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TAMIL NADU ARCHIVES

GOVERNMENT OF TAMIL NADU

Judl DEPARTMENT

G.O. No. / B.P. No.	118	Press / Mis.
Dated	31-1-1872	197—

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Read the following papers:—

No. 101. From A. O. HUME, Esq., C.B., Officiating Secretary to the Government of India, Home Department (Public), to the Chief Secretary to Government, Fort St. George, dated Fort William, 5th January 1871, No. 49.

I am directed to forward a copy of the papers noted on the margin relating to the amendment of the law regulating the administration of religious endowments.

Letter from the Government of Bengal, No. 3875, dated 28th October 1867.
Letter to do., No. 46, dated 24th January 1868.
Letter from do., No. 3507, dated 27th September 1869.

2. These papers show that the funds of the religious and charitable endowments in certain portions of the Lower Provinces are, to a very great extent, squandered or misappropriated by the managers and trustees who administer them, and the Governor-General in Council fears that evils and abuses of the nature now brought to light prevail to a greater or less extent all over India.

3. It is necessary, therefore, to consider whether any remedial measures which may be adopted should not be of general application. But, as the actual facts before Government are confined to certain districts and comparatively small areas, it is possible that these are affected by circumstances of a purely local character, and that a wider examination of facts would tend, in some degree, to modify the conclusions which follow from the inquiries instituted in Orissa, and to suggest different remedies.

4. Under these circumstances, I am to request that His Excellency the Governor in Council will be so good as to take the subject into consideration and to favour the Governor-General in Council with his opinion. I am to add that, in making any changes which may be considered desirable, it is the wish of the Government 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.

From the Officiating Secretary to the Government of Bengal, to the Secretary to the Government of India, dated 28th October 1867, No. 3875.

In continuation of the endorsement from this office, No. 2766, dated the 12th July last, I am directed to forward, for the consideration and orders of His Excellency the Governor-General in Council, a copy of the accompanying letter* from the Officiating Commissioner of the Cuttack Division, together with three petitions from certain Hindoo gentlemen resident in Cuttack, Pooree, and Balasore, relating to the amendment of the law regulating the administration of religious endowments.

* No. 3064, dated 20th August.

2. It will be observed that the petitions contain two prayers:—

1*st*.—That the force of judicial decisions, such as those of arbitrators, be given to the decisions of Committees.

2*nd*.—That the provisions of the Act be extended to certain endowments which were never under the control of local agents.

3. The Lieutenant-Governor considers that the petitions may be taken to express a very general feeling, and both proposals are, so far as they go, good.

4. His Honour doubts whether the force of unappealable decrees, not contestable even by regular suit, could properly be given to the decisions of Committees. It deserves consideration,

however, whether it would not be right to give such effect to them, at least in certain classes of cases, as would throw on the trustees the onus of going into Court as plaintiffs.

From T. E. RAVENSHAW, Esq., Officiating Commissioner of the Cuttack Division, to the Secretary to the Government of Bengal, dated Cuttack, 20th August 1867, No. 6064.

I have the honour to submit, in original, petitions from a number of Hindoo gentlemen, residents in Cuttack, Pooree, and Balasore, who are anxious for some amendment of the law by which proper control may be exercised over endowments originally granted for religious purposes, but the revenues of which are squandered by the persons entrusted with their management and used for purposes other than those for which the original grant was made.

2. I am aware this is a delicate subject to touch on; but I believe there is a general and widespread desire on the part of respectable and conscientious Hindoo gentlemen to improve the administration of these endowments, which have been made with the primary object of feeding the poor and destitute, or affording assistance to travellers and pilgrims. I believe I am correct in stating that the revenues of these endowments are enormous, and that, had they been applied properly 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. For some idea of the extent of these charitable and religious endowments, I would beg reference to a valuable report from the Collector of Pooree, submitted with my No. 250 of 28th November 1865 to your address, which gives the annual estimated revenues of Pooree muths alone as Rupees 1,11,200. Were inquiry made throughout the country the result would show an incredible revenue appertaining to these institutions.

3. The proposition now made to invest the decisions and awards of local Committees with the force of a decree of Court appears to be a practicable and proper one, and I think the jurisdiction of local Committees might be extended to endowments other than those administered by Government before the passing of Act VIII. of 1859. It is questionable whether there exists any legal right of successions from one trustee to his son, or disciple, as in the majority of documents which have come under my observation the grants are made to a certain temple or charity for a specific purpose, through so and so as trustee. The grants are mostly not in the name of the trustees, and their position is simply that of managers or agents for carrying out the charitable wishes of the original donor. The difficulty felt by local Committees is that they have virtually no power, and in all cases, however great the abuses, they hesitate to undertake an expensive and protracted litigation. The subject is one so widely spread over India that I think it would be most desirable to consult the wishes of the native community generally, and with their approval to frame some law or rules under which these endowments may be better controlled and administered.

4. While deprecating all direct interference of Government, I think, as Government has withdrawn its control from all native religious institutions and endowments, it is nevertheless bound to provide the native community with the power to exercise the same control which Government has relinquished, and which cannot be maintained effectively under the present law. I would, however, place the subject on a higher position and look upon these endowments as charitable bequests to the poor, which in times such as we have recently passed through Government has a direct interest in causing to be properly administered as an imperial revenue affecting the good of the people. I believe I speak within bounds when I state that the revenues of the charitable endowments in Orissa, if administered in accordance with the founders' intentions, would have saved the lives of thousands of the population and have relieved Government of the burden and expense of famine importations; and this expense, it must be remembered, will have to be borne by the community at large, who are therefore, and more particularly the Hindoo members, directly interested in obtaining adequate powers for proper management of religious and charitable endowments.

5. I recollect, I think in 1864, a speech of Mr. Gladstone's in the House of Commons, which referred to an inquiry into the constitution and administration of all public institutions, founded by bequest or otherwise, with the idea of modifying their terms in such a way as to get rid of abuses

Proceedings of the Madras Government, Judicial Department,
31st January 1872.

to secure the objects of their existence in a degree corresponding to the progress of times. I assured that the progress made by the Hindoo community during the present generation will ave led them to feel the want of proper supervision and regulation of their endowments.

6. I would refer also to paragraphs 68, 69, and 70 of the Famine Commissioners' Report, and suggest that we have here at hand ample funds and means to provide for distress in case of future scarcity or famine. The subject is one which needs attention and discussion, and might, should you see fit, be referred for the opinion of the British Indian Association.

7. I was called on some time back to report, with reference to Board's Circular No. 9 of December 1865, on the working of the rules published under Government Notification dated 2nd December 1865, page 2096 of the Calcutta Gazette. I enclose copy of my reply, which is decidedly unfavourable to the working either of the Act or of the rules framed therein. Some attempt appears to have been made by the Madras Government to obtain legislation on the subject, as a draft Bill to empower Committees under Act XX. of 1853 to raise money for the proper performance of the duties. This Bill appears at page 632 of Gazette of 4th April 1867, but I do not find that the Bill went further than a draft.

From T. E. RAVENSHAW, Esq., Officiating Commissioner of the Cuttack Division, to the Secretary to the Board of Revenue, Lower Provinces, dated Cuttack, 18th April 1867, No. 93.

Referring to your No. 214-B. of 3rd April 1867 and to Circulars No. 9 of December 1865 and No. 9 of January 1867, I have the honour to state that the Committees of Management appointed under Act XX. of 1863 appear to be apathetic and indifferent, and to have taken no action whatever. The duty of a member of the Committee carries with it neither emolument nor weight, and consequently is neglected. I believe in no instance has any registration of names been made; the parties interested in, and holding direct charge of, these endowments look with great jealousy on the Committees and refuse to give the smallest information, or register their names. In point of fact, the result of Act XX. of 1863 has been to leave the entire management of religious endowments formerly supervised under Regulation XIX. of 1810 in the hands of the hereditary or officiating priests and pundahs. The revenues of the endowments are squandered or appropriated to private uses, while the services of the temples and charitable distribution of food or alms have been entirely neglected and abused.

2. The Committees of Management are a mere nominal body and exercise neither supervision nor control, and the law as well as the rules are inoperative, except as relieving Government of any direct connexion with the management of religious endowments. One instance has occurred in Pooree in which a member of the Bhoobunnessur Temple Committee died before any register of the persons interested therein had been made, and now there is a vacancy in the Committee. Nothing, it appears, can be done until the action of the Civil Court be invoked, under Section 10 of Act XX. of 1863, by some party interested in the endowment, the management of which is most unsatisfactory; but no person, the Committee included, is willing to take action or to enter a suit in the Civil Court the result of which would be protractive and uncertain, and the person instituting such a suit would be obliged to provide the funds to carry it on.

3. Generally throughout Orissa the management of temples, muths, and other religious endowments is a scandal, and appears likely to remain so until there is a stronger and more efficient system of management and supervision than that exercised by the local Committees.

PETITION from a number of Hindoo gentlemen, residents in Cuttack, Poorce, and Balasore, to the Officiating Commissioner of Cuttack, dated Cuttack, —— April 1867.

It is a well-known fact that the Hindoos consider Poorce as Paradise, it being the abode of their chief god Juggernath; and, in order to afford every sort of assistance to the innumerable pilgrims of various classes who resort to that holy shrine from almost all parts of India, the landed proprietors of the province, as well of the other parts of the country of former times, have granted

considerable landed properties, the annual income of which will not be less than four or five lakhs of Rupees, for the purpose of *bhog* being offered to Juggernath, and subsequently distributed among the poor; and these endowments in land were placed in charge and possession of trustworthy persons for the purpose of their being applied according to the real intent of the grantor. In former times, when these endowments were under the supervision of Government officers, neither Government nor the people had to feel any anxiety about providing for the poor, infirm, and helpless people of the province and those who come in pilgrimage from very remote parts of the country. When the British Government took possession of the country the endowments were, to some extent, applied according to the will of the donors as long as Act XIX. of 1810 was in force, although there was much misappropriation of public property; but since Act XX. of 1863 has been passed the endowments have been entirely misappropriated, and the object with which the present Government confirmed the grants frustrated. The provisions of this Act being in some points against the Hindoo religion and putting obstacle to public convenience, we presented an application to the Hon. Sir Cecil Beadon, Lieutenant-Governor of Bengal, during His Honour's late visit to this province, praying to make some amendments in the law. His Honour, in Government Order No. 1937 of 16th March 1866, was pleased to direct us to represent the matter to the local authorities, and we accordingly submit this petition to you, stating briefly the points on which the Act should, in our opinion, be amended, and request that you will kindly forward it with your opinion to Government.

1. By Act XX. of 1863 the Committees appointed for the management and supervision of religious endowments are vested with the powers heretofore held by the Board of Revenue and local agents under Regulation XIX. of 1810, and they are authorized to require the trustees to produce accounts of receipts and disbursements of the endowments at least once a year; but no provision has been made as to what measures the Committees would take if the trustees did not obey their orders or refused to produce accounts; and when, by examining the accounts or by any other means, the Committee find any trustee to have proved himself unworthy of the trust by any misconduct, they have no power to take any direct measure beyond suing him before the Civil Court, as directed in Section 14 of the Act. If the Committee have no legal authority over the trustees, the mere examining of their accounts of receipts and disbursements cannot have the desired effect of ensuring the proper application of the incomes of the endowments. In our humble opinion, if the Committees be invested with powers like those of arbitrators and their decisions enforced like the awards of arbitrators as provided for in Chapter VI. of Act VIII. of 1859, and the dissenting party be not allowed to lay a regular suit, then the provisions of Act XX. will have the desired effect.

2. In the times of former Governments the conduct of the trustees of all religious endowments, whether granted by Government or private individuals, and whether such trustees may hold their trusts hereditarily or by appointment under the orders or with the permission of Government, was liable to scrutiny by Government officers; and when any misconduct was found out in the trustees they were removed from the trust and better men substituted in their place, and this course was adopted even after the British Government took possession of the country under the management of local agents until Act XIX. of 1810 was repealed. But under Act XX. of 1863 Committees are appointed for the management of those endowments only where the trustees are nominated and appointed by, or with the permission of, Government, and not of those endowments which are held by trustees hereditarily but which were heretofore managed by local agents, and the local authorities do not consider it necessary to appoint Committees for the management of the latter endowments. The religious endowments of Orissa are of three classes—

1*st*.—Endowments the trustees of which are appointed by Government.

2*nd*.—Endowments which were originally placed by the grantor in the charge of trustworthy and religious persons, and which have now passed into the hands of their disciples and relatives who succeeded to the property hereditarily.

3*rd*.—Endowments assigned to religious purposes but placed in charge of the family of the grantor, whose successors hold the trust hereditarily.

Of these three classes the trustees of the former two cannot be held to have any hereditary right of possession, they not being the real proprietors. In the settlement papers these lands have been entered as lakhiraj, and the trustees as mere jemadars or marfutdars. They have no right to transfer these lands, and cannot apply the incomes of such lands to any other purpose than that intended for by the grantor. We request that Committees be appointed for the management of these endowments also.

PETITIONS from KHETTER MOHUN BOSE, Zemindar, and BONOMALY SINGH, and others, residents in Cuttack, Pooree, and Balasore, to the Officiating Commissioner of the Cuttack Division.

(Same as above.)

From the Secretary to the Government of India, to the Officiating Secretary to the Government of Bengal, dated 24th January 1868, No. 46.

I am desired to acknowledge your letter, No. 3875, dated 28th October, and, in reply, to state that the Governor-General in Council concurs with the Lieutenant-Governor in thinking that the petitions submitted by certain Hindoo gentlemen in Cuttack, as regards the amendment of the law regulating the administration of religious endowments, express a prevalent feeling, and that on this account, and on their own merits, they deserve serious attention.

2. But, while admitting so much, I am directed to observe that the allegations contained in those petitions are set out in very general terms, and that they are not supported by specific instances of abuse or mismanagement. His Excellency in Council does not accordingly think that it is advisable to proceed at once to legislate on the subject, and is desirous of first obtaining more distinct evidence of the actual state of endowments of this nature, at least in those localities in which they are said to have fallen into a state of disorder.

3. I am accordingly to suggest that the Lieutenant-Governor should, in the first place, appoint a Commission of three native gentlemen of character and intelligence to inquire into the general condition of religious and charitable endowments in the Pooree District.

4. It is believed that the great bulk of the endowments in the neighbourhood belong exclusively to the Hindoo section of the community; it will be expedient, therefore, that the members of the proposed Commission should be Hindoos also.

5. Though the Commission will be directed, in the first place, to the Pooree District, His Excellency in Council is willing that their inquiries should extend to the other districts of the Orissa Division if the Lieutenant-Governor considers this course to be expedient.

6. The chief business of the Commission will be the collection of facts and the submission of a report accurately describing the condition at least of the principal religious and charitable endowments in the localities to which their inquiries extend.

7. But the Governor-General in Council will be glad to have an expression of the Commission's opinion as to the remedial measures which, if they consider interference necessary, they would recommend for adoption.

8. It might, for example, be suggested for the consideration of the Commission whether they would recommend that *all* endowments of a religious or charitable nature should be placed under the superintendence of District Committees, such as those constituted under Act XX. of 1863, and not merely the particular class of endowments to which Section 3 of that Act applies. What the constitution and manner of appointment of such Committees should be, the powers to be conferred on them, whether the members of the Committee should be paid, and, if so, in what manner their remuneration should be provided.

9. The Governor-General in Council will not prescribe more particularly the details of the suggested measure, but with these remarks will leave the matter in the hands of the Lieutenant-Governor. I am to say, however, that His Excellency would be glad to have any report which

the Commission may submit early enough to afford full consideration to it, and for the submission to other local Governments in good time, before the regular legislative sittings of the Council at the close of the present year, of any proposals for legislation which it may be thought expedient to found upon the report.

From the Officiating Secretary to the Government of Bengal, to the Secretary to the Government of India, dated 27th September 1869, No. 3507.

With reference to your letter, No. 46, dated 24th January 1868, and previous correspondence, I am directed to forward, for the consideration of the Government of India, copies of the papers noted on the margin, being the instructions issued to, and the report submitted by, the Committee appointed to inquire into the condition of religious endowments in Orissa.

Revenue Proes., Feb. 1868, No. 26
" " June " Nos. 70-2
From Officiating Secretary to the Board of Revenue, No. 5747-C., dated 17th August 1869.

2. The investigations of the Committee seem conclusively to show that in the great majority of instances the funds of the religious and charitable endowments of the province are squandered or misappropriated by the managers or trustees who directly administer them. Where the endowments were formerly under the charge of the agents of the Revenue Board, the local Committees are, as the law stands, powerless to exercise efficient control even in the few cases where they are really anxious to interfere; and where the endowments were originally exempt from Government supervision the trustees are now only the more reckless in their profligacy, as they find themselves no longer singular in their indulgence of it.

3. Accepting the policy of Act XX. of 1863 as one from which it is not now open to recede, the Lieutenant-Governor thinks it clear that the Act has failed to give sufficient legal power to the Committees in whose hands the control of religious endowments are vested. Under Regulation XIX. of 1810 the Board of Revenue had, it is true, no more definite power than is now held by the local Committees; but, as pointed out in paragraph 27 of the report now forwarded, the Board were, by their official position and the influence of the Collectors as their local agents, able to exercise a real authority to which the local Committees can show no claim. This would appear to have been overlooked when Act XX. of 1863 was passed.

4. What seems to be required now is to strengthen the hands of local Committees and to bring under their control endowments of all kinds, whether originally supervised by Government or not, and to create a Central Committee in each district with very full and absolute powers of control over the local Committees and over the managers of the various endowments. The proposals made by the Board of Revenue in paragraph 6 of their covering letter have the Lieutenant-Governor's general approval. The necessary expenditure incurred by the Central Committees and Sub-Committees should be provided rateably from the endowment funds, and the post of Secretary to each Central Committee should have a salary attached to it sufficient to secure the services of a competent and trustworthy man.

5. An examination of the tables attached to the Committee's report has led the Lieutenant-Governor to doubt whether, in divesting itself of the Orissa endowments, the Board of Revenue has sufficiently attended to the provisions of Section 21 of Act XX. of 1863. That section empowered the Board to reserve under its control all endowments or parts of endowments designed for secular uses. It may be inferred from the tables annexed to the report, however, that the transfers of the endowments therein mentioned have been made absolutely and without sufficient inquiry as to the different purposes for which the funds are intended. On this point a reference will be made to the Board of Revenue, and the Lieutenant-Governor would suggest that, if the fact should prove to be as above surmised, any amending Act might provide for the rectification of the oversight, and that it should at the same time define what are to be considered "secular uses" for the purposes of the Act. On this point paragraphs 14 and 20 of the Committee's report deserve consideration.

6. It will be observed that the report deals only with the Hindoo endowments of the province of Orissa, which are by far the most numerous and important of all the endowments in

Bengal. Some further inquiry will be made as to the state of things elsewhere, and also as to the purpose of giving a better protection to the Mahomedan institutions; but early legislation for the numerous Hindoo endowments in Orissa seems very desirable. The principles which may be laid down in regard to them will, no doubt, be found to be generally applicable. The only matter of doubt appears to be whether the expenditure incurred by the Committees of Mahomedan endowments can be met from the funds under their control, Wuqf being under Mahomedan law inalienable. On this point I am to refer you to the papers forwarded with this Government letter No. 501, dated 5th February 1867. It will be for the Government of India to determine whether Section 15, Regulation IV. of 1793, is a bar to legislation on this matter in the present day. It seems probable that enlightened Mahomedans would not now object to such a proposal, and the best way perhaps to meet the difficulty would be to vest by law the Committees with the powers of Mutawali for certain specific purposes.

7. I am to add that the Lieutenant-Governor apprehends that, though the proposed legislation would not in any way contravene Act XX. of 1863, being, indeed, rather the complement of that law, yet, as it would technically be considered an amendment of the Act, it would be beyond the competence of the local Legislature.

Revenue Proceedings for February 1868, *No.* 26.

From the Junior Secretary to the Government of Bengal, to the Officiating Secretary to the Board of Revenue, Lower Provinces, dated 5th February 1868, No. 430.

With reference to your letter, No. 3464-B., dated the 12th June last, I am directed to forward, for the information of the Board of Revenue, a copy of the correspondence noted on the margin, and to request that they will be so good as to submit, for the approval of Government, nominations for the proposed Commission, and also a draft of the instructions which they would issue to the members of it. The instructions should be somewhat full, in order to guide the Commission in their mode and line of inquiry, not with the object of restricting them in their inquiries, but because it is probable that the Commission will consist of gentlemen who are not familiar with such duties.

Letter from Commissioner of Cuttack, No. 6061, dated 20th August 1867.
Petition of certain Hindoo residents of Cuttack, Pooree, and Balasore, dated — April 1867.
Letter to Government of India, No. 3878, dated 28th October 1867.
From Government of India, No. 46, dated 24th January 1868.

2. One at least of the members (if not two) should be an Ooryah gentleman of known position in the province. The inquiry should extend to endowments in any of the districts of the division of Cuttack.

3. It is desirable that the Commission's report should be submitted to Government, if possible, by the end of May at latest.

Revenue Proceedings for June 1868, *Nos.* 70 *and* 71.

From the Officiating Secretary to the Board of Revenue, Lower Provinces, to the Officiating Secretary to the Government of Bengal, dated 5th June 1868, No. 2578-C.

Referring to Government Order, No. 430, dated the 5th February last, with enclosures, I am directed to submit, for the approval of Government, a list received from the Commissioner of Cuttack and giving the names of the native gentlemen whom the Board recommend as members of the Commission to inquire into the general condition of religious and charitable endowments in Orissa. A copy of the draft instructions prepared by the Commissioner, and modified, where necessary, by the Board, is also forwarded for approval.

2. Adverting to paragraph 3 of your letter under acknowledgment, I am directed to state that, owing to the absence of the Commissioner from Cuttack on tour, his report in connexion with the nomination of the Commission has been unavoidably delayed. Mr. Ravenshaw further observes that, even had this delay not occurred, he could not have promised that the Committee's report and inquiries could have been completed by the end of May, as it must necessarily take

some time to collect the particulars of endowments required. Information will not, he fears, be readily afforded in some cases, and search and reference to old records may be found necessary. He will, however, impress on the Committee, when they are appointed, the desire of Government that their report be submitted with the least possible delay, and he will personally superintend their proceedings and afford them all the assistance in his power.

List of the names of Native Gentlemen proposed to be appointed Members of the Commission to inquire into the general condition of religious and charitable endowments in Orissa.

For Cuttack.

Baboo Juggo Mohun Roy.
,, Radha Shaam Norindro.
,, Bitcheetra Kund Doss.

For Pooree.

Baboo Poorsotam Putnaik.
,, Mohun Lall Panday, Munsif.

Draft Instructions for Orissa Endowment Committees.

Under Regulation XIX. of 1810 provision was made for the supervision of endowments made by former native Governments or individuals for charitable, pious, and beneficial purposes, and to provide for the proper appropriation of such funds, in accordance with the intention of the donors, under this Regulation, the management was carried on by local agents under control of the Board of Revenue.

Local agents were empowered, under Section 10 of the Regulation, to obtain full information from Government records and private inquiry regarding these endowments, reporting specially any instance in which the lands or proceeds of endowments were improperly appropriated.

The local agents were also required to report on the claims of all persons to succeed to such trusts, and, where necessary, to recommend fit persons for appointment by Government.

In 1863 it was considered proper that Government should divest itself of all direct control over religious endowments, or the superintendence of lands granted for support of mosques, temples, or other religious uses; and Act XX. of that year provided for the transfer to independent trustees and managers of all property before in charge of Government local agents, and in all cases where the nomination of trustees and managers vested in Government Special Committees were ordered to be appointed in each district to exercise proper supervision, and to these Committees were transferred the landed properties belonging to the endowments, together with powers of local agents under Regulation XIX. of 1810.

These local Committees were empowered to demand from trustees and managers regular accounts and statements of receipts and disbursements of the funds of the endowment, and both members of the Committee, and also trustees, managers, and superintendents of the endowments, were held liable to a civil action for neglect of their duty, and, in the event of the Court being of opinion that the suit had been brought in the interests of the trust, it might order payment to be made from the endowment estate.

Petitions, copy of which are herewith sent, have been laid before Government by members of the local Committees and residents in Orissa setting forth that the present law (Act XX. of 1863) is defective, inasmuch as it provides no adequate means for local Committees to compel trustees to obey their orders, or to enforce due submission of proper accounts; and, moreover, that Committees, even when aware of the inefficiency or mismanagement of trustees, have no power to take measures against them without having recourse to a civil suit—a matter of difficulty, delay, and cost to the petitioners.

It has, therefore, been proposed to extend the powers of local Committees and to enable them to take up cases of misconduct and misappropriation, and to decide on the merits of each case, passing an award which shall bear the force of a decree and be final and unappealable. It is also proposed that the provisions of Act XX. of 1863, as above amended, may be extended to other endowments than those already placed under the superintendence of local Committees, viz., such as were originally granted for religious and charitable purposes, and placed by the grantors in the charge of trustworthy persons, but which have since passed into the hands of their disciples and relatives, who equally with the original grantors are liable to fulfil strictly the conditions and purposes for which the grant was made. Thus two descriptions of endowments would, if the proposed measures be carried, come under the supervision and control of local Committees—

1*st*.—Those to which trustees were formerly appointed under Regulation XIX. of 1810 by Government and provided for under Section 3 of Act XX. of 1863.

2*nd*.—Those in which the nomination of trustees was not controlled by, or subject to confirmation by, authority, and coming under Section 4 of Act XX. of 1863, and to whom the entire management of the trusts and endowments have been committed without being subjected to a Committee's supervision, and who are now independent, with the exception of liability to be sued, by any person interested in the endowment, under Section 14 of the Act.

The Government, while generally approving of the propositions contained in the petitions, wishes for more specific information regarding the actual condition of some of the principal religious and charitable endowments in Orissa before taking action on the subject.

This inquiry is now entrusted to you as member of the Special Committee, and at the same time you are requested to give your opinion clearly as to the remedial measures which, if you consider legislative interference necessary, you would propose.

Your first duty will be to ascertain and report, in the enclosed tabular form, on the precise position of the chief endowments. This statement will show the conditions on which the original grant was made, the wishes and intentions of the donor, and the total emoluments of the endowments either in lands or cash.

The manner in which the proceeds and emoluments have been, and are, applied, whether in accordance with the grantor's wishes or otherwise.

The extent to which the funds or lands have been misappropriated or misapplied.

The efficiency or otherwise of the present management by the trustees.

The amount of proceeds of the endowment that are misapplied contrary to the original donor's wishes and intentions.

What measures you would propose to put a stop to abuses, and to secure the object of the endowment's existence.

Would you recommend that all endowments of a religious or charitable nature should be placed under the local Committee's control, or only those particular institutions which come under Section 3 of Act XX. of 1863, in which trustees were nominated and approved by Government?

Do you recommend any change in the present mode of appointment and constitution of Committees under which a separate Committee is appointed to each endowment? Or would you recommend a permanent Central Committee for the whole division, or separate Committees for each district of a division?

State clearly the powers which, in your opinion, should be entrusted to such Committees. How far it would be safe or desirable to give them full and complete authority and jurisdiction, and to constitute such Committees as the final Court of Adjudication in all matters relating to administration of the funds, appointment and removal of trustees. In what manner the Committee's orders should be executed and their proceedings conducted. How, and by whom, should the members of local Committees be appointed. Under what circumstances, subject to control or removal?

Should the members of local Committees be paid, and, if so, in what manner should their remuneration be provided for?

In order to facilitate the Committee's inquiries instructions have been sent from the Commissioner to each local officer to afford the Committee every possible assistance the records of their offices may be able to supply, and to give members of the Committee access to those records if required.

The Committee should call for and inspect the books, accounts, and papers of any institution or endowment coming within the scope of their inquiry, and to make such local, personal, and verbal inquiries as may be necessary; the results of any such verbal or local inquiry to be recorded in the form of a narrative or memorandum, to which the member making the inquiry should attach his signature. The Committee should specially mention the endowment, and the trustees, in cases in which information or accounts are withheld.

Members of all local Committees existing under the provisions of Act XX. of 1863 are requested to place any accounts or records of the endowments under their supervision at the disposal of the Central Committee, and to afford such information as may be in their possession.

The Commissioner will help the Committee to the utmost of his power.

The Committee will, after the whole information and statistics have been completed, appoint three of their body to draft the final report; this report shall be communicated to every member of the Committee, and each shall have the opportunity of recording his remarks thereon.

No. 72.

From the Junior Secretary to the Government of Bengal, to the Officiating Secretary to the Board of Revenue, Lower Provinces, dated 30th June 1868, No. 2068.

I am directed to acknowledge the receipt of your letter, No. 2578-C., dated the 5th instant, with enclosures, and, in reply, to state that the Lieutenant-Governor approves of the nominations recommended by the Board for the proposed Commission for inquiring into the general condition of religious and charitable endowments in Orissa, and also of the instructions which the Board propose to issue to the members of the Commission.

From the Officiating Secretary to the Board of Revenue, Lower Provinces, to the Secretary to the Government of Bengal in the Revenue Department, dated 17th August 1869, No. 3747-C.

With reference to Government Order, No. 2068, dated 30th June 1868, I am directed to submit copy of the report of the Committee appointed to inquire into the conditions of the religious endowments in Orissa. The Board do not know whether they were expected to give any opinion on this subject; but, as possibly the Government may wish to know what their views are, I am desired to submit the following observations.

2. The subject is one of much difficulty. 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. As this, however, is, they presume, out of the question, the remaining alternative is to trust to Committees, to whom should be delegated power sufficient to enable them to act, and who should be guaranteed from all risk of loss from any acts done in good faith.

3. The recommendations made in the report now submitted are not very clear. In paragraph 29 the Committee say, "We would place them (Committees) exactly in the position of the Board of Revenue in Regulation XIX. of 1810;" but this is exactly the position these Committees do occupy with regard to one class of endowments, as is admitted in the report. The language of paragraph 7 of Act XX. of 1863 is as precise and definite as it can be on this point. The real difficulty as regards the powers of local Committees under the present law is that Regulation XIX. of 1810 did not specify what the powers of the Board were. The Board agree with the opinion expressed by the Committee that the extent and nature of the powers exercised should be for the future unmistakably laid down.

4. Again, it is proposed in the report that Committees should be "liable to be sued in the Civil Court, the costs being paid out of the endowment funds." There seem to the Board to be

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two difficulties in the way of any such plan, *first*, that the endowment funds are charitable funds, which should not be diverted to litigation; *secondly*, that the endowment in dispute may possess no funds out of which costs could be paid. For example, a Mohunt may have been turned out by a Committee and another man put into his place, the funds of the endowment being just sufficient to carry out the purposes of the endowment and support the necessary establishment. Where, in such a case, would be the funds out of which costs should be paid?

5. The plan which commends itself most to the judgment of the Board is that in each division or district, as may be thought most expedient, there should be a Central Committee, composed of persons whose decisions would carry weight with the public; that under them there should be as many Sub-Committees as might be required; that to the Sub-Committees should be entrusted the duty of inquiring into the management of all endowments within a defined circle, with power to call for accounts and to take evidence; that the Sub-Committees should report their proceedings to the Central Committee; that with this latter should rest the power to dismiss the Mohunt, to appoint in cases of vacancy according to the custom of the endowment, and generally to exercise all powers of punishment which, it may be inferred, Regulation XIX. of 1810 gave to the Board of Revenue, including the power of fining within a certain limit when accounts are withheld; that any suit in the Civil Court brought against the Central Committee should only be entertained on the plaintiff supplying funds for the defence as well as the prosecution; and that costs should only be awarded against the members of such Committee when, in the opinion of the Court, they had acted in bad faith.

6. It is a question for consideration whether the Secretary of the Central Committee should not be paid a monthly salary, to be levied proportionately from the proceeds of each religious endowment.

7. The Board are aware that many objections may be urged to this proposal; but in the absence of all Government supervision they see no alternative between some such plan as now recommended and the practical freedom, as at present, from all checks over the trustees of religious endowments.

From T. E. RAVENSHAW, Esq., Commissioner of the Orissa Division, to the Secretary to the Board of Revenue, Lower Provinces, dated Cuttack, 25th March 1869, No. 1346.

Referring to your No. 2578-C., dated 5th June 1868, I have the honour to submit a report prepared by the Committee appointed to inquire into the condition of religious endowments in Orissa. The Committee have had a delicate and difficult task to perform, and appear to have treated the subject with great discretion and moderation. I believe the estimate of value of these endowments has been under-stated, and that a good deal of property has not been traced or accounted for.

2. I would remark that the *muths* of Orissa are supported by assignments of money and lands from almost every district in India, and that if it be considered desirable to extend inquiry the results will show the *muth* revenues to be very far in excess of what would appear from the Committee's report.

From Baboos JUGGO MOHUN ROY and BITCHEETRA NUND DOSS, Members of the Commission for inquiring into the state of Religious and Charitable Endowments in Orissa, to the Commissioner of the Orissa Division, dated Cuttack, 25th March 1869.

We have the honour to report on the condition of the religious and charitable endowments in Orissa, as elicited by the inquiries instituted by us into the subject as members of the Commission appointed for the purpose.

2. Before entering into the subject-matter of our report we deem it right to make some preliminary observations, explanatory of ourselves, of the delicate position which the work we were required to do placed us in, and of the difficulties with which it was beset.

3. Being natives of the province, and having, moreover, resided in Poorce for considerable lengths of time, we all had been, to a greater or less extent, eye-witnesses and ear-witnesses of the facts we had to collect, and as such might have, we felt, perhaps served the purposes of the inquiry better, by giving our testimony before a Commission composed of strangers to what we had so witnessed, having no such associations and experiences as we had, than by acting on the Commission ourselves. As it was, however, we were fully conscious of the necessity of divesting ourselves of our preconceived ideas and beliefs, though well founded, so that we might enter upon our work with a spirit becoming the position assigned to us, and we believe we have succeeded in our endeavours to conduct the investigation in such spirit, though, while expressing our opinions on the general question at issue, which we will do in the sequel, we may not be able to avoid being influenced by the views and sentiments we have all along entertained regarding it.

4. The difficulties that presented themselves in the way of our making a thorough investigation were such as might have been expected under the peculiar circumstances of the case. The parties who alone could give full and reliable information on the essential points, viz., the extent of incomes and expenditures, and the nature of the latter, were interested in concealing the real state of things. We had no power to compel the production of the original accounts, supposing anything of the kind had been properly and honestly kept,—our conviction, based upon previous experience and the result of the present inquiry, is to the contrary. The landed properties lay scattered in numerous and distant localities, rendering it impossible for us to ascertain with any degree of exactness the extent of the incomes from this source. Another, and by no means insignificant, source of income was pecuniary donations made by individuals from time to time, the amount of which could not possibly be known by oral inquiries.

5. The difficulties of getting at the truth in the matter of expenditures, owing to the same cause, viz., absence of reliable accounts, were almost as great.

6. The disadvantages, however, whatever their nature and extent, have not much affected the result of our investigations, which is decidedly against the present system of management; in fact, we believe that they have only served to show a less extent of abuses than what would otherwise have been exposed.

7. We further think it necessary to premise that for obvious reasons we took up only a limited number of institutions for the purpose of the inquiry out of the very large number existing in the province. Owing again to various causes over which we had no control we have not been able to make so thorough an investigation of all the institutions so selected as to justify our returning the whole of them in the tabular form prescribed. Those, however, which we have been enabled to show in our returns, though few in number, are some of the most important ones in every respect. They may be safely taken as fair specimens of the generality of institutions of the kind under inquiry, and as such will, we trust, be considered sufficient for all purposes.

8. We will now state briefly the mode of procedure we adopted and the manner in which we have obtained the statistical results exhibited in the statements annexed.

9. We began by preparing a list of the institutions to which we proposed to confine our inquiries, selecting the important ones in each of the three districts; and, as it was not practicable for all the members of the Commission to act jointly in each case, we divided the institutions so selected between us, the different members taking up such as most suited their convenience. The managers were then asked to produce their accounts and furnish lists of the properties under their management, together with the deeds, or copies of the deeds, under which the endowments were made. At the same time the Collectors of the three districts were applied to for copies of the settlement records bearing on the endowments, which have been kindly furnished. We also visited the *muth* or temple concerned, and examined some few persons both connected and unconnected with the institution. We further obtained from the revenue offices and have perused the records of a number of cases having reference to some of the institutions which had been investigated by local agents under Regulation XIX. of 1810.

10. Only some of the managers thus called upon for their papers at all complied with our requisition. The accounts, however, which they put in were, upon examination with reference to

the settlement records, found generally to be altogether unreliable, as far as the incomes shown from lands were concerned; and the expenditures exhibited also seemed, from what we had learnt by inquiries as to their general extent in each case, to have been exaggerated. Further, we had reason to suspect that the receipts in the shape of donations had been by far under-stated; in short, we believed that the whole of the accounts in almost every case were anything but authentic records of actual receipts and disbursements, but that they had been prepared for the occasion.

11. Being thus impressed we had no alternative but to make our calculations of the incomes and expenditures. Our estimate of incomes derived from lands is founded upon data furnished by the settlement records as well as upon the lists of landed property given in by the managers, the accuracy of which there is no reason to doubt. The calculations as to the expenditures are based upon facts bearing on the points brought to our knowledge in the course of our inquiries. Our figures, therefore, may be safely relied upon. The principle adopted for obtaining them is more than fair to the managers, the incomes having been calculated at an average rate which might be considered the minimum, and the expenditures estimated upon a maximum scale. As to the miscellaneous assets we had no means of knowing their extent, and have, therefore, allowed the manager's own figures respecting them to stand unaltered.

12. The original deeds under which the endowments were made were not generally forthcoming. Our information on the point of the endower's intentions has in consequence been derived chiefly from the resumption proceedings held on the occasion of the settlement of the province. These proceedings, containing, as they do, a recital and review of the conditions of the grants, are about as good as the deeds themselves.

13. Now as to the results of our inquiries. The tabular returns annexed will speak for themselves, each in respect of the institution to which it relates. What we proposed to do here is to give a summary of the general results. In doing this we will not confine ourselves to the few institutions embodied in the returns in question. Our observations will embrace all the institutions to which our inquiries have been specially directed in the present instance, as well as such other institutions regarding which we have had particular opportunities of acquiring a personal knowledge.

14. The endowments may be divided into three classes, with reference to their conditions as expressed in the deeds. The first are those which were given solely and exclusively for charitable purposes, termed in the deeds *suddabarat*; the second class consists of gifts made for the joint purpose of *suddabarat* and *thacoor's bhog* (god's food); and the third is comprised of lands intended to be appropriated towards providing *thacoor's bhog*, which are called *dewottur*. These three classes we will express in the following paragraph by *suddabarat*, *suddabarat dewottur*, and *dewottur*, respectively.

15. According to the settlement records the extent of the *suddabarat* lands is 27,610 acres, and the lands coming under the other two classes—*suddabarat dewottur* and *dewottur*—aggregate 232,540 acres exclusive of the lands assigned for the worship and *bhog* of Juggernath. These are distributed over the three districts in the proportions given in the margin: calculating the yield at 2 Rupees an acre, which we consider to be the minimum average rate, and deducting one-fourth of the area as waste land, the income from the three classes of endowment lands would be Rupees 3,90,000 in round numbers. This is exclusive of the produce of the lands (supposed to be extensive) situated in the non-regulation mehals of this province, and in various localities up-country, in Central India and the Deccan, as well as of that of the large extent of other lands in this province, known as *buzyaftee* and *tunkee*. The *buzyaftee* are those which were resumed at the settlement and assessed at half rents owing to defects in the deeds or other causes, and the *tunkee* lands are those which were assessed at nominal rents, varying from 12 to 10 Annas an acre. We have not been able to ascertain the exact extent of the *buzyaftee* lands; but they may be safely presumed to be equal to about one-fourth of the confirmed lakhiraj lands above specified. The *tunkee* lands in the district of Poorce alone amount

	Suddabarat.	*Suddabarat Dewottur and Dewottur.*
	Acres.	Acres.
Cuttack ...	15,614	63,913
Poorce ...	9,579	109,433
Balasore ...	2,417	59,194
Total ...	27,610	232,540

to 34,700 acres. At a rough calculation, estimating the produce as above at 2 Rupees an acre and deducting the rents payable to Government, the assets from this source would be Rupees 65,000, which, added to the yield of the *lakhiraj* above specified, would make the total income derivable from the lands originally assigned to the institutions under notice amount to Rupees 4,65,000. Besides this there are the pecuniary donations and the proceeds of landed property purchased with the accumulated funds of the endowments, as has been done in some instances. Altogether the funds involved in the matter under inquiry might be safely assumed at about Rupees 5,00,000.

16. There is no *muth* (a technical name for the residence of the Byraghee manager or trustee, which is also the place where the *thacoor* is kept and the poor are fed) exclusively *suddabarat*, that is to say, has only *suddabarat* l[illegible]s attached to it. Every institution known by this name has either both *suddabarat* and *sudda*[illegible]*rat dewottur* lands, or simply the latter, the endowments having been made at different times. [illegible]he exceptions to this rule are those institutions which have only *dewottur* lands belonging to [illegible]m. These are called either *muths* or *thacoorbaree* (god's house), and form a small proportion.

17. The modes of succession to the charge of the institutions of the kind under investigation have been various. In some the manager has selected his own successor before death; in others the successor has been elected by an assembly of managers of similar institutions, situated in the vicinity of the one in which the vacancy has occurred, though such election has been made from among the several *chellas* (disciples) left by the deceased in the *muth*. In some the man holding the secondary position in the *muth*, who is called *Adhicaree* (the head manager being styled *Mohunt*), has succeeded to the *mohuntship*, another man on the *muth* establishment taking his place as *Adhicaree*. In some the power of appointment has been exercised by the local authorities, not, of course, since the passing of Act XX. of 1863, and in others the succession has been hereditary. The rule regulating the succession in the first two cases has been changed in the same institutions at different times, that is to say, where the election system once obtained the practice of selection by the manager has been adopted, and *vice versâ*.

18. It appears to us that there is little room to doubt that the endowments in general were made for the benefit of the poor and the helpless, and have always been appropriated to this purpose to a greater or less extent. It is true that no institution having endowments is without a Hindoo deity presiding in it; but the fact is due, as we believe, to the custom of the country, according to which almost nothing of the kind is ever done without a god or goddess being associated with it, rather than to any other cause which would warrant the institutions being regarded as strictly religious, though, of course, it cannot be denied that they originated in the religious spirit of the founders, which might otherwise be termed piety; another and a mighty reason for such association of Hindoo deities would seem to exist in the caste system which would deter people, however poor, especially those of the Brahmin and Byraghee classes, who are held to have a prior claim to charity, from resorting to such institutions unless there are present in them some deities to consecrate the food to be received. It may be that the object was twofold, viz., to serve the deities and to benefit the poor at the same time and by the same means. But the large extent of the property endowed leads to the inference that the latter object operated as the principal motive of action, and the fact of the majority of these institutions being situated along the Juggernath Road and within easy reach of it and in the town of Pooree leads to the belief that they were chiefly intended for the poor among the pilgrims, who are specially alluded to in some of the deeds.

19. In this view of the character of these institutions we do not, we venture to say, see anything in them to justify any feelings of offence on the part of the Hindoos on the one hand, or any scruples on the part of the Christians on the other, as to the propriety of the act if Government and its officials interfered in their management, with the object of promoting the interests of the poor and the helpless, and with the noble desire of carrying out the wishes and intentions of deceased endowers—an object and a desire which do not certainly run counter to the principles taught by Christianity.

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20. These institutions, which are purely religious, and in which the succession was made by the endowers and has necessarily been hereditary in their families, form exceptions to the rule and do not share the general characteristic of *suddabarat*. In the case of these, one of the objects, if not the main motive, would seem to have been to provide against the property being lost through carelessness or recklessness on the part of the heirs and successors of the grantors,—even in these the feeding of the poor, though not required by the conditions of the endowments, has become an established custom.

21. The *muths*, as originally established, and as they used to be under the best management, might be compared with Christian Monasteries as far as the character of the managers and their associates, in fact, of all the inmates of the institution went. The *Mohunt* led a life of celibacy, bore the highest character for piety, and was wholly devoted to the service of God and men. He lived in the simplest style, denying himself even the commonest comforts of life, and applying the whole of the proceeds of the endowments entrusted to him to their legitimate purposes. This is not the picture of an imaginary *Mohunt*. But there exist, even at this day, instances of such management, though from their rarity they can only be taken as exceptions.

22. Very different is the state of things at present. Whatever may be the cause, whether want of sufficient legal check or absence of such feelings of piety as guided the former *Mohunts*, attributable to the declining state of the Hindoo religion, probably both combined, there are, in our opinion, ample grounds for the belief that the *Mohunts*, as a class, have considerably degenerated. The high style in which they live, their expensive equipages and large and costly retinue, not to say anything of the pleasures and luxuries in which they indulge to the neglect of their proper duties, largely tend, as we think, to show that they are not as they ought to be, and as those that went before them were. Besides these, which to our mind bear internal evidence of misappropriation, there are the facts of direct and indirect alienations of parts of trust property, in some cases, the large expenses of unnecessary law suits arising in some instances from disputes regarding succession, the excess of incomes over expenditures, which must be presumed to have been appropriated to the personal use of the managers, all which taken together are calculated to prove that the properties which they hold in trust are misappropriated to a very great extent. Facts and figures such as would lead to judicial conviction we have not, we must confess, been able to obtain; it is in our opinion almost impossible to do so under the peculiar circumstances already stated. But we believe that there is enough in what we have shown to produce moral conviction as to the existence of abuses too great in extent and too flagrant in character to be suffered any longer to remain unremedied; at least, such is our own conviction based upon the result of such inquiries as we have been enabled to make, and we need hardly state, after the representations already laid before Government, what the public feeling on the subject is—a feeling in which we, from what we have all along witnessed and heard, fully share, and which is one of honest indignation at what is considered to be a gross abuse of trust, a public wrong.

23. It is not to be understood that we think that abuses of the kind which we have found to exist are of recent origin; on the contrary, we are of opinion that they came into existence almost simultaneously with the establishment of the institutions, though we believe that they have since very largely increased in extent and enormity. Our opinion is not entirely based upon the general theory founded upon sad experiences of human nature, which not only supposes abuses to be possible in such cases, but actually anticipates and provides against them. We have learnt as facts that the former Governments of the province and their officials had occasion to interfere, and in some instances saw reason to take the endowments off the hands of the parties found mismanaging them and abusing the trust, and there is Regulation XIX. of 1810 to show that misappropriation existed so long back as that year.

24. Having thus stated the conclusions we have arrived at in regard to the management and appropriation of the endowments in general, we will now proceed to consider the several points upon which we are required to express our views.

25. The first among these is the most important question whether it is necessary to legislate on the subject. Independently of the abstract grounds upon which we consider legislation in the

case of such public institutions as those under notice, involving interests so vast and various, to be almost an absolute necessity, we humbly think that even the question, whether there are grounds for legislative interference, founded upon specific instances of abuse and mismanagement, is not an open one, it having been definitively settled by the enactment of the Regulation above quoted, viz., Regulation XIX. of 1810, the preamble of which runs thus, "Whereas considerable endowments have been granted in land by the preceding Governments of this country and by individuals for the support of mosques, Hindoo temples, colleges, and for other pious and beneficial purposes; and whereas there are grounds to suppose that the produce of such lands is, in *many instances*, appropriated, contrary to the intentions of the donors, to the personal use of the individuals in immediate charge and possession of such endowments," &c., &c., the point requiring determination is rather whether fresh legislative measures are called for. The consideration of this point necessarily involves the inquiry—what has been the course of legislation on the subject, and what the results?

26. The first enactment, Regulation XIX. of 1810, placed all the endowments under the control of the Board of Revenue, and made it incumbent upon them to prevent misappropriation. There were local agents in each district who acted under the orders of the Board and brought to their notice cases of misappropriation, and there are instances of managers of endowments found guilty of misappropriation and misconduct having been re-placed by better men by orders of the Commissioner exercising the powers vested in the Board. The Board's orders in matters coming under the Regulation were not made final. The party disputing their justice had the right of civil suit, and there is an instance of the late Sadr Dewanny Adalat having reinstated a party in the charge of an institution. On the whole, the operation of this Regulation was attended with wholesome results, though owing perhaps to the indifference of the local agents the good produced fell short of what might have been expected.

27. Act XX. of 1863 repealed this Regulation as far as it related to endowments for the support of mosques, Hindoo temples, or other religious purposes, and divided the institutions to which the Regulation in question had applied into two classes, transferring the superintendence from the Board and local agents in respect to one of these to Committees of Management, and, in regard to the other class, to the trustees and managers, who were made independent of any sort of control. The safeguard provided for by this law against abuse of trust and misappropriation consists in the right which it concedes to "any person interested" to sue the trustee or manager in the Civil Court, and in the power it gives to the Court to remove such trustee or manager. The Act has operated to produce a change for the worse. The Committees of Management, though they possess the same powers that were vested in the Board and local agents under the old law, have practically failed in their endeavours to exercise any effective control owing to the absence of any provision as to how they can get their wishes and orders carried out. The law prescribed no method by which the Board could get their orders executed; but the influence which their official position gave them was found sufficient for the purpose, and no difficulty was ever experienced in the matter. The privilege accorded to "interested persons" to sue the trustee or manager has not, in a single instance, been availed of, nor is it likely that any person, other than one who has a pecuniary interest, will be found to have sufficient zeal in the cause of religion, or to be public-spirited enough to take the trouble, undergo the expense, and run the risk involved in a law suit. The trustees and managers in the case of both the classes of institutions have in consequence become in practice quite irresponsible.

28. Holding this view we are decidedly of opinion that the present defective law requires to be amended, so as to provide sufficient safeguards against, and remedies for, abuse of trust and mismanagement.

29. To this end we would suggest the following alterations in the present law. In the first place we would recommend that all institutions and endowments to which Act XX. of 1863 apply should be placed under the control of the Committee appointed under Section 7 of the law instead of only those specified in Section 3, as at present. The Committee possesses under the law, as it now stands, the same powers as the Board and local agents had under Regulation XIX. of 1810—powers which enabled the Board, as above stated, to dispossess trustees of the estates and put

other persons in their stead. We only consider it desirable that the Committee's powers should be distinctly laid down, instead of being left to be inferred, as they have to be done at present: we would not make their decisions final and unappealable, but would place them exactly in the position of the Board of Revenue, in Regulation XIX. of 1810, in respect to both powers and responsibilities, that is to say, give them complete jurisdiction over the administration of the institutions, extending to the removal of the trustees, their powers in the matter of appointment being limited to institutions of the kind mentioned in Section 3, rendering them at the same time liable to be sued in the Civil Court, the costs being paid out of the endowment funds, except in those cases in which the Court may, for particular reasons traceable to improper motives on the part of the Committee, direct otherwise. Our reasons for so limiting the Committee's powers, speaking with reference to the suggestions on the point as contained in the petitions made by the residents, are that it may not always be possible to get men to act on the Committee sufficiently intelligent and upright to warrant such large powers being conferred upon it as those proposed by the petitioners. Their proceedings might be conducted on the same plan as that upon which those of arbitrators under Act VIII. of 1859 are carried on, the Civil Court giving them, when necessary, such aid as they may stand in need of in the matter of compelling the attendance of witnesses and the production of accounts, and their decisions might be enforced by the Civil Court like the Court's own decrees.

30. The provision of the law as to the appointment of a separate Committee for each endowment is, in our opinion, calculated to secure better supervision than what could be exercised by a single Divisional or District Committee. But the plan is open to the objection that it is not likely that persons will be found in all the localities sufficiently qualified to be trusted even with such limited powers as those proposed to be given to such Committees. To provide against this we would recommend the appointment of a Central Divisional Committee to direct and check the proceedings of local Committees. The latter, we are inclined to think, might with advantage be made to supply the place of the local agents, and the former that of the Board, in Regulation XIX. of 1810.

31. We have to offer no suggestions in regard to the mode of appointment and constitution of Committees. The law on these points as well as that bearing on the removal of members, filling up vacancies, &c., might unobjectionably be allowed to stand unaltered.

32. We are unwilling to recommend that the members of Committees should be paid, being persuaded that none worth having on such Committees would think of accepting any remuneration for trouble taken in the cause of charity and religion.

P. S.—Baboo Mohun Lall Panday being absent on leave could not sign.

No. 102. From the Hon. V. RAMIENGAR, C.S.I., Additional Member of the Council of the Governor of Fort St. George for making Laws and Regulations, to the Chief Secretary to Government, Fort St. George, dated Madras, 17th March 1871.

I have the honour to submit, for the consideration of Government, the following observations regarding the present condition and management of native religious institutions in this Presidency under the operation of the law (Act XX. of 1863) enacted for the governance of those institutions.

2. The subject of providing for the proper care and superintendence of Hindoo temples, mosques, and other religious institutions consequent on the withdrawal of Government from all concern or connexion with them has been a vexed question now for more than a quarter of a century. Regulation VII. of 1817 of the Madras Code, after reciting that considerable endowments had been made for the support of mosques, Hindoo temples, &c., declared it to be "the duty of Government to

"provide that all such endowments be applied according to the real intent and will "of the grantor," and accordingly Government charged themselves with the management of all endowments, religious as well as charitable; but, when they afterwards came to disconnect themselves from idolatry in India, they saw the difficulty of renouncing a duty so solemnly undertaken and withdrawing their officers from a charge imposed upon them under such legal sanction without at the same time adequately providing for the due performance of the trust by other agency. Whether Government was right or wrong in principle in undertaking such a duty in the first instance and charging its officers with such a trust, they felt that they could not properly withdraw from it without sufficiently providing for the protection of the interests they were abandoning. A legislative enactment substituting some responsible agency in the place of the Board of Revenue and their local agents, who had the superintendence of the temples under Regulation VII. of 1817, was accordingly felt and acknowledged to be absolutely necessary; but a long time elapsed before such a measure could be matured, and Act XX. of 1863 was eventually passed by the Imperial Legislature just twenty years after the Government had virtually disconnected themselves from the administration of the institutions and the expenditure of their revenues. During all this interval there was this anomaly, that with Regulation VII. of 1817 still in the Statute Book and the legal obligation imposed by it the institutions were left practically unprotected.

3. Act XX. of 1863 empowered the Government to make over to independent trustees, who were thereafter to be subject to no control or interference of any kind, all institutions which at the time of the passing of that Act were under the management of any trustee whose nomination did not in any way vest in, or was exercised by, the Government or their officers. It also provided for the appointment, once for all, of local Committees to take the place and exercise the powers of the Board of Revenue and Collectors under Regulation VII. of 1817, in the case of all institutions falling under that Regulation and the nomination of the trustees of which, at the time of the passing of Act XX. of 1863, rested with the Government or their officers. The members of the Committees were to be appointed by election from among persons professing the religion for the purposes of which the institution was founded and in accordance with the general wishes of those interested in the maintenance of the mosque, temple, or other religious establishment. They were to hold office for life unless removed for misconduct or unfitness, and no member to be removed except by an order of the Civil Court. Vacancies among the members of the Committees were to be filled up in like manner by election under rules framed by the Government. The Committees were empowered to require the production of regular accounts of receipts and disbursements from the trustees of the institutions under their control, and it was to be open to any person interested to sue in the Civil Court any trustee or member of any Committee for any misfeasance, breach of trust, or neglect of duty. It was further provided that no suit should be entertained under the Act without a preliminary application being first

Section 4.

Sections 5 and 7.

Sections 8 and 9.

Section 10.
Do. 12.

Sections 14 and 15.

Section 13.

made to the Court for leave to institute such suit and without permission being obtained.

4. Such are the leading provisions of the existing law governing the management of native religious institutions and their endowments. It has now been in force for eight years, and sufficient time has, therefore, elapsed to admit of a correct judgment being formed of its practical working in this Presidency.

5. Act XX. of 1863 was the product of almost twenty years' deliberation and discussion by authorities both in India and England. Abstractedly, it substituted perhaps the best possible machinery for that which had previously existed under Government management. Yet 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.

6. Special instances of fraud and mismanagement, and reliable facts as to the condition of each pagoda and the appropriation of its revenues, can be obtained only by a thorough and searching inquiry, conducted on the spot by a Commission competent to take evidence and insist upon the production of accounts of receipts and expenditure. But it is a matter of general notoriety that mismanagement and fraud are unfortunately too prevalent, and it cannot, I submit, well be otherwise. Before the Government undertook the management of the native religious institutions they were in a very unsatisfactory condition. As we are told in the Preamble to Regulation VII. of 1817, "there were grounds to believe that the produce of the "endowments granted for the support of these institutions had been in many "instances appropriated, contrary to the intentions of the donors, to the personal "use of the individuals in immediate charge and possession of such endowment;" and it cannot excite surprise if, after a long term of Government management, and the surrender of the institutions into the hands of men practically uncontrolled and irresponsible, we find them and their endowments to have lapsed into a worse condition than even before. Under the Government administration of the pagoda revenues there were, in the case of the [illegible] and more richly endowed institutions at least, large yearly accumulations of [illegible]nds left in the treasury after meeting every necessary expenditure; and, when [illegible]vernment divested themselves of their control over these endowments, the surplus funds which had accumulated, and which then amounted to several lakhs of Rupees, were retained, and have since been devoted to works of public utility and improvement calculated to add to the material and moral advancement of the country. The period of Government management was a period of low prices and agricultural depression. On the other hand, the last sixteen years of management by the trustees has been marked by high prices of agricultural produce and the steadily increasing value of landed property. No doubt, the trustees labour under great disadvantages compared with Government officers who brought all the weight and prestige of Government to bear on the management of pagoda property, and it is also true that, a considerable proportion of pagoda expenditure being in kind, the circumstance of the rise in prices is so far rather a source of loss than of gain to the pagoda revenues. Still,

after making every allowance for these disadvantages, if, as is the case, we find that no pagoda in the country can show a decent sum on the credit side of its balance sheet nor can boast of any surplus cash in its treasury, the conclusion, I submit, is inevitable that there must be waste somewhere of a species of public property, which under good management yielded not merely enough for the primary object of the endowments, viz., the support of the institutions immediately concerned, but a large surplus happily, however inequitably, applied to objects of the highest public usefulness and importance. If further evidence were wanting, I would point to the dilapidated condition of structures worth preservation if only for the sake of their antiquity and architectural value; to the reputed wealth of pagoda trustees once known to have been penniless; to the sudden fortunes which even the agents employed by Pagoda Committees are said to have acquired; and to the scandal regarding pagoda mismanagement which meets every one travelling up-country whether on business or pleasure.

7. The causes of this failure of Act XX. of 1863 to answer its purpose are not far to seek. The Act, as has been seen, divides into two classes the institutions with which it deals, viz.—

1*st*.—Those which at the time of the passing of the Act were under the management of trustees whose nomination did not vest in, or was exercised by, or was subject to the confirmation of, Government or any public officer; and

2*ndly*.—Those the nomination of the trustees whereof rested with, or was exercised by, or was subject to the confirmation of, Government.

As to the first class, the object in view was sought to be attained by a repeal of the then existing Regulation VII of 1817 so far as that applied to religious institutions, and by providing that the trustees should be thereafter responsible only to the established Courts of the country. As to the other class, Committees were nominated once for all from among the persons interested in each trust, such Committees being declared to possess all the powers exercised under the former Regulation by the Board of Revenue and their local agents, the Collectors, and to be further amenable, like the independent trustees, to the Civil Courts. This classification would be intelligible if [illegible] ant that such private institutions as were wholly supported by private funds, a[illegible]hich had never been under the control, nor subject in anywise to the interfe[illegible]f Government or their officers were to be still exempt from interference, whi[illegible]odas and mosques which were supported by the public or had assignments of t[illegible]ublic revenue made by the former or the present Governments, and which were formerly under the management of Government officers, should be subject to the supervision of the Committees appointed to take the place of those officers; but the arbitrary distinction drawn in the Act and the consequent provision that the pagodas are, or are not, to be subject to the superintendence of Committees according as, at the time of the passing of the Act, the power of appointing or confirming the appointment of trustees was, or was not, exercised by Government, have had an important bearing on the native religious institutions in this Presidency and have been productive of results certainly not contemplated.

8. In the Madras Provinces, where Government interference with native temples had been carried further than any other part of India, and where even the

village pagodas were not always exempt from the control of Government officers, there were no institutions except the private temples of the Rajah of Tanjore situated within his fort and of other Princes, and Zemindars, and Poligars built and endowed from their private funds, which had not been brought under direct Government management, and the trustees of which had not been appointed and removed by Government up to the date of the severance of their connexion with idolatry, and also, I may say, more or less up to the date of the passing of the Act, and yet under Sections 3 and 4 of the Act the trustees of some of the wealthiest and most important pagodas—pagodas enjoying large assignments from the public revenues and receiving large annual offerings from the crowds of pilgrims resorting to them from all parts of the country—pagodas, too, in the management of which Government had exercised interference to the minutest details and the trustees of which had been appointed by them so late as 1842 and 1843, or the confirmation of whose appointment rested with Government officers till the formal repeal of Regulation VII. of 1817—the trustees of such institutions, I say, have in several cases refused to submit to the controller of the local Committees substituted for the Board of Revenue, not because Regulation VII. of 1817 was inapplicable to those institutions and they had therefore been exempt from Government interference, but because Government, when severing their connexion with the institutions in 1842-43 under pressure from the Home authorities, had, as the best possible arrangement in the interests of the institutions concerned, chanced to commit some of them to the care of the heads of certain mattams or colleges and their successors, and the appointment of trustee in those cases had consequently ceased in the interval between that time and the passing of Act XX. of 1863, to be exercised by Government or its officers, although even in these cases the appointment was invariably reported to the Collector. The celebrated pagodas of Tripathi and Trivellore are notable examples of this. They are institutions held in the highest veneration, and in which the entire Hindoo community is concerned without distinction of [illegible] or sect; therefore that they should be left uncontrolled at the disposal of singl[illegible]viduals is a source of great grievance to the community at large. The strong[illegible]st entered by them against the exemption of Tripathi from the control of the [illegible] Committee which the Mahunt sought to obtain and ultimately succeeded in se[illegible]g, and the protracted and expensive litigation which is still pending between [illegible] Trivellore Committee and the trustee of the pagoda of that name on the same [illegible]t are indicatory of the feeling of the Hindoo community at large upon the sul[illegible]

9. It may, indeed, be urged that th[illegible]istees of such institutions, though not subject to the control of the Pagoda Commit[illegible]es, are amenable to the Civil Courts, insomuch that it is open to any "person interested" in them or in the [illegible]erformance of the worship or service thereof to sue the trustee for any misfeasan[illegible] breach of trust, or neglect of duty; but this is practically no safeguard, as was f[illegible]reseen during the discussions which preceded the pas[illegible]ing of Act XX. of 1863. It was then observed, "All e[illegible]perience shows that even in countries "where there is [illegible]ess of dishonesty to abuse and more "of public spirit to correct abuse, the common Courts of justice afford no adequate

Section 14 of Act XX. of 1863.

By the Junior Member of the Board of Revenue. (*Vide* paragraph 40 at page 415 of the Blue Book on Idolatry).

"security against the misappropriation of such funds, and in this country they "would be no protection at all." It was added, "The "impression, I believe, is (and the event has proved its "correctness) that these complaints would not find their way into Court; that no "attempt would be made to correct misappropriation; and that the Christian "Judge would be seldom, if ever, called upon to adjudicate in these cases or to "correct such abuse." In the eight years which have elapsed, if we except a factious attempt at Tripathi, I am not aware of a single instance of the Courts having been successfully resorted to for exposing the maladministration of pagoda endowments.

By the Junior Member of the Board of Revenue, (*Vide* paragraph 41 at page 416 of the Blue Book on Idolatry.

10. Recurring to Section 4, the fact of the appointment or confirmation of the appointment of the trustee of a pagoda such as Tripathi, Trivellore, or Conjeveram not vesting in Government or its officers at the time of the passing of the Act may be a good reason for leaving the right of appointment to be exercised by the individuals or families interested; but is, I submit, no ground for exempting the institution in other respects from the control and supervision of the Committees expressly appointed to supply the place of the Board of Revenue and their local agents, to whose supervision such institutions had, under Regulation VII. of 1817, been unquestionably subject equally with others. In England, says Blackstone, "the King, as *parens patriæ*, has the general superintendence of all charities, which "he exercises by the keeper of his conscience, the Chancellor. And, therefore, where "it is necessary, the Attorney-General, at the relation of some informant (who "is usually called the Relator) files ex-officio an information in the Court of Chancery "to have the charity properly established." Accordingly special Acts of Parliament provide for the proper administration of charities and for the correction and prevention of abuses.

11. Such special legislation f[illegible]due administration of charities in England appears to be the basis upon whi[illegible]rd of Revenue in Madras were charged with the duties they had exercise[illegible]old Regulation VII. of 1817 in regard to endowments for religious insti[illegible]The Board stood apparently in the place of the Attorney-General in Engl[illegible]the place of this Board of Revenue that the Pagoda Committees appoint[illegible]t XX. of 1863 were intended to occupy; and it is, therefore, inexplicable[illegible]rounds the provision in Section 4 was enacted in words the effect of w[illegible]n to leave some of the most venerated and wealthiest shrines in South[illegible]entirely independent of the Committees and practically uncontrolled an[illegible]ny guarantee for their proper management.

12. Here I should guard[illegible]m being supposed to approve altogether of the machinery of Committe[illegible]into existence by Act XX. of 1863. It has been a total failure. I believe it[illegible]n to Government that there is not a single

* *Vide* page 965 of the Fort St. George Gazette, 16th May 1865.

insta[illegible] which the rules* as to elections under Secti[illegible] and 10 have been put in requisition. Notices of vacancies are not give[illegible]ions are not held, and the Civil Court is not moved to fill up vacancies as requ[illegible]y the Act. The consequence is that many of the Committees originally ap[illegible]are not now composed of the full complement of members. In some d[illegible]such as Madras and North Arcot, the

Committees have practically ceased to exist; in others, such as Tanjore and Trichinopoly, where the trustees, in the first instance, submitted in a proper spirit to the legitimate authority of the Committees, the latter have, as a rule, become more potent for evil than for good, carrying interference to unnecessary lengths and giving uncontrolled power to personal dependents employed to supervise the affairs of the pagodas on behalf of themselves.

13. It would, indeed, have been surprising if after more than half a century of Government management, during which the people had nothing to do with the administration of their own religious institutions, they had become suddenly fit for self-government in so important a matter, under the operation, too, of an enactment which attempts no definition of the duties of the Committees, but leaves them, in the most general terms, to take the place and exercise the powers of a body like the Board of Revenue. It would equally have been a matter for wonder if the elective principle, which the Government have always hesitated and declined to apply even in such matters as municipal taxation, but which it is freely left to the Committees to apply and carry out, unassisted, in the case of the pagodas, had not eventuated, as it has, in utter failure.

14. Other defects in the Act may be noticed.

The "person interested," to whom is left the working of Sections 5, 10, and 14 is in practice a myth. None such ever makes his appearance, and the result is what was predicted before the passing of the Act, viz; "that the Courts cannot, "act unless put in motion from without; that private interest, which is the motive "to ordinary litigation, will be wanting in these cases; that public feeling will not "supply its place; and that consequently the Courts will not be able to interfere, and "that practically the endowments of the temples will be unprotected and will "speedily be wasted."

Section 16 empowers the Committees to require from every trustee of every pagoda subject to their authority the production of regular accounts of receipts and disbursements; but it does not say how the requisition is to be enforced, if disobeyed without reasonable cause, so that, as a rule, accounts have ceased to be demanded or rendered.

Again, the performance of their duty by the Committees, failure in which renders them liable to civil action, entails expense which ought not fairly to fall upon them, and yet as the law now stands "there is no provision or machinery for the payment of the fair expenses of the Committee, * * nor as the law stands can the trustees of the temples be compelled to pay those expenses."

Vide opinion of the Advocate-General, Madras, recorded in G. O., Revenue Department, 27th September 1864, No. 1778.

Section 18 is strongly objected to in reference to its practical operation. It enjoins that a preliminary application for leave to institute a suit shall be made to the Civil Court, who are forbidden from entertaining any suit without leave first obtained from itself for its institution. A conscientious Judge is unwilling to hold any preliminary inquiry, or to give any permission which would commit him to a particular view of the case or have the appearance of the matter being prejudged by the very Court which has afterwards to decide; so that, in effect, suits, even where there may be a disposition to come forward on the part of the "person interested," are discouraged.

15. There is a very general opinion that these defects in the Act have rendered it an unworkable measure. That it has utterly failed to answer its purpose is shown by the experience of the last eight years, and cannot, I think, be gainsaid. This result, it may be urged, is due not so much to inherent defects in the Act itself as to a want of self-reliance and public spirit among the people in a matter so closely affecting their credit and interest as a community; but this want, deplorable as it is, cannot all at once be supplied, and is only a reason for altering the law and adapting our legislation to the existing state of things.

16. Under these circumstances, I have ventured to draft a Bill for repealing Act XX. of 1863 and for providing for the better management of native religious endowments, and beg to submit it for the consideration of Government. In doing this I only act in accordance with what I believe to be the general feeling of the native population in respect to the present unsatisfactory condition and management of the religious institutions in this Presidency and their wish to secure, by legislative interference, a more efficient administration of those cherished institutions and their revenues. If Section 42 of the Indian Councils' Act was the only legal obstacle to local legislation on the subject, I would beg the Government to obtain the repeal of Act XX. of 1863 and the sanction of His Excellency the Governor-General and Viceroy for dealing with the measure in the local Council, for there is nothing in common between the Hindoo religious institutions in Southern India and those in other parts of the Empire, and the Bill is, therefore, essentially one which ought to be considered by the local Council for making Laws and Regulations. On the occasion of the measure which afterwards became law as Act XX. of 1863 being introduced into the Governor-General's Council, His Excellency the President observed that "if there was a desire to deal with the subject in the local Legislatures, the sanction "of the Governor-General would not without great cause be withheld." As the proposed Bill, however, affects, in some respects, the jurisdiction of the Madras High Court, it is not competent to the local Council to legislate on the subject. I therefore request that after consulting local officers and inviting opinions on the whole question from parties competent to give information and advice, Government will be pleased to bring the Bill under the consideration of the Government of India in view to its introduction into the Imperial Council.

17. The chief provisions of this Bill may be thus briefly stated.

All religious endowments are divided into two classes—

1*st*.—Those the right to manage and superintend which vests hereditarily in any person or family; and

2*ndly*.—Those trusts in which no such hereditary or vested rights exist, but in which the right to elect the trustee has hitherto been vested in, or exercised by, the community interested in such institutions, or by the Committees appointed under Act XX. of 1863.

In the case of the former class of institutions the right of succession on the occurrence of vacancies is left to be regulated by such usage as may be in force, or by such rules or compact as may be entered into from time to time among the persons, bodies, or families possessing the right of management, and no other individuals or community of persons are in any way to interfere with the succession to such trusts, except when, in consequence of failure of heirs in the

line of succession or in consequence of the neglect or refusal of, or disputes among, the members of the body or family, a vacancy is not filled up for three months, in which case the Civil Court is empowered to appoint a person to fill up the vacancy. As to the other class of institutions, those in the case of which no hereditary or vested rights exist, the mode of appointing trustees is to be by election by the resident inhabitants professing the religion for the purposes which the institution was founded. Every trustee so appointed is to hold office for life unless removed for misconduct or unfitness by the Civil Court. On failure of the electors to make the necessary election to any vacancy for three months after the occurrence thereof the Civil Court is empowered to make the appointment.

Provision is also made in the Bill for the appointment by the Civil Court in each district of a Committee composed of five individuals for the purpose of auditing the accounts of the several religious institutions within such district. One of the members of such Committee is to retire by rotation at the beginning of each year and his place is to be filled up by the Civil Court.

The trustees of every institution falling within the Act are required to render annually to the Auditing Committee regular accounts of the receipts and disbursements thereof under their signature and supported by vouchers, also a statement of the established scale of expenditure of each institution and lists of landed and personal property and effects. Within three months after the receipt of such accounts the Auditing Committee are to examine and pass them if correct, and return them to the trustees concerned, who are thereupon required to publish them at the cost of the institution in the District Gazette.

Any person wishing to impugn the accuracy of the accounts is to present his complaint personally in writing to the Auditing Committee. After the Committee have passed the accounts in the manner prescribed no trustee is to be liable to a criminal prosecution for breach of trust or criminal misappropriation, but may be sued in the Civil Court, and, upon proof of misappropriation, he is to be liable to make good the sums misappropriated and likewise to dismissal.

In case the accounts furnished are found by the Auditing Committee to be false and fraudulent, they are not only to refuse to pass them, but to prosecute the trustees before the Criminal Courts, and on conviction such trustees are to be liable to the punishment provided in the Penal Code for the offence of dishonest misappropriation, and further such conviction will *ipso facto* vacate their office and make the parties ineligible to re-appointment or re-election.

Provision is further made for both the trustees and the Auditing Committee being remunerated for their labours from the funds of the institutions concerned. Such remuneration appears not only fair, but necessary to ensure the work being properly and faithfully performed.

Any elector or resident inhabitant may sue before the Civil Court the Auditing Committee or any member thereof for any misfeasance or neglect committed by such Committee or member in respect of the auditing of the accounts, and the Civil Court may direct the specific performance of any act by such Committee or member, and may decree damages and costs against them and further direct their removal from office.

It is also provided that in all suits or prosecutions against trustees or members of Auditing Committees the proceedings shall be exempt from stamp duty, and that the cost shall eventually, if the Civil Court so direct, be paid from the Trust Funds. Trustees are further empowered to defray from the endowments all law charges *bona fide* incurred by them on account of the institutions concerned.

All servants of the institutions, whether hereditary or otherwise, are declared liable to dismissal by the trustees for misconduct, hereditary servants being at liberty to contest such exercise of power on the part of the trustees by a regular suit.

Lastly, the trustees are required to keep in repair all buildings connected with their trusts out of the revenues of the institutions under their charge and invest all surplus funds accruing, after providing for all their wants, in Government Promissory Notes, and opportunity is taken to legalize the application of surplus funds to the maintenance or endowment of Sanscrit schools and colleges and for providing for the promotion of the study of Sanscrit. Such an application of accumulated money will not only be in unison with the feelings of the people and in harmony with the original objects of the endowments, but give a useful direction to money now too often wasted.

18. It will be seen from the foregoing summary of the chief provisions of the proposed Bill that it is intended that the constitution and powers of the present Pagoda Committees should be materially altered. Although, in the terms of the present Act, those Committees (most vaguely) "occupy the place and exercise the powers of the Board of Revenue," still in practice they find themselves unable, in the absence of any definite powers, to exert any influence for good. The great object of legislation in respect of the extensive endowments which are now practically without efficient supervision is to secure, by a close and careful annual scrutiny of the accounts of the revenues and disbursements of the several institutions, the application of the funds to the purposes for which they were granted, and to prevent waste and misappropriation. The power, therefore, of calling for accounts, the power of enforcing that requisition, and the power of prosecuting the trustees for wilfully rendering false and fraudulent accounts, is all that need and can advantageously be vested in the Committee. To confer upon them vague and undefined general powers of control and interference seems to be both unnecessary and inexpedient—unnecessary, because any violent or improper exercise of their powers by the trustees who are responsible for the immediate management of the institutions will render them amenable to the Magistracy, or to the established Courts, and inexpedient, because, adverting to the character of the religious institutions in this Presidency; the two great religious factions into which those directly connected with these institutions are divided, the sectarian zeal and bigotry which characterize each of them, and the impossibility of forming a Committee not composed of representatives and partizans of each of these factions, any opening which is sure to be afforded for intermeddling by powers of general interference and control vested in the Committees must 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.

Section 7.

An Act to make better provision for the protection and due appropriation, for the purposes for which they were made, of all Hindoo and Mahomedan Religious Endowments.

Preamble.

Whereas it is expedient to provide for the better management of Native Religious Endowments; It is enacted as follows:—

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Act repealed.

1. Act XX. of 1863 is hereby repealed so far as it affects the territories under the Government of Fort St. George.

Powers of trustees for the management of revenue affairs of landed property in their charge.

2. In managing or administering the revenue affairs of such landed properties as are now in, or may hereafter come into, the possession of the trustees of all religious endowments or institutions falling under the provisions of this Act, such trustees shall have and exercise in respect of the settlement and collection of the revenues due from such lands the powers possessed by landholders under Madras Act VIII. of 1865 or any other Act which may hereafter be passed.

Grants of money to religious institutions to be continued to be made by the Government.

3. In all cases in which grants of money are, or have been, periodically made by Government to religious institutions in lieu of fees resumed by them and consolidated with the revenues of the country, the same money payments shall, heretofore, continue to be made by them to the trustees of such institutions on their receipts, until such time as Government may resolve on making any permanent provision in lieu of such money payments.

Hereditary right of superintendence and management of religious endowments to be continued.

4. In cases of trusts in which the right to superintend and manage any religious endowments shall be found to vest either by prescription, patent, or decision of competent authority (to be proved in case of dispute to the satisfaction of the Civil Court, who shall hold a summary inquiry for the purpose) hereditarily in any one or more persons or in any family or families, such right shall continue to be exercised and enjoyed by such persons, or bodies, or families, and the right of succession to such trusts on the occurrence of a vacancy by death, resignation, retirement, or dismissal shall be regulated by such usage as has been in force or by such rules or compact as may be entered into from time to time among such persons, bodies, or families possessing such right of management, and no other individuals or community of persons shall have any right to interfere with the succession to such trusts except in the instances and in the manner provided for in Section 5 of this Act.

Right of succession.

Exception.

Vacancy to hereditary trusts, where not filled up from failure of heirs, to be filled up by Civil Court.

5. Where, in consequence of failure of heirs in the line of succession to any hereditary trust, or in consequence of the neglect or refusal of or disputes among the members of the body or family, a vacancy may not be filled up for three months after the occurrence thereof, the Civil Court shall, on the application of any individual permanently residing or possessing immoveable property at the place where such institution is situated and of the same religion as that of the institution, or on the application of the Auditing Committee hereinafter mentioned, pass a summary order appointing a person to fill up such vacancy, and such order shall not be open to appeal except by a regular suit in the Civil Court by a party aggrieved thereby and subject to appeal to the High Court. All appointments or succession to vacant hereditary trusts shall be notified in the District Official Gazette.

Appeal against such appointment to be by regular suit.

Appointments or successions to vacant hereditary trusts to be notified in Gazette.

Right of election in cases of trusts in which no hereditary or vested rights exist.

6. In cases of trusts in which no such hereditary or vested rights exist, but where the right to elect to such vacancy has hitherto been vested in or exercised either by the community interested in such institutions or by the Committees appointed under Act XX. of 1863, the right to appoint or nominate to such vacancies shall ordinarily vest among persons permanently residing or possessing immoveable property within the limits of the city, town, village, or hamlet in which the religious institution is situated and professing the religion for the purposes of which the institution was founded or is now maintained, and such persons shall be called electors.

7. When a vacancy occurs in a locality which is either uninhabited or deserted, the residents of villages within ten miles of such locality and professing the same religion as that of the institution shall have the right to elect.

Right of election to vacancy occurring in uninhabited or deserted locality.

Vacancies existing in hereditary or elective trusts at the time of commencement of this Act how to be filled.

8. All vacancies existing in any hereditary or elective trusts at the time this Act shall come into operation shall be filled up according to the provisions of this Act.

9. On the occurrence of a vacancy, in any such elective trusts as are described in Sections 6 and 7 of this Act, the Magistrate, or his Assistant or Deputy, as Sheriff of the place, shall, at the requisition of not less than three of the electors described in those sections, convene a general meeting of the electors at such time and place as may be agreed upon, and the electors so assembled in public meeting shall choose from among themselves or other electors, or from the inhabitants of any other locality, a person to fill up the vacancy, and the person so appointed shall succeed to the vacancy and his appointment shall be notified by the trustees in the District Official Gazette.

General meeting of electors by whom to be convened.

Election how to be made.

Notification of appointment in Gazette.

10. At all meetings of the electors convened in the manner described in the preceding section, a Chairman shall be selected to conduct the proceedings. The Magistrate or one of his Assistants or Deputies shall remain as long as the meeting continues. The election shall be according to the majority of votes, and, where the votes are equal, the Chairman shall have a second or casting vote. The proceedings of the meeting shall be taken down in writing signed by the Chairman and countersigned by the Magistrate or his Assistant or Deputy then present, and the same shall be deposited among the records of the Magistracy.

Election of a Chairman.

Magistrate or his Deputy to be present at the meeting.

Proceedings of the meeting how to be recorded.

When a Sub-Magistrate may be deputed to be present at meetings of electors.

11. Where the annual revenue of the religious institution may not exceed 500 Rupees, the Magistrate may depute a Sub-Magistrate to be present at such election.

In the town of Madras the Sheriff shall act the part of a Magistrate or his Deputy.

12. All such elections in the town of Madras shall be convened by the Sheriff, who shall act the part of the Magistrate or Deputy Magistrate described in Sections 9 and 10 of this Act.

13. In all elective trusts there shall be three trustees in office, who shall jointly manage and superintend the institution. When any difference of opinion shall arise among them the opinion of the majority shall prevail. Provided that, where there are already more than three trustees in the case of any such elective trust, they shall be reduced to that number on the occurrence of vacancies.

Elective trusts to be managed by three trustees.

14. All elections under this Act shall be held under rules which shall from time to time be framed by the local Government and published in the Official Gazette.

15. If the body of electors neglect or refuse to make the necessary elections to any vacancy for three months after the occurrence thereof, the Civil Court shall, on the application of any person whatever, or of the Auditing Committee, pass an order appointing any person to fill the vacancy. Such order shall not be open to appeal, but shall be liable to be set aside by a decree of the Civil Court in a regular suit brought by a party aggrieved by such order. Such decree shall be open to appeal to the High Court.

If electors neglect to fill up a vacancy the Civil Court may appoint any person.

Such appointment can be set aside only by a regular suit in Civil Court.

Appeal.

16. Every trustee appointed as above shall hold his office for life unless removed for misconduct or unfitness, and no such member shall be removed except by an order or decree of a Civil Court. Provided, however, that from all such orders or decrees passed by the Civil Court an appeal shall lie to the High Court.

Members of an elective trust to hold office for life unless removed for misconduct or unfitness by Civil Court.

Appeal.

17. All trust bodies, whether hereditary or elected, shall be entitled to draw out of the revenues of the institution under their charge an allowance of four per cent. of the annual revenues as a remuneration for their labour and in discharge of all personal expenses incurred by them on account of such institutions, and such allowances so drawn shall be a legal charge on the revenues of the institution, and such amounts shall be equally divided among the trustees. But the amount shall not be drawn till after the accounts of the institution for the year have been passed and published in the District Gazettes in the manner hereinafter required.

Remuneration of trustees.

18. Such trustees shall likewise be entitled and it shall be lawful for them to defray any law charges *bona fide* incurred by them as such on account of the institution in any civil or criminal proceeding out of the funds of the institution under their management, and all such charges shall be debited in the accounts of the institution.

Law charges to be debited to the institution.

19. In each Collectorate there shall be appointed by the Civil Court a Committee composed of five individuals for the purpose of auditing the accounts of the several religious institutions within such Collectorate. Of the five individuals composing the Committee, four shall be Hindoos, viz., two Sivites one Tengalay Vishnuvite one Vadagalay Vishnuvite, and the remaining member any person at the discretion of the Court but not belonging to any of the aforesaid sects. Vacancies in the post of any one of these religionists shall be filled up by the said Court by one of the same religion or sect. Such individuals shall not be trustees of any religious institutions in the district.

Appointment and composition of Committee for auditing the accounts of the religious institutions within each Collectorate.

Members of such Committee shall not be trustees of any institution in the district.

20. At the commencement of every year one of the members of the Auditing Committee shall retire by rotation and his place filled up by the Civil Court according to the provisions of the preceding section. The order of rotation for such retirement shall be the same as that mentioned in the preceding section in naming the various religionists and sectarians. Persons appointed to vacancies other than those caused by such retirement shall, as respects the order of rotation, occupy the place of the person whom he has been appointed to succeed.

One of the Auditing Committee to retire annually by rotation.

Vacancies caused thereby how to be filled up.

21. In the case of any mosque or other Mahomedan religious institution, it shall be lawful for the Civil Court to appoint a separate Auditing Committee, composed entirely of Mahomedans, for auditing the accounts of such institutions and for performing in respect to such institutions the other duties devolving upon Auditing Committees appointed under this Act.

Civil Court may appoint Committee of Mahomedans for Mahomedan Institutions.

22. The trustees of every institution, whether falling under Section 4 or Section 6 of this Act, shall, within two months after the expiration of every Calendar year, submit to the Auditing Committee the accounts of the institution for that year under their signature together with all vouchers connected therewith. Such accounts shall embrace all receipts and disbursements for the year, the Dittum or fixed scale of expenditure of such institution, and a list of landed and personal property and effects belonging to the institution at the end of the year, and any trustee or trustees who shall neglect, refuse, or omit to render such accounts without reasonable cause within the time so limited shall be liable to a penalty not exceeding 50 Rupees, and to a further penalty not exceeding 10 Rupees for every day during which the accounts are withheld. Such penalty to be recovered on application to the Magistrate in the manner described in the Code of Criminal Procedure by distress on the private property of the defaulting trustee.

Submission of annual accounts of the institution for audit.

Penalty for neglecting or refusing to submit accounts.

23. Any parties wishing to impugn the accuracy of such accounts shall personally present their complaint in writing to the Auditing Committee

Complaints about inaccuracy of accounts to be preferred to the Auditing Committee.

24. Within three months after the receipt of such accounts the said Auditing Committee shall examine the same and verify by actual inspection the lists of moveable property and effects of the institution. If the accounts are found correct after such examination and inspection, the Auditing Committee shall pass and certify them as such under their signature and return them to the trustees. It shall also be competent to the Auditing Committee to examine once a year the balance of cash remaining at the credit of each institution.

Auditing Committee to examine and return the accounts within three months.

To take stock of moveable property and effects.

To examine balance of cash.

25. On receipt of the accounts so audited and passed as stated in the last preceding section by the Auditing Committee, the trustees shall print and publish the same at the cost of the institution in the District Gazette, in default of which they shall be liable to dismissal at the suit of any elector or resident inhabitant before the Civil Court.

Accounts so passed and returned to be published in the District Gazette.

Penalty for non-publication.

26. After the said Auditing Committee shall have passed the said accounts in the manner aforesaid, no trustee shall be liable to be prosecuted before the Criminal Courts for any criminal breach of trust or criminal misappropriation, but they may be sued for such acts before the Civil Courts only, and upon proof of the same shall be liable to make good the amounts misappropriated by them and likewise to dismissal by decree of Court, provided that such decree shall be open to appeal to the High Court.

After accounts are passed trustee shall not be liable to criminal prosecution,

But liable to be sued in Civil Courts,

And to make good amounts misappropriated,

And to be dismissed by decree of Court subject to appeal.

27. If the accounts furnished as aforesaid to the said Auditing Committee be found or considered by them to be insufficient or incorrect either in whole or in part, they shall return the same to the trustees for correction and re-submission to them within a fixed time, subject, in case of non-compliance to the requisition without reasonable cause, to the penalty prescribed in Section 22 of this Act.

Incorrect accounts to be returned to trustees for correction and re-submission.

28. In auditing such accounts the Auditing Committee may divide itself into Sub-Committees; but no act of such Sub-Committees shall be valid for the purposes of the criminal prosecution authorized by the following section unless assented to by the whole Committee.

Division of Auditing Committee into Sub-Committees. Acts of Sub-Committees not valid for criminal prosecution unless assented to by the whole Committee.

29. If the said accounts so furnished as aforesaid shall be found by the Auditing Committee to be wilfully false and fraudulent, they shall not only refuse to pass them but shall prosecute the trustees before the Criminal Courts, and on conviction such trustee shall be liable to the punishment provided in Sections 403 and 404 of the Indian Penal Code, and such conviction shall *ipso facto* vacate their office and make them ineligible to re-appointment or re-election.

False and fraudulent accounts how to be dealt with.

30. Any fraudulent application of the funds, property, or effects of the institution for the personal use and benefit of the trustees, or for any purpose other than for the use or benefit of the institution, shall be considered a criminal breach of trust within the meaning of the Indian Penal Code. Provided, however, that the use of such funds, property, or effect for any purpose or use of the institution different from that for which they were set apart, dedicated, or designed to be used, shall not be a criminal breach of trust or criminal misappropriation, but may form the subject of a civil action before the Civil Courts.

What constitutes criminal breach of trust or criminal misappropriation within the meaning of this Act.

Proviso.

31. No other person but an elector or resident inhabitant or the Auditing Committee shall be competent to prosecute the trustees either before the Civil or Criminal Courts. Provided, however, that no elector or other person who may hold any office in any institution from which he is liable to be dismissed by the

Who are competent to prosecute trustees.

Proceedings of the Madras Government, Judicial Department,
31st January 1872.

orders of the trustees shall be entitled or empowered to institute any civil action or criminal prosecutions against them under Sections 26, 29, and 30 of this Act. And all actions or criminal prosecutions under those sections shall be brought and instituted within one year from and after the passing or rejection of the accounts by the Auditing Committee.

And within what period.

32. Upon the accounts of any institution being passed by the Auditing Committee as correct or finally refused by them as false and fraudulent, they shall be entitled to charge a fee of two per cent. on the annual revenues or income thereof, which fee shall be sent to them by the trustees as soon as the accounts of the year have been passed and published in the District Gazette in the manner hereinbefore set forth. The fee so received shall, after defraying the costs of any establishment and other charges incurred by the Committee, be equally divided among the members thereof. In default of the payment of the fee the Civil Court may, on application by the Auditing Committee, enforce payment in the manner provided for the execution of the decrees of such Court, and the costs of such proceeding shall be recoverable by the Court from the defaulting trustees, and shall not be chargeable to the institutions concerned.

Remuneration of Auditing Committee.

How to be recovered.

33. Any elector or resident inhabitant may sue before the Civil Court the Auditing Committee or any member thereof for any misfeasance or neglect of duty committed by such Committee or member in respect of the auditing of the accounts of receipts and disbursements, and the Civil Court may direct the specific performance of any act by such Committee or member, and may decree damages and costs against such Committee or member, and may also remove such Committee or member.

Any elector may sue Auditing Committee for misfeasance or neglect of duty.

Civil Court may direct specific performance of any act and decree damages.

34. In all suits or prosecutions instituted by electors or Auditing Committees against trustees or by electors against members of the Auditing Committee, the proceedings shall be exempt from stamp duty. In calculating the costs at the termination of the suit, if the Court shall be of opinion that the suit has been for the benefit of the trust and that no party to the suit is in fault, the Court may order the costs, or such portion thereof as it may consider just, to be paid out of the trust funds.

In all suits and prosecutions under the Act proceedings to be exempt from stamp duty.

35. All servants of the institution, whether hereditary or otherwise, shall be liable to dismissal for misconduct by the trustees. Provided, however, that the hereditary or Merasi servants of the institution who may be dissatisfied with such dismissal shall be at liberty to question its propriety by regular suit before the Civil Courts.

Servants of institution liable to be dismissed by trustees for misconduct.

Proviso.

36. The trustees shall, as far as possible, keep in repair from the income of the institutions under their management all buildings connected with their trusts, and nothing in this Act shall be held to affect the provision of Regulation VII. of 1817 of the Madras Code except in so far as they relate to mosques, Hindoo temples, and other religious establishments, or to prevent the Government from taking such steps as it may deem necessary under the provisions of the said Regulation, to prevent injury to and preserve buildings remarkable for their antiquity, or for their historical or architectural value, or required for the convenience of the public.

Trustees to keep buildings in repair from the income of institutions.

Effect of Act in respect of Regulation VII. of 1817 and of buildings of antiquity.

37. The trustees shall invest in Government securities all surplus of income over expenditure accruing from the endowments under their charge after duly providing for all the wants of the institution. Provided that it shall be lawful for the trustees of any institution to devote any portion of the surplus funds of such institution to the maintenance or endowment of any Sanscrit schools or colleges or the promotion of the study of Sanscrit literature.

Trustees to invest surplus funds in Government securities.

Proviso.

38. The provisions of this 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.

Application of Act.

No. 103. Proceedings of the Board of Revenue, dated 21st July 1871, No. 3051.

Read the following letter from J. W. HANDLEY, Esq., Government Pleader, Madras, to the Acting Secretary to the Board of Revenue, dated 25th May 1871, No. 85.

I have the honour to reply to the Board's Proceedings noted in the margin, referring, for my opinion, the question of the propriety of modifying the existing law so as to place more restriction on the power of trustees of charitable establishments to incur liabilities to the detriment of the property under their charge. I regret the great delay which has occurred in submitting my reply, caused partly by my late prolonged absence in Tinnevelly on Government business, and partly by the pressure of other more urgent Government business.

* 17th October 1870, No. 6183.

2. It will be convenient, first, to state shortly what the existing law is. The legislative enactments relating to charitable endowments, religious and otherwise, in this Presidency are Madras Regulation VII. of 1817 and Act XX. of 1863 of the Government of India. The former gave to the Board of Revenue general superintendence over all religious and charitable foundations. Under this Regulation it has been held that the Board have power to remove a trustee or superintendent for breach of trust or misconduct. (Sudder Decisions for 1858, page 39, III, Madras High Court Reports, page 334). This power is not, however, expressly given, and altogether the Regulation is rather vague as to the way in which the power of superintendence vested in the Board is to be exercised. Act XX. of 1863 repeals the Regulation as to religious endowments, and vests in the District Committees the powers given by the Regulation to the Board in cases where the nomination of the trustee or superintendent lay with Government, in other cases leaving the general powers of the Board in abeyance. The Act provides that any one having an interest, not necessarily a pecuniary one, in the religious endowment may sue the trustee or superintendent for breach of trust, &c.

3. Neither the Regulation nor the Act lay down any rules as to alienations or encumbrances of religious or charitable property, so that we must recur to general principles of law to ascertain what are the powers of trustees of such endowments in this respect. There are very few decided cases on the subject in this country. It was held by the late Sudder Court that a mortgage of pagoda lands if for the benefit of the pagoda might be upheld (Sudder Decisions for 1849, page 53), and that to charge pagoda property with expenditure beyond the income incurred by the trustee it must be shown that such expenditure in excess of income was justified by some emergent necessity, such as the preservation of the building or the fulfilment of unavoidable exigencies appertaining thereto. (Sudder Decisions for 1861, page 168). In Bengal it has been held that an alienation by a trustee of a religious endowment is analogous to that of alienation of

ancestral property by a Hindoo widow... little doubt that this is the correct princi... Hindoo law, as to the power of aliena... managing member of a Hindoo family,... of a charity. His debts and alienations ... the contracting and making them was nec... I think the Government are quite right ...

11th October 1870, Government Order No. 1542.

...ings noted i... ...on the perso... trustee against the charity. In the cas... Civil Judge had found as a fact that the ... charity, and the High Court on special ap... could have been shown that there was absolutely no evidence to support it.

4. On general principles it is clear, in my opinion, that *primâ facie* charity property is inalienable and not liable for debts contracted by the person holding it in trust for the time being, and it is with those who seek to make an exception in favour of a particular alienation or debt to make out their case. This was the law in England before the Charitable Trusts' Acts. (See Attorney-General *v.* Warren, 2 Swanst. 302, Levu on Trusts, page 373, 4th Edition). These Acts (16, 17 Vic., C. 137, and 18, 19 Vic., C. 124) make any sale, mortgage, or charge upon charity property invalid without the assent of the Charity Commissioners. Some such provision as this might be useful here. The defect is not, I think, in the law itself so much as in the means of enforcing it. Improper alienations and encumbrances of charity property are no doubt illegal and can be set aside; but the difficulty is that at present it is nobody's business in particular to move in the matter, and the result is that it is only in very gross cases that any steps are taken, and this charity property is being gradually but surely alienated from its proper uses all over the country. The power confided to the Charity Commissioners in England might be vested either in the Board of Revenue as to non-religious and in the District Committee as to religious endowments or in a separate body. Probably the former would be the most convenient, as it would be merely supplementing the powers already possessed by the Board and Committees respectively under Regulation VII. of 1817 and Act XX. of 1863. Some of the other powers of the Charity Commissioners, such as those of calling for reports and accounts from trustees, examining witnesses, &c., might perhaps also be conferred at the same time. There is, I fear, little doubt that the misappropriation of religious and charitable endowments is a growing evil, and especially in the case of the former, over which there is at present little or no check, and it seems highly desirable that the Legislature should interfere for their protection.

Submitted to Government with reference to Government Order, 11th October 1870, No. 1542.

2. The Board entirely concur with the Government Pleader as to the present insecurity of religious and charitable endowments, as to the extent of the misappropriations which are going on silently because it is no one's business to move the Courts and because the ears of the Executive are closed to all complaints, and as

Weekly Reporter, 299), and I feel ...must that the ordinary doctrines of the ...at the encumbrance possessed by the ... bulicable to the trustee or manager ...ts, binding on the charity property if ...y ha the preservation of the property. ...dity ntention urged in their Proceed... ...oper gin, that the burden of proof is ...s pig to make good the debt of a ...g of which this reference arose the ..., was contracted for the benefit of the ...was bound by that finding unless it

...ecessity of appointing Com... ...invested in the Charity Co...

3. Mr. Handley points out ... were vague and perhaps insufficie... with regard to religious endowm... Things were in the state in which ... Government admitted the respon... endowments were devoted to thei...

4. Directly Act XX. of 186... itself of its responsibilities, every... and purposes irresponsible to any... cases the tools of designing men, ... mous property committed to their ... Public opinion is so strong as to the evils of the present system and the necessity of a change that it ought not to be neglected any longer.

5. Moreover, if it is admitted, as it must be, that the "Pagoda Committees" have failed, Government are bound to find a remedy. They cannot cease to be morally responsible for the great property committed to their charge as a Government by generations of Hindoos and Mussulmans, because they have passed an Act which divests them of legal responsibility. It is almost unnecessary to observe that the fact that the religion of the governing class differs from the religion of their subjects is only a reason for treating religious feelings with greater tenderness.

6. The Board are satisfied tha... a change in the law is necessary, and they recommend Government, after asce... ining the views of natives of respectability throughout the Presidency, and esp... ially in Madras, to prepare a Bill in time for the next meeting of the Legislative Council of India.

(A true Copy and Extract.)

(Signed) J. GROSE,
Acting Secretary.

Transferred to the Judicial Department.

FORT ST. GEORGE,
3rd August 1871.

(Signed) W. HUDLESTON,
Secy. to Govt., R. D.

No. 106. ORDER THEREON, 31st January 1872, No. 118.

The foregoing papers relate to the amendment of the law regulating the administration of native religious endowments.

2. With the first of these letters copies of a correspondence regarding the misappropriation of the funds of the religious endowments in certain portions of the Lower Provinces of Bengal were forwarded by the Government of India, with a request that this Government would submit their opinion on the subject of the proposed amendment with reference to the working of the law in this Presidency.

3. According to public ..., the existing law, Act XX. of 1863, under which the Government di... ...elf of all control over native religious

endowments, has proved a com... eccipt of Mr. Secretary Hume... amending the law had been under... had also engaged the earnest attent... Member of the local Council for mak...

4. This gentleman has prepare... he suggests should be passed for thi... 1863, and in the letter which acco... believed to be a faithful picture of... Government observe that the views... condition and management of nativ... of Act XX. of 1863 and as to the ex... those expressed by the Hon. V. Rami...

5. The Government resolve to t... by the Hon. V. Ramiengar to the Hon... of the High Court, with a request that... subject with some of the most experi... favour the Government, at their earlie... their opinion on the Draft and also on an... the present law requires amendment.

6. Copies of the Draft will also ... and they will be requested to refer it ... with a view to their opinions being obta... in the Draft, as on any point not dealt ... the provisions of Act XX. of 1863 ... Collectors should be instructed to pr... natives in each district, together with t...

7. The Honourable the Acting ... to submit any observations which he ... with the subject of these Proceedings.

8. In the meanwhile copies of the ... Government of India, with an intimat... of the necessity of legislation in the ... endowments, and that they propose to ... length on the question as soon as they h... officers on the Draft Act above referred to.

9. Ordered, accordingly, that the follo...

(Here enter No. 120, dated ...

(True Extr...

To the Honourable the Judges of the High Court.
,, Board of Revenue.
,, Revenue Department.
,, Acting Advocate-General.

Exd. A. S. Rodgers.

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Judicial Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following ~~letter~~ papers

from the Offg Secy to the Govt of India	5th January 1871 No 49.
Letter from the Hon'ble V. Ramasingar, Adl Member of the Council of the Govr of Fort St George for making Laws & Regulations.	17th March 1871.
Progs of the Board of Rev-	21st July 1871 No 31.51
	Order thereon 31 January 1872 No

The foregoing papers re
to the Amendment of the
Law regulating the admin
-istration of ~~religious~~ endow
-ments.

2. With the first of the
letters copies of a Correspo
-dence regarding the misa
-propriation of the funds
of the Vidyasamy
in certain parishes of
Tower Divisions of the

B/P.

Government of India
with a request that this
Government would submit
their opinion on the sub-
ject of the proposed
Amendment, with reference
to the working of the law
in this Presidency.—

3. According to public
opinion, the existing law,
Act XX of 1863, under
which the Govt divests
itself of all control
over Native religious En-
dowments, has proved
a complete failure in
this Presidency; and before
the receipt of Mr Secre-
tary Grant's letter of
the 5th January last, the
question of amending
the law had been under
the consideration of this
Government & had also
engaged the earnest
attention of the Hon'ble
Mr Harington, an
additional Member

of the Council for
making Laws & Regula-

4. This gentleman
has prepared and
submitted a draft of a
Act which he suggests
should be passed for
this Presidency, in sub-
stitution of Act XX
of 1863; & in the letter
which accompanies
the draft he has drawn
a faithful picture
of the effect of the
present law; and the
Government observe
that the views of the Boa
of Revenue as to the p
-sent condition & man
-ment of Native Religion
Endowments under the
operation of Act XX o
1863, & as to the expedie
of amending the Act
accord with those exp
-ed by the Honorable

The Government
wishes to forward a
copy of the draft
Act prepared by Mr Hunter
Advocate General to the
Hon'ble the Chief Jus-
tice & Judges of the H.C.
with a request that
they will, after commu-
nicating on the subject
with some of the most
experienced Judicial
Officers in the Mofussil,
favor the Government
with their earliest Com-
munication, with an ex-
pression of their opinion
on the draft & also on
any points on which
the present Law requires
Amendment.

Copies of the draft
will also be forwarded
to the Board of Revenue,
they will be requested
to refer it to the Collec-

with a view to deter-
-mine being obtained
as well on the provisions
embodied in the draft
as on any point not dealt
with in the draft but
in respect of which
the provisions of Act
XX of 1863 have been
found to be defective.
The Collectors should be
instructed to procure &
submit the opinions of
the selected Natives in
each District, together
with their own opinion
on the subject.

7 The Hon'ble the Ad-
-vocate General will
also be requested sub-
-mit any observations
which he may deem it
proper to make in con-
-nexion with the sub-
-ject of these Proceedings.

8 As the Mahomedan
Copies of these Proceedings
will be submitted to the
Govt of India, with
intimation that they

of the necessity of legislation in the matter of public religious & charitable endowments, & that they propose to address the Supreme Govt at length on the question as soon as they have obtained the opinions of their officers on the Draft Act alone referred to.—

I. Ordered, Accordingly, that the following letter be despatched.

(Here Enter)

Dated ..
Recd. } 187 , No.

Nos.

Feb 683/73

To

Govt. of 187 } Williams.

The Hon'ble the Judges of the High Court
The Board of Revenue ..
The Revenue Deptt "
The Advocate General "

Despatch

The Charitable Trusts Act, 1853 (1847. Vic. (137). X

The Charitable Trusts — Amendment Act, 1855 (1849 Vic. Cap. 24).—

among

ANNO DECIMO SEXTO & DECIMO SEPTIMO

VICTORIÆ REGINÆ.

CAP. CXXXVII.

An Act for the better Administration of Charitable Trusts. [20th *August* 1853.]

WHEREAS it is expedient to provide Means for securing the due Administration of Charitable Trusts, and for the more beneficial Application of Charitable Funds in certain Cases: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Her Majesty empowered to appoint Charity Commissioners, Secretary, and Inspectors.

I. It shall be lawful for Her Majesty and Her Successors, by Warrant under the Royal Sign Manual, to appoint Four Commissioners, and also One Secretary and Two Inspectors for the Purposes of this Act, and upon any Vacancy by the Death, Resignation, or Removal of any Commissioner, Secretary, or Inspector under this Act, from Time to Time in like Manner to appoint another Person to succeed to such Vacancy, and until a fresh Appointment shall be made it shall be lawful for the surviving or continuing Commissioners, in case of any Vacancy, to act as if no such Vacancy had occurred; and Three of the said Commissioners shall hold Office during good Behaviour; and the Fourth, and every Secretary and Inspector to be appointed under this Act, shall hold Office during the Pleasure of Her Majesty.

II. The

Qualification of Commissioners.

II. The said Three Commissioners so holding Office during good Behaviour shall be paid as herein-after mentioned, and Two at least of the said paid Commissioners for the Time being shall be Barristers-at-Law of not less than Twelve Years standing at the Time of their respective Appointments, and One of such Barristers shall be the Chief Commissioner, and shall be so called and distinguished in his Appointment.

Officers of the Board.

III. The said Commissioners, with the Sanction of the Commissioners of Her Majesty's Treasury, shall from Time to Time appoint such Clerks and Messengers as the said Commissioners may think fit, and all Persons appointed under this Provision shall hold their Offices during the Pleasure of the said Commissioners.

Salaries.

IV. There shall be paid to the said paid Commissioners, and to the said Secretary, Inspectors, Clerks, and Messengers, such Salaries not exceeding for the Chief Commissioner the annual Sum of One thousand five hundred Pounds, and for each of the other paid Commissioners the annual Sum of One thousand two hundred Pounds, and for the said Secretary the annual Sum of Six hundred Pounds, and for each of the said Inspectors the annual Sum of Eight hundred Pounds, as shall be from Time to Time allowed by the Commissioners of Her Majesty's Treasury, who may also allow to every Commissioner, Inspector, and other Person appointed for the Purposes of this Act such reasonable Travelling and other Expenses as may be incurred by him in the Execution of his Office, and the said Salaries and Expenses, and the incidental Expenses of the said Board, shall be paid out of any Monies which may be from Time to Time provided by Parliament for that Purpose: Provided always, that after the Thirty-first Day of *March* in the Year One thousand eight hundred and fifty-seven, the said annual Salary shall be paid to One only of the said Commissioners besides the said Chief Commissioner.

No paid Commissioner, Secretary, or Inspector to sit in House of Commons.

V. No paid Commissioner, Secretary, or Inspector to be appointed under this Act shall be capable of sitting in the House of Commons during the Tenure of his Office.

Style of Commissioners, who may sit as a Board.

VI. The said Commissioners to be appointed under this Act shall be styled "The Charity Commissioners for *England* and *Wales*," and may have and use a Seal for authenticating Documents, and such Commissioners shall sit from Time to Time as a Board for carrying this Act into execution; and any Two of such Commissioners may form a Board, and may exercise all or any of the Powers conferred on the Commissioners or the Board by this Act.

VII. The

Board to frame General Minutes.

VII. The said Board shall, by General Minutes, from Time to Time prescribe Regulations for their Proceedings, and the Proceedings of their Inspectors, and concerning the Form and Manner of Applications to the said Board, and the Conditions to be performed by Applicants, and for the Guidance of Applicants in relation thereto, and all such General Minutes shall be signed by Three of the said Commissioners at the least; and Copies of all such General Minutes shall be laid before both Houses of Parliament within Fourteen Days after the making thereof if Parliament be sitting, or if Parliament be not sitting, then within Fourteen Days after the next Meeting thereof.

Minutes of Proceedings and Orders, &c. to be entered, and Copies of Entries signed by the Secretary to be received in Evidence.

VIII. The said Board shall cause Minutes of their Proceedings, and all Orders, Certificates, and Schemes, made or approved by them under this Act, to be entered in Books to be provided and kept for such Purpose, and all such Entries shall be signed by their Secretary, and all Copies purporting to be extracted from the Books of the said Board, and to be certified by their Secretary, of any such Minutes, Orders, Certificates, and Schemes entered as aforesaid, shall be received as Evidence of the Proceedings to which such Minutes shall relate, and of such Orders, Certificates, or Schemes, and of the making or Approval thereof (as the Case may require) by the said Board, without further Proof thereof.

Board to inquire into Condition and Management of Charities.

IX. It shall be lawful for the said Board from Time to Time, as they in their Discretion may see fit, to examine and inquire into all or any Charities in *England* or *Wales*, and the Nature and Objects, Administration, Management, and Results thereof, and the Value, Condition, Management, and Application of the Estates, Funds, Property, and Income belonging thereto; and the said Board may cause Examinations and Inquiries in relation to the Matters aforesaid to be made and prosecuted by their Inspectors, acting together or separately, in such Cases and at such Times as the said Board may think fit; and all such Inspectors shall from Time to Time report their Proceedings to the said Board.

Power to require Accounts and Statements.

X. The said Board may require all Trustees or Persons acting or having any Concern in the Management or Administration of any Charity, or the Estates, Funds, or Property thereof, to render to the said Board, or to their Inspectors, or either of them, Accounts and Statements in Writing in relation to such Charity, or the Funds, Estates, Property, Income, or Monies thereof, or the Administration, Management, and Application thereof, and may also require such Trustees and Persons to return Answers in Writing to any Questions or Inquiries addressed to them by the Direction of the said Board relating to the Matters aforesaid.

XI. All

Officers having Custody of Records to furnish Copies and Extracts, if required by Board.

XI. All Officers having the Custody of Enrolments, Decrees, Reports, Records, and other Documents relating to or concerning any Charity shall furnish such Copies or Extracts as shall be required by the said Board; and every Inspector, Secretary, and other Officer of the said Board for the Time being employed for the Purposes of this Act shall be at liberty, by the Authority and under the Directions of the Board, and subject to such Regulations as the Board may make in that Behalf, to examine and search the Registers and Records of every Court of Law and Equity, and every Ecclesiastical Court, and every public Registry and Office of Records, and to take Copies of and Extracts from any Decree or Document recorded or registered or deposited therein respectively, for any Purpose contemplated by this Act, without Fee or other Payment in respect thereof.

Inspector may examine Witnesses on Oath.

XII. Any Inspector acting under the Authority of the said Board may, by Precept under his Hand, subject to such Regulations as the said Board may make in that Behalf, require any Person, being a Trustee of any Charity or otherwise acting or having any Concern in the Management or Administration of any Charity, or of the Estates, Funds, or Property thereof, or in the Receipt or Payment of the Income or Monies thereof, or deriving any Income or Stipend therefrom, to attend before such Inspector for the Purpose of being examined by him touching or relating to such Charity, or the Estates, Funds, Property, or Income thereof, at any Time and Place mentioned or appointed by such Precept, and to bring and produce any Deed, Paper, Writing, Instrument, or other Document, being in the Custody, Possession, or Power of such Person, and relating to such Charity, or the Estates, Funds, Property, or Income thereof, and may examine upon Oath all Persons attending in pursuance of such Precept, and all Persons voluntarily attending before him, and may administer such Oath: Provided always, that no Person shall be obliged to travel in obedience to any such Precept more than Ten Miles from his Place of Abode.

Persons giving false Evidence guilty of a Misdemeanor.

XIII. If any Person wilfully give false Evidence upon any Examination under this Act, every Person so offending shall be deemed guilty of a Misdemeanor.

Person refusing to render Accounts, &c. to be deemed guilty of a Contempt of Court.

XIV. If any Person from whom the said Board, or any Inspector, is authorized to require any Account or Statement or Answers to any Questions or Inquiries, or whose Attendance any Inspector is authorized to require, shall refuse or wilfully neglect to render to the said Board such Account or Statement, or to make Answers to such Questions or Inquiries, or to attend in obedience to any lawful Precept

cept of any Inspector or to give Evidence before him, or shall wilfully alter, destroy, withhold, or refuse to produce any Deed, Paper, Writing, Instrument, or other Document which may be lawfully required to be produced before any Inspector or the said Board, every Person so offending shall be deemed and taken to have been guilty of a Contempt of the High Court of Chancery, and shall be liable to be attached and committed by such Court on summary Application by the Commissioners to the same, and shall pay the Costs of and attending such Contempt as the said Court shall direct.

Saving for Persons claiming adversely to Charities.

XV. Provided always, That nothing herein contained shall extend to give to the said Board or their Inspectors any Power of requiring from any Person holding or claiming to hold any Property whatsoever adversely to any Charity, or free or discharged from any Charitable Trust or Charge, any Information, or the Production of any Deed or Document whatever in relation to the Property so held or claimed adversely, or any Charitable Trust or Charge alleged to affect the same.

Board to entertain Applications for their Opinion or Advice.

XVI. The said Board shall receive and consider all Applications which may be made to them by any Trustee or other Person having any Concern in the Management or Administration of any Charity, for their Opinion, Advice, or Direction respecting such Charity, or the Management or Administration thereof, or the Estates, Funds, Property, or Income thereof, or the Application thereof, or any Question or Dispute relating to the same respectively, and, if they so think fit, may, upon any such Application, give such Opinion or Advice as they think expedient, subject to any Judicial Order or Direction which may be subsequently made or given by any competent Court or Judge; and such Opinion or Advice shall be in Writing, signed by Two or more of the said Commissioners, and sealed with the Seal of the said Commission; and every Trustee and other Person who shall act upon or in accordance with the Opinion or Advice given by the said Board shall in respect of so acting be deemed and taken, so far as respects his own Responsibility, to have acted in accordance with his Trust; and no such Judicial Order or Direction subsequently made or given by any Court or Judge shall have any such retrospective Effect as to interfere with or impair the Indemnity by this Act given to Trustees and other Persons who have acted upon or in accordance with such Opinion or Advice of the said Board: Provided always, that nothing herein contained shall extend to indemnify any Trustee or other Person for any Act done in accordance with the Opinion or Advice of the said Board, if such Trustee or other Person have been guilty of any Fraud or wilful Concealment or Misrepresentation in obtaining such Opinion or Advice.

Persons acting on Advice of Board to be indemnified.

XVII. Before

Notice of legal Proceedings as to any Charity by any Person, except the Attorney General, to be given to the Board.

XVII. Before any Suit, Petition, or other Proceeding (not being an Application in any Suit or Matter actually pending) for obtaining any Relief, Order, or Direction concerning or relating to any Charity, or the Estate, Funds, Property, or Income thereof, shall be commenced, presented, or taken, by any Person whomsoever, there shall be transmitted by such Person to the said Board, Notice in Writing of such proposed Suit, Petition, or Proceeding, and such Statement, Information, and Particulars as may be requisite or proper, or may be required from Time to Time, by the said Board, for explaining the Nature and Objects thereof; and the said Board, if upon Consideration of the Circumstances they so think fit, may, by an Order or Certificate signed by their Secretary, authorize or direct any Suit, Petition, or other Proceeding to be commenced, presented, or taken with respect to such Charity, either for the Objects and in the Manner specified or mentioned in such Notice, or for such other Objects, and in such Manner and Form, and subject to such Stipulations or Provisions for securing the Charity against Liability to any Costs or Expenses, and to such other Stipulations or Provisions for the Protection or Benefit of the Charity, as the said Board may think proper; and such Board, if it seem proper to them, may by such Order or Certificate as aforesaid require and direct that any Proceeding so authorized by them in respect of any Charity, shall be delayed during such Period as shall seem proper to and shall be directed by such Board; and every such Order or Certificate may be in such Form and may contain such Statements and Particulars as such Board shall think fit; and

Courts not to entertain Proceedings as to Charities, except upon Certificate of the Board.

(save as herein otherwise provided) no Suit, Petition, or other Proceeding for obtaining any such Relief, Order, or Direction as last aforesaid shall be entertained or proceeded with by the Court of Chancery, or by any Court or Judge, except upon and in conformity with an Order or Certificate of the said Board: Provided always, that this Enactment shall not extend to or affect any such Petition or Proceeding in which any Person shall claim any Property or seek any Relief adversely to any Charity.

Saving for the Attorney General acting ex officio.

XVIII. Provided always, That it shall be lawful for Her Majesty's Attorney General acting *ex officio* to make such Applications, and take and prosecute such Proceedings with respect to any Charity, in the Court of Chancery or otherwise as to him may seem fit, as if this Act had not been passed; and that nothing in this Act contained shall be construed as dispensing with the Fiat or Allowance of Her Majesty's Attorney General, with respect to any Proceeding not being an Application under the Jurisdiction created by this Act where such Fiat or Allowance was necessary before the passing of this Act

XIX. Pro-

Board may, upon the Report of an Inspector, authorize Proceedings, where no Notice has been given to them, and may in other Cases cause local Inquiries by their Inspector.

XIX. Provided also, That where upon any Report of any Inspector under this Act or otherwise it appears to the said Board that any Suit, Petition, or other Proceeding concerning or relating to any Charity, or the Estate, Funds, Property, or Income thereof, would be proper or expedient, it shall be lawful for the said Board by their Order to authorize or direct such Suit, Petition, or Proceeding to be commenced, presented, or taken, and to give such Directions in relation thereto as the said Board may think proper; and thereupon such Suit, Petition, or Proceeding may be commenced, presented, or taken accordingly, without any such previous Notice in Writing as hereinbefore mentioned; and the said Board, before giving any such Opinion, Advice, or Direction upon any such Application as aforesaid, or making any such Order or Certificate after Notice to them as aforesaid, may, where local Inquiry appears to them to be requisite, cause such Inquiry to be made by One of their Inspectors; and the said Board may, in any Case where they see fit, before acting upon the Report of any Inspector, cause such Report to be deposited for local Inspection, and give Notice of the same being so deposited, and consider any Statements or Objections which may be transmitted to them in relation thereto.

Power for Board to certify certain Cases to the Attorney General.

XX. In any Case in which it shall appear to the said Board that the Institution of legal Proceedings is requisite or desirable with respect to any Charity, or the Estates, Funds, Property, or Affairs thereof, and that under the Circumstances thereof it is desirable that such Proceedings should be instituted by the Attorney General, it shall be lawful for the said Board, if they so think fit, to certify such Case, in Writing under the Hand of the Secretary of the said Board, to Her Majesty's Attorney General, together with such Statements and Particulars (if any) as in the Opinion of the said Board may be requisite or proper for the Explanation of such Case; and thereupon the said Attorney General, if upon Consideration of the Circumstances he think fit, shall institute and prosecute such legal Proceedings as he shall consider requisite or proper under the Circumstances of such Case, by Information or Petition in the Court of Chancery, or by Application to a Judge thereof at Chambers, or to a District Court of Bankruptcy, or County Court under the Jurisdiction given by this Act.

Board may sanction Building Leases, working Mines, doing Repairs and Improvements;

XXI. If in any Case it appear to the Trustees or Persons for the Time being acting in the Administration or Management of any Charity, or the Estates or Property thereof, that any Part of the Charity Lands or Estates may be beneficially let on Building Repairing, Improving, or other Leases, or on Leases for working any Mine, or that the digging for or raising of Stone, Clay, Gravel, or

or other Minerals, or the cutting of Timber, would be for the Benefit of the Charity, or that it would be for the Benefit of such Charity that any new Road or Street should be formed or laid out, or any Drains or Sewers made through any Part of the Charity Estates, or that any new Building should be erected, or that any existing Building should be repaired, altered, rebuilt, or wholly removed, or that any other Improvements or Alterations in the State or Condition of the Lands or Estates of such Charity should be made, it shall be lawful for such Trustees or Persons to lay before the said Board a Statement and Proposal in relation to any of the Matters aforesaid; and it shall be lawful for the said Board, if they think that the Leases or Acts to which the Statement and Proposal relate (with or without Modifications or Alterations) would be beneficial to the Charity, to make such Order under their Seal for and in relation to the granting of such Leases, or the doing of any other such Acts as aforesaid, and any Circumstances connected therewith, as they may think fit, although such Leases or Acts respectively shall not be authorized or permitted by the Trust; and the said Board, by any such Order, may authorize the Application of any Monies or Funds belonging to the Charity for any of the Purposes or Acts aforesaid, and, if necessary, may authorize the Trustees to raise any Sum of Money by Mortgage of all or any Part of the Charity Estates; provided that compulsory Provisions be reserved in every such Mortgage for the Payment of the Principal Money borrowed by annual Instalments, and for the Redemption and Re-conveyance of the mortgaged Estates, within the Period of not more than Thirty Years.

and may authorize the Application of the Charity Funds or the raising of Money on Mortgage for those Purposes.

Commissioners to authorize Trustees to remove Officers.

XXII. It shall be lawful for the Board, upon Proof to their Satisfaction that any Schoolmaster or Schoolmistress or other Officer of any Charity has been negligent in performing his or her Duties, or that he or she is unfit or incompetent to discharge them properly, either from immoral Conduct, Age, or any other Cause whatsoever, to empower the Trustees of such Charity to remove such School Master or Mistress or other Officer, and to charge the Salary of his or her Successors, or any other Portion of the Revenues of the Charity, with such Retiring Pension or Allowance, if any, in favour of the Person so removed, and generally to impose such Conditions as to the said Board shall appear proper: Provided always, that where there shall be any special Visitor of the Charity, the Consent of such Visitor, in Writing under his Hand, shall be necessary in order to such Removal.

Board may sanction Compromise of Claims on behalf of Charity.

XXIII. If in any Case it appear to the Trustees or Persons acting in the Administration of any Charity that any Claim or Demand or Cause of Suit against any Person in relation to such Charity

Charity may, with Advantage to the Charity, or should, under the special Circumstances of the Case, be compromised or adjusted without taking or without continuing any Proceedings at Law or in Equity, such Trustees or Persons may, or the Person against whom such Claim, Demand, or Cause of Suit exists or is alleged to exist, may, with the Consent of the Trustees or Persons acting in the Administration of such Charity, submit to the said Board a Statement and Proposal for such Compromise or Adjustment; and if it appear to the said Board after such Inquiry in relation thereto by one of their Inspectors, as they may deem requisite, or otherwise, that such Proposal, either with or without any Modification, is fit and proper, and for the Benefit of the Charity, it shall be lawful for the said Board to make such Order for and in relation to such Compromise or Adjustment as they may think fit; and upon the due Performance of the Terms and Conditions of such Compromise or Adjustment as aforesaid, such Agreement shall be a final Bar to all Actions, Suits, Claims, and Demands by or on behalf of the Charity concerned therein, in respect to the Cause of Action, Suit, or Matter in respect to which such Compromise or Adjustment shall have been made.

Board, under special Circumstances, may authorize Sale or Exchange of Charity Lands.

XXIV. Upon Application to the said Board by the Trustees or Persons acting in the Administration of any Charity, representing to the said Board that, under the special Circumstances of any Land belonging to the Charity, a Sale or Exchange of such Land can be effected on such Terms as to increase the Income of the Charity, or would otherwise be advantageous to the Charity, such Board may, if they think fit, inquire into such Circumstances, and if after Inquiry they are satisfied that the proposed Sale or Exchange will be advantageous to the Charity may authorize the Sale or Exchange, and give such Directions in relation thereto, and for securing the due Investment of the Money arising from any such Sale, or by way of Equality of Exchange for the Benefit of the Charity, as they may think fit.

Board may authorize the Redemption of Rentcharges.

XXV. The said Board shall have Authority, upon such Application as aforesaid, to authorize the Sale to the Owners of the Land charged therewith of any Rentcharge, Annuity, or other periodical Payment charged upon Land and payable to or for the Benefit of any Charity, or applicable to Charitable Purposes, upon such Terms and Conditions as they may deem beneficial to the Charity, and to give such Directions for securing the due Investment of the Money arising from such Sale for the Benefit of the Charity, or for securing the due Application thereof to such Charitable Purposes, as they may think fit; and in like Manner the Trustees of any Charity, with

the Consent of the Board, may purchase any Rentcharge or other yearly Payment to which the Charity Estate is or shall be liable.

Leases, Sales, &c. authorized by the Board to be valid.

XXVI. The Leases, Sales, Exchanges, and other Transactions authorized by such Board under the Powers of this Act shall have the like Effect and Validity as if they had been authorized or directed by the express Terms of the Trust affecting the Charity.

Trustees of Charities enabled to purchase Sites for building from Owners under Disability, &c., according to the Provisions of Lands Clauses Consolidation Act, 1845.

XXVII. Where any Land shall be required for the Erection or Construction of any House or Building with or without Garden, Playground, or other Appurtenances, for the Purposes of any Charity, and the Trustees of the Charity shall be legally authorized to purchase and hold such Land, but by reason of the Disability of any Person having an Estate or Interest in such Land, or of any Defect in Title thereto, a valid and perfect Assurance of the same Land cannot be made to the Trustees of the Charity in the ordinary Manner, it shall be lawful for the Trustees of the Charity, with the Sanction of the said Board (such Sanction to be certified under the Hand of their Secretary), to take and purchase such Land according to the Provisions of "The Lands Clauses Consolidation Act, 1845;" and for that Purpose all the Clauses and Provisions of the last-mentioned Act with respect to the Purchase of Lands by Agreement, and with respect to the Purchase Money or Compensation coming to Parties having limited Interests, or prevented from treating, or not making a Title, and also with respect to Conveyances of Lands, so far as the same Clauses and Provisions respectively are applicable to the Cases contemplated by this Provision, shall be incorporated in this Act; and in all Cases contemplated by this Provision, the Expression "the Special Act," used in the said Clauses and Provisions of the said "Lands Clauses Consolidation Act" shall be construed to mean this Act; and the Expression "the Promoters of the Undertaking," used in the same Clauses and Provisions, shall be construed to mean the Trustees of the Charity in question.

In Cases of Charities the Incomes of which exceed 30*l*, Master of the Rolls and Vice Chancellors, upon Applications to them at Chambers, to have the same Jurisdiction as the Court of Chancery or Lord Chancellor now has upon Information, &c.

XXVIII. Where the Appointment or Removal of any Trustee, or any other Relief, Order, or Direction relating to any Charity of which the gross annual Income for the Time being exceeds Thirty Pounds, shall be considered desirable, and such Appointment, Removal, or other Relief, Order, or Direction might now be made or given by the Court of Chancery, in respect either of its ordinary or its special or statutory Jurisdiction, or by the Lord Chancellor intrusted with the Care and Commitment of the Custody of Lunatics, it shall be lawful for any Person authorized in this Behalf by the Order or Certificate of the said Board, or for the Attorney General,

General, to make Application (without any Information, Bill, or Petition,) to the Master of the Rolls or One of the Vice Chancellors sitting at Chambers, for such Order, Direction, or Relief as the Nature of the Case may require; and the Master of the Rolls or the Vice Chancellor to whom any such Application shall be made shall and may proceed upon and dispose of such Application in Chambers, save where he may think fit otherwise to direct, and shall and may have and exercise thereupon all such Jurisdiction, Power, and Authority, and make such Orders and give such Directions in relation to the Matter of such Application, as might now be exercised, made, or given by the Court of Chancery or by the Lord Chancellor intrusted as aforesaid, in a Suit regularly instituted, or upon Petition, as the Case may require; and the Master of the Rolls and Vice Chancellors respectively shall, in relation to such Applications as aforesaid, and the Proceedings thereon, (subject to any Rules which may be made by the Lord Chancellor, with the Advice and Consent of them or any Two of them,) have all such Powers of directing Matters to be heard in open Court, and of ordering what Matters shall be heard and investigated by themselves and their Chief Clerks respectively, and such other Powers and Authorities as by the Act of the last Session of Parliament, Chapter Eighty, are vested in or authorized to be exercised by them at Chambers, and the Provisions of the said Act applicable to Orders made by the Master of the Rolls or any of the Vice Chancellors at Chambers shall extend to all Orders so made under this Act: Provided always, that, save as may be otherwise provided by any Rules to be made by the Lord Chancellor, with such Advice and Consent as aforesaid, the Determinations of the Master of the Rolls and Vice Chancellors respectively upon and in relation to such Applications as aforesaid shall not be subject to Appeal in any Case where the gross annual Income of the Charity does not exceed One hundred Pounds: Provided also, that it shall be lawful for the Master of the Rolls or any Vice Chancellor, where under the Circumstances of any Application as aforesaid he may so see fit, to direct that for obtaining the Relief, Order, or Direction sought for by such Application an Information, Bill, or Petition, as the Case may require, shall be filed or presented and prosecuted as now by Law required, and to abstain from further Proceeding on such Application.

15 & 16 Vict. c. 80.

Provision as to Charities within the Jurisdiction of the Court of Chancery of the County Palatine of Lancaster.

XXIX. The Jurisdiction created and given by this Act to the Master of the Rolls and the Vice Chancellors sitting in Chambers, upon any Application to them respectively as aforesaid, shall extend concurrently to and may be exercised by the Chancellor of the Duchy and County Palatine of *Lancaster*, and the Vice Chancellor of the same County Palatine respectively for the Time being,

being, as to every Charity within the Jurisdiction of the Court of Chancery of the said County Palatine whose gross annual Income for the Time being exceeds Thirty Pounds, upon Application being made to such Chancellor or Vice Chancellor respectively; and it shall be lawful for the Chancellor of the said Duchy and County Palatine, with the Concurrence of the Vice Chancellor of the same County Palatine, from Time to Time to make and issue any Rules and Orders for regulating the Modes of proceeding, and the Fees to be taken in respect of Proceedings under this Act.

Provisions as to Charities exceeding 30*l.* per Annum to extend to Charities in London not exceeding 30*l.*

XXX. Provided always, That the Provisions of this Act applicable to any Charity the gross annual Income whereof exceeds Thirty Pounds shall extend to any Charity established or administered or applicable to or for Objects or Purposes within the City of *London* the gross annual Income whereof does not exceed Thirty Pounds, in like Manner as if such Income exceeded that Amount.

Lord Chancellor, with the Advice of Master of the Rolls and Vice Chancellors, or Two of them, to make General Orders.

XXXI. It shall be lawful for the Lord Chancellor, with the Advice and Consent of the Master of the Rolls and Vice Chancellors, or any Two of them, to make and issue General Rules and Orders for regulating the Mode and Form of Applications at the Chambers of the Master of the Rolls and Vice Chancellors respectively under this Act, and the Proceedings thereon, and for determining in what Cases and under what Conditions and Restrictions the Determinations of the Master of the Rolls and Vice Chancellors respectively upon or in relation to such Applications shall be subject to Appeal, and the Fees and Allowances to Solicitors of the Court of Chancery, and the Fees to be payable in Money or by Stamps to the Officers of the said Court in respect of such Applications and Proceedings thereon; and such Rules and Orders may from Time to Time be varied by the like Authority, and all such Rules and Orders shall be deemed General Orders of the said Court.

District Courts of Bankruptcy and County Courts to have Jurisdiction in Cases of Charities the Incomes of which do not exceed 30*l.*

XXXII. Where any Charity of which the gross annual Income for the Time being does not exceed Thirty Pounds shall be established or administered or be applicable wholly or partially to or for Objects or Purposes within the District or any Two or more of the Districts of any District Court of Bankruptcy or of any County Court or Courts holden under the Act of the Session holden in the Ninth and Tenth Years of the Reign of Her Majesty, Chapter Ninety-five, and the Appointment or Removal of any Trustee, or any other Relief, Order, or Direction whatsoever concerning such Charity, shall be considered desirable, and such Appointment or Removal, or other Relief, Order, or Direction, might now be made or given by the Court of Chancery in respect either of its ordinary or its special or statutory

statutory Jurisdiction, or by the Lord Chancellor intrusted with the Care and Commitment of the Custody of Lunatics, it shall be lawful for any Person authorized in this Behalf by the Order or Certificate of the said Board, or for the Attorney General, to make Application to such District or County Court, or, as the Case may be, to any One of such District or County Courts, for such Order, Direction, or Relief as the Nature of the Case may require; and such District or County Court shall entertain such Application, and shall hear the Matter in open Court, and shall give such Relief, and make such Orders and Directions in relation to the Matter of such Application, as might now be made or given by the Court of Chancery or by the Lord Chancellor, intrusted as aforesaid, in a Suit regularly instituted, or upon Petition, as the Case may require; and the Clerk of such County Court shall transmit a Copy of such Order or Direction to the Office in *London* of the Registrar of County Courts Judgments, to be there enrolled: Provided always, that no Judge of any District or County Court shall be authorized to vary any Decree, Order, or Direction of the Court of Chancery, or of any Judge thereof, or to make or give any Order or Direction inconsistent or conflicting with any such Decree, Order, or Direction: Provided also, that where Two or more District or County Courts shall have concurrent Jurisdiction with respect to any Charity under this Act, no Application in respect of such Charity shall be made to or entertained by more than One of such District or County Courts at the same Time.

Deputy sitting for County Court Judge not to exercise Jurisdiction.

XXXIII. The Jurisdiction hereby created and conferred on the County Courts with respect to any Charity shall not be exercised by any Deputy or other Person who may for the Time being be appointed to sit and shall be sitting for any such Judge.

Where Two or more Courts have concurrent Jurisdiction, Board to direct to which Court Applications shall be made.

XXXIV. Where Two or more District Courts of Bankruptcy or County Courts shall concurrently have Jurisdiction under this Act with respect to any Charity, it shall be lawful for the said Board to order to which of such Courts any Application with respect to such Charity shall be made; and every such Order shall be conclusive as to the Jurisdiction with respect to the Application referred to in such Order.

Board may direct Cases within the Jurisdiction of a District or County Court to be taken before

XXXV. It shall be lawful for the said Board to direct that any Application as to any Charity within the Jurisdiction of any District Court of Bankruptcy or County Court shall be made before a Judge of the Court of Chancery, or as to any Charity within the Jurisdiction of the Court of Chancery of the County Palatine of *Lancaster*, either before the Chancellor or the Vice Chancellor of the same

a Judge of the Court of Chancery in the first instance.

same County Palatine, or before a Judge of the High Court of Chancery, according to the Provisions herein contained applicable to a Charity the gross annual Income whereof exceeds Thirty Pounds, and in such Case such Application shall be made and may be heard and determined accordingly, in like Manner as if the gross annual Income of such Charity exceeded Thirty Pounds; and upon the Production of the Order or Certificate containing such Direction, or of a Copy thereof, the Application with respect to which such Order or Certificate shall have been made shall not be entertained or proceeded with by such District or County Court.

No Order of District or County Court for the Appointment or Removal of Trustees or Approval of a Scheme to be valid unless confirmed by Board.

XXXVI. Whenever any Order or Decision is made by any District Court of Bankruptcy or County Court for the Appointment or Removal of any Trustee of any Charity, or approving of any Scheme for regulating or directing the Administration of any Charity, or the Estate, Funds, Property, or Income thereof, a Copy of every such Order or Decision shall immediately upon the making thereof be delivered or transmitted by the Deputy Registrar of such District Court or by the Clerk of the County Court, as the Case may be, together with all requisite Particulars, to the said Board, for the Purpose of being considered by them; and no such Order or Decision shall be valid or effectual until the same shall have been approved by the said Board, such Approval to be testified by a Certificate in Writing, signed by the Secretary of the said Board, and no such Approval shall issue from the said Board until One Calendar Month shall have elapsed after the Receipt by the Board of such Copy and Particulars.

Board, if dissatisfied with the Order of District or County Court may remit the Case for Reconsideration, or may transfer the Matter to a Judge of the Court of Chancery.

XXXVII. In case any such Order or Decision as last aforesaid of any District Court of Bankruptcy or County Court shall not be approved by the said Board, it shall be lawful for such Board to remit the same for Reconsideration and Decision by such District or County Court, with such Remarks and Recommendations thereon (if any) as shall seem fit and expedient to such Board, or, in the Discretion of the Board, to order and direct that the Subject Matter to which such Order or Decision relates, together with such Order or Decision, shall be submitted to the Consideration and Decision of a Judge of the Court of Chancery, and in such last-mentioned Case no further Proceedings shall be had or taken in the District or County Court with respect to the Matter in question; and in case the Order or Decision of the District or County Court, on the Reconsideration of any Order or Decision so remitted for Reconsideration, be disapproved as aforesaid by the said Board, such Board shall refer such Orders and Decisions, and the Subject Matter thereof, to a Judge of the Court of Chancery, or, as to any Charity within the Jurisdiction of the Court of

of Chancery of the County Palatine of *Lancaster*, either to the Chancellor or the Vice Chancellor of the same County Palatine, or to a Judge of the High Court of Chancery; and where any Order or Decision is referred to a Judge of the Court of Chancery, or of the Court of Chancery of the said County Palatine of *Lancaster*, under this Provision, such Judge shall have and exercise all such Jurisdiction, Power, and Authority in relation thereto as in the Case of a Charity the gross annual Income whereof exceeds Thirty Pounds, and may make such Order in relation to the Matter of such Order or Decision as to him may seem proper.

How Orders of District or County Court under this Act to be enforced.

XXXVIII. Subject to any Orders to be made by the Lord Chancellor as herein-after mentioned, and to the other Provisions of this Act, all Proceedings to be taken in any District Court of Bankruptcy or County Court, and all Orders and Directions to be made or given by any such District Court or County Court by virtue of the Jurisdiction hereby created and conferred on such Court, shall respectively be subject to the same Rules and Regulations, and have the same Effect, and be registered, enforced, and executed in the same Manner, as the other Proceedings, Orders, Judgments, and Directions of the same Court under its ordinary Jurisdiction, and it shall be lawful for any such District Court, or for any County Court, with the Consent of the Board, to rescind or vary any Order which shall have been previously made by such Court, without Prejudice to any Act or Matter in the meantime done under such Order; and for executing and putting in force any Order to be made by any County Court under this Act, every Judge of any such Court shall and may have and exercise all such Powers as by the Act of the Session holden in the Ninth and Tenth Years of Her Majesty, Chapter Ninety-five, are given for enforcing the Payment of any Debt, Damages, or Costs under the said Act.

Appeal.

XXXIX. Where any Person authorized to make any Application under this Act, (other than Her Majesty's Attorney General acting *ex officio*,) or any other Person who may have been made a Party to any Proceeding upon any Application under this Act, is aggrieved by or dissatisfied with any Order made by any District Court of Bankruptcy or County Court upon any such Application, or any Proceeding thereon, he may, within One Calendar Month after the making of such Order, give Notice in Writing to the said Court, and also to the said Board, that he is desirous to appeal against the same; and if the said Board think it reasonable and proper that such Appeal should be entertained, and give a Certificate to that Effect, such District or County Court shall suspend any Proceedings upon the Order appealed against during such Time as the Circumstances may require; and the said Board, if they so think fit, may require the Person giving any

any such Notice of Appeal to become bound with Two sufficient Sureties, to be approved by the Deputy Registrar of such District Court, or by the Clerk of the County Court, as the Case may be, to the Treasurers of the said Courts respectively, or such other Person as the said Board may see fit, in such Sum as to the said Board shall seem reasonable, to pay such Costs of the Proceedings on the Appeal as shall be ordered to be paid by such Appellant, and also (if the said Board so think fit) to indemnify the Charity against the Costs and Expenses of or attending such Appeal; and every Bond executed under this Provision shall be exempt from Stamp Duty: Provided always, that it shall be lawful for Her Majesty's Attorney General (acting *ex officio*), at any Time within Three Calendar Months after the making of any Order by a District Court or County Court under this Act, to lodge and commence and prosecute an Appeal against such Order, without giving any such Notice or becoming bound as aforesaid, and every such last-mentioned Appeal shall thereupon be allowed by the Order of such District or County Court, and shall have such other Effect as any other Appeal under this Act.

Proceedings on Appeal.

XL. Where any Order allowing an Appeal has been made as aforesaid, the Person thereby allowed to appeal shall within Three Calendar Months present a Petition to the Court of Chancery, setting forth the Order appealed against, and the Order allowing such Appeal, and praying such Relief as the Case may require; and upon the hearing of such Petition the Court may confirm, vary, or reverse the Order appealed against, or may remit such Order to the District Court of Bankruptcy or County Court by which the same was made, with or without any Declaration or Directions of the Court of Chancery in relation thereto, or may proceed in relation to the Charity to which such Order relates as in the Case of an Application under this Act to a Judge of the Court of Chancery at Chambers, and any Judge of such Court sitting at Chambers or in open Court may make or give any such Orders or Directions in relation to the Matter of such Order as he may see fit, or the Court may make such other Order in relation to the Matter of any such Appeal as to the Court may seem just, and as might be made in the Case of a Suit regularly instituted, or a Petition, as the Case may require; and in case the Party allowed to appeal do not within such Three Calendar Months present such Petition of Appeal, the Order against which such Appeal was allowed shall be final; and in case any Costs adjudged on any such Appeal to be paid by the Party allowed to appeal be not paid, such Bond as aforesaid may be put in Suit, and the Money to be recovered on every such Bond shall be applied to indemnify the Charity Estate or the Person damnified, or otherwise in such Manner as the Justice of the

Bond to prosecute Appeal may be put in Suit.

the Case may require, and the Court or Judge by whom such Appeal may have been heard shall think fit.

No Chancery Judge, or District or County Court, in Proceedings under this Act to try Titles, &c.

XLI. Provided always, That no Judge of the Court of Chancery, nor any District Court of Bankruptcy or County Court, shall upon any Proceedings under this Act have Jurisdiction to try or determine the Title at Law or in Equity to any Real or Personal Property, or any Term or Interest therein, as between any Charity, or the Trustee thereof, and any Person holding or claiming such Real or Personal Property, Term, or Interest adversely to such Charity, or to try or determine any Question as to the Existence or Extent of any Charge or Trust.

Notice to be published of Application for Schemes or Appointment or Removal of Trustees under this Act.

XLII. Before any Application shall be made to any Judge of the Court of Chancery, or to any District Court of Bankruptcy or County Court, under any of the Provisions herein contained for the Establishment or Alteration of a Scheme or the Appointment or Removal of any Trustees or Trustee, Notice in Writing of such intended Application shall be given in such Form and Manner as the said Board shall have directed; and if the Order be that such Notice be affixed to or near the Door of any Parish or District Church, the Incumbent and Churchwardens of such Parish or District are hereby respectively required to allow such Notice to be affixed and to remain so affixed during such Period, not less than Fifteen Days, as the said Board shall have ordered; and in any Case in which the Order shall be that such Notice shall be affixed to any Place, Evidence that the same has been so affixed shall be deemed and taken as *primâ facie* Evidence that it has remained affixed during the Period prescribed by the Board.

By whom Applications may be made.

XLIII. Every Application to any Judge or Court under the Jurisdiction created or conferred by any of the Provisions of this Act, may be made by Her Majesty's Attorney General, or, subject to the Provisions aforesaid, by all or any One or more of the Trustees or Persons administering or claiming to administer, or interested in, the Charity which shall be the Subject of such Application, or any Two or more Inhabitants of any Parish or Place within which the Charity is administered or applicable; and it shall be lawful for Her Majesty's Attorney General for the Time being, acting *ex officio*, to make Application by Petition to the Court of Chancery with respect to any Charity under the Provisions of the Act passed in the Fifty-second Year of King *George* the Third, Chapter One hundred and one, or under the Provisions of any Act or Acts passed or to be passed authorizing the Application to the same Court by Petition according to the Provisions of the said Act.

Attorney General may Petition under 52 G. 3. c. 101.

XLIV. For

Statement in Certificate of Board of the Amount of Income of any Charity to be sufficient Evidence for determining the Jurisdiction or Proceedings under this Act.

XLIV. For the Purposes of determining the Jurisdiction under this Act with respect to any Charity, or the Right to appeal from the Determination of a Judge of the Court of Chancery, it shall be lawful for the said Board to declare, according to such Judgment as they may be able to form upon the Returns or Statements before them in relation to any Charity, whether the gross annual Income for the Time being of such Charity does or does not exceed Thirty Pounds or One hundred Pounds, (as the Case may require,) and a Statement in any Certificate or Order of the said Board that according to such Judgment as aforesaid the gross yearly Income of any Charity does or does not exceed Thirty Pounds or One hundred Pounds shall be sufficient Evidence of the Amount of the gross annual Income of such Charity, for the Purpose of determining such Jurisdiction or Right to appeal as aforesaid; and any Certificate or Order made by the said Board under this Act, authorizing any Proceeding or Application concerning any Charity to be taken or made to any District Court of Bankruptcy or County Court or to the Court of Chancery or any Judge thereof, shall state that the gross annual Income for the Time being of such Charity does not exceed Thirty Pounds, or does exceed Thirty Pounds (as the Case may be): Provided always, that where any Charity, or the Trustees thereof, in addition to the principal Endowment for its general Objects and Purposes, shall be possessed of or entitled to any other Endowment for any particular or special Object or Purpose arising out of or in its Nature or Application connected with the general Objects or Purposes of such Charity, it shall be lawful for the said Board, having regard to the Circumstances of each such Case, and to the Object and Extent of the proposed Application and Litigation, to determine whether such Endowment for such particular or special Object or Purpose should, for the Purposes of Jurisdiction and Proceedings under this Act, be considered and treated as forming Part of the general Endowment of the Charity, or as a separate or independent Charity, and such Board shall frame their Certificate or Order accordingly.

Proviso as to particular Endowments.

Lord Chancellor to make Orders for regulating Proceedings before District and County Courts. Judges to regulate Proceedings.

XLV. The Lord Chancellor shall make such Orders for regulating Proceedings by and before the Judges of District Courts of Bankruptcy and County Courts under this Act, and for fixing and determining the Fees to be taken in respect of such Proceedings, as he may see fit; and, subject to such Orders, such Judges may regulate the Proceedings before them respectively so as to render them as summary and inexpensive as conveniently may be.

Reservation of Rights and Privileges of

XLVI. Nothing herein contained shall diminish or detract from any Right or Privilege which by any Rule or Practice of the Court of Chancery,

Church of England with respect to Charities.

Chancery, or by the Construction of Law, now subsists for the Preference or the exclusive or special Benefit of the Church of *England*, or the Members of the same Church, in settling any Scheme for the Regulation of any Charity, or in the Appointment or Removal of Trustees, or generally in the Application or Management of any Charity.

Secretary to be Treasurer of Charities; such Treasurer to be a Corporation.

XLVII. The Secretary for the Time being of the said Board shall by virtue of his Appointment be the Treasurer of Public Charities; and such Treasurer shall, for the Purposes of taking, holding, conveying, assigning, transferring, and transmitting Real Property, including Leaseholds for Lives or Years, be a Corporation Sole by the Name of "The Treasurer of Public Charities," and by that Name shall have perpetual Succession, and plead and be impleaded before all Courts, Justices, and others.

Land holden upon trust for a Charity, subject to Jurisdiction of Court of Chancery and of Judge, may be vested in Treasurer.

XLVIII. Where any Land, or any Term or Estate therein, holden upon trust for any Charity, shall be vested in any Persons other than the Persons acting in the Administration and Application of the Rents; or where there shall be no Trustees thereof, or the Trustees, or any of them, shall be unwilling to act, or it shall be uncertain in whom such Land, Term or Estate, shall be vested, or all or any of the Persons in whom such Land, Term or Estate, shall be vested, cannot be found, or shall be under Age, lunatic, or of unsound Mind, (whether found such by Inquisition or not), or otherwise incapable of acting, or shall be out of the Jurisdiction or not amenable to the Process of the Court of Chancery, or where by reason of the reduced Number of Trustees or other Causes a valid Appointment of new Trustees cannot be made, or where by reason of the Expenses incident to the Appointment of new Trustees, and the Conveyance or Assignment of such Land, Term or Estate, to such new Trustees, it shall appear to the Court of Chancery, or to any Judge of such Court or of any Court having Jurisdiction with respect to such Charity under this Act, desirable so to do, such Court or Judge may order that such Land, Term or Estate, be vested in such Treasurer, and thereupon the same shall vest in such Treasurer and his Successors for all the Estate and Interest holden in trust for the Charity as aforesaid, without any Conveyance or Assurance thereof; but no such Vesting Order as aforesaid shall be made in respect of any Land, or Term or Estate as aforesaid, holden in trust as aforesaid, vested in a Corporation, without the Consent of the Corporation; and no such Vesting Order shall take effect in respect of any Copyhold Land without the Consent of the Lord of the Manor; and the Court of Chancery, or such Judge, may direct such periodical or other Payment, as such Court or Judge may think fit, to be made to the Lord of the Manor,

Proviso.

in

in compensation for Fines or other Profits which would have become due upon Death or Admittance of Tenants.

Orders may be made revesting Land, &c. in the Trustees of the Charity.

XLIX. It shall be lawful for any Court or Judge by whom respectively any such Vesting Order may have been made, or for any other Court or Judge having Jurisdiction in the Matter, if it shall so seem fit to such Court or Judge, from Time to Time to order that all or any Part of the Land, Term or Estate, which shall for the Time being be vested in the said Treasurer by virtue of any such Vesting Order as aforesaid, shall be devested, and that the same shall be vested in the acting Trustees or Trustee for the Time being of the Charity; and such last-mentioned Order shall operate to vest such Land, Term and Estate, in the Trustees or Trustee therein named without any Conveyance or Assurance.

Treasurer to be a Bare Trustee.

L. Subject to the Orders and Directions of the Court of Chancery or of any such Judge, such Treasurer shall be deemed a Bare Trustee, and shall permit the Persons acting in the Administration of the Charity to have the Possession, Management, and Control of the Trust Estates, and the Application of the Income thereof, as if the same had been vested in them.

Judge may order Trustees, &c. holding Stock, &c. belonging to a Charity subject to his Jurisdiction to transfer same to official Trustees.

LI. The Secretary for the Time being of the said Board, and such other public Officer or Officers as the Lord Chancellor shall appoint, shall be official Trustees of Charitable Funds, and where Trustees or other Persons having in their Names, or in the Name of any deceased Person of whom they are Representatives, in the Books of the Bank of *England*, or of the *East India* or *South Sea* Company, or of any other public Company, any Annuities, Stock, or Shares, or holding any Government or Parliamentary or other Securities in trust for any Charity, shall be desirous to transfer or deposit the same to or with the said official Trustees in trust for such Charity, or where any Persons shall be desirous of transferring or depositing as aforesaid any Annuities, Stocks, Shares, or Securities for discharging any Legacy or Charge given or made to or for the Benefit of any Charity, or where it shall appear to the Court of Chancery, or to any Judge of such Court, or of any District Court of Bankruptcy, or County Court having Jurisdiction under this Act, that any Annuities, Stock, Shares, or Securities held in trust for any Charity ought, for the Purpose of Security or convenient Administration, to be transferred or deposited as aforesaid, it shall be lawful for such Court or Judge to order the Transfer or Deposit of such Annuities, Stock, Shares, or Securities to or with such official Trustees.

Secretary to keep separate Accounts of

LII. The Secretary of the said Board shall keep separate Accounts of the Annuities, Stock, Shares, and Securities belonging to

to each separate Charity, and the said official Trustees shall pay the Dividends or Interest or Income thereof to the Trustees or Persons acting in the Administration of such Charity, or otherwise dispose thereof, and transfer such Annuities, Stock, Shares, or Securities (when Occasion shall require), as the Court of Chancery, or any Judge of such Court, or of any District Court of Bankruptcy, or County Court having Jurisdiction under this Act, or other lawful Authority, shall direct.

Funds of each Charity.

Trustees may deposit Deeds, &c. for Security in a Repository provided by the Board.

LIII. It shall be lawful for any Trustees or other Persons having the Custody of any Deeds or Muniments of or relating to such Charity to deposit the same for Security in a Repository which may be provided by the said Board, subject to any Regulations to be made by the said Board under this Act.

Power to Board to frame Schemes for the Appropriation of Charitable Property to varied Trusts.

LIV. Where upon the Application of any Trustees or other Persons concerned in the Management or Administration of any Charity, or interested in the Benefits thereof (and after such Examination or Inquiry as the Board may think necessary in relation thereto), or upon any Report of an Inspector, or Information otherwise obtained by the said Board under this Act, with relation to any Charity, it shall appear to the said Board to be desirable to have a new Scheme for the Application or Management of the Charity, and such new Scheme as contemplated or considered desirable by the Board cannot be, or it shall in the Opinion of the Board be doubtful whether it can be carried into complete effect by the Court of Chancery, or by any District or County Court under the Jurisdiction created by this Act, or otherwise than by the Authority of Parliament, it shall be lawful for the said Board in every such Case provisionally to approve and certify such new Scheme in the Manner and subject to the Regulations herein-after mentioned.

Notice to be given before Approval of Schemes, and Objections may be submitted for the Consideration of the Board.

LV. One Month at least before any such new Scheme shall be so provisionally approved, Notice thereof shall be given in such Manner as the Board may in each Case consider proper or expedient for ensuring due Publicity, and every such Notice shall contain such Particulars of the proposed Scheme as the said Board think fit, and as shall be deemed by the said Board sufficient to show the Nature of such Scheme, and where the Nature thereof cannot conveniently be shown in the said Notice, such Notice shall refer to some convenient Place within the Parish or District, and to the Office in *London* of the Registrar of County Courts, Judgments, where a Copy of the proposed Scheme shall be deposited and may be inspected, and every such Notice shall require any Objections to such Scheme to be stated or transmitted to the said Board or their Secretary within One Month from the Time when the Notice shall have been given.

LVI. If

Board may alter or modify or approve of Schemes.

LVI. If after such Notice as aforesaid any Objections or Suggestions shall be made, the Board shall consider the same, and may thereupon, if to them it shall seem fit, alter or modify the Scheme according to any such Objections or Suggestions; and after all such Objections and Suggestions, if any, have been disposed of, or if no such Objections or Suggestions shall have been made, the Board, in case they shall not think fit to refer such Scheme to an Inspector under the Provision next herein-after contained, may proceed to approve such Scheme, and to certify the same in manner herein-after mentioned.

The Matter of Schemes may be referred to an Inspector for Local Inquiry.

LVII. Upon the Requisition of any Person interested in the Charity in question (in case the said Board after due Consideration shall be of Opinion that there are sufficient Grounds for complying with such Requisition), or in any other Case, if the said Board shall consider it desirable, the Matter of any Scheme in question may be referred by the said Board to One of their Inspectors, and such Inspector shall thereupon proceed to make a local Inquiry and Examination into the Matter of the Scheme in question, and for the Purposes of such Inquiry, such Inspector may hold a Sitting or Sittings in some convenient Place in the Parish or One of the Parishes or the District to or in which respectively the Charity in question is wholly or partially situated or is administered, and may take and receive any Evidence and Information, and hear and inquire into any Objections or Questions relating to the Scheme of Charity in question, and may from Time to Time adjourn any such Sitting, and public Notice shall be given by such Inspector of every such Sitting (except an adjourned Sitting) Fourteen Days at the least before the holding thereof, in such other Mode as in the Judgment of the said Board shall be sufficient to ensure Publicity.

Inspectors to report the Result of Inquiry to the Board.

LVIII. Every Inspector to whom any such Matter shall be referred shall report in Writing to the said Board the Result of his Inquiry, and whether in his Opinion the Scheme in question should be approved with or without any Alteration or Modification thereof, and such Report shall specify or indicate the Alterations (if any) which such Inspector shall consider desirable, with the Reasons for the same, and also the Nature of the Objections (if any) which shall have been made to the Scheme, and the Opinion of the said Inspector thereon, and the said Board shall consider such Report, and if, as the Result of such Report or after further Inquiry, they shall be satisfied therewith, they may proceed to approve the Scheme in question either with or without any Alteration, and to certify the same in manner herein-after mentioned.

Schemes when approved to be certified by them.

LIX. Every Scheme to be approved by the said Board shall be certified by them, and for that Purpose shall be embodied in a Certificate to be made by the said Board, and sealed with their Seal; and in every Case a Copy of such Certificate shall be deposited in some convenient Place within the Parish or One of the Parishes or the District in which the Charity in question shall wholly or partially be situated or administered, and at the Office in *London* of the Registrar of County Courts Judgments, and a Notice shall also be given, in such Manner as the Board shall direct, which Notice shall refer to the Certificate so deposited, and shall state the Intention of the Board to proceed with the Scheme thereby certified.

Certified by the Board. Copy of such Certificate to be deposited in the Parish or District, and Notice given.

Annual Report to be laid before Parliament, which shall set forth all the Schemes approved

LX. The said Board shall in the Month of *February* in every Year make a Report to Her Majesty of all their Proceedings during the preceding Year up to the Thirty-first Day of *December* then last, and such Report shall, within Fourteen Days after the making thereof, be laid before both Houses of Parliament, if Parliament be then sitting, or otherwise within Fourteen Days after the Meeting thereof; and in such Report the said Board shall specially distinguish and set forth in full all the Schemes (if any) approved by them under the Provisions lastly herein-before contained, together with the Grounds of such their Approval, and the Objections (if any) which have been made thereto, and all Proceedings had in respect of such Objections and the Grounds on which any such Objections have been over-ruled; and in case it shall be enacted by any Act of Parliament that any such Scheme or Schemes so certified shall be confirmed and take effect, either with or without any Alterations or Modifications thereof respectively, every such Act shall be deemed a Public General Act.

Accounts of Trustees of Charities to be delivered to the Clerks of County Courts, Clerks of the Peace, and to the Board.

LXI. The Trustees or Persons acting in the Administration of every Charity shall, in Books to be kept by them for that Purpose, regularly enter or cause to be entered full and true Accounts of all Money received and paid respectively on account of such Charity, and on or before the Twenty-fifth Day of *March* in every Year, or on or before such other Day as shall or may be fixed and appointed for that Purpose by the said Board, shall cause a Statement in Writing to be made of the Income and Revenues, whether actually paid or then due, and the actual Receipts and Expenditure of such Charity for the Year ending on the Thirty-first Day of *December* then next preceding, or on some other convenient Day to be fixed and appointed for that Purpose by the said Board, and also a Balance Sheet containing a clear Statement of the Balance of such Account, which Statement and Balance Sheet respectively shall be certified under the Hand of some One or more of such Trustees or Persons (and audited by the Auditor of such Charity, if any there be); and as to every Charity whose gross annual Income for the Time being shall not exceed Thirty Pounds, every such Statement and Balance Sheet

Sheet respectively, or a Duplicate or true Copy thereof respectively, shall be delivered or sent by such Trustees or Persons free of Charge to the Clerk of the County Court or some One of the County Courts (if more than One) to whose Jurisdiction such Charity may be subject under this Act (in case such Charity be subject to the Jurisdiction of any County Court under this Act), or if such Charity be not subject to the Jurisdiction of any County Court, then to the Clerk of the County Court for the District or any One of the Districts (if more than One) wherein or nearest adjoining whereto such Charity is established, or the Property thereof (in whole or in part) is situate or administered and distributed; and as to every Charity whose gross annual Income for the Time being shall exceed Thirty Pounds, every such Statement and Balance Sheet, or a Duplicate or true Copy thereof respectively (unless the said Board shall otherwise direct), shall be delivered or sent free of Charge to the Clerk of the Peace for the County or the Division of the County, or some One of the Counties or Divisions of Counties (if more than One) in which the Charity is established, or the Property thereof is wholly or partially situated or administered and distributed; and every such Statement and Balance Sheet, or a Duplicate or true Copy thereof respectively, shall be kept and registered without Fee or Reward by the Registrar of County Courts Judgments or the Clerk of such County Court, and the Clerk of the Peace of such County or Division respectively, and shall be open to the Inspection of all Persons, at all seasonable Hours, on Payment of the Sum of One Shilling to the Registrar or Clerk for every such Inspection; and any Person may require and have a Copy of any such Statement and Balance Sheet, or of any Part thereof, paying therefor to such Registrar or Clerk after the Rate of Twopence for every Seventy-two Words or Figures; and a Duplicate or Copy of every such Statement and Balance Sheet to be made according to the foregoing Provision, so certified and audited as aforesaid, shall be delivered or transmitted, through the Post or otherwise, free of Charge, by such Trustees or other Persons, to the said Board, on or before the said Twenty-fifth Day of *March* in every Year, or such other Day as may be fixed and appointed by the said Board as aforesaid; and the said Board may from Time to Time by any Order direct that the Statement and Balance Sheet, or a Duplicate or true Copy thereof respectively, of the Accounts of any Charity whose gross annual Income exceeds Thirty Pounds shall be delivered or sent to the Clerk of the County Court in the same Manner as if the Income of such Charity did not exceed Thirty Pounds; and the said Board may make and give such further and other Orders and Directions in relation to the Delivery and Publication of such Accounts, and the Form thereof, as they may think fit,

fit, which Directions and Orders shall be obligatory on and obeyed by all such Trustees and Persons as aforesaid.

Exemptions from the Operation of Act.

LXII. This Act shall not extend to the Universities of *Oxford*, *Cambridge*, *London*, or *Durham*, or any College or Hall in the said Universities of *Oxford*, *Cambridge*, and *Durham*, or to any Cathedral or Collegiate Church, or to any Building registered as a Place of Meeting for Religious Worship with the Registrar General of Births, Deaths, or Marriages in *England* and *Wales*, and *bonâ fide* used as a Place of Meeting for Religious Worship; nor shall this Act, for the Period of Two Years from the passing thereof, extend or be in any Manner applied to Charities or Institutions, the Funds or Income of which are applicable exclusively for the Benefit of Persons of the Roman Catholic Persuasion, and which are under the Superintendence or Control of Persons of that Persuasion, nor shall this Act extend or be applied to the Commissioners of Queen *Anne's* Bounty, or to the *British Museum*, or to any Friendly or Benefit Society, or Savings Bank, or any Institution, Establishment, or Society for religious or other charitable Purposes, or to the Auxiliary or Branch Associations connected therewith, wholly maintained by voluntary Contributions, or any Bookselling or Publishing Business carried on by or under the Direction of any Society wholly or partially exempted from this Act, so far as such Business is or shall be carried on by means of voluntary Contributions only, or the Capital or Stock of such Business; and where any Charity is maintained partly by voluntary Subscriptions and partly by Income arising from any Endowment, the Powers and Provisions of the Act shall, with respect to such Charity, extend and apply to the Income from Endowment only, to the Exclusion of voluntary Subscriptions, and the Application thereof; and no Donation or Bequest unto or in trust for any such Charity as last aforesaid, of which no special Application or Appropriation shall be directed or declared by the Donor or Testator, and which may legally be applied by the governing or managing Body of such Charity as Income in aid of the voluntary Subscriptions, shall be subject to the Jurisdiction or Control of the said Board, or the Powers or Provisions of this Act; and no Portion of any such Donation or Bequest as last aforesaid, or of any voluntary Subscription, which is now or shall or may from Time to Time be set apart or appropriated and invested by the governing or managing Body of the Charity, for the Purpose of being held and applied or expended for or to some defined and specific Object or Purpose connected with such Charity, in pursuance of any Rule or Resolution made or adopted by the governing or managing Body of such Charity, or of any Donation or Bequest in aid of any Fund so set apart or appropriated for any such Object or Purpose as aforesaid, shall be subject

Provisions as to Charities supported partly by voluntary Subscriptions.

Sheet respectively, or a Duplicate or true Copy thereof respectively, shall be delivered or sent by such Trustees or Persons free of Charge to the Clerk of the County Court or some One of the County Courts (if more than One) to whose Jurisdiction such Charity may be subject under this Act (in case such Charity be subject to the Jurisdiction of any County Court under this Act), or if such Charity be not subject to the Jurisdiction of any County Court, then to the Clerk of the County Court for the District or any One of the Districts (if more than One) wherein or nearest adjoining whereto such Charity is established, or the Property thereof (in whole or in part) is situate or administered and distributed; and as to every Charity whose gross annual Income for the Time being shall exceed Thirty Pounds, every such Statement and Balance Sheet, or a Duplicate or true Copy thereof respectively (unless the said Board shall otherwise direct), shall be delivered or sent free of Charge to the Clerk of the Peace for the County or the Division of the County, or some One of the Counties or Divisions of Counties (if more than One) in which the Charity is established, or the Property thereof is wholly or partially situated or administered and distributed; and every such Statement and Balance Sheet, or a Duplicate or true Copy thereof respectively, shall be kept and registered without Fee or Reward by the Registrar of County Courts Judgments or the Clerk of such County Court, and the Clerk of the Peace of such County or Division respectively, and shall be open to the Inspection of all Persons, at all seasonable Hours, on Payment of the Sum of One Shilling to the Registrar or Clerk for every such Inspection; and any Person may require and have a Copy of any such Statement and Balance Sheet, or of any Part thereof, paying therefor to such Registrar or Clerk after the Rate of Twopence for every Seventy-two Words or Figures; and a Duplicate or Copy of every such Statement and Balance Sheet to be made according to the foregoing Provision, so certified and audited as aforesaid, shall be delivered or transmitted, through the Post or otherwise, free of Charge, by such Trustees or other Persons, to the said Board, on or before the said Twenty-fifth Day of *March* in every Year, or such other Day as may be fixed and appointed by the said Board as aforesaid; and the said Board may from Time to Time by any Order direct that the Statement and Balance Sheet, or a Duplicate or true Copy thereof respectively, of the Accounts of any Charity whose gross annual Income exceeds Thirty Pounds shall be delivered or sent to the Clerk of the County Court in the same Manner as if the Income of such Charity did not exceed Thirty Pounds; and the said Board may make and give such further and other Orders and Directions in relation to the Delivery and Publication of such Accounts, and the Form thereof, as they may think fit,

fit, which Directions and Orders shall be obligatory on and obeyed by all such Trustees and Persons as aforesaid.

Exemptions from the Operation of Act.

LXII. This Act shall not extend to the Universities of *Oxford*, *Cambridge*, *London*, or *Durham*, or any College or Hall in the said Universities of *Oxford*, *Cambridge*, and *Durham*, or to any Cathedral or Collegiate Church, or to any Building registered as a Place of Meeting for Religious Worship with the Registrar General of Births, Deaths, or Marriages in *England* and *Wales*, and *bonâ fide* used as a Place of Meeting for Religious Worship; nor shall this Act, for the Period of Two Years from the passing thereof, extend or be in any Manner applied to Charities or Institutions, the Funds or Income of which are applicable exclusively for the Benefit of Persons of the Roman Catholic Persuasion, and which are under the Superintendence or Control of Persons of that Persuasion, nor shall this Act extend or be applied to the Commissioners of Queen *Anne's* Bounty, or to the *British Museum*, or to any Friendly or Benefit Society, or Savings Bank, or any Institution, Establishment, or Society for religious or other charitable Purposes, or to the Auxiliary or Branch Associations connected therewith, wholly maintained by voluntary Contributions, or any Bookselling or Publishing Business carried on by or under the Direction of any Society wholly or partially exempted from this Act, so far as such Business is or shall be carried on by means of voluntary Contributions only, or the Capital or Stock of such Business; and where any Charity is maintained partly by voluntary Subscriptions and partly by Income arising from any Endowment, the Powers and Provisions of the Act shall, with respect to such Charity, extend and apply to the Income from Endowment only, to the Exclusion of voluntary Subscriptions, and the Application thereof; and no Donation or Bequest unto or in trust for any such Charity as last aforesaid, of which no special Application or Appropriation shall be directed or declared by the Donor or Testator, and which may legally be applied by the governing or managing Body of such Charity as Income in aid of the voluntary Subscriptions, shall be subject to the Jurisdiction or Control of the said Board, or the Powers or Provisions of this Act; and no Portion of any such Donation or Bequest as last aforesaid, or of any voluntary Subscription, which is now or shall or may from Time to Time be set apart or appropriated and invested by the governing or managing Body of the Charity, for the Purpose of being held and applied or expended for or to some defined and specific Object or Purpose connected with such Charity, in pursuance of any Rule or Resolution made or adopted by the governing or managing Body of such Charity, or of any Donation or Bequest in aid of any Fund so set apart or appropriated for any such Object or Purpose as aforesaid, shall be subject

Provisions as to Charities supported partly by voluntary Subscriptions.

Sheet respectively, or a Duplicate or true Copy thereof respectively, shall be delivered or sent by such Trustees or Persons free of Charge to the Clerk of the County Court or some One of the County Courts (if more than One) to whose Jurisdiction such Charity may be subject under this Act (in case such Charity be subject to the Jurisdiction of any County Court under this Act), or if such Charity be not subject to the Jurisdiction of any County Court, then to the Clerk of the County Court for the District or any One of the Districts (if more than One) wherein or nearest adjoining whereto such Charity is established, or the Property thereof (in whole or in part) is situate or administered and distributed; and as to every Charity whose gross annual Income for the Time being shall exceed Thirty Pounds, every such Statement and Balance Sheet, or a Duplicate or true Copy thereof respectively (unless the said Board shall otherwise direct), shall be delivered or sent free of Charge to the Clerk of the Peace for the County or the Division of the County, or some One of the Counties or Divisions of Counties (if more than One) in which the Charity is established, or the Property thereof is wholly or partially situated or administered and distributed; and every such Statement and Balance Sheet, or a Duplicate or true Copy thereof respectively, shall be kept and registered without Fee or Reward by the Registrar of County Courts Judgments or the Clerk of such County Court, and the Clerk of the Peace of such County or Division respectively, and shall be open to the Inspection of all Persons, at all seasonable Hours, on Payment of the Sum of One Shilling to the Registrar or Clerk for every such Inspection; and any Person may require and have a Copy of any such Statement and Balance Sheet, or of any Part thereof, paying therefor to such Registrar or Clerk after the Rate of Twopence for every Seventy-two Words or Figures; and a Duplicate or Copy of every such Statement and Balance Sheet to be made according to the foregoing Provision, so certified and audited as aforesaid, shall be delivered or transmitted, through the Post or otherwise, free of Charge, by such Trustees or other Persons, to the said Board, on or before the said Twenty-fifth Day of *March* in every Year, or such other Day as may be fixed and appointed by the said Board as aforesaid; and the said Board may from Time to Time by any Order direct that the Statement and Balance Sheet, or a Duplicate or true Copy thereof respectively, of the Accounts of any Charity whose gross annual Income exceeds Thirty Pounds shall be delivered or sent to the Clerk of the County Court in the same Manner as if the Income of such Charity did not exceed Thirty Pounds; and the said Board may make and give such further and other Orders and Directions in relation to the Delivery and Publication of such Accounts, and the Form thereof, as they may think fit,

fit, which Directions and Orders shall be obligatory on and obeyed by all such Trustees and Persons as aforesaid.

Exemptions from the Operation of Act.

LXII. This Act shall not extend to the Universities of *Oxford*, *Cambridge*, *London*, or *Durham*, or any College or Hall in the said Universities of *Oxford*, *Cambridge*, and *Durham*, or to any Cathedral or Collegiate Church, or to any Building registered as a Place of Meeting for Religious Worship with the Registrar General of Births, Deaths, or Marriages in *England* and *Wales*, and *bonâ fide* used as a Place of Meeting for Religious Worship; nor shall this Act, for the Period of Two Years from the passing thereof, extend or be in any Manner applied to Charities or Institutions, the Funds or Income of which are applicable exclusively for the Benefit of Persons of the Roman Catholic Persuasion, and which are under the Superintendence or Control of Persons of that Persuasion, nor shall this Act extend or be applied to the Commissioners of Queen *Anne's* Bounty, or to the *British Museum*, or to any Friendly or Benefit Society, or Savings Bank, or any Institution, Establishment, or Society for religious or other charitable Purposes, or to the Auxiliary or Branch Associations connected therewith, wholly maintained by voluntary Contributions, or any Bookselling or Publishing Business carried on by or under the Direction of any Society wholly or partially exempted from this Act, so far as such Business is or shall be carried on by means of voluntary Contributions only, or the Capital or Stock of such Business; and where any Charity is maintained partly by voluntary Subscriptions and partly by Income arising from any Endowment, the Powers and Provisions of the Act shall, with respect to such Charity, extend and apply to the Income from Endowment only, to the Exclusion of voluntary Subscriptions, and the Application thereof; and no Donation or Bequest unto or in trust for any such Charity as last aforesaid, of which no special Application or Appropriation shall be directed or declared by the Donor or Testator, and which may legally be applied by the governing or managing Body of such Charity as Income in aid of the voluntary Subscriptions, shall be subject to the Jurisdiction or Control of the said Board, or the Powers or Provisions of this Act; and no Portion of any such Donation or Bequest as last aforesaid, or of any voluntary Subscription, which is now or shall or may from Time to Time be set apart or appropriated and invested by the governing or managing Body of the Charity, for the Purpose of being held and applied or expended for or to some defined and specific Object or Purpose connected with such Charity, in pursuance of any Rule or Resolution made or adopted by the governing or managing Body of such Charity, or of any Donation or Bequest in aid of any Fund so set apart or appropriated for any such Object or Purpose as aforesaid, shall be subject

Provisions as to Charities supported partly by voluntary Subscriptions.

subject to the Jurisdiction or Control of the said Board or the Powers or Provisions of this Act; and nothing in this Act shall subject the Funds or Property of any Missionary or other similar Society, or the Missionaries, Teachers, or Officers of such Society, or of any Branch thereof, which Funds or Property shall not be within the Limits of *England* or *Wales*, to the Jurisdiction of the said Board: Provided always, that the said Exemption shall not extend to any Cathedral, Collegiate, Chapter, or other Schools.

Exempted Charities may petition Commissioners to have Benefit of Act.

LXIII. It shall be lawful for any of the Charities exempted from the Operation of this Act, by Order or Resolution duly made in conformity with the Constitution or Rules of such Charity (and which in that Case only shall be binding), to apply by Petition to the Commissioners to have the Benefit of this Act either generally or as to any of the Provisions herein contained; and such Petition shall be under the Seal of such Charity if incorporated, and if not, then under the Hands of the major Part of the Trustees and governing Body of such Charity; and in such Case it shall be lawful for the Commissioners, if they shall think fit, to make an Order in conformity with such Application, and such Charity shall thenceforth be entitled to and be bound by all the Provisions of this Act, if admitted generally thereto, or by such of the Enactments thereof as shall be mentioned and specified in such Order of the Commissioners, but in either Case in the same Manner as if such Charity had not been exempted from this Act, or such Exemption had not extended to the Enactments specified in such Order.

Disputes among Members of exempted Charities may be referred to Arbitration of Commissioners.

LXIV. Provided also, That if any Question or Dispute shall arise among the Members of any Charity exempted from the Operation of this Act in relation to any Office, or the Fitness or Disqualification of any Trustee or Officer, or his Election or Removal, or generally in relation to the Management of the Charity, it shall be lawful for Two Thirds of the Members present at any Special Meeting, duly convened by Notice for the Purpose in the same Manner in which Meetings of such Charity are by the Rules thereof appointed to be held and convened, to refer such Question or Dispute to the Arbitration of the Commissioners, who shall accept such Reference and act therein as Arbitrators, and their Award shall be final, and may be made a Rule of Her Majesty's High Court of Chancery.

Legal Estate of Lands now vested in Municipal Corporations on Charitable Trusts to be

LXV. The legal Estate in all Lands which at the Time of the passing of the Act of the Session holden in the Fifth and Sixth Years of King *William* the Fourth, Chapter Seventy-six, was vested in the Body Corporate of any Borough which became subject to the Provisions of the said Act, or in any One or more of the Members of such Body Corporate,

vested in Trustees. 5 & 6 W. 4. c. 76.

Corporate, in his or their corporate Capacity, solely or together with any Person or Persons elected solely by such Body Corporate, or solely by any particular Number, Class, or Description of Members of such Body Corporate, in whole or in part in trust or for the Benefit of any Charitable Uses or Trusts whatsoever, and which legal Estate shall not have been since duly conveyed or assured to and vested in the Trustees appointed by the Lord High Chancellor under the Provisions of the said Act, or such of them as shall be surviving and continuing Trustees, or otherwise lawfully conveyed, aliened, or disposed of by such Body Corporate or Member or Members thereof, shall from and immediately after the passing of this Act, and without any actual Conveyance, Assignment, or other Assurance thereof, be vested in the Trustees so appointed, or such of them as shall be surviving and continuing Trustees under such Appointment as aforesaid, according to the respective Estates and Interests therein, and subject to such and the same Charges and Incumbrances and upon such and the same Trusts as the same were respectively subject to previously to such vesting; and in every Case, upon the Death, Resignation, or Removal of any of the Trustees, and upon any Appointment of any new Trustee or Trustees respectively, the legal Estate in the same Lands, and in all other Lands subject to any such Charitable Uses or Trusts which may for the Time being be vested in the Trustees or any of them, or in any Persons or the Heirs or Devisees of any Person who may have died, resigned, or been removed, shall vest in the Persons who after such Death, Resignation, or Removal, and such Appointment of such new Trustee or Trustees respectively, shall continue or be the Trustees for the Time being, without any Conveyance or Assurance whatsoever.

Interpretation of Terms.

LXVI. In the Construction of this Act, except where the Context or other Provisions of the Act may require a different Construction, the Expression "Court of Chancery" shall mean and include the Master of the Rolls and every Judge of the Court of Chancery in *England*; the Expression "Lord Chancellor" shall mean and include the Lord Chancellor of *Great Britain* and the Lord Keeper and Commissioners of the Great Seal of *Great Britain* for the Time being; the Expressions "District Court of Bankruptcy" and "District Court" shall mean and include every District Court of Bankruptcy established or to be established under the Act of the Fifth and Sixth Years of the Reign of Her present Majesty, Chapter Twenty-two, or under any other Act or Acts passed or to be passed for the Alteration or Amendment or the Extension of the same Act, or for the Establishment of any District Court or Courts of Bankruptcy in *England* or *Wales*, and every Commissioner or Judge of every such District Court; the Expression "County Court" shall mean and include every County Court

Court holden or established or to be holden or established under the Act of the Ninth and Tenth Years of Her Majesty, Chapter Ninety-five, or any Act or Acts passed or to be passed for the Alteration or Extension of the same Act, and every Judge of any such Court; the Expression "Charity" shall mean every endowed Foundation and Institution taking or to take Effect in *England* or *Wales*, and coming within the Meaning, Purview, or Interpretation of the Statute of the Forty-third Year of Queen *Elizabeth*, Chapter Four, or as to which, or the Administration of the Revenues or Property whereof, the Court of Chancery has or may exercise Jurisdiction; the Expression "Trustee" of any Charity shall mean and include every Person and Corporation seised or possessed of or entitled to any Real or Personal Estate, or any Interest therein, in trust for or for the Benefit of such Charity, or all or any of the Objects or Purposes thereof, and every Member of any such Corporation; and the Expression "the Board" shall mean the said Charity Commissioners sitting as a Board under this Act; and the Expression "Endowment" shall mean and include all Lands and Real Estate whatsoever, of any Tenure, and any Charge thereon, or Interest therein, and all Stocks, Funds, Monies, Securities, Investments, and Personal Estate whatsoever, which shall for the Time being belong to or be held in trust for any Charity, or for all or any of the Objects or Purposes thereof; and the Expression "Land" shall extend to and include Manors, Messuages, Buildings, Tenements, and Hereditaments, corporeal and incorporeal, of every Tenure and Description.

Extent of Act.

LXVII. This Act shall not extend to *Scotland* or *Ireland*.

Short Title.

LXVIII. This Act may be cited as "The Charitable Trusts Act, 1853."

LONDON:
Printed by George Edward Eyre and William Spottiswoode,
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ANNO DECIMO OCTAVO & DECIMO NONO

VICTORIÆ REGINÆ.

CAP. CXXIV.

An Act to amend the Charitable Trusts Act, 1853.

[14th *August* 1855.]

WHEREAS it is expedient to extend and amend the Charitable Trusts Act, 1853, as herein-after provided: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

I. "The Charitable Trusts Act, 1853," herein-after called "the principal Act," and this Act, shall be construed together as One Act, and any Provisions of the principal Act inconsistent with this Act are hereby repealed. 16 & 17 Vict. c. 137. and this Act to be construed together.

II. So much of the principal Act (Section IV.) as provides that after the Thirty-first Day of *March* One thousand eight hundred and fifty-seven an annual Salary shall be paid to One only of the Commissioners besides the Chief Commissioner is hereby repealed. Provision as to the Salary of One of the Commissioners repealed.

III. It shall be lawful for Her Majesty and Her Successors, under the Royal Sign Manual, to appoint additional Inspectors (not exceeding Three in Number) for the Purposes of this Act and the Charitable Trusts Act, 1853, and such additional Inspectors shall hold Office during Pleasure, and shall be possessed of the same Powers, Authorities, and Jurisdiction, and be entitled to the same Power to appoint additional Inspectors.

Privileges and Emoluments, as the Inspectors appointed under the said former Act of One thousand eight hundred and fifty-three.

The Acts of the Board, how to be authenticated.

IV. Every Act of the Board may be sufficiently authenticated by the Seal of the Commissioners, and the Signature of their Secretary, or in his Absence of the Chief Clerk.

Entries in, and Extracts from the Books of the Board, how to be authenticated.

V. All Orders, Certificates, Schemes, and other Documents issued under the Seal of the Board shall be deemed and taken to be the Originals, and Copies thereof shall be entered in the Books of the Board, and all such Entries may be sufficiently certified by the Signature of the Secretary, or in his Absence of the Chief Clerk: Every Order, Certificate, Scheme, and other Document purporting to be sealed with the Seal of the Board shall be received in Evidence without further Proof; and any Writing purporting to be a Copy extracted from the said Books, and to be certified as aforesaid, shall be received in Evidence in like Manner.

The Powers of the Commissioners and Inspectors to inquire into Charities extended.

VI. The Board, or any Commissioner or Inspector, such Inspector acting under the Authority of the Board, may require written Accounts and Statements and Answers to Inquiries relating to any Charity, or the Property or Income thereof, to be rendered or made to them respectively by all or any of the following Persons; that is to say,

Trustees or Persons acting or concerned in the Administration of the Charity, its Property or Income, or in the Receipt or Payment of any Monies thereof:

Agents of any such Trustees or Persons:

Depositaries of any Funds or Monies of the Charity:

Persons in the beneficial Receipt of any Funds thereof, or of any Income or Stipend therefrom:

Persons having the Possession or Control of any Documents concerning the Charity or any Property thereof:

And the Board or the Commissioner or Inspector may require the Persons rendering or making any such Account, Statement, or Answer to verify the same by Oath or otherwise, and may administer such Oath: Provided always, that nothing herein contained shall extend to give to the said Board or their Inspectors any Power of requiring from any Person holding or claiming to hold any Property whatsoever adversely to any Charity, or free or discharged from any Charitable Trust or Charge, any Information, or the Production of any Deed or Document whatever, in relation to the Property so held or claimed adversely, or any Charitable Trust or Charge alleged to affect the same.

Power to require Trustees and

VII. The Board, or any Commissioner or Inspector acting as aforesaid, may require all or any such Trustees and Persons as aforesaid to

to attend before them respectively at such Times and Places as may be reasonably appointed, for the Purpose of being examined in relation to the Charity, and to answer such Questions as may be proposed to them, and to produce upon such Examination any Documents in their Custody or Power relating to the Charity or the Property thereof, and may examine upon Oath or otherwise all such Persons and all Persons voluntarily attending, and may administer such Oath: Provided always, that no Person shall be obliged to travel in obedience to any such Requisition more than Ten Miles from his Place of Abode.

others to attend and be examined.

Precepts or Orders for the preceding Purposes, how to be made.

VIII. All Requisitions made under the foregoing Authorities shall be made respectively by the Order of the Board, or by Precept, under the Hand of the Commissioner or Inspector making the same.

Persons not complying with Requisitions, &c. to be deemed guilty of a Contempt of the Court of Chancery.

IX. Any Person refusing or wilfully neglecting to comply with any such Requisition, or with any Order of the Board, made under the Provisions of this Act or the principal Act, or destroying or withholding any Document required to be produced or transmitted by him, shall be taken to be guilty of a Contempt of the High Court of Chancery, and shall be liable to be attached and committed by such Court, on summary Application by the Commissioners to the same Court or to any Judge thereof, and shall pay such Costs attending such Contempt as the said Court or Judge shall direct: Provided always, that the Court may at any Time discharge, on such Terms as it may deem just, any Person attached or committed on any such Application, or on any Application made under Section Fourteen of the principal Act.

Power to apportion Parochial Charities after Division of Parishes.

X. Where any Parish or Ecclesiastical District entitled to the Benefit of a Charity has or shall have been divided into separate Parishes or Ecclesiastical Districts, and no Apportionment of Charities originally applicable to the Parish or District so divided shall have been made by Parliament or other competent Authority, the Board, in respect of all Charities the gross annual Income whereof does not for the Time being exceed Thirty Pounds, may apportion the Benefit of the Charity between each new Parish or District, or any Portion thereof taken from the Parish or District originally entitled to the whole Benefit, and the Remainder of such last-mentioned Parish or District, in such Manner and such Proportions as, upon a Consideration of the Purposes of the Charity, the Population of each Parish or District, and other Circumstances, they may think fit, and may also apportion the principal Endowments between such Parishes or Districts, if it be thought fit, and may appoint separate Trustees of any Part of the Endowments.

Evidence as to annual Income of any Charity not

XI. The Certificate of the Board, that according to their Judgment the gross yearly Income of any Charity does not for the Time being exceed

exceeding 30*l.*

exceed Thirty Pounds, shall be sufficient Evidence of the Amount of such annual Income for the Purpose of determining the Jurisdiction under the foregoing Provision.

The Official Trustees of Charitable Funds may be empowered to call for Transfers to them of Stock, &c.

XII. Any Court or Judge having Jurisdiction to order the Transfer of Stock in the Public Funds, or Stock or Shares of any public Company, to the Official Trustees of Charitable Funds, shall have Power also to authorize such Trustees to call for a Transfer of and to transfer such Stock or Shares, and may also order the Payment to the same Trustees of any Principal Monies of any Charity, under the same Circumstances in which the Transfer of Stock to them may now be ordered.

Notices to be given of certain Orders of the Board.

XIII. No Order for apportioning the Benefits of any Charity shall be made by the Board until after such public Notices shall have been given of the Proposal to make the same as the Board may consider expedient for insuring Publicity in each Parish or District in which the Charity is or ought to be applied, or among all Persons interested therein, nor until after the Expiration of One Month from the Publication of such Notice; and every such Notice shall contain (so far as conveniently may be) sufficient Particulars of the proposed Order to show the Objects thereof, and shall prescribe a Time within which any Objections thereto may be stated or transmitted to the Board.

Proceedings upon the Receipt of Objections or Suggestions.

XIV. All Objections which may be made to any proposed Order shall be considered by the Board, who may suspend the making thereof for further Inquiry, or may modify the same, as may be found expedient; and a Copy of every such Order when made shall, in the Case of any local Charity, be deposited for the Space of One Month in some convenient Place within the Parish or One of the Parishes or the District in which the Charity is applicable, and also be open to Inspection at the Office of the Commissioners, and such Publicity shall be given thereto among all Persons interested in the Charity as the Board shall consider expedient; or if the Charity be not local, then a Copy of such Order shall be open to Inspection at the Office of the Commissioners, and public Notice thereof shall be given in such Manner as to the Board shall seem fit, and in Cases where there is a special Visitor, Notice shall be given to him.

The Official Trustee of Charity Lands constituted.

XV. The Secretary for the Time being of the Board shall be a Corporation Sole by the Name of "The Official Trustee of Charity Lands," for taking and holding Charity Lands, and by that Name (instead of the Name of "Treasurer of Public Charities") shall have perpetual Succession; and all Land, or Estates or Interests in Land, now vested in the "Treasurer of Public Charities" by that Name shall become, upon the passing of this Act, and by virtue thereof, vested

vested in like Manner and upon the same Trusts in "The Official Trustee of Charity Lands," and all Provisions of the principal Act which have reference to the Treasurer of Public Charities shall operate as if the Name of the "Official Trustee of Charity Lands" had been used therein instead of the Name of "Treasurer of Public Charities."

Power to acting Trustees to grant Leases.

XVI. The acting Trustees of every Charity, or the Majority of them, provided that such Majority do not consist of less than Three Persons, shall have at Law and in Equity Power to grant all such Leases or Tenancies of Land belonging thereto, and vested in the Official Trustee of Charity Lands, as they would have Power to grant in the due Administration of the Charity if the same Land were legally vested in themselves; and all Covenants, Conditions, and Remedies contained in or incident to any Lease or Tenancy so granted shall be enforceable by and against the Trustees or Persons acting in the Administration of the Charity for the Time being, and their Aliences or Assigns, in like Manner as if such Lands had been legally vested in the Trustees granting such Lease or Tenancy at the Time of the Execution thereof, and had legally remained in or had devolved to such Trustees or Administrators for the Time being, their Aliences or Assigns, subject to the same Lease or Tenancy.

Appointments of Official Trustees of Charitable Funds regulated.

XVII. The Lord Chancellor may from Time to Time by Writing under his Hand appoint any Persons to be, jointly with the Secretary for the Time being of the said Board, the Official Trustees of Charitable Funds, and remove any such Trustees, and every such Appointment or Removal shall be published in the *London Gazette*.

Such Trustees to have perpetual Succession, and may hold Funds in that Name.

XVIII. The present Official Trustees of Charitable Funds, and their Successors, to be so appointed, shall have perpetual Succession by the Name of "The Official Trustees of Charitable Funds," and may hold by that Name Stock in the Public Funds, and Stock and Shares of any public Company, Securities, and Monies, which shall respectively devolve to their Successors, the Official Trustees of Charitable Funds for the Time being, without Transfer or Assignment.

Funds to vest in the Official Trustees for the Time being.

XIX. All Stock in the Public Funds vested in the joint Names of *Henry Morgan Vane*, *Thomas Hare*, and *Walker Skirrow*, Esquires, the present Official Trustees of Charitable Funds, shall upon the passing of this Act be transferred by the Governor and Company of the Bank of *England* from their Names to the Account of the Official Trustees of Charitable Funds.

The Official Trustees to keep Banking Account.

XX. The Official Trustees of Charitable Funds shall, for the Purposes of their Trust, keep a Banking Account in their official Name

Name in the Books of the Governor and Company of the Bank of *England*, and the Secretary of the Board shall keep separate Accounts of the Monies held upon such Account, and belonging to each separate Charity.

Mode of drawing on the Banking Account.

XXI. All Orders for Payment of any Money held upon such Banking Account shall be signed by One at least of the Official Trustees of Charitable Funds, not being the Secretary of the Board, and also by the Secretary, and shall be countersigned by One of the Commissioners, or shall be otherwise signed or authenticated in such Manner as the Lord Chancellor shall from Time to Time by Order under his Hand direct; and such Orders shall be a sufficient Authority to the Bank paying the same for all such Payments.

Trustees may transfer Stock to Official Trustees.

XXII. Any Trustee or other Person may, on obtaining an Order of the Board for the Purpose, transfer any Stock or pay any Money to the Official Trustees of Charitable Funds in trust for any Charity.

As to Disposal of Principal Monies paid to them.

XXIII. All Principal Monies belonging to any Charity directed to be paid to the Official Trustees of Charitable Funds shall be paid to their Account at the Bank, and, subject to any Order of the Court or Judge or of the Board by which respectively the Payment shall have been authorized, shall be forthwith invested in the Public Funds in the Names of the Official Trustees of Charitable Funds, for the Benefit of the Charity to which they shall belong.

All Dividends and Interest due to the Official Trustees of Charitable Funds to be placed to their Banking Account.

XXIV. The Dividends arising from all Stock in the Public Funds standing in the Name of the Official Trustees of Charitable Funds shall from Time to Time be received by the Governor and Company of the Bank of *England*, under the Authority of this Act, for the Credit of the said Official Trustees, and shall be placed to their Banking Account accordingly; and all Dividends and Interest arising from any other Stock, Shares, or Securities standing in the Name of or held by the Official Trustees of Charitable Funds shall be paid only to the Governor and Company of the Bank of *England* for the Account of the same Trustees; and the said Trustees shall from Time to Time execute to the said Governor and Company all such Powers as shall be found necessary for enabling them to receive and give effectual Discharges for the last-mentioned Dividends and Interest.

For the Regulation of Transfers and Payments to or by the Official Trustees.

XXV. No Transfer of any Stock, Shares, or Securities shall be made to the Official Trustees of Charitable Funds, nor shall any Money, other than the Dividends or Interest of any such Stock, Shares, or Securities as aforesaid, be paid to their Account, except in pursuance of an Order of the Court of Chancery, or of some Judge thereof, or of a District Court of Bankruptcy or County Court, or of the Board; and no Transfer of any such Stock, Shares, or Securities shall be made by the Official Trustees, except under the Order of such Court or Judge, or under the Order of the Board signed by Two Commissioners, or authenticated in such Manner as the Lord Chancellor from Time to Time by any Order under his Hand direct; and no Transfer to or by the Official Trustees shall be permitted by the Governor and Company of the Bank of *England* or any other Company contrary to this Provision.

Copies of Orders affecting the Account of the Official Trustees to be sent to the Board.

XXVI. Copies of all Orders made by any Court or Judge for any Transfer, Deposit, or Payment of Stock, Shares, Securities, or Monies to or by the Official Trustees of Charitable Funds shall be forthwith transmitted to the Board by the Parties obtaining such Orders.

Indemnity to the Bank and others.

XXVII. Every Order made under the principal Act or this Act, requiring or authorizing the Transfer, Payment, or Deposit of any Stock, Shares, Securities, or Monies to or with the Trustees of any Charity or the Official Trustees of Charitable Funds, or conferring a Right to call for or to make such Transfer, shall be a complete Indemnity to the Governor and Company of the Bank of *England* and all Companies and Persons for any Act done pursuant to such Order; and the said Governor and Company and other Companies and Persons shall be required to give effect or to conform to every such Order, and it shall not be necessary for them to inquire concerning the Propriety of such Order, or the Jurisdiction of the Court or Judge or the Board to make the same.

Dividends on Stock in Name of Official Fund Trustees to be carried to Account free from Income Tax.

XXVIII. All Dividends arising from any Stock in the Public Funds standing in the Name of the Official Trustees of Charitable Funds, and which shall be certified by the Board to the Governor and Company of the Bank of *England* to be exempt from the Property or Income Tax, shall be paid or carried to the Banking Account of the Official Trustees without any Deduction of such Tax; and all Dividends arising from any Stock in the Public Funds standing in any other Names or Name, and which the Board shall certify to the Governor and Company of the Bank of *England* to be subject only to Charitable Trusts, and to be exempt from such Tax, shall be paid without any Deduction thereof.

Restrictions of Charges and Leases of Charity Estates.

XXIX. It shall not be lawful for the Trustees or Persons acting in the Administration of any Charity to make or grant, otherwise than with the express Authority of Parliament, under any Act already passed or which may hereafter be passed, or of a Court or Judge of competent Jurisdiction, or according to a Scheme legally established, or with the Approval of the Board, any Sale, Mortgage, or Charge of the Charity Estate, or any Lease thereof in reversion after more than Three

Three Years of any existing Term, or for any Term of Life, or in consideration wholly or in part of any Fine, or for any Term of Years exceeding Twenty-one Years.

Sinking Fund to be provided for paying off Mortgages in lieu of Provision in Mortgage Deeds.

XXX. So much of Section Twenty-one of the principal Act as requires a compulsory Provision to be inserted in every Mortgage for the Payment of the Principal Money borrowed by annual Instalments, and for the Redemption and Reconveyance of the mortgaged Estates within the Period of not more than Thirty Years, is hereby repealed; but the Board authorizing any Mortgage to be made of any Charity Estate shall make such Provisions, by the same or any other Order, as to them may seem necessary, for directing the Trustees or Persons administering the Charity to discharge the Principal Debt or any Part thereof by such yearly or other Instalments within Thirty Years from the Date of the Security as to the said Board may seem fit, or to form an Accumulation or Sinking Fund out of the Income of the Charity for discharging the Principal Debt or any Portion thereof within the same Period, and shall give Directions as to the Investment and Accumulation of such Fund, and the Trustees for the Time being, or Persons administering the Charity, shall carry such Order into effect.

Extension of Power of Board as to Compromise of Claims.

XXXI. The Twenty-third Section of the principal Act shall extend to authorize a Compromise or Adjustment of any Claim, Demand, or Cause of Suit against any Charity, or the Trustees or Administrators thereof, and the Order of the Board in relation thereto shall have the like Effect as in the Case of any Compromise or Adjustment for which Provision is made by the said Section.

Board may authorize Payment for Equality of Exchange or Partition.

XXXII. The Board may authorize the Application of any Funds belonging to any Charity in Payments for Equality of Exchange or Partition, or in Payment of any Expenses incident thereto, or may authorize the Trustees to raise any Money for such Purposes by Mortgage of any Land acquired on such Exchange or Partition, or belonging to the Charity.

Power to ascertain Lands charged with Rents to Charities.

XXXIII. Where there shall be Uncertainty as to the specific Part of any Lands out of which any Rent, Annuity, or other periodical Payment, not exceeding the yearly Sum of Ten Pounds, charged upon some Part of the same Lands, for the Benefit of a Charity, shall be payable, it shall be lawful for the Board, upon the Application of the Trustees or Persons acting in the Administration of the Charity, and with the Consent of the Persons interested, according to the aforesaid Definition of "Persons interested," in the same Lands, to determine by their Order the Land charged with such Rent, Annuity, or other periodical Payment, which shall thenceforth stand charged with

with such Rent, Annuity, or periodical Payment accordingly, to the Exoneration of the Residue of such Lands therefrom.

Expenses of Exchanges and Partitions, and determining Application of Charges.

XXXIV. The Expenses incident to the Application for and procuring of any such Order of Exchange or Partition, or Order determining the Land charged with any Rent, Annuity, or periodical Payment, shall be paid by the Trustees or Administrators of the Charity, or by the other Parties to such Transactions, or by both, as the Board may direct.

Incorporated Charities and Trustees for Charities may re-invest in Land.

XXXV. Any incorporated Charity, or the Trustees of any Charity, whether incorporated or not, may, with the Consent of the Board, invest Money arising from any Sale of Land belonging to the Charity, or received by way of Equality of Exchange or Partition, in the Purchase of Land, and may hold such Land, or any Land acquired by way of Exchange or Partition, for the Benefit of such Charity, without any Licence in Mortmain.

Order of Board for Investments to be carried into effect, and Cost to be raised.

XXXVI. All Orders of the Board for the Investment of Money coming to any Charity or the Trustees thereof on any Sale, Exchange, or Partition shall be carried into effect by the Trustees or Persons administering the Charity; and all Monies which the Board shall order to be provided out of any Income or Property of a Charity for the Payment of the Costs of any such Transaction shall be provided or raised by the Trustees or Administrators of the Charity, and applied accordingly.

Board may direct Official Trustees to convey Lands, &c.

XXXVII. It shall be lawful for the Board to authorize or order and direct the Official Trustee of Charity Lands and the Official Trustees of Charitable Funds respectively to convey Lands, and to assign, transfer, and pay over Stocks, Funds, Monies, and Securities, as the Board shall think expedient.

Leases, &c. to be valid, notwithstanding disabling Acts.

XXXVIII. All Leases, Sales, Exchanges, Partitions, and Transactions authorized by the Board under the principal Act or this Act shall be valid and effectual, notwithstanding the Act of the Thirteenth Year of the Reign of Queen *Elizabeth*, Chapter Ten, the Acts of the Fourteenth Year of the same Queen, Chapters Eleven and Fourteen, the Acts of the Eighteenth Year of the same Queen, Chapters Six and Eleven, the Act of the Thirty-ninth Year of the same Queen, Chapter Five, and the Act of the Twenty-first Year of the Reign of King *James* the First, Chapter One, or any disabling Act applicable to the Charity the Estates whereof shall be the Subject of any such Transaction.

Board may approve Schemes for

XXXIX. It shall be lawful for the Board to prepare, and under their Seal to approve of, any Scheme for the letting of the Property or any

letting Charitable Property.

Part of the Property of any Charity; and all Leases granted by any Trustees or Persons acting in the Management of any Charity, pursuant to or in conformity with such Scheme, shall be valid.

Power to refer Bills of Costs in Charity Matters to Taxation.

XL. The Board may order the Bill of Costs or Charges claimed by any Attorney or Solicitor on account of Business conducted or transacted by him on behalf of any Charity, or the Trustees thereof, to be examined and taxed by the Taxing Masters of the Court of Chancery, or by the proper Taxing Officers of any of the Superior Courts at *Westminster*, who shall proceed to examine and tax the same Bill accordingly; and if the same shall be reduced upon such Taxation by the Amount of One Sixth Part or more of the Amount thereof, the Costs of the Taxation shall be paid by such Attorney or Solicitor, but otherwise out of the Funds of the Charity by the Trustees thereof; and the Board may, after being satisfied as to any Bill that it contains exorbitant Charges, order any such Bill to be so taxed, notwithstanding that the same may have been paid by the Trustees of the Charity at any Period not more than Six Calendar Months previously to such Order; and any Amount taxed off any such paid Bill shall be a Debt due from the Attorney or Solicitor to the Trustees of the Charity, and shall be forthwith paid by him to such Trustees accordingly.

Construction of Sect. 27. of 16 & 17 Vict. c. 137.

XLI. Section Twenty-seven of "The Charitable Trusts Act, 1853," shall be construed and operate as if the Words "and the Trustees of the Charity shall be legally authorized to purchase and hold such Land" had been omitted therefrom; and incorporated Trustees of any Charity shall be competent to purchase and hold Lands for the Purposes mentioned in the same Section without Licence in Mortmain.

Deeds, &c. relating to Charities may be enrolled at the Office, and Copies to be Evidence.

XLII. Any Deed, Will, or Document relating to any Charity may be enrolled by the Board in Books to be provided and kept by them for that Purpose at their Office, and a Copy of any such Deed, Will, or Document made from such Books, and certified under the Hand of the Secretary or One of the Commissioners, shall be received as Evidence of the Contents of the same Deed, Will, or Document.

Construction of Sects. 55. and 59. of 16 & 17 Vict. c. 137.

XLIII. The Fifty-fifth and Fifty-ninth Sections of the principal Act shall be construed and operate as if the Words "The Office of the Board" had been inserted therein in the Place of the Words "the Office in *London* of the Registrar of County Courts Judgments."

Amendment of Sect. 61. of 16 & 17 Vict. c. 137. and

XLIV. Section Sixty-one of "The Charitable Trusts Act, 1853," except so much thereof as enacts that the Trustees or Persons acting in the Administration of every Charity shall, in Books to be kept by them for

other Provision made as to the annual Returns of Accounts by Trustees of Charities.

for that Purpose, regularly enter or cause to be entered full and true Accounts of all Money received and paid respectively on account of such Charity, shall be repealed as to all Accounts which such Trustees or Administrators shall not have been bound to render before the passing of this Act; and the Trustees or Administrators of every Charity shall, on or before the Twenty-fifth Day of *March* One thousand eight hundred and fifty-six, prepare and make out and transmit to the Board an Account of the Endowments then belonging to the Charity, showing in the Case of Realty not in hand the Manner in which the same is let or occupied, and in the Case of Personalty the existing Investment or Employment thereof, and in what Names such Investments are made; and such Trustees or Administrators shall also on or before the Twenty-fifth Day of *March* next after the Acquisition of any Endowment not included in the foregoing Account prepare and make out, in like Manner, and transmit to the Board, a similar Account of such last-mentioned Endowment, and in case of any Alienation, or Charge, or Transfer of any Real or Personal Estate of the Charity, shall on or before the Twenty-fifth Day of *March* then next following transmit to the Board an Account of such Alienation, Charge, or Transfer, and such Trustees or Administrators shall also, on or before the Twenty-fifth Day of *March* in every Year, or such other Day as may be fixed for that Purpose by the Board, or as may have been already fixed for rendering the Accounts thereof required by the principal Act, prepare and make out the following Accounts in relation thereto; (that is to say,)

(1.) An Account of the gross Income arising from the Endowment, or which ought to have arisen therefrom during the Year ending on the Thirty-first Day of *December* then last, or on such other Day as may have been appointed for this Purpose by the Board:

(2.) An Account of all Balances in hand at the Commencement of the Year, and of all Monies received during the same Year on account of the Charity:

(3.) An Account for the same Period of all Payments;

(4.) An Account of all Monies owing to or from the Charity, so far as conveniently may be:

which Accounts shall be certified under the Hand of One or more of the said Trustees or Administrators, and shall be audited by the Auditor of the Charity, if any; and the said Trustees or Administrators shall, within Fourteen Days after the Day appointed for making out such Accounts, deliver or transmit a Copy thereof to the Commissioners at their Office in *London*, and in the Case of Parochial Charities shall deliver another Copy thereof to the Churchwarden or Churchwardens of the Parish or Parishes with which the Objects of such Charities are identified, who shall present the same at the next General Meeting of the Vestry of such Parishes, and insert a Copy thereof in the Minutes of the Vestry Book; and every such

Copy

Copy shall be open to the Inspection of all Persons at all seasonable Hours, subject to such Regulations as to the said Board may seem fit; and any Person may require a Copy of every such Account or of any Part thereof, on paying therefor after the Rate of Twopence for every Seventy-two Words or Figures.

Board may make Orders as to Delivery and Publication of Account by Trustees, &c.

XLV. The Board may from Time to Time make such Orders as they may think fit in relation to the Delivery or Transmission of the said Accounts, and the Forms of such Accounts, and such Orders shall be executed by all Trustees and Persons from whom the Accounts to which they may relate are required.

Application of Sect. 64. of 16 & 17 Vict. c. 137.

XLVI. The Sixty-fourth Section of the principal Act shall apply as well to Members of any Charity within the Operation of that Act as to Members of any Charity exempted from the Operation thereof.

Acts not to apply to Roman Catholic Charities until 1st Sept. 1856.

XLVII. Neither this Act nor the principal Act shall, until the First Day of *September* One thousand eight hundred and fifty-six, extend or be in any Manner applied to Charities or Institutions the Funds or Income of which are applicable exclusively for the Benefit of Persons of the Roman Catholic Persuasion, and which are under the Superintendence and Control of Persons of that Persuasion, nor shall anything in this Act extend to any of the Cases which by the Sixty-second Section of the principal Act are excepted from the Operation thereof.

As to the Term "Charity."

XLVIII. In the Construction of the principal Act and this Act the Word "Charity" shall include every Institution in *England* or *Wales* endowed for charitable Purposes, but shall not include any Charity or Institution expressly exempted from the Operation of the Act of 1853, and Words applying to any Person or Individual shall apply also to a Corporation, whether sole or aggregate.

Act not to extend to Eton or Winchester.

XLIX. Nothing in this Act or in the principal Act contained shall extend to the Colleges of *Eton* and *Winchester*, or either of them.

Short Title.

L. This Act may be cited as "The Charitable Trusts Amendment Act, 1855."

LONDON:
Printed by GEORGE EDWARD EYRE and WILLIAM SPOTTISWOODE,
Printers to the Queen's most Excellent Majesty. 1855.

13

Nov.

At a meeting of the Committee on the proposed Bill for regulating Religious Endowments held this morning, the discussion naturally arose whether any and how far the papers including minutes of now before Govt. could be published and circulated for the information of the Public, and District Boards and District Committees. The sense of the Committee was in favour of making public as many as Govt. may be willing to publish and may

own feeling is in the same direction.

I beg my Honble. Colleagues kindly to consider the matter and record their views.

C/L C Robinson

44

I see no objection to these papers being given, except the Minutes of Members of Govt.

I think that we should observe the general rule which precludes them being made public. The Proceedings of Govt. founded on the Minutes may be given WL

If the minutes are to be by Lord Hobart dissented from by Mr Sim absent. The third is by Sir W. Robinson — WL

6/4/76

45

The Govt of India have submitted to the Madras Govt papers relating to the amendment of the law regulating the administration of religious endowments.

These papers relate principally to Mirasi rights. There has been considerable malversation in the administration of temple endowments.

The existing law Act XX. of 1863, under which Govt divested itself of all control over Religious endowments has according to the public opinion in this Presidency proved a complete failure

I return the despatches contained in this.

Memo. with reference to the manner in which the draft Law submitted by the Hon'ble V. Ramayya should be dealt with

A

A.V.

I.O.L.

Can the Collectors thereto be entrusted to enable them to make an effective inquiry in the Taluk

drawn from the Govt of India
the amendment of the Law
had required the earnest
attention of the Hon'ble F.
Baninga.
He has accordingly prepared
the draft of a Bill to amend
Act xx. of 1863. and in
the letter which accompanies
the Bill he has drawn a
faithful picture of the
effect of the present Law.
The Revenue Board concur
with the Hon'ble F. Baninga
as to the present condition
of the Hindu Religious Endowments
& as to the necessity of amending
the Law.—

22 March 71

46

Mr Heath

Read the
Bill & Enclosure
Fair Copies of Mr Arbuthnot's
Letter Circulation &
Letters in the Press for
Local Opinion

There are some
short-comings in connection
with the Bill which
detract from its
value

It is submitted that a copy of this letter may be submitted to the Govt of India, stating that the Madras Govt fully are sensible of the necessity of legislation on this subject and that they propose to address the Govt of India at length on the question as soon as they have obtained the opinion of their officers on the draft Bill submitted by the Hon'ble V. Ramiengar.

It might be intimated to the Govt of India that it may be advantageous to have a separate enactment for this Presidency - as it is

I could not take opinions on the Bill &c &c &c as to the point on which the present Law needs amendment. The Bill must be presented in Council before we can receive it, & I shall call attention to the subject

Memo.

1 These papers relate to the question of the course to be pursued for the future with respect to the Native Religious Institutions, and as the subject is necessarily new to the President, I think it proper to circulate with them a short statement of the case.

2 Up to 1841 these Institutions were in most Districts under the immediate management of the Collector even to details. In the course of that and the following year that connection was in great part broken off. But though the Collector does not now take any part in the management of the Pagodas, the Regulation which constituted him the Superintendent and guardian of the endowments of such Institutions (Regulation VII of 1817) remains unrepealed, and he is therefore frequently appealed to in cases of disputes among

Should the case of the Rani of Vizianagram

Probable that the circumstances of the religious endowments in various parts of India differ too essentially to make it possible to frame a Law which would be applicable to all alike.

The draft Bill should be sent to the Board of Revenue with a view to their circulating it to the Collectors of districts calling for their opinions & for lists of selected natives in each district.

It may be desirable to refer the draft Bill to the Judges of the High Court & request their opinion on it & asking them to refer it to a few selected Judicial Officers.

It may also with advantage be referred to the Advocate General.

RL

15/1/72

RL

15/1

among ... princes, disputed
succession to the Office, complaints
of malversation, &c. &c. When the re-
nunciation of Government manage-
ment was resolved on and to a great
extent carried into effect, it was
intended to repeal the Regulation
and pass a new law placing the
Temple property under the pro-
tection of the Courts; but difficul-
ties were encountered, and
such an Act has never been passed.

The papers now circulated are three distinct sets.

First, there is a letter from the Board of Revenue dated April 6th 1859 with Draft of an Act proposed to be passed; with this are some Papers from Calcutta, and a Report from the Court of Sadr Adalut as to the proper scope of an Act on the subject. There are also a tentative Draft order circulated at the time, on which Sir Charles Trevelyan wrote some remarks

remarks, copied from ... of Mr. Ellis.

2nd There is a Proceeding of the Board of Revenue dated March 20 1860, setting up the replies of a number of officers, European and Native, who had been consulted on the subject, with this is a summary of the replies, prepared by Mr. Master.

3rd There is a letter from the Government of India, dated May 11th 1860 asking for the opinion of this Government on a bill brought into the Legislative Council by Sir Bartle Frere, with a copy of the Bill. With this there are minutes by Sir Charles Trevelyan, Mr. Morehead, and Mr. Maltby.

1. This letter from Calcutta requires an early reply, as the Bill is before the Legislative Council.

2. The papers contain suggestions for four modes of dealing with the case.

ould simply repeal the present special law on this subject, and leave the control of the Institutions to the Courts, in the exercise of an equitable jurisdiction. This rule is the course advocated by Sir Charles Trevelyan, in both his minutes, before and after the receipt of the Bill. He dissents from the opinion, expressed in various parts of the papers, that the Courts would be found unequal to the task, and argues that any attempt to define and regulate beforehand the varying circumstances of the numerous Institutions would only embarrass the Courts.

6. Second, But it is argued against that course that the Courts cannot act unless put in motion from without, that private interest, which is the motive to ordinary litigation will be wanting in these cases, that public feeling will not supply its place,

and

and that Trustees negligent not be able to interfere, and that practically the endowments of the Temples will be unprotected, and will speedily be wasted. Three different courses are proposed to prevent these evils.

7. The Board of Revenue (in their letter of April 6th 1859) and Mr. Maltby, who as member of the Board concurred in that letter, propose that an Act should be passed, pointing out how and by whom Trustees are to be appointed, and by whom their conduct may be called in question (Para 8), and that, this having been done, the Endowments should be placed entirely under the protection of the Courts. The Board sent up to Government a Draft of an Act for this purpose, the object of which is to create an entirely new constituency, to exercise the new function of electing Trustees. Much pains had been bestowed on the Draft but the Board were not satisfied with it, and only spoke of it

See letter of April 6th/59.

as

[illegible] ming a least ob-
jectionable rules that had occurred to
them. The unsatisfactory result of
this attempt made with much pains
and much ability, proves the difficulty
of the task; and the varying opinions
expressed by the intelligent Native
gentlemen whom the Board of Re-
venue consulted, in all parts of the
country, shews how little there exist of
any settled or definite opinion on
the subject: all seems vague and
speculative.

8. The Court of Sadr Adalut on the
other hand [letter December 11th 1858], ap-
-prove the provisions of a previous
Draft Act which had been sent down
from Calcutta. The course proposed
in that Draft was that the Govern-
-ment should nominate Committees
of Natives with power to supervise the
affairs of Trusts, to appoint managers,
call for accounts &c. Vacancies oc-
-curring in these Committees to be
also filled up by the Governments

This

This is the third of the four proposed
modes of proceeding above referred to. 50

9. The fourth course proposed
was to leave the control of the Pa-
-godas in the first instance, in the
hands of the Collector. This is ad-
-vocated by Mr. W. Elliot and by Mr.
Morehead, but their recommenda-
-tions do not quite agree in all points.
Mr. Elliot would continue Regu-
-lation 7 of 1817 almost unchanged,
but would restrain the Collector &
from doing more than audit the
accounts and bring cases of mal-
-versation to the notice of a "Public
Prosecutor," to be proceeded against in
the Courts: he says nothing as to the mode
of electing or appointing Trustees. Mr.
Morehead would leave to the Collectors
the general control provided by the
Regulations, but would send parties
dissatisfied with his order to the
Courts, instead of giving them an
appeal to the Board of Revenue
as at present.

I am inclined that the Courts must be powered as a controlling authorities, because they cannot take the initiative; but it is not proposed that the Collectors should take the initiative except in the audit of the accounts. And as regards the audit, it may be remarked that a real audit would require a most minute investigation of the expenditure, extending not only to the fact, but also to the propriety of all outlays, and is involving to a great extent a return to the detailed control of former days.

The Collectors are to have all the powers by now possessed by Local Bds & Town Commissioners by any reference to the R.B. they should cease to be Ld Lieuts Ex Officio Justices going to the Court —

D.W.K. July 9/60

(53)

Memo.

Judicial Department

Memorandum.

G.O. 31st Dec 1872
No. 118.

In January 1871, the Government of India, in forwarding to this Government copies of a correspondence regarding the misappropriation of the funds of the religious endowments in certain portions of the Lower Provinces in Bengal by the Managers and Trustees who administered them, remarked that it was feared that evils and abuses of the nature brought to light by that correspondence prevailed to a greater or less extent all over

India

India, and that it was necessary therefore to consider whether any remedial measures which might be adopted should not be of general application. With this view, they requested the opinion of this Government as to the working of the law (Act XX of 1863) on the subject in this Presidency; observing at the same time that in making any changes which might be considered desirable it was the wish of the Government 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.

2. Before

2. As, before the receipt of the communication from the Government of India above referred to, the question of amending Act XX of 1863 had been under the consideration of this Government, and had also engaged the attention of the Honble V. Ramiengar, the draft of an Act prepared by him, and which he proposed should be passed for this Presidency in supersession of Act XX of 1863, was, together with the whole of the correspondence on the subject, communicated, through the Board of Revenue, to the Collectors of the several districts for their opinions and also for the opinions

of selected Natives in each district. The Draft Act, with copies of the correspondence was also referred to the High Court for opinion after communicating with some of the most experienced judicial officers in the Mofussil. In the meantime, the Govt of India were informed that this Government was sensible of the necessity of legislation on this subject, and that they would be addressed at length on the question as soon as the opinions of the several Collectors and of the Judges of the High Court on the Draft Act were obtained.

3. The replies of the Collectors have not yet been received. A reminder was sent to the Board of Revenue on the 22nd May last.

4. The High Court have sent in the replies received from certain judicial officers who have been consulted on the subject. These replies have been printed, and an precis of them is being prepared.

Secrl. I (2)-2—10,000—7-10-70.

(1) Number of pages

(2) Date of repair

(3) Initials of the Referencer

TAMIL NADU ARCHIVES

GOVERNMENT OF TAMIL NADU

Jud DEPARTMENT

G.O. No. / B.P. No.	118	Press / Mis.
Dated	31-1-1872	~~Ref~~

be folded or roughly handled

Read the following papers:—

No. 101. From A. O. HUME, Esq., C.B., Officiating Secretary to the Government of India, Home Department (Public), to the Chief Secretary to Government, Fort St. George, dated Fort William, 5th January 1871, No. 49.

I am directed to forward a copy of the papers noted on the margin relating to the amendment of the law regulating the administration of religious endowments.

Letter from the Government of Bengal, No. 3875, dated 28th October 1867.
Letter to do., No. 46, dated 24th January 1868.
Letter from do., No. 3507, dated 27th September 1869.

2. These papers show that the funds of the religious and charitable endowments in certain portions of the Lower Provinces are, to a very great extent, squandered or misappropriated by the managers and trustees who administer them, and the Governor-General in Council fears that evils and abuses of the nature now brought to light prevail to a greater or less extent all over India.

3. It is necessary, therefore, to consider whether any remedial measures which may be adopted should not be of general application. But, as the actual facts before Government are confined to certain districts and comparatively small areas, it is possible that these are affected by circumstances of a purely local character, and that a wider examination of facts would tend, in some degree, to modify the conclusions which follow from the inquiries instituted in Orissa, and to suggest different remedies.

4. Under these circumstances, I am to request that His Excellency the Governor in Council will be so good as to take the subject into consideration and to favour the Governor-General in Council with his opinion. I am to add that, in making any changes which may be considered desirable, it is the wish of the Government 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.

—

From the Officiating Secretary to the Government of Bengal, to the Secretary to the Government of India, dated 28th October 1867, No. 3875.

In continuation of the endorsement from this office, No. 2760, dated the 12th July last, I am directed to forward, for the consideration and orders of His Excellency the Governor-General in Council, a copy of the accompanying letter* from the Officiating Commissioner of the Cuttack Division, together with three petitions from certain Hindoo gentlemen resident in Cuttack, Pooree, and Balasore, relating to the amendment of the law regulating the administration of religious endowments.

* No. 3064, dated 20th August.

2. It will be observed that the petitions contain two prayers:—

1*st*.—That the force of judicial decisions, such as those of arbitrators, be given to the decisions of Committees.

2*nd*.—That the provisions of the Act be extended to certain endowments which were never under the control of local agents.

3. The Lieutenant-Governor considers that the petitions may be taken to express a very general feeling, and both proposals are, so far as they go, good.

4. His Honour doubts whether the force of unappealable decrees, not contestable even by regular suit, could properly be given to the decisions of Committees. It deserves consideration,

however, whether it would not be right to give such effect to them, at least in certain classes of cases, as would throw on the trustees the onus of going into Court as plaintiffs.

From T. E. RAVENSHAW, Esq., Officiating Commissioner of the Cuttack Division, to the Secretary to the Government of Bengal, dated Cuttack, 20th August 1867, No. 6064.

I have the honour to submit, in original, petitions from a number of Hindoo gentlemen, residents in Cuttack, Pooree, and Balasore, who are anxious for some amendment of the law by which proper control may be exercised over endowments originally granted for religious purposes, but the revenues of which are squandered by the persons entrusted with their management and used for purposes other than those for which the original grant was made.

2. I am aware this is a delicate subject to touch on; but I believe there is a general and widespread desire on the part of respectable and conscientious Hindoo gentlemen to improve the administration of these endowments, which have been made with the primary object of feeding the poor and destitute, or affording assistance to travellers and pilgrims. I believe I am correct in stating that the revenues of these endowments are enormous, and that, had they been applied properly 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. For some idea of the extent of these charitable and religious endowments, I would beg reference to a valuable report from the Collector of Pooree, submitted with my No. 250 of 28th November 1865 to your address, which gives the annual estimated revenues of Pooree muths alone as Rupees 1,11,200. Were inquiry made throughout the country the result would show an incredible revenue appertaining to these institutions.

3. The proposition now made to invest the decisions and awards of local Committees with the force of a decree of Court appears to be a practicable and proper one, and I think the jurisdiction of local Committees might be extended to endowments other than those administered by Government before the passing of Act VIII. of 1859. It is questionable whether there exists any legal right of successions from one trustee to his son, or disciple, as in the majority of documents which have come under my observation the grants are made to a certain temple or charity for a specific purpose, through so and so as trustee. The grants are mostly not in the name of the trustees, and their position is simply that of managers or agents for carrying out the charitable wishes of the original donor. The real difficulty felt by local Committees is that they have virtually no power, and in all cases, however great the abuses, they hesitate to undertake an expensive and protracted litigation. The subject is one so widely spread over India that I think it would be most desirable to consult the wishes of the native community generally, and with their approval to frame some law or rules under which these endowments may be better controlled and administered.

4. While deprecating all direct interference of Government, I think, as Government has withdrawn its control from all native religious institutions and endowments, it is nevertheless bound to provide the native community with the power to exercise the same control which Government has exercised, and which cannot be maintained effectively under the present law. I would, however, place the subject on a higher position and look upon these endowments as charitable bequests to the poor, which in times such as we have recently passed through Government has a direct interest in ensuring to be properly administered as an imperial revenue affecting the good of the people. I believe I speak within bounds when I state that the revenues of the charitable endowments in Orissa, if administered in accordance with the founders' intentions, would have saved the lives of thousands of the population and have relieved Government of the burden and expense of famine importations; and this expense, it must be remembered, will have to be borne by the community at large, who are therefore, and more particularly the Hindoo members, directly interested in obtaining adequate powers for proper management of religious and charitable endowments.

5. I recollect, I think in 1864, a speech of Mr. Gladstone's in the House of Commons, which referred to an inquiry into the constitution and administration of all public institutions, founded by Legacy or otherwise, with the idea of modifying their terms in such a way as to get rid of abuses

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to secure the objects of their existence in a degree corresponding to the progress of times. I assured that the progress made by the Hindoo community during the present generation will ave led them to feel the want of proper supervision and regulation of their endowments.

6. I would refer also to paragraphs 68, 69, and 70 of the Famine Commissioners' Report, and suggest that we have here at hand ample funds and means to provide for distress in case of future scarcity or famine. The subject is one which needs attention and discussion, and might, should you see fit, be referred for the opinion of the British Indian Association.

7. I was called on some time back to report, with reference to Board's Circular No. 9 of December 1865, on the working of the rules published under Government Notification dated 2nd December 1865, page 2096 of the Calcutta Gazette. I enclose copy of my reply, which is decidedly unfavourable to the working either of the Act or of the rules framed therein. Some attempt appears to have been made by the Madras Government to obtain legislation on the subject, as a draft Bill to empower Committees under Act XX. of 1853 to raise money for the proper performance of the duties. This Bill appears at page 632 of Gazette of 4th April 1867, but I do not find that the Bill went further than a draft.

From T. E. RAVENSHAW, Esq., Officiating Commissioner of the Cuttack Division, to the Secretary to the Board of Revenue, Lower Provinces, dated Cuttack, 18th April 1867, No. 93.

Referring to your No. 214-B. of 3rd April 1867 and to Circulars No. 9 of December 1865 and No. 9 of January 1867, I have the honour to state that the Committees of Management appointed under Act XX. of 1863 appear to be apathetic and indifferent, and to have taken no action whatever. The duty of a member of the Committee carries with it neither emolument nor weight, and consequently is neglected. I believe in no instance has any registration of names been made; the parties interested in, and holding direct charge of, these endowments look with great jealousy on the Committees and refuse to give the smallest information, or register their names. In point of fact, the result of Act XX. of 1863 has been to leave the entire management of religious endowments formerly supervised under Regulation XIX. of 1810 in the hands of the hereditary or officiating priests and pundahs. The revenues of the endowments are squandered or appropriated to private uses, while the services of the temples and charitable distribution of food or alms have been entirely neglected and abused.

2. The Committees of Management are a mere nominal body and exercise neither supervision nor control, and the law as well as the rules are inoperative, except as relieving Government of any direct connexion with the management of religious endowments. One instance has occurred in Pooree in which a member of the Bhoobunnessur Temple Committee died before any register of the persons interested therein had been made, and now there is a vacancy in the Committee. Nothing, it appears, can be done until the action of the Civil Court be invoked, under Section 10 of Act XX. of 1863, by some party interested in the endowment, the management of which is most unsatisfactory; but no person, the Committee included, is willing to take action or to enter a suit in the Civil Court the result of which would be protractive and uncertain, and the person instituting such a suit would be obliged to provide the funds to carry it on.

3. Generally throughout Orissa the management of temples, muths, and other religious endowments is a scandal, and appears likely to remain so until there is a stronger and more efficient system of management and supervision than that exercised by the local Committees.

PETITION from a number of Hindoo gentlemen, residents in Cuttack, Pooree, and Balasore, to the Officiating Commissioner of Cuttack, dated Cuttack, —— April 1867.

It is a well-known fact that the Hindoos consider Pooree as Paradise, it being the abode of their chief god Juggernath; and, in order to afford every sort of assistance to the innumerable pilgrims of various classes who resort to that holy shrine from almost all parts of India, the landed proprietors of the province, as well of the other parts of the country of former times, have granted

considerable landed properties, the annual income of which will not be less than four or five lakhs of Rupees, for the purpose of *bhog* being offered to Juggernath, and subsequently distributed among the poor; and these endowments in land were placed in charge and possession of trustworthy persons for the purpose of their being applied according to the real intent of the grantor. In former times, when these endowments were under the supervision of Government officers, neither Government nor the people had to feel any anxiety about providing for the poor, infirm, and helpless people of the province and those who come in pilgrimage from very remote parts of the country. When the British Government took possession of the country the endowments were, to some extent, applied according to the will of the donors as long as Act XIX. of 1810 was in force, although there was much misappropriation of public property; but since Act XX. of 1863 has been passed the endowments have been entirely misappropriated, and the object with which the present Government confirmed the grants frustrated. The provisions of this Act being in some points against the Hindoo religion and putting obstacle to public convenience, we presented an application to the Hon. Sir Cecil Beadon, Lieutenant-Governor of Bengal, during His Honour's late visit to this province, praying to make some amendments in the law. His Honour, in Government Order No. 1037 of 10th March 1866, was pleased to direct us to represent the matter to the local authorities, and we accordingly submit this petition to you, stating briefly the points on which the Act should, in our opinion, be amended, and request that you will kindly forward it with your opinion to Government.

1. By Act XX. of 1863 the Committees appointed for the management and supervision of religious endowments are vested with the powers heretofore held by the Board of Revenue and local agents under Regulation XIX. of 1810, and they are authorized to require the trustees to produce accounts of receipts and disbursements of the endowments at least once a year; but no provision has been made as to what measures the Committees would take if the trustees did not obey their orders or refused to produce accounts; and when, by examining the accounts or by any other means, the Committee find any trustee to have proved himself unworthy of the trust by any misconduct, they have no power to take any direct measure beyond suing him before the Civil Court, as directed in Section 14 of the Act. If the Committee have no legal authority over the trustees, the mere examining of their accounts of receipts and disbursements cannot have the desired effect of ensuring the proper application of the incomes of the endowments. In our humble opinion, if the Committees be invested with powers like those of arbitrators and their decisions enforced like the awards of arbitrators as provided for in Chapter VI. of Act VIII. of 1859, and the dissenting party be not allowed to lay a regular suit, then the provisions of Act XX. will have the desired effect.

2. In the times of former Governments the conduct of the trustees of all religious endowments, whether granted by Government or private individuals, and whether such trustees may hold their trusts hereditarily or by appointment under the orders or with the permission of Government, was liable to scrutiny by Government officers; and when any misconduct was found out in the trustees they were removed from the trust and better men substituted in their place, and this course was adopted even after the British Government took possession of the country under the management of local agents until Act XIX. of 1810 was repealed. But under Act XX. of 1863 Committees are appointed for the management of those endowments only where the trustees are nominated and appointed by, or with the permission of, Government, and not of those endowments which are held by trustees hereditarily but which were heretofore managed by local agents, and the local authorities do not consider it necessary to appoint Committees for the management of the latter endowments. The religious endowments of Orissa are of three classes—

1*st*.—Endowments the trustees of which are appointed by Government.

2*nd*.—Endowments which were originally placed by the grantor in the charge of trustworthy and religious persons, and which have now passed into the hands of their disciples and relatives who succeeded to the property hereditarily.

3*rd*.—Endowments assigned to religious purposes but placed in charge of the family of the grantor, whose successors hold the trust hereditarily.

Of these three classes the trustees of the former two cannot be held to have any hereditary right of possession, they not being the real proprietors. In the settlement papers these lands have been entered as lakhiraj, and the trustees as mere jemadars or marfutdars. They have no right to transfer these lands, and cannot apply the incomes of such lands to any other purpose than that intended for by the grantor. We request that Committees be appointed for the management of these endowments also.

PETITIONS from KHETTER MOHUN BOSE, Zemindar, and BONOMALY SINGH, and others, residents in Cuttack, Pooree, and Balasore, to the Officiating Commissioner of the Cuttack Division.

(Same as above.)

From the Secretary to the Government of India, to the Officiating Secretary to the Government of Bengal, dated 24th January 1868, No. 46.

I am desired to acknowledge your letter, No. 3875, dated 28th October, and, in reply, to state that the Governor-General in Council concurs with the Lieutenant-Governor in thinking that the petitions submitted by certain Hindoo gentlemen in Cuttack, as regards the amendment of the law regulating the administration of religious endowments, express a prevalent feeling, and that on this account, and on their own merits, they deserve serious attention.

2. But, while admitting so much, I am directed to observe that the allegations contained in these petitions are set out in very general terms, and that they are not supported by specific instances of abuse or mismanagement. His Excellency in Council does not accordingly think that it is advisable to proceed at once to legislate on the subject, and is desirous of first obtaining more distinct evidence of the actual state of endowments of this nature, at least in those localities in which they are said to have fallen into a state of disorder.

3. I am accordingly to suggest that the Lieutenant-Governor should, in the first place, appoint a Commission of three native gentlemen of character and intelligence to inquire into the general condition of religious and charitable endowments in the Pooree District.

4. It is believed that the great bulk of the endowments in the neighbourhood belong exclusively to the Hindoo section of the community; it will be expedient, therefore, that the members of the proposed Commission should be Hindoos also.

5. Though the Commission will be directed, in the first place, to the Pooree District, His Excellency in Council is willing that their inquiries should extend to the other districts of the Orissa Division if the Lieutenant-Governor considers this course to be expedient.

6. The chief business of the Commission will be the collection of facts and the submission of a report accurately describing the condition at least of the principal religious and charitable endowments in the localities to which their inquiries extend.

7. But the Governor-General in Council will be glad to have an expression of the Commission's opinion as to the remedial measures which, if they consider interference necessary, they would recommend for adoption.

8. It might, for example, be suggested for the consideration of the Commission whether they would recommend that *all* endowments of a religious or charitable nature should be placed under the superintendence of District Committees, such as those constituted under Act XX. of 1863, and not merely the particular class of endowments to which Section 3 of that Act applies. What the constitution and manner of appointment of such Committees should be, the powers to be conferred on them, whether the members of the Committee should be paid, and, if so, in what manner their remuneration should be provided.

9. The Governor-General in Council will not prescribe more particularly the details of the suggested measure, but with these remarks will leave the matter in the hands of the Lieutenant-Governor. I am to say, however, that His Excellency would be glad to have any report which

the Commission may submit early enough to afford full consideration to it, and for the submission to other local Governments in good time, before the regular legislative sittings of the Council at the close of the present year, of any proposals for legislation which it may be thought expedient to found upon the report.

From the Officiating Secretary to the Government of Bengal, to the Secretary to the Government of India, dated 27th September 1869, No. 3507.

With reference to your letter, No. 46, dated 24th January 1868, and previous correspondence, I am directed to forward, for the consideration of the Government of India, copies of the papers noted on the margin, being the instructions issued to, and the report submitted by, the Committee appointed to inquire into the condition of religious endowments in Orissa.

Revenue Proce., Feb. 1868, No. 26.
" " June " Nos. 70-2.
From Officiating Secretary to the Board of Revenue, No. 3747-O., dated 17th August 1869.

2. The investigations of the Committee seem conclusively to show that in the great majority of instances the funds of the religious and charitable endowments of the province are squandered or misappropriated by the managers or trustees who directly administer them. Where the endowments were formerly under the charge of the agents of the Revenue Board, the local Committees are, as the law stands, powerless to exercise efficient control even in the few cases where they are really anxious to interfere; and where the endowments were originally exempt from Government supervision the trustees are now only the more reckless in their profligacy, as they find themselves no longer singular in their indulgence of it.

3. Accepting the policy of Act XX. of 1863 as one from which it is not now open to recede, the Lieutenant-Governor thinks it clear that the Act has failed to give sufficient legal power to the Committees in whose hands the control of religious endowments are vested. Under Regulation XIX. of 1810 the Board of Revenue had, it is true, no more definite power than is now held by the local Committees; but, as pointed out in paragraph 27 of the report now forwarded, the Board were, by their official position and the influence of the Collectors as their local agents, able to exercise a real authority to which the local Committees can show no claim. This would appear to have been overlooked when Act XX. of 1863 was passed.

4. What seems to be required now is to strengthen the hands of local Committees and to bring under their control endowments of all kinds, whether originally supervised by Government or not, and to create a Central Committee in each district with very full and absolute powers of control over the local Committees and over the managers of the various endowments. The proposals made by the Board of Revenue in paragraph 5 of their covering letter have the Lieutenant-Governor's general approval. The necessary expenditure incurred by the Central Committees and Sub-Committees should be provided rateably from the endowment funds, and the post of Secretary to each Central Committee should have a salary attached to it sufficient to secure the services of a competent and trustworthy man.

5. An examination of the tables attached to the Committee's report has led the Lieutenant-Governor to doubt whether, in divesting itself of the Orissa endowments, the Board of Revenue has sufficiently attended to the provisions of Section 21 of Act XX. of 1863. That section empowered the Board to reserve under its control all endowments or parts of endowments designed for secular uses. It may be inferred from the tables annexed to the report, however, that the transfers of the endowments therein mentioned have been made absolutely and without sufficient inquiry as to the different purposes for which the funds are intended. On this point a reference will be made to the Board of Revenue, and the Lieutenant-Governor would suggest that, if the fact should prove to be as above surmised, any amending Act might provide for the rectification of the oversight, and that it should at the same time define what are to be considered "secular uses" for the purposes of the Act. On this point paragraphs 14 and 20 of the Committee's report deserve consideration.

6. It will be observed that the report deals only with the Hindoo endowments of the province of Orissa, which are by far the most numerous and important of all the endowments in Bengal. Some further inquiry will be made as to the state of things elsewhere, and also as to Mahomedan institutions; but early legislation for the purpose of giving a better protection to the numerous Hindoo endowments in Orissa seems very desirable. The principles which may be laid down in regard to them will, no doubt, be found to be generally applicable. The only matter of doubt appears to be whether the expenditure incurred by the Committees of Mahomedan endowments can be met from the funds under their control, Wuqf being under Mahomedan law inalienable. On this point I am to refer you to the papers forwarded with this Government letter No. 501, dated 5th February 1867. It will be for the Government of India to determine whether Section 15, Regulation IV. of 1793, is a bar to legislation on this matter in the present day. It seems probable that enlightened Mahomedans would not now object to such a proposal, and the best way perhaps to meet the difficulty would be to vest by law the Committees with the powers of Mutawali for certain specific purposes.

7. I am to add that the Lieutenant-Governor apprehends that, though the proposed legislation would not in any way contravene Act XX. of 1863, being, indeed, rather the complement of that law, yet, as it would technically be considered an amendment of the Act, it would be beyond the competence of the local Legislature.

Revenue Proceedings for February 1868, *No.* 26.

From the Junior Secretary to the Government of Bengal, to the Officiating Secretary to the Board of Revenue, Lower Provinces, dated 5th February 1868, No. 430.

With reference to your letter, No. 3464-B., dated the 12th June last, I am directed to forward, for the information of the Board of Revenue, a copy of the correspondence noted on the margin, and to request that they will be so good as to submit, for the approval of Government, nominations for the proposed Commission, and also a draft of the instructions which they would issue to the members of it. The instructions should be somewhat full, in order to guide the Commission in their mode and line of inquiry, not with the object of restricting them in their inquiries, but because it is probable that the Commission will consist of gentlemen who are not familiar with such duties.

Letter from Commissioner of Cuttack, No. 6064, dated 20th August 1867.
Petition of certain Hindoo residents of Cuttack, Pooree, and Balasore, dated — April 1867.
Letter to Government of India, No. 3878, dated 28th October 1867.
From Government of India, No. 46, dated 24th January 1868.

2. One at least of the members (if not two) should be an Ooryah gentleman of known position in the province. The inquiry should extend to endowments in any of the districts of the division of Cuttack.

3. It is desirable that the Commission's report should be submitted to Government, if possible, by the end of May at latest.

Revenue Proceedings for June 1868, *Nos.* 70 *and* 71.

From the Officiating Secretary to the Board of Revenue, Lower Provinces, to the Officiating Secretary to the Government of Bengal, dated 5th June 1868, No. 2578-C.

Referring to Government Order, No. 430, dated the 5th February last, with enclosures, I am directed to submit, for the approval of Government, a list received from the Commissioner of Cuttack and giving the names of the native gentlemen whom the Board recommend as members of the Commission to inquire into the general condition of religious and charitable endowments in Orissa. A copy of the draft instructions prepared by the Commissioner, and modified, where necessary, by the Board, is also forwarded for approval.

2. Adverting to paragraph 3 of your letter under acknowledgment, I am directed to state that, owing to the absence of the Commissioner from Cuttack on tour, his report in connexion with the nomination of the Commission has been unavoidably delayed. Mr. Ravenshaw further observes that, even had this delay not occurred, he could not have promised that the Committee's report and inquiries could have been completed by the end of May, as it must necessarily take

some time to collect the particulars of endowments required. Information will not, he fears, be readily afforded in some cases, and search and reference to old records may be found necessary. He will, however, impress on the Committee, when they are appointed, the desire of Government that their report be submitted with the least possible delay, and he will personally superintend their proceedings and afford them all the assistance in his power.

List of the names of Native Gentlemen proposed to be appointed Members of the Commission to inquire into the general condition of religious and charitable endowments in Orissa.

For Cuttack.

Baboo Juggo Mohun Roy.
,, Radha Shaam Norindro.
,, Bitcheetra Nund Doss.

For Pooree.

Baboo Poorsotum Pufnaik.
,, Mohun Lall Panday, Munsif.

Draft Instructions for Orissa Endowment Committees.

Under Regulation XIX. of 1810 provision was made for the supervision of endowments made by former native Governments or individuals for charitable, pious, and beneficial purposes, and to provide for the proper appropriation of such funds, in accordance with the intention of the donors, under this Regulation, the management was carried on by local agents under control of the Board of Revenue.

Local agents were empowered, under Section 10 of the Regulation, to obtain full information from Government records and private inquiry regarding these endowments, reporting specially any instance in which the lands or proceeds of endowments were improperly appropriated.

The local agents were also required to report on the claims of all persons to succeed to such trusts, and, where necessary, to recommend fit persons for appointment by Government.

In 1863 it was considered proper that Government should divest itself of all direct control over religious endowments, or the superintendence of lands granted for support of mosques, temples, or other religious uses; and Act XX. of that year provided for the transfer to independent trustees and managers of all property before in charge of Government local agents, and in all cases where the nomination of trustees and managers vested in Government Special Committees were ordered to be appointed in each district to exercise proper supervision, and to these Committees were transferred the landed properties belonging to the endowments, together with powers of local agents under Regulation XIX. of 1810.

These local Committees were empowered to demand from trustees and managers regular accounts and statements of receipts and disbursements of the funds of the endowment, and both members of the Committee, and also trustees, managers, and superintendents of the endowments, were held liable to a civil action for neglect of their duty, and, in the event of the Court being of opinion that the suit had been brought in the interests of the trust, it might order payment to be made from the endowment estate.

Petitions, copy of which are herewith sent, have been laid before Government by members of the local Committees and residents in Orissa setting forth that the present law (Act XX. of 1863) is defective, inasmuch as it provides no adequate means for local Committees to compel trustees to obey their orders, or to enforce due submission of proper accounts; and, moreover, that Committees, even when aware of the inefficiency or mismanagement of trustees, have no power to take measures against them without having recourse to a civil suit—a matter of difficulty, delay, and cost to the petitioners.

It has, therefore, been proposed to extend the powers of local Committees and to enable them to take up cases of misconduct and misappropriation, and to decide on the merits of each case, passing an award which shall bear the force of a decree and be final and unappealable. It is also proposed that the provisions of Act XX. of 1863, as above amended, may be extended to other endowments than those already placed under the superintendence of local Committees, viz., such as were originally granted for religious and charitable purposes, and placed by the grantors in the charge of trustworthy persons, but which have since passed into the hands of their disciples and relatives, who equally with the original grantors are liable to fulfil strictly the conditions and purposes for which the grant was made. Thus two descriptions of endowments would, if the proposed measures be carried, come under the supervision and control of local Committees—

1*st*.—Those to which trustees were formerly appointed under Regulation XIX. of 1810 by Government and provided for under Section 3 of Act XX. of 1863.

2*nd*.—Those in which the nomination of trustees was not controlled by, or subject to confirmation by, authority, and coming under Section 4 of Act XX. of 1863, and to whom the entire management of the trusts and endowments have been committed without being subjected to a Committee's supervision, and who are now independent, with the exception of liability to be sued, by any person interested in the endowment, under Section 14 of the Act.

The Government, while generally approving of the propositions contained in the petitions, wishes for more specific information regarding the actual condition of some of the principal religious and charitable endowments in Orissa before taking action on the subject.

This inquiry is now entrusted to you as member of the Special Committee, and at the same time you are requested to give your opinion clearly as to the remedial measures which, if you consider legislative interference necessary, you would propose.

Your first duty will be to ascertain and report, in the enclosed tabular form, on the precise position of the chief endowments. This statement will show the conditions on which the original grant was made, the wishes and intentions of the donor, and the total emoluments of the endowments either in lands or cash.

The manner in which the proceeds and emoluments have been, and are, applied, whether in accordance with the grantor's wishes or otherwise.

The extent to which the funds or lands have been misappropriated or misapplied.

The efficiency or otherwise of the present management by the trustees.

The amount of proceeds of the endowment that are misapplied contrary to the original donor's wishes and intentions.

What measures you would propose to put a stop to abuses, and to secure the object of the endowment's existence.

Would you recommend that all endowments of a religious or charitable nature should be placed under the local Committee's control, or only those particular institutions which come under Section 3 of Act XX. of 1863, in which trustees were nominated and approved by Government?

Do you recommend any change in the present mode of appointment and constitution of Committees under which a separate Committee is appointed to each endowment? Or would you recommend a permanent Central Committee for the whole division, or separate Committees for each district of a division?

State clearly the powers which, in your opinion, should be entrusted to such Committees. How far it would be safe or desirable to give them full and complete authority and jurisdiction, and to constitute such Committees as the final Court of Adjudication in all matters relating to administration of the funds, appointment and removal of trustees. In what manner the Committee's orders should be executed and their proceedings conducted. How, and by whom, should the members of local Committees be appointed. Under what circumstances, subject to control or removal?

Should the members of local Committees be paid, and, if so, in what manner should their remuneration be provided for?

In order to facilitate the Committee's inquiries instructions have been sent from the Commissioner to each local officer to afford the Committee every possible assistance the records of their offices may be able to supply, and to give members of the Committee access to those records if required.

The Committee should call for and inspect the books, accounts, and papers of any institution or endowment coming within the scope of their inquiry, and to make such local, personal, and verbal inquiries as may be necessary; the results of any such verbal or local inquiry to be recorded in the form of a narrative or memorandum, to which the member making the inquiry should attach his signature. The Committee should specially mention the endowment, and the trustees, in cases in which information or accounts are withheld.

Members of all local Committees existing under the provisions of Act XX. of 1863 are requested to place any accounts or records of the endowments under their supervision at the disposal of the Central Committee, and to afford such information as may be in their possession.

The Commissioner will help the Committee to the utmost of his power.

The Committee will, after the whole information and statistics have been completed, appoint three of their body to draft the final report; this report shall be communicated to every member of the Committee, and each shall have the opportunity of recording his remarks thereon.

No. 72.

From the Junior Secretary to the Government of Bengal, to the Officiating Secretary to the Board of Revenue, Lower Provinces, dated 30th June 1868, No. 2068.

I am directed to acknowledge the receipt of your letter, No. 2578-C., dated the 5th instant, with enclosures, and, in reply, to state that the Lieutenant-Governor approves of the nominations recommended by the Board for the proposed Commission for inquiring into the general condition of religious and charitable endowments in Orissa, and also of the instructions which the Board propose to issue to the members of the Commission.

From the Officiating Secretary to the Board of Revenue, Lower Provinces, to the Secretary to the Government of Bengal in the Revenue Department, dated 17th August 1869, No. 3747-C.

With reference to Government Order, No. 2068, dated 30th June 1868, I am directed to submit copy of the report of the Committee appointed to inquire into the conditions of the religious endowments in Orissa. The Board do not know whether they were expected to give any opinion on this subject; but, as possibly the Government may wish to know what their views are, I am desired to submit the following observations.

2. The subject is one of much difficulty. 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. As this, however, is, they presume, out of the question, the remaining alternative is to trust to Committees, to whom should be delegated power sufficient to enable them to act, and who should be guaranteed from all risk of loss from any acts done in good faith.

3. The recommendations made in the report now submitted are not very clear. In paragraph 29 the Committee say, "We would place them (Committees) exactly in the position of the Board of Revenue in Regulation XIX. of 1810;" but this is exactly the position these Committees do occupy with regard to one class of endowments, as is admitted in the report. The language of paragraph 7 of Act XX. of 1863 is as precise and definite as it can be on this point. The real difficulty as regards the powers of local Committees under the present law is that Regulation XIX. of 1810 did not specify what the powers of the Board were. The Board agree with the opinion expressed by the Committee that the extent and nature of the powers exercised should be for the future unmistakably laid down.

4. Again, it is proposed in the report that Committees should be "liable to be sued in the Civil Court, the costs being paid out of the endowment funds." There seem to the Board to be

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two difficulties in the way of any such plan, *first*, that the endowment funds are charitable funds, which should not be diverted to litigation; *secondly*, that the endowment in dispute may possess no funds out of which costs could be paid. For example, a Mohunt may have been turned out by a Committee and another man put into his place, the funds of the endowment being just sufficient to carry out the purposes of the endowment and support the necessary establishment. Where, in such a case, would be the funds out of which costs should be paid?

5. The plan which commends itself most to the judgment of the Board is that in each division or district, as may be thought most expedient, there should be a Central Committee, composed of persons whose decisions would carry weight with the public; that under them there should be as many Sub-Committees as might be required; that to the Sub-Committees should be entrusted the duty of inquiring into the management of all endowments within a defined circle, with power to call for accounts and to take evidence; that the Sub-Committees should report their proceedings to the Central Committee; that with this latter should rest the power to dismiss the Mohunt, to appoint in cases of vacancy according to the custom of the endowment, and generally to exercise all powers of punishment which, it may be inferred, Regulation XIX. of 1810 gave to the Board of Revenue, including the power of fining within a certain limit when accounts are withheld; that any suit in the Civil Court brought against the Central Committee should only be entertained on the plaintiff supplying funds for the defence as well as the prosecution; and that costs should only be awarded against the members of such Committee when, in the opinion of the Court, they had acted in bad faith.

6. It is a question for consideration whether the Secretary of the Central Committee should not be paid a monthly salary, to be levied proportionately from the proceeds of each religious endowment.

7. The Board are aware that many objections may be urged to this proposal; but in the absence of all Government supervision they see no alternative between some such plan as now recommended and the practical freedom, as at present, from all checks over the trustees of religious endowments.

From T. E. RAVENSHAW, Esq., Commissioner of the Orissa Division, to the Secretary to the Board of Revenue, Lower Provinces, dated Cuttack, 25th March 1869, No. 1346.

Referring to your No. 2578-C., dated 5th June 1863, I have the honour to submit a report prepared by the Committee appointed to inquire into the condition of religious endowments in Orissa. The Committee have had a delicate and difficult task to perform, and appear to have treated the subject with great discretion and moderation. I believe the estimate of value of these endowments has been under-stated, and that a good deal of property has not been traced or accounted for.

2. I would remark that the *muths* of Orissa are supported by assignments of money and lands from almost every district in India, and that if it be considered desirable to extend inquiry the results will show the *muth* revenues to be very far in excess of what would appear from the Committee's report.

From Baboos JUGGO MOHUN ROY and BITCHEETRA NUND DOSS, Members of the Commission for inquiring into the state of Religious and Charitable Endowments in Orissa, to the Commissioner of the Orissa Division, dated Cuttack, 25th March 1869.

We have the honour to report on the condition of the religious and charitable endowments in Orissa, as elicited by the inquiries instituted by us into the subject as members of the Commission appointed for the purpose.

2. Before entering into the subject-matter of our report we deem it right to make some preliminary observations, explanatory of ourselves, of the delicate position which the work we were required to do placed us in, and of the difficulties with which it was beset.

3. Being natives of the province, and having, moreover, resided in Poorce for considerable lengths of time, we all had been, to a greater or less extent, eye-witnesses and ear-witnesses of the facts we had to collect, and as such might have, we felt, perhaps served the purposes of the inquiry better, by giving our testimony before a Commission composed of strangers to what we had as witnesses, having no such associations and experiences as we had, than by acting on the Commission ourselves. As it was, however, we were fully conscious of the necessity of divesting ourselves of our preconceived likes and beliefs, though well founded, so that we might enter upon our work with a spirit becoming the position assigned to us, and we believe we have succeeded in conducting the investigation in such spirit, though, while expressing our opinions on the various questions at issue, which we were bound to do in the sequel, we may not be able to avoid being to some extent influenced by the views and sentiments we have all along entertained regarding it.

4. The difficulties that presented themselves in the way of our making a thorough investigation were very many and great. Besides the peculiar circumstances of the case, the persons who alone could furnish us with full and reliable information on the essential points, viz., the extent of the endowments, and the nature of the latter, were interested in concealing the real facts. We had no power to compel the production of the original accounts, supposing even that they had been properly and duly kept,—our conviction, based upon previous experience, is to the contrary. The landed properties lay in various parts and distant localities, and it might be impossible for us to ascertain with any degree of accuracy the extent of the losses from this source. Another, and by no means inconsiderable source of income was pecuniary donations made by individuals from time to time, the amount of which could be only vaguely and imperfectly ascertained by inquiries.

5. The results of our inquiries at the towns in the matter of expenditures, owing to the same reasons, were almost as great.

6. The results of our inquiries at the towns in the matter of expenditures, owing to the same reasons, were almost as great.

7. We further think it necessary to premise that for obvious reasons we took up only a limited number of institutions for the purpose of the inquiry out of the very large number existing in the province. Our attention to various causes over which we had no control we have not been able to make as thorough an investigation of all the institutions so selected as to justify our returning the whole of them in the tabular form prescribed. Those, however, which we have been enabled to show in our returns, though few in number, are some of the most important ones in every respect. They may be safely taken as fair specimens of the generality of institutions of the kind in the province, and as such will, we trust, be considered sufficient for all purposes.

8. We will now state briefly the mode of procedure we adopted and the manner in which we have obtained the statistical results exhibited in the statements annexed.

9. We began by preparing a list of the institutions in each of the three districts; and, as it was not practicable for all the members of the Commission to act jointly in each case, we divided the institutions so selected between us, the district tahsildars taking up such as must suited their convenience. The necessary notices were then issued to the trustees or managers and furnish lists of the properties under their management, together with the deeds or copies of the deeds, under which the endowments were made. At the same time the Collectors of the three districts were applied to for copies of the settlement records bearing on the endowments which have been kindly furnished. We also visited the various talukas, examined and examined some few persons both connected and unconnected with the institutions. We further obtained from the revenue offices and have perused the records of certain cases having reference to some of the institutions which had been investigated by the Courts under Act XIX of 1810.

10. In many of the instances the called upon for their papers at all complied with our requisition. The accounts, however, which they put in were, upon examination with reference to the settlement records, found generally to be altogether unreliable, as far as the incomes shown from lands were concerned; and the expenditures exhibited also seemed, from what we had learnt by inquiries as to their general extent in each case, to have been exaggerated. Further, we had reason to suspect that the receipts in the shape of donations had been by far under-stated; in short, we believed that the whole of the accounts in almost every case were anything but authentic records of actual receipts and disbursements, but that they had been prepared for the occasion.

11. Being thus impressed we had no alternative but to make our calculations of the incomes and expenditures. Our estimate of incomes derived from lands is founded upon data furnished by the settlement records as well as upon the lists of landed property given in by the managers, the accuracy of which there is no reason to doubt. The calculations as to the expenditures are based upon facts bearing on the points brought to our knowledge in the course of our inquiries. Our figures, therefore, may be safely relied upon. The principle adopted for obtaining them is more than fair to the managers, the incomes having been calculated at an average rate which might be considered the minimum, and the expenditures estimated upon a maximum scale. As to the miscellaneous assets we had no means of knowing their extent, and have, therefore, allowed the manager's own figures respecting them to stand unaltered.

12. The original deeds under which the endowments were made were not generally forthcoming. Our information on the point of the endower's intentions has in consequence been derived chiefly from the resumption proceedings held on the occasion of the settlement of the province. These proceedings, containing, as they do, a recital and review of the conditions of the grants, are about as good as the deeds themselves.

13. Now as to the results of our inquiries. The tabular returns annexed will speak for themselves, each in respect of the institution to which it relates. What we proposed to do here is to give a summary of the general results. In doing this we will not confine ourselves to the few institutions embodied in the returns in question. Our observations will embrace all the institutions to which our inquiries have been specially directed in the present instance, as well as such other institutions regarding which we have had particular opportunities of acquiring a personal knowledge.

14. The endowments may be divided into three classes, with reference to their conditions as expressed in the deeds. The first are those which were given solely and exclusively for charitable purposes, termed in the deeds *suddabarat*; the second class consists of gifts made for the joint purpose of *suddabarat* and *thacoor's bhog* (god's food); and the third is comprised of lands intended to be appropriated towards providing *thacoor's bhog*, which are called *dewottur*. These three classes we will express in the following paragraph by *suddabarat*, *suddabarat dewottur*, and *dewottur*, respectively.

15. According to the settlement records the extent of the *suddabarat* lands is 27,610 acres, and the lands coming under the other two classes—*suddabarat dewottur* and *dewottur*—aggregate 232,540 acres exclusive of the lands assigned for the worship and *bhog* of Juggernath. These are distributed over the three districts in the proportions given in the margin: calculating the yield at 2 Rupees an acre, which we consider to be the minimum average rate, and deducting one-fourth of the area as waste land, the income from the three classes of endowment lands would be Rupees 3,90,000 in round numbers. This is exclusive of the produce of the lands (supposed to be extensive) situated in the non-regulation tehsils of this province, and in various localities up-country, in Central India and the Deccan, as well as of that of the large extent of other lands in this province, known as *buzyaftee* and *tunkee*. The *buzyaftee* are those which were resumed at the settlement and assessed at half rents owing to defects in the deeds or other causes, and the *tunkee* lands are those which were assessed at nominal rents, varying from 12 to 10 Annas an acre. We have not been able to ascertain the exact extent of the *buzyaftee* lands; but they may be safely presumed to be equal to about one-fourth of the confirmed lakhiraj lands above specified. The *tunkee* lands in the district of Poorce alone amount

	Suddabarat.	*Suddabarat Dewottur and Dewottur.*
	Acres.	Acres.
Cuttack ...	15,614	63,913
Poorce ...	9,579	109,433
Balasore ...	2,417	59,194
Total ...	27,610	232,540

to 34,700 acres. At a rough calculation, estimating the produce as above at 2 Rupees an acre and deducting the rents payable to Government, the assets from this source would be Rupees 95,000, which, added to the yield of the *lakhiraj* above specified, would make the total income derivable from the lands originally assigned to the institutions under notice amount to Rupees 4,85,000. Besides this there are the pecuniary donations and the proceeds of landed property purchased with the accumulated funds of the endowments, as has been done in some instances. Altogether the funds involved in the matter under inquiry might be safely assumed at about Rupees 5,00,000.

16. There is no *muth* (a technical name for the residence of the Byraghee manager or trustee, which is also the place where the *thacoor* is kept and the poor are fed) exclusively *suddabarat*, that is to say, has only *suddabarat* l[ands] attached to it. Every institution known by this name has either both *suddabarat* and *sudda*[barat] *dewottur* lands, or simply the latter, the endowments having been made at different times. [T]he exceptions to this rule are those institutions which have only *dewottur* lands belonging to [them]. These are called either *muths* or *thacoorbaree* (god's house), and form a small proportion.

17. The modes of succession to the charge of the institutions of the kind under investigation have been various. In some the manager has selected his own successor before death; in others the successor has been elected by an assembly of managers of similar institutions, situated in the vicinity of the one in which the vacancy has occurred, though such election has been made from among the several *chellas* (disciples) left by the deceased in the *muth*. In some the man holding the secondary position in the *muth*, who is called *Adhicaree* (the head manager being styled *Mohunt*), has succeeded to the *mohuntship*, another man on the *muth* establishment taking his place as *Adhicaree*. In some the power of appointment has been exercised by the local authorities, not, of course, since the passing of Act XX. of 1863, and in others the succession has been hereditary. The rule regulating the succession in the first two cases has been changed in the same institutions at different times, that is to say, where the election system once obtained the practice of selection by the manager has been adopted, and *vice versâ*.

18. It appears to us that there is little room to doubt that the endowments in general were made for the benefit of the poor and the helpless, and have always been appropriated to this purpose to a greater or less extent. It is true that no institution having endowments is without a Hindoo deity presiding in it; but the fact is due, as we believe, to the custom of the country, according to which almost nothing of the kind is ever done without a god or goddess being associated with it, rather than to any other cause which would warrant the institutions being regarded as strictly religious, though, of course, it cannot be denied that they originated in the religious spirit of the founders, which might otherwise be termed piety; another and a mighty reason for such association of Hindoo deities would seem to exist in the caste system which would deter people, however poor, especially those of the Brahmin and Byraghee classes, who are held to have a prior claim to charity, from resorting to such institutions unless there are present in them some deities to consecrate the food to be received. It may be that the object was twofold, viz., to serve the deities and to benefit the poor at the same time and by the same means. But the large extent of the property endowed leads to the inference that the latter object operated as the principal motive of action, and the fact of the majority of these institutions being situated along the Juggernath Road and within easy reach of it and in the town of Pooree leads to the belief that they were chiefly intended for the poor among the pilgrims, who are specially alluded to in some of the deeds.

19. In this view of the character of these institutions we do not, we venture to say, see anything in them to justify any feelings of offence on the part of the Hindoos on the one hand, or any scruples on the part of the Christians on the other, as to the propriety of the act if Government and its officials interfered in their management, with the object of promoting the interests of the poor and the helpless, and with the noble desire of carrying out the wishes and intentions of deceased endowers—an object and a desire which do not certainly run counter to the principles taught by Christianity.

20. These institutions, which are purely religious, and in which the succession was made by the endowers and has necessarily been hereditary in their families, form exceptions to the rule and do not share the general characteristic of *suddabarat*. In the case of these, one of the objects, if not the main motive, would seem to have been to provide against the property being lost through carelessness or recklessness on the part of the heirs and successors of the grantors,—even in these the feeding of the poor, though not required by the conditions of the endowments, has become an established custom.

21. The *muths*, as originally established, and as they used to be under the best management, might be compared with Christian Monasteries as far as the character of the managers and their associates, in fact, of all the inmates of the institution went. The *Mohunt* led a life of celibacy, bore the highest character for piety, and was wholly devoted to the service of God and men. He lived in the simplest style, denying himself even the commonest comforts of life, and applying the whole of the proceeds of the endowments entrusted to him to their legitimate purposes. This is not the picture of an imaginary *Mohunt*. But there exist, even at this day, instances of such management, though from their rarity they can only be taken as exceptions.

22. Very different is the state of things at present. Whatever may be the cause, whether want of sufficient legal check or absence of such feelings of piety as guided the former *Mohunts*, attributable to the declining state of the Hindoo religion, probably both combined, there are, in our opinion, ample grounds for the belief that the *Mohunts*, as a class, have considerably degenerated. The high style in which they live, their expensive equipages and large and costly retinue, not to say anything of the pleasures and luxuries in which they indulge to the neglect of their proper duties, largely tend, as we think, to show that they are not as they ought to be, and as those that went before them were. Besides these, which to our mind bear internal evidence of misappropriation, there are the facts of direct and indirect alienations of parts of trust property, in some cases, the large expenses of unnecessary law suits arising in some instances from disputes regarding succession, the excess of incomes over expenditures, which must be presumed to have been appropriated to the personal use of the managers, all which taken together are calculated to prove that the properties which they hold in trust are misappropriated to a very great extent. Facts and figures such as would lead to judicial conviction we have not, we must confess, been able to obtain; it is in our opinion almost impossible to do so under the peculiar circumstances already stated. But we believe that there is enough in what we have shown to produce moral conviction as to the existence of abuses too great in extent and too flagrant in character to be suffered any longer to remain unremedied; at least, such is our own conviction based upon the result of such inquiries as we have been enabled to make, and we need hardly state, after the representations already laid before Government, what the public feeling on the subject is—a feeling in which we, from what we have all along witnessed and heard, fully share, and which is one of honest indignation at what is considered to be a gross abuse of trust, a public wrong.

23. It is not to be understood that we think that abuses of the kind which we have found to exist are of recent origin; on the contrary, we are of opinion that they came into existence almost simultaneously with the establishment of the institutions, though we believe that they have since very largely increased in extent and enormity. Our opinion is not entirely based upon the general theory founded upon sad experiences of human nature, which not only supposes abuses to be possible in such cases, but actually anticipates and provides against them. We have learnt, as facts that the former Governments of the province and their officials had occasion to interfere, and in some instances saw reason to take the endowments off the hands of the parties found mismanaging them and abusing the trust, and there is Regulation XIX. of 1810 to show that misappropriation existed so long back as that year.

24. Having thus stated the conclusions we have arrived at in regard to the management and appropriation of the endowments in general, we will now proceed to consider the several points upon which we are required to express our views.

25. The first among these is the most important question whether it is necessary to legislate on the subject. Independently of the abstract grounds upon which we consider legislation in the

case of such public institutions as those under notice, involving interests so vast and various, to be almost an absolute necessity, we humbly think that even the question, whether there are grounds for legislative interference, founded upon specific instances of abuse and mismanagement, is not an open one, it having been definitively settled by the enactment of the Regulation above quoted, viz., Regulation XIX. of 1810, the preamble of which runs thus, "Whereas considerable endowments have been granted in land by the preceding Governments of this country and by individuals for the support of mosques, Hindoo temples, colleges, and for other pious and beneficial purposes; and whereas there are grounds to suppose that the produce of such lands is, in *many instances*, appropriated, contrary to the intentions of the donors, to the personal use of the individuals in immediate charge and possession of such endowments," &c., the point requiring determination is rather whether fresh legislative measures are called for. The consideration of this point necessarily involves the inquiry—what has been the course of legislation on the subject, and what the results?

26. The first enactment, Regulation XIX. of 1810, placed all the endowments under the control of the Board of Revenue, and made it incumbent upon them to prevent misappropriation. There were local agents in each district who acted under the orders of the Board and brought to their notice cases of misappropriation, and there are instances of managers of endowments found guilty of misappropriation and misconduct having been re-placed by better men by orders of the Commissioner exercising the powers vested in the Board. The Board's orders in matters coming under the Regulation were not made final. The party disputing their justice had the right of civil suit, and there is an instance of the late Sadr Dewanny Adalat having reinstated a party in the charge of an institution. On the whole, the operation of this Regulation was attended with wholesome results, though owing perhaps to the indifference of the local agents the good produced fell short of what might have been expected.

27. Act XX. of 1863 repealed this Regulation as far as it related to endowments for the support of mosques, Hindoo temples, or other religious purposes, and divided the institutions to which the Regulation in question had applied into two classes, transferring the superintendence from the Board and local agents in respect to one of these to Committees of Management, and, in regard to the other class, to the trustees and managers, who were made independent of any sort of control. The safeguard provided for by this law against abuse of trust and misappropriation consists in the right which it concedes to "any person interested" to sue the trustee or manager in the Civil Court, and in the power it gives to the Court to remove such trustee or manager. The Act has operated to produce a change for the worse. The Committees of Management, though they possess the same powers that were vested in the Board and local agents under the old law, have practically failed in their endeavours to exercise any effective control owing to the absence of any provision as to how they can get their wishes and orders carried out. The law prescribed no method by which the Board could get their orders executed; but the influence which their official position gave them was found sufficient for the purpose, and no difficulty was ever experienced in the matter. The privilege accorded to "interested persons" to sue the trustee or manager has not, in a single instance, been availed of, nor is it likely that any person, other than one who has a pecuniary interest, will be found to have sufficient zeal in the cause of religion, or to be public-spirited enough to take the trouble, undergo the expense, and run the risk involved in a law suit. The trustees and managers in the case of both the classes of institutions have in consequence become in practice quite irresponsible.

28. Holding this view we are decidedly of opinion that the present defective law requires to be amended, so as to provide sufficient safeguards against, and remedies for, abuse of trust and mismanagement.

29. To this end we would suggest the following alterations in the present law. In the first place we would recommend that all institutions and endowments to which Act XX. of 1863 apply should be placed under the control of the Committee appointed under Section 7 of the law instead of only those specified in Section 3, as at present. The Committee possesses under the law, as it now stands, the same powers as the Board and local agents had under Regulation XIX. of 1810—powers which enabled the Board, as above stated, to dispossess trustees of the estates and put

Proceedings of the Madras Government, Judicial Department,
31st January 1872.

other persons in their stead. We only consider it desirable that the Committee's powers should be distinctly laid down, instead of being left to be inferred, as they have to be done at present: we would not make their decisions final and unappealable, but would place them exactly in the position of the Board of Revenue, in Regulation XIX. of 1810, in respect to both powers and responsibilities, that is to say, give them complete jurisdiction over the administration of the institutions, extending to the removal of the trustees, their powers in the matter of appointment being limited to institutions of the kind mentioned in Section 3, rendering them at the same time liable to be sued in the Civil Court, the costs being paid out of the endowment funds, except in those cases in which the Court may, for particular reasons traceable to improper motives on the part of the Committee, direct otherwise. Our reasons for so limiting the Committee's powers, speaking with reference to the suggestions on the point as contained in the petitions made by the residents, are that it may not always be possible to get men to act on the Committee sufficiently intelligent and upright to warrant such large powers being conferred upon it as those proposed by the petitioners. Their proceedings might be conducted on the same plan as that upon which those of arbitrators under Act VIII. of 1859 are carried on, the Civil Court giving them, when necessary, such aid as they may stand in need of in the matter of compelling the attendance of witnesses and the production of accounts, and their decisions might be enforced by the Civil Court like the Court's own decrees.

30. The provision of the law as to the appointment of a separate Committee for each endowment is, in our opinion, calculated to secure better supervision than what could be exercised by a single Divisional or District Committee. But the plan is open to the objection that it is not likely that persons will be found in all the localities sufficiently qualified to be trusted even with such limited powers as those proposed to be given to such Committees. To provide against this we would recommend the appointment of a Central Divisional Committee to direct and check the proceedings of local Committees. The latter, we are inclined to think, might with advantage be made to supply the place of the local agents, and the former that of the Board, in Regulation XIX. of 1810.

31. We have to offer no suggestions in regard to the mode of appointment and constitution of Committees. The law on these points as well as that bearing on the removal of members, filling up vacancies, &c., might unobjectionably be allowed to stand unaltered.

32. We are unwilling to recommend that the members of Committees should be paid, being persuaded that none worth having on such Committees would think of accepting any remuneration for trouble taken in the cause of charity and religion.

P. S.—Baboo Mohun Lall Panday being absent on leave could not sign.

No. 102. From the Hon. V. RAMIENGAR, C.S.I., Additional Member of the Council of the Governor of Fort St. George for making Laws and Regulations, to the Chief Secretary to Government, Fort St. George, dated Madras, 17th March 1871.

I have the honour to submit, for the consideration of Government, the following observations regarding the present condition and management of native religious institutions in this Presidency under the operation of the law (Act XX. of 1863) enacted for the governance of those institutions.

2. The subject of providing for the proper care and superintendence of Hindoo temples, mosques, and other religious institutions consequent on the withdrawal of Government from all concern or connexion with them has been a vexed question now for more than a quarter of a century. Regulation VII. of 1817 of the Madras Code, after reciting that considerable endowments had been made for the support of mosques, Hindoo temples, &c., declared it to be "the duty of Government to

" provide that all such endowments be applied according to the real intent and will " of the grantor," and accordingly Government charged themselves with the management of all endowments, religious as well as charitable; but, when they afterwards came to disconnect themselves from idolatry in India, they saw the difficulty of renouncing a duty so solemnly undertaken and withdrawing their officers from a charge imposed upon them under such legal sanction without at the same time adequately providing for the due performance of the trust by other agency. Whether Government was right or wrong in principle in undertaking such a duty in the first instance and charging its officers with such a trust, they felt that they could not properly withdraw from it without sufficiently providing for the protection of the interests they were abandoning. A legislative enactment substituting some responsible agency in the place of the Board of Revenue and their local agents, who had the superintendence of the temples under Regulation VII. of 1817, was accordingly felt and acknowledged to be absolutely necessary; but a long time elapsed before such a measure could be matured, and Act XX. of 1863 was eventually passed by the Imperial Legislature just twenty years after the Government had virtually disconnected themselves from the administration of the institutions and the expenditure of their revenues. During all this interval there was this anomaly, that with Regulation VII. of 1817 still in the Statute Book and the legal obligation imposed by it the institutions were left practically unprotected.

3. Act XX. of 1863 empowered the Government to make over to independent trustees, who were thereafter to be subject to no control or interference of any kind, all institutions which at the time of the passing of that Act were under the management of any trustee whose nomination did not in any way vest in, or was exercised by, the Government or their officers. It also provided for the appointment, once for all, of local Committees to take the place and exercise the powers of the Board of Revenue and Collectors under Regulation VII. of 1817, in the case of all institutions falling under that Regulation and the nomination of the trustees of which, at the time of the passing of Act XX. of 1863, rested with the Government or their officers. The members of the Committees were to be appointed by election from among persons professing the religion for the purposes of which the institution was founded and in accordance with the general wishes of those interested in the maintenance of the mosque, temple, or other religious establishment. They were to hold office for life unless removed for misconduct or unfitness, and no member to be removed except by an order of the Civil Court. Vacancies among the members of the Committees were to be filled up in like manner by election under rules framed by the Government. The Committees were empowered to require the production of regular accounts of receipts and disbursements from the trustees of the institutions under their control, and it was to be open to any person interested to sue in the Civil Court any trustee or member of any Committee for any misfeasance, breach of trust, or neglect of duty. It was further provided that no suit should be entertained under the Act without a preliminary application being first

Section 4.

Sections 5 and 7.

Sections 8 and 9.

Section 10.
Do. 13.

Sections 14 and 15.

Section 18.

made to the Court for leave to institute such suit and without permission being obtained.

4. Such are the leading provisions of the existing law governing the management of native religious institutions and their endowments. It has now been in force for eight years, and sufficient time has, therefore, elapsed to admit of a correct judgment being formed of its practical working in this Presidency.

5. Act XX. of 1863 was the product of almost twenty years' deliberation and discussion by authorities both in India and England. Abstractedly, it substituted perhaps the best possible machinery for that which had previously existed under Government management. Yet 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.

6. Special instances of fraud and mismanagement, and reliable facts as to the condition of each pagoda and the appropriation of its revenues, can be obtained only by a thorough and searching inquiry, conducted on the spot by a Commission competent to take evidence and insist upon the production of accounts of receipts and expenditure. But it is a matter of general notoriety that mismanagement and fraud are unfortunately too prevalent, and it cannot, I submit, well be otherwise. Before the Government undertook the management of the native religious institutions they were in a very unsatisfactory condition. As we are told in the Preamble to Regulation VII. of 1817, " there were grounds to believe that the produce of the " endowments granted for the support of these institutions had been in many " instances appropriated, contrary to the intentions of the donors, to the personal " use of the individuals in immediate charge and possession of such endowment;" and it cannot excite surprise if, after a long term of Government management, and the surrender of the institutions into the hands of men practically uncontrolled and irresponsible, we find them and their endowments to have lapsed into a worse condition than even before. Under the Government administration of the pagoda revenues there were, in the case of the [illegible] and more richly endowed institutions at least, large yearly accumulations of [illegible]nds left in the treasury after meeting every necessary expenditure; and, whe[illegible]vernment divested themselves of their control over these endowments, the sur[illegible] funds which had accumulated, and which then amounted to several lakhs of Rupees, were retained, and have since been devoted to works of public utility and improvement calculated to add to the material and moral advancement of the country. The period of Government management was a period of low prices and agricultural depression. On the other hand, the last sixteen years of management by the trustees has been marked by high prices of agricultural produce and the steadily increasing value of landed property. No doubt, the trustees labour under great disadvantages compared with Government officers who brought all the weight and prestige of Government to bear on the management of pagoda property, and it is also true that, a considerable proportion of pagoda expenditure being in kind, the circumstance of the rise in prices is so far rather a source of loss than of gain to the pagoda revenues. Still,

after making every allowance for these disadvantages, if, as is the case, we find that no pagoda in the country can show a decent sum on the credit side of its balance sheet nor can boast of any surplus cash in its treasury, the conclusion, I submit, is inevitable that there must be waste somewhere of a species of public property, which under good management yielded not merely enough for the primary object of the endowments, viz., the support of the institutions immediately concerned, but a large surplus happily, however inequitably, applied to objects of the highest public usefulness and importance. If further evidence were wanting, I would point to the dilapidated condition of structures worth preservation if only for the sake of their antiquity and architectural value; to the reputed wealth of pagoda trustees once known to have been penniless; to the sudden fortunes which even the agents employed by Pagoda Committees are said to have acquired; and to the scandal regarding pagoda mismanagement which meets every one travelling up-country whether on business or pleasure.

7. The causes of this failure of Act XX. of 1863 to answer its purpose are not far to seek. The Act, as has been seen, divides into two classes the institutions with which it deals, viz.—

1*st*.—Those which at the time of the passing of the Act were under the management of trustees whose nomination did not vest in, or was exercised by, or was subject to the confirmation of, Government or any public officer; and

2*ndly*.—Those the nomination of the trustees whereof rested with, or was exercised by, or was subject to the confirmation of, Government.

As to the first class, the object in view was sought to be attained by a repeal of the then existing Regulation VII. of 1817 so far as that applied to religious institutions, and by providing that the trustees should be thereafter responsible only to the established Courts of the country. As to the other class, Committees were nominated once for all from among the persons interested in each trust, such Committees being declared to possess all the powers exercised under the former Regulation by the Board of Revenue and their local agents, the Collectors, and to be further amenable, like the independent trustees, to the Civil Courts. This classification would be intelligible if it were not that such private institutions as were wholly supported by private funds, and which had never been under the control, nor subject in anywise to the interference of Government or their officers were to be still exempt from interference, while pagodas and mosques which were supported by the public or had assignments of public revenue made by the former or the present Governments, and which were formerly under the management of Government officers, should be subject to the supervision of the Committees appointed to take the place of those officers; but the arbitrary distinction drawn in the Act and the consequent provision that the pagodas are, or are not, to be subject to the superintendence of Committees according as, at the time of the passing of the Act, the power of appointing or confirming the appointment of trustees was, or was not, exercised by Government, have had an important bearing on the native religious institutions in this Presidency and have been productive of results certainly not contemplated.

8. In the Madras Provinces, where Government interference with native temples had been carried further than any other part of India, and where even the village pagodas were not always exempt from the control of Government officers, there were no institutions except the private temples of the Rajah of Tanjore situated within his fort and of other Princes, and Zemindars, and Poligars built and endowed from their private funds, which had not been brought under direct Government management, and the trustees of which had not been appointed and removed by Government up to the date of the severance of their connexion with idolatry, and also, I may say, more or less up to the date of the passing of the Act, and yet under Sections 3 and 4 of the Act the trustees of some of the wealthiest and most important pagodas—pagodas enjoying large assignments from the public revenues and receiving large annual offerings from the crowds of pilgrims resorting to them from all parts of the country—pagodas, too, in the management of which Government had exercised interference to the minutest details and the trustees of which had been appointed by them so late as 1842 and 1843, or the confirmation of whose appointment rested with Government officers till the formal repeal of Regulation VII. of 1817—the trustees of such institutions, I say, have in several cases refused to submit to the controller of the local Committees substituted for the Board of Revenue, not because Regulation VII. of 1817 was inapplicable to those institutions and they had therefore been exempt from Government interference, but because Government, when severing their connexion with the institutions in 1842-43 under pressure from the Home authorities, had, as the best possible arrangement in the interests of the institutions concerned, chanced to commit some of them to the care of the heads of certain mattams or colleges and their successors, and the appointment of trustee in those cases had consequently ceased in the interval between that time and the passing of Act XX. of 1863, to be exercised by Government or its officers, although even in these cases the appointment was invariably reported to the Collector. The celebrated pagodas of Tripathi and Trivellore are notable examples of this. They are institutions held in the highest veneration, and in which the entire Hindoo community is concerned without distinction of [illegible] or sect; therefore that they should be left uncontrolled at the disposal of single [illegible] viduals is a source of great grievance to the community at large. The strong [illegible]t entered by them against the exemption of Tripathi from the control of the [illegible] Committee which the Mahunt sought to obtain and ultimately succeeded in se[illegible]g, and the protracted and expensive litigation which is still pending between [illegible] Trivellore Committee and the trustee of the pagoda of that name on the same [illegible]t are indicatory of the feeling of the Hindoo community at large upon the sub[illegible]

9. It may, indeed, be urged that th[illegible]stees of such institutions, though not subject to the control of the Pagoda Commit[illegible]es, are amenable to the Civil Courts, insomuch that it is open to any "person interested" in them or in the performance of the worship or service thereof to sue the trustee for any misfeasance, breach of trust, or neglect of duty; but this is practically no safeguard, as was foreseen during the discussions which preceded the passing of Act XX. of 1863. It was then observed, "All experience shows that even in countries "where there is less of dishonesty to abuse and more "of public spirit to correct abuse, the common Courts of justice afford no adequate

Section 14 of Act XX. of 1863.

By the Junior Member of the Board of Revenue. (Vide paragraph 40 at page 415 of the Blue Book on Idolatry).

"security against the misappropriation of such funds, and in this country they "would be no protection at all." It was added, "The "impression, I believe, is (and the event has proved its "correctness) that these complaints would not find their way into Court; that no "attempt would be made to correct misappropriation; and that the Christian "Judge would be seldom, if ever, called upon to adjudicate in these cases or to "correct such abuse." In the eight years which have elapsed, if we except a factious attempt at Tripathi, I am not aware of a single instance of the Courts having been successfully resorted to for exposing the maladministration of pagoda endowments.

By the Junior Member of the Board of Revenue. (*Vide* paragraph 41 at page 416 of the Blue Book on Idolatry.

10. Recurring to Section 4, the fact of the appointment or confirmation of the appointment of the trustee of a pagoda such as Tripathi, Trivellore, or Conjeveram not vesting in Government or its officers at the time of the passing of the Act may be a good reason for leaving the right of appointment to be exercised by the individuals or families interested; but is, I submit, no ground for exempting the institution in other respects from the control and supervision of the Committees expressly appointed to supply the place of the Board of Revenue and their local agents, to whose supervision such institutions had, under Regulation VII. of 1817, been unquestionably subject equally with others. In England, says Blackstone, "the King, as *parens patriæ*, has the general superintendence of all charities, which "he exercises by the keeper of his conscience, the Chancellor. And, therefore, where "it is necessary, the Attorney-General, at the relation of some informant (who "is usually called the Relator) files ex-officio an information in the Court of Chancery "to have the charity properly established." Accordingly special Acts of Parliament provide for the proper administration of charities and for the correction and prevention of abuses.

11. Such special legislation for the due administration of charities in England appears to be the basis upon whi rd of Revenue in Madras were charged with the duties they had exorcise old Regulation VII. of 1817 in regard to endowments for religious insti The Board stood apparently in the place of the Attorney-General in Engl the place of this Board of Revenue that the Pagoda Committees appoint et XX. of 1863 were intended to occupy; and it is, therefore, inexplicable rounds the provision in Section 4 was enacted in words the effect of w n to leave some of the most venerated and wealthiest shrines in South entirely independent of the Committees and practically uncontrolled an ny guarantee for their proper management.

12. Here I should guard m being supposed to approve altogether of the machinery of Committee into existence by Act XX. of 1863. It has been a total failure. I believe it n to Government that there is not a single insta which the rules* as to elections under Secti and 10 have been put in requisition. Notices of vacancies are not giver ions are not held, and the Civil Court is not moved to fill up vacancies as requ v the Act. The consequence is that many of the Committees originally ap are not now composed of the full complement of members. In some d such as Madras and North Arcot, the

* *Vide* page 985 of the *Fort St. George Gazette*, 16th May 1865.

Committees have practically ceased to exist; in others, such as Tanjore and Trichinopoly, where the trustees, in the first instance, submitted in a proper spirit to the legitimate authority of the Committees, the latter have, as a rule, become more potent for evil than for good, carrying interference to unnecessary lengths and giving uncontrolled power to personal dependents employed to supervise the affairs of the pagodas on behalf of themselves.

13. It would, indeed, have been surprising if after more than half a century of Government management, during which the people had nothing to do with the administration of their own religious institutions, they had become suddenly fit for self-government in so important a matter, under the operation, too, of an enactment which attempts no definition of the duties of the Committees, but leaves them, in the most general terms, to take the place and exercise the powers of a body like the Board of Revenue. It would equally have been a matter for wonder if the elective principle, which the Government have always hesitated and declined to apply even in such matters as municipal taxation, but which it is freely left to the Committees to apply and carry out, unassisted, in the case of the pagodas, had not eventuated, as it has, in utter failure.

14. Other defects in the Act may be noticed.

The "person interested," to whom is left the working of Sections 5, 10, and 14 is in practice a myth. None such ever makes his appearance, and the result is what was predicted before the passing of the Act, viz; "that the Courts cannot, "act unless put in motion from without; that private interest, which is the motive "to ordinary litigation, will be wanting in these cases; that public feeling will not "supply its place; and that consequently the Courts will not be able to interfere, and "that practically the endowments of the temples will be unprotected and will "speedily be wasted."

Section 16 empowers the Committees to require from every trustee of every pagoda subject to their authority the production of regular accounts of receipts and disbursements; but it does not say how the requisition is to be enforced, if disobyed without reasonable cause, so that, as a rule, accounts have ceased to be demanded or rendered.

Again, the performance of their duty by the Committees, failure in which renders them liable to civil action, entails expense which ought not fairly to fall upon them, and yet as the law now stands "there is no provision or machinery for the payment of the fair expenses of the Committee, * * nor as the law stands can the trustees of the temples be compelled to pay those expenses."

Vide opinion of the Advocate-General, Madras, recorded in G. O., Revenue Department, 27th September 1864, No. 1778.

Section 18 is strongly objected to in reference to its practical operation. It enjoins that a preliminary application for leave to institute a suit shall be made to the Civil Court, who are forbidden from entertaining any suit without leave first obtained from itself for its institution. A conscientious Judge is unwilling to hold any preliminary inquiry, or to give any permission which would commit him to a particular view of the case or have the appearance of the matter being prejudged by the very Court which has afterwards to decide; so that, in effect, suits, even where there may be a disposition to come forward on the part of the "person interested," are discouraged.

15. There is a very general opinion that these defects in the Act have rendered it an unworkable measure. That it has utterly failed to answer its purpose is shown by the experience of the last eight years, and cannot, I think, be gainsaid. This result, it may be urged, is due not so much to inherent defects in the Act itself as to a want of self-reliance and public spirit among the people in a matter so closely affecting their credit and interest as a community; but this want, deplorable as it is, cannot all at once be supplied, and is only a reason for altering the law and adapting our legislation to the existing state of things.

16. Under these circumstances, I have ventured to draft a Bill for repealing Act XX. of 1863 and for providing for the better management of native religious endowments, and beg to submit it for the consideration of Government. In doing this I only act in accordance with what I believe to be the general feeling of the native population in respect to the present unsatisfactory condition and management of the religious institutions in this Presidency and their wish to secure, by legislative interference, a more efficient administration of those cherished institutions and their revenues. If Section 42 of the Indian Councils' Act was the only legal obstacle to local legislation on the subject, I would beg the Government to obtain the repeal of Act XX. of 1863 and the sanction of His Excellency the Governor-General and Viceroy for dealing with the measure in the local Council, for there is nothing in common between the Hindoo religious institutions in Southern India and those in other parts of the Empire, and the Bill is, therefore, essentially one which ought to be considered by the local Council for making Laws and Regulations. On the occasion of the measure which afterwards became law as Act XX. of 1863 being introduced into the Governor-General's Council, His Excellency the President observed that "if there was a desire to deal with the subject in the local Legislatures, the sanction "of the Governor-General would not without great cause be withheld." As the proposed Bill, however, affects, in some respects, the jurisdiction of the Madras High Court, it is not competent to the local Council to legislate on the subject. I therefore request that after consulting local officers and inviting opinions on the whole question from parties competent to give information and advice, Government will be pleased to bring the Bill under the consideration of the Government of India in view to its introduction into the Imperial Council.

17. The chief provisions of this Bill may be thus briefly stated.

All religious endowments are divided into two classes—

1*st*.—Those the right to manage and superintend which vests hereditarily in any person or family; and

2*ndly*.—Those trusts in which no such hereditary or vested rights exist, but in which the right to elect the trustee has hitherto been vested in, or exercised by, the community interested in such institutions, or by the Committees appointed under Act XX. of 1863.

In the case of the former class of institutions the right of succession on the occurrence of vacancies is left to be regulated by such usage as may be in force, or by such rules or compact as may be entered into from time to time among the persons, bodies, or families possessing the right of management, and no other individuals or community of persons are in any way to interfere with the succession to such trusts, except when, in consequence of failure of heirs in the

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line of succession or in consequence of the neglect or refusal of, or disputes among, the members of the body or family, a vacancy is not filled up for three months, in which case the Civil Court is empowered to appoint a person to fill up the vacancy. As to the other class of institutions, those in the case of which no hereditary or vested rights exist, the mode of appointing trustees is to be by election by the resident inhabitants professing the religion for the purposes which the institution was founded. Every trustee so appointed is to hold office for life unless removed for misconduct or unfitness by the Civil Court. On failure of the electors to make the necessary election to any vacancy for three months after the occurrence thereof the Civil Court is empowered to make the appointment.

Provision is also made in the Bill for the appointment by the Civil Court in each district of a Committee composed of five individuals for the purpose of auditing the accounts of the several religious institutions within such district. One of the members of such Committee is to retire by rotation at the beginning of each year and his place is to be filled up by the Civil Court.

The trustees of every institution falling within the Act are required to render annually to the Auditing Committee regular accounts of the receipts and disbursements thereof under their signature and supported by vouchers, also a statement of the established scale of expenditure of each institution and lists of landed and personal property and effects. Within three months after the receipt of such accounts the Auditing Committee are to examine and pass them if correct, and return them to the trustees concerned, who are thereupon required to publish them at the cost of the institution in the District Gazette.

Any person wishing to impugn the accuracy of the accounts is to present his complaint personally in writing to the Auditing Committee. After the Committee have passed the accounts in the manner prescribed no trustee is to be liable to a criminal prosecution for breach of trust or criminal misappropriation, but may be sued in the Civil Court, and, upon proof of misappropriation, he is to be liable to make good the sums misappropriated and likewise to dismissal.

In case the accounts furnished are found by the Auditing Committee to be false and fraudulent, they are not only to refuse to pass them, but to prosecute the trustees before the Criminal Courts, and on conviction such trustees are to be liable to the punishment provided in the Penal Code for the offence of dishonest misappropriation, and further such conviction will *ipso facto* vacate their office and make the parties ineligible to re-appointment or re-election.

Provision is further made for both the trustees and the Auditing Committee being remunerated for their labours from the funds of the institutions concerned. Such remuneration appears not only fair, but necessary to ensure the work being properly and faithfully performed.

Any elector or resident inhabitant may sue before the Civil Court the Auditing Committee or any member thereof for any misfeasance or neglect committed by such Committee or member in respect of the auditing of the accounts, and the Civil Court may direct the specific performance of any act by such Committee or member, and may decree damages and costs against them and further direct their removal from office.

It is also provided that in all suits or prosecutions against trustees or members of Auditing Committees the proceedings shall be exempt from stamp duty, and that the cost shall eventually, if the Civil Court so direct, be paid from the Trust Funds. Trustees are further empowered to defray from the endowments all law charges *bona fide* incurred by them on account of the institutions concerned.

All servants of the institutions, whether hereditary or otherwise, are declared liable to dismissal by the trustees for misconduct, hereditary servants being at liberty to contest such exercise of power on the part of the trustees by a regular suit.

Lastly, the trustees are required to keep in repair all buildings connected with their trusts out of the revenues of the institutions under their charge and invest all surplus funds accruing, after providing for all their wants, in Government Promissory Notes, and opportunity is taken to legalize the application of surplus funds to the maintenance or endowment of Sanscrit schools and colleges and for providing for the promotion of the study of Sanscrit. Such an application of accumulated money will not only be in unison with the feelings of the people and in harmony with the original objects of the endowments, but give a useful direction to money now too often wasted.

18. It will be seen from the foregoing summary of the chief provisions of the proposed Bill that it is intended that the constitution and powers of the present Pagoda Committees should be materially altered. Although, in the terms of the present Act, those Committees (most vaguely) "occupy the place and exercise the powers of the Board of Revenue," still in practice they find themselves unable, in the absence of any definite powers, to exert any influence for good. The great object of legislation in respect of the extensive endowments which are now practically without efficient supervision is to secure, by a close and careful annual scrutiny of the accounts of the revenues and disbursements of the several institutions, the application of the funds to the purposes for which they were granted, and to prevent waste and misappropriation. The power, therefore, of calling for accounts, the power of enforcing that requisition, and the power of prosecuting the trustees for wilfully rendering false and fraudulent accounts, is all that need and can advantageously be vested in the Committee. To confer upon them vague and undefined general powers of control and interference seems to be both unnecessary and inexpedient—unnecessary, because any violent or unlawful exercise of their powers by the trustees who are responsible for the management of the institutions will render them amenable to the Magistracy or to the established Courts, and inexpedient, because, adverting to the character of the religious institutions in this Presidency; the two great religious factions by which those directly connected with these institutions are divided, the sectarian zeal and bigotry which characterize each of them, and the impossibility of forming a Committee not composed of representatives and partizans of each of these factions, any opening which is sure to be afforded for intermeddling by powers of general interference and control vested in the Committees must 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.

Section 7.

An Act to make better provision for the protection and due appropriation, for the purposes for which they were made, of all Hindoo and Mahomedan Religious Endowments.

Preamble.

Whereas it is expedient to provide for the better management of Native Religious Endowments; It is enacted as follows:—

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Act repealed.

1. Act XX. of 1863 is hereby repealed so far as it affects the territories under the Government of Fort St. George.

Powers of trustees for the management of revenue affairs of landed property in their charge.

2. In managing or administering the revenue affairs of such landed properties as are now in, or may hereafter come into, the possession of the trustees of all religious endowments or institutions falling under the provisions of this Act, such trustees shall have and exercise in respect of the settlement and collection of the revenues derivable from such lands the powers possessed by landholders under Madras Act VIII. of 1865 or any other Act which may hereafter be passed.

Grants of money to religious institutions to be continued to be made by the Government.

3. In all cases in which grants of money are, or have been, periodically made by Government to religious institutions in lieu of fees resumed by them and consolidated with the revenues of the country, the same money payments shall, heretofore, continue to be made by them to the trustees of such institutions on their receipts, until such time as Government may resolve on making any permanent provision in lieu of such money payments.

Hereditary right of superintendence and management of religious endowments to be continued.

4. In cases of trusts in which the right to superintend and manage any religious endowments shall be found to vest either by prescription, patent, or decision of competent authority (to be proved in case of dispute to the satisfaction of the Civil Court, who shall hold a summary inquiry for the purpose) hereditarily in any one or more persons or in any family or families, such right shall continue to be exercised and enjoyed by such persons, or bodies, or families, and the right of succession to such trusts on the occurrence of a vacancy by death, resignation, retirement, or dismissal shall be regulated by such usage as has been in force or by such rules or compact as may be entered into from time to time among such persons, bodies, or families possessing such right of management, and no other individuals or community of persons shall have any right to interfere with the succession to such trusts except in the instances and in the manner provided for in Section 5 of this Act.

Right of succession.

Exception.

Vacancy to hereditary trusts, where not filled up from failure of heirs, to be filled up by Civil Court.

Appeal against such appointment to be by regular suit.

Appointments or successions to vacant hereditary trusts to be notified in Gazette.

5. Where, in consequence of failure of heirs in the line of succession to any hereditary trust, or in consequence of the neglect or refusal of or disputes among the members of the body or family, a vacancy may not be filled up for three months after the occurrence thereof, the Civil Court shall, on the application of any individual permanently residing or possessing immoveable property at the place where such institution is situated and of the same religion as that of the institution, or on the application of the Auditing Committee hereinafter mentioned, pass a summary order appointing a person to fill up such vacancy, and such order shall not be open to appeal except by a regular suit in the Civil Court by a party aggrieved thereby and subject to appeal to the High Court. All appointments or succession to vacant hereditary trusts shall be notified in the District Official Gazette.

Right of election in cases of trusts in which no hereditary or vested rights exist.

6. In cases of trusts in which no such hereditary or vested rights exist, but where the right to elect to such vacancy has hitherto been vested in or exercised either by the community interested in such institutions or by the Committees appointed under Act XX. of 1863, the right to appoint or nominate to such vacancies shall ordinarily vest among persons permanently residing or possessing immoveable property within the limits of the city, town, village, or hamlet in which the religious institution is situated and professing the religion for the purposes of which the institution was founded or is now maintained, and such persons shall be called electors.

24. Within three months after the receipt of such accounts the said Auditing Committee shall examine the same and verify by actual inspection the lists of moveable property and effects of the institution. If the accounts are found correct after such examination and inspection, the Auditing Committee shall pass and certify them as such under their signature and return them to the trustees. It shall also be competent to the Auditing Committee to examine once a year the balance of cash remaining at the credit of each institution.

Auditing Committee to examine and return the accounts within three months.

To take stock of moveable property and effects.

To examine balance of cash.

25. On receipt of the accounts so audited and passed as stated in the last preceding section by the Auditing Committee, the trustees shall print and publish the same at the cost of the institution in the District Gazette, in default of which they shall be liable to dismissal at the suit of any elector or resident inhabitant before the Civil Court.

Accounts so passed and returned to be published in the District Gazette.

Penalty for non-publication.

26. After the said Auditing Committee shall have passed the said accounts in the manner aforesaid, no trustee shall be liable to be prosecuted before the Criminal Courts for any criminal breach of trust or criminal misappropriation, but they may be sued for such acts before the Civil Courts only, and upon proof of the same shall be liable to make good the amounts misappropriated by them and likewise to dismissal by decree of Court, provided that such decree shall be open to appeal to the High Court.

After accounts are passed trustee shall not be liable to criminal prosecution,

But liable to be sued in Civil Courts,

And to make good amounts misappropriated,

And to be dismissed by decree of Court subject to appeal

27. If the accounts furnished as aforesaid to the said Auditing Committee be found or considered by them to be insufficient or incorrect either in whole or in part, they shall return the same to the trustees for correction and re-submission to them within a fixed time, subject, in case of non-compliance to the requisition without reasonable cause, to the penalty prescribed in Section 22 of this Act.

Incorrect accounts to be returned to trustees for correction and re-submission.

28. In auditing such accounts the Auditing Committee may divide itself into Sub-Committees; but no act of such Sub-Committees shall be valid for the purposes of the criminal prosecution authorized by the following section unless assented to by the whole Committee.

Division of Auditing Committee into Sub-Committees. Acts of Sub-Committees not valid for criminal prosecution unless assented to by the whole Committee.

29. If the said accounts so furnished as aforesaid shall be found by the Auditing Committee to be wilfully false and fraudulent, they shall not only refuse to pass them but shall prosecute the trustees before the Criminal Courts, and on conviction such trustee shall be liable to the punishment provided in Sections 403 and 404 of the Indian Penal Code, and such conviction shall *ipso facto* vacate their office and make them ineligible to re-appointment or re-election.

False and fraudulent accounts how to be dealt with.

30. Any fraudulent application of the funds, property, or effects of the institution for the personal use and benefit of the trustees, or for any purpose other than for the use or benefit of the institution, shall be considered a criminal breach of trust within the meaning of the Indian Penal Code. Provided, however, that the use of such funds, property, or effect for any purpose or use of the institution different from that for which they were set apart, declared, or designed to be used, shall not be a criminal breach of trust or criminal misappropriation, but may form the subject of a civil action before the Civil Courts.

What constitutes criminal breach of trust or criminal misappropriation within the meaning of this Act.

Proviso.

31. No other person but an elector or resident inhabitant or the Auditing Committee shall be competent to prosecute the trustees either before the Civil or Criminal Courts. Provided, however, that no elector or other person who may hold any office in any institution from which he is liable to be dismissed by the

Who are competent to prosecute trustees.

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orders of the trustees shall be entitled or empowered to institute any civil action or criminal prosecutions against them under Sections 26, 29, and 30 of this Act. And all actions or criminal prosecutions under those sections shall be brought and instituted within one year from and after the passing or rejection of the accounts by the Auditing Committee.

And within what period.

32. Upon the accounts of any institution being passed by the Auditing Committee as correct or finally refused by them as false and fraudulent, they shall be entitled to charge a fee of two per cent. on the annual revenues or income thereof, which fee shall be sent to them by the trustees as soon as the accounts of the year have been passed and published in the District Gazette in the manner hereinbefore set forth. The fee so received shall, after defraying the costs of any establishment and other charges incurred by the Committee, be equally divided among the members thereof. In default of the payment of the fee the Civil Court may, on application by the Auditing Committee, enforce payment in the manner provided for the execution of the decrees of such Court, and the costs of such proceeding shall be recoverable by the Court from the defaulting trustees, and shall not be chargeable to the institutions concerned.

Remuneration of Auditing Committee.

How to be recovered.

33. Any elector or resident inhabitant may sue before the Civil Court the Auditing Committee or any member thereof for any misfeasance or neglect of duty committed by such Committee or member in respect of the auditing of the accounts of receipts and disbursements, and the Civil Court may direct the specific performance of any act by such Committee or member, and may decree damages and costs against such Committee or member, and may also remove such Committee or member.

Any elector may sue Auditing Committee for misfeasance or neglect of duty.

Civil Court may direct specific performance of any act and decree damages.

34. In all suits or prosecutions instituted by electors or Auditing Committees against trustees or by electors against members of the Auditing Committee, the proceedings shall be exempt from stamp duty. In calculating the costs at the termination of the suit, if the Court shall be of opinion that the suit has been for the benefit of the trust and that no party to the suit is in fault, the Court may order the costs, or such portion thereof as it may consider just, to be paid out of the trust funds.

In all suits and prosecutions under the Act proceedings to be exempt from stamp duty.

35. All servants of the institution, whether hereditary or otherwise, shall be liable to dismissal for misconduct by the trustees. Provided, however, that the hereditary or Merasi servants of the institution who may be dissatisfied with such dismissal shall be at liberty to question its propriety by regular suit before the Civil Courts.

Servants of institution liable to be dismissed by trustees for misconduct.

Proviso.

36. The trustees shall, as far as possible, keep in repair from the income of the institutions under their management all buildings connected with their trusts, and nothing in this Act shall be held to affect the provision of Regulation VII. of 1817 of the Madras Code except in so far as they relate to mosques, Hindoo temples, and other religious establishments, or to prevent the Government from taking such steps as it may deem necessary under the provisions of the said Regulation, to prevent injury to and preserve buildings remarkable for their antiquity, or for their historical or architectural value, or required for the convenience of the public.

Trustees to keep buildings in repair from the income of institutions.

Effect of Act in respect of Regulation VII. of 1817 and of buildings of antiquity.

37. The trustees shall invest in Government securities all surplus of income over expenditure accruing from the endowments under their charge after duly providing for all the wants of the institution. Provided that it shall be lawful for the trustees of any institution to devote any portion of the surplus funds of such institution to the maintenance or endowment of any Sanscrit schools or colleges or the promotion of the study of Sanscrit literature.

Trustees to invest surplus funds in Government securities.

Proviso.

38. The provisions of this 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.

Application of Act.

No. 103. Proceedings of the Board of Revenue, dated 21st July 1871, No. 3051.

Read the following letter from J. W. HANDLEY, Esq., Government Pleader, Madras, to the Acting Secretary to the Board of Revenue, dated 25th May 1871, No. 85.

I have the honour to reply to the Board's Proceedings noted in the margin, referring, for my opinion, the question of the propriety of modifying the existing law so as to place more restriction on the power of trustees of charitable establishments to incur liabilities to the detriment of the property under their charge. I regret the great delay which has occurred in submitting my reply, caused partly by my late prolonged absence in Tinnevelly on Government business, and partly by the pressure of other more urgent Government business.

* 17th October 1870, No. 6183.

2. It will be convenient, first, to state shortly what the existing law is. The legislative enactments relating to charitable endowments, religious and otherwise, in this Presidency are Madras Regulation VII. of 1817 and Act XX. of 1863 of the Government of India. The former gave to the Board of Revenue general superintendence over all religious and charitable foundations. Under this Regulation it has been held that the Board have power to remove a trustee or superintendent for breach of trust or misconduct. (Sudder Decisions for 1858, page 39, III, Madras High Court Reports, page 334). This power is not, however, expressly given, and altogether the Regulation is rather vague as to the way in which the power of superintendence vested in the Board is to be exercised. Act XX. of 1863 repeals the Regulation as to religious endowments, and vests in the District Committees the powers given by the Regulation to the Board in cases where the nomination of the trustee or superintendent lay with Government, in other cases leaving the general powers of the Board in abeyance. The Act provides that any one having an interest, not necessarily a pecuniary one, in the religious endowment may sue the trustee or superintendent for breach of trust, &c.

3. Neither the Regulation nor the Act lay down any rules as to alienations or encumbrances of religious or charitable property, so that we must recur to general principles of law to ascertain what are the powers of trustees of such endowments in this respect. There are very few decided cases on the subject in this country. It was held by the late Sudder Court that a mortgage of pagoda lands if for the benefit of the pagoda might be upheld (Sudder Decisions for 1849, page 53), and that to charge pagoda property with expenditure beyond the income incurred by the trustee it must be shown that such expenditure in excess of income was justified by some emergent necessity, such as the preservation of the building or the fulfilment of unavoidable exigencies appertaining thereto. (Sudder Decisions for 1861, page 168). In Bengal it has been held that an alienation by a trustee of a religious endowment is analogous to that of alienation of

ancestral property by a Hindoo widow
little doubt that this is the correct princ
Hindoo law, as to the power of aliena
managing member of a Hindoo family,
of a charity. His debts and alienations w
the contracting and making them was nec
I think the Government are quite right

11th October 1870, Government Order No. 1542.

ings noted i
on the perso
trustee against the charity. In the cas
Civil Judge had found as a fact that the
charity, and the High Court on special ap
could have been shown that there was absolutely no evidence to support it.

4. On general principles it is clear, in my opinion, that *primâ facie* charity property is inalienable and not liable for debts contracted by the person holding it in trust for the time being, and it is with those who seek to make an exception in favour of a particular alienation or debt to make out their case. This was the law in England before the Charitable Trusts' Acts. (See Attorney-General *v.* Warren, 2 Swanst. 302, Lewin on Trusts, page 373, 4th Edition). These Acts (16, 17 Vic., C. 137, and 18, 19 Vic., C. 124) make any sale, mortgage, or charge upon charity property invalid without the assent of the Charity Commissioners. Some such provision as this might be useful here. The defect is not, I think, in the law itself so much as in the means of enforcing it. Improper alienations and encumbrances of charity property are no doubt illegal and can be set aside; but the difficulty is that at present it is nobody's business in particular to move in the matter, and the result is that it is only in very gross cases that any steps are taken, and this charity property is being gradually but surely alienated from its proper uses all over the country. The power confided to the Charity Commissioners in England might be vested either in the Board of Revenue as to non-religious and in the District Committee as to religious endowments or in a separate body. Probably the former would be the most convenient, as it would be merely supplementing the powers already possessed by the Board and Committees respectively under Regulation VII. of 1817 and Act XX. of 1863. Some of the other powers of the Charity Commissioners, such as those of calling for reports and accounts from trustees, examining witnesses, &c., might perhaps also be conferred at the same time. There is, I fear, little doubt that the misappropriation of religious and charitable endowments is a growing evil, and especially in the case of the former, over which there is at present little or no check, and it seems highly desirable that the Legislature should interfere for their protection.

Submitted to Government with reference to Government Order, 11th October 1870, No. 1542.

2. The Board entirely concur with the Government Pleader as to the present insecurity of religious and charitable endowments, as to the extent of the misappropriations which are going on silently because it is no one's business to move the Courts and because the ears of the Executive are closed to all complaints, and as

Weekly Reporter, 299), and I feel
that the ordinary doctrines of the
t t1 encumbrance possessed by the
bulicable to the trustee or manager
ts, inding on the charity property if
y ha the preservation of the property.
lity itention urged in their Proceed-
oper gin, that the burden of proof is
es pig to make good the debt of a
g of which this reference arose the
, vas contracted for the benefit of the
was bound by that finding unless it

...ecessity of appointing Com... ...tha... invested in the Charity Co...

3. Mr. Handley points out ... were vague and perhaps insuffici... with regard to religious endowm... Things were in the state in which ... Government admitted the respons... endowments were devoted to their ...

4. Directly Act XX. of 186... itself of its responsibilities, every... and purposes irresponsible to any... cases the tools of designing men, ... mous property committed to their ...

Public opinion is so strong as to the evils of the present system and the necessity of a change that it ought not to be neglected any longer.

5. Moreover, if it is admitted, as it must be, that the "Pagoda Committees" have failed, Government are bound to find a remedy. They cannot cease to be morally responsible for the great property committed to their charge as a Government by generations of Hindoos and Mussulmans, because they have passed an Act which divests them of legal responsibility. It is almost unnecessary to observe that the fact that the religion of the governing class differs from the religion of their subjects is only a reason for treating religious feelings with greater tenderness.

6. The Board are satisfied that a change in the law is necessary, and they recommend Government, after ascertaining the views of natives of respectability throughout the Presidency, and especially in Madras, to prepare a Bill in time for the next meeting of the Legislative Council of India.

(A true Copy and Extract.)

(Signed) J. GROSE,
Acting Secretary.

Transferred to the Judicial Department.

FORT ST. GEORGE,
3rd August 1871.

(Signed) W. HUDLESTON,
Secy. to Govt., R. D.

No. 106. ORDER THEREON, 31st January 1872, No. 118.

The foregoing papers relate to the amendment of the law regulating the administration of native religious endowments.

2. With the first of these letters copies of a correspondence regarding the misappropriation of the funds of the religious endowments in certain portions of the Lower Provinces of Bengal were forwarded by the Government of India, with a request that this Government would submit their opinion on the subject of the proposed amendment with reference to the working of the law in this Presidency.

3. According to public ..., the existing law, Act XX. of 1863, under which the Government di... ...self of all control over native religious

endowments, has proved a com... ...eccipt of Mr. Secretary Hume... amending the law had been under... had also engaged the earnest attent... Member of the local Council for mak...

4. This gentleman has prepare... he suggests should be passed for this... 1863, and in the letter which acco... believed to be a faithful picture of... Government observe that the views... condition and management of nativ... of Act XX. of 1863 and as to the ex... those expressed by the Hon. V. Rami...

5. The Government resolve to ... by the Hon. V. Ramiengar to the Hon... of the High Court, with a request that ... subject with some of the most experi... favour the Government, at their earlie... their opinion on the Draft and also on a... the present law requires amendment.

6. Copies of the Draft will also ... and they will be requested to refer it ... with a view to their opinions being obta... in the Draft, as on any point not dealt ... the provisions of Act XX. of 1863 ... Collectors should be instructed to pr... natives in each district, together with t...

7. The Honourable the Acting ... to submit any observations which he ... with the subject of these Proceedings.

8. In the meanwhile copies of the ... Government of India, with an intimat... of the necessity of legislation in the ... endowments, and that they propose to ... length on the question as soon as they h... officers on the Draft Act above referred to.

9. Ordered, accordingly, that the follo...

(Here enter No. 120, dated ...

(True Extr...

To the Honourable the Judges of the High Court.
,, Board of Revenue.
,, Revenue Department.
,, Acting Advocate-General.

Exd. A. S. Rodgers.

INDIA OFFICE RECORDS

Judicial Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following ~~letter~~ papers

From the Offg Secy to the Govt of India — 5th January 1871 No. 49.

Letter from the Collr of Ramnagar, Abdl Number of the Council of the Govr of Fort St George for making Laws & Regulations. — 17th March 1871.

Copy of the Board of Revenue — 21st July 1871 No. 3151.

Order taken 31 January 1872

The foregoing papers relate to the amendment of the law regulating the administration of religious endowments.

2. With the first of these letters copies of a correspondence regarding the misappropriation of the funds of the Sidambrum Pagoda in certain portions of the Chingleput District were forwarded by

A. P.

Government of India
with a request that the
Government would submit
their opinion on the sub-
ject of the proposed
Amendment with reference
to the working of the law
in this Presidency.

3. According to public
opinion, the existing law,
Act XX of 1863, under
which the Board derive
their powers of all control
over Native religious En-
dowments, has proved
a complete failure in
this Presidency. And since
the receipt of the Secre-
tary Home's letter of
the 5th January last, the
question of amending
the law has been under
the consideration of this
Government & they have
engaged the earnest
attention of the Honble
Mr. Harrington, on
[illegible]

of the Council for
making Laws & Regula-
tions. This gentleman
has prepared and
submitted a draft of an
Act which he suggests
should be passed for
this Presidency, in sub-
stitution of Act XX
of 1863, & in the letter
which accompanies
the draft he has drawn
a faithful picture
of the effect of the
present law, and the
Government observe
that the views of the Board
of Revenue as to the pre-
sent condition & manage-
ment of Native Religious
Institutions under the
operation of Act XX of
1863 & as to the expedi-
ency of amending the Act
accord with those ex-
pressed by the Honble Mr
Harrington.

The Government
resolved to forward a
copy of the draft
Act prepared by the
Barrister employed by the
Province to draft the
Bill to the Chief Jus-
tice & Judges of the N.S.
with a request that
they will, after commu-
nicating on the subject
with some of the most
experienced Judicial
Officers in the Province,
favor the Government,
& their Lordships com-
mittee, with an ex-
pression of their opinion
on the Draft & also on
any points on which
the present law requires
Amendment.

5 Copies of the draft
will also be forwarded
to the Board of Revenue,
& they will be requested
to refer it to the Collec-
tors most conversant

with a view to either
-prime having obtained
as well on the provision
embodied in the draft,
as on any point not dea-
-lt with in the draft, but
in respect of which
the provisions of the
XX of 1863 have been
found to be defective.
The Collectors should be
instructed to procure &
submit the opinions of
the selected Natives in
each District, together
with their own opinion
on the subject.

7 The Honble the Ad-
-vocate General will
also be requested sub-
-mit any observations
which he may deem it
proper to make in con
-nexion with the sub-
-ject of these Proceedings

8 As the views which
Copies of these Proceedings
will be submitted to the
Govt of India, with
a recommendation that they

The Charitable Trusts Act, 1853 (1867.
Vic. (137). X
The Charitable Trusts Amendment Act, 1855 (1869
Vic. cap. 24).—

Govt. of [illegible] Matters.

To _____

Dated _____
Recd. } Nos.
187 , No.

Feb 683/73

the necessity of legislation in the matter of public religious & charitable endowments, & that they propose to address the Supreme Govt at length on the question & forward their opinions on the Draft Act above referred to.—)

Q. Ordered, Accordingly, that the following letter be despatched.

(Here Enter)

The Hon'ble the Judges of the High Court
The Board of Revenue
The Revenue Deptt
The Advocate General

Feb 683/73

606

ANNO DECIMO SEXTO & DECIMO SEPTIMO

VICTORIÆ REGINÆ.

CAP. CXXXVII.

An Act for the better Administration of Charitable Trusts. [20th *August* 1853.]

WHEREAS it is expedient to provide Means for securing the due Administration of Charitable Trusts, and for the more beneficial Application of Charitable Funds in certain Cases: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Her Majesty empowered to appoint Charity Commissioners, Secretary, and Inspectors.

I. It shall be lawful for Her Majesty and Her Successors, by Warrant under the Royal Sign Manual, to appoint Four Commissioners, and also One Secretary and Two Inspectors for the Purposes of this Act, and upon any Vacancy by the Death, Resignation, or Removal of any Commissioner, Secretary, or Inspector under this Act, from Time to Time in like Manner to appoint another Person to succeed to such Vacancy, and until a fresh Appointment shall be made it shall be lawful for the surviving or continuing Commissioners, in case of any Vacancy, to act as if no such Vacancy had occurred; and Three of the said Commissioners shall hold Office during good Behaviour; and the Fourth, and every Secretary and Inspector to be appointed under this Act, shall hold Office during the Pleasure of Her Majesty.

II. The

Qualification of Commissioners.

II. The said Three Commissioners so holding Office during good Behaviour shall be paid as herein-after mentioned, and Two at least of the said paid Commissioners for the Time being shall be Barristers-at-Law of not less than Twelve Years standing at the Time of their respective Appointments, and One of such Barristers shall be the Chief Commissioner, and shall be so called and distinguished in his Appointment.

Officers of the Board.

III. The said Commissioners, with the Sanction of the Commissioners of Her Majesty's Treasury, shall from Time to Time appoint such Clerks and Messengers as the said Commissioners may think fit, and all Persons appointed under this Provision shall hold their Offices during the Pleasure of the said Commissioners.

Salaries.

IV. There shall be paid to the said paid Commissioners, and to the said Secretary, Inspectors, Clerks, and Messengers, such Salaries not exceeding for the Chief Commissioner the annual Sum of One thousand five hundred Pounds, and for each of the other paid Commissioners the annual Sum of One thousand two hundred Pounds, and for the said Secretary the annual Sum of Six hundred Pounds, and for each of the said Inspectors the annual Sum of Eight hundred Pounds, as shall be from Time to Time allowed by the Commissioners of Her Majesty's Treasury, who may also allow to every Commissioner, Inspector, and other Person appointed for the Purposes of this Act such reasonable Travelling and other Expenses as may be incurred by him in the Execution of his Office, and the said Salaries and Expenses, and the incidental Expenses of the said Board, shall be paid out of any Monies which may be from Time to Time provided by Parliament for that Purpose: ~~Provided always~~, that after the Thirty-first Day of *March* in the Year One thousand eight hundred and fifty-seven, the said annual Salary shall be paid to One only of the said Commissioners besides the said Chief ~~Commissioner~~.

Sch. by 19 & 20 Vict. c. 26, s. 2.

No paid Commissioner, Secretary, or Inspector to sit in House of Commons.

V. No paid Commissioner, Secretary, or Inspector to be appointed under this Act shall be capable of sitting in the House of Commons during the Tenure of his Office.

Style of Commissioners, who may sit as a Board.

VI. The said Commissioners to be appointed under this Act shall be styled "The Charity Commissioners for *England* and *Wales*," and may have and use a Seal for authenticating Documents, and such Commissioners shall sit from Time to Time as a Board for carrying this Act into execution; and any Two of such Commissioners may form a Board, and may exercise all or any of the Powers conferred on the Commissioners or the Board by this Act.

VII. The

Board to frame General Minutes.

VII. The said Board shall, by General Minutes, from Time to Time prescribe Regulations for their Proceedings, and the Proceedings of their Inspectors, and concerning the Form and Manner of Applications to the said Board, and the Conditions to be performed by Applicants, and for the Guidance of Applicants in relation thereto, and all such General Minutes shall be signed by Three of the said Commissioners at the least; and Copies of all such General Minutes shall be laid before both Houses of Parliament within Fourteen Days after the making thereof if Parliament be sitting, or if Parliament be not sitting, then within Fourteen Days after the next Meeting thereof.

Minutes of Proceedings and Orders, &c. to be entered, and Copies of Entries signed by the Secretary to be received in Evidence.

VIII. The said Board shall cause Minutes of their Proceedings, and all Orders, Certificates, and Schemes, made or approved by them under this Act, to be entered in Books to be provided and kept for such Purpose, and all such Entries shall be signed by their Secretary, and all Copies purporting to be extracted from the Books of the said Board, and to be certified by their Secretary, of any such Minutes, Orders, Certificates, and Schemes entered as aforesaid, shall be received as Evidence of the Proceedings to which such Minutes shall relate, and of such Orders, Certificates, or Schemes, and of the making or Approval thereof (as the Case may require) by the said Board, without further Proof thereof.

Board to inquire into Condition and Management of Charities.

IX. It shall be lawful for the said Board from Time to Time, as they in their Discretion may see fit, to examine and inquire into all or any Charities in *England* or *Wales*, and the Nature and Objects, Administration, Management, and Results thereof, and the Value, Condition, Management, and Application of the Estates, Funds, Property, and Income belonging thereto; and the said Board may cause Examinations and Inquiries in relation to the Matters aforesaid to be made and prosecuted by their Inspectors, acting together or separately, in such Cases and at such Times as the said Board may think fit; and all such Inspectors shall from Time to Time report their Proceedings to the said Board.

Power to require Accounts and Statements.

X. The said Board may require all Trustees or Persons acting or having any Concern in the Management or Administration of any Charity, or the Estates, Funds, or Property thereof, to render to the said Board, or to their Inspectors, or either of them, Accounts and Statements in Writing in relation to such Charity, or the Funds, Estates, Property, Income, or Monies thereof, or the Administration, Management, and Application thereof, and may also require such Trustees and Persons to return Answers in Writing to any Questions or Inquiries addressed to them by the Direction of the said Board relating to the Matters aforesaid.

XI. All

Officers having Custody of Records to furnish Copies and Extracts, if required by Board.

XI. All Officers having the Custody of Enrolments, Decrees, Reports, Records, and other Documents relating to or concerning any Charity shall furnish such Copies or Extracts as shall be required by the said Board; and every Inspector, Secretary, and other Officer of the said Board for the Time being employed for the Purposes of this Act shall be at liberty, by the Authority and under the Directions of the Board, and subject to such Regulations as the Board may make in that Behalf, to examine and search the Registers and Records of every Court of Law and Equity, and every Ecclesiastical Court, and every public Registry and Office of Records, and to take Copies of and Extracts from any Decree or Document recorded or registered or deposited therein respectively, for any Purpose contemplated by this Act, without Fee or other Payment in respect thereof.

Inspector may examine Witnesses on Oath.

XII. Any Inspector acting under the Authority of the said Board may, by Precept under his Hand, subject to such Regulations as the said Board may make in that Behalf, require any Person, being a Trustee of any Charity or otherwise acting or having any Concern in the Management or Administration of any Charity, or of the Estates, Funds, or Property thereof, or in the Receipt or Payment of the Income or Monies thereof, or deriving any Income or Stipend therefrom, to attend before such Inspector for the Purpose of being examined by him touching or relating to such Charity, or the Estates, Funds, Property, or Income thereof, at any Time and Place mentioned or appointed by such Precept, and to bring and produce any Deed, Paper, Writing, Instrument, or other Document, being in the Custody, Possession, or Power of such Person, and relating to such Charity, or the Estates, Funds, Property, or Income thereof, and may examine upon Oath all Persons attending in pursuance of such Precept, and all Persons voluntarily attending before him, and may administer such Oath: Provided always, that no Person shall be obliged to travel in obedience to any such Precept more than Ten Miles from his Place of Abode.

Persons giving false Evidence guilty of a Misdemeanor.

XIII. If any Person wilfully give false Evidence upon any Examination under this Act, every Person so offending shall be deemed guilty of a Misdemeanor.

Person refusing to render Accounts, &c. to be deemed guilty of a Contempt of Court.

XIV. If any Person from whom the said Board, or any Inspector, is authorized to require any Account or Statement or Answers to any Questions or Inquiries, or whose Attendance any Inspector is authorized to require, shall refuse or wilfully neglect to render to the said Board such Account or Statement, or to make Answers to such Questions or Inquiries, or to attend in obedience to any lawful Precept

cept of any Inspector or to give Evidence before him, or shall wilfully alter, destroy, withhold, or refuse to produce any Deed, Paper, Writing, Instrument, or other Document which may be lawfully required to be produced before any Inspector or the said Board, every Person so offending shall be deemed and taken to have been guilty of a Contempt of the High Court of Chancery, and shall be liable to be attached and committed by such Court on summary Application by the Commissioners to the same, and shall pay the Costs of and attending such Contempt as the said Court shall direct.

Saving for Persons claiming adversely to Charities.

XV. Provided always, That nothing herein contained shall extend to give to the said Board or their Inspectors any Power of requiring from any Person holding or claiming to hold any Property whatsoever adversely to any Charity, or free or discharged from any Charitable Trust or Charge, any Information, or the Production of any Deed or Document whatever in relation to the Property so held or claimed adversely, or any Charitable Trust or Charge alleged to affect the same.

Board to entertain Applications for their Opinion or Advice.

XVI. The said Board shall receive and consider all Applications which may be made to them by any Trustee or other Person having any Concern in the Management or Administration of any Charity, for their Opinion, Advice, or Direction respecting such Charity, or the Management or Administration thereof, or the Estates, Funds, Property, or Income thereof, or the Application thereof, or any Question or Dispute relating to the same respectively, and, if they so think fit, may, upon any such Application, give such Opinion or Advice as they think expedient, subject to any Judicial Order or Direction which may be subsequently made or given by any competent Court or Judge; and such Opinion or Advice shall be in Writing, signed by Two or more of the said Commissioners, and sealed with the Seal of the said Commission; and every Trustee and other Person who shall act upon or in accordance with the Opinion or Advice given by the said Board shall in respect of so acting be deemed and taken, so far as respects his own Responsibility, to have acted in accordance with his Trust; and no such Judicial Order or Direction subsequently made or given by any Court or Judge shall have any such retrospective Effect as to interfere with or impair the Indemnity by this Act given to Trustees and other Persons who have acted upon or in accordance with such Opinion or Advice of the said Board: Provided always, that nothing herein contained shall extend to indemnify any Trustee or other Person for any Act done in accordance with the Opinion or Advice of the said Board, if such Trustee or other Person have been guilty of any Fraud or wilful Concealment or Misrepresentation in obtaining such Opinion or Advice.

Persons acting on Advice of Board to be indemnified.

XVII. Before

Charitable Trusts.

Notice of legal Proceedings as to any Charity by any Person, except the Attorney General, to be given to the Board.

XVII. Before any Suit, Petition, or other Proceeding (not being an Application in any Suit or Matter actually pending) for obtaining any Relief, Order, or Direction concerning or relating to any Charity, or the Estate, Funds, Property, or Income thereof, shall be commenced, presented, or taken, by any Person whomsoever, there shall be transmitted by such Person to the said Board, Notice in Writing of such proposed Suit, Petition, or Proceeding, and such Statement, Information, and Particulars as may be requisite or proper, or may be required from Time to Time, by the said Board, for explaining the Nature and Objects thereof; and the said Board, if upon Consideration of the Circumstances they so think fit, may, by an Order or Certificate signed by their Secretary, authorize or direct any Suit, Petition, or other Proceeding to be commenced, presented, or taken with respect to such Charity, either for the Objects and in the Manner specified or mentioned in such Notice, or for such other Objects, and in such Manner and Form, and subject to such Stipulations or Provisions for securing the Charity against Liability to any Costs or Expenses, and to such other Stipulations or Provisions for the Protection or Benefit of the Charity, as the said Board may think proper; and such Board, if it seem proper to them, may by such Order or Certificate as aforesaid require and direct that any Proceeding so authorized by them in respect of any Charity, shall be delayed during such Period as shall seem proper to and shall be directed by such Board; and every such Order or Certificate may be in such Form and may contain such Statements and Particulars as such Board shall think fit; and (save as herein otherwise provided) no Suit, Petition, or other Proceeding for obtaining any such Relief, Order, or Direction as last aforesaid shall be entertained or proceeded with by the Court of Chancery, or by any Court or Judge, except upon and in conformity with an Order or Certificate of the said Board: Provided always, that this Enactment shall not extend to or affect any such Petition or Proceeding in which any Person shall claim any Property or seek any Relief adversely to any Charity.

Courts not to entertain Proceedings as to Charities, except upon Certificate of the Board.

Saving for the Attorney General acting ex officio.

XVIII. Provided always, That it shall be lawful for Her Majesty's Attorney General acting *ex officio* to make such Applications, and take and prosecute such Proceedings with respect to any Charity, in the Court of Chancery or otherwise as to him may seem fit, as if this Act had not been passed; and that nothing in this Act contained shall be construed as dispensing with the Fiat or Allowance of Her Majesty's Attorney General, with respect to any Proceeding not being an Application under the Jurisdiction created by this Act where such Fiat or Allowance was necessary before the passing of this Act.

XIX. Pro-

Charitable Trusts.

Board may, upon the Report of an Inspector, authorize Proceedings, where no Notice has been given to them, and may in other Cases cause local Inquiries by their Inspector.

XIX. Provided also, That where upon any Report of any Inspector under this Act or otherwise it appears to the said Board that any Suit, Petition, or other Proceeding concerning or relating to any Charity, or the Estate, Funds, Property, or Income thereof, would be proper or expedient, it shall be lawful for the said Board by their Order to authorize or direct such Suit, Petition, or Proceeding to be commenced, presented, or taken, and to give such Directions in relation thereto as the said Board may think proper; and thereupon such Suit, Petition, or Proceeding may be commenced, presented, or taken accordingly, without any such previous Notice in Writing as hereinbefore mentioned; and the said Board, before giving any such Opinion, Advice, or Direction upon any such Application as aforesaid, or making any such Order or Certificate after Notice to them as aforesaid, may, where local Inquiry appears to them to be requisite, cause such Inquiry to be made by One of their Inspectors; and the said Board may, in any Case where they see fit, before acting upon the Report of any Inspector, cause such Report to be deposited for local Inspection, and give Notice of the same being so deposited, and consider any Statements or Objections which may be transmitted to them in relation thereto.

Power for Board to certify certain Cases to the Attorney General.

XX. In any Case in which it shall appear to the said Board that the Institution of legal Proceedings is requisite or desirable with respect to any Charity, or the Estates, Funds, Property, or Affairs thereof, and that under the Circumstances thereof it is desirable that such Proceedings should be instituted by the Attorney General, it shall be lawful for the said Board, if they so think fit, to certify such Case, in Writing under the Hand of the Secretary of the said Board, to Her Majesty's Attorney General, together with such Statements and Particulars (if any) as in the Opinion of the said Board may be requisite or proper for the Explanation of such Case; and thereupon the said Attorney General, if upon Consideration of the Circumstances he think fit, shall institute and prosecute such legal Proceedings as he shall consider requisite or proper under the Circumstances of such Case, by Information or Petition in the Court of Chancery, or by Application to a Judge thereof at Chambers, or to a District Court of Bankruptcy, or County Court under the Jurisdiction given by this Act.

Board may sanction Building Leases, working Mines, doing Repairs and Improvements;

XXI. If in any Case it appear to the Trustees or Persons for the Time being acting in the Administration or Management of any Charity, or the Estates or Property thereof, that any Part of the Charity Lands or Estates may be beneficially let on Building Repairing, Improving, or other Leases, or on Leases for working any Mine, or that the digging for or raising of Stone, Clay, Gravel, or

or other Minerals, or the cutting of Timber, would be for the Benefit of the Charity, or that it would be for the Benefit of such Charity that any new Road or Street should be formed or laid out, or any Drains or Sewers made through any Part of the Charity Estates, or that any new Building should be erected, or that any existing Building should be repaired, altered, rebuilt, or wholly removed, or that any other Improvements or Alterations in the State or Condition of the Lands or Estates of such Charity should be made, it shall be lawful for such Trustees or Persons to lay before the said Board a Statement and Proposal in relation to any of the Matters aforesaid; and it shall be lawful for the said Board, if they think that the Leases or Acts to which the Statement and Proposal relate (with or without Modifications or Alterations) would be beneficial to the Charity, to make such Order under their Seal for and in relation to the granting of such Leases, or the doing of any other such Acts as aforesaid, and any Circumstances connected therewith, as they may think fit, although such Leases or Acts respectively shall not be authorized or permitted by the Trust; and the said Board, by any such Order, may authorize the Application of any Monies or Funds belonging to the Charity for any of the Purposes or Acts aforesaid, and, if necessary, may authorize the Trustees to raise any Sum of Money by Mortgage of all or any Part of the Charity Estates; provided that compulsory Provisions be reserved in every such Mortgage for the Payment of the Principal Money borrowed by annual Instalments, and for the Redemption and Re-conveyance of the mortgaged Estates, within the Period of not more than Thirty Years.

and may authorize the Application of the Charity Funds or the raising of Money on Mortgage for those Purposes.

XXII. It shall be lawful for the Board, upon Proof to their Satisfaction that any Schoolmaster or Schoolmistress or other Officer of any Charity has been negligent in performing his or her Duties, or that he or she is unfit or incompetent to discharge them properly, either from immoral Conduct, Age, or any other Cause whatsoever, to empower the Trustees of such Charity to remove such School Master or Mistress or other Officer, and to charge the Salary of his or her Successors, or any other Portion of the Revenues of the Charity, with such Retiring Pension or Allowance, if any, in favour of the Person so removed, and generally to impose such Conditions as to the said Board shall appear proper: Provided always, that where there shall be any special Visitor of the Charity, the Consent of such Visitor, in Writing under his Hand, shall be necessary in order to such Removal.

Commissioners to authorize Trustees to remove Officers

XXIII. If in any Case it appear to the Trustees or Persons acting in the Administration of any Charity that any Claim or Demand or Cause of Suit against any Person in relation to such Charity

Charity may, with Advantage to the Charity, or should, under the special Circumstances of the Case, be compromised or adjusted without taking or without continuing any Proceedings at Law or in Equity, such Trustees or Persons may, or the Person against whom such Claim, Demand, or Cause of Suit exists or is alleged to exist, may, with the Consent of the Trustees or Persons acting in the Administration of such Charity, submit to the said Board a Statement and Proposal for such Compromise or Adjustment; and if it appear to the said Board after such Inquiry in relation thereto by one of their Inspectors, as they may deem requisite, or otherwise, that such Proposal, either with or without any Modification, is fit and proper, and for the Benefit of the Charity, it shall be lawful for the said Board to make such Order for and in relation to such Compromise or Adjustment as they may think fit; and upon the due Performance of the Terms and Conditions of such Compromise or Adjustment as aforesaid, such Agreement shall be a final Bar to all Actions, Suits, Claims, and Demands by or on behalf of the Charity concerned therein, in respect to the Cause of Action, Suit, or Matter in respect to which such Compromise or Adjustment shall have been made.

Board may authorize Compromise on behalf of Charity.

XXIV. Upon Application to the said Board by the Trustees or Persons acting in the Administration of any Charity, representing to the said Board that, under the special Circumstances of any Land belonging to the Charity, a Sale or Exchange of such Land can be effected on such Terms as to increase the Income of the Charity, or would otherwise be advantageous to the Charity, such Board may, if they think fit, inquire into such Circumstances, and if after Inquiry they are satisfied that the proposed Sale or Exchange will be advantageous to the Charity may authorize the Sale or Exchange, and give such Directions in relation thereto, and for securing the due Investment of the Money arising from any such Sale, or by way of Equality of Exchange for the Benefit of the Charity, as they may think fit.

Board, under special Circumstances, may authorize Sale or Exchange of Charity Lands.

XXV. The said Board shall have Authority, upon such Application as aforesaid, to authorize the Sale to the Owners of the Land charged therewith of any Rentcharge, Annuity, or other periodical Payment charged upon Land and payable to or for the Benefit of any Charity, or applicable to Charitable Purposes, upon such Terms and Conditions as they may deem beneficial to the Charity, and to give such Directions for securing the due Investment of the Money arising from such Sale for the Benefit of the Charity, or for securing the due Application thereof to such Charitable Purposes, as they may think fit; and in like Manner the Trustees of any Charity, with

Board may authorize the Redemption of Rentcharges.

the Consent of the Board, may purchase any Rentcharge or other yearly Payment to which the Charity Estate is or shall be liable.

Leases, Sales, &c. authorized by the Board to be valid.

XXVI. The Leases, Sales, Exchanges, and other Transactions authorized by such Board under the Powers of this Act shall have the like Effect and Validity as if they had been authorized or directed by the express Terms of the Trust affecting the Charity.

Trustees of Charities enabled to purchase Sites for building from Owners under Disability, &c., according to the Provisions of Lands Clauses Consolidation Act, 1845.

XXVII. Where any Land shall be required for the Erection or Construction of any House or Building with or without Garden, Playground, or other Appurtenances, for the Purposes of any Charity, and the Trustees of the Charity shall be legally authorized to purchase and hold such Land, but by reason of the Disability of any Person having an Estate or Interest in such Land, or of any Defect in Title thereto, a valid and perfect Assurance of the same Land cannot be made to the Trustees of the Charity in the ordinary Manner, it shall be lawful for the Trustees of the Charity, with the Sanction of the said Board (such Sanction to be certified under the Hand of their Secretary), to take and purchase such Land according to the Provisions of "The Lands Clauses Consolidation Act, 1845;" and for that Purpose all the Clauses and Provisions of the last-mentioned Act with respect to the Purchase of Lands by Agreement, and with respect to the Purchase Money or Compensation coming to Parties having limited Interests, or prevented from treating, or not making a Title, and also with respect to Conveyances of Lands, so far as the same Clauses and Provisions respectively are applicable to the Cases contemplated by this Provision, shall be incorporated in this Act; and in all Cases contemplated by this Provision, the Expression "the Special Act" used in the said Clauses and Provisions of the said "Lands Clauses Consolidation Act" shall be construed to mean this Act; and the Expression "the Promoters of the Undertaking," used in the same Clauses and Provisions, shall be construed to mean the Trustees of the Charity in question.

In Cases of Charities the Incomes of which exceed 30*l*., Master of the Rolls and Vice Chancellors, upon Applications to them at Chambers, to have the same Jurisdiction as the

XXVIII. Where the Appointment or Removal of any Trustee, or any other Relief, Order, or Direction relating to any Charity of which the gross annual Income for the Time being exceeds Thirty Pounds, shall be considered desirable, and such Appointment, Removal, or other Relief, Order, or Direction might now be made or given by the Court of Chancery, in respect either of its ordinary or its special or statutory Jurisdiction, or by the Lord Chancellor intrusted with the Care and Commitment of the Custody of Lunatics, it shall be lawful for any Person authorized in this Behalf by the Order or Certificate of the said Board, or for the Attorney General,

General, to make Application (without any Information, Bill, or Petition,) to the Master of the Rolls or One of the Vice Chancellors sitting at Chambers, for such Order, Direction, or Relief as the Nature of the Case may require; and the Master of the Rolls or the Vice Chancellor to whom any such Application shall be made shall and may proceed upon and dispose of such Application in Chambers, save where he may think fit otherwise to direct, and shall and may have and exercise thereupon all such Jurisdiction, Power, and Authority, and make such Orders and give such Directions in relation to the Matter of such Application, as might now be exercised, made, or given by the Court of Chancery or by the Lord Chancellor intrusted as aforesaid, in a Suit regularly instituted, or upon Petition, as the Case may require; and the Master of the Rolls and Vice Chancellors respectively shall, in relation to such Applications as aforesaid, and the Proceedings thereon, (subject to any Rules which may be made by the Lord Chancellor, with the Advice and Consent of them or any Two of them,) have all such Powers of directing Matters to be heard in open Court, and of ordering what Matters shall be heard and investigated by themselves and their Chief Clerks respectively, and such other Powers and Authorities as by the Act of the last Session of Parliament, Chapter Eighty, are vested in or authorized to be exercised by them at Chambers, and the Provisions of the said Act applicable to Orders made by the Master of the Rolls or any of the Vice Chancellors at Chambers shall extend to all Orders so made under this Act: Provided always, that, save as may be otherwise provided by any Rules to be made by the Lord Chancellor, with such Advice and Consent as aforesaid, the Determinations of the Master of the Rolls and Vice Chancellors respectively upon and in relation to such Applications as aforesaid shall not be subject to Appeal in any Case where the gross annual Income of the Charity does not exceed One hundred Pounds: Provided also, that it shall be lawful for the Master of the Rolls or any Vice Chancellor, where under the Circumstances of any Application as aforesaid he may so see fit, to direct that for obtaining the Relief, Order, or Direction sought for by such Application an Information, Bill, or Petition, as the Case may require, shall be filed or presented and prosecuted as now by Law required, and to abstain from further Proceeding on such Application.

Court of Chancery or Lord Chancellor now has upon Information, &c.

15 & 16 Vict. c. 80.

Provision as to Charities within the Jurisdiction of the Court of Chancery of the County Palatine of Lancaster.

XXIX. The Jurisdiction created and given by this Act to the Master of the Rolls and the Vice Chancellors sitting in Chambers, upon any Application to them respectively as aforesaid, shall extend concurrently to and may be exercised by the Chancellor of the Duchy and County Palatine of *Lancaster*, and the Vice Chancellor of the same County Palatine respectively for the Time being,

being, as to every Charity within the Jurisdiction of the Court of Chancery of the said County Palatine whose gross annual Income for the Time being exceeds Thirty Pounds, upon Application being made to such Chancellor or Vice Chancellor respectively; and it shall be lawful for the Chancellor of the said Duchy and County Palatine, with the Concurrence of the Vice Chancellor of the same County Palatine, from Time to Time to make and issue any Rules and Orders for regulating the Modes of proceeding, and the Fees to be taken in respect of Proceedings under this Act.

Provisions as to Charities exceeding 30*l.* per Annum to extend to Charities in London not exceeding 30*l.*

XXX. Provided always, That the Provisions of this Act applicable to any Charity the gross annual Income whereof exceeds Thirty Pounds shall extend to any Charity established or administered or applicable to or for Objects or Purposes within the City of *London* the gross annual Income whereof does not exceed Thirty Pounds, in like Manner as if such Income exceeded that Amount.

Lord Chancellor, with the Advice of Master of the Rolls and Vice Chancellors, or Two of them, to make General Orders.

XXXI. It shall be lawful for the Lord Chancellor, with the Advice and Consent of the Master of the Rolls and Vice Chancellors, or any Two of them, to make and issue General Rules and Orders for regulating the Mode and Form of Applications at the Chambers of the Master of the Rolls and Vice Chancellors respectively under this Act, and the Proceedings thereon, and for determining in what Cases and under what Conditions and Restrictions the Determinations of the Master of the Rolls and Vice Chancellors respectively upon or in relation to such Applications shall be subject to Appeal, and the Fees and Allowances to Solicitors of the Court of Chancery, and the Fees to be payable in Money or by Stamps to the Officers of the said Court in respect of such Applications and Proceedings thereon; and such Rules and Orders may from Time to Time be varied by the like Authority, and all such Rules and Orders shall be deemed General Orders of the said Court.

District Courts of Bankruptcy and County Courts to have Jurisdiction in Cases of Charities the Incomes of which do not exceed 30*l.*

XXXII. Where any Charity of which the gross annual Income for the Time being does not exceed Thirty Pounds shall be established or administered or be applicable wholly or partially to or for Objects or Purposes within the District or any Two or more of the Districts of any District Court of Bankruptcy or of any County Court or Courts holden under the Act of the Session holden in the Ninth and Tenth Years of the Reign of Her Majesty, Chapter Ninety-five, and the Appointment or Removal of any Trustee, or any other Relief, Order, or Direction whatsoever concerning such Charity, shall be considered desirable, and such Appointment or Removal, or other Relief, Order, or Direction, might now be made or given by the Court of Chancery in respect either of its ordinary or its special or statutory

statutory Jurisdiction, or by the Lord Chancellor intrusted with the Care and Commitment of the Custody of Lunatics, it shall be lawful for any Person authorized in this Behalf by the Order or Certificate of the said Board, or for the Attorney General, to make Application to such District or County Court, or, as the Case may be, to any One of such District or County Courts, for such Order, Direction, or Relief as the Nature of the Case may require; and such District or County Court shall entertain such Application, and shall hear the Matter in open Court, and shall give such Relief, and make such Orders and Directions in relation to the Matter of such Application, as might now be made or given by the Court of Chancery or by the Lord Chancellor, intrusted as aforesaid, in a Suit regularly instituted, or upon Petition, as the Case may require; and the Clerk of such County Court shall transmit a Copy of such Order or Direction to the Office in *London* of the Registrar of County Courts Judgments, to be there enrolled: Provided always, that no Judge of any District or County Court shall be authorized to vary any Decree, Order, or Direction of the Court of Chancery, or of any Judge thereof, or to make or give any Order or Direction inconsistent or conflicting with any such Decree, Order, or Direction: Provided also, that where Two or more District or County Courts shall have concurrent Jurisdiction with respect to any Charity under this Act, no Application in respect of such Charity shall be made to or entertained by more than One of such District or County Courts at the same Time.

Deputy sitting for County Court Judge not to exercise Jurisdiction.

XXXIII. The Jurisdiction hereby created and conferred on the County Courts with respect to any Charity shall not be exercised by any Deputy or other Person who may for the Time being be appointed to sit and shall be sitting for any such Judge.

Where Two or more Courts have concurrent Jurisdiction, Board to direct to which Court Applications shall be made.

XXXIV. Where Two or more District Courts of Bankruptcy or County Courts shall concurrently have Jurisdiction under this Act with respect to any Charity, it shall be lawful for the said Board to order to which of such Courts any Application with respect to such Charity shall be made; and every such Order shall be conclusive as to the Jurisdiction with respect to the Application referred to in such Order.

Board may direct Cases within the Jurisdiction of a District or County Court to be taken before

XXXV. It shall be lawful for the said Board to direct that any Application as to any Charity within the Jurisdiction of any District Court of Bankruptcy or County Court shall be made before a Judge of the Court of Chancery, or as to any Charity within the Jurisdiction of the Court of Chancery of the County Palatine of *Lancaster*, either before the Chancellor or the Vice Chancellor of the same

a Judge of the Court of Chancery in the first instance.

same County Palatine, or before a Judge of the High Court of Chancery, according to the Provisions herein contained applicable to a Charity the gross annual Income whereof exceeds Thirty Pounds, and in such Case such Application shall be made and may be heard and determined accordingly, in like Manner as if the gross annual Income of such Charity exceeded Thirty Pounds; and upon the Production of the Order or Certificate containing such Direction, or of a Copy thereof, the Application with respect to which such Order or Certificate shall have been made shall not be entertained or proceeded with by such District or County Court.

No Order of District or County Court for the Appointment or Removal of Trustees or Approval of a Scheme to be valid unless confirmed by Board.

XXXVI. Whenever any Order or Decision is made by any District Court of Bankruptcy or County Court for the Appointment or Removal of any Trustee of any Charity, or approving of any Scheme for regulating or directing the Administration of any Charity, or the Estate, Funds, Property, or Income thereof, a Copy of every such Order or Decision shall immediately upon the making thereof be delivered or transmitted by the Deputy Registrar of such District Court or by the Clerk of the County Court, as the Case may be, together with all requisite Particulars, to the said Board, for the Purpose of being considered by them; and no such Order or Decision shall be valid or effectual until the same shall have been approved by the said Board, such Approval to be testified by a Certificate in Writing, signed by the Secretary of the said Board, and no such Approval shall issue from the said Board until One Calendar Month shall have elapsed after the Receipt by the Board of such Copy and Particulars.

Board, if dissatisfied with the Order of District or County Court may remit the Case for Reconsideration, or may transfer the Matter to a Judge of the Court of Chancery.

XXXVII. In case any such Order or Decision as last aforesaid of any District Court of Bankruptcy or County Court shall not be approved by the said Board, it shall be lawful for such Board to remit the same for Reconsideration and Decision by such District or County Court, with such Remarks and Recommendations thereon (if any) as shall seem fit and expedient to such Board, or, in the Discretion of the Board, to order and direct that the Subject Matter to which such Order or Decision relates, together with such Order or Decision, shall be submitted to the Consideration and Decision of a Judge of the Court of Chancery, and in such last-mentioned Case no further Proceedings shall be had or taken in the District or County Court with respect to the Matter in question; and in case the Order or Decision of the District or County Court, on the Reconsideration of any Order or Decision so remitted for Reconsideration, be disapproved as aforesaid by the said Board, such Board shall refer such Orders and Decisions, and the Subject Matter thereof, to a Judge of the Court of Chancery, or, as to any Charity within the Jurisdiction of the Court of

of Chancery of the County Palatine of *Lancaster*, either to the Chancellor or the Vice Chancellor of the same County Palatine, or to a Judge of the High Court of Chancery; and where any Order or Decision is referred to a Judge of the Court of Chancery, or of the Court of Chancery of the said County Palatine of *Lancaster*, under this Provision, such Judge shall have and exercise all such Jurisdiction, Power, and Authority in relation thereto as in the Case of a Charity the gross annual Income whereof exceeds Thirty Pounds, and may make such Order in relation to the Matter of such Order or Decision as to him may seem proper.

How Orders of District or County Court under this Act to be enforced.

XXXVIII. Subject to any Orders to be made by the Lord Chancellor as herein-after mentioned, and to the other Provisions of this Act, all Proceedings to be taken in any District Court of Bankruptcy or County Court, and all Orders and Directions to be made or given by any such District Court or County Court by virtue of the Jurisdiction hereby created and conferred on such Court, shall respectively be subject to the same Rules and Regulations, and have the same Effect, and be registered, enforced, and executed in the same Manner, as the other Proceedings, Orders, Judgments, and Directions of the same Court under its ordinary Jurisdiction, and it shall be lawful for any such District Court, or for any County Court, with the Consent of the Board, to rescind or vary any Order which shall have been previously made by such Court, without Prejudice to any Act or Matter in the meantime done under such Order; and for executing and putting in force any Order to be made by any County Court under this Act, every Judge of any such Court shall and may have and exercise all such Powers as by the Act of the Session holden in the Ninth and Tenth Years of Her Majesty, Chapter Ninety-five, are given for enforcing the Payment of any Debt, Damages, or Costs under the said Act.

Appeal.

XXXIX. Where any Person authorized to make any Application under this Act, (other than Her Majesty's Attorney General acting *ex officio*,) or any other Person who may have been made a Party to any Proceeding upon any Application under this Act, is aggrieved by or dissatisfied with any Order made by any District Court of Bankruptcy or County Court upon any such Application, or any Proceeding thereon, he may, within One Calendar Month after the making of such Order, give Notice in Writing to the said Court, and also to the said Board, that he is desirous to appeal against the same; and if the said Board think it reasonable and proper that such Appeal should be entertained, and give a Certificate to that Effect, such District or County Court shall suspend any Proceedings upon the Order appealed against during such Time as the Circumstances may require; and the said Board, if they so think fit, may require the Person giving any

a Judge of the Court of Chancery in the first instance.

same County Palatine, or before a Judge of the High Court of Chancery, according to the Provisions herein contained applicable to a Charity the gross annual Income whereof exceeds Thirty Pounds, and in such Case such Application shall be made and may be heard and determined accordingly, in like Manner as if the gross annual Income of such Charity exceeded Thirty Pounds; and upon the Production of the Order or Certificate containing such Direction, or of a Copy thereof, the Application with respect to which such Order or Certificate shall have been made shall not be entertained or proceeded with by such District or County Court.

No Order of District or County Court for the Appointment or Removal of Trustees or Approval of a Scheme to be valid unless confirmed by Board.

XXXVI. Whenever any Order or Decision is made by any District Court of Bankruptcy or County Court for the Appointment or Removal of any Trustee of any Charity, or approving of any Scheme for regulating or directing the Administration of any Charity, or the Estate, Funds, Property, or Income thereof, a Copy of every such Order or Decision shall immediately upon the making thereof be delivered or transmitted by the Deputy Registrar of such District Court or by the Clerk of the County Court, as the Case may be, together with all requisite Particulars, to the said Board, for the Purpose of being considered by them; and no such Order or Decision shall be valid or effectual until the same shall have been approved by the said Board, such Approval to be testified by a Certificate in Writing, signed by the Secretary of the said Board, and no such Approval shall issue from the said Board until One Calendar Month shall have elapsed after the Receipt by the Board of such Copy and Particulars.

Board, if dissatisfied with the Order of District or County Court may remit the Case for Reconsideration, or may transfer the Matter to a Judge of the Court of Chancery.

XXXVII. In case any such Order or Decision as last aforesaid of any District Court of Bankruptcy or County Court shall not be approved by the said Board, it shall be lawful for such Board to remit the same for Reconsideration and Decision by such District or County Court, with such Remarks and Recommendations thereon (if any) as shall seem fit and expedient to such Board, or, in the Discretion of the Board, to order and direct that the Subject Matter to which such Order or Decision relates, together with such Order or Decision, shall be submitted to the Consideration and Decision of a Judge of the Court of Chancery, and in such last-mentioned Case no further Proceedings shall be had or taken in the District or County Court with respect to the Matter in question; and in case the Order or Decision of the District or County Court, on the Reconsideration of any Order or Decision so remitted for Reconsideration, be disapproved as aforesaid by the said Board, such Board shall refer such Orders and Decisions, and the Subject Matter thereof, to a Judge of the Court of Chancery, or, as to any Charity within the Jurisdiction of the Court of

of Chancery of the County Palatine of *Lancaster*, either to the Chancellor or the Vice Chancellor of the same County Palatine, or to a Judge of the High Court of Chancery; and where any Order or Decision is referred to a Judge of the Court of Chancery, or of the Court of Chancery of the said County Palatine of *Lancaster*, under this Provision, such Judge shall have and exercise all such Jurisdiction, Power, and Authority in relation thereto as in the Case of a Charity the gross annual Income whereof exceeds Thirty Pounds, and may make such Order in relation to the Matter of such Order or Decision as to him may seem proper.

How Orders of District or County Court under this Act to be enforced.

XXXVIII. Subject to any Orders to be made by the Lord Chancellor as herein-after mentioned, and to the other Provisions of this Act, all Proceedings to be taken in any District Court of Bankruptcy or County Court, and all Orders and Directions to be made or given by any such District Court or County Court by virtue of the Jurisdiction hereby created and conferred on such Court, shall respectively be subject to the same Rules and Regulations, and have the same Effect, and be registered, enforced, and executed in the same Manner, as the other Proceedings, Orders, Judgments, and Directions of the same Court under its ordinary Jurisdiction, and it shall be lawful for any such District Court, or for any County Court, with the Consent of the Board, to rescind or vary any Order which shall have been previously made by such Court, without Prejudice to any Act or Matter in the meantime done under such Order; and for executing and putting in force any Order to be made by any County Court under this Act, every Judge of any such Court shall and may have and exercise all such Powers as by the Act of the Session holden in the Ninth and Tenth Years of Her Majesty, Chapter Ninety-five, are given for enforcing the Payment of any Debt, Damages, or Costs under the said Act.

Appeal.

XXXIX. Where any Person authorized to make any Application under this Act, (other than Her Majesty's Attorney General acting *ex officio*,) or any other Person who may have been made a Party to any Proceeding upon any Application under this Act, is aggrieved by or dissatisfied with any Order made by any District Court of Bankruptcy or County Court upon any such Application, or any Proceeding thereon, he may, within One Calendar Month after the making of such Order, give Notice in Writing to the said Court, and also to the said Board, that he is desirous to appeal against the same; and if the said Board think it reasonable and proper that such Appeal should be entertained, and give a Certificate to that Effect, such District or County Court shall suspend any Proceedings upon the Order appealed against during such Time as the Circumstances may require; and the said Board, if they so think fit, may require the Person giving any

any such Notice of Appeal to become bound with Two sufficient Sureties, to be approved by the Deputy Registrar of such District Court, or by the Clerk of the County Court, as the Case may be, to the Treasurers of the said Courts respectively, or such other Person as the said Board may see fit, in such Sum as to the said Board shall seem reasonable, to pay such Costs of the Proceedings on the Appeal as shall be ordered to be paid by such Appellant, and also (if the said Board so think fit) to indemnify the Charity against the Costs and Expenses of or attending such Appeal; and every Bond executed under this Provision shall be exempt from Stamp Duty: Provided always, that it shall be lawful for Her Majesty's Attorney General (acting *ex officio*), at any Time within Three Calendar Months after the making of any Order by a District Court or County Court under this Act, to lodge and commence and prosecute an Appeal against such Order, without giving any such Notice or becoming bound as aforesaid, and every such last-mentioned Appeal shall thereupon be allowed by the Order of such District or County Court, and shall have such other Effect as any other Appeal under this Act.

Proceedings on Appeal.

XL. Where any Order allowing an Appeal has been made as aforesaid, the Person thereby allowed to appeal shall within Three Calendar Months present a Petition to the Court of Chancery, setting forth the Order appealed against, and the Order allowing such Appeal, and praying such Relief as the Case may require; and upon the hearing of such Petition the Court may confirm, vary, or reverse the Order appealed against, or may remit such Order to the District Court of Bankruptcy or County Court by which the same was made, with or without any Declaration or Directions of the Court of Chancery in relation thereto, or may proceed in relation to the Charity to which such Order relates as in the Case of an Application under this Act to a Judge of the Court of Chancery at Chambers, and any Judge of such Court sitting at Chambers or in open Court may make or give any such Orders or Directions in relation to the Matter of such Order as he may see fit, or the Court may make such other Order in relation to the Matter of any such Appeal as to the Court may seem just, and as might be made in the Case of a Suit regularly instituted, or a Petition, as the Case may require; and in case the Party allowed to appeal do not within such Three Calendar Months present such Petition of Appeal, the Order against which such Appeal was allowed shall be final; and in case any Costs adjudged on any such Appeal to be paid by the Party allowed to appeal be not paid, such Bond as aforesaid may be put in Suit, and the Money to be recovered on every such Bond shall be applied to indemnify the Charity Estate or the Person damnified, or otherwise in such Manner as the Justice of the

Bond to prosecute Appeal may be put in Suit.

the Case may require, and the Court or Judge by whom such Appeal may have been heard shall think fit.

No Chancery Judge, or District or County Court, in Proceedings under this Act to try Titles, &c.

XLI. Provided always, That no Judge of the Court of Chancery, nor any District Court of Bankruptcy or County Court, shall upon any Proceedings under this Act have Jurisdiction to try or determine the Title at Law or in Equity to any Real or Personal Property, or any Term or Interest therein, as between any Charity, or the Trustee thereof, and any Person holding or claiming such Real or Personal Property, Term, or Interest adversely to such Charity, or to try or determine any Question as to the Existence or Extent of any Charge or Trust.

Notice to be published of Application for Schemes or Appointment or Removal of Trustees under this Act.

XLII. Before any Application shall be made to any Judge of the Court of Chancery, or to any District Court of Bankruptcy or County Court, under any of the Provisions herein contained for the Establishment or Alteration of a Scheme or the Appointment or Removal of any Trustees or Trustee, Notice in Writing of such intended Application shall be given in such Form and Manner as the said Board shall have directed; and if the Order be that such Notice be affixed to or near the Door of any Parish or District Church, the Incumbent and Churchwardens of such Parish or District are hereby respectively required to allow such Notice to be affixed and to remain so affixed during such Period, not less than Fifteen Days, as the said Board shall have ordered; and in any Case in which the Order shall be that such Notice shall be affixed to any Place, Evidence that the same has been so affixed shall be deemed and taken as *primâ facie* Evidence that it has remained affixed during the Period prescribed by the Board.

By whom Applications may be made.

XLIII. Every Application to any Judge or Court under the Jurisdiction created or conferred by any of the Provisions of this Act, may be made by Her Majesty's Attorney General, or, subject to the Provisions aforesaid, by all or any One or more of the Trustees or Persons administering or claiming to administer, or interested in, the Charity which shall be the Subject of such Application, or any Two or more Inhabitants of any Parish or Place within which the Charity is administered or applicable; and it shall be lawful for Her Majesty's Attorney General for the Time being, acting *ex officio*, to make Application by Petition to the Court of Chancery with respect to any Charity under the Provisions of the Act passed in the Fifty-second Year of King *George* the Third, Chapter One hundred and one, or under the Provisions of any Act or Acts passed or to be passed authorizing the Application to the same Court by Petition according to the Provisions of the said Act.

Attorney General may Petition under 52 G. 3. c. 101.

XLIV. For

any such Notice of Appeal to become bound with Two sufficient Sureties, to be approved by the Deputy Registrar of such District Court, or by the Clerk of the County Court, as the Case may be, to the Treasurers of the said Courts respectively, or such other Person as the said Board may see fit, in such Sum as to the said Board shall seem reasonable, to pay such Costs of the Proceedings on the Appeal as shall be ordered to be paid by such Appellant, and also (if the said Board so think fit) to indemnify the Charity against the Costs and Expenses of or attending such Appeal; and every Bond executed under this Provision shall be exempt from Stamp Duty: Provided always, that it shall be lawful for Her Majesty's Attorney General (acting *ex officio*), at any Time within Three Calendar Months after the making of any Order by a District Court or County Court under this Act, to lodge and commence and prosecute an Appeal against such Order, without giving any such Notice or becoming bound as aforesaid, and every such last-mentioned Appeal shall thereupon be allowed by the Order of such District or County Court, and shall have such other Effect as any other Appeal under this Act.

Proceedings on Appeal.

XL. Where any Order allowing an Appeal has been made as aforesaid, the Person thereby allowed to appeal shall within Three Calendar Months present a Petition to the Court of Chancery, setting forth the Order appealed against, and the Order allowing such Appeal, and praying such Relief as the Case may require; and upon the hearing of such Petition the Court may confirm, vary, or reverse the Order appealed against, or may remit such Order to the District Court of Bankruptcy or County Court by which the same was made, with or without any Declaration or Directions of the Court of Chancery in relation thereto, or may proceed in relation to the Charity to which such Order relates as in the Case of an Application under this Act to a Judge of the Court of Chancery at Chambers, and any Judge of such Court sitting at Chambers or in open Court may make or give any such Orders or Directions in relation to the Matter of such Order as he may see fit, or the Court may make such other Order in relation to the Matter of any such Appeal as to the Court may seem just, and as might be made in the Case of a Suit regularly instituted, or a Petition, as the Case may require; and in case the Party allowed to appeal do not within such Three Calendar Months present such Petition of Appeal, the Order against which such Appeal was allowed shall be final; and in case any Costs adjudged on any such Appeal to be paid by the Party allowed to appeal be not paid, such Bond as aforesaid may be put in Suit, and the Money to be recovered on every such Bond shall be applied to indemnify the Charity Estate or the Person damnified, or otherwise in such Manner as the Justice of the

Bond to prosecute Appeal may be put in Suit.

the Case may require, and the Court or Judge by whom such Appeal may have been heard shall think fit.

No Chancery Judge, or District or County Court, in Proceedings under this Act to try Titles, &c.

XLI. Provided always, That no Judge of the Court of Chancery, nor any District Court of Bankruptcy or County Court, shall upon any Proceedings under this Act have Jurisdiction to try or determine the Title at Law or in Equity to any Real or Personal Property, or any Term or Interest therein, as between any Charity, or the Trustee thereof, and any Person holding or claiming such Real or Personal Property, Term, or Interest adversely to such Charity, or to try or determine any Question as to the Existence or Extent of any Charge or Trust.

Notice to be published of Application for Schemes or Appointment or Removal of Trustees under this Act.

XLII. Before any Application shall be made to any Judge of the Court of Chancery, or to any District Court of Bankruptcy or County Court, under any of the Provisions herein contained for the Establishment or Alteration of a Scheme or the Appointment or Removal of any Trustees or Trustee, Notice in Writing of such intended Application shall be given in such Form and Manner as the said Board shall have directed; and if the Order be that such Notice be affixed to or near the Door of any Parish or District Church, the Incumbent and Churchwardens of such Parish or District are hereby respectively required to allow such Notice to be affixed and to remain so affixed during such Period, not less than Fifteen Days, as the said Board shall have ordered; and in any Case in which the Order shall be that such Notice shall be affixed to any Place, Evidence that the same has been so affixed shall be deemed and taken as *primâ facie* Evidence that it has remained affixed during the Period prescribed by the Board.

By whom Applications may be made.

XLIII. Every Application to any Judge or Court under the Jurisdiction created or conferred by any of the Provisions of this Act, may be made by Her Majesty's Attorney General, or, subject to the Provisions aforesaid, by all or any One or more of the Trustees or Persons administering or claiming to administer, or interested in, the Charity which shall be the Subject of such Application, or any Two or more Inhabitants of any Parish or Place within which the Charity is administered or applicable; and it shall be lawful for Her Majesty's Attorney General for the Time being, acting *ex officio*, to make Application by Petition to the Court of Chancery with respect to any Charity under the Provisions of the Act passed in the Fifty-second Year of King *George* the Third, Chapter One hundred and one, or under the Provisions of any Act or Acts passed or to be passed authorizing the Application to the same Court by Petition according to the Provisions of the said Act.

Attorney General may Petition under 52 G. 3. c. 101.

XLIV. For

Statement in Certificate of Board of the Amount of Income of any Charity to be sufficient Evidence for determining the Jurisdiction or Proceedings under this Act.

XLIV. For the Purposes of determining the Jurisdiction under this Act with respect to any Charity, or the Right to appeal from the Determination of a Judge of the Court of Chancery, it shall be lawful for the said Board to declare, according to such Judgment as they may be able to form upon the Returns or Statements before them in relation to any Charity, whether the gross annual Income for the Time being of such Charity does or does not exceed Thirty Pounds or One hundred Pounds, (as the Case may require,) and a Statement in any Certificate or Order of the said Board that according to such Judgment as aforesaid the gross yearly Income of any Charity does or does not exceed Thirty Pounds or One hundred Pounds shall be sufficient Evidence of the Amount of the gross annual Income of such Charity, for the Purpose of determining such Jurisdiction or Right to appeal as aforesaid; and any Certificate or Order made by the said Board under this Act, authorizing any Proceeding or Application concerning any Charity to be taken or made to any District Court of Bankruptcy or County Court or to the Court of Chancery or any Judge thereof, shall state that the gross annual Income for the Time being of such Charity does not exceed Thirty Pounds, or does exceed Thirty Pounds (as the Case may be): Provided always, that where any Charity, or the Trustees thereof, in addition to the principal Endowment for its general Objects and Purposes, shall be possessed of or entitled to any other Endowment for any particular or special Object or Purpose arising out of or in its Nature or Application connected with the general Objects or Purposes of such Charity, it shall be lawful for the said Board, having regard to the Circumstances of each such Case, and to the Object and Extent of the proposed Application and Litigation, to determine whether such Endowment for such particular or special Object or Purpose should, for the Purposes of Jurisdiction and Proceedings under this Act, be considered and treated as forming Part of the general Endowment of the Charity, or as a separate or independent Charity, and such Board shall frame their Certificate or Order accordingly.

Proviso as to particular Endowments.

Lord Chancellor to make Orders for regulating Proceedings before District and County Courts. Judges to regulate Proceedings.

XLV. The Lord Chancellor shall make such Orders for regulating Proceedings by and before the Judges of District Courts of Bankruptcy and County Courts under this Act, and for fixing and determining the Fees to be taken in respect of such Proceedings, as he may see fit; and, subject to such Orders, such Judges may regulate the Proceedings before them respectively so as to render them as summary and inexpensive as conveniently may be.

Reservation of Rights and Privileges of

XLVI. Nothing herein contained shall diminish or detract from any Right or Privilege which by any Rule or Practice of the Court of Chancery,

Church of England with respect to Charities.

Chancery, or by the Construction of Law, now subsists for the Preference or the exclusive or special Benefit of the Church of *England*, or the Members of the same Church, in settling any Scheme for the Regulation of any Charity, or in the Appointment or Removal of Trustees, or generally in the Application or Management of any Charity.

Secretary to be Treasurer of Charities; such Treasurer to be a Corporation.

XLVII. The Secretary for the Time being of the said Board shall by virtue of his Appointment be the Treasurer of Public Charities; and such Treasurer shall, for the Purposes of taking, holding, conveying, assigning, transferring, and transmitting Real Property, including Leaseholds for Lives or Years, be a Corporation Sole by the Name of "The Treasurer of Public Charities," and by that Name shall have perpetual Succession, and plead and be impleaded before all Courts, Justices, and others.

Land holden upon trust for a Charity, subject to Jurisdiction of Court of Chancery and of Judge, may be vested in Treasurer.

XLVIII. Where any Land, or any Term or Estate therein, holden upon trust for any Charity, shall be vested in any Persons other than the Persons acting in the Administration and Application of the Rents; or where there shall be no Trustees thereof, or the Trustees, or any of them, shall be unwilling to act, or it shall be uncertain in whom such Land, Term or Estate, shall be vested, or all or any of the Persons in whom such Land, Term or Estate, shall be vested, cannot be found, or shall be under Age, lunatic, or of unsound Mind, (whether found such by Inquisition or not), or otherwise incapable of acting, or shall be out of the Jurisdiction or not amenable to the Process of the Court of Chancery, or where by reason of the reduced Number of Trustees or other Causes a valid Appointment of new Trustees cannot be made, or where by reason of the Expenses incident to the Appointment of new Trustees, and the Conveyance or Assignment of such Land, Term or Estate, to such new Trustees, it shall appear to the Court of Chancery, or to any Judge of such Court or of any Court having Jurisdiction with respect to such Charity under this Act, desirable so to do, such Court or Judge may order that such Land, Term or Estate, be vested in such Treasurer, and thereupon the same shall vest in such Treasurer and his Successors for all the Estate and Interest holden in trust for the Charity as aforesaid, without any Conveyance or Assurance thereof; but no such Vesting Order as aforesaid shall be made in respect of any Land, or Term or Estate as aforesaid, holden in trust as aforesaid, vested in a Corporation, without the Consent of the Corporation; and no such Vesting Order shall take effect in respect of any Copyhold Land without the Consent of the Lord of the Manor; and the Court of Chancery, or such Judge, may direct such periodical or other Payment, as such Court or Judge may think fit, to be made to the Lord of the Manor, in

Proviso.

in compensation for Fines or other Profits which would have become due upon Death or Admittance of Tenants.

Orders may be made re-vesting Land, &c. in the Trustees of the Charity.

XLIX. It shall be lawful for any Court or Judge by whom respectively any such Vesting Order may have been made, or for any other Court or Judge having Jurisdiction in the Matter, if it shall so seem fit to such Court or Judge, from Time to Time to order that all or any Part of the Land, Term or Estate, which shall for the Time being be vested in the said Treasurer by virtue of any such Vesting Order as aforesaid, shall be devested, and that the same shall be vested in the acting Trustees or Trustee for the Time being of the Charity; and such last-mentioned Order shall operate to vest such Land, Term and Estate, in the Trustees or Trustee therein named without any Conveyance or Assurance.

Treasurer to be a Bare Trustee.

L. Subject to the Orders and Directions of the Court of Chancery or of any such Judge, such Treasurer shall be deemed a Bare Trustee, and shall permit the Persons acting in the Administration of the Charity to have the Possession, Management, and Control of the Trust Estates, and the Application of the Income thereof, as if the same had been vested in them.

Judge may order Trustees, &c. holding Stock, &c. belonging to a Charity subject to his Jurisdiction to transfer same to official Trustees.

LI. The Secretary for the Time being of the said Board, and such other public Officer or Officers as the Lord Chancellor shall appoint, shall be official Trustees of Charitable Funds, and where Trustees or other Persons having in their Names, or in the Name of any deceased Person of whom they are Representatives, in the Books of the Bank of *England*, or of the *East India* or *South Sea* Company, or of any other public Company, any Annuities, Stock, or Shares, or holding any Government or Parliamentary or other Securities in trust for any Charity, shall be desirous to transfer or deposit the same to or with the said official Trustees in trust for such Charity, or where any Persons shall be desirous of transferring or depositing as aforesaid any Annuities, Stocks, Shares, or Securities for discharging any Legacy or Charge given or made to or for the Benefit of any Charity, or where it shall appear to the Court of Chancery, or to any Judge of such Court, or of any District Court of Bankruptcy, or County Court having Jurisdiction under this Act, that any Annuities, Stock, Shares, or Securities held in trust for any Charity ought, for the Purpose of Security or convenient Administration, to be transferred or deposited as aforesaid, it shall be lawful for such Court or Judge to order the Transfer or Deposit of such Annuities, Stock, Shares, or Securities to or with such official Trustees.

Secretary to keep separate Accounts of

LII. The Secretary of the said Board shall keep separate Accounts of the Annuities, Stock, Shares, and Securities belonging to

Funds of each Charity.

to each separate Charity, and the said official Trustees shall pay the Dividends or Interest or Income thereof to the Trustees or Persons acting in the Administration of such Charity, or otherwise dispose thereof, and transfer such Annuities, Stock, Shares, or Securities (when Occasion shall require), as the Court of Chancery, or any Judge of such Court, or of any District Court of Bankruptcy, or County Court having Jurisdiction under this Act, or other lawful Authority, shall direct.

Trustees may deposit Deeds, &c. for Security in a Repository provided by the Board.

LIII. It shall be lawful for any Trustees or other Persons having the Custody of any Deeds or Muniments of or relating to such Charity to deposit the same for Security in a Repository which may be provided by the said Board, subject to any Regulations to be made by the said Board under this Act.

Power to Board to frame Schemes for the Appropriation of Charitable Property to varied Trusts.

LIV. Where upon the Application of any Trustees or other Persons concerned in the Management or Administration of any Charity, or interested in the Benefits thereof (and after such Examination or Inquiry as the Board may think necessary in relation thereto), or upon any Report of an Inspector, or Information otherwise obtained by the said Board under this Act, with relation to any Charity, it shall appear to the said Board to be desirable to have a new Scheme for the Application or Management of the Charity, and such new Scheme as contemplated or considered desirable by the Board cannot be, or it shall in the Opinion of the Board be doubtful whether it can be carried into complete effect by the Court of Chancery, or by any District or County Court under the Jurisdiction created by this Act, or otherwise than by the Authority of Parliament, it shall be lawful for the said Board in every such Case provisionally to approve and certify such new Scheme in the Manner and subject to the Regulations herein-after mentioned.

Notice to be given before Approval of Schemes, and Objections may be submitted for the Consideration of the Board.

LV. One Month at least before any such new Scheme shall be so provisionally approved, Notice thereof shall be given in such Manner as the Board may in each Case consider proper or expedient for ensuring due Publicity, and every such Notice shall contain such Particulars of the proposed Scheme as the said Board think fit, and as shall be deemed by the said Board sufficient to show the Nature of such Scheme, and where the Nature thereof cannot conveniently be shown in the said Notice, such Notice shall refer to some convenient Place within the Parish or District, and to the Office in *London* of the Registrar of County Courts, Judgments, where a Copy of the proposed Scheme shall be deposited and may be inspected, and every such Notice shall require any Objections to such Scheme to be stated or transmitted to the said Board or their Secretary within One Month from the Time when the Notice shall have been given.

Board may alter or modify or approve of Schemes.

LVI. If after such Notice as aforesaid any Objections or Suggestions shall be made, the Board shall consider the same, and may thereupon, if to them it shall seem fit, alter or modify the Scheme according to any such Objections or Suggestions; and after all such Objections and Suggestions, if any, have been disposed of, or if no such Objections or Suggestions shall have been made, the Board, in case they shall not think fit to refer such Scheme to an Inspector under the Provision next herein-after contained, may proceed to approve such Scheme, and to certify the same in manner herein-after mentioned.

The Matter of Schemes may be referred to an Inspector for Local Inquiry.

LVII. Upon the Requisition of any Person interested in the Charity in question (in case the said Board after due Consideration shall be of Opinion that there are sufficient Grounds for complying with such Requisition), or in any other Case, if the said Board shall consider it desirable, the Matter of any Scheme in question may be referred by the said Board to One of their Inspectors, and such Inspector shall thereupon proceed to make a local Inquiry and Examination into the Matter of the Scheme in question, and for the Purposes of such Inquiry, such Inspector may hold a Sitting or Sittings in some convenient Place in the Parish or One of the Parishes or the District to or in which respectively the Charity in question is wholly or partially situated or is administered, and may take and receive any Evidence and Information, and hear and inquire into any Objections or Questions relating to the Scheme of Charity in question, and may from Time to Time adjourn any such Sitting, and public Notice shall be given by such Inspector of every such Sitting (except an adjourned Sitting) Fourteen Days at the least before the holding thereof, in such other Mode as in the Judgment of the said Board shall be sufficient to ensure Publicity.

Inspectors to report the Result of Inquiry to the Board.

LVIII. Every Inspector to whom any such Matter shall be referred shall report in Writing to the said Board the Result of his Inquiry, and whether in his Opinion the Scheme in question should be approved with or without any Alteration or Modification thereof, and such Report shall specify or indicate the Alterations (if any) which such Inspector shall consider desirable, with the Reasons for the same, and also the Nature of the Objections (if any) which shall have been made to the Scheme, and the Opinion of the said Inspector thereon, and the said Board shall consider such Report, and if, as the Result of such Report or after further Inquiry, they shall be satisfied therewith, they may proceed to approve the Scheme in question either with or without any Alteration, and to certify the same in manner herein-after mentioned.

Schemes when approved to be certified by the Board.

LIX. Every Scheme to be approved by the said Board shall be certified by them, and for that Purpose shall be embodied in a Certificate to be made by the said Board, and sealed with their Seal; and in every Case a Copy of such Certificate shall be deposited in some convenient Place within the Parish or One of the Parishes or the District in which the Charity in question shall wholly or partially be situated or administered, and at the Office in *London* of the Registrar of County Courts Judgments, and a Notice shall also be given, in such Manner as the Board shall direct, which Notice shall refer to the Certificate so deposited, and shall state the Intention of the Board to proceed with the Scheme thereby certified.

Copy of such Certificate to be deposited in the Parish or District, and Notice given.

Annual Report to be laid before Parliament, which shall set forth all the Schemes approved

LX. The said Board shall in the Month of *February* in every Year make a Report to Her Majesty of all their Proceedings during the preceding Year up to the Thirty-first Day of *December* then last, and such Report shall, within Fourteen Days after the making thereof, be laid before both Houses of Parliament, if Parliament be then sitting, or otherwise within Fourteen Days after the Meeting thereof; and in such Report the said Board shall specially distinguish and set forth in full all the Schemes (if any) approved by them under the Provisions lastly herein-before contained, together with the Grounds of such their Approval, and the Objections (if any) which have been made thereto, and all Proceedings had in respect of such Objections and the Grounds on which any such Objections have been over-ruled; and in case it shall be enacted by any Act of Parliament that any such Scheme or Schemes so certified shall be confirmed and take effect, either with or without any Alterations or Modifications thereof respectively, every such Act shall be deemed a Public General Act.

Accounts of Trustees of Charities to be delivered to the Clerks of County Courts, Clerks of the Peace, and to the Board.

LXI. The Trustees or Persons acting in the Administration of every Charity shall, in Books to be kept by them for that Purpose, regularly enter or cause to be entered full and true Accounts of all Money received and paid respectively on account of such Charity, and on or before the Twenty-fifth Day of *March* in every Year, or on or before such other Day as shall or may be fixed and appointed for that Purpose by the said Board, shall cause a Statement in Writing to be made of the Income and Revenues, whether actually paid or then due, and the actual Receipts and Expenditure of such Charity for the Year ending on the Thirty-first Day of *December* then next preceding, or on some other convenient Day to be fixed and appointed for that Purpose by the said Board, and also a Balance Sheet containing a clear Statement of the Balance of such Account, which Statement and Balance Sheet respectively shall be certified under the Hand of some One or more of such Trustees or Persons (and audited by the Auditor of such Charity, if any there be); and as to every Charity whose gross annual Income for the Time being shall not exceed Thirty Pounds, every such Statement and Balance Sheet

Sheet respectively, or a Duplicate or true Copy thereof respectively, shall be delivered or sent by such Trustees or Persons free of Charge to the Clerk of the County Court or some One of the County Courts (if more than One) to whose Jurisdiction such Charity may be subject under this Act (in case such Charity be subject to the Jurisdiction of any County Court under this Act), or if such Charity be not subject to the Jurisdiction of any County Court, then to the Clerk of the County Court for the District or any One of the Districts (if more than One) wherein or nearest adjoining whereto such Charity is established, or the Property thereof (in whole or in part) is situate or administered and distributed; and as to every Charity whose gross annual Income for the Time being shall exceed Thirty Pounds, every such Statement and Balance Sheet, or a Duplicate or true Copy thereof respectively (unless the said Board shall otherwise direct), shall be delivered or sent free of Charge to the Clerk of the Peace for the County or the Division of the County, or some One of the Counties or Divisions of Counties (if more than One) in which the Charity is established, or the Property thereof is wholly or partially situated or administered and distributed; and every such Statement and Balance Sheet, or a Duplicate or true Copy thereof respectively, shall be kept and registered without Fee or Reward by the Registrar of County Courts Judgments or the Clerk of such County Court, and the Clerk of the Peace of such County or Division respectively, and shall be open to the Inspection of all Persons, at all seasonable Hours, on Payment of the Sum of One Shilling to the Registrar or Clerk for every such Inspection; and any Person may require and have a Copy of any such Statement and Balance Sheet, or of any Part thereof, paying therefor to such Registrar or Clerk after the Rate of Twopence for every Seventy-two Words or Figures; and a Duplicate or Copy of every such Statement and Balance Sheet to be made according to the foregoing Provision, so certified and audited as aforesaid, shall be delivered or transmitted, through the Post or otherwise, free of Charge, by such Trustees or other Persons, to the said Board, on or before the said Twenty-fifth Day of *March* in every Year, or such other Day as may be fixed and appointed by the said Board as aforesaid; and the said Board may from Time to Time by any Order direct that the Statement and Balance Sheet, or a Duplicate or true Copy thereof respectively, of the Accounts of any Charity whose gross annual Income exceeds Thirty Pounds shall be delivered or sent to the Clerk of the County Court in the same Manner as if the Income of such Charity did not exceed Thirty Pounds; and the said Board may make and give such further and other Orders and Directions in relation to the Delivery and Publication of such Accounts, and the Form thereof, as they may think fit,

fit, which Directions and Orders shall be obligatory on and obeyed by all such Trustees and Persons as aforesaid.

Exemptions from the Operation of Act.

LXII. This Act shall not extend to the Universities of *Oxford*, *Cambridge*, *London*, or *Durham*, or any College or Hall in the said Universities of *Oxford*, *Cambridge*, and *Durham*, or to any Cathedral or Collegiate Church, or to any Building registered as a Place of Meeting for Religious Worship with the Registrar General of Births, Deaths, or Marriages in *England* and *Wales*, and *bonâ fide* used as a Place of Meeting for Religious Worship; nor shall this Act, for the Period of Two Years from the passing thereof, extend or be in any Manner applied to Charities or Institutions, the Funds or Income of which are applicable exclusively for the Benefit of Persons of the Roman Catholic Persuasion, and which are under the Superintendence or Control of Persons of that Persuasion, nor shall this Act extend or be applied to the Commissioners of Queen *Anne's* Bounty, or to the *British Museum*, or to any Friendly or Benefit Society, or Savings Bank, or any Institution, Establishment, or Society for religious or other charitable Purposes, or to the Auxiliary or Branch Associations connected therewith, wholly maintained by voluntary Contributions, or any Bookselling or Publishing Business carried on by or under the Direction of any Society wholly or partially exempted from this Act, so far as such Business is or shall be carried on by means of voluntary Contributions only, or the Capital or Stock of such Business; and where any Charity is maintained partly by voluntary Subscriptions and partly by Income arising from any Endowment, the Powers and Provisions of the Act shall, with respect to such Charity, extend and apply to the Income from Endowment only, to the Exclusion of voluntary Subscriptions, and the Application thereof; and no Donation or Bequest unto or in trust for any such Charity as last aforesaid, of which no special Application or Appropriation shall be directed or declared by the Donor or Testator, and which may legally be applied by the governing or managing Body of such Charity as Income in aid of the voluntary Subscriptions, shall be subject to the Jurisdiction or Control of the said Board, or the Powers or Provisions of this Act; and no Portion of any such Donation or Bequest as last aforesaid, or of any voluntary Subscription, which is now or shall or may from Time to Time be set apart or appropriated and invested by the governing or managing Body of the Charity, for the Purpose of being held and applied or expended for or to some defined and specific Object or Purpose connected with such Charity, in pursuance of any Rule or Resolution made or adopted by the governing or managing Body of such Charity, or of any Donation or Bequest in aid of any Fund so set apart or appropriated for any such Object or Purpose as aforesaid, shall be

Provisions as to Charities supported partly by voluntary Subscriptions.

 subject

subject to the Jurisdiction or Control of the said Board or the Powers or Provisions of this Act; and nothing in this Act shall subject the Funds or Property of any Missionary or other similar Society, or the Missionaries, Teachers, or Officers of such Society, or of any Branch thereof, which Funds or Property shall not be within the Limits of *England* or *Wales*, to the Jurisdiction of the said Board: Provided always, that the said Exemption shall not extend to any Cathedral, Collegiate, Chapter, or other Schools.

Exempted Charities may petition Commissioners to have Benefit of Act.

LXIII. It shall be lawful for any of the Charities exempted from the Operation of this Act, by Order or Resolution duly made in conformity with the Constitution or Rules of such Charity (and which in that Case only shall be binding), to apply by Petition to the Commissioners to have the Benefit of this Act either generally or as to any of the Provisions herein contained; and such Petition shall be under the Seal of such Charity if incorporated, and if not, then under the Hands of the major Part of the Trustees and governing Body of such Charity; and in such Case it shall be lawful for the Commissioners, if they shall think fit, to make an Order in conformity with such Application, and such Charity shall thenceforth be entitled to and be bound by all the Provisions of this Act, if admitted generally thereto, or by such of the Enactments thereof as shall be mentioned and specified in such Order of the Commissioners, but in either Case in the same Manner as if such Charity had not been exempted from this Act, or such Exemption had not extended to the Enactments specified in such Order.

Disputes among Members of exempted Charities may be referred to Arbitration of Commissioners.

LXIV. Provided also, That if any Question or Dispute shall arise among the Members of any Charity exempted from the Operation of this Act in relation to any Office, or the Fitness or Disqualification of any Trustee or Officer, or his Election or Removal, or generally in relation to the Management of the Charity, it shall be lawful for Two Thirds of the Members present at any Special Meeting, duly convened by Notice for the Purpose in the same Manner in which Meetings of such Charity are by the Rules thereof appointed to be held and convened, to refer such Question or Dispute to the Arbitration of the Commissioners, who shall accept such Reference and act therein as Arbitrators, and their Award shall be final, and may be made a Rule of Her Majesty's High Court of Chancery.

Legal Estate of Lands now vested in Municipal Corporations on Charitable Trusts to be

LXV. The legal Estate in all Lands which at the Time of the passing of the Act of the Session holden in the Fifth and Sixth Years of King *William* the Fourth, Chapter Seventy-six, was vested in the Body Corporate of any Borough which became subject to the Provisions of the said Act, or in any One or more of the Members of such Body Corporate,

Corporate, in his or their corporate Capacity, solely or together with any Person or Persons elected solely by such Body Corporate, or solely by any particular Number, Class, or Description of Members of such Body Corporate, in whole or in part in trust or for the Benefit of any Charitable Uses or Trusts whatsoever, and which legal Estate shall not have been since duly conveyed or assured to and vested in the Trustees appointed by the Lord High Chancellor under the Provisions of the said Act, or such of them as shall be surviving and continuing Trustees, or otherwise lawfully conveyed, aliened, or disposed of by such Body Corporate or Member or Members thereof, shall from and immediately after the passing of this Act, and without any actual Conveyance, Assignment, or other Assurance thereof, be vested in the Trustees so appointed, or such of them as shall be surviving and continuing Trustees under such Appointment as aforesaid, according to the respective Estates and Interests therein, and subject to such and the same Charges and Incumbrances and upon such and the same Trusts as the same were respectively subject to previously to such vesting; and in every Case, upon the Death, Resignation, or Removal of any of the Trustees, and upon any Appointment of any new Trustee or Trustees respectively, the legal Estate in the same Lands, and in all other Lands subject to any such Charitable Uses or Trusts which may for the Time being be vested in the Trustees or any of them, or in any Persons or the Heirs or Devisees of any Person who may have died, resigned, or been removed, shall vest in the Persons who after such Death, Resignation, or Removal, and such Appointment of such new Trustee or Trustees respectively, shall continue or be the Trustees for the Time being, without any Conveyance or Assurance whatsoever. vested in Trustees. 5 & 6 W. 4. c. 76.

Interpretation of Terms.

LXVI. In the Construction of this Act, except where the Context or other Provisions of the Act may require a different Construction, the Expression "Court of Chancery" shall mean and include the Master of the Rolls and every Judge of the Court of Chancery in *England*; the Express on "Lord Chancellor" shall mean and include the Lord Chancellor of *Great Britain* and the Lord Keeper and Commissioners of the Great Seal of *Great Britain* for the Time being; the Expressions "District Court of Bankruptcy" and "District Court" shall mean and include every District Court of Bankruptcy established or to be established under the Act of the Fifth and Sixth Years of the Reign of Her present Majesty, Chapter Twenty-two, or under any other Act or Acts passed or to be passed for the Alteration or Amendment or the Extension of the same Act, or for the Establishment of any District Court or Courts of Bankruptcy in *England* or *Wales*, and every Commissioner or Judge of every such District Court; the Expression "County Court" shall mean and include every County Court

Court holden or established or to be holden or established under the Act of the Ninth and Tenth Years of Her Majesty, Chapter Ninety-five, or any Act or Acts passed or to be passed for the Alteration or Extension of the same Act, and every Judge of any such Court; the Expression "Charity" shall mean every endowed Foundation and Institution taking or to take Effect in *England* or *Wales*, and coming within the Meaning, Purview, or Interpretation of the Statute of the Forty-third Year of Queen *Elizabeth*, Chapter Four, or as to which, or the Administration of the Revenues or Property whereof, the Court of Chancery has or may exercise Jurisdiction; the Expression "Trustees" of any Charity shall mean and include every Person and Corporation seised or possessed of or entitled to any Real or Personal Estate, or any Interest therein, in trust for or for the Benefit of such Charity, or all or any of the Objects or Purposes thereof, and every Member of any such Corporation; and the Expression "the Board" shall mean the said Charity Commissioners sitting as a Board under this Act; and the Expression "Endowment" shall mean and include all Lands and Real Estate whatsoever, of any Tenure, and any Charge thereon, or Interest therein, and all Stocks, Funds, Monies, Securities, Investments, and Personal Estate whatsoever, which shall for the Time being belong to or be held in trust for any Charity, or for all or any of the Objects or Purposes thereof; and the Expression "Land" shall extend to and include Manors, Messuages, Buildings, Tenements, and Hereditaments, corporeal and incorporeal, of every Tenure and Description.

Extent of Act.

LXVII. This Act shall not extend to *Scotland* or *Ireland*.

Short Title.

LXVIII. This Act may be cited as "The Charitable Trusts Act, 1853."

LONDON:
Printed by GEORGE EDWARD EYRE and WILLIAM SPOTTISWOODE,
Printers to the Queen's most Excellent Majesty. 1853

ANNO DECIMO OCTAVO & DECIMO NONO

VICTORIÆ REGINÆ.

CAP. CXXIV.

An Act to amend the Charitable Trusts Act, 1853.

[14th *August* 1855.]

WHEREAS it is expedient to extend and amend the Charitable Trusts Act, 1853, as herein-after provided: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

I. "The Charitable Trusts Act, 1853," herein-after called "the principal Act," and this Act, shall be construed together as One Act, and any Provisions of the principal Act inconsistent with this Act are hereby repealed. 16 & 17 Vict. c. 137. and this Act to be construed together.

II. So much of the principal Act (Section IV.) as provides that after the Thirty-first Day of *March* One thousand eight hundred and fifty-seven an annual Salary shall be paid to One only of the Commissioners besides the Chief Commissioner is hereby repealed. Provision as to the Salary of One of the Commissioners repealed.

III. It shall be lawful for Her Majesty and Her Successors, under the Royal Sign Manual, to appoint additional Inspectors (not exceeding Three in Number) for the Purposes of this Act and the Charitable Trusts Act, 1853, and such additional Inspectors shall hold Office during Pleasure, and shall be possessed of the same Powers, Authorities, and Jurisdiction, and be entitled to the same Power to appoint additional Inspectors.

Privileges and Emoluments, as the Inspectors appointed under the said former Act of One thousand eight hundred and fifty-three.

The Acts of the Board, how to be authenticated.

IV. Every Act of the Board may be sufficiently authenticated by the Seal of the Commissioners, and the Signature of their Secretary, or in his Absence of the Chief Clerk.

Entries in and Extracts from the Books of the Board, how to be authenticated.

V. All Orders, Certificates, Schemes, and other Documents issued under the Seal of the Board shall be deemed and taken to be the Originals, and Copies thereof shall be entered in the Books of the Board, and all such Entries may be sufficiently certified by the Signature of the Secretary, or in his Absence of the Chief Clerk: Every Order, Certificate, Scheme, and other Document purporting to be sealed with the Seal of the Board shall be received in Evidence without further Proof; and any Writing purporting to be a Copy extracted from the said Books, and to be certified as aforesaid, shall be received in Evidence in like Manner.

The Powers of the Commissioners and Inspectors to inquire into Charities extended.

VI. The Board, or any Commissioner or Inspector, such Inspector acting under the Authority of the Board, may require written Accounts and Statements and Answers to Inquiries relating to any Charity, or the Property or Income thereof, to be rendered or made to them respectively by all or any of the following Persons; that is to say,

Trustees or Persons acting or concerned in the Administration of the Charity, its Property or Income, or in the Receipt or Payment of any Monies thereof:

Agents of any such Trustees or Persons:

Depositaries of any Funds or Monies of the Charity:

Persons in the beneficial Receipt of any Funds thereof, or of any Income or Stipend therefrom:

Persons having the Possession or Control of any Documents concerning the Charity or any Property thereof:

And the Board or the Commissioner or Inspector may require the Persons rendering or making any such Account, Statement, or Answer to verify the same by Oath or otherwise, and may administer such Oath: Provided always, that nothing herein contained shall extend to give to the said Board or their Inspectors any Power of requiring from any Person holding or claiming to hold any Property whatsoever adversely to any Charity, or free or discharged from any Charitable Trust or Charge, any Information, or the Production of any Deed or Document whatever, in relation to the Property so held or claimed adversely, or any Charitable Trust or Charge alleged to affect the same.

Power to require Trustees and

VII. The Board, or any Commissioner or Inspector acting as aforesaid, may require all or any such Trustees and Persons as aforesaid to

others to attend and be examined.

to attend before them respectively at such Times and Places as may be reasonably appointed, for the Purpose of being examined in relation to the Charity, and to answer such Questions as may be proposed to them, and to produce upon such Examination any Documents in their Custody or Power relating to the Charity or the Property thereof, and may examine upon Oath or otherwise all such Persons and all Persons voluntarily attending, and may administer such Oath: Provided always, that no Person shall be obliged to travel in obedience to any such Requisition more than Ten Miles from his Place of Abode.

Precepts or Orders for the preceding Purposes, how to be made.

VIII. All Requisitions made under the foregoing Authorities shall be made respectively by the Order of the Board, or by Precept, under the Hand of the Commissioner or Inspector making the same.

Persons not complying with Requisitions, &c. to be deemed guilty of a Contempt of the Court of Chancery.

IX. Any Person refusing or wilfully neglecting to comply with any such Requisition, or with any Order of the Board, made under the Provisions of this Act or the principal Act, or destroying or withholding any Document required to be produced or transmitted by him, shall be taken to be guilty of a Contempt of the High Court of Chancery, and shall be liable to be attached and committed by such Court, on summary Application by the Commissioners to the same Court or to any Judge thereof, and shall pay such Costs attending such Contempt as the said Court or Judge shall direct: Provided always, that the Court may at any Time discharge, on such Terms as it may deem just, any Person attached or committed on any such Application, or on any Application made under Section Fourteen of the principal Act.

Power to apportion Parochial Charities after Division of Parishes.

X. Where any Parish or Ecclesiastical District entitled to the Benefit of a Charity has or shall have been divided into separate Parishes or Ecclesiastical Districts, and no Apportionment of Charities originally applicable to the Parish or District so divided shall have been made by Parliament or other competent Authority, the Board, in respect of all Charities the gross annual Income whereof does not for the Time being exceed Thirty Pounds, may apportion the Benefit of the Charity between each new Parish or District, or any Portion thereof taken from the Parish or District originally entitled to the whole Benefit, and the Remainder of such last-mentioned Parish or District, in such Manner and such Proportions as, upon a Consideration of the Purposes of the Charity, the Population of each Parish or District, and other Circumstances, they may think fit, and may also apportion the principal Endowments between such Parishes or Districts, if it be thought fit, and may appoint separate Trustees of any Part of the Endowments.

Evidence as to annual Income of any Charity not

XI. The Certificate of the Board, that according to their Judgment the gross yearly Income of any Charity does not for the Time being exceed

exceeding 30*l*.

exceed Thirty Pounds, shall be sufficient Evidence of the Amount of such annual Income for the Purpose of determining the Jurisdiction under the foregoing Provision.

The Official Trustees of Charitable Funds may be empowered to call for Transfers to them of Stock, &c.

XII. Any Court or Judge having Jurisdiction to order the Transfer of Stock in the Public Funds, or Stock or Shares of any public Company, to the Official Trustees of Charitable Funds, shall have Power also to authorize such Trustees to call for a Transfer of and to transfer such Stock or Shares, and may also order the Payment to the same Trustees of any Principal Monies of any Charity, under the same Circumstances in which the Transfer of Stock to them may now be ordered.

Notices to be given of certain Orders of the Board.

XIII. No Order for apportioning the Benefits of any Charity shall be made by the Board until after such public Notices shall have been given of the Proposal to make the same as the Board may consider expedient for insuring Publicity in each Parish or District in which the Charity is or ought to be applied, or among all Persons interested therein, nor until after the Expiration of One Month from the Publication of such Notice; and every such Notice shall contain (so far as conveniently may be) sufficient Particulars of the proposed Order to show the Objects thereof, and shall prescribe a Time within which any Objections thereto may be stated or transmitted to the Board.

Proceedings upon the Receipt of Objections or Suggestions.

XIV. All Objections which may be made to any proposed Order shall be considered by the Board, who may suspend the making thereof for further Inquiry, or may modify the same, as may be found expedient; and a Copy of every such Order when made shall, in the Case of any local Charity, be deposited for the Space of One Month in some convenient Place within the Parish or One of the Parishes or the District in which the Charity is applicable, and also be open to Inspection at the Office of the Commissioners, and such Publicity shall be given thereto among all Persons interested in the Charity as the Board shall consider expedient; or if the Charity be not local, then a Copy of such Order shall be open to Inspection at the Office of the Commissioners, and public Notice thereof shall be given in such Manner as to the Board shall seem fit, and in Cases where there is a special Visitor, Notice shall be given to him.

The Official Trustee of Charity Lands constituted.

XV. The Secretary for the Time being of the Board shall be a Corporation Sole by the Name of "The Official Trustee of Charity Lands," for taking and holding Charity Lands, and by that Name (instead of the Name of "Treasurer of Public Charities") shall have perpetual Succession; and all Land, or Estates or Interests in Land, now vested in the "Treasurer of Public Charities" by that Name shall become, upon the passing of this Act, and by virtue thereof, vested

vested in like Manner and upon the same Trusts in "The Official Trustee of Charity Lands," and all Provisions of the principal Act which have reference to the Treasurer of Public Charities shall operate as if the Name of the "Official Trustee of Charity Lands" had been used therein instead of the Name of "Treasurer of Public Charities."

Power to acting Trustees to grant Leases.

XVI. The acting Trustees of every Charity, or the Majority of them, provided that such Majority do not consist of less than Three Persons, shall have at Law and in Equity Power to grant all such Leases or Tenancies of Land belonging thereto, and vested in the Official Trustee of Charity Lands, as they would have Power to grant in the due Administration of the Charity if the same Land were legally vested in themselves; and all Covenants, Conditions, and Remedies contained in or incident to any Lease or Tenancy so granted shall be enforceable by and against the Trustees or Persons acting in the Administration of the Charity for the Time being, and their Aliences or Assigns, in like Manner as if such Lands had been legally vested in the Trustees granting such Lease or Tenancy at the Time of the Execution thereof, and had legally remained in or had devolved to such Trustees or Administrators for the Time being, their Aliences or Assigns, subject to the same Lease or Tenancy.

Appointments of Official Trustees of Charitable Funds regulated.

XVII. The Lord Chancellor may from Time to Time by Writing under his Hand appoint any Persons to be, jointly with the Secretary for the Time being of the said Board, the Official Trustees of Charitable Funds, and remove any such Trustees, and every such Appointment or Removal shall be published in the *London Gazette*.

Such Trustees to have perpetual Succession, and may hold Funds in that Name.

XVIII. The present Official Trustees of Charitable Funds, and their Successors, to be so appointed, shall have perpetual Succession by the Name of "The Official Trustees of Charitable Funds," and may hold by that Name Stock in the Public Funds, and Stock and Shares of any public Company, Securities, and Monies, which shall respectively devolve to their Successors, the Official Trustees of Charitable Funds for the Time being, without Transfer or Assignment.

Funds to vest in the Official Trustees for the Time being.

XIX. All Stock in the Public Funds vested in the joint Names of *Henry Morgan Vane*, *Thomas Hare*, and *Walker Skirrow*, Esquires, the present Official Trustees of Charitable Funds, shall upon the passing of this Act be transferred by the Governor and Company of the Bank of *England* from their Names to the Account of the Official Trustees of Charitable Funds.

The Official Trustees to keep Banking Account.

XX. The Official Trustees of Charitable Funds shall, for the Purposes of their Trust, keep a Banking Account in their official Name

Name in the Books of the Governor and Company of the Bank of *England*, and the Secretary of the Board shall keep separate Accounts of the Monies held upon such Account, and belonging to each separate Charity.

Mode of drawing on the Banking Account.

XXI. All Orders for Payment of any Money held upon such Banking Account shall be signed by One at least of the Official Trustees of Charitable Funds, not being the Secretary of the Board, and also by the Secretary, and shall be countersigned by One of the Commissioners, or shall be otherwise signed or authenticated in such Manner as the Lord Chancellor shall from Time to Time by Order under his Hand direct; and such Orders shall be a sufficient Authority to the Bank paying the same for all such Payments.

Trustees may transfer Stock to Official Trustees.

XXII. Any Trustee or other Person may, on obtaining an Order of the Board for the Purpose, transfer any Stock or pay any Money to the Official Trustees of Charitable Funds in trust for any Charity.

As to Disposal of Principal Monies paid to them.

XXIII. All Principal Monies belonging to any Charity directed to be paid to the Official Trustees of Charitable Funds shall be paid to their Account at the Bank, and, subject to any Order of the Court or Judge or of the Board by which respectively the Payment shall have been authorized, shall be forthwith invested in the Public Funds in the Names of the Official Trustees of Charitable Funds, for the Benefit of the Charity to which they shall belong.

All Dividends and Interest due to the Official Trustees of Charitable Funds to be placed to their Banking Account.

XXIV. The Dividends arising from all Stock in the Public Funds standing in the Name of the Official Trustees of Charitable Funds shall from Time to Time be received by the Governor and Company of the Bank of *England*, under the Authority of this Act, for the Credit of the said Official Trustees, and shall be placed to their Banking Account accordingly; and all Dividends and Interest arising from any other Stock, Shares, or Securities standing in the Name of or held by the Official Trustees of Charitable Funds shall be paid only to the Governor and Company of the Bank of *England* for the Account of the same Trustees; and the said Trustees shall from Time to Time execute to the said Governor and Company all such Powers as shall be found necessary for enabling them to receive and give effectual Discharges for the last-mentioned Dividends and Interest.

For the Regulation of Transfers and Payments to or by the Official Trustees.

XXV. No Transfer of any Stock, Shares, or Securities shall be made to the Official Trustees of Charitable Funds, nor shall any Money, other than the Dividends or Interest of any such Stock, Shares, or Securities as aforesaid, be paid to their Account, except in pursuance of an Order of the Court of Chancery, or of some Judge thereof, or of a District Court of Bankruptcy or County Court, or of

of the Board; and no Transfer of any such Stock, Shares, or Securities shall be made by the Official Trustees, except under the Order of such Court or Judge, or under the Order of the Board signed by Two Commissioners, or authenticated in such Manner as the Lord Chancellor from Time to Time by any Order under his Hand direct; and no Transfer to or by the Official Trustees shall be permitted by the Governor and Company of the Bank of *England* or any other Company contrary to this Provision.

Copies of Orders affecting the Account of the Official Trustees to be sent to the Board.

XXVI. Copies of all Orders made by any Court or Judge for any Transfer, Deposit, or Payment of Stock, Shares, Securities, or Monies to or by the Official Trustees of Charitable Funds shall be forthwith transmitted to the Board by the Parties obtaining such Orders.

Indemnity to the Bank and others.

XXVII. Every Order made under the principal Act or this Act, requiring or authorizing the Transfer, Payment, or Deposit of any Stock, Shares, Securities, or Monies to or with the Trustees of any Charity or the Official Trustees of Charitable Funds, or conferring a Right to call for or to make such Transfer, shall be a complete Indemnity to the Governor and Company of the Bank of *England* and all Companies and Persons for any Act done pursuant to such Order; and the said Governor and Company and other Companies and Persons shall be required to give effect or to conform to every such Order, and it shall not be necessary for them to inquire concerning the Propriety of such Order, or the Jurisdiction of the Court or Judge or the Board to make the same.

Dividends on Stock in Name of Official Fund Trustees to be carried to Account free from Income-Tax.

XXVIII. All Dividends arising from any Stock in the Public Funds standing in the Name of the Official Trustees of Charitable Funds, and which shall be certified by the Board to the Governor and Company of the Bank of *England* to be exempt from the Property or Income Tax, shall be paid or carried to the Banking Account of the Official Trustees without any Deduction of such Tax; and all Dividends arising from any Stock in the Public Funds standing in any other Names or Name, and which the Board shall certify to the Governor and Company of the Bank of *England* to be subject only to Charitable Trusts, and to be exempt from such Tax, shall be paid without any Deduction thereof.

Restrictions of Charges and Leases of Charity Estates.

XXIX. It shall not be lawful for the Trustees or Persons acting in the Administration of any Charity to make or grant, otherwise than with the express Authority of Parliament, under any Act already passed or which may hereafter be passed, or of a Court or Judge of competent Jurisdiction, or according to a Scheme legally established, or with the Approval of the Board, any Sale, Mortgage, or Charge of the Charity Estate, or any Lease thereof in reversion after more than

Three

Three Years of any existing Term, or for any Term of Life, or in consideration wholly or in part of any Fine, or for any Term of Years exceeding Twenty-one Years.

Sinking Fund to be provided for paying off Mortgages in lieu of Provision in Mortgage Deeds.

XXX. So much of Section Twenty-one of the principal Act as requires a compulsory Provision to be inserted in every Mortgage for the Payment of the Principal Money borrowed by annual Instalments, and for the Redemption and Reconveyance of the mortgaged Estates within the Period of not more than Thirty Years, is hereby repealed; but the Board authorizing any Mortgage to be made of any Charity Estate shall make such Provisions, by the same or any other Order, as to them may seem necessary, for directing the Trustees or Persons administering the Charity to discharge the Principal Debt or any Part thereof by such yearly or other Instalments within Thirty Years from the Date of the Security as to the said Board may seem fit, or to form an Accumulation or Sinking Fund out of the Income of the Charity for discharging the Principal Debt or any Portion thereof within the same Period, and shall give Directions as to the Investment and Accumulation of such Fund, and the Trustees for the Time being, or Persons administering the Charity, shall carry such Order into effect.

Extension of Power of Board as to Compromise of Claims.

XXXI. The Twenty-third Section of the principal Act shall extend to authorize a Compromise or Adjustment of any Claim, Demand, or Cause of Suit against any Charity, or the Trustees or Administrators thereof, and the Order of the Board in relation thereto shall have the like Effect as in the Case of any Compromise or Adjustment for which Provision is made by the said Section.

Board may authorize Payment for Equality of Exchange or Partition.

XXXII. The Board may authorize the Application of any Funds belonging to any Charity in Payments for Equality of Exchange or Partition, or in Payment of any Expenses incident thereto, or may authorize the Trustees to raise any Money for such Purposes by Mortgage of any Land acquired on such Exchange or Partition, or belonging to the Charity.

Power to ascertain Lands charged with Rents to Charities.

XXXIII. Where there shall be Uncertainty as to the specific Part of any Lands out of which any Rent, Annuity, or other periodical Payment, not exceeding the yearly Sum of Ten Pounds, charged upon some Part of the same Lands, for the Benefit of a Charity, shall be payable, it shall be lawful for the Board, upon the Application of the Trustees or Persons acting in the Administration of the Charity, and with the Consent of the Persons interested, according to the aforesaid Definition of "Persons interested," in the same Lands, to determine by their Order the Land charged with such Rent, Annuity, or other periodical Payment, which shall thenceforth stand charged with

with such Rent, Annuity, or periodical Payment accordingly, to the Exoneration of the Residue of such Lands therefrom.

Expenses of Exchanges and Partitions, and determining Application of Charges.

XXXIV. The Expenses incident to the Application for and procuring of any such Order of Exchange or Partition, or Order determining the Land charged with any Rent, Annuity, or periodical Payment, shall be paid by the Trustees or Administrators of the Charity, or by the other Parties to such Transactions, or by both, as the Board may direct.

Incorporated Charities and Trustees for Charities may re-invest in Land.

XXXV. Any incorporated Charity, or the Trustees of any Charity, whether incorporated or not, may, with the Consent of the Board, invest Money arising from any Sale of Land belonging to the Charity, or received by way of Equality of Exchange or Partition, in the Purchase of Land, and may hold such Land, or any Land acquired by way of Exchange or Partition, for the Benefit of such Charity, without any Licence in Mortmain.

Order of Board for Investments to be carried into effect, and Cost to be raised.

XXXVI. All Orders of the Board for the Investment of Money coming to any Charity or the Trustees thereof on any Sale, Exchange, or Partition shall be carried into effect by the Trustees or Persons administering the Charity; and all Monies which the Board shall order to be provided out of any Income or Property of a Charity for the Payment of the Costs of any such Transaction shall be provided or raised by the Trustees or Administrators of the Charity, and applied accordingly.

Board may direct Official Trustees to convey Lands, &c.

XXXVII. It shall be lawful for the Board to authorize or order and direct the Official Trustee of Charity Lands and the Official Trustees of Charitable Funds respectively to convey Lands, and to assign, transfer, and pay over Stocks, Funds, Monies, and Securities, as the Board shall think expedient.

Leases, &c. to be valid, notwithstanding disabling Acts.

XXXVIII. All Leases, Sales, Exchanges, Partitions, and Transactions authorized by the Board under the principal Act or this Act shall be valid and effectual, notwithstanding the Act of the Thirteenth Year of the Reign of Queen *Elizabeth*, Chapter Ten, the Acts of the Fourteenth Year of the same Queen, Chapters Eleven and Fourteen, the Acts of the Eighteenth Year of the same Queen, Chapters Six and Eleven, the Act of the Thirty-ninth Year of the same Queen, Chapter Five, and the Act of the Twenty-first Year of the Reign of King *James* the First, Chapter One, or any disabling Act applicable to the Charity the Estates whereof shall be the Subject of any such Transaction.

Board may approve Schemes for

XXXIX. It shall be lawful for the Board to prepare, and under their Seal to approve of, any Scheme for the letting of the Property or any

letting Charitable Property.

Part of the Property of any Charity; and all Leases granted by any Trustees or Persons acting in the Management of any Charity, pursuant to or in conformity with such Scheme, shall be valid.

Power to refer Bills of Costs in Charity Matters to Taxation.

XL. The Board may order the Bill of Costs or Charges claimed by any Attorney or Solicitor on account of Business conducted or transacted by him on behalf of any Charity, or the Trustees thereof, to be examined and taxed by the Taxing Masters of the Court of Chancery, or by the proper Taxing Officers of any of the Superior Courts at *Westminster*, who shall proceed to examine and tax the same Bill accordingly; and if the same shall be reduced upon such Taxation by the Amount of One Sixth Part or more of the Amount thereof, the Costs of the Taxation shall be paid by such Attorney or Solicitor, but otherwise out of the Funds of the Charity by the Trustees thereof; and the Board may, after being satisfied as to any Bill that it contains exorbitant Charges, order any such Bill to be so taxed, notwithstanding that the same may have been paid by the Trustees of the Charity at any Period not more than Six Calendar Months previously to such Order; and any Amount taxed off any such paid Bill shall be a Debt due from the Attorney or Solicitor to the Trustees of the Charity, and shall be forthwith paid by him to such Trustees accordingly.

Construction of Sect. 27. of 16 & 17 Vict. c. 137.

XLI. Section Twenty-seven of "The Charitable Trusts Act, 1853," shall be construed and operate as if the Words "and the "Trustees of the Charity shall be legally authorized to purchase and "hold such Land" had been omitted therefrom; and incorporated Trustees of any Charity shall be competent to purchase and hold Lands for the Purposes mentioned in the same Section without Licence in Mortmain.

Deeds, &c. relating to Charities may be enrolled at the Office, and Copies to be Evidence.

XLII. Any Deed, Will, or Document relating to any Charity may be enrolled by the Board in Books to be provided and kept by them for that Purpose at their Office, and a Copy of any such Deed, Will, or Document made from such Books, and certified under the Hand of the Secretary or One of the Commissioners, shall be received as Evidence of the Contents of the same Deed, Will, or Document.

Construction of Sects. 55. and 59. of 16 & 17 Vict. c. 137.

XLIII. The Fifty-fifth and Fifty-ninth Sections of the principal Act shall be construed and operate as if the Words "The Office of the Board" had been inserted therein in the Place of the Words "the Office in *London* of the Registrar of County Courts Judgments."

Amendment of Sect. 61. of 16 & 17 Vict. c. 137. and

XLIV. Section Sixty-one of "The Charitable Trusts Act, 1853," except so much thereof as enacts that the Trustees or Persons acting in the Administration of every Charity shall, in Books to be kept by them for

other Provision made as to the annual Returns of Accounts by Trustees of Charities.

for that Purpose, regularly enter or cause to be entered full and true Accounts of all Money received and paid respectively on account of such Charity, shall be repealed as to all Accounts which such Trustees or Administrators shall not have been bound to render before the passing of this Act; and the Trustees or Administrators of every Charity shall, on or before the Twenty-fifth Day of *March* One thousand eight hundred and fifty-six, prepare and make out and transmit to the Board an Account of the Endowments then belonging to the Charity, showing in the Case of Realty not in hand the Manner in which the same is let or occupied, and in the Case of Personalty the existing Investment or Employment thereof, and in what Names such Investments are made; and such Trustees or Administrators shall also on or before the Twenty-fifth Day of *March* next after the Acquisition of any Endowment not included in the foregoing Account prepare and make out, in like Manner, and transmit to the Board, a similar Account of such last-mentioned Endowment, and in case of any Alienation, or Charge, or Transfer of any Real or Personal Estate of the Charity, shall on or before the Twenty-fifth Day of *March* then next following transmit to the Board an Account of such Alienation, Charge, or Transfer, and such Trustees or Administrators shall also, on or before the Twenty-fifth Day of *March* in every Year, or such other Day as may be fixed for that Purpose by the Board, or as may have been already fixed for rendering the Accounts thereof required by the principal Act, prepare and make out the following Accounts in relation thereto; (that is to say,)

(1.) An Account of the gross Income arising from the Endowment, or which ought to have arisen therefrom during the Year ending on the Thirty-first Day of *December* then last, or on such other Day as may have been appointed for this Purpose by the Board:

(2.) An Account of all Balances in hand at the Commencement of the Year, and of all Monies received during the same Year on account of the Charity:

(3.) An Account for the same Period of all Payments:

(4.) An Account of all Monies owing to or from the Charity, so far as conveniently may be:

which Accounts shall be certified under the Hand of One or more of the said Trustees or Administrators, and shall be audited by the Auditor of the Charity, if any; and the said Trustees or Administrators shall, within Fourteen Days after the Day appointed for making out such Accounts, deliver or transmit a Copy thereof to the Commissioners at their Office in *London*, and in the Case of Parochial Charities shall deliver another Copy thereof to the Churchwarden or Churchwardens of the Parish or Parishes with which the Objects of such Charities are identified, who shall present the same at the next General Meeting of the Vestry of such Parishes, and insert a Copy thereof in the Minutes of the Vestry Book; and every such

Copy

Copy shall be open to the Inspection of all Persons at all seasonable Hours, subject to such Regulations as to the said Board may seem fit; and any Person may require a Copy of every such Account or of any Part thereof, on paying therefor after the Rate of Twopence for every Seventy-two Words or Figures.

Board may make Orders as to Delivery and Publication of Account by Trustees, &c.

XLV. The Board may from Time to Time make such Orders as they may think fit in relation to the Delivery or Transmission of the said Accounts, and the Forms of such Accounts, and such Orders shall be executed by all Trustees and Persons from whom the Accounts to which they may relate are required.

Application of Sect. 64. of 16 & 17 Vict. c. 137.

XLVI. The Sixty-fourth Section of the principal Act shall apply as well to Members of any Charity within the Operation of that Act as to Members of any Charity exempted from the Operation thereof.

Acts not to apply to Roman Catholic Charities until 1st Sept. 1856.

XLVII. Neither this Act nor the principal Act shall, until the First Day of *September* One thousand eight hundred and fifty-six, extend or be in any Manner applied to Charities or Institutions the Funds or Income of which are applicable exclusively for the Benefit of Persons of the Roman Catholic Persuasion, and which are under the Superintendence and Control of Persons of that Persuasion, nor shall anything in this Act extend to any of the Cases which by the Sixty-second Section of the principal Act are excepted from the Operation thereof.

As to the Term "Charity."

XLVIII. In the Construction of the principal Act and this Act the Word "Charity" shall include every Institution in *England* or *Wales* endowed for charitable Purposes, but shall not include any Charity or Institution expressly exempted from the Operation of the Act of 1853, and Words applying to any Person or Individual shall apply also to a Corporation, whether sole or aggregate.

Act not to extend to Eton or Winchester.

XLIX. Nothing in this Act or in the principal Act contained shall extend to the Colleges of *Eton* and *Winchester*, or either of them.

Short Title.

L. This Act may be cited as "The Charitable Trusts Amendment Act, 1855."

LONDON:
Printed by GEORGE EDWARD EYRE and WILLIAM SPOTTISWOODE,
Printers to the Queen's most Excellent Majesty. 1855.

15

Feb 15th

At a meeting of the Committee on the proposed Bill for regulating Religious Endowments held this morning, the discussion naturally arose whether any and how far the papers including minutes of now before Govt. could be published and circulated for the information of the Public, and District Unions and District Committees. The sense of the Committee was in favour of making public as many as Govt. may be willing to publish and may

own feeling is in the same direction.

I beg my Honble. Colleagues kindly to consider the matter and record their views.

B Robinson

P. the minutes on it by Lord Hobart dissented the Chief by Mr. Scott absent The third is by Sir W. R Burton — All

6/4/76

44

I see no objection to these papers being given, except the Minutes of Members of Govt.

I think that we should observe the general rule who precludes them being made public. The Proceedings of Govt. founded on the Minutes may be given

All

The Govt of India have submitted to the Madras Govt papers relating to the amendment of the law regulating the administration of religious endowments.

There is no necessity to refer particularly to Mr's views. Their chief objection appears to be the administration of endowments.

The existing law was Act XX of 1863, under which Govt divested itself of all control over Religious endowments & has according to the public opinion in this Presidency proved a complete failure. Many glaring cases of

I mean in the suggestions contained in Mr. Ramayya Pantulu's letter.

Memo. with reference to the manner in which the Draft Law submitted by the Hon'ble Ramayya Pantulu dealt with

A.

A.

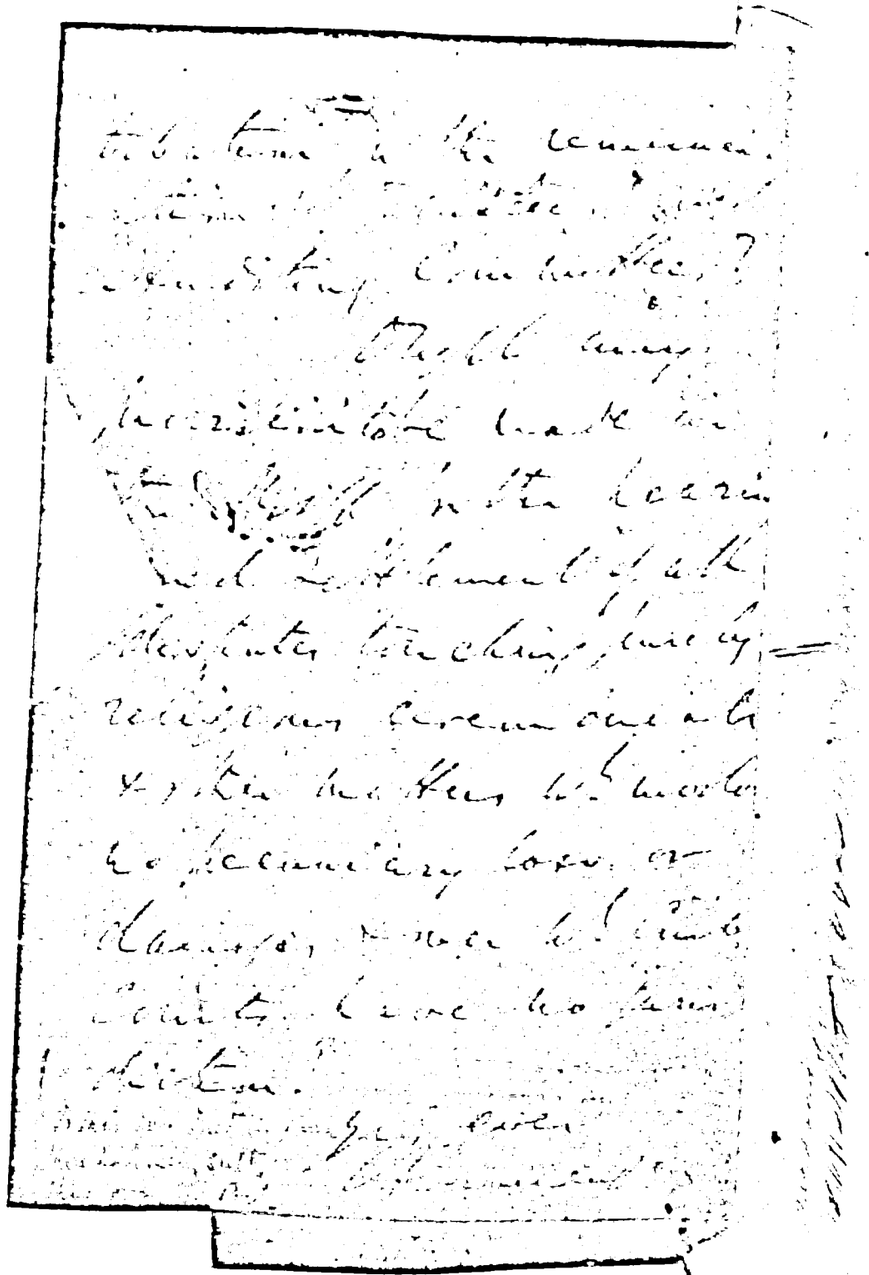
1.8.

Cancel the letter that letter will be sent to Mr. Pantulu as Mr. Pantulu is the Hole

down from the Govt of India
the amendment of the law
had occasioned the earnest
attention of the Govt of
Ramnagar.
He has accordingly prepared
the draft of a Bill to amend
Act XX of 1863 - and in
the letter which accompanies
the Bill he has drawn in
faithful picture of the
effect of the present Law.
The Revenue Board concur
with Mr Henry C. Ramnagar
as to the present evil &
as to the Religious sentiments
of the Hindu People which
are at the necessity of amending
the Law -

Bill to amend Act XX of 1863 - Fair-effect. Hindu feeling. Law prohibits Religious Endowments in perpetuity. Reasons for this rule.

There are three
Court-houses in connection
with the Civil Courts
of the Zillah



It is submitted that a copy of this letter may be submitted to the Govt of India, stating that the Madras Govt fully are sensible of the necessity of legislation on this subject and that they propose to address the Govt of India at length on the question as soon as they have obtained the opinion of their officers on the draft Bill submitted by the Hon'ble V. Ramiengar. It might be intimated to the Govt of India that it may be advantageous to have a separate enactment for this Presidency - as it is

I should not like specious on the Bill - Right as to the point on which the present Law needs amendment. The Bill must be presented in Council before we can receive to, as such a Bill call for further Law

Memo.

49

1 These papers relate to the question of the course to be pursued for the future with respect to the Native Religious Institutions, and as the subject is necessarily new to the President, I think it proper to circulate with them a short statement of the case.

2 Up to 1841 these Institutions were in most Districts under the immediate management of the Collector even to details. In the course of that and the following year that connection was in great part broken off. But though the Collector does not now take any part in the management of the Pagodas the Regulation which constituted him the Superintendent and guardian of the endowments of such Institutions (Regulation VII of 1817) remains unrepealed, and he is therefore frequently appealed to in cases of disputes

among

3

It is possible that the circumstances of the religious endowments in various parts of India may be so peculiar as to make it impossible to frame a Law which would be applicable to all alike.

The draft Bill should be sent to the Board of Revenue with a view to their circulating it to the Collectors of districts calling for their opinions & for those of selected natives in each district.

It may be desirable to refer the draft Bill to the Judges of the High Court & request their opinion on it & asking them to refer it to a few selected Judicial officers.

It may also with advantage be referred to the Advocate General.

RC

a12/1/71
12/1/72

RC

Memo.

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RC

ming ... superior, ... succession to the office, complaints of malversation, &c. When the renunciation of Government management was resolved on and to a great extent carried into effect, it was intended to repeal the Regulation and pass a new law placing the Temple property under the protection of the Courts; but difficulties were encountered, and such an act has never been passed.

The papers now circulated are three distinct sets.

First, there is a letter from the Board of Revenue dated April 6th 1859 with Draft of an Act proposed to be passed; with this are some Papers from Calcutta, and a Report from the Court of Sudr Adalutas to the proper scope of an Act on the subject. There are also a tentative Draft order circulated at the time, on which Sir Charles Trevelyan wrote some

Remarks

Remarks, ... Prn.

Mr. Ellis.

2nd. There is a Proceeding of the Board of Revenue dated March 26th 1860, sending up the replies of a number of officers, European and Native, who had been consulted on the subject, with this is a summary of the replies, prepared by Mr. Master.

3rd. There is a letter from the Government of India, dated May 11th 1860 asking for the opinion of this Government on a bill brought into the Legislative Council by Sir Bartle Frere, with a copy of the Bill. With this there are Minutes by Sir Charles Trevelyan, Mr. Morehead, and Mr. Maltby.

4. This letter from Calcutta requires an early reply, as the Bill is before the Legislative Council.

5. The papers contain suggestions for four modes of dealing with the case.

First

could simply repeal the present special law on the subject, and leave the control of the Institutions to the Courts, in the exercise of an equitable jurisdiction. This rule is the course advocated by Sir Charles Trevelyan, in both his minutes, before and after the receipt of the Bill. He dissents from the opinions expressed in various parts of the papers, that the Courts would be found unequal to the task, and argues that any attempt to define and regulate beforehand the varying circumstances of the numerous Institutions would only embarrass the Courts.

6. Second, But it is argued against that course that the Courts cannot act unless put in motion from without, that private interest, which is the motive to ordinary litigation will be wanting in these cases, that public feeling will not supply its place,

and

and that Government will not be able to interfere, and that practically the endowments of the Temples will be unprotected, and will speedily be wasted. Three different courses are proposed to prevent these evils.

7. The Board of Revenue (in their letter of April 6th 1859) and Mr Maltby, who as member of the Board concurred in that letter, propose that an Act should be passed, pointing out how and by whom Trustees are to be appointed, and by whom their conduct may be called in question (Para 8), and that, this having been done, the Endowments should be placed entirely under the protection of the Courts. The Board sent up to Government a Draft of an Act for this purpose, the object of which is to create an entirely new constituency, to exercise the new function of electing Trustees. Much pains had been bestowed on the Draft but the Board were not satisfied with it, and only spoke of it

See letter of April 6th/59.

at

[illegal] ... ming ... least ob-
jectionable rules that had occurred to
them. The unsatisfactory result of
this attempt made with much pains
and much ability, proves the difficulty
of the task, and the varying opinions
expressed by the intelligent Native
gentlemen whom the Board of Re-
venue consulted, in all parts of the
country, shews how little there is of
any settled or definite opinion on
the subject: all seems vague and
speculative.

8. The Court of Sadr Adalut on the
other hand (letter December 11th 1858) ap-
prove the provisions of a previous Draft act which had been sent down
from Calcutta. The course proposed
in that Draft was that the Govern-
ment should nominate Committees
of Natives with power to supervise the
affairs of Trusts, to appoint managers,
call for accounts &c. Vacancies oc-
curring in these Committees to be
also filled up by the Government.

This is the third of the four proposed
modes of proceeding above referred to.

9. The fourth course proposed
was to leave the control of the Pa-
godas in the first instance, in the
hands of the Collector. This is ad-
-vocated by Mr. W. Elliot and by Mr.
Morehead; but their recommenda-
-tions do not quite agree in all points.
Mr. Elliot would continue Regu-
-lation 7 of 1817 almost unchanged,
but would restrain the Collector
from doing more than audit the
accounts and bring cases of mal-
-versation to the notice of a "Public
Prosecutor," to be proceeded against in
the Courts: he says nothing as to the mode
of electing or appointing Trustees. Mr.
Morehead would leave to the Collectors
the general control provided by the
Regulations, but would send parties
dissatisfied with his orders to the
Courts, instead of giving them an
appeal to the Board of Revenue
as at present.

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I suggested that the Courts must be powerful as controlling authorities, because they cannot take the initiative; but it is not proposed that the Collectors should take the initiative except in the audit of the accounts. And as regards the audit, it may be remarked that a real audit would require a most minute investigation of the expenditure, extending not only to the fact, but also to the propriety of all outlays, and so involving to a great extent a return to the detailed control of former days.

The Collectors are to have all the powers by now possessed by Local Boards & Improvement Commissioners — & the R. B. may by any Reference to the R. B. they should ask the Decision over Sanitary Matters

W. H. July 9/66

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W. H. July 9/66

Decided that Going to the Court —

Judicial Department.

Memorandum.

G.O. 31st Dec 1872. N°118.

In January 1871, the Government of Indore in forwarding to this Government copies of a Correspondence regarding the misappropriation of the funds of the religious Endowments in certain portions of the Lower Provinces in Bengal by the Managers and Trustees who administered them, remarked that it was feared that evils and abuses of the nature brought to light by that correspondence prevailed to a greater or less extent all over Indian

India, and that it would
be necessary therefore to consider
whether any remedial measures
which might be adopted
should not be of general
application. With this view
they requested the opinion
of this Government as to
the working of the Law (Act XX
of 1863) on the subject in
this Presidency, observing
at the same time that in
making any changes which
might be considered desirable
it was the wish of the
Government 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.

2. Before

2. As before the receipt
of the communication from
the Government of India
above referred to, the question
of amending Act XX of 1863
had been under the consi-
deration of this Government,
and had also engaged the
attention of the Honble
V. Ramiengar, the Draft
of an Act prepared by him,
and which he proposed should
be passed for this Presidency
in supersession of Act XX
of 1863, was, together with
the whole of the correspondence
on the subject, communicated,
through the Board of Revenue,
to the Collectors of the several
districts for their opinions
and also for the opinions
of

of selected Natives in each district. The Draft Act, with copies of the Correspondence was also referred to the High Court for opinion after communicating with some of the most experienced judicial officers in the Mofussil.

In the meantime, the Govt of India were informed that the Government was sensible of the necessity of legislation on the subject, and that they would be addressed at length on the question as soon as the opinions of the several Collectors and of the Judges of the High Court on the Draft Act were obtained.

3. The replies of the Collectors have not yet been received. A reminder was sent to the Board of Revenue on the 22nd May last.

4. The High Court have sent on the replies received from certain judicial officers who have been consulted on the subject. These replies have been printed, and a precis of them is being prepared.