be ill-founded. It would be necessary in this case to give the Collector the power of summarily recovering the calculated amount. I believe that the propriety of exempting charitable endowments from taxation has been denied, after considerable discussion, by the British Legislature.

8. I have not been able to discover any satisfactory reason for the limitation proposed in Section 26 of the Bill to be applied to criminal prosecutions of fraudulent Trustees. With this

provision in force the fraudulent manipulator of accounts would, if successful in deceiving the Committee, obtain an advantage for which there would seem to be no just ground. It has not been considered necessary to provide any limitation of this nature in the case of Municipal Commissioners who occupy a position towards Municipal communities similar to that held by Trustees of religious and charitable endowments with regard to the communities interested in those trusts.

9. With reference to Sections 19 and 20, I would point out that some provision must be inserted for determining who of the two Sivite Members of the Auditing Committee shall first retire. It would, I think, be well to make the retiring Member eligible for re-election by the appointing authority.

10. The operation of Sections 22 and 24 will compress all the audit work of the Committee into a comparatively small portion of the year, for it may be assumed that accounts will not be rendered until close upon the expiration of the period limited for their submission. This arrangement would probably be found inconvenient in practice.

From J. H. NELSON, Esq., Judge of the Court of Small Causes at Combaconum, to H. WIGRAM, Esq., Acting Registrar of the High Court of Judicature, Appellate Side, dated Combaconum, 22nd April 1872, No. —.

As requested by your letter of the 19th March 1872, No. 532, I have the honour "to communicate my opinion on the Draft Bill prepared by the Hon. V. Ramiengar for the prevention and due appropriation for the purposes for which they were made of all Hindu and Mahomedan religious endowments, and also on certain points not dealt with therein on which the existing law may be considered to require amendment."

2. I regret being compelled to express an opinion that the Draft Bill, if made law, must at once bring about very undesirable results, and probably within twenty or thirty years would complete the ruin of the majority of the establishments which it is designed to protect.

3. I purpose presently to remark on the Bill, section by section, and in so doing shall endeavour to set out briefly and compendiously satisfactory grounds for this opinion. But before so doing I shall make a few observations on the existing state of the law which governs the administration of what are styled "*Native Religious Endowments*," and shall offer a few suggestions as to the directions in which legislation upon this subject may with most advantage proceed, assuming that Government has resolved to legislate anew thereupon.

4. Act XX. of 1863 contains all the law upon this subject which it will be necessary at present to consider. And with regard to this Act I have to observe, in the first place, that its main purpose would appear to have been misconceived by the framer of the Bill under notice. In the fifth paragraph of his letter of the 19th March 1871 the Hon. V. Ramiengar has stated that "it is unquestionable that the Act, in this Presidency at least, has failed to answer its purpose; that neither Committee, nor Trustee, nor the general public are satisfied with its working; and that the almost proverbial neglect of pagodas and the mismanagement of their endowments form a staple grievance of the people in every district or place where there is a religious institution of any note." From this statement I gather that the Honourable maker of it is of opinion that the main purpose of Act XX. of 1863 was to provide for the better administration of native religious endowments, and to afford satisfaction to Committees, Trustees, and the general public, and, that such being the main purpose of the Act, the Act must be pronounced to be a failure. But the preamble of the Act shows unmistakably that the main purpose of it was a very different purpose from this. According to the explicit declaration of the Legislature the Act was made solely in order to set free the Boards of Revenue and local Agents in two Presidencies from inconvenient duties towards mosques and temples imposed by some Regulations. And, so far as appears, the Legislature neither intended, nor in the least desired, by making the new law to improve the administration of any establishments, or to afford satisfaction to any class or classes of men or to the general public. Act XX. of 1863 cannot, therefore, be pronounced to be a failure in so far as it has not made better the administration of native religious endowments, and in so far as it has not afforded satisfaction to a class or to classes of men or to the general public; whilst, in so far as the Act accomplished the discharge of certain functionaries from certain obligations, it appears to have been thoroughly successful.

5. In the next place I would observe that, in my opinion, it would be rash to assume that the general public, or that a considerable number of persons, are, as a fact, "not satisfied with the working" of Act XX of 1863. That the funds of many mosques and temples are day by day embezzled and wasted, and that consequently Mahomedans and Hindus are thereby grieved and scandalized, I think, be no sort of doubt. But, unless I am greatly mistaken, any Mahomedans and Hindus who think and care about these things will be disposed to believe them owing to bad fortune and the general degeneracy of the times rather than to the mistake of the Legislature, and do not object to being for the most part wholly ignorant of the general provisions and working of this particular Act.

6. It is possible that some Mahomedans and Hindus may object to a policy which takes away from institutions dear to them the only adequate protection obtainable in this country, viz., the direct protection of the State. But, as I am given to understand that, upon the fullest consideration, the Government of India has finally resolved not to abandon the policy of "withdrawal from any active concern with the management of these endowments," I think it not advisable to discuss that policy on the present occasion. I may remark, however, in passing, that judging from what I have heard about mosques and temples, and from what I have been able to get of the general history of India, adherence to that policy seems to me necessarily to involve the gradual extinction of all institutions affected by it; and that, believing this to be the case, I look upon the policy as being a dangerous as well a hard and cruel policy.

7. With regard to the alleged causes of the alleged failure of Act XX. of 1863, after perusing the Hon. V. Ramiengar's letter I am left in doubt as to what the Honourable Member mainly objects to. In paragraphs 7 to 11 he complains strongly of the handing over two or three wealthy pagodas to independent Trustees, whilst by the latter generally he seems to declare Committees to be in the nature of things impotent and useless. In paragraph 12 again he points out that his fellow-countrymen have nowhere taken the trouble to elect Committeemen, and, lastly, in paragraph 14 the Honourable Member declares that no "*person interested*," in pagoda mismanagement is anywhere at any time to be found. Assuming this lamentable state of things to exist—and I think the assumption may safely be made—I myself should be disposed to attribute the present neglect of temples to the boundless greed of Trustees, the helplessness and laziness of Committees, and selfish apathy on the part of the Hindus at large, rather than to any specific defects in Act XX. of 1863. Evils of these kinds cannot be put down by Act of the Legislative Council, and (as I have already stated) I believe that the no-concern policy necessarily involves the gradual extinction of native religious endowments; but, at all events, something may be done by legislation to set free the administration of these endowments from plain impediments, and I will now go on to indicate briefly a few practicable amendments of the law which might, I think, be found to be convenient.

8. In the first place, there can be no doubt that difficulty is caused by absence of any declaration of the nature and extent of the powers of the Boards and local Agents transferred to the Trustees and Committees by Sections 6 and 7 of the Act, and I would, therefore, suggest the advisability of a sufficient declaration of the nature and extent of these powers being made.

9. Secondly, I think that the Committees should be compelled forthwith to report all vacancies occurring in their Boards, and that it should be made the duty of the Collector or of the Civil Court forthwith to fill up all such vacancies, and *suo motu* where election is not resorted to in due course.

10. Lastly, the accounts required by Section 13 should, I think, be kept in a prescribed form and in properly bound books; and every "*person interested*" should be declared to be at liberty to inspect such accounts on the first day of every week at any time between noon and sunset.

11. With these slight amendments made Act XX. of 1863 would, it appears to me, afford ample security for the due administration of native religious endowments, assuming in the "*persons interested*" the presence of a modicum of interest in the decent maintenance of their respective

cults. If, however, which I see ground for supposing to be the case, the Mahomedans and Hindus of this Presidency are now, as a body, wholly indifferent to the fate of their religious establishments, and will not so much as stir a little finger to arrest their certain decay, in that case it were useless to attempt to amend Act XX. of 1863, or to do anything new in the way of legislation in behalf of effete forms of worship.

12. Having said all that at present occurs to me with regard to the state and improvement of the existing law, I will now proceed to remark on the present enactment, section by section.

13. First, the total repeal of Act XX. of 1863, without providing against consequences, appears to be dangerous, inasmuch as it might render questionable acts done since, by virtue of, or under cover of, that Act.

14. With regard to Section 2, the new expression "*revenue affairs*," as applied to mosques and temples, is objectionable. "*Landed properties*" is not a legal term, and may cause a difficulty. It were well to avoid the unnecessary use of the expression "are now in the possession of Trustees" in speaking of lands granted for the support of mosques and temples. "*Trustees of all religious endowments, &c.,*" is an insufficient substitute for the expression in the Act, "*Trustee, Manager, or Superintendent;*" and I do not understand whether or no the expression is to include existing Committees. It is not defined, and in itself is ambiguous. Lastly, I am not aware that under the present law these Trustees would have different powers from "the powers possessed by landholders under Madras Act VIII. of 1865 or any other Act," and, therefore, do not see the use of the section.

15. Section 3 unnecessarily obliges Government to what may very well be left to the discretion and good feeling of Government.

16. Section 4 appears to be, on the face of it, superfluous. If a determinate person, or a determinate body of persons, by force of prescription or otherwise, has, at the present moment, a certain legal right to which heirs will, in due course, succeed, there can be no need to promulge a new enactment for the purpose of declaring that that right is judicially enforceable and that heirs shall succeed to it. What is meant by "*decision of competent authority*" does not appear. The idea of leaving it to a Civil Court to decide once for all by "*summary inquiry*," whether the right to manage a great institution resides in a determinate person or in a determinate body of persons, and whether such right so residing is capable of transmission to heirs, and what may be the precise nature and extent of such right, appears to me to be not worthy of a moment's consideration.

17. Section 5 appears to me to be anything but an improvement upon the corresponding section (5) of the Act. And I cannot understand upon what grounds the Honourable Member imagines that "any individual permanently residing, &c., at the place, &c.," will come to the front and display zeal and energy oftener than the "*person interested*" of the present Act, for whom the Honourable Member professes to feel unqualified contempt.

18. Section 6 provides for election by universal suffrage, but does not provide for the registration of electors. "*Possessing immoveable property*" is an expression full of difficulty. Will the class include mortgagees in possession, reversioners, and holders of various interests without actual possession of lands? The word "*religion*" requires definition. The language of the existing Act is far more precise.

19. Sections 5 to 9 provide for the "*occurrence of a vacancy*," but do not explain what is taken to be such. Suppose half a dozen kinsmen together manage a temple after a fashion and quarrel and obstruct one another, and gradually bring the management to a stand-still, will that constitute a "*vacancy*" within the meaning of the Bill? And how is the Magistrate to decide whether a vacancy has, in fact, occurred? If three electors ask him to convene a meeting and six other electors ask him not to, what shall he do? I do not understand the meaning of "*as Sheriff of the place.*" Why Sheriff? What place?

20. Section 10 presents peculiar difficulties. What part is the Magistrate to play? Apparently he is to place himself near the Chairman, and in solemn silence, with due deference, compel abstention from recourse to violence for so long a time as the Chairman shall please to sit; and this in many cases will be a very considerable time, perhaps a week. I do not think that the Magistrate will relish or conscientiously perform the duty, or that the Chairman will feel altogether comfortable whilst facing the Magistrate. It does not appear how many persons will constitute a meeting, how many votes suffice for an election, how electors are to be registered and votes admitted. And no provision is made for disagreement between the Chairman and the Magistrate—a not improbable contingency.

21. Section 13 provides that "in all elective trusts there shall be three Trustees in office who shall jointly manage and superintend the institution." This provision seems to strike at the root of good management, as it is calculated to render zealous, straightforward administration impossible. In nine cases out of ten individual jealousy and vanity will prevent the Trustees working together harmoniously, even where they are severally disposed to do their duty. With regard to the provision for the case of difference of opinion, I observe that it will not cover the case of each Trustee pulling a different way, a case which would be of constant occurrence. Lastly, where the annual revenue does not exceed Rupees 500 the three Trustees will divide at the end of each year not more than Rupees 20 for their services, that is, they will enjoy each a salary of less than 10 Annas per mensem. It is scarcely reasonable to expect faithful service for such a remuneration.

22. Section 14 shifts the principal part of the burden from the Legislature to Government. If this system of election is to prevail in all cases in all parts of the country, as well in large towns as in desert places, amongst Mahomedans, Brahmins, and Kallans, it will be very difficult, I should say impossible, and yet absolutely necessary, to frame an elaborate and elastic set of rules suitable to all sorts and conditions of natives.

23. Section 15 involves the difficulty noticed above, viz., of ascertaining when a vacancy has occurred.

24. Section 16 makes "*unfitness*" a ground of removal from office, but does not define the expression or explain from what point of view the unfitness is to be pronounced upon. May a Trustee perform his duties through an Agent or Deputy? I do not understand the expression "*order or decree,*" but presume it denotes something different from what the usual expression "*decree or order*" denotes.

25. Section 17 will confer a great boon on the "*trust bodies*" of Tripati and other very wealthy institutions, but will do very little for those of small mosques and temples, as I have pointed out above.

26. Sections 19 and 20 will, I think, prove utterly impracticable. In some districts, where native religious endowments are numerous, the amount of work to be done by the Committee will be enormous, and one of two things will happen—either the Members of the Committee will quarrel amongst themselves, and not even pretend to do anything, or they will be appalled by the magnitude of their work, and in despair pass all accounts without looking at them, and omit to take stock. Whether five suitable men of the required classes can be got together in every district appears to be open to doubt. And probably the composition of the Committee would not be proper everywhere. I doubt whether it would be proper on the Western Coast, for example.

27. Section 21 deals with the Mahomedans of this Presidency in a needlessly offensive manner, it seems to me. The existing Act speaks always first of mosques, secondly of temples. This Bill, without any apparent reason, provides generally for Hindu religious endowments alone and mentions Mahomedan endowments only by the way, as if they were of no account. I think the old arrangement unobjectionable, the change unnecessary and sentimentally grievous.

28. Section 22 provides for the submission of accounts annually to the Auditing Committee, but does not say how they are to be kept. To be of the slightest use accounts must be kept everywhere in the same form, and be entered daily in properly bound books, and must be open to inspection by "*persons interested.*" The ordinary cadjan accounts of the country would be worse than useless. The penalty prescribed at the end of the section would not be enforced where, as would so often happen, the Trustees were at loggerheads and the administration paralyzed.

29. Section 23 would be a dead letter, since the accounts would not be open to inspection by the public.

30. Section 24 simply could not be worked in a large district where there are hundreds and thousands of native religious endowments. The Committee would have to travel day and night from January to December to visit each institution, and that would not suffice.

31. Section 25 would swell the District Gazette to bursting with perfectly useless matter, which no one would ever look at.

32. Section 26 contains a most extraordinary provision. The Honourable Member who framed the Bill appears to desire fresh legislation on the ground that the existing law is powerless to restrain dishonest men from misappropriating Trust Funds, and yet one of the main features of his Bill is the abolition of the only possible check upon fraud. To my mind it is perfectly clear that apparently satisfactory accounts can always be prepared and submitted to the Auditing Committee by crafty rogues, and that the one danger which those rogues would fear would be the danger of angry accomplices betraying and informing against them. That danger will be entirely removed by this section. And if a Legislature were anxious to devise a screen for the special benefit of fraudulent Trustees, the Legislature would hardly devise one, it seems to me, more efficient than this section. No reason is assigned by the Honourable Member for introducing this most important provision, and I am wholly unable to account for its presence. Looking to the language of the section as a whole one would suppose that criminal breach of trust and criminal misappropriation in respect of funds set apart for the service of God are regarded in this country as venial mistakes on a par with mere carelessness and inefficiency; if so, I think the Legislature need not trouble itself to *fashion* Acts for the preservation of these institutions, which clearly are doomed to speedy destruction. Where such a public opinion obtains protective legislation must be powerless.

33. Section 29 will effect nothing, or very little. Five Members will never agree to prosecute, And it will rarely happen that the Committee will have either the requisite leisure or the requisite skill to detect and expose the fraudulency of carefully complicated accounts.

34. Section 30 is uncalled for. The Indian Penal Code has defined criminal breach of trust, and Civil Courts know when, and how, to relieve against legal fraud and misappropriation of funds.

35. Section 31, like Section 26, might easily be mistaken, it seems to me, for a carefully-devised screen for the benefit of fraudulent Trustees. Accounts are not open to inspection. The Auditing Committee may bar prosecution by an improper audit. And this section shuts the mouths of the only persons who can give evidence. If I were a fraudulent Trustee I should move heaven and earth to get this Bill made law.

36. Section 33 will effect nothing, forasmuch as no person will have the means of knowing what the Committee does. No accounts will be open to inspection, no proceedings published, no business transacted in public. And the mouths of those who know will be shut by Section 31.

37. Section 34 contains another extraordinary and inexplicable provision. In consequence of it the Courts would be swamped with suits, most of them groundless, originating in spite and jealousy. On the one hand, legitimate and proper criminal proceedings are without reason practically barred; on the other hand, the legitimate and proper restraint on vexatious litigation is without reason removed.

38. Section 37 throws open a wide door to jobbery and malversation of funds. Under the pretence of encouraging Sanscrit study the Trustees will be able to provide comfortably for all their relations, friends, retainers, and servants.

From G. A. PARKER, Esq., Acting Judge of the Court of Small Causes, Cuddalore, to H. WIGRAM, Esq., Acting Registrar of the High Court of Judicature at Madras, Appellate Side, dated Cuddalore, 5th July 1872, No. 9.

In reply to your letter of the 19th March 1872, No. 532, I have the honour to submit a few remarks upon the Draft Bill proposed by the Hon. V. Ramiengar for the better protection of religious and charitable endowments. The failure of Act XX. of 1863 to meet the purposes for which it was designed appears to be generally admitted, and, premising that any return to the old

Proceedings of the Madras Government, Judicial Department,
23rd October 1874.

system of direct Government supervision is now impossible, I would suggest a few points in which it appears to me that the present Draft Bill could be improved both in principle and detail.

2. In the first place, the great defect of Act XX. of 1863 was the conferring of vague general powers upon the Pagoda Committees, without giving them virtually any means of exercising the powers with which they were nominally entrusted. The Hon. V. Ramiengar proposes that an Auditing Committee shall take the place of the present District Committee; that it shall be limited to five in number; and that one Member shall go out of office each year, all the Members being appointed by the Civil Court and being remunerated for their services. It appears to me that the tendency of this will not be to strengthen the moral authority and position of the Committee but will rather tend to substitute a Board of Accountants for the present Committee. The true policy should be to raise the position as well as increase the authority of the Committee. Native gentlemen of position and respectability have been found to take office under Act XX. of 1863 though their powers under that Act were more nominal than real, and I feel convinced that those native gentlemen most worth having on the Committees would be more wish to be paid for services rendered to the cause of charity and religion than would any body of resident gentlemen in any county in England accept payment under similar circumstances.

3. The proposed plan of the nomination of Members of the Committee by the Civil Court appears to me open to a good deal of objection. For instance, I do not see what means a Civil Judge has of making a good selection. He could doubtless choose an Accountant, who is to be paid for his services; but, if the object be to secure the services of native gentlemen of position and respectability, the Collector, from his knowledge of the district, gained in his tours, is far better able to make a good selection than the Judge is. With the exception of those native gentlemen who are specially litigious, and whom it would not be desirable to appoint, the greater number being large landed proprietors are of necessity better known to the Collector than to the Judge. But, whether the Collector or Judge appoint, the Member is practically a Government nominee, so that the only real difference between the new system and the old one would be that, instead of the supervision of the Collectors, the Agents of Government, you would have the supervision of Agents annually appointed by Government for that special duty alone. It seems to me that if Government really wish to be no longer responsible for the management of these institutions the Members of the Committees must not be nominated by any Government officer at all but should be elected by the people, as they are at present.

4. I would provide that the Members of the Committee so elected (which should be large enough to admit of Sub-Committees being formed where necessary), should choose among themselves a Chairman, which election should be published in the District Gazette, and that all suits by, and against, the District Committee should be brought in the name of the Chairman. The Committees should have power to charge a small percentage on the revenues of all institutions under their authority for the necessary expenses of examination of accounts, &c., and for summoning witnesses and conducting suits and prosecutions. In order to ascertain the accuracy of accounts it may sometimes be necessary to examine witnesses, and I would give the Chairman the same means of procuring their attendance through the summons of a Government official as are conferred upon registering officers under Sections 36 and 37 of the Registration Act.

5. I now proceed to consider the details of the proposed Bill. Sections 4 and 5 provide for the nomination of Trustees to endowments where the right to nominate is hereditary either in a family or in any body of persons. Section 4 prescribes that the Civil Court shall hold a "summary" inquiry to ascertain whether the institution falls under this description, and Section 5 enacts that if the vacancy is not filled up within three months the Civil Court shall make an appointment by a "summary" order, which order may be set aside by a regular suit in the Court which has passed it. As the law at present stands there is nothing to oust the jurisdiction of the ordinary Courts to entertain a suit for the establishment of a right to manage pagoda affairs. If it is intended that these suits shall only be maintainable in the principal Court of Original Civil Jurisdiction in the district, it would be necessary distinctly so to enact it; but I myself would prefer to leave the summary inquiry to the Committee, and allow the Committee to appoint an *ad interim*

Manager of the pagoda in case of a disputed succession, leaving the claimants to bring a regular suit in the ordinary Courts as at present.

6. Again, I do not quite understand what is meant by a "summary inquiry" or a "summary order." The Civil Procedure Code provides for nothing of this kind, and if a Judge has to give notice to the parties interested, to summon witnesses, examine documents, and take evidence, I fail to see in what respect a summary inquiry differs from a regular suit. To determine the character of a religious trust under Section 4 may require a protracted inquiry, and there is no provision that these inquiries are to take precedence of all other work which a Civil and Session Judge may have on his file. It seems to me that a summary inquiry could not be more speedily settled than a regular suit, and many delays might be caused by interested parties who wished to gain time. For instance, under Section 5 an objection might be raised that the person moving the Court did not permanently reside or possess immoveable property at the place where the pagoda was situated. This would be an issue of fact which the Court would have to try in the usual way before any order could be made, so that much time and trouble would be saved by leaving these matters to the Committee to decide in the first instance.

7. I think the procedure of Sections 9—11 inclusive more suitable to Madras than the Mofussil. If the direct representative of Government in the person of the District Magistrate is present at an election, it will be difficult to prevent his official position having some influence over the electors, and practically his advice and opinion would be asked for. It would be difficult under those circumstances, to persuade an ordinary ryot that Government was taking no share in the management of the pagoda.

8. Section 15 appears to me open to the same objection I have previously urged in the case of hereditary trusts. Here again I would leave the decision, in the first instance, to the District Committee, and leave any person who considered himself aggrieved to bring a suit in the ordinary Courts.

9. The punishment of dismissal for non-publication of accounts in the District Gazette (see Section 23) appears very severe. The accounts have been passed for nine year the Trustees have presumably discharged their duties honestly, and it would be hard to subject them to dismissal for what might be an oversight, or, at the worst, mere carelessness. I think a pecuniary penalty would be quite sufficient punishment.

10. I fail to see the advantage of Section 26. In the case of a fraudulent Trustee who has managed to deceive the Committee into passing false accounts, I do not understand why he should be protected from a criminal prosecution if evidence is afterwards forthcoming on which a conviction might be obtained. It is not necessary to provide that a suit shall lie in such a case, for this is a matter of course, nor do I see any reason why such a suit should not be brought in any Civil Court which has jurisdiction to award the amount claimed. It surely is not necessary that every suit in which Pagoda Trustees are interested shall be heard in the chief Civil Court of the district.

11. Section 28 would leave it in the power of any one Member of the Committee to prevent a criminal prosecution. I think a majority should decide.

12. I observe that Section 29 renders it imperative upon the Committee to prosecute. Cases, however, would probably arise in which, from the way in which the Trustees had kept accounts, it was perfectly impossible to prove anything one way or the other. This might justify the Committee in dismissing a Trustee, but yet they might not be able to ensure a conviction before a Magistrate. Nothing would be more damaging to the authority of a Committee than the constant failure of prosecutions, and I would, therefore, leave the Committee to decide by a majority whether a prosecution should be instituted or not. I also think the limitation of time proposed in Section 31 is undesirable as far as criminal prosecutions are concerned, as it may operate in restraint of public justice.

13. I would add to Section 34 a proviso that a Civil Court may, if it see fit, require persons instituting suits against the District Committees to furnish security for the eventual costs of the defendants.

14. I have circulated the Proceedings of Government on this question among the leading Pleaders of the Court in the hope of obtaining some suggestions which may be of value. These gentlemen are of opinion that payment for Members of the Committee is quite unnecessary, and they are opposed to the restriction which Section 19 imposes upon the selection of Members on the ground that a person of position and respectability whom it would be desirable to have on the Committee may not always be available at a given time and place out of a particular section. They consider, however, that the principal defect in the Bill is that it gives no power to the Committee to call for special or periodical accounts or to inspect the stores. In many Devastanams articles of value are usually purchased in large quantities to meet the demands of the year, *e. g.*, grain. These gentlemen think that in many cases the value of goods which ought to have been purchased will be regularly entered in the accounts according to the dittum, but that in reality articles of inferior value will be purchased at a less price, and some no[illegible] charged at all. Embezzlements of this kind could not possibly be detected from the annual accounts, and, therefore, it is recommended that power be given to the Committee to inspect stores, to examine original accounts, and call for special accounts if necessary. The only other recommendation made is that the penalty in Section 22 should be reduced to Rupees 5 per diem when the annual income of the temple does not exceed Rupees 500. I think that the suggestions of these gentlemen are worthy of consideration.

From J. F. SNAITH, Esq., Acting Judge of the Court of Small Causes, Madura, to H. WIGRAM, Esq., Acting Registrar of the High Court of Judicature at Madras, Appellate Side, dated Madura, 18th June 1872, No. 44.

With reference to the circular of the High Court, dated 19th March 1872, No. 532, forwarding the Proceedings of the Madras Government, dated 31st January 1872, No. 118, Judicial Department, requesting me to communicate my "opinion on the Draft Bill prepared by the Hon. V. Ramiengar for the protection and due appropriation for the purposes for which they were made of all Hindu and Mahomedan religious endowments, and also on any points not dealt with therein on which the existing law may be considered to require amendment," I have the honour to submit the following remarks for the information of the High Court.

2. The present Bill will, if passed, be of great service; but I am of opinion that nothing, save management by Government Covenanted officials, will prevent abuses. The consequences of passing Act XX. of 1863 were so natural that the intentions of Government were misrepresented, and it has been said that the object was to destroy the Hindu religion. The giving up of the pagodas to native management was an abnegation of a duty analogous to non-intervention by England in European politics.

3. The state of things which prevails in Orissa prevails also in Madura, and great discontent thereat obtains among the native community.

To quote specific instances as reported—

I. At Alagar Covil the Committee and Manager have lent 20,000 Rupees to one who is characterized as a "beggar."

II. The present Madura Manager's credit was well nigh exhausted, and the man was on the point of being arrested for debt, but his credit became at once elastic on his appointment as Manager.

III. The Madura Pagoda Committee have lent 30,000 Rupees to a petty Zemindar who is notoriously on the verge of bankruptcy.

IV. But the money does not suffice. Quite recently jewels worth 8,000 Rupees have been abstracted from the Minakshi Pagoda, yet no offenders have been brought to justice.

All that has been done is to take kararnamahs from certain suspected pagoda servants.

V. Warning of the great robbery in 1867 or 1868 was given to the Committee and Manager, and the robbery was nevertheless successful. On this occasion about 17,000 Rupees were abstracted gradually from the Minakshi Pagoda by a hole made in the wall. Not only was warning given but the course adopted required months to complete the robbery.

It will be seen that if the above reports be as true as there is too much reason to believe, that the misappropriation is but thinly veiled, and that to be a "Manager" in India is akin to being a Russian "Protector," and some natives use the English word quite commonly and seem very anxious to have an appointment in that capacity.

The word here is almost a Tamil word with a curious signification, which would not be understood in England.

4. I have quoted specific instances above merely because I observe that the Secretary to the Government of India, in his letter to the Officiating Secretary to the Government of Bengal, dated 24th January 1868, No. 46, paragraph 2, remarks that the allegations contained in certain petitions are set out in very general terms, and that they are not supported by specific instances of abuse or mismanagement, and he adds, "His Excellency in Council does not accordingly think that it is advisable to proceed at once to legislate on the subject." But specific instances could without difficulty be multiplied as regards Madura, where the pagodas are held in great veneration and are resorted to by pilgrims from all parts of India.

5. The present state of things exists because Act XX. of 1863, public opinion being inoperative, is powerless to provide a remedy, and it would be urgent that some measure be passed without delay if it were only to prevent money obtained wrongfully being employed to wrong ends.

6. The Members of the Auditing Committee should (I think) be appointed only for one year at a time with power of being re-elected (Section 20).

7. With regard to Section 17, I am myself favourable to the remuneration of Trustees, even handsome remuneration; but it is not approved of by native opinion, so far as I have been able to ascertain it.

8. The Bill proposes that the Committee for auditing accounts be appointed by the Civil Court (Section 19); but, if Government really desire to sever their servants from connexion with pagodas, they could secure this object more effectually by having the Auditing Committee elected by the people.

9. The Auditing Committee should, in my opinion, then elect one Trustee for life. Section 13 proposes three Trustees for each elective trust, but there would be no disagreement if there were but one Trustee, and over him the Auditing Committee would be a sufficient check.

10. Not only is the inaction of Councils proverbial, but pagoda history discredits divided management while it proves the advantages of unanimity of purpose; for the management of the Minakshi Pagoda by Teekaram Davajee, or by the Sathoopatty of Ramnad, or by Teroogna Summuntha Moorthi Pandaram is cited even to this day with approbation.

From J. WILKINS, Esq., Judge of the Court of Small Causes, Masulipatam, to H. WIGRAM, Esq., Acting Registrar of the High Court of Judicature at Madras, Appellate Side, dated Masulipatam, 27th April 1872, No. 60.

I have the honour to acknowledge the receipt, on the 13th instant, of your letter of the 19th ultimo, forwarding the Proceedings of the Madras Government, No. 118, and requesting my opinion on the Draft Bill prepared by the Hon. V. Ramiengar for the protection and due appropriation for the purposes for which they were made of all Hindu and Mahomedan religious endowments, and also on any points not dealt with therein on which the existing law may be considered to require amendment.

2. I have not had many opportunities for observing the present condition and management of Mahomedan and Hindu religious endowments; but the few disputes that have come before me judicially, and the complaints of leading members of the two religious bodies with whom I have conversed upon the subject, have convinced me that the existing law, which vests in the Trustees and Managers the entire management of trusts within the provision of Section 4, Act XX. of 1863, uncontrolled by the Committee appointed under the said Act, is not sufficiently powerful to check abuses and misfeasance on the part of the Trustees, and, therefore, requires material alteration; and that the provisions prescribing the duties and responsibilities of the Committee appointed

under Section 7 likewise require some amendment, as they do not vest this body of men with sufficient controlling authority, nor offer any inducements to the faithful and diligent discharge of their duties. I have generally found these gentlemen respectable and desirous of the welfare of the trusts; they have, in some cases within my knowledge, interfered in preventing neglect and misfeasance by the Trustees, but they appear discouraged, and complain that their powers are too much restricted. I have had suits in which, in their anxiety to check abuse, and from the want of sufficient understanding of the law, the Committee have interfered in cases falling under Section 4 of the Act and have had to bear the costs of the suit.

3. Section 4 of the Act includes every mosque, temple, or other religious establishment which, at the time of passing of the Act, were under the management of any Trustee, Manager, or Superintendent independent of Government control. It evidently appeared to the Legislature just and proper that Government should, in divesting themselves of all direct control which they exercised through the Board of Revenue by Regulation VII. of 1817, transfer the same to the guardianship of the lawful Trustees, Managers, and Superintendents; and, in order to protect the endowments from neglect, abuse, or misfeasance, referred all disputes about succession, breaches of trusts, &c., to the ordinary Courts of justice by any person having any interest.

4. No doubt, under the then existing circumstances, the most impartial and legal course that Government could have adopted after divesting themselves of direct interference was to transfer all management and control to the legal guardians of the trusts; and, as a check to any abuse, to empower any party interested to sue the offender in the public Courts of justice. At all events, this course deserved a fair trial before any other special provision could be enacted.

5. The law has been in force eight years, and it is obvious from the reports which accompany the Government Proceedings that the enforcement of the provisions of Section 4, by the transfer to uncontrolled Trustees of vast and valuable trusts in which they were the legal guardians, has encouraged them to appropriate the trusts to their own profit and advantage, regardless of the object for which they were intended, and that the parties interested, whilst deploring this state of affairs, have been wanting in sufficient energy and public spirit to prosecute the defaulting Trustees before the Courts. It appears, therefore, a case where the law, on account of the weakness of those interested, is powerless to prevent abuses and misfeasance on the part of the Trustees; the people, who are dissatisfied, demand more stringent legislation, and cannot be left without remedy.

6. Under these existing circumstances, therefore, it behoves the Legislature to amend the law, and, as suggested in the concluding paragraph of the letter from the Government of India, to provide some remedy without departing from the leading policy of Act XX. of 1863, viz., the withdrawal of Government from any active concern with the management of those endowments.

7. The chief means of checking the existing evils and substituting a remedy appears to me to be the extension of the powers of the Committee appointed under Section 7 of the Act to the cases described in Section 4, to enlarge their powers and responsibilities, and to impose sufficient check on their proceedings so as to excite their interest and urge them to diligence and punctuality in the discharge of their duties as controllers, and not to restrict them to the mere work of auditing accounts as proposed by the Honourable Member.

8. The Draft Bill proposed by the Hon. V. Ramiengar appears comprehensive and, in a great measure, effectual in checking the present evil, and might, with slight amendment, be adopted. I beg leave to suggest a few remarks which the Draft appears to me deserving of notice.

9. In Section 5 it is proposed that in cases of hereditary succession to trusts, on failure of heirs or in consequence of neglect or refusal, a vacancy may not be filled up for three months, the Civil Court shall, on application, pass a summary order appointing a person to fill up such vacancy, the order being unappealable except by a regular suit in the Civil Court and appeal to the High Court by a party aggrieved thereby.

10. I see no urgent necessity for, nor any important advantage to be gained by, compelling the aggrieved party to resort to the highest District Court, or to impose upon that Court a double trial of a suit however trivial in value. The party might, as in the case of certificates granted

under the Succession Act, and like other claims to succession, resort to the ordinary and lowest Courts having jurisdiction to try the case, where the expense attending the suit will be less than in the Civil Court, with the same prospect of justice.

11. Sections 9 to 12 appear to impose upon Magistrates and Sheriffs duties which do not strictly belong to their province but legitimately connected with the Controlling Committees, who are more officially interested than they, and whose influence and concern in the assembly will be more beneficial than a Government officer having no official duties assigned to him, but to be a mute spectator as long as the meeting continues, and, after its close, to countersign the proceedings and lodge them with his records. He may thus be called upon to spend several hours of valuable time—taken from more important duties—in merely looking on the proceedings in which he is not required to take any part, and in which he is unlikely to be as useful as a Member of the Committee. Moreover, a Magistrate might have scrupulous objections to interfere in such proceedings; and it might also, instead of conducing to any advantage, give the interference of a Magistrate a colour of active concern in the management from which the Government, according to the letter of the Governor-General, wish to withdraw. The Controlling Committee, or any Member thereof, ought to be able to convene and conduct the meeting of the electors: they have an interest in the proceedings, which might afterwards be lodged in their records. Moreover, Section 15 provides a remedy if the electors should neglect or refuse to make the necessary elections to any vacancy for three months after the vacancy thereof by empowering the Civil Courts, on the application of any person whatever or of the Committee, to pass an order appointing any person to fill the vacancy.

12. This Section 15 renders such order of the Civil Courts unappealable; but it may be set aside by the decree of the said Court in a regular suit by a party aggrieved, which decree shall be open to appeal to the High Court.

13. This provision for a separate suit before the same Court by an aggrieved party is altogether superfluous and unnecessary in the appointment of a Trustee who has no hereditary right of succession. Such appointments are left to the discretion and nomination of electors or Committee and confirmed by the Civil Court after due inquiry, and no person can be aggrieved by such an appointment. If any cause of action should, however, arise out of such an appointment, the aggrieved party might be left to sue in the ordinary Courts.

14. Section 19 proposes the appointment and composition of a Committee for auditing the accounts within each Collectorate. A single Committee might be insufficient to control an extensive Collectorate which may thus lead to laxity and neglect. I would propose, as in Section 7 of Act XX., that one or more Committees, as is found necessary, be appointed in important stations within each district. It appears, moreover, very desirable that, instead of limiting their duties to that of auditing accounts, they should be vested with general control over all the actions of Trustees with reference to trusts, as in Section 7 of the old Act, including the cases described in Section 4, instead of leaving that to irresponsible electors. This Controlling Committee being selected from the most respectable leading members of the religious community might safely be entrusted with extensive control. Their influence in the district, their corporate action, their religious sentiments, and honourable position, are, I think, a sufficient guarantee that they will be active and faithful, and the penalties they are liable to for neglect will, I think, stimulate the careless.

15. The penalty prescribed in Section 22 is a necessary check to negligence; but I do not see the propriety of enacting that the penalty imposed by the Committee shall be recovered on application to the Magistrate according to the Code of Criminal Procedure. This imposes a novel and doubtful duty upon the Magistrate, of executing an extra-judicial sentence imposed by Members of a Committee without appeal to any judicial tribunal, of the justice of which sentence he is ignorant. He might possibly be used as a tool in the hands of the Committee in executing against an innocent Trustee a writ of attachment and sale of his property without any redress open to him. In lieu of the Magistrate's interference it might be enacted that, in case a Trustee refuses to remit the fine, or to submit the accounts, without reasonable cause, within a further period of one month, he shall be liable to dismissal and the fine debited against him in the accounts.

Provided that the defaulting Trustee or Trustees shall be at liberty, for any unnecessary fine or dismissal, to appeal to the Civil Court.

16. The suits provided for in Sections 26, 30, and 33 might be instituted before the ordinary Courts as there are no special reasons for confining them to the highest District Court.

From T. SUBANACHARY, Acting Principal Sadr Amin of Mangalore, to [illegible] WIGRAM, Esq., Acting Registrar of the High Court of Judicature at Madras, Appellate Side, dated Mangalore, 6th April 1872.

I have the honour to acknowledge receipt of your letter, No. 532, dated the 19th ultimo, forwarding the Proceedings of the Madras Government, No. 118, Judicial Department, requesting me to communicate my opinion on the *Draft Bill* prepared by the Hon. V. Ramiengar for the protection and due appropriation of all *Hindu* and *Mahomedan* religious endowments.

2. In reply, I beg to state that there can be no doubt as to the necessity of an amendment of the law under consideration. The working of Act XX. of 1863 has reduced many flourishing institutions to a very bad condition. As things now stand all the incomes of the pagoda go into the hands of Trustees, who are unfettered in spending them in violation of the trusts; and, if there is any supervising power vested in the Members of the Committee under the present system, it has become simply a matter of theory, inasmuch as the majority of so-called Members of the Committee are ignorant people and men of no *status*. Hence the absolute necessity of strengthening the constitution and power of the Members appointed to supervise and regulate the proceedings of the Trustees, limiting, of course, the number of persons to be selected for the purpose.

3. This necessarily does away with the present mode of selection on caste principle, which, while being advantageous to one part of the Presidency, will work out disadvantage to another. The mode of selection now proposed of the *five* Members seems to depend neither upon principles of religion nor caste, so that it may be applicable to all parts of the provinces.

4. The measure proposed in Section 19 is, therefore, a most important part of the Bill, for which a more general provision may, I think, be substituted, thereby empowering the Collector to appoint Members named by the majority of electors.

5. With the above exception I think the Bill under consideration is useful, and it is expected the earlier it is published as a law the more the evils will be suppressed.

From ARUNACHELLIAR, Principal Sadr Amin of Tanjore, to H. WIGRAM, Esq., Acting Registrar of the High Court of Judicature, Appellate Side, dated Tanjore, 13th July 1872, No. 471.

In acknowledging the receipt of your letter, No. 532, dated the 19th March last, calling for my opinion on the Draft Bill prepared by the Hon. V. Ramiengar for the protection and due appropriation of religious endowments, I regret to state that my time has been too fully occupied to allow me to reply thereto earlier.

2. Section 5 provides that no appeal could lie against any summary order of a Civil Court appointing a person to fill up a vacancy in the hereditary trusteeship except by a regular suit in the Civil Court. I believe that parties may be allowed to bring such suits in the several Civil Courts having jurisdiction to try the suits to avoid the trouble and expense attendant upon them in travelling to the District Civil Court station from a very great distance.

3. The Auditing Committee referred to in this Act is, I think, the Committee now appointed for pagodas. But it is usual that, owing to the disagreement amongst them, they appoint each his own man as Superintendent of the pagoda on a fixed salary, and it further appears that they neglect holding a meeting every month or even attending their office, thereby allowing their business to

fall in arrears or conducted in a manner quite unbecoming of a Committee. It would, therefore, seem advisable to prescribe some rules directing the said Auditing Committee to hold a meeting once in a stated period (i. e., once in a week or month), and to enter in a book the proceedings held at their meetings, or the cause which may prevent them from holding the meeting on the day appointed for it.

4. It appears highly necessary to rule that the Committee should lose their commission in the event of any failure on their part so to attend the meeting without any just cause. The rule must also provide for the submission of monthly or quarterly returns showing the work performed by them for revision by the Civil Court or District Magistrate.

5. I entirely concur with Mr. Handley in saying that provisions should be made to prevent misappropriation of religious and charitable endowments because there are several instances in which I have observed that real property belonging to a pagoda is left to be enjoyed by many persons without any benefit in return to the charity for which it was granted.

From S. RANGIAH, Principal Sadr Amin of Rajahmundry, to H. WIGRAM, Esq., Registrar of the High Court of Judicature at Madras, Appellate Side, dated Rajahmundry, 19th August 1872, No. 151.

I have the honour to acknowledge the receipt of your letter, dated 19th March last, No. 532, requiring me to communicate my opinion on the Draft Bill prepared by the Hon. V. Ramiengar for the protection and due appropriation of all Hindu and Mahomedan religious endowments, and also on any points not dealt with therein on which the existing law may be considered to require amendment.

2. I regret the delay which has occurred in submitting my reply, caused partly by my absence from this station during the adjournment of my Court, and partly by the considerable increase of my work on the civil side in consequence of the withdrawal of my criminal powers under the late orders of Government.

3. The provisions of the existing law, viz., Act XX. of 1863, not being extended to this district I have not the least experience of its working and cannot, therefore, express my opinion as extensively as a person who has the experience of it can do.

4. I am of opinion that the existing law requires amendment, inasmuch as it does provide for all the religious endowments and is defective in point of check upon fraud, mismanagement, or neglect of trustees.

5. The Draft Bill exhibits a complete revision of the existing law, and contains wholesome provisions, though it requires a very few alterations and additions.

6. In cases in which Hindu temples were erected at the cost of the Zemindar, Proprietor, or Mokhasadar, in whose taluq they are situated, and who has granted endowments for their support, such Zemindar, Proprietor, or Mokhasadar should, in my opinion, be empowered to elect Trustees to such institutions in concert with the persons named in Section 6 of the proposed Bill.

7. With reference to Section 24 of the Bill I would suggest that an Auditing Commissioner should be empowered to summon and examine any person whose evidence he may deem necessary to ascertain the correctness of the accounts of cash and the lists of jewelry, &c., and the truth of any complaint which may be made to him at the time of the annual examination of the cash, &c., against the Trustee for embezzlement or for any other prohibited acts.

8. I am of opinion that the proviso of Section 37 should be extended so as to authorize the Trustee of an institution to lay out the surplus funds in the erection of choultries for the use of pilgrims when there are none in the town or village where the institution is situated.

No. 119-B. Proceedings of the Board of Revenue, dated 18th July, 1874, No. 1861.

Read again G.O., dated 31st January 1872, No. 118, Judicial Department, recorded in Board's Proceedings, dated 5th March 1872, No. 411.

Read letter from	Collector of Ganjam,	dated	14th Feb. 1874,	No.	416, with enclos.
,,	Ag. Collector of Vizagapatam,	,,	5th June 1872,	,,	576, ,,
,,	,, of Godavery,	,,	12th Dec. ,,	,,	383, ,,
,,	,, of Kistna,	,,	2nd Feb. 1873,	,,	153, ,,
,,	Collector of Nellore,	,,	11th Oct. 1872,	,,	2389, ,,
,,	,, of ,,	,,	21st ,, ,,	,,	2455, ,,
,,	,, of ,,	,,	27th ,, ,,	,,	2532, ,,
,,	,, of ,,	,,	29th ,, ,,	,,	2531, ,,
,,	,, of Cuddapah,	,,	31st May 1873,		,,
,,	,, of Bellary,	,,	12th ,, ,,	,,	149, ,,
,,	,, of Kurnool,	,,	6th Dec. 1872,	,,	324, ,,
,,	,, of Madras,	,,	15th May 1874,	,,	91, ,,
,,	Ag. Collector of Chingleput,	,,	4th Dec. 1872,	,,	508, ,,
,,	,, of North Arcot,	,,	14th July ,,	,,	389, ,,
,,	,, of South Arcot,	,,	7th June ,,	,,	166, ,,
,,	Collector of Tanjore,	,,	22nd ,, ,,	,,	222, ,,
,,	Ag. Collector of Trichinopoly,	,,	22nd Jan. 1873,	,,	13, ,,
Memorandum from	,, of ,,	,,	28th Aug. ,,	,,	184, ,,
Letter from	,, of Madura,	,,	10th Sept. 1872,	,,	271, ,,
,,	Collector of Tinnevelly,	,,	23rd May ,,	,,	206, ,,
,,	,, of Coimbatore,	,,	3rd Dec. ,,	,,	192, ,,
,,	Commissioner of Nilgiris,	,,	20th ,,	,,	132,
,,	Collector of Salem,	,,	10th March 1873,	,,	63, ,,
,,	,, of South Canara,	,,	6th June ,,	,,	818, ,,
,,	,, of Malabar,	,,	12th Dec. 1872,	,,	280A, ,,

Read again Board's Proceedings, dated 19th January 1874, Miscellaneous No. 333.

Read also the following papers :—

From A. SASHIAH SASTRI, Diwan of Travancore, to J. GROSE, Esq., Secretary to the Board of Revenue, dated Trevandrum, 18th March 1874.

With many apologies for the delay, I have the honor to make a few observations on the subject of your communication of the 19th January 1874, No. 333.

2. I have no hesitation in expressing my opinion that the amendments in the existing law proposed by the Hon. V. Ramiengar are well calculated to remedy some of its obvious defects.

3. But I must confess that even this improved machinery will fail to give satisfaction from the insufficiency of its working power.

4. Unless the Government is prepared to approach the task with more earnestness and liberality of thought than on previous occasions of legislating on the subject, it is hopeless to create a really effective machinery.

5. Without the Government actually mixing itself up with the details of native religious worship, or requiring any of its Christian officers to do so, it may, can, and ought to bring into existence an agency suited to the magnitude of the interest at stake.

6. If this point is conceded, the agency I shall presently propose will be found quite simple, practicable, and efficient.

7. Government should appoint a body of respectable gentlemen to be styled "Commissioners for the management of Temples and Temple property." They will be located at the Presidency, and be the highest executive central authority.

8. Under their orders will be placed District Temple Commissioners to be nominated by the Collector.

9. And under these last will be placed the several bodies of Temple Trustees, those to be appointed by election, as well as others.

10. The whole will work under the provisions of an Act of the Legislature, and will be a paid agency, the cost being charged on the Temple revenues. I feel sure that even if so much as 25 per cent. of the Temple revenues were required to be laid out on such an agency, it will not be money thrown away if it succeeds in protecting the institutions from the misappropriation and plunder of the rest.

11. The authority of the (Presidency) Commissioners will be practically supreme in all matters that come before them. It will be their duty to see that the District Commissioners (called the Auditing Committee in the scheme of the Hon. V. Ramiengar) perform their work satisfactorily; to decide important disputed questions between them and the Trustees; to sanction all extraordinary expenditure; to call for and examine periodical returns of receipts and expenditure of the several institutions; and to compile a report of their administration at the end of each year.

12. Wherever an appeal to, or the action of, the Court is provided in the draft of the Hon. V. Ramiengar, I would substitute the Central Commissioners and the District Commissioners as the appellate and moving authority. The action of Civil Courts is proverbially slow, and the invocation of their aid is not likely to prove satisfactory. I would, therefore, disconnect them, as much as possible, with Temple concerns.

13. Rules for the detailed working of such an agency will readily suggest themselves, and I do not here propose to go into them.

14. I would only, in conclusion, record again my conviction, that without some such strong agency deriving its authority from the highest Legislature, and its vitality for the highest executive power, it is simply impossible to do justice to the feelings of the millions of Hindu and Mahomedan subjects who are deeply interested in the subject.

From P. CHENTSAL RAO, Head Sheristadar, Board of Revenue, to J. GROSE, Esq., Secretary to the Board of Revenue, dated Mylapur, 23rd March 1874.

I HAVE the honor to offer the following remarks on the Hon. V. Ramiengar's Bill for the better administration of the native religious institutions :—

2. It is an unquestionable fact that Act XX. of 1863 has failed to produce the desired effect, and that Pagodas are wretchedly mismanaged, and their funds unscrupulously misappropriated. The general opinion of natives is that the most effectual remedy for these evils is the resumption of the Pagoda management by Government. But the Government having declared that it is their wish "to abide by the leading policy of Act XX. of 1863, viz., the withdrawal of Government from any active concern with the management of these endowments," I think it is useless to discuss whether Government are justified in refusing to undertake the management of funds in which a large body of their subjects are interested. My own individual opinion is that it is not fair for us to ask Government holding a different faith from our own to do a thing which, if we were in their position and in their country, we would certainly refuse to do. There exists no such thing as an abstract Government. It consists of men, and men with prejudices, and notions like any other individuals, and prejudices connected with religion are generally so strong, that even the wisest of men sometimes entertain the most unreasonable ideas.

3. I shall, therefore, confine my remarks to the point as to whether Mr. Ramiengar's Bill affords a sufficient remedy for the existing evils, and if not, whether a better remedy can be proposed, the policy of Government being kept in view.

4. I shall first inquire into the causes which have rendered Act XX. of 1863 a failure. If the cause of the malady is known, the remedy can be easily prescribed.

5. So far as I am informed, the causes of the failure and dissatisfaction on the part of the public are the following :—

(*a.*) The exclusion of some of the most important Pagodas, such as Tripati, from the control of the Committees, simply on the ground that when Act XX. of 1863 was passed, the nomination of the Trustee was not in the hands of Government, although undoubtedly the Pagodas were formerly managed by Government.

(*b.*) The expensive and tedious remedy of a civil suit provided by Act XX. of 1863 for abuses committed by the Trustees or the Committees.

(*c.*) The vagueness of the Act as regards the powers of the Committee.

(*d.*) The advancement of secular education, the decadence of religion, and the consequent difficulty of getting Members competent, and, at the same time, willing to undertake the management with efficiency.

6. Mr. Ramiengar proposes to remedy the foregoing evils—

(1.) By bringing all Pagodas under the Act, whether the Trustees were formerly appointed by Government or not.

(2.) By substituting an Auditing Committee for each Collectorate in the place of one or more Managing Committees employed under Act XX. of 1863.

(3.) By doing away with stamp duty in all suits against such Auditing Committees or the Trustees, and thus facilitating civil actions against Trustees or Members of the Committee for remedying any abuses committed by them.

(4.) By enacting that in cases where Trusteeship is not hereditary, the Trustees shall be elected by the people, and that the Members so elected shall be three and not one.

(5.) By remunerating the Trustees and Members of the Auditing Committee from the funds of Pagodas and Institutions controlled by them.

(6.) By giving powers to the Auditing Committee to enforce the production of Accounts.

7. The above, I think, are the main features of the Bill which I shall notice first, leaving minor details to be discussed afterwards.

8. I.—I do not agree with Mr. Ramiengar that *all public* institutions should be brought within the scope of the Act. He does not define public and private clearly, but simply states that the "Act shall not apply to any private endowment founded by any individuals or bodies for their own private use and benefit, and not dedicated by them to public use." I fear the definition is vague, and I do not think that all public institutions, whether formerly interfered with by Government or not, should be brought under the Bill. The Senkarachary, Madhva, and other Matams are, no doubt, public religious institutions enjoying emoluments from Government, and there is no doubt that a great deal of money in these Matams is misappropriated, but these and similar Matams have never been hitherto interfered with by Government, and I think it is hardly expedient that they should now be brought within the scope of the Act. I am of opinion that the line should be drawn, not between public and private, but between those which were formerly managed by Government and which were not. Of course, where the founders of any Pagoda or their successors might wish that their Pagodas should be brought under the superintendence of the Committee, they might be so brought even if they were never formerly superintended by Government. To avoid, however, disputes as to whether a Pagoda was or was not previously managed by Government, it may be enacted that the Collector's certificate shall be made conclusive or *primâ facie* evidence of the fact.

9. II.—I consider that the proposal of having an Auditing Committee in the place of a Managing Committee is a step from bad to worse. Under the scheme proposed, the Auditing Committee has to wait till the money is actually spent the year passes away, and the accounts are made up and produced before it; and when they are produced, and when the money is found to have been improperly spent for unnecessary, though Pagoda purposes, the Committee is only left to bring an action in a Civil Court, the cost being borne from its private funds. This procedure can hardly be productive of any good results. I think that the existing Committees should be retained

but with additional powers to lay down rules as to how and within what limits money shall be spent; and when the orders of the Committees are disobeyed, they must have power to fine, suspend, or dismiss the Trustees, subject, of course, to appeal to the Civil Judge. Mr. Ramiengar has probably contented himself with an Auditing Committee, since, under his scheme, there will be three Trustees for each Pagoda who will be as good as a Committee; but it must be remembered that Pagodas with hereditary Trustees cannot necessarily have three men to govern their finances, and there are objections against the appointment of three Trustees for each Pagoda, of which I shall speak hereafter. Then, as regards the power of nominating Members of the Committee, I would not leave it to the Civil Judge who is, as a rule, not fully acquainted with the character of the people in the district; I would leave their nomination and dismissal to a joint body, consisting of—

(1) Collector;
(2) Civil Judge; and
(3) The Native Subordinate Judge or Native Deputy Collector of the district.

10. III.—I do not think that the mere doing away of stamp duty is a sufficient remedy for all the difficulties of a law suit. It should, I think, be enacted that all appeals against the acts of the Members should be disposed of like summary cases, without reference to the order in which they were filed.

11. IV.—I consider that the time has not come for introducing the system of election. The value of honesty is but little appreciated by the masses who must be the electors, and who are generally illiterate and incompetent to form a proper judgment. Where the Trusteeship is not hereditary, I would certainly leave the selection to the Committees. I do not also think that it is desirable to have three men as Trustees. It will certainly be difficult to get that number of respectable men for each Pagoda, and they may be too many for a Pagoda or an Institution having a limited income. Orders are better executed, and work is done more satisfactorily and with promptitude by a single individual than by a joint body.

12. V.—There is no doubt that the Members as well as the Trustees should be remunerated, but two and four per cent. may be too much or too small. I would leave the rate of remuneration to be settled with reference to the importance of the Pagodas, revenue, and other circumstances in each district. I think that the determination of the emoluments of the Trustees and Pagoda servants should rest with the Managing Committee, and of the latter with the body competent to appoint and dismiss it.

13. VI.—The Committee should not only have power to enforce the production of the accounts, but they should also have power to enforce their orders like decrees of Courts, subject to an appeal to the Civil Judge within a certain time.

14. To sum up, my suggestions are—

(1.) All Pagodas which were managed by Government when they had charge of Pagodas, or the management of which the founders or their successors may wish to give up, should be brought under the control of a Committee appointed for the purpose.

(2.) The Committee should have complete power over the finances of Pagodas, *i.e.*, their receipts and expenditure and other property belonging to them.

(3.) The Committee should also have power to fine, suspend, or dismiss Trustees, subject to an appeal to the Civil Judge.

(4.) The nomination of Trustees should vest in the Committee, where the office is not hereditary.

(5.) All appeals against the acts of the Committee should be heard and disposed of by the Civil Judge as the appeals against summary orders of his subordinates.

(6.) The Collector, Judge, and Native Subordinate Judge or Deputy Collector of each district should be competent to appoint and dismiss Members of the Committee.

(7.) The Members of the Committee should be remunerated according to the means and circumstances of each district.

15. The above are my suggestions on the main features of Mr. Ramiengar's Bill; and, as regards details, I have a few remarks to offer.

16. *Section* 19.—I do not think it would be possible to get *Tengaleys* and *Vadagaleys* in all the districts. For instance, in Ganjam, such names are hardly known, and all the Oreas will raise their voice against Government if their Pagodas are to be managed by Vadagaleys and Tengaleys. I think that it would suffice to enact that the Members shall consist of the several religious sects or classes to which the Pagodas and Institutions to be managed may belong.

17. *Section* 24.—The cash balance must be liable to be examined at any time, and not once a year only.

18. *Section* 26.—I do not see the use of the restriction. The Committee may collude with the Trustee. The public interested must *always* be competent to prosecute. Of course, if the Committee have passed the accounts, it will be a circumstance in favor of the Trustee.

19. *Section* 25.—I would give the power to the Committee and not to the Trustee.

20. *Section* 37.—The section does not provide for surplus funds of Mahomedan Institutions. The omission should be supplied. It would be more acceptable to the people, if the surplus is spent in opening chuttrums, feeding travellers, and so forth; but I am with Ramiengar on this point.

21. In conclusion, I beg to suggest that it is desirable to vest in the Committees the power of settling disputes in connection with the ritual and ceremonies to be performed in the Pagodas. At present, Civil Courts are prohibited from taking cognizance of cases in connection with them, and the consequence is, Pagodas are often shut up, and the puja or worship temporarily discontinued to the great dissatisfaction of the public.

Proceedings of the Madras Government, dated 27th February 1874, No. 343, Judicial Department.

ABSTRACT.—*Hindu Religious Endowments Bill.*—A draft of a Bill for the better regulation of religious endowments, together with the Advocate-General's opinion thereon, forwarded to the Board of Revenue for early report, with reference to G.O., 31st January 1872, No. 118.

Proceedings of the Madras Government, dated 8th May 1874, No. 576, Revenue Department.

ABSTRACT.—*Lands forming Pagoda Endowments in Tinnevelly District.*—Directs that care be taken that the new law (G.O., 27th February 1874, No. 343, Judicial Department), provides a remedy against frauds connected with —, and for summary process for recovery of misappropriations.

IT is beyond the possibility of doubt that, if Hindu religious endowments are to be protected from wholesale misappropriation, and in many cases ultimate extinction for the benefit of a class of people who make the worst possible use of the money, wasting it in profligate expenditure, the existing law must be altered. The papers communicated to the Board by Government are conclusive on this point, and the references which the Board have made have elicited a great mass of opinion to the same effect which is unanimous, so far as regards those who have any practical acquaintance with the subject, and is fortified by as many specific instances of observed misappropriation as could be expected in the present condition of affairs.

2. It is by no means so evident that an alteration of the law is required with regard to other religious endowments, as, for instance, with regard to Mahomedan endowments. It may be so, but further inquiry is necessary to make this certain.

3. The provisions of the existing law, Act XX. of 1863, and its history are sufficiently set out in papers already before Government, and it would serve no useful purpose to go over the same ground again. The Board will, therefore, content themselves with enumerating the causes of failure, and the necessary remedy will thus be suggested.

4. The mainspring of the machinery of Act XX. of 1863 is the power of any one interested to set it in motion by an application to a Civil Court. This provision of the law has been altogether inoperative. The reasons why it has been so need not be discussed here, but they are such as to make it clear to the Board that some new mode of bringing the machinery of the Act into action must be devised. The post of Trustee often remains vacant, and when it is filled, the Trustee does what he likes with the endowment. When vacancies occur in the Committees, they are seldom filled up; sometimes the Members never meet; sometimes they meet at rare intervals, but do nothing; sometimes they do mischievous things, but no one ever moves a Civil Court to interfere.

5. The several parts of the machinery are defective. Endowments are so classed that it is doubtful enough to leave room for litigation in almost every case whether the Committees have authority to control them or not. Moreover, the Committees have no power of control, and the Trustees are absolutely uncontrolled in many cases in which it may be argued that endowments have a claim to protection on the ground that they were supervised by Government until a comparatively recent date. The Committees' powers are defined only by a reference to the powers of the Board of Revenue under Regulation VII. of 1817, and nothing could be more indefinite. There is no authority to advise and direct the Committees, so as to secure uniformity of procedure, and each Committee does or omits to do what it pleases. The Members of the Committees are unpaid, so that they cannot be induced to leave their ordinary avocations and travel to a place of meeting. They have not even an allowance for stationery, clerks, travelling on duty, or filing law suits; so that when Trustees are called on to produce their accounts and send them, the accounts are not examined. When they refuse to send their accounts, or, if dismissed, to give up their trust, things remain as they are, and Pagodas fall into ruin, property disappears, and balances diminish for want of inspection.

6. To remedy these defects, it is evidently necessary (as the Board have already remarked) to find some more effective means of putting the Act in motion than the power of suing in a Civil Court; to class endowments, so as to protect those which Government are bound to protect and make it clear without litigation which are and which are not under control; to define the powers of the Committees intelligibly; to provide a central authority to keep the provincial authorities working uniformly; to give the Members of Committees sufficient inducements to draw them from their ordinary occupations, and make them meet sufficiently often and do their work thoroughly; and to provide them with funds which will enable them to perform their duties (almost every one of which involves some expense) without drawing on their private resources.

7. The first desideratum is, therefore, a central authority like the Charity Commissioners in England, which will be an efficient "mainspring," and secure uniform work in the provinces; and the second, a registration of religious institutions, determining once for all which of them shall be under control, what their average income and expenditure are and ought to be, what proportion of net income or other tax they should pay to support the controlling authority, and what points more especially require control.

8. If this registration, which seems to the Board to be indispensable, is to be done efficiently, it must be done by officers of Government armed with powers by a legislative enactment. As the Collector of the Godavery District remarks: "We really scarcely know anything of what we have to provide for. We know something of two or three Temples, and we imagine the rules that may be applicable to them could apply to all the Temples in India." The registration would do a part of the work done in England by the Charitable Funds Commission before the Charitable Trusts Act of 1853 was passed. It would have most difficult points to determine, and amongst other things, it would supply Government with material for deciding what institutions are to be classed as under control. The letter from the Collector of Malabar, with its enclosure, shows that this is a matter of peculiar difficulty in Malabar, and the Board do not doubt that there are many similar difficulties elsewhere. Act XX. of 1863 classes religious endowments into—

(1.) Institutions in which the right of nominating a Trustee vested in, or was exercised by, Government in 1863, and

(2.) Institutions in which such right did not vest in Government in 1863. The second class is excluded from the control of Committees. This classification is faulty in two ways as shown by

the Hon. V. Ramiengar in paragraph 8 of his letter to Government. It draws an uncertain line, and it refuses protection where Government are bound on their avowed principles to give it.

9. The Hon. V. Ramiengar divides institutions into three classes, *viz.*:—

(1.) Institutions in which Trustees are hereditary, or the right of appointing them vests in private individuals, etc.

(2.) The first class noticed above.

(3.) Private endowments not dedicated for public use. Here, too, the line which divides the second class from the first is left as undecided as it is in Act XX. of 1863, and the line which divides it from the third is shown to be indefinite in many of the papers now submitted. Moreover, all the institutions in the first class as well as the second are placed under control, and it is thus assumed that Government will now protect institutions for the first time which they are not bound to protect on the principles which they have avowed, including even "the Senkaracharry, Madhva, and other Matams," as noticed by Chentsal Rau, Head Sheristadar to the Board of Revenue. The Board are disposed to think this right, but the question is as doubtful as it is important, and requires very careful consideration. Many of the gentlemen who have recorded their opinions go even further than Ramiengar, and wish the protection to extend to the pettiest village "swamies," to whose service a little oil and some flowers are devoted, and to all religious service inams.

10. The Advocate-General divides religious institutions into two classes, *viz.*:—

(1.) Private endowments being endowments founded by some individual, of which the right of management is vested hereditarily in some family, or has been by express direction of the founder vested in some class of persons.

(2.) Public endowments, *i.e.*, all not described in class (1).

And both classes are to be under control. It is unnecessary to go into details, to show that this classification also is very indefinite. Moreover, the objection that it places under control institutions, which Government on hitherto accepted principles are not bound to protect, applies, with even greater force than in the case of the Hon. V. Ramiengar's Bill.

11. Again, the question whether any religious institution other than Hindu Institutions need be under control has to be settled. As already remarked, this has not yet been proved, and with regard to Mahomedan Institutions, since it must be admitted that funds will be required for supervising them, there is the further objection noticed by the Secretary to the Government of Bengal in paragraph 6 of his letter to the Government of India, dated the 27th September 1869, No. 3,507, (see also Mahazar from Mahomedans of North Arcot, dated July 1872.)

12. Thus the Board think it is clearly shown that the principle on which religious institutions shall be classed as under control, or not under control, must be settled by the highest authority of the Presidency, with reference to information which is not now before them. The decision will be a serious matter, and may cause great commotion.

13. It is necessary to register the average income and expenditure of religious institutions, and determine roughly what they ought to be, in order to give any controlling authority which may be constituted the only data on which it can act with confidence; to determine what institutions are so small that they should not be controlled, at all events so elaborately as important endowments (under this category would fall the Pagodas in Bellary which are described as having an average annual income of Rupees 15); and to suggest how the funds of the controlling authority should be levied. The Hon. V. Ramiengar provides for giving Trustees four per cent. and Committees two per cent. on income as soon as the accounts are passed; but, as Chentsal Rau remarks, this may be too much or too little. In many cases, the Board believe hereditary Trustees of Pagodas get and have always got their livelihood out of the endowment which was granted for their support as well as that of the Pagoda. The greatest difference of opinion seems to prevail as to whether Trustees or Committees should be paid anything at all, or if so, how much. The Board have no doubt that sufficient funds can be readily obtained, and agree with Sashiah Sastri, Diwan of Travancore, "that even if so much as 25 per cent. of the Temple revenues were

required to be laid out on" a controlling "agency, it would not be money thrown away if it succeeded in protecting the "controlled "institutions from the misappropriation and plunder of the rest;" but the amount and the manner in which it is to be levied must be determined on better data than are available now.

14. With regard to the necessity for a central authority, the testimony of the gentlemen who have been consulted seems to the Board to leave no doubt, not that many of them mention the provision distinctly (though Sashiah Sastri and six or seven others do this), but that the improvements suggested by most of them are obviously incomplete without this addition, or continued direct supervision by Government. As an instance, the Board would mention the thoughtful draft of a Bill prepared by S. Narasimhooloo Naidu, District Munsif of Chingleput, which grapples with most of the difficulties of the subject, but fails to subdue them by unsupervised Committees. The central authority should be located at the Presidency town, and might have much the same powers as the Charity Commissioners of Acts 26 and 27 Vic., Cap. 137, and 28 and 29 Vic., Cap. 124, that is to say, authority to inquire into the nature, objects, management, and results of management of any institution under its control; to give advice which Trustees shall be indemnified in following whenever Trustees may ask for advice; to institute legal proceedings and decide whether private individuals may institute such proceedings; to sanction leases, mortgages, sales, and purchases of real property; to authorize Trustees to dismiss merassi servants; to compromise suits, to pronounce as to whether orders of the Courts dismissing Trustees shall be carried out; to settle new schemes for the management of institutions; and to arbitrate in disputes amongst Trustees. Moreover, if Local Committees are established, the central authority will direct them; otherwise, they may act through "Inspectors" as in England.

15. It seems to the Board clear, and experience has shown that such an authority as this must be appointed by Government, and that for some two or three years, at all events, its orders must be subject to revision and appeal. It cannot be safely left to itself until it has custom to guide it; and whilst the custom is assuming form, it must be influenced and directed by the highest authority.

16. Thus the Board have to report that, after the most careful consideration of the subject, they are convinced that religious endowments cannot be effectually protected, unless Government are prepared, in the first instance, to act strongly in their administrative capacity. This interference, the Board believe, need only last for a short time (except perhaps so far as regards keeping vacancies in the central authority filled up) after which the people with accurate registers of their institutions and a capable authority well paid and strong in precedent and custom will be able to do the work; but this is contrary to what has been the policy of Government for a lengthened period, and to the special instructions given when the reference was made by the Government of India. The Board resolve, therefore, without going into further details, to ask Government to decide whether they will change their policy and allow the direct interference which has been described.

17. With regard to the Hon. V. Ramiengar's Bill, the Board agree with the most weighty opinions that that have been recorded. Almost every clause is open to criticism, and must be modified and even when these alterations have been made, all that can be said for the Bill is that it would be an improvement on the existing law, but that it is radically incomplete, and would certainly fail to attain its object.

18. The mainspring and the machinery are much the same as in Act XX. of 1863, but they are strengthened. The motive power is still the right of persons interested to sue, but an attempt is made to take off the clog by freeing suits from stamp duty. This, the Board are sure, would be not only insufficient, but mischievous. It would give a strong impulse to suits proceeding from mere malice, but it would not cause suits to be filed in cases where there is no personal motive, but only an honest desire to check abuses. The uncertainty attending the classification of religious endowments, and the doubt as to whether the Bill is right in placing under control institutions which have never yet been protected by Government, have been alluded to already. The Committees are to be composed of sects which scarcely exist in

Proceedings of the Madras Government, Judicial Department,
23rd October 1874.

some of the districts in which they are to be appointed. They are not only to be named in the first instance by the Civil Courts, but their ranks are to be filled from time to time by nominations of the same authority. Their powers are distinctly limited to auditing accounts, inspecting institutions, and prosecuting Trustees; but, as they have no right to regulate expenditure, this will leave them unable to check the most important abuses, whilst it will demand their whole time and more to overtake the duties imposed upon them, limited as they are. It is difficult, for instance, to imagine how a single District Committee of five persons even when divided into two or three Sub-committees could inspect annually all the 258 institutions, with an average revenue of Rupees 5 in the taluq of Bellary, the 3,000 Temples of Tanjore, the 358 institutions now under the control of Pagoda Committees in Tinnevelly, or even the 100 large Temples of Madura. All accounts are to be published, and this would, no doubt, stop much evil-doing, but the publication is to be effected in a manner which, as the Board will point out hereafter, is open to grave objection. The system of popular election, which under Act XX. of 1863 is used in appointing Members of Committees, is in this Bill made applicable to the appointment of Trustees, but it is an exotic system, and the Board are confident it will not work, at all events in rural districts. Even the framer of the Bill admits that it has failed utterly under Act XX. of 1863, in a case where, as the Board think, it was much more likely to be successful. Provision is made for paying Trustees and Committees, but the greatest diversity of opinion exists on this point, and it may at all events be safely said that more information must be obtained and recorded before it is determined how much should be paid, or how the funds should be provided. The general opinion seems to be that too much power is given to Trustees.

19. The Bill is evidently framed with the intention of imposing the least possible amount of interference on Government, and most of the opinions which have been recorded seem to show that a still larger amount of interference is considered necessary, as, for instance, in the often-repeated but obviously inadmissible proposal to place religious institutions under Local Fund Boards and Municipal Commissions, when they would be under the direct administration of Government in all but the name. But the Bill requires such extensive and repeated assistance from officers of Government and official publications that it cannot be said to be consistent with the existing policy. Thus, omitting points in which the Bill repeats provisions of Act XX. of 1863, Civil Courts are to appoint Members of the Committees once a year, or oftener, so long as the law remains in force; and in doing so, they must obviously act in an executive or administrative capacity, just as Collectors would if they did the same thing. A close apparent connection, which nothing will convince the people is imaginary, is established between Government and Pagodas by requiring all appointments and dismissals of Trustees and Members of Committees and the annual accounts of all Pagodas, etc., to be published in the District Gazettes. These accounts are to be submitted to the Committees by the end of February, and passed (if they are passed) before the end of May, and the Trustees are thereupon to publish them immediately under heavy penalties in the District Gazette. District Gazettes are issued fortnightly, so that there are between the end of January and the end of July 26 issues. If the law is carried out, these 26 issues in Tanjore and Madura and Tinnevelly and many other districts will seem to contain nothing but Pagoda accounts, and will nevertheless be of unmanageable bulk.

20. With regard to the Advocate-General's outline of a Bill, the Board will only call attention to the faulty classification of endowments already noticed; to the want of information which leads the Advocate-General to repeat the Hon. V. Ramiengar's error as to the constitution of Committees, the provision of funds, and the payment of Trustees; and to the radical change which it assumes may be made in the existing policy of non-interference on the part of Government; for example, the Governor in Council is to appoint the supervising "Board" to sanction appointments, to fill up vacancies in it from time to time, so long as the law is in force; to sanction the attachment of endowments, etc., when Trustees refuse to give information; to appoint Trustees if vacancies are not filled up within three months; to sanction the dismissal of Trustees for misconduct, their suspension if they neglect to submit accounts, and suits against them when the

"Board" wish to institute such suits. Moreover, as in the Hon. V. Ramiengar's Bill, the audited accounts are to be published in the District Gazettes.

21. In conclusion, the Board, as instructed in G.O., 8th May 1874, No. 576, have to remind Government that in any law which may be passed, it has been considered desirable by Government to devise means to prevent Pagoda inams from being fraudulently dealt with as private property, and to provide summary process for the recovery of such misappropriations.

(True Copies and Extract.)

(Signed) J. GROSE,
Secretary.

No. 119-C. MINUTE by His Excellency the PRESIDENT, dated 19th September 1874.

In the year 1817 the Imperial Government—recognising the right of the people of India to look to their European Rulers for the watchful care and protection of that (as they esteemed it) most precious of all possessions, their religious faith—deliberately and expressly assumed, through its Executive Officers throughout the country, the administrative control of religious endowments. So close and direct was the superintendence thus exercised that, to use the words of one of the native officials who have been consulted on this subject, the Revenue Officers were in this Presidency looked upon as "Trustees" for such endowments. They certainly managed and administered them in the fullest sense of the terms—in such a sense as that there was no danger of any serious misappropriation of religious funds. Pagodas, Mosques, and Temples, with their mysterious sanctities and venerated rites, and all that these involve of influence upon the mental condition of the people, preserved their ancient splendour: charitable funds, of which the endowments in great part consisted, were maintained inviolate; and (as it is expressed in another of the communications on the subject which we have received from natives) "the people were content."

Regulation XIX. (1810) of Bengal Code.
Regulation VII. of 1817 of Madras Code.

2. Some thirty years ago the Imperial Government, yielding to opinions emphatically expressed if not generally entertained in England, abandoned the principle which it had thus adopted, so far as all direct connexion of its officers with the preservation and application of religious endowments was concerned. But it was felt that to abandon at the same time all legislative or administrative care for them would be to strike a blow at the welfare of the people of India, and above all at their loyalty to their present rulers, such as was altogether out of the question. It was determined, therefore, while putting an end to the *quasi*-trusteeship of English officials in respect of these endowments, to frame some measure which should prevent their being left entirely to themselves. The result—after many years of indecision and delay—was the Act of 1863. And it is important to bear in mind that the policy of this Act—that policy which we are now cautioned against contravening—was that of Government interference in so far as was necessary to provide for the efficient administration of native endowments not by European officials but by the natives themselves. Accordingly the Act provided for the appointment (in cases where Government had nominated the Trustees) by Government of Committees in every district or division, who were to take over all religious property and discharge the functions hitherto devolving

upon the Board of Revenue with [illegible] to it. Vacancies were [illegible] filled by election, and in default by the Civil Court. In cases where Trustees [illegible] not appointed by Government, the property was to be handed over to existing Trustees; and vacancies in case of disputed succession were to be filled, on application, by the Civil Courts. A suit might be brought in a Civil Court by any person interested against any Member of a Committee or any Trustee for neglect of duty in respect of their Trusts.

3. This Act, considered as providing a protection for religious endowments, has proved by universal admission a signal failure. The chief defects attributed to it (which indeed are obvious enough) are these—

(1.) Want of effectual legal provision for compelling Trustees to perform their duty. The "person interested," deterred partly by the expense and delay of litigation, partly by want of sufficient interest, partly (as it would seem) by dislike to try religious questions in a Christian Court, probably also in part by ignorance and misapprehension—never appears: and Committees and Trustees appropriate the funds absolutely at their own pleasure.

(2.) The powers and duties of Committees are insufficiently defined. The Act describes them vaguely as those which formerly belonged to the Board of Revenue.

(3.) No effectual provision for supplying vacancies. As regards Committees, these are to be supplied by election, and in default by the Civil Court. But no election ever takes place; and no notice of a vacancy is ever given to the Court.

(4.) Committees and Trustees are unpaid and without any strong interest in the creditable performance of their duties.

(5.) The Act makes over one large class of institutions to Trustees uncontrolled by any supervising agency whatever.

4. A measure with these defects could not be expected to succeed. As a matter of fact, Committees and Trustees, having received from the hands of Government the vast wealth which it had until then jealously guarded, have dealt with it just as they pleased;—that is in the manner in which uneducated or half-educated persons entrusted with funds of which they are not obliged to give any account at all, usually deal with them. The Board of Revenue (which has every opportunity of ascertaining the facts, and with full information on the subject from all the more important of the fiscal and judicial officers of the Government before it) expresses itself as follows: "It is beyond the possibility of doubt that if Hindu religious endowments are to be protected from wholesale misappropriation, and in many cases ultimate extinction for the benefit of a class of persons who make the worst possible use of the money, wasting it in profligate expenditure, the existing law must be altered." Upon this point there can be no question. The condition of religious endowments in this Presidency has in the ten years succeeding the Act of 1863 become such as to be a subject of extreme regret and anxiety for all who recognise the extent to which the moral welfare of a people is bound up with their religion, who feel that the stability of an alien rule depends, more than upon anything else, upon the relation in which it stands to their deepest feelings and most revered traditions; who reflect that this decadence of all that is most dear to the people of

Southern India has taken place, after long years of government free from any such reproach, under British dominion.

5. The Hon. Mr. Ramiengar recently introduced a Bill, of which the object was to remedy those defects in the Act of 1863. His remedies are as follow :—

(1.) For the first defect above mentioned,—power to Committees to prosecute Trustees criminally for fraud and exemption of suits from legal charges.

(2.) For the second.—Definition of the duties of the Committee which he defines as chiefly those of auditing accounts.

(3.) For the third.—Appointment to vacancies by Civil Courts directly, instead of by election in the first instance.

(4.) For the fourth.—Payment of Committees and Trustees.

(5.) For the fifth.—A different classification of institutions, so that all may come under the control of Committees.

6. It is evident that such a measure could contribute but little to improve the condition of affairs. The Committees would still be irresponsible—free from all control except such as might be afforded by the "interested person" whom it is plain that the mere exemption from fees would have but small effect in stimulating to action. The moderate remuneration of Committees and Trustees would do something, but nothing effectual, to counterbalance a greed which has hitherto brought them wealth. To define the duty of a Committee as that of carefully auditing accounts would neither oblige them to fulfil it, nor (if it did so) provide for the due administration of the funds; and the new classification of institutions would only extend a control which has hitherto been found ineffectual.

7. It is evident that some far more vigorous remedy is required. We cannot (if we would)—for we are told to respect the principle of the Act of 1863—go back to the system in force under the Regulation of 1817. But between the present system, which is in effect to leave religious endowments to take care of themselves, and an infringement of the principle of 1863, there is an interval of enormous breadth. We might immensely strengthen the indirect connexion (which is now almost non-existent) of Government with these institutions without in any way approaching the territory fenced off by the Act of 1863. What the circumstances of the case require seems to be the constitution of some central—not European but Native—authority, well paid for its services and distinctly comprehending its duties, carefully chosen in the first instance by Government from the best materials that can be selected, with effectual provision for supplying vacancies, and subject to the general supervision and (in the last resort) direction of Government; and (2) the creation of native local agencies, appointed with the sanction of Government and paid by the central authority. These objects are provided for in the Bill of the Advocate-General; and, considered as the mere outline of a Bill to be introduced in the Local Legislature, I think it is one which we might submit, with some alterations, to the Government of India for the purpose of indicating the nature of the legislation which we propose. The changes which I would suggest are—

(1.) That if the Central Board neglects for three months to fill up a vacancy in it, the Government may do so. I would also give power to the Government to dismiss any Member of the Board for misconduct or inefficiency.

Proceedings of the Madras Government, Judicial Department,
23rd October 1874.

(2.) That vacancies in the Committee of Trustees should be filled up, not by election (as proposed in the Advocate-General's outline), but by nomination of the Government, who would of course consult the Central Board. Nothing is more certain, as experience has proved, than that election (to which the people are fully unused) would seldom if ever be resorted to; and the consequence would be delay in reappointment until the matter was brought to the notice of Government, which might be for an indefinite time.

(3.) That the operation of the Act should be confined to institutions such as were protected under the Regulation of 1817.

8. It does not appear to me that (except as regards elections) the objections of the Board of Revenue (paragraph 20) to the measure proposed by the Advocate-General are valid. As to the "Constitution of Committees," the objection adverted to by the Board in connexion with the Mr. Ramiengar's Bill does not apply to the Bill of the Advocate-General. And it cannot (I think) be doubted that the strongest case is established, notwithstanding some differences of opinion, in the papers before us for the payment of Committees and Trustees. The "Classification of Endowments" appears to me to be reasonable and simple; and the objection of the Board, that it includes institutions formerly unprotected by Government, will be met by the third change which I have proposed. As regards "Radical change in the existing policy of Government," there is (as I have endeavored to show) none at all in the Bill. The existing policy of the Government—that is, of the Act of 1863—so far from being a policy of non-interference, is one of indirect but effectual interference. And to pass an Act under which the interference of Government, while it would still be indirect would also be made effectual, would not be to counteract, but to fulfil, the policy of 1863. Provision should be added to the Bill for the protection of Religious Service Inams.

9. As regards Mahomedan Endowments, they should be dealt with in the same Bill, and on the same principle; but separate institutions, central and local, will probably be necessary. I would, however, consult some of the leading Mahomedans in the Presidency, with a view to ascertain as to how far they consider that the proposed legislation is applicable to Mahomedan Endowments, and what changes in or additions to it they would recommend for this purpose.

10. We might, however (as I presume), at once submit our scheme for the approval of the Government of India, leaving this question for later decision. There can be no doubt as to the principle on which the measure must in this respect be framed.

11. The Board proposes that a "Registration of Endowments by Officers of the Government armed with powers by Legislative Enactment" should be instituted. It is (I think) most undesirable that this proposal should be adopted. First, because such a registration is needless; second, because its probable effect would be to create indefinite delay; third, because it would produce upon the public mind a much stronger impression of actual and intended interference by Government than is contemplated in the Bill; and fourth, because in the Bill as sketched by the Advocate-General there are provisions which will have all the effect of registration.

12. Entrusted as we are with the care of an important division of the Empire whose population is deeply and exceptionally interested in this question, I think that it is incumbent upon us at once to submit our views and proposals respecting it to the Government of India and to the Secretary of State, with a strong and urgent representation that the time has come when some sufficient remedy should be applied to a rapidly increasing evil which has already gone far to effect the financial ruin of religion in Southern India.

HOBART.

No. 119-D. MINUTE by the Hon. W. ROBINSON, C.S.I., dated 10th October 1874.

The careful perusal of this voluminous correspondence confirms the well-authenticated fact that the religious and charitable endowments of all creeds in this country are increasingly exposed to most serious malversations—in the manner which in some degree prevails wherever such endowments and their administration have not been made the objects of workable special legislation and effective independent supervision. The course of this decadence is natural—and in this country specially rapid—and its causes are sufficiently obvious to call for protective action such as shall enable the people to secure their religious and charitable endowments and to enforce proper application of all their funds.

2. In one respect Native (especially Hindu) opinion appears to be almost unanimous. Most of the persons who have written on the subject desire the Government to extend special and direct protection to their religious institutions and to intervene in their management. Some even hint that the withdrawal from the short-lived policy which was legalized in this Presidency by Regulation VII. of 1817, savors of breach of faith on the part of the State in respect to the ancient law and policy of the country. No evidence however is produced that under any former rulers—except perhaps under Moslem reigns—special protective conditions subsisted. The religious sentiments of the rulers for the time being doubtless enriched the institutions which recognised the same creed, and may have had their protective influence for a time; but persecution and decadence of all non-conformist sects was the rule. Our immediate predecessors, the Mussulmans, certainly extended little protective countenance to the faith and institutions of their Hindu subjects. I do not, therefore, think that the neutral position now taken by the Government can even to Hindu minds really appear to be at variance with historical precedent. In fact the policy adopted in the early years of our rule was guided by European rather than Oriental principles of Government—and I am satisfied that it is right that the resolution of the Government of India to abstain from all State intervention, be kept firmly in view in any legislative action which may be decided on.

3. Whatever the ancient condition of these endowments may have been, there can be no doubt that when the British Government assumed the rule of the country they had everywhere fallen into great disorder from mismanagement and malversation under native control. A temporary respite was partially effected under Regulation VII. of 1817, but there is abundant evidence that with the withdrawal of direct Government intervention the relapse has become more than

complete. The legislation of 1863, which was intended to enable the people to control and protect their own religious institutions, has proved—as might have been foreseen—absolutely abortive for good and to some extent productive of evil and confusion before unknown. The papers show the cause of failure; with [illegible]ent accuracy, and I am satisfied that a fresh departure has to be taken.

4. As indicated by the Board of Revenue no more suitable principle of legislation presents itself than that which has proved so effective in saving endowments and regulating their application in England since 1853. I would give the proposed legislation nearly the same progressive character as has obtained there, and increase the powers of the Commissioners in proportion as they establish the usefulness of their functions and gain the confidence of the public.

5. Following—*mutatis mutandis*—the model proposed (Charitable Trusts Acts of 1853, 1855, and 1860) the first step to be taken is that Government appoint—and continue to appoint as vacancies occur—three or more well-salaried Commissioners of religious endowments, who with a Secretary (likewise appointed by Government) should constitute a Board to inquire into the condition and management of all religious endowments throughout the Presidency. I do not think that the extention of this degree of patronage would contravene the principle of perfect neutrality, which should characterize all Government action. The patronage should be exercised with the advice of the Board when once formed, and is simply, as it appears to me, a necessary guarantee for character and qualification. And in a country where religious faction disturbs men's minds, as it does here, I think that the Government must thus far act the part of an arbitrator between the various sects.

N.B.—In England two of the Commissioners (and the Secretary I believe) must be lawyers of standing, and I am disposed to suggest similar qualifications here. I should at all events endeavor at the outset to place an English Barrister of standing on the Board, for obvious reasons, and I should be inclined to extend their powers of inquiry, &c., to all charities for whatever object existing.

N.B.—The correspondence shows how difficult is the question between the two sects of Vishnuvites and the various creeds amongst the Shivavites and other shades of belief which prevail in various parts of the country.

6. The Board should [illegible] all requisite legal powers to enable them to execute their functions most effectively—including that of placing independent persons in a position to ascertain accurately the income and miscellaneous receipts (*e.g.*, from pilgrim offerings and the like) of any institution into the affairs of which their inquiries may extend—under penalties for delays and obstruction whencesoever arising, which shall be sufficiently deterrent and prompt. The action of the Board should be of a summary but *quasi*-judicial character, and all their proceedings (and the reports of any local Committees or Inspectors) should be published for general information.

N.B.—The restriction in respect to examination of persons who claim or hold property adversely to the charity under inquiry which is contained in Section 16 of Charity Trust Act of 1853, has proved most inconvenient and should be avoided in the proposed law.

N.B.—In England these are, I believe, annually laid before Parliament. Here it might be sufficient to publish them periodically, with appendices.

7. The Registration of all religious Endowments in the office of the Board—with full particulars of every kind—within a specified period should be made compulsory on their respective Trustees or Managers. And all Trustees and

persons acting in the management of any institution within the purview of the Law, should be obliged,—under severe penalties—to submit, if required by the Board, a provisional Budget Estimate of receipts and expenditure for each year, for such orders as may be advisable; and to send in a statement of all receipts and disbursements for official audit by the Board at the close of the year.

8. The Board should be required to institute progressive inquiry into the management of all institutions within the scope of their functions. And, when not satisfied with the existing administration of the funds, &c., of any of them, they should draw up—after disposing of objections and suggestions of parties interested in the charity—a Scheme for the future management of the institution and its funds, for the acceptance of those concerned (if willing to accept such proposals), or for submission to the Courts of Law for ratification or modification as the case may be. And the Board should be empowered to modify or obtain the modification of such Schemes from time to time, as may be found expedient. Wherever the Scheme of the Board is unopposed, their orders should be final. And perhaps considerable powers of provisional approval and execution of their order might be conceded to them (as in England under the more recent extension of the Charity Commissioners Law—1860) even when there is a show of opposition. The Board should not meddle with questions of ritual.

9. Most of the provisions of the Charity Trust Law of England respecting the powers of the Board are applicable and will prove useful. The principle of Section 16 (application for opinion and advice and indemnity for acting on such advice) might be extended so as to constitute the Commissioners arbitrators and referees in all matters of doubt and dispute, and to make their provisional order valid unless reversed by competent Judicial Courts. The powers given in Section 17 and Sections 19 to 28 might with suitable modification be exercised with advantage by the Commissioners to be appointed under the proposed law.

Sections 17, 19, 20.—Authorization of suits.
" 21.—Sanction of leases, &c., and repairs.
" 22.—Removal of officers.
" 23 to 27.—Compromises, exchanges, &c.

10. I am satisfied that it would be highly beneficial to constitute the Board—under stringent provisions for the faithful execution of the trust—Official Trustees of Endowment Lands, in the manner provided in Sections 47 to 50 of Charity Trust Act, 1853, and Official Trustees for the investment of all surplus funds, &c., and management of any funds which may be voluntarily transferred to them by persons acting in management of religious and charitable Endowments.

11. Having constituted the Central Board, it becomes necessary to provide the means of obtaining local information and of investigation, and an agency for fulfilling the requirements of the law. Most of those who have written on the subject recommend retention of the District Committees constituted under Act XX. of 1863; and some would even extend the system and form "Local Fund Circle" Committees. I entertain grave doubts of the utility and expediency of these numerous permanent local vestries; for I think that experience has proved that this constitution has neither been operative nor judicious; and that the action of the Committees has been often factious, meddlesome, and irritating. I should prefer the English system of Inspectors, who under the orders of the Board *pro re nata*, would take up the investigation of each institution in its turn for final disposal by competent authority. The District-Committee system has failed

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so far, and has no precedent or justification in the pre-existing conditions of the country and society; while the other has a certain analogy with the effective system to which so many desire to revert, under which the Board of Revenue constituted the Central Board of direction, and the Collectors and their establishments were practically the local Inspectors of religious charities. I would sweep away all the cumbrous and meddlesome machinery of District Committees, and place an efficient body of Inspectors under the Board for purposes of local investigation, &c., and for the arrangement of Schemes of administration with those interested in each institution; and, if necessary, for the management of litigation before the local Courts under the direction of the Board. I believe that the action of such subordinate agency under a Central Board would prove more systematic, legal, and inexpensive, and less vexatious than anything that can be looked for at the hands of numerous District Committees. At first the body of Inspectors would require to be somewhat numerous, but as matters are progressively reduced to system and order, the services of some might be dispensed with.

12. As regards payment for the necessary machinery as above sketched, I should judge from the reports of the more intelligent of the writers on the subject, that the natives of this country will not be backward to see the necessity of meeting all charges by a rateable percentage levied on all funds proposed to be brought under efficient supervision. The able Diwan of Travancore observes that even twenty-five per cent. of the income were not too much to pay for efficient and honest control and administration. The discussion which must take place in the Legislative Council will place this matter in a useful and practical form before the public. In the meantime it may be necessary to legalize a loan on the security of the funds, pending registration and investigation.

13. Subject to the inquisitorial and administrative functions of the Board (which I have endeavored inadequately to sketch)—with perhaps certain provisional powers of direct remedy in minor and non-contentious cases—which I am sanguine will be found as efficacious here as in England—I think that final adjudication of all matters of contention and uncertainty must be left to the operation of the Law before the local tribunals.

N.B.—The Charity Commissioners of England notice in their eighth Report (1859): "The representations made under our direction to the Trustees of Charities as the result either of the examination of their annual accounts or of special application to our Board, or of local inspection, have induced in very numerous instances the correction of errors and irregularities in their administration, and the adoption of a more correct and efficient system of management. The mere existence, moreover, of a public board, readily accessible to just complaints and armed with adequate powers of investigation, is calculated to prevent or to correct much laxity of management, and to check the tendency to abuse or error to which the administration of charitable endowments is peculiarly liable, and we are confident that these influences are steadily increasing."

14. I am not throughly acquainted with the exact state of the existing law in respect to charitable and religious endowments and trusts, and their incidents —such as the appointment and removal of Trustees, conformity to directions for management and application of funds, &c.—but I conceive that such matters would come within the equitable jurisdiction of the tribunals of this country.

And it seems to me that there should be no difficulty in now supplementing the law, if necessary, in such a manner as to provide effectual jurisdiction and inexpensive procedure for the establishment of Schemes of administration, appointment of

Trustees, &c., in conformity with all rights and usages and reasonable considerations—simplified as these proceedings would be by the *quasi*-judicial inquiry and judgment of the Board when putting the Courts in motion, or authorizing those interested to sue. Such changes and modification of the law—especially in respect to procedure—have been made to meet the requirements of the administration of charities in England, and may well be imitated here in respect to religious and charitable endowments.

N.B.—The Charity Commissioners thus describe their practice in their fourth Report for the year 1856: "We have adopted from the commencement of our duties the practice of setting out in our certificates, by which we have authorized applications to the County Courts, a full statement of the circumstance requiring or justifying the application, and of defining also the precise nature of the order or relief, which would be the proper object of the application, and we have to acknowledge the confidence which the Judges of those Courts have very generally extended to our Board by the adoption of our suggestions conveyed to them in that manner."

15. I look to progressive legislation (as in England) in this matter as experience is gained and confidence established. And I think that it will soon be found expedient to extend the jurisdiction of the Board to the establishment of Schemes of management, appointment and removal of Trustees, application of funds and other administrative objects, which must for the present be confined to Judicial Courts. I am inclined therefore to leave matters relating to the application of surplus funds, the diversion of endowments (when prejudicially employed) to objects which are more suited to the altered wants of society, and the like, to supplemental legislation after experience gained.

In their twenty-sixth Report (1868) the Charity Commissioners thus notice the progressive changes in the character and function of their office:—"A Commission created mainly for the purposes of investigation and inquiry, and intrusted with little direct authority (except for administrative details connected with the management of the Trust Estates), was by the operation of that Act (C. T. Act, 1860), invested with power to exercise varied and important judicial functions for the regulation of all endowed charities.

"After an experience extending over fully eight years, the measure referred to may be safely pronounced to have been eminently successful for its intended object. The jurisdiction thereby given to our Board, exercised in an untechnical and inexpensive course of procedure, but with the safeguard in all cases of ample publicity, has rapidly attracted to it the judicial business both of the Court of Chancery and County Courts in connexion with charities."

16. I agree generally with the Board of Revenue's review of both of the Bills (one by the Hon. V. Ramiengar and one by the Advocate-General) now before Government. The former would not work effectively, but the Draft will be found in some respects useful and suggestive in framing a fresh Bill. The Advocate-General's Bill would require very important changes before it can be accepted. It is proposed (in both Bills) to classify endowments in one form or other, and to introduce popular election of Trustees in what would prove the great majority of cases.

17. It is impracticable to classify institutions with the information we possess. Nor is it necessary, for *all* endowments should be subject to the inquisitorial functions of the Board, and where there is contention as to succession to Trusteeship, removal of Trustees and servants and the like, the *quasi*-judicial investigation of the Board should place the legal position of the Trustees or persons acting in management of any

N.B.—The investigation of the Board must extend to Zemindari and proprietory endowment of every kind. Few are less worthily managed than those of Zemindaries. When the conduct of the late Zemindar of Ramnad in respect to endowments came under examination with reference to the indebtedness of the estate, it was found that more or less than half-a-lakh of Rupees had been misappropriated by the deceased Zemindar within the last few years.

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18. The direct power and summary action proposed to be conferred on the Board by Mr. Cunningham's Bill in respect to private endowments, appear to me to be out of the question. And the sketch of proposals for the management of public endowments is mainly confined to a mode of filling up vacancies, *viz.*, by election, which I thoroughly disapprove of. Neither the number of Trustees nor the rate of remuneration from trust income, can properly find place in a law which must be drawn up in entire ignorance of the facts, &c., as they affect individual institutions. These matters belong to Schemes which should be framed under direction of the Board in each case, and publicly discussed in the Courts if opposed.

19. I think that it will be advisable to provide somewhat summary legal measures for the recovery of fraudulent alienations of trust property already made.

20. Powers should be taken to constitute a separate Board for the management of Mahomedan endowments for obvious reasons. A Hindu Board could not possibly enjoy the confidence of Moplah converts in Malabar, or the sympathy of the Moslems of Triplicane or Nagore.

21. The discussion of this important matter should clearly take place before the local Legislature. The condition of religious endowments and their properties and incidents, differ widely in different parts of India, and the adaptation of the law must follow these conditions. Further, the discussion on the spot will tend to prevent mistakes and misapprehensions which would be unavoidable, were an attempt made to legislate for all India under one law. I would therefore recommend that a Committee be formed—which should associate the best native legal acumen with the Advocate-General and other selected gentlemen—to prepare a comprehensive Bill for the provisional acceptance of the Government of India and Secretary of State, and for discussion in the local Legislative Council with as little delay as possible.

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No. 110-F. MINUTE by the Hon. J. D. SIM, C.S.I., dated 16th October 1874.

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expected—and the testimony is *ex-parte*, but experience everywhere shows that trust property is liable to misapplication when Trustees are uncontrolled, and certainly the holders of many Hindu religious endowments are, and long have been, practically free from control and responsibility. We may assume, therefore, that even if there be not as much of malversation as is believed, there is at least such danger of it and opportunity for it as should be prevented. Here, as elsewhere, the Government is undoubtedly bound to afford protection to trust property, and the only question is how this can be afforded most effectually, and yet without infringing our principle of non-interference in religious matters.

2. We have no evidence before us how matters were managed prior to the enactment of Regulation VII. of 1817, but it may be inferred that the passing of that law was the result of some necessity, experienced or anticipated.

3. Regulation VII. of 1817 vested "the general superintendence of all endowments in land or money," in the Board of Revenue, and made it their duty "to take such measures as may be necessary to ensure that all endowments *** are duly appropriated to the purpose for which they were destined by the Government or the individuals by whom such endowments were made;" and it was "incumbent on the Board *** to prevent any endowments in land or money *** from being converted to the private uses of individuals, or otherwise misappropriated."

4. To enable the Board to exercise these functions local agents, of whom the Collector was *ex officio* to be one, were to be appointed in each district. The local agents were to furnish the Board with full particulars of all endowments, with the names, &c., of the then Trustees or Managers of each institution, and to report all vacancies, with information of the pretensions of claimants, and, where the right of nomination devolved on the Government, to recommend fit persons to the Board, who were to make such arrangements as they thought proper with reference to the conditions of the endowments.

5. Trustees, Managers, &c., of endowments, were also declared subject to "the same laws as Government Officers under the Collector, for fraud or embezzlement."

6. Such was the law which until the passing of the Imperial Act XX. of 1863, regulated the management of all Hindu and Mahomedan religious endowments.

7. In 1840, under instructions from the Home Government, the connexion of the officers of Government with such endowments was more or less completely severed, and the institutions with their revenues were made over to unofficial Trustees and Managers. But Regulation VII. of 1817 remained unrepealed, and, possibly, its existence in the Statute Book may have had some influence in preventing the malpractices which are now believed to be so rife, and are attributed to the operation of Act XX. of 1863, perhaps more exclusively than is altogether correct.

8. The latter law divided religious establishments into two classes—those in which at the time of the passing of the Act, the nomination of Trustees, Managers, or Superintendents vested in, or was exercised by, or was subject to the confirmation of Government; and those in which this was not the case.

Proceedings of the Madras Government, Judicial Department,
23*rd October* 1874.

9. For the superintendence of institutions of the first description the Act provided for the appointment, once for all, by the Government, of local Committees of three or more persons to take the place and exercise the powers of the Board of Revenue under Regulation VII. of 1817. Vacancies in these bodies were to be filled up by election.

10. Institutions of the second class were left in the hands of the then Trustees, Managers, or Superintendents, who, though free from the control of the local Committees, were liable to be sued by any person interested in them, "for any misfeasance, breach of trust, or neglect of duty," and were subject to criminal prosecution under the general laws for criminal breach of trust.

11. The wording of this part of the Act (Sections 3 and 4) seems to preclude the idea that the Supreme Legislative Council overlooked, or was ignorant of, the fact that in the interval between 1840 and 1863 the Government had been divesting themselves of this right or power of nomination, by permanently transferring the management of religious institutions to persons appointed in the interval, and that, consequently, a large number of endowments, and all the most wealthy and important, came under the first category, and so were exempted from all control by the Committees.

12. Such is the existing law relating to religious endowments, which is declared to have so signally failed in affording such protection as may be legitimately expected by our subjects.

13. Now I do not think that any one can read the Regulation without admitting that ample protection *is* afforded by the law, if those interested take advantage of the means at their command.

14. It is urged that the powers of the Committees are vague—but they are expressly vested with all the powers and authority which the Board possessed. They "take the place" and are to "exercise the powers of the Board of Revenue and the local agents," and are to "perform all the duties imposed on such Board and local agents" by the repealed Regulation VII. of 1817. The nature of the case does not, I think, admit of very exact definition, but the extent of the powers given appears to me ample for every useful purpose, and the absence of specific restriction, or definition, is in this respect advantageous.

15. The Law expressly requires every Trustee, Manager, and Superintendent, "to keep regular accounts of his receipts and disbursements," and declares it to be "the duty of every Committee of Management *** to require from every Trustee, Manager, and Superintendent such regular accounts *** at least once in every year," and to "themselves keep such accounts thereof." If, then, the Committee do their duty, they have sufficient means of ascertaining how endowments are applied.

16. The Committees, or any member of them, as well as any person interested in an institution, can sue criminally any Trustee, &c., guilty of "any misfeasance, breach of trust, or neglect of duty," with the proviso that in case of suits, permission must be obtained from the Courts—a very necessary protection for Trustees. It is expressly declared that the interest qualifying to sue need *not* be "a pecuniary or a direct or immediate interest." "Any person having a right of attendance, or having been in the habit of attending at the performance of the worship or

service of any Mosque, Temple, or religious establishment, or of partaking in the benefit of any distribution of alms," is declared to have a sufficient interest for the purpose of suing. This is surely a wide-enough field.

17. Besides the penalties of the criminal law to which Trustees, &c., are liable for criminal breach of trust, the Courts may require the specific performance of acts by Trustees, &c., and may decree costs and damages against them, and may direct their removal. So far, then, as pains and penalties go, the law would seem to be sufficient.

18. It is urged that vacancies in the Committees are never filled up. The Law (Section X.) requires Committees to adopt the prescribed measures for the election of members within three months of the occurrence of vacancies, and on failure, the Civil Court "on the application *of any person whatever*" may appoint a person to fill the vacancy. This seems to be ample provision.

19. The question then arises how it happens that the law is so generally believed to be inoperative for the due protection of trusts. The reason is, I think, to be found in causes beyond legal remedy. With a considerable number—perhaps a growing number—of Hindus of the upper classes, Hinduism is, I apprehend, losing its vitality. Many again do not care to face the risks, &c., of civil actions. Others dread the consequences of Brahminical enmity; while in the estimation of very many the peccant individuals are invested with a degree of sanctity that ensures immunity.

20. But these, and such like causes of inaction, cannot be attributed to the Government, nor can a law be said to be radically defective because for such reasons it is not brought into operation, by those whose interest and duty it is to take advantage of it.

21. In one respect, as I have pointed out, the law does seem to me to be defective, *viz.*, in its exclusion of many trusts from the supervision of the Committees, because they had previously been transferred to Trustees in virtual disregard of the Law. I do not think it was right to allow the administrative acts of the Government outside the law—if not contrary to its spirit—to affect legislation made purposely for the protection of such trust property. In this respect I certainly think that Act XX. of 1863 should be amended, and all such institutions brought under the control of the Committees. In some respects also the procedure prescribed by the Act is cumbersome—for instance Trustees must keep accounts and furnish them to the Committee, but the Committee can only enforce this requirement of the law by moving the Civil Courts.

22. This—the amendment of the existing law—is, in my opinion, the direction in which we should now legislate, and it seems to me that the Government does all that can be legitimately and reasonably expected from it, if it places within the reach of those interested facile and effective means of regulating and controlling the disposition of these endowments. A Central Committee does not commend itself to me. It would, I apprehend, be difficult to constitute one in such a manner as to give general satisfaction and confidence, owing to sectarian jealousies, influences, and animosities; the duties devolving on it would be of enormous magnitude, and spread over such an immense area, that virtually its control would be at "second-hand," and might be carried to unnecessary and improper lengths.

Tanjore alone has 3,000 Pagodas.

23. I would therefore amend the existing law where it is manifestly defective or weak, and trust to local Committees, with local knowledge and subjection to local public opinion, rather than to a Central Board which would be practically irresponsible and omnipotent.

24. If we are to legislate in the direction of the English Charitable Trusts Acts, the Board or Committee that here takes the place of the Commissioners in England, should I think be appointed without reference to any form of religion in particular, and have control over all trusts—so far as to see that they are not misapplied, leaving all questions connected with religious observances, rites, ceremonies, &c., for adjudication by some other tribunal.

25. My remarks have no application to Mahomedan endowments, regarding which no representation has been made to us by the Mahomedan community.

26. We must address the Government of India on this subject, as we can neither touch an Imperial Act, nor legislate on matters affecting religion, of our own authority. The subject must also be reported to the Secretary of State, in accordance with his recent despatch.

J. D. SIM.

No. 119-F. To the Secretary to the Government of India, Home Department, dated Ootacamund, 23rd October 1874, No. 1975-A.

With reference to the correspondence marginally noted, I am directed to state that the Governor in Council has now obtained the opinions of all public authorities and private individuals competent to advise on the defects of the present law for regulating the administration of Native Religious Endowments. He has carefully considered these reports and statements, and I am desired to submit the following observations and proposals.

From Government of India, dated 5th January 1871, No. 49.
To the Government of India, dated 31st January 1872, No. 120.

2. The Government of India expressed their desire, in making any changes which may be deemed expedient, to abide by the leading policy of Act XX. of 1863, *viz.*, "the withdrawal of Government from any active concern with the management of these endowments," the withdrawal that is of Government interference except so far as was thought necessary to provide for the efficient administration of native endowments which were thenceforth to be left to native control. To pass an Act under which the interference of Government, while it will still be indirect, will also be made effectual, will not be to counteract, but to fulfil, the

make the worst possible use of the money, wasting it in profligate expenditure, the existing law must be altered." Its defects are patent:—

1st.—The want of effectual legal provision for compelling Trustees to perform their duties. The "person interested," by whatever cause deterred, has never appeared.

2nd.—The powers and duties of Committees are insufficiently defined. They are stated generally to be co-extensive with those which formerly belonged to the Board of Revenue; but the absence of the *prestige* which attached to the Board of Revenue and their Agents, the Collectors of Districts, whose powers, though imperfectly defined, were undisputed and effectually exercised, renders it necessary that such terms as "general superintendence taking such measures for the due appropriation of endowments as may appear necessary" and the like, should be more particularly expressed.

3rd.—No effectual provision for supplying vacancies. No election ever takes place, and no notice is ever given to the Court, applying for the exercise of its powers in default.

4th.—Committees and Trustees are unpaid and have no sufficient inducement to discharge their duties with efficiency.

5th.—One large class of institutions are made over to Trustees uncontrolled by any supervising Agency whatever.

4. With the papers submitted to the Government of India on the 31st January 1872, there was included the Draft of a Bill to regulate the religious endowments of this Presidency, prepared by the Hon. Mr. Ramiengar, C.S.I., an additional Member of the Council. His scheme, to which the Government did not at all commit itself beyond the preamble avowing the expediency of some legislation on the subject, is unanimously considered by those best qualified to judge, and appears to this Government, after full consideration of the further information now before them, to be altogether inadequate for the purpose. I am to invite attention to the letter from the Advocate-General, furnishing with explanatory remarks an outline of the Bill which he would propose to secure the two important objects, (1) of a systematic control, exercised from a single centre, over all religious trusts, (2) of an inexpensive and expeditious remedy for misfeasance or non-feasance on the part of Trustees. Considered as a mere *outline* of a Bill, it is submitted to the Government of India as indicating the nature of the legislation which the Governor in Council would approve. Some changes in it are described as desirable in the Minutes of the Right Honorable the President and the Hon. Mr. Robinson. The Hon. Mr. Sim, it will be seen, would amend the present

Proceedings, 27th February 1874.

it would be advantageous to pass a separate enactment for this Presidency on the ground that circumstances in various parts of India differ too essentially to make it possible to frame a law which would be applicable to all alike. To this opinion His Excellency in Council is disposed to adhere. A difficulty will be found in Section 42 of the Indian Councils Act, 1861, which, by giving power to the Governor of Madras in Council "to repeal and amend any laws made prior" to the passing of the Act, deprives him of power to repeal and amend any law (such as Act XX. of 1863) of a date subsequent to the Indian Councils Act. The sanction of the Governor-General, assignable by the following section (43), would not validate any such legislation. The only mode of meeting this difficulty would be for the Government of India to enact, that on any law passed at Madras for the regulation of religious endowments receiving the assent of the Governor-General, Act No. XX. of 1863 shall cease to be in force in this Presidency.

6. His Excellency in Council would earnestly press upon the attention of the Viceroy and Governor-General in Council the importance of enabling this Government to adopt without delay such a measure as that now submitted for consideration. The evil to be remedied is one which is disastrously and exceptionally felt in Southern India, where the vast wealth interested for the support of the Hindu religion and for the relief of poverty and suffering, is being more and more misappropriated and squandered, with results in the highest degree injurious to the mental condition and general welfare of the people. His Excellency in Council is convinced that no course would be taken on the part of the Government which would be better calculated to ensure the gratitude and affections of the people of this country.

7. Copy of this letter, and its enclosures, will be submitted to the Secretary of State for his information.

(Signed) D. F. CARMICHAEL,
Acting Chief Secretary.

Govt. of India Gazette
JUDICIAL.
No.
THE SECRETARY TO THE GOVERNMENT OF INDIA,
Home Department.
Dated October, 23-1.
No.1.
G.O., 2nd October 1874, No. 1070-A
OCTOBER
Nos. 118-1—110-2.

No. 670. 1/32

From

H. Wigram Esquire
Acting Registrar of the High Court
of Judicature at Madras.

To

The Honorable W. Rodhetow,
Chief Secretary to
Government.

Honorable Sir,

I am directed to acknowledge the receipt of Mr. Chief Secretary Ellis's letter to the Chief Justice dated 31st January 1872, No. 19, forwarding Proceedings of Government of the same date, relating to the amendment of the law regulating the Administration of Native religious Endowments together with a draft Act on the subject prepared by Honorable V. Ramaiyangar and requesting the opinion of the Court after communication with some of the most experienced judicial officers in the mofussil on the draft Act and also on any points not dealt with therein on which the existing law may

be considered to require amendment.

2. In reply I am instructed to forward for the information of the Government the original rejiles received from the mar- ginally noted officers on the subject.

Mr. Justice Innes has recorded an opinion that the direction in which Legislation is required is that of giving more control to the Committees over the trustees and of giving the Court the power of allowing legal expenses bonâ fide incurred to come out of trust funds. He further expresses his entire approval of Dr. Buteliers suggestion as to the appointment of a charity Commissioner and regrets that he has no leisure to give more attention to the subject. The Chief Justice and the other judges regret that they are unable from want

** C.J. Collector
" Chingleput
" Chittoor
" Cuddalore
" Cuddapah
" Madura
" Salem
" Tanjore
" Tellicherry and
" Tinnevelly

S.C.J. Collector
" Combaconum
" Cuddalore
" Madura and
" Masulipatam

P.S.A. Mangalore
" Tanjore and
" Rajahmundry

of leisure to offer any observation on the subject.

I have the honor to be,
Honorable Sir,
Your most obed.t servant,
Tendapani
Acting Registrar,
Appellate Side.

High Court of Judicature, Madras,
28th March 1873.

Ord. 01 of Jan. 1872 ch. 104–106
2nd Appl. — ch. 179–180
Feb. 24 of 72 — Letter ch. (illegible)
Mis. 11th May 15/72 ch. 229–30.
Petition Order 21st Feb. 1873 Letter ch. 226 of 73

From 23d March 1874

Judicial 1873 Department

1 No. 683

From

The Acting Registrar
of the High Court of
Judicature at Madras

To

The Chief Secretary
to Government.

Dated 28th March 1873
Received 31st March 1873

Encls. 18.

No. 670.

Forwarding for the information of the Government the original petition presented from certain officers regarding the amendment of the law regulating the administration of Native religious endowments.

No. 1194.

WYNAAD—PLANTERS.

Read the following papers:—

No. 31. From A. MACGREGOR, Esq., Collector of Malabar, to the Hon. D. F. CARMICHAEL, Acting Chief Secretary to Government, Fort St. George, dated Calicut, 2nd October 1874, No. 68.

I have the honor to forward a letter from the Honorary Secretary, Wynaad Planters' Association, Vythery, which embodies a Resolution passed at a recent meeting of the Association regarding the question of headquarters in Wynaad.

2. The fact stated that the Planters of South and South-East Wynaad number ninety-five compared to fourteen in North Wynaad is correct. The number of the latter was reported by me as twenty, since which time six have migrated to South Wynaad, their places in the North not having been filled up.

3. The presence of European Planters in one part of Wynaad and their absence in another is a direct index of a corresponding activity or the reverse in business, expenditure of money, importation of labor, carriage of produce, &c.; in fact, in all those transactions which set Magisterial, Revenue, and Police Officers at work. The location of such officers in a place thirty miles distant from the centre of business is a step which I have already strongly deprecated.

4. The Secretary informs me that the Association are anxious to send a deputation at once to Ootacamund to present an Address to His Excellency the Governor on this subject and name the 16th instant as the date on which they would, if permitted, attend.

5. Possibly, as His Excellency purposes visiting South-East Wynaad in the beginning of November, it would be considered more convenient to postpone the matter till then.

6. In such a case it would be advisable to instruct the Special Executive Engineer not to take any measures on the late Order such as would embarrass the Government in the event of their recent orders being reconsidered.

From E. S. S. THOMPSON, Esq., Honorary Secretary, Wynaad Planters' Association, to the Hon. D. F. CARMICHAEL, Acting Chief Secretary to Government, Fort St. George, dated Vythery, 1st October 1874.

I have the honor to inform you that I have been requested to lay before you the following Resolution which was unanimously carried at a general meeting of this Association held yesterday, at which thirty-six of its members were present:—

"The general body of the Planters of South and South-East Wynaad learn with astonishment that Manantoddy has been selected as the headquarters of the Deputy Collector and Assistant Superintendent of Police of Wynaad.

"In the opinion of this meeting the carrying out of such a proceeding is calculated to have a most injurious effect on the interests of the district, and, considering the number of estates and Planters in the North compared with those in South and South-East Wynaad, it is eminently unfair.

"It is resolved, therefore, that a special deputation of this Association should wait upon Lord Hobart at an early opportunity to lay this subject clearly before the Government and at the same time to point out that the apparent apathy of the Planters of South and South-East Wynaad as to the selection of Manantoddy as the permanent station of the Government officials proceeded

from the earnest wish of the Wynaad Planters' Association to refrain from assuming an antagonistic position towards that of North Wynaad in advocating a matter of local interest.

"And that a communication on the subject be immediately addressed to the Chief Secretary to Government, Fort St. George, and forwarded to him through the Collector of the district."

2. I am further directed to point out to you that the silence of the Planters on this subject partly arose from the prevailing idea that the Government were fully aware of the superior claims of Vythery and that the question had already been decided in favor of that place. I have the honor to lay before you the following figures, which are reliable. In South and South-East Wynaad there are ninety-five (95) resident European Planters, in North Wynaad there are fourteen (14), and it is believed that native interests are nearly equally represented in all three divisions, though possibly North Wynaad has a small majority of Native Coffee Planters. Statistics as to names of the Europeans, number of estates, with area, &c., can be furnished if necessary.

3. I am to say that, though not absolutely the most *central* position, the Planters of both South and South-East Wynaad are unanimous in desiring that the Government headquarters of the taluq should be placed at Vythery. Manantoddy is at one end of the district and therefore quite unsuited for the purpose; whereas Vythery, while being fairly central, is by far the most populous and rising station in Wynaad.

4. In the late Order of Government disposing of this question Colonel Kennedy, the District Engineer, is said "to advocate Manantoddy particularly on the ground of its being less insalubrious than Vythery." I am desired to express the doubts of the Association as to the correctness of this assertion. Vythery is at a higher elevation than Manantoddy, and, being more favorably situated, is visited throughout the hot weather by a strong sea-breeze which, as a rule, sets in as early as 10 o'clock in the morning and continues all day, so that it would be naturally supposed to be the healthier station of the two.

5. In conclusion, I have the honor to beg that you will lay this letter before His Excellency the Governor in Council for his favorable consideration and to inform him that it is the humble, though earnest, petition of all the Planters in South and South-East Wynaad that the recent Order of Government on the subject may be rescinded and the offices of the Deputy Collector of Wynaad together with that of the Assistant Superintendent of Police transferred to Vythery.

No. 32. To His Excellency the Right Hon. VERE HENRY HOBART, *LORD* HOBART, *Governor of Fort St. George.*

My Lord,—We, the Committee of the Wynaad Planters' Association, beg most respectfully to welcome your arrival into our district and to express our extreme satisfaction at the opportunity now afforded to us of pointing out to your Lordship our most urgent requirements.

2. We have had the honor on two previous occasions of laying before your Lordship's predecessors the various wants of the district, and, while expressing our gratitude for what has been done, would venture respectfully to call your attention to the fact that most of the subjects to which we are about to refer are a repetition of those then alluded to.

3. Since October 1866, when we were honored by a visit from Lord Napier, there has been a marked improvement in the prosperity and importance of the district. In that year the area of land paying tax to Government was 21,500 acres while at the present moment there are no less than 34,000 acres under coffee cultivation, not including the Ouchterlony Valley, containing some 4000 acres, which has been ceded to the Nilgiri Commission.

Proceedings of the Madras Government, Judicial Department, 7th January 1875.

We are unable to furnish you with figures showing the revenue of the taluq in the year 1866; but a sufficient indication of the rapidly-increasing wealth of the district may be shown by a comparison extending over only two years.

In 1871-72 the total revenue from all sources was *Rupees* 2,00,800, in the past year the revenue was *Rupees* 2,16,700, and this notwithstanding the cession of the Ouchterlony Valley.

4. This prosperity is largely attributable to the assistance afforded us by Government in the matter of improved communications and the more liberal construction put upon the only law which exists between master and servant. Most particularly have we to thank your Lordship's Government for the recent satisfactory changes in our postal service, owing entirely to the energy and interest evinced by the present Postmaster-General.

5. But, notwithstanding the enhanced importance of the district, we are still in much the same position as regards the more pressing matters asked for, the main points being

The want of a resident European Magistrate in a central position,
An improved local Magistracy,
An efficient Labor Ordinance, and
A special Act to check the terribly-increasing crime of coffee-stealing.

6. It is the intention of the Planters to submit a memorial to your Lordship in Council which will deal at length with these latter subjects, so we will only briefly refer to them here. It is a deplorable fact that under the present inadequate law we are losing large sums of money yearly in advances; we are utterly unable to control the relations between employer and employed, and, though suffering seriously from the increasing want of labor, we are unable to compete with settlers in other more favored countries, who are attracting our own coolies from the very districts which should supply us, and are, moreover, able to keep them.

7. With regard to coffee-stealing, we regret to observe that your Lordship in Council does not deem that a law similar to the Madras Town Police Act is appropriate to, or necessary for, Wynaad. It is our respectful opinion that all the reasons existing in Madras for such an Act exist in the Wynaad with increased force, *viz.*, facility in the offence and difficulty of unassisted detection.

We humbly, though earnestly, trust that, when statistics of the great losses and difficulties which we incur are laid before you, your Lordship will be induced to reconsider your determination.

8. The principal subject with which we have to trouble your Lordship to-day is one to which our attention has been called by a recent Order of your Lordship's Government. We refer to the selection of the headquarters of the leading Wynaad officials.

A glance at a map of the district will at once demonstrate that Manantoddy is, geographically speaking, a most inconvenient situation and quite at one end of the taluq; but there are, doubtless, some reasons in favor of this site which influenced your Lordship in your recent decision.

We are of opinion that the largely-increased revenue and importance of the district would warrant the entertainment of a second European Magistrate for Wynaad; but, should such a measure prove impracticable, we must most strongly

urge upon your Lordship the necessity of placing the taluq headquarters in the most central position to meet the convenience of the great majority of the Planters. It will be observed that a spot between Culputty and Choondale would answer every requirement in this respect.

We are extremely averse to urging any measure suggestive of rivalry between the different portions of the district, and it was our impression that the question had already been quite differently decided by your Lordship's Government.

It has now become our imperative duty to point out clearly to your Lordship the true merits of the case. There are now 102 European residents in South and South-East Wynaad representing coffee plantations to the extent of 17,700 acres, while the native holdings number 3794 and their acreage is 5280, making a total of 22,980 acres under cultivation with coffee; and the actual expenditure in cash on the European estates in these two districts during the past year was *Rupees* 12,5[illegible],198.

In North Wynaad we believe that there are fifteen European Planters. Their extent of land paying tax amounts to 5640 acres, and there are 3423 native holdings owning 5384 acres, or a total of 11,024 acres; these figures, therefore, obviously show a large preponderance of Europeans who are unanimous in wishing that the headquarters of the district be established at the place before specified. It is true that, as far as native holders are concerned, their numbers are equal; but we presume that the total native population of South and South-East Wynaad combined must far exceed that of the North. In a district like Wynaad, however, the main point for consideration must be the fact that it is, in reality, an English settlement; and, bearing in mind the large capital the Europeans have introduced, the energy, spirit, and perseverance that they have shown, it is but fair to expect that their interests should receive the support which we humbly submit they so amply deserve.

An objection has been raised to the site which we advocate on the ground that it is not so salubrious as Manantoddy.

While recognizing the importance of locating the principal Government officials in the most healthy place practicable, we earnestly, but respectfully, maintain that Choondale will bear favorable comparison with Manantoddy.

There is a suitable site, which we have reason to believe could be obtained without any difficulty, possessing the advantages of an elevation of 3000 feet, a registered annual rainfall averaging 115 inches (which may be considered moderate for Wynaad), a climate suited to all classes, not forgetting the native community, and a position most fairly central for the whole district. As evidence of the unsuitability of the present headquarters of the officials we would quote the difficulty which our present Deputy Magistrate experiences in travelling throughout the district as freely and constantly as we have a right to expect.

9. In addition to our wants with regard to the European officials we must beg to call your Lordship's attention to the way in which the important sub-divisions of South and South-East Wynaad are treated in the matter of the Native Courts, which are the only seats of justice to which the residents there have to resort. At the present moment there are only 3rd-Class Native Magistrates at both Goodaloor and Vythery, neither of whom have any Munsif's powers. One case illustrative of the way in which the law is administered at these Courts may be briefly quoted. A contractor undertook to fell, clear, and pit 100 acres of forest land and obtained from the employer from time to time a sum amounting to *Rupees* 1,600 in advance. He felled forty acres of forest and since then has done nothing more whatever. The employer applied to the Vythery Court. After some trouble a warrant was issued, the defaulter arrested and convicted. The Magistrate's powers only enabled him to award as punishment one month's simple imprisonment, which consisted of being kept under restraint at Vythery, where the prisoner was allowed to have his own friends to wait upon him. The employer during this term attended the Court in order to file a civil suit for the recovery of the money. The answer he received was that the official there had no Munsif's powers and would not even receive the plaint. The culprit is now at large and the money is lost.

10. With regard to South-East Wynaad, we would suggest that the Court now located at Goodaloor be transferred with increased powers to Devala.

Your Lordship will probably raise the objection that Government have already spent large sums of money in erecting public buildings at Goodaloor; but we would humbly submit that these might be utilized, *first*, as a public bungalow, a want sorely felt for the convenience both of officials and the public generally, and, *secondly*, as a Jail, and again as a Post-Office, for which we understand a sum of Rupees 3,000 has been lately sanctioned.

11. To render any law effective in a district like this it is our humble opinion that Honorary Magistrates should be appointed with such powers as your Lordship may think fit. There are many European gentlemen of high standing and position in whom we are sure your Lordship's Government might place full confidence. Such a measure as this would obviate many of the existing difficulties with which we have to contend and at the same time afford additional protection to the natives.

12. We thank your Lordship for your lately-sanctioned re-organization of the Wynaad Police, though we would beg that the Assistant Superintendent may have his headquarters at Choondale together with the other leading officials.

We have to express our gratification at the improved state of our roads during the last few years, though we must remind your Lordship that a great deal has still to be done to render some of the most important lines even passable.

In conclusion, we beg to assure your Lordship that we feel the greatest confidence in the results of this your Lordship's first visit to Wynaad and the consideration which you will give to our wants and interests. We trust that you will honor us in like manner at a future date.

9th November 1874.

We have the honor to be,
My Lord,
Your Lordship's most obedient servants,

(Signed) J. W. MINCHIN.
(") E. H. HAMLIN.
(") J. H. IRVINE.
(") W. V. HUDLESTON.
(") W. GOLE.
(") W. MACKINLAY.
(") J. S. VANREESEMA.
(") E. TROLLOPE.
(") E. A. TANQUERAY.
(") J. F. GAITSKELL.
(") E. S. S. THOMPSON.

List of European Planters in Wynaad.

North Wynaad.

A. H. Anderson.
L. Boyer.
J. Brown.
Dr. Creame.
H. Dawson.
W. Dawson.
F. W. Ditmas.
C. Fletcher.
J. Lowry.
Captain Puddicombe.
W. T. Rayne.
T. R. Richmond.
C. F. Wilkins.
Colonel Wooldridge.
Dr. Hoston.

South-East Wynaad.

E. Atkins.
R. V. Capps.
Captain Cox.
C. R. Dawson.
A. J. Griffin.
W. Gole.
P. C. Guard.
E. H. Hamlin.
J. H. Irvine.
J. W. Kenrick.
J. W. Minchin.
—— Milne.
R. Wilkinson.
S. H. Powell.
W. Packard.
S. Prager.
J. J. Roberts.
H. V. Ryan.
J. W. Ryan.
A. H. Steedman.
J. H. Thomson.
A. Vigor.
G. Vigor.
A. Wright.
R. H. Williams.
Adol. Wright.
G. H. Withers.

South Wynaad.

H. Atzenwiler.
F. J. Budd.
A. B. Brabant.
A. Brown.
J. D. Bell.
G. Baumback.
A. Brunton.
H. Brunton.
T. J. Boosey.
H. W. Brown.
J. B. Buckham.
P. Batty.
G. F. Brown.
C. B. Barclay.
J. Cochran.
R. Darling.
J. Fargie.
J. Godfrey.
E. G. Gilbert.
J. F. Gaitskell.
Captain Gaitskell.
W. Grant.
A. Higgins.
G. L. Harcourt.
A. R. Higinbotham.
W. V. Hudleston.
J. W. Hockin.
F. P. Hughes.
—— Henslowe.
Dr. Henderson.
Dr. Hannay.
C. Imray.
J. Jardine.
T. Jones.
E. Jones.
A. Kenny.
A. Lovett.
R. Leigh.
A. Lowe.
E. C. Mitchell.
J. R. Malcolm.
C. S. Moon.
W. Mackinlay.
T. Mitchell.
—— Morteau.
S. Miller.
C. Mackenzie.
A. MacCulloch.
J. Nicholas.
C. A. Paterson.
P. S. Punnett.
H. Punnett.
C. Puddicombe.
W. Prager.
R. Prager.
J. Robertson.
M. Rimington.
C. Y. Reed.
J. W. Smith.
J. Smith.
E. S. S. Thompson.
A. L. Tod.
E. A. Tanqueray.
F. H. Tomlinson.
E. Trollope.
J. S. VanReesema.
C. Wildes.
A. J. Wildes.
Geo. Wildes.
H. B. Winterbotham.
R. K. Walker.
R. West.
A. West.
C. Huxam.
J. B. Kibble.

Proceedings of the Madras Government, Judicial Department, 7th January 1875.

No. 33. From Captain W. S. H. COX, to Captain A. AWDRY, R.E., Private Secretary to His Excellency the Governor of Madras, dated Charambady, 2nd November 1874.

As it is not likely that any estate proprietor from the Charambady District will be present to meet His Excellency the Governor on his visit to Wynaad I have the honor to request that I may be allowed to represent in writing the necessity which exists for the better administration of justice in South-East Wynaad.

2. The public offices are now at Goodaloor, which is quite at one end of the district—a district which extends as far as Mopynaad, some thirty-five or forty miles from Goodaloor. The means of obtaining justice are thus withheld from the inhabitants of half the district, for no Planter, much less a native who would have to perform his journeys on foot, could give the time and expense which would be entailed in travelling backwards and forwards.

3. Added to this the present Magistrate at Goodaloor is furnished with such inferior powers that for the administration of the law, more especially cases coming under the Penal Code, he is practically useless.

4. The establishment at Devala—which is about the centre of the district and, moreover, a very healthy spot, while Goodaloor is a most unhealthy one—of a Magistrate invested with first-class powers is, I think, the most pressing requirement of South-East Wynaad.

No. 34.

To His Excellency the Right Hon.
VERE HENRY HOBART *LORD* HOBART,
Governor of the Presidency of Fort St. George.

May it please Your Excellency,—We, the Planters' Association of North Wynaad, desire to express our congratulations on your Lordship's visit to North Malabar, of which our district forms an important part. We regret that your Lordship has not had an opportunity of visiting Manantoddy, the principal town of the taluq and of the oldest coffee district of Wynaad. We are glad to see that the growing importance of the coffee interests have attracted the attention of Government, and we doubt not that the result of your Lordship's visit and personal inquiries will be highly beneficial to the taluq of Wynaad.

We now desire, as shortly as possible, to lay before your Lordship the principal matters connected with our district which we consider require attention—

1. In 1866, in our Address to Lord Napier on his visit to Manantoddy, we had the honor to bring to his notice the inadequacy of Act XIII. of 1859 in its provisions against criminal breach of contract by laborers and artisans, and in his Lordship's reply he stated that the terms of the Act should be brought under the consideration of the Law Officers of the Government in the hope that some modification might be suggested. We are not aware that any steps were ever taken to fulfil that promise; we have, however, received no communication from Government on the subject and the Act remains unchanged. Since that date breaches of contract have year by year increased in number, parties receiving advances for labor feeling that they can with impunity disregard their contracts and appropriate the advances. Planters have learnt from experience that it is best to put up with the first loss, and so comparatively few warrants are ever now taken out under the Act. The difficulties experienced are considerably enhanced by the passive opposition of the Mysore authorities and by the prohibitory rates demanded for serving warrants in that Province as compared with those in Malabar. We hope that ere long a Labor Ordinance modelled after the Ceylon one will be introduced; but in the meantime some modification of the existing Act seems absolutely necessary.

2. We acknowledge with gratitude that considerable progress has, under the able management of Lieutenant-Colonel R. B. Kennedy and his Assistants, been made towards improving the roads of our district. Much, however, still remains to be done, particularly to the trace of the Periah-Manantoddy and to the opening out of the Periah-Carooth roads, for which a loan of Rupees 60,000 has been sanctioned by your Lordship's Government but is not yet available for disbursement. A considerable force of labor has been collected for the prosecution of this work, which will have to be dispersed if funds are not shortly forthcoming, in which case the district will sustain a serious injury by the works being postponed for another monsoon. But what we more particularly wish to draw your Lordship's attention to is the state of the communications beyond the Wynaad frontier in the Mysore and Coorg country, which are such as practically to isolate us from the only available grain-producing districts for several months in the year. The Mysore-Manantoddy road is unbridged and only maintained as a third-class road so far as that part of it is concerned in which we are specially interested, whilst that part of it which more immediately affects Mysore is being brought into the condition of a first-class road. Twenty miles of ill-kept, unbridged and therefore boggy, road separate us from our principal and almost only grain market, the road towards which, so far as it lies in Madras territory, is bridged and in passable condition throughout the monsoon. For the last fifteen or twenty years this piece of road has been the subject of constant complaints from Wynaad, but little, if any, attention has been paid to them by the Mysore authorities, and we now conclude that our only hope of obtaining redress on this subject is through the Madras Government. The Coorg road, which has always been recognized as an Imperial communication, has been completed, as a fine-weather road, so far as it lies in the

Madras Presidency; but on the Coorg side of the frontier nothing beyond a bridle-track (now overgrown with jungle and impassable) has been made. We have recently learnt that the Secretary to the Chief Commissioner of Coorg, Public Works Department, has entirely abandoned all idea of the further prosecution of work on this road in consequence of the reductions in the Coorg Budget grants. We trust, however, that your Lordship will recognize the great importance of this road and that you will urge on the Supreme Government that an allotment from Imperial Funds be made to complete it through Coorg territory.

3. The present assessment on Government waste lands is felt to press heavily on Planters, particularly that on uncultivated and grass land. It has for some years past been apparent that considerable blocks of land are necessary for the grazing of stock on every estate, and, where no natural pasturage exists, the forest must be cleared and grass cultivated for that purpose. We therefore beg to point out the necessity that exists for some alteration of the present assessment, and we would venture to suggest that the tax on uncultivated Government waste lands in Wynaad be, in a measure, assimilated to that on cultivated lands in Assam.

4. Coffee-robbery has now assumed such proportions that increased facilities for its detection and punishment should be provided. We see in the appointment of an Assistant Superintendent of Police to Wynaad that the Government recognizes the necessity of dealing with this subject; but we would point out that under the existing laws it is very difficult to secure convictions owing to the impossibility of identifying stolen coffee. It has been found necessary in the large coffee-producing Colony of Ceylon to pass an Act for the suppression of coffee-robbery, and we think that the main provisions of that Act might be adapted with great advantage to the coffee-producing districts of this Presidency.

5. The entire absence of a Small Cause Court for Wynaad, except for suits below Rupees 50, we feel as a great hardship. Our advances for labor being in almost every case over Rupees 50 we have no ready means of recovering the money through a Civil Court in case of default. Situated as we are so close to the Mysore and Coorg frontiers celerity is all-important in suits of this nature; the delays of the Munsif's Court render it utterly unsuitable in such cases. We have recently memorialised your Lordship on this subject, and, though we have not been honored by a reply to that portion of our memorial, we venture to hope that the matter has not been lost sight of by the Government.

6. The inadequacy of the present supply of small coin has on more than one occasion been brought to the notice of the Collector of Malabar, but, so far as we can judge, without any steps having been taken to increase the supply. As employers of large numbers of laborers we find that a liberal supply of small coin is very necessary.

7. For the last three years a new disease, known by the name of the leaf disease, has been prevalent throughout Wynaad, causing, besides diminished crops, great, and possibly lasting, damage to the trees. We regard this as a most serious visitation, and we think that immediate steps should be taken to ascertain and inquire into its nature in a scientific manner with a view to the discovery of a remedy, and we would venture to suggest that, as in 1868, when Dr. Bidie was

appointed to inquire into the ravages of the borer, a scientific man may now be deputed to investigate the leaf disease.

8. In conclusion, we have to thank your Lordship for having afforded us this opportunity of personally informing you of our most important requirements and of testifying with our Mahomedan and Hindu fellow-Planters our loyalty to our Sovereign, and wishing your Lordship a safe return to the Presidency, we now take our leave with the assurance that, had this visit been extended to Manantoddy, it would have given great pleasure and satisfaction to all classes of the important European and Native community of North Wynaad.

We have the honor to be,

Your Lordship's most obedient, humble servants,

(Signed) T. R. RICHMOND,
Chairman of the Planters' Association of North Wynaad.

(„) F. W. DITMAS,
Honorary Secretary of the Planters' Association of North Wynaad.

No. 35. To His Excel. the Right Hon. LORD HOBART,
Governor in Council of Madras.

The petition of the Hindu and Mahomedan inhabitants who are Coffee Planters of North Wynaad states—

That petitioners respectfully beg that the following circumstances may be taken into consideration.

2. That, having heard that your Lordship intended to visit Wynaad for the purpose of seeing how the district was getting on, the people were looking forward to the event with delight and anxiety, when they were unfortunately informed that North Wynaad was not to be honored by a visit from your Lordship.

3. That the native inhabitants of North Wynaad have for some time turned their attention to coffee-planting, which being carried on on an extensive scale and being given out on contract, the impediments attending the system can hardly be removed by the defective provisions of Act XIII. of 1859, and that the introduction into this district of the rules obtaining in Ceylon will prove beneficial.

4. That the Kuttyadi Ghaut, which is the line of communication for articles, laborers, &c., between the plains and the Western Division of North Wynaad, where coffee plantations are thriving, not being suitable for conveyances, and the roads and bridges between Manantoddy (headquarters of Wynaad) and Coorg and Mysore being in a bad condition, the transit of grain, &c., to Wynaad, in proportion to its wants, is attended with inconveniences which result in the sufferings of the people and in a paucity of provisions; that there are no cart-roads between Periya and Carooth and between Kuttyaddy and Manantoddy, and that there is no bridge over the Manantoddy river, which also occasions inconvenience to travellers; that petitioners are given to understand that the money which the Government has set apart to assist the Local Fund Board with for the purpose of repairing these roads has not yet been given on account of the sanction of the Government of India not having been obtained; that the immediate payment of this amount and issue of orders for the execution of the works will serve to improve the condition of Wynaad and thereby secure prosperity to the people.

5. That petitioners understand that it has been decided to erect a new building for the Wynaad Deputy Collector's office at Manantoddy, which is all right as far as the situation of Wynaad and the security of the people are concerned; that there is still another defect remaining to be supplied and that is the want of a Small Cause Court having power to dispose of suits of more than 50 Rupees value, as many of the transactions and contracts of coffee traders are of a higher value than 50 Rupees; that they wish for a remedy for this defect also.

6. That the levy of a reduced rate of assessment from persons holding lands necessary for coffee cultivation or equalizing it with the rates established for some other countries will prove beneficial to those employed in coffee planting.

7. That a great majority of the native inhabitants of Wynaad are now prepared gladly to fulfil the necessity of (simply to undertake) coffee cultivation; that the difficulty they experience in getting such lands as they require for the purpose is an obstacle to their joyous undertaking; that great part of the land in certain localities of Wynaad is Government property; that the grant of these jungle lands and waste hills, either on a seigniorage or on some special conditions, to applicants for lands for cultivation will facilitate the improvement of the circumstances of the people, diminish the gloominess of Wynaad, tend to prevent disease, multiply the population, and increase the wealth of the country.

8. That the coffee plants of Wynaad appear to have recently commenced to decay and the leaves fall off; that this is conjectured to be some disease in the plants and nobody here knows clearly what the cause is; that petitioners understand that there are doctors skilled in examining and detecting these causes; that, if the Government will kindly enable petitioners to discover the causes of this disease, it will be conferring a great boon upon them.

9. Petitioners pray that the facts mentioned may be taken into consideration and steps taken for effecting the necessary improvements, and they also beg to tender their thanks for the interest your Lordship takes in the welfare of the people.

10*th November* 1874. Signed by ATTILAN BAPPAN and 97 others.

(A true translation.)

(Signed) E. THOMPSON,
Malayalum Translator to Government.

No. 36. Order thereon, 7th January 1875, No. 35.

South and South-East Wynaad.—In this Address the Planters ask, first, to have a second European Magistrate in the taluq; but, if that is inadmissible, that the present Divisional Officer be placed more centrally than at Manantoddy

in the north of the taluq. Comparing North and South Wynaad, they give the following figures:—

	North.	South.
European Planters	15	102
Cultivation Acreage	5,640	17,700
Native Planters	3,428	3,794
Cultivation Acreage	5,384	5,280

They also point out that the total native population of South and South-East Wynaad far exceeds that of North Wynaad.

2. It is observed that the present superior staff of the Wynaad is distributed as follows:—

I.—At Manantoddy.

(*a.*) A 1st-Class Deputy Collector and Divisional Magistrate, who has also the jurisdiction of a District Munsif, *i. e.*, up to 2,500 Rupees in ordinary suits and 50 Rupees in Small Causes.

(*b.*) A Tahsildar and Magistrate of the taluq.

II.—At Vythery.

A Deputy Tahsildar and 3rd-Class Magistrate.

III.—At Goodaloor.

A Deputy Tahsildar and 3rd-Class Magistrate. Both the officials at Vythery and Goodaloor have also the jurisdiction of a District Munsif. They have possessed this jurisdiction for some years; the statement to the contrary in the present Address is inexplicable. A Return of their work was before Government in September last: G.O. 11th of that month, No. 1685.

3. The Governor in Council is of opinion that the time has come for favorably considering the application of the Wynaad Planters for a second officer in this exceptional taluq, with powers co-ordinate with those exercised by the Deputy Collector stationed at Manantoddy, which, however, from its size, and importance as the only *town* in the district, must always remain as the capital. The Collector of Malabar will be called upon to state where a second Deputy Collector should be placed, and how much of the salary of the office could be met by the abolition of one of the Deputy Tahsildars and Magistrates; also where, under the new arrangement, this subordinate officer should have his headquarters. Both subordinates, it is presumed, could not be dispensed with, on the appointment of a second Deputy Collector. The lowest grade of Deputy Collector is assigned 250 Rupees a-month, but this would probably be insufficient for the Wynaad. The present officer at Manantoddy draws a special allowance of Rupees 150.

4. To this newly-appointed officer, as well as to the Deputy Collector at Manantoddy, the Governor in Council is prepared to assign the powers of a Small Cause Court up to 500 Rupees, if the Collector reports in favor of the proposal. Meanwhile the Magistrates at Vythery and Goodaloor, as well as the Tahsildar-Magistrate at Manantoddy, will be invested with the powers of a Magistrate of the 2nd Class. Mr. Macgregor will also give his opinion on the suggestion that Honorary Magistrates should be appointed by selection amongst the European Planters, or as a Bench in association with the Deputy Collector-Magistrates.

5. The Planters from both South and North Wynaad complain of the inadequacy of Act XIII. of 1859. The Governor in Council is entirely opposed to enlarge the existing labor laws in their favor. The statement in the case cited that as the defaulter has worked out his term of imprisonment, "the money advanced is lost," is obviously erroneous; the act does not deprive the complainant of his civil remedy (Section 2). From North Wynaad, a complaint is made of the difficulties experienced in working the Act "by the passive opposition of the Mysore authorities and by the prohibitory rates demanded for serving warrants in that Province." The Collector will invite a detailed narrative of these grievances, in view to a communication being made to the Chief Commissioner, if necessary. The alleged bad state of the roads beyond the Wynaad frontier in the Mysore and Coorg country, will be referred for Sir R. Meade's consideration.

6. It is asserted that the present land assessment is in some respects found to press heavily on the Planters. His Excellency in Council is not disposed to make any change; he observes that forest land is 2 Rupees an acre, with no assessment payable till the fourth year. Grass land is ½ Rupee an acre, payable from date of appropriation.

7. *Coffee Robberies.*—The Planters are in error in supposing that a Coffee-stealing Ordinance has passed the Ceylon Legislature. There is a Bill with that object now before the Council at Colombo. If it passes and is found to give satisfaction, the memorialists can re-open the subject; but, as at present advised, the Governor in Council is averse to entertain the project for legislating in this direction.

8. *Periah Ghaut Lean.*—This is before the Government of India, with the recommendation of this Government.

9. *Deficiency of Small Coin.*—The Accountant-General will report.

10. *Coffee Leaf Disease.*—The Governor in Council is prepared to give the services of any competent officer to investigate the matter. The Collector will state at what season of the year the inquiry should be made, and whether he can name any one for the duty, after consulting the Planters.

11. The NATIVE ADDRESS is an echo of the Address last mentioned. The writers complain specially, however, of their difficulties in getting land. The Collector will report whether there is any unnecessary delay in his office in attending to applications for land.

(True Extract.)

Acting Chief Secretary.

To the Collector of Malabar, for communication to the Planters.
" Chief Commissioner of Mysore.
" Revenue Department.
" Accountant-General.

Ed. A. S. Rodgers.

Ea-4-96.
28-9-96.

To

His Excellency the Right Honble

Lord Hobart

Governor in Council of Madras.

The petition of Hindus and Muhammadan

inhabitants who are Coffee planters of

North Wayanad

Sheweth

That Petrs respectfully beg that

the following circumstances may be taken

into consideration

1st That having heard that your

Lordship intended to visit Wayanad for the

purpose of seeing how the District was getting

on, the people were looking forward to the event

with delight and anxiety, when they were unfortunately informed that North Wayanad

was not to be honored by a visit from

your Lordship.

Copy of letter
JUDICIAL.
To
The COLLECTOR of MALABAR,
&c. &c. &c.
JANUARY.
Nos. 31–36
I.O. No 9910775
Wynaad—Original Petition presented on certain Alterations
Planters of Wynaad soliciting the appointment
an additional European Magistrate, &c.

X

7th Jany 75
Petition of Inhabts of
Wynaad
Prays for Alteration
Abolition of Coffee
appointt

3. That the native inhabitants of North Wayanad have for some time turned their attention to Coffee planting which being carried on on an extensive scale and being given out on contract the impediments attending the system can hardly be removed by the deficient provisions of Act XIII of 1863; and that the introduction into this District of the rules obtaining in Ceylon will prove beneficial.

4. That the Kuttiyadi ghaut which is the line of communication for articles — Cabooree &c between the plains and the Western division of North Wayanad where Coffee plantations are thriving most being suitable for conveyance and the roads and bridges between Manandode (head quarters of Wayanad) and Coorg and Nugpore being in a bad condition the transit of grain to Wayanad in proportion to its wants is attended with inconveniences which result in the sufferings of the people and in a paucity of provisions: that that there are no cart roads between Periya and Kárótth and between Kuttiyadi and Manantode and that there is no bridge over the Manantode river which also occasions inconvenience

to travellers: that Petns are given to understand that the money which the government has set apart to assist the Local Fund Board with, for the purpose of repairing these roads, has not yet been given on account of the sanction of the Government of India not having been obtained: that the immediate payment of this amount and the issue of orders for the execution of the works will serve to improve the condition of Wayanad and thereby secure prosperity to the people.

5. That Petns understand that it has been decided to erect a new building for the Wayanad Collector's office at Manandode which is all right as far as the situation of Wayanad and the security of the people are concerned: that there is still another defect remaining to be supplied and that is the want of a small Cause Court having power to dispose of suits of more than 50 Rupees' value, as many of the transactions and contracts of Coffee traders are of a higher value than 50 Rupees: that they wish for a remedy for this defect also

17 WW

2

b. That the levy of a reduced rate of assessment from persons holding lands necessary for Coffee cultivation or equalizing it with the rates established for some other Countries will prove beneficial to those employed in Coffee planting.

7. That a great majority of the native inhabitants of Wayanad are non prepared gladly to fulfil the necessity of (or kindly to undertake) Coffee cultivation: that the difficulty they experience in getting such lands as they require for the purpose is an obstacle to their joyous undertaking; that great part of the land in certain localities of Wayanad is Government property; that the grant of these jungle land and waste hills either on a Seigniorage or on some special conditions to applicants for lands for cultivation will facilitate the improvement of the circumstances of the people, diminish the gloominess of Wayanad, tend to prevent diseases; multiply the population and increase the wealth of the country.

8. That the Coffee plants of Wayanad appear to have recently commenced to decay and the leaves fall off: that this is conjectured to be same disease in the plants and no body here knows clearly what the cause is: that Petro understand that there are doctors skilled in examining and detecting these causes: that if the Govt will kindly enable Petro to discover the causes of this disease, it will be conferring a great boon upon them.

9. Petro pray that the facts mentioned may be taken into consideration and steps taken for effecting the necessary improvements; and they also beg to tender their thanks for the interest your Lordship takes in the welfare of the people.

10th Nov 1876 } Signed by Attilan Bappan and 97 others.

(A true translation)

Edward Thompson

Malayalam Translator to Govt

No 35 —

S. C. No. 35 11th Jany 1875 Judt

To

His Excellency
The Right Honorable Vere Henry Hobart
Lord Hobart
Governor of the Presidency of Fort St George

May it please your Excellency

We the Planters Association of North Wynaad, desire to express our congratulations on your Lordships visit to South Malabar, of which your District forms an important part. We regret that your Lordship has not had an opportunity of visiting Manantoddi, the principal Town of the Taluq and of the oldest coffee district of Wynaad. We are glad to see that the growing importance of the Coffee Interests have attracted the attention of Government, and we doubt not that the result of your Lordships visit and personal enquiries will be highly beneficial to the Taluq of Wynaad.

We now desire as shortly as possible to lay before your Lordship the principal matters connected with our District, which we consider require attention.

1. In 1866 in our Address to Lord Napier on his visit to Manantoddi, we had the honour to bring to his notice the inadequacy of Act XIII of 1859 in its provisions against Criminal Breach of Contract by Laborers and Artizans: and in his Lordships reply he stated that the terms of the Act should be brought under the consideration of the Law Officers of the Government in the hope that some modification

might be suggested. We are not aware that any steps
have ever been taken to fulfil that promise; we have however
received no communication from Government on the
subject, and the Act demands prichanges. Since
that date breaches of contract have year by year
increased in number; parties receiving advances for
labor feeling that they can with impunity disregard
their contracts and appropriate the advances. Planters
have learnt from experience that it is best to put up
with the first loss; and so comparatively few warrants
are ever now taken out under the Act. The
difficulties experienced are considerably enhanced
by the passive opposition of the Mysore authorities,
and by the prohibitory rates demanded for serving
warrants in that Province, as compared with those
in Malabar. We hope that, ere long, a Labor
Ordinance, modelled after the Ceylon one will be
introduced; but in the meantime some modification
of the Existing Act seems absolutely necessary.

2. We acknowledge with gratitude that considerable
progress has, under the able management of
Lt. Col. R. B. Kennedy and his Assistant been
made towards improving the roads of our District.
Much however still remains to be done; particularly
to the trace of the Periah-Manantoddi and to the
opening out of the Periah-Tyrcode roads: for
which a Loan of Rs 60,000 has been sanctioned
by your Lordship's Government, but is not yet
available for disbursement. A considerable force
of labor has been collected for the prosecution of this
work, which will have to be dispersed if funds are
not shortly forthcoming; in which case the District

will sustain a serious injury by the roads being
postponed for another monsoon. But what we par-
ticularly wish to draw your Lordships attention to
is the state of the communications beyond the Mysore
Frontier in the Mysore and Coorg country; which
are such as practically to isolate us from the only
available grain producing Districts for several months
in the year. The Mysore - Manantoddi road is
unbridged, and only maintained as a 3rd class road
so far as that part of it is concerned in which we
are specially interested; whilst that part of it,
which more immediately affects Mysore is being
brought into the condition of a 1st class road.
Twenty miles of ill-kept, unbridged and therefore
boggy roads separate us from our principal, and
almost only, grain market - the roads towards
which, so far as it lies in Madras Territory is bridged
and in passable condition throughout the monsoon.
For the last 15 or 20 years this piece of road has
been the subject of constant complaints from Mysore
but little, if any, attention has been paid to them
by the Mysore authorities and we now conclude
that our only hope of obtaining redress on this
subject is through the Madras Government. —
The Coorg Roads, which has always been recognised
as an Imperial communication has been completed
as a fine weather road, so far as it lies in the
Madras Presidency; but on the Coorg side of
the Frontier nothing beyond a bridle track (now
overgrown with jungle, and impassable) has been
made. We have recently learnt that the
Secretary to the Chief Commissioner of Coorg, Public

Work Department, has entirely abandoned all idea of the further prosecution of roads; in consequence of the reductions in the Coorg Budget Grant. We trust however that Your Lordship will recognise the great importance of this roads, and that your will urge on the Supreme Government, that an allotment from Imperial Funds be made to complete it through Coorg Territory.

3. The present Assessment on Government Waste Lands is felt to press heavily on Planters, particularly that on uncultivated or grass lands. It has been apparent, that considerable block of lands are necessary for the grazing of stock on every estate; and where no natural pasturage exists the forest must be cleared and partly cultivated for that purpose. We therefore beg to point out the necessity that exists for some alteration of the present Assessment; and we would venture to suggest that the Low on uncultivated Government Waste Lands in Wynaad be in a measure assimilated to that on cultivated lands in Assam.

4. Coffee robbery has now assumed such proportions that increased facilities for its detection and punishment should be provided. We see in the appointment of an Assistant Superintendent of Police to Wynaad that the Government recognises the necessity of dealing with this subject; but we would point out that under the existing laws it is very difficult to secure convictions owing to the impossibility of identifying stolen coffee. It has been found necessary in the large coffee producing colony of Ceylon to pass an Act for the

suppression of coffee robbery; and we think that the main provisions of that Act might be adopted with great advantage to the coffee producing Districts of this Presidency.

5. The entire absence of a small loans basis for Wynaad, except for sums below Rs 50, we feel as a great hardship. Our advances for labor being in almost every case over Rs 50 we have no ready means of recovering the money through a Civil Court in case of default. Situated as we are so close to the Mysore and Coorg Frontier, celerity is all-important in suits of this nature: the delays of the Moonsiff Court render it utterly unsuitable in such cases. We have recently memorialised Your Lordship on this subject, and though we have not been honored by a reply to that portion of our memorial we venture to hope that the matter has not been lost sight of by the Government.

6. The inadequacy of the present supply of small coin has on more than one occasion been brought to the notice of the Collector of Malabar, but, so far as we can judge, without any steps having been taken to increase the supply. As Employers of large numbers of laborers we find that a liberal supply of small coin is very necessary.

7. For the last 3 years a new Disease known by the name of the Leaf Disease, has been prevalent throughout Wynaad; causing, besides diminished crops, great and possibly lasting, damage to the trees. We regard this as a most serious visitation and we think that immediate steps should be taken to ascertain and enquire into its nature in a scientific manner, with a view to the discovery

of a remedy — and we would venture to suggest, that, as in 1868 when Dr Biddie was appointed to enquire into the ravages of the Borer, a Scientific man may now be deputed to investigate the Leaf Disease.

In conclusion we have to thank Your Lordship for having affords us this opportunity of personally informing You of our most important requirements, and of testifying with our Brethren on the Godavery fellow planters our loyalty to our Sovereign: and we now take our leave with the assurance that had this visit been extended to Nyanantoddi, it would have given great pleasure and satisfaction to all classes of the important native community of Nyeke Wynaad.

We have the honor to be
Your Lordship's most obedient humble servants

G. P. Richmond — Chairman of the Planters Association of North Wynaad

F. M. Dittmas — Honorary Secretary of the Planters Association of North Wynaad.

No. 44.—

Chacambadey 2nd November 1814

33

To

Captain Audley R.C. Private Secretary to
H.E. the Governor of Madras

Sir

As it is not likely that any Estate
proprietor from the Chacambadey Dist.
will be present to meet H.E. the Gov.
on his visit to Vyaadu, I have the
honor to request that I may be allowed
to represent the wishes & necessities
which exist for the better administration
of justice in South East Vyaadu.

The Public offices are now at
Goodaloor which is quite at one end of
the District, a District which extends
for as Vyaadu some 35 or 40 miles
from Goodaloor. The means of obtaining
justice are thus withheld from the bulk
of the District, for no planter, or
less a native who would have to per-
his journeys on foot, could give the
and expense which would be entailed
in travelling backwards & forwards.

Added to this the present Cutcherry
at Goodaloor is furnished with such

...ever powers that for the administration of the law more especially, cases coming under the Penal Code he is practically useless.

The Establishment at Devala which is about the centre of the District and however a very healthy spot, while valoor is almost unhealthy &c., a Magistrate invested with first-class powers, is I think the most pressing requirement of Southeast Wynaad.

I have the honor to be
Sir
Your most obedient Servant.
W. S. H. Cox.

Collector Nilgiris
Captain Cox
Asst to the Collector
S. Wynaad
Dated 15th Feb 1858
Received 22nd Feb 1858
Reply

List of European Planters in Wynaad.

North Wynaad

A. A. Anderson
L. Boyer
J. Brown
Dr. Creame
H. Dawson
W. Dawson
F. W. Ditmas
C. Fletcher
J. Lowry.
Capt. Puddicombe
W. J. Rayne
J. R. Richmond.
C. F. Wilkins.
Col. Worldridge
Dr. Huston

15

South East Wynaad

E. Atkins
R. V. Capps
Captain Cox
C. R. Dawson
A. J. Griffin
W. Gole
P. C. Guard.
E. A. Hamlin
J. A. Irvine
J. W. Kenrick
J. W. Minchin
Milne
R. Wilkinson

S. H. Powell
W. PacRard.
S. Prager
J. J. Roberts
H. V. Ryan
J. W. Ryan
A. A. Steedman
J. A. Thompson.
A. Vigor
G. Vigor
A. Wright.
R. H. Williams
Adol. Wright
G. E. Withers.

South Wynaad.

H. Atzenwiler
F. J. Budd.
A. B. Brabant
A. Brown
J. D. Bell
G. Baumback
A. Bounton
H. Bounton.
J. J. Boosey.
H. W. Brown
J. B. Buckham
P. Batty
(Forward)

South Wynaad Contd.

G. F. Brown
C. B. Barclay
J Cochrane
R Darling
J. Fargie
Jr Godfrey
E. G. Gilbert
J. F. Gaitskell
Capt Gaitskell
W. Grant
A Higgins
G. L. Harcourt
A R Higinbotham
W. V. Hendleston
J. W. Hoskins
F. P. Hughes
Huislowe
Dr Henderson
Dr. Hannay
C Imray
J. Jardine
T. Jones
E Jones
A Kenny
A Lovett
R Leigh
A Lowe
E. C. Mitchell
J R Malcolm
C. L. Moon
W. MacKinlay
T. Mitchell
Morteau
S. Miller
C. Mackenzie

A. MacCulloch
J. Nicholas
C. A Paterson
P. S. Punnett
H. Punnett
C. Puddicombe
W. Prager
R Prager
J. Robertson
Fr. Rivington
C. G. Reid
J. W. Smith
J. Smith
R S. S. Thompson
G. L. Tod
R A Tanqueray
F. N. Tomlinson
E. Trollope
J. S. Van Reesema
C. Wildes
A. J. Wildes
Geo. Wildes
H. B. Winterbotham
R. K. Walker
R West
A West
C Duncan
J. B. Tibble.

9. November. 1874. 5

To

His Excellency
The Right Honourable Henry. Vere. Hobart
Lord Hobart
Governor of ~~Fort~~ St George

My Lord

1. We the Committee of the Wynaad Planters Association beg most respectfully to welcome your arrival into our District and to express our extreme satisfaction at the opportunity now afforded to us of pointing out to your Lordship our most urgent requirements.

2 We have had the honour on two previous occasions of laying before your Lordship's predecessors the national wants of the District and, while expressing our gratitude for what has been done would venture respectfully to call your attention to the fact that most of the subjects to which we are about to refer are a repetition of those then alluded to.

3. Since October 1866, when we were honoured by a visit from Lord Napier there has been a marked improvement in the prosperity and importance of the District. In that year the area of land paying tax to Government

was 21,500 acres, while, at the present moment there are no less than 34,000 acres under Coffee cultivation. Not including the Ouchterlony Valley containing some 4000 acres which has been ceded to the Neilgherry commission.

We are unable to furnish you with figures shewing the revenue of the Talook in the year 1866 but a sufficient indication of the rapidly increasing wealth of the District may be shewn by a comparison extending over only two years.

In 1871-72 the total revenue from all sources was Rs 200800 In the past year the revenue was Rs 216.700 and this notwithstanding the cession of the Ouchterlony Valley.

4. This prosperity is largely attributable to the assistance afforded us by Government in the matter of improved communications, and the more liberal construction put upon the only law which exists between

39 M 6

Master and Servant. Most particularly have we to thank your Lordship's Government for the recent satisfactory changes in our postal service, owing entirely to the energy and interest evinced by the present Postmaster General.

5. But, notwithstanding the enhanced importance of the District, we are still in much the same position, as regards the more pressing matters asked for. The main points being, the want of a resident European Magistrate in a Central position.

An improved local Magistracy.

An efficient Labour Ordinance.

And a Special Act to check the terribly increasing crime of Coffee Stealing.

6. It is the intention of the Planters to submit a Memorial to your Lordships in Council which will

deal at length with these latter subjects, so we will only briefly refer to them here. It is a deplorable fact that under the present inadequate law we are losing large sums of money yearly in advances, we are utterly unable to control the relations between Employer and employed and, though suffering seriously from the increasing want of labour, we are unable to compete with settlers in other more favoured Countries, who are attracting our own coolies from the very districts which should supply us and are, moreover, able to keep them.

7. With regard to Coffee Stealing we regret to observe that your Lordship in Council does not deem that a law similar to the Madras Town Police Act is appropriate to, or necessary for Wynaad. It is our respectful opinion that all the reasons existing in Madras for such an Act exist in the Wynaad with increased force, viz facility in the offence and difficulty of unassisted detection.

We humbly though earnestly trust that when Statistics of the great losses and difficulties which we incur are laid before you, that your Lordships will be induced to reconsider your determination.

8 The principal subject with which we have to trouble your Lordships to day is one to which our attention has been called by a recent order of your Lordships Government. We refer to the selection of the Head quarters of the leading Wynaad Officials.

A glance at a Map of the District will at once demonstrate that Manantoddy is, geographically speaking, a most inconvenient

situation and quite at one end of the Taloor R, but there are, doubtless some reasons in favour of this site which influenced your Lordship in your recent decision.

We are of opinion that the largely increased revenue and importance of the District would warrant the entertainment of a second European Magistrate for Wynaad. But, should such a measure prove impracticable, we must most strongly urge upon your Lordships the necessity of placing the Taloor head quarters in the most central position, to meet the convenience of the great majority of the Planters. It will be observed that a spot between Sulpetty and Chondale would answer every requirement in this respect.

We are extremely averse to urging any measure suggestive of rivalry between the different portions of the district and it was our impression that the question had already been quite differently decided by your Lordships Government.

It has now become our imperative duty to point out clearly to your Lordship the true merits of the case.

There are now 102 European residents in South and South East Wynaad representing Coffee plantations to the extent of 17700 Acres: while the Native holdings number 3794 and their acreage is 5280 making a total of 22980 Acres under cultivation with Coffee. And the actual expenditure, in Cash on the European Estates in these two districts during the past year was Rs 1255198.

In North Wynaad we believe that there are 15 European Planters. Their extent of land paying tax amounts to 5640 Acres and there are 3428 Native holdings owning 5384 Acres or a total of 11024 Acres

These figures therefore obviously shew a large preponderance of Europeans who are unanimous in wishing that the head quarters of the district be established at the place before specified. It is true that as far as native holders are concerned their numbers are equal, but we presume that the total native population of North South and South East Wynaad combined must far exceed that of the North. In a District like Wynaad however the main point for consideration must be the fact that it is in reality, an English settlement: and bearing in mind the large Capital the Europeans have introduced, the energy, spirit and perseverance that they have shewn, it is but fair to expect that their interests should receive the support which we humbly submit they so ample deserve.

An objection has been raised to

45 m/

the site which we advocate on the ground that it is not so salubrious as Kranantoddy.

While recognizing the importance of locating the principal Government officials in the most healthy place practicable we earnestly but respectfully maintain that Choondale will bear favourable comparison with Kranantoddy.

There is a suitable site, which we have reason to believe could be obtained without any difficulty, possessing the advantages of an elevation of 3000 feet, a registered annual rainfall averaging 110 inches (which may be considered moderate for Wynaad), a climate suited to all classes, not forgetting the native community and a position most fairly central for the whole district.

As evidence of the unsuitability of the present head quarters of

the Officials we would quote the difficulty which our present Deputy Magistrate experiences in travelling throughout the District as freely and constantly as we have a right to expect.

In addition to our wants with regard to the European Officials we must beg to call your Lordships attention to the way in which the important subdivisions of South and South East Wynaad are treated in the matter of the Native Courts which are the only seats of Justice to which the residents there have to resort.

At the present moment there are only third class Native Magistrates at both Pordaloor and Vythery, neither of whom have any Munsiff's powers.

One case illustrative of the way in which the Law is administered

47 m 70

at these Courts may be briefly quoted. A Contractor undertook to fell clear and pit 100 acres of forest land and obtained from the employer from time to time a sum amounting to Rs 1600 in advance. He felled 20 acres of forest and since then has done nothing more whatever. The Employer applied to the Vythery Court. After some trouble a Warrant was issued, the defaulter arrested and convicted. The Magistrate's powers only enabled him to award as punishment One Month's simple imprisonment, which consisted of being kept under restraint at Vythery, where the prisoner was allowed to have his own friends to wait upon him. The Employer, during this term attended the Court in order

to file a civil suit for the recovery of the money. The answer he received was that the official there had no Munsiff's powers and would not even receive the plaint. The culprit is now at large and the money is lost.—

10 With regard to South East Wynaad we would suggest that the Court now located at Sordalore be transferred with increased powers to Devala.

Your Lordship will probably raise the objection that Government have already spent large sums of money in erecting Public buildings at Sordalore, but we would humbly submit that these might be utilised, first, as a public bungalow a want sorely felt for the Convenience both of Officials and the Public generally.

West Nilgiris Dis. No. 2

49. VIII 11

secondly, as a Jail, and again as a Post Office, for which we understand a sum of Rs. 3000/- has been lately sanctioned.

11 To render any Law effective in a district like this it is our humble opinion that Honorary Magistrates should be appointed, with such powers as your Lordship may think fit. There are many European Gentlemen of high standing and position in whom we are sure your Lordships Government might place full Confidence. Such a measure as this would obviate many of the existing difficulties with which we have to contend and, at the same time, afford additional protection to the natives.

12 We thank your Lordship for your lately sanctioned reorganization

of the Wynaad Police, though we would beg that the ~~Commissioner~~ Assistant Superintendent may have his head quarters at Chondale, together with the other leading officials.

We have to express our gratification at the improved state of our roads during the last few years, though we must remind your Lordship that a great deal has still to be done to render some of the most important lines even passable.

In Conclusion, we beg to assure your Lordship that we feel the greatest confidence in the results of this, your Lordship's first visit to Wynaad, and the consideration which you will give to our wants and interests. We trust that you will

51 VIII / 2

honour us in like manner at a future date.

We have the honour to be
My Lord
your Lordship's most obedient Servants

J. R. Hinchin
Edw. H. Hamlin
C. H. Grove
W. Victor Haddestia
Walter Cole
Jr. Macartney
John S. van Reenen
E. Tollope
Edw. A. Sanguesay
D. H. Gaisford
Ed. Thompson

No. 32.—

Wynaad Planters' Association.
Vythiry 1st October 1874.

53

The Honorable,
C. F. Carmichael,
Acting Chief Secretary to Government,
Fort St. George.

Sir,

I have the honor to inform you that I have been requested to lay before you the following resolution which was unanimously carried at a general Meeting of this Association, held yesterday, at which 36 of its members were present.

"The general body of the Planters of South and South East Wynaad learn with astonishment that Meanantoddy has been selected as the head quarters of the Deputy Collector and Assistant Superintendent of Police, of Wynaad.

"In the opinion of this meeting the carrying out of such a proceeding is calculated to have a most injurious effect on the interests of the District. And, considering the Number of Estates and Planters in the North, compared with those in South and South East Wynaad, it is eminently unfair.

"It is resolved therefore, that a special deputation of this Association should wait upon Lord Hobart, at an early opportunity to lay this subject clearly before the Government. And, at the same time, to point out that the apparent apathy of the Planters of South and South East Wynaad as to the selection of Meanantoddy as the permanent station of the Government

Officials

"Officials proceeded from the earnest wish of the Wynaad Planters Association to refrain from assuming an antagonistic position towards that of North Wynaad in advocating a matter of local interest."

"And that, a communication on the subject be immediately addressed to the Chief Secretary to Government, Fort St. George and forwarded to him through the Collector of the District."

I am further directed to point out to you that the silence of the Planters on this subject partly arose from the prevailing idea that the Government were fully aware of the superior claims of Vythery and that the question had already been decided in favour of that place. I have the honour to lay before you the following figures, which are reliable. In South and South East Wynaad there are Ninety-five (95) resident European Planters. In North Wynaad there are Fourteen (14). And it is believed that Native interests are nearly equally represented in all three divisions, though possibly North Wynaad has a small majority of Native Coffee Planters. Statistics as to names of the Europeans, number of Estates, with area &c., can be furnished if necessary.

I am to say that though not absolutely the most central position, the Planters of both South and South East Wynaad are unanimous in desiring that the Government head quarters of the Taluk should be placed at Vythery. Manantoddy is at one end of the District and therefore quite unsuited for the purpose. Whereas Vythery, while being fairly central, is by far the most populous and rising station in Wynaad.

In the late order of Government disposing of this question, Colonel Kennedy, the District Engineer is said "to advocate Manantoddy, particularly on the ground of its being less unhealthy than Vythery." I am desired to express the doubts of the Association as to the correctness of this assertion. Vythery is at a higher elevation than Manantoddy and being more favourably situated, is visited throughout the hot weather by a strong sea breeze which, as a rule, sets in as early as 10 O'clock in the morning and continues all day, so that it would be naturally supposed to be the healthier station of the two.

In conclusion I have the honour to beg that you will lay this letter before His Excellency the Governor in Council, for his favourable consideration and to inform him that it is the humble, though earnest petition of all the Planters in South and South East Wynaad that the recent order of Government on the subject may be rescinded and the Offices of the Deputy Collector of Wynaad, together with that of the Assistant Superintendent of Police, transferred to Vythery.

I have the honour to be

Sir

Your most obedient, humble Servant.

R. S. Thompson

Honorary Secretary.

Malabar-Secretary, Wynaad

Malabar Collector's Office. 1.

No 66. Calicut. 2nd October 1874.

57 W

31.

From.

A. MacGregor. Esqre.
Collector of Malabar.

To,

The Honorable R. T. Carmichael
Acting Chief Secretary to Government
Ootacamund.

Sir,

I have the honor to forward a letter from the Honorary Secretary Wynaad Planters Association Vythery, which embodies a resolution passed at a recent meeting of the association regarding the question of Head Quarters in Wynaad.

2. The fact stated that the Planters of S. and S.E. Wynaad number 95 compared to 14 in North Wynaad is correct. The number of the latter was reported by me as 20, since which time 6 have migrated to South Wynaad, their places in the North not having been filled up.

3.

2

Ins a letter from the Collector of Malabar to the Acting Chief Secretary to Government dtd. 2nd October 1874.

Planters Memorial.

Recd. 25-10-74.

3. The presence of European planters in one part of Wynaad & their absence in another is a direct index of a corresponding activity or the reverse in business, expenditure of money, importation of labor, carriage of produce &c. in fact of all those transactions which set Magisterial, Revenue and Police officers at work. The location of such officers in a place 30 miles distant from the centre of business is a step which I have already strongly deprecated.

4. The Secretary informs me that the Association are anxious to send a deputation at once to Ootacamund to present an address to His Excellency the Governor on this subject and name the 16th Instant as the date on which they would if permitted attend.

5. Possibly as His Excellency purposes visiting S.E. Wynaad in the beginning of November, it would be considered more convenient to postpone the matter till then.

6. In such a case it would be advisable to instruct

instruct the Special Executive Engineer not to take any measures on the late order such as would embarrass the Government in the want of their recent orders being rescinded.

I have the honor &c,

Sir

Your most obedient servant

Collector.

1874. Judicial Department

From

The Collector of Malabar

To The Actg. Chief Secretary to Government

No. 2516. Forwarded.

Dated 2nd October 1874

No. 68 1 enc:

Forwarding a letter from the Secretary Wynaad Planters Association about Head Quarters & explaining circumstances.

Calicut) ulleken
His Exy will receive his
dispatches the day after
Must be left, I suppose, to
Macpherson, in command at Cochin
Flanders.
I put up the C. T. S. Misss
Wms three Virgils; and C.O
29th Aug, in which I was ordered
to the new Police Asst Supt
Hd Quarters at the Dr Coll
Station - also C.O. 11th Sept,

(2)

Wm cleared that district
Station the Dr, as before,
Manantoddy -
There is great disputes between
North & South Wynaad as the
Settlers the North of course sticking
up for Manantoddy - the South
for Vythery - the Collr is for the
South - Lt Colonel Kennedy, a
long resident Engineer, for the
North - and Mr Sheriff is Mr
Underwood, the Dr Collr in
the East.
R Johnson, who was Engin

Radhany. 6th Oct. 14.

My dear Cunningham.

I have not yet heard what has been decided about the proposed Egmont Parliamentary deputation. I left word that the Secy should forward to me direct from Colombo the letter from him which I expected on Friday & dated the 2nd stating that up to that date the Land Court had not begun its work, & that it would probably be impossible to make the necessary arrangements

Malabar, has undoubtedly made a note, & I shall be forgiven. I can't help the figures - they seem to be arrived at by just double entry for Lanka & equal the figures of the North. It is so beastly unhealthy throughout that I expect nobody cared to knock about, making careful enumeration!

There, then, is the whole of the case - a very pretty quarrel, as it stands -

Yours ever

J. Cunningham

P.S. Cornish, the Census Compiler, can only say he took the figures as he found them!

by the 16th

Kindly let me have a line
& the case of the Sub Insp Gurdlestone

Mr King has come here
with me & is busy examining
the County, & he will
select specimens so as to give
a fair average of the rock,
according to regular rules for
selecting, & send them to
Calcutta when the exact quantity
of gold will be ascertained;

so that there will be some reliable
Estimate & to open instead of
the present vague amateur ad-
vertising.

Believe me
Yours sincerely
A Mackenzie

P.S. I see there is to be another
Forest Conference next year,
in September, & that the Readers
post has been asked & send
a Civilian - I wish they
would send me — Please
bear me in mind when the time comes.

15/10/12

Dear Robinson

Have you delivered yourself on his usual head Dr question? Jas G

H.B.T.

By D. Corrected Ord
Rev - last Sentence
Tomorrow.
Little more can be said but what appears in the papers
By with a change - but this can stay pending
by Mr Macpherson
15/10

26/12/12

Dear Audley.

Para 6 of Consd Disp.

Please point out to His Exy that insisting the Sub Imperial powers will not lead to any increase of pay - We do it every day according to the exigencies of the neighbourhood. We have lately indeed directed that every 3d class Mage (which is lowest grade of powers) be raised to 2d class, after 6 months experience.

I have added by a ^ at the end to Para 3 - a call for the

Sir Thos Page's opinion
as to the person to have to
put the Seal Image where
the certain - He is already
asked when he will put
the new Impression of their
Image into the
Upper Seal

Yours truly
D. F. C.

Chief Secretariat,

Octy 13th 1875.

No 2358
Judge
S. E Wyckes

My dear Mr Hammond:

Separate
number with

I send herewith separate papers
this Ex: Gov. & 13/12
referred to in this case
go Jews further. with you please
1875. have careful search
2035. made for it, & send it with
Jewish the other papers sent from
Office to you on the subject &
Hicks by the Govt.

Dec 23 10 73

I am suffering from
a severe cold. after all
the worry & trouble. last
night. Yrs Sincy

Chief Secretariat

Hon R. McCormick
Attorney Gen
Toronto

Sir,

I am directed by His Honor the Lieutenant Governor to transmit to you herewith a Report of the Executive Council, dated the 30th ult. and to request that you will be pleased to take the necessary steps for the release of the prisoner Allaby.

I have the honor to be,
Sir,
Your obedient servant,
Chief Secretary

25 M

Memo of pay of each grade of Dy. Collectors.

	Rs.
1st Class	600.
2d. — Do	500.
3d. — Do	350.
4th — Do	250.

Mr. W. E. Underwood & D. V. Narasinga Row:
1st Class Dy. Collectors of Wynad & Salt Depart.
: ment of Chinglepute District, drawing special allowance
of Rs. 150 each per mensem besides their pay
as 1st Class Dy Collectors.

Ordinary establishment of a Dy Collector.

	Rs.
1 Head Clerk	45.
1 Clerk	20.
2 Do @ 15 Rs.	30.
1 Attender	8.
3 Delegets @ 7 Rs.	21.
1 Masalchi	6.
	130.

79 M

Abstract

Existing

Deputy Collectors establishment	159.
Tahsildars do	689
Vythery Sub Magistrates do	193.
Gudalur Sub Magistrates do	193
	1234

Proposed

Northern Deputy Collector's establishment	424
Southern Deputy Collector's establishment	424
Vythery Sub Magistrates do	193
Gudalur Sub Magistrates do	193.
	1234

Details

Existing

Deputy Collectors establishment		Taluks		Vythery & Gudalur Sub Magistrates	
Head Clerk	50	Tahsildar	200	Sub Magistrate	125
2d do	30	Shereistadar	60	1st Jemadar	20
3d do	20	1st Jemadar	25	2d do	20
4th do	20	2d do	25	Dufterbund	8
Attender	8	3d do	20	2 Peons at Rs 7	14
3 Peons at Rs 8 each	24	4th do	20	Masalji	6
1 Sweeper	7	5th do	20		
		6th do	15		
		7th do	15		
		8th do	15		
		Shroff	20		
		1st Revi Inspector	30		
		2d Revi ditto	25		
		3d Revi ditto	20		
		Dufterbund	8		
		21 Peons at 7 Rs	147		
		Masalji	12		
		Duffadar	12		
	159		689		193

Proposed

Shereistadar	80	Shereistadar	80	Sub Magistrate	125
1st English Clerk	50	1st English Clerk	50	1st Jemadar	20
2d do	30	2d do	30	2d do	20
2 Revi Inspectors @ 25	50	2 Revi Inspectors @ 25	50	Dufterbund	8
2 Clerks @ Rs 20	40	2 Clerks at Rs 20	40	2 Peons at Rs 7	14
1 Accountant	25	1 Accountant	25	Masalji	6
1 ditto	20	1 do	20		
1 Shroff	20	1 Shroff	20		
1 Attender	8	1 Attender	8		
1 Duffadar	10	1 Duffadar	10		
11 Peons @ Rs 7 each	77	11 Peons at Rs 7	77		
1 Masalji & 1 Sweeper	14	1 Masalji & 1 Sweeper	14		
	424		424		193

Calicut. March 25.

My dear Huddleston

Before making formal proposals as to the additional Depty Colrs sanctioned for Mysore I am anxious to know what is likely to be offered & as it is no use wasting time in proposing anything that is sure not to be listened to. I don't know if in sanctioning the additional Depty the difficulty was considered of having one Talukdar under 2 Deputy Collectors. I am inclined to think it would not work. & that it would be better & cut out Mysore into 2 Talugs; abolishing the Talukdars & making the 2 Depty

Collectors perform the duties of
Tidewaiters with a view to economy & dispatch.
This arrangement in regard to the Appraisers has I think worked well
on the Mississippi.
I make no statement touching the
existing establishment how it
might be modified.
There is no station of the kind
desired. I refer to the Seat for
the Planters Association although
he has not been able to get the
regular vote of a meeting I have
no doubt from what I have heard
that the voters will be in favour

of Mayfield. It is for the most central
having Pythey & Calfpitz distant on
one side, & Channelbag & Divala on
the other, his interest itself for the
largest Resident District in Upward
there being nearly 20 hirofeans residing
within a mile radius.
He any other place that could be
seriously entertained would be Pythey.
That would be at an extreme corner
of the new subdivision, & would give
all the Eastern people 30 miles
further attending there, 15 either way
Even at Mayfield they would be
far enough off —
But if Mayfield is fixed on I
do not see how either Sub Rent

Could be abolished. Will the Govt insist on that as a sine qua non?

I do hope you cannot give me a definite reply in the absence of a full report but you may be able to let me know if it is worth while making such proposals as it is not a good thing to unsettle the minds of the Valley Establishments —

Mosphegnaud is about 5 miles due West of the place marked on the Map Mosphegnaud.

One reason for keeping a hut keeper at Vyllery is that there is a hut built there which a sailor is appointed.

Believe me
Yours sincerely
A Huddleston

85

I am glad to hear
that Mr Macpherson &
his regiment
started for the
Yr Obedt Servt
Thos Reynell Genl Sir
Quartermaster General
for the Forces
Mr Secretary Cardwell
&c &c &c

This may be accepted
Yes
15/4

being under 2 Dy. Collrs.
the Dy. [illegible] sh'd be converted
into 2 [illegible] & the
Dy. Collrs. themselves made
[illegible] of their effective
[illegible] as the Assist.
[illegible] is [illegible] the pilgrims
& the shrines [illegible] the
establishments could
be [illegible] without
addl. expense – the
2 Sub Magtes. being
retained.

The Govt. suggested

Govt. sanction
as a tentative
measure.
10/4 [illegible]
[illegible] 10/4

that one of these
latter officers might
be abolished
but Mr. MacGregor
thinks that it must
be retained if the
Dy. Colr. is stationed
at Nayapady – At
[illegible] the Sub Magt.
is in charge of the
Jail. Gudalur
it is presumed
is too distant from
Nayapady for the
Sub M. to be abolished.
Thus the saving
suggested by Govt. [illegible]

ഗവതിക്കുന്നു—നതിലെക്കണങ്കർക്കുള്ളതുവസ്തുതിന്റെ ഉ
തിക്കവകിക്കിടുന്നുകൊടുക്കുന്നു.

6. കാളുടിക്കു പതിക്കുള്ളവസ്തുമാത്രമല്ലാതെകർക്കുശംവെക്കുതി
ന്നവരെയാവസ്തുപുക്കിവരുന്നതിനുമുതിപ്പെടാതെചില തക്കുകളിൽമ
തിവരുന്നതപ്പൊലെക്കുറെപേരുവസ്തുവെക്കുന്നതിനുവകുകൂടി പതിക്കുതി
ൽക്രയത്തിക്കുന്നതായവർക്കും ഉപകാരമുള്ളതുതന്നെയാകുന്നു.

7. വയനാടിലെനെൽവിളകളുടെയുല്പാദനത്തിൽനാടിനുംപൊരും
ള്ളതൊർകാളുടിക്കു പതിയുടെയുവസ്തുനിയമിക്കുവാൻസന്തൊഷമുള്ള
മുതിന്നവരായിരിക്കുന്നു. നതിലെക്കുള്ളവസ്തുപ്പൊലുടമസ്ഥൻതന്നെ
തിരിക്കുന്നപക്ഷം നവനുതാൻതന്നെപൊയ്തുകൊടുക്കുന്നതായിരിക്കുന്നു.
വയനാടിൽചിലസ്ഥലങ്ങളിൽനിന്നധികമഴപെയ്തുവിളകൾക്കുദൊഷം
ഭവിക്കാണ്ടിരിക്കുന്നതിൻമുമ്പായിട്ടുപലവാരങ്ങളുടെയുള്ളിൽ ഒരു
വിധമായകാടുകുളുന്തിരിശുന്നസ്ഥലങ്ങളിലുംകൂടിയുള്ളവസ്തുക്കുന്നതിനു
ള്ളവസ്തുപ്പുന്നതുപൊലെയും നതുകൂടാതെതന്നെകായ്വരുത്തുപ്പാനുള്ള
വസ്തുപ്പുന്നതുപൊലെയും നതുകൂടാതെതന്നെകായ്വരുത്തുപ്പാനുള്ള
കൃഷിക്കുള്ളവസ്തുപ്പുന്നതുപൊലെയും നതുകൂടാതെതന്നെകായ്വരുത്തുപ്പാനുള്ള
ന്റെസാധാരണയായുള്ളനിരക്കിനുഭംഗവുംവരുത്തുന്നതിനുശ്രദ്ധവെ
ക്കുന്നുണ്ടു. വയനാടിൽപ്രധാനമായുള്ളനെൽവിളകൾക്കുപുറമെ

8. വയനാടിലെകാളുടിചെയ്കർക്കുവരുവാനുള്ളകാലത്തിന്റെ
ദൈർഘ്യവുംകൃഷിചെയ്കയുംചെയ്യുന്നതിനുവെണ്ടുന്നപ്രയത്നവുംകണ്ടുകൊ
ണ്ടുതന്നെയാകുന്നു. നതിനുവകുപ്പുകൾക്കുതമ്മിൽവെത്യാസമുണ്ടാക്കിയിരി
ക്കുന്നതു. ഈകാരണത്തെനതിനെന്നുപറയുന്നതാണെന്നുള്ളതിനെ
ചൂണ്ടിക്കാണിച്ചുകൊണ്ടുതന്നെ നതുകൂടാതെയുള്ളവസ്തുക്കുന്നതിനുള്ള
നിരക്കുകൾതന്നെ നതിനുംകൂടിയുള്ളതായിരിക്കുന്നതിനുവെണ്ടിയുള്ള
അപെക്ഷയുംചെയ്തുവരുന്നു.

9. മെൽപ്രസ്താവിച്ചസംഗതികൾനിമിത്തമായിട്ടുള്ളനഷ്ടങ്ങൾസംഭവി
കുമെന്നുള്ളതിനെനൊക്കുവാനുള്ള നിയമമായതുകൊണ്ടുതന്നെ നതിനു
പാനിതിക്കുംകുടിയാന്മാർക്കുംതമ്മിൽവരുന്നവ്യവഹാരങ്ങൾതീർത്തുവെ
ക്കുന്നതിനുള്ളകൊടതിയുടെയധികാരത്തിൽതന്നെ നവകൊടതിയുടെ
വാണ്ടുംകൊണ്ടുനടത്തുവാനുള്ളനിയമംചെയ്തുവരുന്നതുമാകുന്നു.

കൊടതി 18/8/74 നിശ്ചയിച്ചതു സം 10 — സെപ്തംബർ

1 [illegible]

65 കുലനെന്നിന്നമ്മതമകൂടെ
66 തണ്ണിൻതകാൻമൊക്കിൻകൂടി
67 ന്നനിക്കുടുമ്മക്കിന
68 തമനിച്ചൻചൊക്കു
69 മംഗലംനെടുമ്പാശ്ശേരി
70 തൊണ്ടിമുതൽ
71 [illegible] Pandaram Pitty
72 ഇനവാസനം ഇന്നാ തിനിമാക്കൂ
73 പെരുച്ചേരിക്കുടി
74 കിഴക്കുന്നാതിരിക്കുന്നു
75 Vellamen [illegible]
76 പാർപ്പാൻ ഞങ്ങൾ
77 തിരുമ്പിനു
78 പെരിഞ്ചെഴു [illegible]
79 പാടുകാരൻ [illegible]
80 തെക്കേ [illegible]
81 [illegible]
82 [illegible]
83 പെരുമാഴരാജ്യം
84 വെണ്ണായനുള്ളതിരുന്നൻ
85 നെല്ലിക്കമന്നൻ Isaac
86 കൊല്ലക്കുന്തികൈമാനുവൽ
87 രാജ്യനിയമം
88 നെല്ലിക്കന്നനുള്ളു
89 പുതുശ്ശേരിമന്നൻ
90 സ്വന്തമുള്ള പിള്ള
91 വെണ്ണായംപുനത്തിരുമന്നു
92 നാഴികയിൽനിന്നുള്ളു
93 രയരന്നുള്ള
94 [illegible]
95 കുലനന്നൻ
96 രാജകുല്ലാ

97 മാന്നവായിപ്രമുഖ്യന്മാരുകൾ
98 നായന്മാർ

S. E. WYNAAD AND ANNEXATION.

TO THE EDITOR OF THE SOUTH OF INDIA OBSERVER.

SIR,—Rumours have been flying about lately as to the probability of the Neilgherry Commission being abolished, but I had no idea such a suicidal act was in contemplation until I saw the leader in your issue of the 28th ultimo. The question of abolition is of such grave importance to me, and of course to all proprietors in the lately annexed district,—the Ouchterlony Valley,—that I am induced to utter my say on the subject.

I now hold upwards of three thousand acres of opened land for Mr. Ouchterlony in the Valley, and the estates of other proprietors in the same Valley are nearly as much. Moreover, I am, on account of Mr. Ouchterlony, opening out fresh land yearly. If the Commissionership is abolished, what is to become of the Ouchterlony Valley? Is it to be returned to Malabar? or is it to be placed under the jurisdiction of Coimbatore? Of the two, I should prefer the latter, even though the ride of thirty miles from my residence to Ootacamund would only take me to the Court of a Magistrate, for nine years personal experience of the Goodalore Court, which is only a six-mile ride from my house, has left a painful experience on my mind of the justice dispensed there. Your correspondent "S. E. Wynaad," in your issue of the 28th ultimo, draws a comparison between the Magistrate's Court at Ootacamund and the Goodaloor Court. He might have saved himself the trouble, because, for years past, affairs have been at that pass at Goodaloor that none but the most sanguine have ever dreamt of troubling the Tahsildar, except on matters of Registration and the like, and I hear no end of trouble and vexation is given before even this slight business is accomplished.

The Government hold, I understand, that the Commission is too expensive. But surely it is rather late to find this out now, that the expenditure has been going on for the last sixteen years. So early as 1857, the needs of the Hills had become so pressing that they could only be met by the appointment of a Civil and Sessions Judge, and subsequently by the appointment of a special assistant. Surely the development of European interests that has taken place since, has not made the Hills more easy to govern, and the expenditure, though necessary so far back, *now unnecessary*, and yet this would be the argument if the Commission was abolished, for it is an administration which costs no more than the late administration by a Judge, and a special assistant under the Collector of Coimbatore, and is ten times more efficient. I cannot think Government really contemplate so retrograde a policy as returning the Hills to Coimbatore. Should that be their intention, I am satisfied there will be a strong and unanimous remonstrance from all the dwellers on the Hills against the measure. Is it to be tolerated that I, with my large local interests, am to be compelled to revert to Malabar with its vexatious delays, or to be handed over to Coimbatore to meet with delays I cannot but expect there also, since the Collector has already a district to administer as large as Malabar? The Collector of Coimbatore would know no more of the Valley than the Collector of Malabar, and the transfer of my interests t[illegible] falling from the frying pan into the fire. At the same time, I should prefer Coimbatore of the two districts, merely because there is an able and energetic Magistrate at Ootacamund, but I should be grievously injured by the transfer.

Between Mr. Ouchterlony and Captain Godfrey there has been continuous and energetic litigation. I can attend the Commissioner's Court at Ootacamund, to see to the interests of Mr. Ouchterlony, but would it be fair on the part of Government to [illegible] there,—a distance of one hundred miles from my residence,—whenever a motion in Court

missioner's Court, but would the interests of Mr. Ouchterlony, but would it be fair on the part of Government to have them over [illegible] miles from their residence, whenever a motion in Court may be presented by Captain Godfrey?

Then as to the transfer of South-East Wynaad to the Commission. Mr. Ouchterlony holds ten thousand acres in South-East Wynaad, a great part of which is now forest, some of which I should open up if I saw my way to a cessation of the handying about of Mr. Ouchterlony's interest from one district to another, and could be certain that we should have to go no further than Ootacamund for justice. If I was certain of this, I should have no hesitation in making advances. But if South-East Wynaad remains under Malabar, or is put into Coimbatore, the land will remain as it is, and it is worthy the consideration of Government that this will be a dead loss to the Revenue, as we have to pay nothing for the land until it is under culture. I believe almost, all the other proprietors in South-East Wynaad are anxious for annexation to the Commission, and feel on the subject as I do. Otherwise, the petition praying for the boon would never have been so unanimously signed as it has been, and surely the time has arrived when the wishes and opinions of so large a body of men as the South-East Wynaad planters, who pay collectively no small sum to Government, should receive respectful attention. However, gentlemen interested can write for themselves, as I am writing for *myself* in favour of annexation. I do strongly urge it, having had experience of the advantages arising from the transfer of a part of the Ouchterlony property.

The same leader tells us that the Collector of Malabar was very active in urging non-annexation. This I am not at all surprised at. I know something of his obstructive and mischievous interference. A G.O. was issued by Lord Napier's Government, ordering the transfer of the Ouchterlony Valley to the Hills. One would suppose that this meant the transfer of the *whole*, and not a *part* of it only. However, the Malabar Collector thought otherwise, and as I was informed at the time, made a personal matter of it. The line was taken as he chose, and not as the Government ordered. There is now the inconvenience that part of Mr. Ouchterlony's land is connected with the Hills and part with South-East Wynaad. A large portion of the latter is fine coffee land, but not an acre of it do I open so long as it is attached to Malabar, for I shall, when I begin to work, have to give out large sums in advances, and not one anna of it shall I be able to recover from defaulting maistries and others by the help of the Gudalur Court. That part of our property attached to the Hills, I have however, with perfect safety—as regards advances—been able largely to increase, and I should be able to do the same with the ten thousand acres, if South-East Wynaad was annexed to the Commission.

Planters should recollect that we are now becoming a powerful body and that the coffee export in Southern India is only exceeded by that of Cotton. Let us make Government understand that questions we raise for our own interests are not to be slurred over, and treated as nought; and more that our properties are not to be divided and ourselves tossed about *against* our wishes from district to district, at the dictation of a Collector or the caprice of Government.

Your's faithfully,

HENRY WAPSHARE.

Rec'd 3/13

Madras 14 December 1877

C. J. Carmichael Esq.
Chief Secretary to Government
Fort St. George.

Sir

I have respectfully to enclose a letter addressed to Rs. Mr Wapshare to the Editor of the Indian Observer, bearing upon the important question of the future jurisdiction of the Supreme Court. It comprises the extract which I was allowed to see by the Memorial from which Mr Wapshare, and as Mr Wapshare represents very large interests in Madras I cannot but hope that the plain, practical and urgent letter which he has written may carry some weight in the decision

I have &c

I should add that I do not know Mr Wapshare personally, nor had I any idea that this letter had been written

Rs 3

thought this document might not come
-under your notice, I have ventured
to cut it out of the paper for your
perusal and information.

I have the honour to be
Sir
Your obedient Servant
Robt. Low

Dispy. Leys/95-
Act 35 of 1874 Schedule
Judicial

Item 99
Mr R. L. Wynaad
Madras

Rec'd 14 } December/74
Read 16 }
Ent. D

No 3153.

Enclosing copy of
a letter addressed by
Mr Wapshare to the
"Courts of India Office"
on the subject of the
Juvenile jurisdiction
of D. L. Wynaad.

No orders seem Required
on this, which is not
addressed to us

[illegible] 22/12
This needs Ltr to [illegible]

Receive the
notice above-
Inclosed the
only notice he
could take of
it would be to
to withdraw the
Writ for his
re-Election

L Ord
24.12

Send it-

C16/12

30-4-96

K2

N. Wynaad Rot. Disputes

D.C. Rot from Mr. Sanderson. suggesting certain details.
d. 25 March 96

Rotn-orders.

Rply sent. 4. Apr. 96

31 to 35

For Despatch to Despatches

Sent Fair copy 7 Augt 96
Act 36

Taylor
Rice Despt

105 MW

Memorial
Rival Petitions from certain
Planters & others in South East Wynaad.

It is observed that when he late
Lord Wolseley visited Wynaad in October
1874, he rec'd an address from the
"Planters" Association, North Wynaad;
and another from the Committee of the
"Wynaad Planters' Association" which
appears to be limited to the Planters of
South and South East Wynaad, Shortly
after

2. The address of the "Wynaad Planters' Association"
asked, first, to have a
Second European Magt in the Wynaad
taluk; and, if that were inadmissible,
that the present Divisional Officer should be
removed from Manantoddy in the north,
to a more central position. It was shown
that, while the number of Native Planters
& their cultivation acreage were about
the same as in North Wynaad, the
European planters in the South & their
acreage under their cultivation vastly
preponderated over the North - viz

	North	South
European Planters	15.	102
Acreage cultivated	5,640	7,700.

* after his Lordship's return to Madras, certain Planters in S.E. Wynaad addressed Govt, praying the prayer of a petition which a deputation from that neighbourhood had presented to Lt. Napier - viz - that S.E. Wynaad might be annexed to the Nilgiris district. This appln, like the previous one, was declined

G.O. No 35
7th Jany/76

3. On this address being taken into consideration by the Govt, it was decided that, while Manantoddy must always remain the capital, as being the only town in the district, a second Divisional Officer is now fully due to the growing importance of Wynaad; and the Collr was directed to state which his second functionary should be located, Baillie and whether, on his being appd with co-ordinate powers with those exercised by the present Divisional Officer at Manantoddy, one of the Dys Tahsildars should not be dispensed with. The present staff of Wynaad is exhibited in the margin. The further proposal to give S.C.C. powers up to 500 Rs to the Divisional Officers must be a landmd, with reference to the recent ruling of the High Ct that a Judge of a S.C.Ct, Calle unless he is a Dy Mnf or a Subordinate Judge, whose powers are fixed by special enactments, — cannot discharge any other functions.

4. The Collr was at the same time called upon to report whether Honorary Magts

I. At Manantoddy
(a) a 1st class Dy Collr & Magt for the division; who has also the jurisdiction of a Dy Mnf; i.e. up to 2500 Rs in ordinary suits & 250 Rs in Small Causes;
(b) a Tahsildar & Magt of the taluk, with 2nd class powers.

II. At Vythery - A Dy Tahsildar, with 2nd class powers & the judicial powers of a Dy Mnf.

III. At Gundelore - The same

shd not be appointed from the body of Planters: or as a Bench in connection with one of the Divisional Officers.

5. To these representations no reply has been made; and a Section of the community of South East Wynaad now comes up for the third time, with a Memorial, praying that for the transfer of that portion of the taluk from the jurisdiction of the Collector of Malabar to that of the Commissioner of the Nilgiris hills.

6. It was anticipated by the Govt that the arrangements suggested in the Order of the 7th Jany last would be very generally satisfactory to the whole body of Wynaad planters; and it is, all accounts, very much to be regretted that so many months should have been allowed to pass, without any communication from the Collr of the district as to how far this is the case, with his own opinion of the changes proposed. The present Petition will now be referred to him and to the Commr of the Nilgiris for early reports, which shd be accompanied in each case by statistical information in support of the views offered: — such as population, distribution of property — sources of labour, extent of land in the hands of Europeans or native planters, and whether the labourers are people of Malabar or Travancore. The opinions of the local Authorities

afford no aid to be solicited as to the extent to which the proposed addition of a Divisional Officer, with the extensive & varied powers which he is to be supposed are willing to assign to him, stationed at Chandali or Serila, would meet their requirements. The same question will be distinctly put to the Magistrate & the Gentlemen acting with him in framing the present Memorial. And, generally, no pains shall be spared in procuring the most trustworthy information as to the existence of any general widespread & strong feeling in favour of the prayer advanced in that paper.

7. The G. in C. deems it ~~&~~ conclusion, that the Collector of Malabar will forward in communication to the Executive Engineer, Wynaad, & Inspr. shewing clearly what portions of the Taluks are included in North, South, & S.E. Wynaad respectively - All places named in the Boundaries about the Taluks should be indicated, together with the roads made or under construction. The distances at which the chief places lie from well known towns, as Ootacamund, Calicut &c, should be noted in the margin.

By Order
H. Sconce
Offg. Chief Secy.

Fort St. George
22nd November 1859

Minute Print
109 W

Mr Logan's very
forcible letter seems
to me to dispose of
the subject of an efficient
administration for
Wynaad and I am
still greatly opposed
to raising the question
of the transfer of
S.E. Wynaad to the
Nilgiri Commissionership
among the people.

The Commissioner
of the Nilgiris knows nothing
about Wynaad and is
disposed to local influences
which are not conducive
to a sound judgment
of the matter. There can
be no doubt as to the
opinion of the Collector
of Malabar and the
people

people shou he
must consult. The
result will doubtless
be rejection of the
proposal. Why then
let the people and
proprietory of Malabar
big the Ears with their
European Lecturing
and this plaguing
interest? Mr Logan
mentioned that Native
Petitioners are coming
in against the change
and several (notably
the Islamber Sirdar &
proprietor of Ramnadcode
and shou) personally spoke
bitterly to me of the
conduct of the Europeans
in this matter where
lately in Calicut.

I would therefore
supersede the draft
altogether and take
Mr Logan's letter
as

as the basis of a
reconsideration of the
matter. III

The first step is
obviously to separate
the Civil, Judicial and
Administrative Depart-
ments and appoint
a Principal for the
Whole Taluq.

I would then ask
the Government of Madras
to concede a Special
Covenanted Assistant
which for Wynaad and
leave the two Sub-
Magistrates, as pro-
posed by Mr Logan,
located as he suggests
with the Establishment
proposed. If the
Special Covenanted
Assistant which he requires
we can fall back on
a Deputy Collector,
one being quite sufficient

20/12 W. Robertson

Sir W. Robinson Esq
20 Jan 75

Print

113 W

The draft which was agreed upon at the last Council must of necessity be altered, now that we have received the Report, which has been so long delayed, from the Collector of Malabar. That Report is in reply to the Proceedings of Govt of 7 January 1875, in which the Govt. consented to appoint a Second Deputy Collector to the Wynaad Taluq.

Mr Logan, while proposing a different arrangement from that contemplated by the Govt., recommends that if a Second Deputy Collector be appointed the re-organized Establishments should be

4th. The difficulty of finding two European officers of the grade of Deputy Collector for employment in the Wynaad.

5th. That Manantoddy has ceased to be the only or most important town of the Wynaad - other places having grown in importance.

6th. That under the circumstances of coffee plantations, the importance of any portion of the Wynaad is liable to change, and that the only safely permanent arrangement is to place both the Chief Civil Judicial and Criminal Judicial Departments in central positions of the Taluq.

He would therefore instead of having two Deputy Collectors placed as above noted place a European officer if possible (of the rank of Head Assistant) in the neighbourhood of Kulpathe. He would relieve this officer of all civil judicial work - and appoint a District Munsif for the whole of the Wynaad Taluq. to be stationed at Vythery.

The cost would be Rs. 2137 per mensem or Rs. 37 in excess of present establishments or about 100 Rs. excess if an officer of the grade of Head Assistant is appointed.

This arrangement is Rs. 336. 10. 8 per mensem cheaper than the proposal made

made by the Govt for two
deputy Collectors.

I do not think that
the difference of cost of
these two arrangements
is sufficient to determine
the decision of Govt -
But I think the reasons
adduced by Mr Logan
for the separation of
the Civil Judicial work
from the Magisterial
and Revenue work have
much force - I also
conceive that the presence
of a Covenanted European
officer of the standing of
a Head Assistant placed
in a Central place, readily
accessible from most
portions of the Taluq
will go far to reconcile
North Wynaad to the
removal of the Deputy
Collector from Manan-
toddy - and lastly
the

the fact stated by Mr.
Logan that there is
not sufficient work
in the Taluq of
Wynaad for two de-
puty Collectors must
I think have weight
in the consideration
of the two schemes.
I therefore am pre-
pared to accept
Mr. Logan's proposal
in preference to
that contemplated
by the Government
in the beginning
of this year.

If my colleagues
agree with me
the Chief Secretary
drop

draft will require alteration, but this will not remove the necessity of referring the petition of the planters of South East Wynaad in the manner determined at the Council of the 22d with such alterations as the adoption of Mr Logan's scheme will necessitate in the wording of the reference. The Map now submitted with Mr Logan's letter is still very imperfect. I would therefore retain the last para of the draft calling for a complete Map.

WR

Nov. 29. 75

29 Nov 1875

Address to Wynad to H.E. the Governor

Memo for Orders

I. S. & S.E. Wynad.

The Planters state, first, that Wynad may have a 2nd European Magistrate [illegible] it is indispensable that he should be placed more centrally than at Manantoddy. They indicate a site between Cotabetta & Chundelee Company Nortes Santo Wynad, but give the following figures.

	Nortes	Santo
European Planters	15	168
European Plantation	3240	17,700
Native Planters	3420	37,945
Native Plantation	5384	5180

They also state that the total Native pop. of S. & S.E. Wynad [illegible] Nortes Wynad.

It was lately settled by Govt that Manantoddy should continue the Head Quarters. It certainly is very far away from the Northern corner of the district and this would be ordered if [illegible] were about it.

(2) The Planters next state that by the native Magistrate they have an appeal of the lowest grade. This can scarcely be correct, as giving them the 2nd grade. The Govt has recently ruled that after a man has been 6 months in the 3rd grade, he should either

But I think they might be able. These Coffee Planters all say [illegible] the country: and there is danger that if they cannot get justice cheaply & readily, they will throw up the business. The expense of this kind is incurred [illegible] while making roads for a [illegible] rebuke [illegible] Then [illegible]

I do not think

be eligible for the 2nd Grade, or not fit for magisterial duties at all.

(3) They state, briefly, that neither of the two Native Mags is a Munsif, i.e. has civil jurisdiction. Very strange, if this is so. In fact, it must be an error — there may have been a temporary break in consequence of some formality being wanting. But no doubt the Collector or Sub Collector cleared up this point, on the spot.

(4) The history of the easy escape of the Workman who wilfully neglected to perform the terms of his Contract is also inapplicable — Third Class Mags have no power to work Act 13/59 at all. The assertion that as the defaulter has worked out his impt, "the money advanced is lost" is absurd on the face of it. The Act does not deprive the Employer of his Civil remedy: this is expressly laid down in Sect II: but I have no doubt His Ex. was apprised of this by the Collector at the time.

(5) The proposed transfer of the Goodalore Mage to Devala — This will be a heavy expense — Let him sit at Devala twice a week, during travelling at [illegible] — Cruises —

Refer to Mags

we will alter the labour laws in their favor.

As to Coffee Stealing I think we must refer — But

So often as they complain of difficulties with the Mysore authorities, we may enquire of the Chf Commr.

I should like to know the history & future fate of the Ceylon Bill.

G.O. 22/9-71

II. N. Wynaad

Labor law — declined

Road question — especial particular attention Chief Commr

They also [illegible]

(6) Honorary Mags. We must ask the local authorities what they think of this.

N.B. A Captain Cox presented either a supplementary to the above General Petition — complaining of the remoteness of Goodalore, & of the insufficiency of the Mag's powers.

II. Planters of North Wynaad

(1) The inadequacy of Act XIII/59 agst Breaches of Contract. The subject has often & very fully been considered. The last Order is dated 30 May '66 — disallowing the prayer for further legislation — vide the red X Paper No 2 Govt of Madras dept. Sep. herewith put up.

(2) complaints of the Roads beyond Wynaad in the Mysore & Coorg countries. We can refer to Chief Commr.

(3) The present assessment presses heavily! Forest land is 2 Rs an acre; no assessment payable till the 4th year. Grass land is 0-8 an acre — payable from date of appropriation.

(4) Coffee Robbery. This not true (for I telegraphed to the Colonial Secy & got this reply) that a Coffee Stealing Ordinance has ever passed the Ceylon legislature — There is a Bill now before it — copy put up — here in India there would, happily, be

No chance of such a Bill being
brought forward.

(5) Non advance of Loan requested
for Fuel & Plant.

We have strongly recommended the
last taken to Govt. during, 5/10/14.
put up.

(6) Small Cause Ct. jurisdiction for debts
over 50 Vii - not in the limits of the
Pemb Local Ct. Under Act 8/65
this jurisdiction might be given to Mr.
Underwood, but he ought to be in a
central position, I suppose, if this is
done.

(7) Expediency of Small Cause
Reference may be made to next Report.

(8) Leasehold
Note a certificate Mr. Underwood to enquire into it.
This can only be ordered.

Mr. Davis
P.S. In the case address is an exception
& is not to be regarded, except to bring up the
question of Mr. Underwood as the chief town clerk
to ask explain delay in getting Coffee Lands.
P.S. Mr. Davis, lastly, a note from Mr. Schmidt,
stating that C.S. Wignall is visibly
coming up, to be answered to the
Mayor.

Mr. 10/12

I think the expenses should all be charged

The petitioner lately
and I think it right
decided that the re-
-mainder should
continue to be the
Head Quarters of
the Police - I do
not think it necessary
that the new building
have yet been begun
Mr. is entirely
right - but
it is I believe the
only place of any
size in the Parish
and the only one
in which the pillo
establishment
has been - I have
little doubt we shall find
accommodation [illegible]

Situation in the
S.E. side. It is
a matter of Exp
reme difficulty
to induce natives
of the Upper Ri
ability. & Dun
ton. and in the
Kandian to
come in Wynad
and it will be
really necessa
ry to employ
Europeans Duty
Clerks for the pres
ent at the Cutch
of the District
and if we had

a Deputy Collr
at Dindigul
time when that
that Division is
brought into
the Collectorate
Magistr. and with
the saving in pay
of the Assistant
of the Asst Sub
Magistr. the Deputy
Collr would of
Course have
full powers &
should Conduct
Court proceedings
in Tamil he
would pass the
Civil Establishment

a degree of pro-
tection which
they therefore do
not have en joy-
ed and legal
remedies against
them are not so
speedy - he can
not bring pictures
to every man door
but if it is not with
Easy reach, the
Planters will
take the law
into their own
hands. And the
criminal classes
will be encouraged
by their virtual

3/ im munity from
punishment.
I would therefore
advise to the
Govt: not for
an addition of
Rs 60 Cds of the
250 Rs proposed.
If we cannot
get them, we must
put in the hands
and then put upon
and inform the
position of the
thefts - which he
abt as Extension
as my Police Cds

and by no means
shall be satisfactory.
We must look for
better - the Principles
of Compensation -
but at present we
have only Fire
& insufficient pro-
vision for Repairs of
Accidents. Depreci-
ation & Risks
of Crime & Violence
I think instead
I agree in the
Remarks of my
Hon.ble Colleague.

L. O.

17th

The City should find
it difficult to obtain the
Sum required by

enabled to pay the
Interest of Loans
Existing in Lieu of 33.3%
in case the
Satisfactory proportion -
But he must be
guided by the
ordinary

I do not see
that sufficient Cause
has been shewn for
the Removal of the
European Deputy Medical
from Mandalay to
Kulsalla or that neigh-
bourhood as advocated
by the S.E. & S Wynaad
Planters. It could
only be done at a great
cost. A Residence Court
house, Jail &c would
have to be built-Medical
Officials provided for &c.
I doubt whether we
should compass the
more

none for half-a-lakh of Rupees. As regards the relative importance of the two Divisions, the Collector has not sent an Annual-war Account of the population and Revenue of the Districts but I fancy the division in the Census returns viz two-thirds to South and one-third to North Wynaad fairly represents the territorial division but as I think the population. As regards Native population I suspect the Manantoddy District is the more peopled and I am almost certain pays the

the larger Revenue. I wrote he observed that in respect to Native Planters and Native cultivation the two Divisions are fairly Equal

The Deputy Collector should make quarterly tours Except during monsoon.

As regards Native Magistracy - There is a Tahsildar at Manantoddy (Rs. 200) and Sub Magistrates at Vythery & Sudalur etc Sound more wants he to send the Vythery man to Kulhatte or other central station Vythery is not mountain and to require the Sudalur

Judicature Sub magistrates
to sit two days a week.
at Dewalch if not
employed elsewhere
in the range. till
Sub magistrates shall
have increased powers
and sufficient in
jurisdiction.

No case for selling
aside the decision
of 1866 in respect to
a labor ordinance is
known. I think limitation
not a bad one. Coffee
Stealing Law is simple
and of the questions of
the Ceylon bill pass
into law it will be
seriously discredited
this legislature.

I would not
Entertain

Entertain proposals
to reopen the 139 VII
current question too
recently & favourably
settled. Indeed the
thing is introduced
somewhat retaliatory

I would invest
the Submagistrates
with small Causes
Court jurisdiction
of small amount
and the Deputy Collectors
upto 500 Rs.

7/12 BR

I have examined the Statistics of the divisions of Wynaad as now included in the Local Fund Circle. They appear to be as shown in the margin.

	North Wynaad	South Wynaad
Cumchums	6.	10.
Roman	2379.	4758.
Population		
Hindus	39024	78048
Mahomedans	2702	5404
Europeans	89.	180.
Eurasians	163.	328.
Total population	41978	83960

I was not prepared for so large a difference in favor of South Wynaad, to which apparently more than one-half the Cumchums have been transferred. I cannot find the relative income, but I think that probably the larger portion is derived from the Northern part where the bulk of the Native cultivation lies. The population

in

in the Northern Division is the Resident Native population of the country - that numbered under Hindu and Mahomedan on South byroad is doubtless the more or less migratory labor population who are attracted by the Coffee industry which greatly predominates in the South.

Under all the circumstances, while I do not think that the Deputy Collector's head quarters, hitherto stationed at the only town of the country, Iranantoddy, should be transferred to the unhealthy station of Vythiry, I think that a good case is made out for placing the Assistant Superintendent of Police at the latter place.

Besides the position of placing the European Deputy Collector at increased disadvantage in respect to health of himself and family he has a considerable office staff who deserve consideration, and I think that it is scarcely fair to the large number of natives who are obliged to attend his Court (of both Civil and Criminal jurisdiction) to oblige them to congregate at an unhealthy station where there is little accommodation for respectable natives

18/10 [illegible]

16/10/74.

* Orders solicited by Secretary to Govt. - v. para 3. G.O. 29th August.

See 3dly - in Para 1. G.O 11th Sept/74.

1 The Petitioners are almost to a man European Residents or Native shopkeepers of Ootacamund who are interested in planting in the South East Corner of Wynaad about Sudalur and Devala. They want the jurisdiction over that part of Wynaad in which they are personally interested transferred to their own doors at Ooty.

2 The proposal has been

Read 22nd of Nov.
Reply from Mr. Pelham.
5/10-10-74.

been removed from time to time by the same class of persons ever since 1857. It was then fully discussed in my letter recorded in Proceedings of the Madras Government dated 31 March 1857 - Paras 10 to 13, 16 to the End - to which I venture to invite the attention of my Honorable Colleagues. The same condition prevails and the objections I hold are stronger than ever. These Gentlemen are mere lessees or under tenants of Malabar proprietors, who to a man would [illegible] and most naturally oppose a selfish move, which would simply deprive them and the whole native population of the tract (some 5 to 10,000 strong) of their right for the personal convenience of a foreign, influential but [illegible] numerous body. The thing was negatived by the Government of that day.

In 1871 the same proposal was revived by the same class of persons (Proceedings of the Madras Govt. 23 May 1871) the Government consents to consider a very limited part of the proposal. It was referred to the joint

report

Report of the Collector of Malabar and Commissioner of Coorg Messrs Brooke and Cockerell as well as the Board reported against the change and the Government practically decided that it would be inexpedient so late as 15th July 1873.

(4) I would tell the Petitioners that the Government will not undertake any Circumstances entertain a proposal which could not but be most distasteful to, and detrimental to the interests of, the Native population.

(5) I would remark on the Petition that the importance of the retention of

Increased wages.

of the tract in Malabar in the interest of the Malabar proprietary is greatly on the increase. The fact is these Gentlemen want to get rid of their Native proprietors as much as possible and they are becoming sufficiently influential to be difficult to hold. This I believe underlies the whole thing.

Distance Para 2. (VIII) The difference of distance is not great, the work to be transacted with the head of the District in person is but small and the removal of jurisdiction to Coorg would deprive the people of

channel of a renewed
prosperous proposal
which has already
been disposed of so
recently as July 1873.

Mr Brett's letter
dated 28 January 1870
(Pro of Mr. Govt. 28 May 1877
shows that the transfer
will be most embarrassing
as public grounds and
would entail a large
additional Expenditure

Petn on Imperial Pauper Office Papers

Paras 5

Judicial Depts 22

Read the following Papers:—
153

From Collr. Malabar No 68 dy 2-10-4

Addrss to H.E. the Governor by the Planters of South & South East Wynad. dy 9th Nov. 74.

Letter to Private Secy from Capt. Cox dy 2-11-4.

Addrss to H.E. the Governor by the Planters of North Wynad (substantiate)

Addrss to H.E. the Governor by certain Hindu & Mahometans, coffee planters in North Wynad.

Order. 21st January 1875. No. 35.

S. & S.E. Wynad. In his addrss the Planters ask, first, to have a second European Magte in the taluk; but, if that is inadmissible, that the present Divisional Office be placed more centrally than at Manantoddy in the North of the taluk. Comparing North & South Wynad, they give the following figures:—

	North	South
European Planters	15	102
Cultivation Acreage	5640	17,700
Native Planters	3428	3794
Cultivation Acreage	5384	5280

They also point out that the total Native population of S. & S.E. Wynad far exceeds that of North Wynad.

24/12
Post all

2. This showed that the present superior Staff of the Wynad is distributed as follows :—

I. At Manantoddy.

(a) A 1st class Dy Coller & Deputy Magr, who has also the jurisdiction of a Dist Munsif, i.e. up to 2500 Rs in ordinary suits & 50 Rs in Small Causes.

(b) A Tahsildar and Magistrate of the taluk.

II. At Cyttany

A Deputy Tahsildar & 3d class Magr.

III. At Gudalur

A Deputy Tahsildar & 3d class Magr.

Both the officials at Cyttany & Gudalur have also the jurisdiction of a Dist. Munsif. They have disposed this jurisdiction for some years; the statement to the contrary in the present address is inexplicable. A return of their work was before Govt in September: G.O. 11th of 1st instant, No 1685.

3. The Committee is of opinion that the time has come for formally considering the application of the Wynad Planters for a second officer in this exceptional taluk, with powers co-

ordinate with those exercised by the Deputy Collector stationed at Manantoddy, which, however, from its size & importance as the only town in the district, must always remain as the capital. The Collector of Malabar will be called upon to state where a second Deputy Collector should be placed, and how much of the saving of the office could be met by the abolition of one of the Deputy Tahsildars & Magistrates, Note that it is presumed, could not be dispensed with, on the appointment of a second Dy Coller. The lowest grade of Dy Collers is assigned 250 Rs a month, but this would probably be insufficient for the Wynad. The present officer at Manantoddy draws a special allowance of Rs 150.

4. To this newly appointed officer, as well as to the Dy Coller at Manantoddy, the Committee is prepared to assign the powers of a Small Cause Court up to 500 Rs, if the Collector reports in favour of the proposal. Meanwhile the Magistrates at Cyttany and Gudalur, as well as the Tahsildar-Magr at Manantoddy will be invested with the powers of a Magr of the 2nd class. The Collector Magistrate will also give his opinion on the suggestion that Hon'y Magrs should be appointed by selection amongst the European Planters, or as a Bench in association with the Dy Coller-Magrs.

Also where, under the new arrangement this subordinate Officer should have his head quarters.

† There seems little doubt that the Magistrate will recommend that the Dy Coller should be at Manantoddy, and if the Magistrate at Gudalur was invested with 2nd class powers & Head Clerk, all or nearly all that the Committee

ed be done. It will not be necessary to interfere with the Magistracy or the Magistrates (the Magistrates with whom I presume the Planters may be disposed to claim precedence) by calling for returns of delay &c. &c. &c.

One of the Hon. Magistrates may (or requested) perhaps be dispelled with.

Objection. 24/12

5. The Planters from both South & North Wynaad complain of the inadequacy of Act XIII of 1859. The Govt is entirely opposed to enlarge the existing Labor Laws in their favor. The statement in the case cited that, as the defaulter has worked out his term of imprt, "the money advanced is lost," is obviously erroneous; the act does not deprive the complainant of his Civil remedy (Sect II). From North Wynaad, a complaint is made of the difficulties experienced in working the Act "by the presence "position of the Magistrates & by "the prohibitory rates demanded for "serving Warrants in that Province". The Collr will make a detailed report of these grievances, in view to a communication being made to the Chief Commr of the Company. The alleged bad state of the Roads beyond the Wynaad frontier in the Mysore & Coorg country, will be referred for Sir R. Meade's consideration.

6. It is asserted that the present land assessment is in some respects found to press heavily on the Planters. H. E. Govt is not disposed to make any change; it observes that Forest Land is 2 Rs an acre, with no assessment payable till the 4th year. Grass land is 1/2 R an acre, payable from date of appropriation.

2/

Collector of Malabar. for comm. of the Nilgiris.
Chief Commissioner of Mysore.
Revenue Department.
Accountant General.

Sept 9-1-75

580

L.G. 540

Her Planters also in certain respects

7. Coffee Rotteneis. This part of the Hon. Planters have before the Govt, has a Coffee Stealing Ordinance has been passed by the Ceylon Legislature. There is a Bill under that object now before the Council at Colombo. If it passes and is found to give satisfaction, the Memorialists can renew the subject; but, as at present advised, the G. in C. is averse to entertain the project for legislating in this direction.

8. Penal Code Commn. This is before the Govt of India, under the recommendation of this Govt.

9. Deficiency of Female Coin. The Accountant will report.

10. Coffee leaf disease. The G. in C. is prepared to give the services of any competent officer to investigate the matter. The Collr will state at what season of the year the enquiry ought to be made, and whether he can name anyone for the duty, after consulting the Planters.

10. The Native Address. As an echo of the address last mentioned. The writers complain especially, however, of their difficulties in getting land. The Collr will report whether there is any unnecessary delay in his office in attending to applications for land.

H.T. 28/12/74