M.R.O. 14—10,000—21-4-22

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 1586-17 Press / Mis.

C-219

Dated — — 18 .

Not to be folded or roughly handled

would be useless, the Board are of opinion, for them to spend time upon these details, till the principle on which the Act is to be framed is recognized. The Munsif of the District is suggested as the Officer by whom the votes for the election of the Audit Committee are to be taken, because, being a Judicial Officer, they trust that he will not be liable to be mistaken for an Officer of the Government. They are quite unable to name any person unconnected with Office.

15. A further provision is inserted to enable the Civil Courts to refer Suits relating to rites and ceremonies to a Punchayet. The object of this is to relieve the Courts in some degree from a class of cases, which the previous knowledge of European Judges ill qualifies them to decide, and which are of no general interest.

16. In conclusion I am desired to state, that although money payments in some places are still made from the Treasuries of Collectors in lieu of lands resumed, the Board do not consider that the fact presents any obstacle to the passing of the proposed Act in lieu of Regulation VII of 1817; inasmuch as the responsibility of the Trustees is the same whether the Endowment is in land or money.

SKETCH ACT.

Whereas Regulation VII of 1817 of the Madras Code, which vested the general superintendence of all endowments for the support of Mahommedan and Hindoo Religious Institutions in the Board of Revenue, has been repealed, and it is desirable that all interference on the part of the Officers of Government with such Institutions should be withdrawn; and whereas it is necessary to provide for a due succession of proper persons to have charge of such Institutions, in order that they may be secured against spoliation, and enjoy the protection of the general Law, it is hereby enacted as follows:—

1st. The management of the properties and concerns of all Mahommedan and Hindoo Religious Institutions shall be vested in one or more Trustees.

2nd. The Trustees in office at the time of passing this Act shall be confirmed therein; provided that where their Title thereto may have been previously impeached before a competent tribunal, nothing herein enacted shall be held to bar a Suit in a competent Civil Court to try the right—and provided that this Section shall not be construed to confirm the Title of any person officiating for another to the prejudice of his Principal.

3rd. Where the office of Trustee may have hitherto been hereditary, or where the privilege of appointing thereto has hitherto been enjoyed by any particular individual or body of men, all vacancies shall continue to be supplied in the usual manner.

4th. In all other cases vacancies shall be filled up by election, and the privilege of voting thereat shall vest in all males, above the age of 18 years, resident within 5 miles of the site of the Institution and belonging to the sect to which it pertains. Every person, wherever resident, by whom any ceremony within the Pagoda has been endowed, and the representatives of such persons, shall also have a vote, which they may give by proxy. The votes shall be taken by the Members of the Committee hereinafter mentioned in such manner as they shall arrange.

5th. With a view to the further security of the interests of the Institutions aforesaid, and to prevent unnecessary and vexatious litigation and prosecutions, a Committee shall be appointed, which shall consist of not less than three and not more than seven persons, and shall be nominated or elected, as the case may be, by the same parties who nominate or elect the Trustee or Trustees; or where the office of Trustee is hereditary, by the votes of the majority of males, above the age of 18 years, resident within 5 miles of the Institution, and belonging to the sect to which it pertains. For the election of the Members of the Committee of Audit, the votes shall be taken by the Munsif of the District in which the Institution may be situated.

6th. It shall be the primary duty of this Committee to audit the accounts of the Institution for each calendar year, in the course of the month of January next succeeding its termination—and should they prove correct, to grant a Certificate to that effect. This Certificate shall protect the Trustee or Trustees from all Civil Suits on account of the pecuniary transactions of the Institution during the year it covers, but it shall be still open to any one interested in the Institution to prosecute the Trustee or Trustees criminally on account of any alleged fraud or embezzlement; provided that if the charge is not made with the written sanction of the Com-

mittee of Audit, it shall be competent to the Magistrate to investigate it or not as he may think proper from the information before him.

7. And it is hereby enacted, that in all suits relating to rites and ceremonies in Mahommedan and Hindoo Religious Institutions, it shall be lawful for the Civil Courts to refer the matter for the adjudication of a Punchayet, whose decision shall not be subject to appeal except on the ground of gross and manifest corruption or partiality; and whenever a charge of corruption or partiality may appear to be frivolous or vexatious, it shall be lawful to the Appellate Court to punish the person by whom it is preferred by a fine not exceeding 1,000 Rupees, commutable in default of payment to imprisonment for a period not exceeding six months.

8. The Punchayet shall be composed of an uneven number of Members ranging from 3 to 9, and a decision shall be passed according to the votes of the majority. They shall be selected by the Judge from persons of the sect to which the Institution belongs; but it shall be competent to either party to object to the individuals named; and should the reasons stated for the objection appear to the Judge to be good and sufficient, he shall make another choice. The Punchayet shall assemble in such place as the Judge may appoint; and their decision shall be in writing and signed by all the Members.

No. 202. MINUTE BY THE HONORABLE THE PRESIDENT.

1. I concur only in those parts of this Draft* which point out the insuperable practical objections to the plan of managing the Religious Endowments through the medium of popular elections.

2. Minute legislation on this subject would certainly defeat its object. It is impossible to lay down beforehand any set of rules which would meet all the varieties of the Hindu and Mahommedan Endowments throughout the country. The true principle is that which hasbeen re-affirmed in the 7th paragraph of Lord Stanley's Despatch to the Governor General, dated the 24th February last, that is, that Regulation 7 of 1817 of the Madras Code by which the superintendence of Religious Endowments is vested in the Revenue Officers of the Government, should be repealed, and that the Endowments should be distinctly placed under the protection of the Courts of Justice.

3. Nothing can be worse than the present position of the question. Religious Endowments are nominally, but not really, under the management of the Collectors; and, in virtue of that ideal safeguard, they are deprived of the common protection of the Courts of Justice.

4. I see no reason for thinking that when this restriction is withdrawn, the Courts will be unequal to the task of affording protection. Of this, at any rate, I am quite sure, that if our Judges are left free to adapt their remedies to the special circumstances of each case—either insisting upon accounts being rendered, or appointing Trustees on the recommendation of trust-worthy persons, or making such other arrangements as the occasion may demand—they will be much more likely to save the Endowments from depredation, than if they are trammelled by detailed Regulations which must be inapplicable in the majority of cases.

5. I am, therefore, of opinion that Regulation 7 of 1817 should be repealed and that Religious Endowments should be placed under the protection of the Courts of Justice like every other description of property, and I think that more than this would be over-legislation and over-Government.

Madras, 20th July 1859. (Signed) C. E. TREVELYAN.

No. 203. MINUTE BY HIS EXCELLENCY SIR P. GRANT.

I entirely concur in these views.

22nd July. (Signed) P. GRANT.

* This refers to a Draft Order which was afterwards cancelled.

Read again the following papers:—

From the Madras Member of the Legislative Council, dated 20th October and recorded in Diary to Consultation 23rd November 1858, No. 1,711.

From Acting Registrar of the Sudder Udalut, dated 11th December 1858 and recorded in Diary to Consultation 11th January 1859, No. 1,937.

Read the following papers:—

No. 201. From J. D. SIM, Esq., Secretary to the Board of Revenue, to T. PYCROFT, Esq., Chief Secretary to Government, dated 6th April 1859, No. 1,213.

SIR,

1. I am directed by the Board of Revenue to acknowledge the receipt of Extract Minutes Consultation under date the 18th November last, referring for their report copy of a Petition presented to the Legislative Council by certain Protestant Missionaries in Bengal, praying for the repeal of Regulation VII of 1817, of the Madras Code.

2. The Government are aware, that the subject met with anxious consideration, when Mr. Stokes submitted his propositions for the revision of the Revenue Code of the Presidency. His Sketch of a Preliminary Act provided for the rescission of Regulation VII of 1817, and his Draft Act No. III, in re-investing the Board of Revenue with the superintendence of Endowments in general, declared that "in the case of Endowments for the maintenance of religious edifices and "observances belonging to the Hindoo and Mahommedan persuasions respectively, when "Trustees shall have been duly nominated, the responsibility of the Officers of Government shall "cease, excepting so far as to see that vacancies in the Trust be duly filled up, when they may be "applied to for that purpose."

3. It appeared to the Board that such an Enactment as the foregoing would not effect a thorough severance of Government from all interference with the religion of the Natives; more especially as the Act further provided, that the Collector, who is always regarded as the Agent of Government, should have Criminal Jurisdiction over the servants of the Endowments in cases of malversation. Either in relation to the appointment, or the trial of Trustees for imputed fraud, the Officers of Government would be constantly implicated in the affairs of Religious Institutions; and, owing to all fixed Rule as to the succession to the Office of Trustee in Hindoo Pagodas having been in a great measure lost during the long period that these Institutions were, in regard to their property, under the control of the Mahommedan and British Governments, the nomination to each vacancy would be an affair of some difficulty. In fact the proposed Act would have left matters very much in the state they are at present; for, except to see that vacancies in the Trust are filled up, and to investigate charges of fraud, the Board of Revenue and the Collectors wholly abstain from interference, leaving the regulation of all other concerns of the Pagodas entirely to the Trustees.

4. Instead of the Legislation proposed by Mr. Stokes, therefore, the Board expressed their preference of an Act, dedicated entirely to the subject of Religious Endowments, really freeing Government from all interference with such Institutions, by placing them like other property under the protection of the Civil and Criminal Courts, after defining the mode in which the community is to elect and dismiss Trustees, the responsibilities and duties of Trustees, and the course to be pursued against them for recovering embezzlements and punishing breaches of trust.

5. The Government concurred in these sentiments of the Board, and directed them to give the subject their consideration, and report what would be the best mode of accomplishing the object.

6. The Board regret that this Report should have been so long delayed. The sketch Acts drafted by Mr. Stokes were placed in the hands of the Government Pleader for the purpose of being put into a legal Form, with instructions to provide for the care of Endowments in general exclusive of Religious Institutions; and the Board contemplated submitting their views as to the latter, when they should have received the other Acts from Mr. Dale. The time of that gentleman however, was soon afterwards so entirely occupied by new and very heavy duties connected with the debts of the late Nabob of the Carnatic, that he was unable to attend to the task committed to him, and the Board, in consequence, were not reminded of the Report due by them relative to Religious Institutions, till recently, when the Government directed one of their number to place himself in communication with Mr. Mayne with the view to the preparation of the Revenue Code. They now understand that the Act containing the provisions relating to Endowments in general is completed; and under any circumstances, therefore, they would take this time to state their opinion as to the course to be pursued in regard to Hindoo and Mahommedan Religious Institutions endowed by Government or private individuals.

7. The Petitioners express a wish that Hindoo and Mahommedan Endowments should be dealt with precisely like any other Endowments; and argue, that as no special guardianship or consideration to Trusts for Christian purposes is thought necessary for their security, so none ought to be provided for the preservation of the Trusts under consideration; and they object to the terms "pious and beneficial purposes" being applied to them by the Legislature.

8. The Board quite agree with the Petitioners as to the propriety of repealing Regulation VII of 1817; but they do not concur in the opinion they apparently hold, that the Religious Endowments of the Natives require no protection whatever by special Statute. The case of Christian Endowments is not strictly analogous. These are carefully secured by written instruments drawn out to suit the Laws of the country, so that redress for injuries received can easily be obtained. But with Hindoo and Mahommedan Religious Endowments the case is very different. In regard to the greater part of them, no provision for their care by means of responsible Trustees is made in the grants of the lands they enjoy. The Governments which preceded ours interfered in the management of their property, and until recently the British Government did the same. In consequence they have no organization by means of which the protection of the general Law can be secured to them. A special Statute, pointing out in what manner, and by what constituency vacancies among the Trustees are to be supplied, and by whom their conduct can be called in question is absolutely necessary to place them in the same position in regard to the general Law as Christian Endowments. Further than this, the Board do not propose to go. They are not of opinion that Pagoda servants should continue amenable for malversation to the Criminal Jurisdiction of the Collector like the servants of his own Establishment, and consider that they should be dealt with by the ordinary Civil and Criminal tribunals. The terms "pious" and "beneficial uses" are unnecessary, and can be omitted in the new Act to put an end to the objections made.

9. The great difficulty in preparing the special Enactment is to determine in whom the power of appointing Trustees, when relinquished by the Government Officers, shall rest. A large Pagoda is not so much the property of the Town in which it is situated as of the country generally; and many of the inhabitants of the town are frequently of a different persuasion, and therefore unfit to elect a Trustee. If on the other hand the franchise be given to all the people of the same sect in the District or Táluq, the constituency may become unmanageably large. Again in some places single individuals, or a few families may have enjoyed, either directly or influentially, the power of nomination; and sometimes persons at a distance, from large benefactions by themselves or their ancestors, may have so great an interest in the Institution, that to deprive them of all voice in the nomination of the Trustees would appear to be a hardship.

10. The least objectionable Rules which have occurred to the Board under these difficult circumstances are set forth in the accompanying sketch of an Act.

11. The Preamble declares that Regulation VII of 1817, has been repealed; because it is anticipated that a provision to this effect will be contained in the Preliminary Act of the Revenue Code, and that this will become Law simultaneously with, or prior to, this Act.

12. By Section 3 hereditary succession to the office of Trustee, and rights of appointment where they now exist are confirmed; and in other cases a constituency is provided for the election of Trustees in cases of vacancy.

13. The Board have reason to fear that, while the managers of some Institutions have, under the present order of things, been able to plunder with impunity, others have been subjected to vexatious proceedings, and the time of the Tribunals greatly wasted, owing to no restrictions on litigation in such cases having been fixed by Law. To prevent this in future, as far as possible, the Act provides for a Committee of Audit, to whom is confined the power of preferring Civil Suits against the Trustees, and whose duty it is to make periodical examination of the accounts, and to grant Certificates, when they prove correct.

14. The Board are aware that their Draft of an Act is defective in not laying down in sufficient detail the mode in which the votes for Trustees and the Committee of Audit are to be taken; but they have intentionally refrained from attempting to frame Rules for this purpose, as they suppose that the Government will place the Draft, which they now present as a mere Sketch, in the hands of a Member of the Legal profession, to be drawn up in due form. It

"I shall allude to one more topic and I have done. You have heard the Memorial on the Subject of the attempts of the Missionaries to effect conversion inside our jails. This has not been the first time that this question has been mooted. Some time ago the same question has been mooted at Rangoon. The Prisoners in the jail were called to shave their beards, this produces a disturbance. The question goes before the Home Authorities. And Lord Ellenborough at the head of the Board of Control, condemns the interference of Government with the Jails. And yet we see when the Neilgherry Missionaries are audacious enough to raise the same question to the Madras Government, instead of treating their application with the indifference it deserves, they say that the subject is under their *earnest* consideration."

Such an impression is not less mischievous because it is untrue, and it has derived strength from the avowed hopes of zealous men among ourselves who have not scrupled to exult at the prospect of such a consummation.

I believe the distrust of our professions of toleration manifested by the people of this country has been aggravated in no small degree by the policy which has been pursued in this matter. They contrast our open professions of neutrality with acts which they regard as covert assaults on their most cherished institutions, and they draw the conclusion that such ostentatious iterations of proclaimed non-interference are blinds to cloak a system of proselytism.

During six centuries of Muhammadan supremacy characterized by a haughty, openly declared contempt of idolatry, by frequent sallies of iconoclastic zeal and by occasional attempts at forcible conversion, no such widespread distrust was ever manifested. The Hindus knew exactly what they had to expect, they saw their rulers acting openly, they could distinguish between occasional ebullitions of intolerance and a fixed purpose on the part of th eir conquerors, and they felt that when the present tyranny was over past they could return to the secure exercise of their ancient rites.

Our professions of neutrality have had an effect just the reverse, and I cannot help thinking that a more straightforward and consistent course would have tended to prevent the general feeling of alarm which, no doubt, exists. A too great readiness to disclaim offence addressed to a people so remarkable for credulity, may have helped to produce those very suspicions which have of late manifested themselves in such exaggerated forms.

But whether this opinion is right or wrong, there can be no question that we are bound to provide not a nominal, but a secure and effectual protection, for property connected with religious endowments, just as much as for every other description of property which was found to be in existence when the sovereignty of the country was assumed.

I have shown that the means by which it is proposed to secure these endowments from spoliation, viz. by the ordinary course of civil process, is inadequate and insufficient. I have also endeavoured to show that this object can only be attained by means of a responsible agency specially appointed to watch over its safety.

I can see no better machinery than that provided by Regulation VII of 1817. I can devise no other expedient fitted to secure the end in view with less expense and with the same degree of certainty.

Some change would be required in the existing law to adapt it to present circumstances. The Collector should be restrained from all direct interference with expenditure or management. His duty should be confined to those of auditing the accounts and of bringing to the notice of the public prosecutor* all breaches of trust detected by him, and it should be the duty of that officer to proceed against the authors of acts of malversation in the constituted Courts.

I think that the check on misappropriation afforded by such an arrangement will be as perfect as can be obtained in such cases. It seems to offer the only solution of the difficulty of reconciling the duty of the State—to afford full and equal protection to all it subjects—with that of a Christian Government—to avoid all contact with idolatry and superstition.

(Signed) WALTER ELLIOT.

10*th December* 1859.

* This office though not yet in existence cannot surely be deferred much longer Meantime the Collector would have to exercise the functions of such an officer.

No. 205. Proceedings of the Board of Revenue, dated 20th March 1860, No. 1,422:—

Read the following Replies to the Circular of the Board, No. 620, dated 17th February 1859, as to the means existing for fixing on an electoral body for the appointment of Trustees to Religious Endowments in cases of vacancy.

No.	1,320	From	Ganjam,	dated	15th in Cons.,	28th March	1859, No.	45
,,	3,242	,,	Vizagapatam,	,,	27th June in Cons.,	5th July	,, ,,	569
,,	4,165	,,	Masulipatam,	,,	15th in Cons.,	19th August	,, ,,	149
,,	4,011	,,	Guntoor,	,,	6th ,,	10th ,,	,, ,,	98
,,	1,953	,,	Nellore,	,,	27th April in Cons.,	2nd May	,, ,,	52
,,	5,142	,,	Cuddapah,	,,	12th in Cons.,	15th Oct.	,, ,,	162
,,	2,618	,,	Bellary,	,,	31st May in Cons.,	6th June	,, ,,	69
,,	122	,,	Kurnool,	,,	5th in Cons.,	10th Jan.	1860, ,,	2
,,	2,456	,,	Chingleput,	,,	27th ,,	30th May	1859, ,,	178
,,	4,986	,,	North Arcot,	,,	1st ,,	6th Oct.	,, ,,	236
,,	2,825	,,	South Arcot,	,,	15th ,,	17th June	,, ,,	113
,,	2,092	,,	Tanjore,	,,	4th ,,	9th May	,, ,,	103
,,	1,321	,,	Trichinopoly,	,,	22nd ,,	28th March	,, ,,	58
,,	1,871	,,	Madura,	,,	20th ,,	27th April	,, ,,	68
,,	1,660	,,	Tinnevelly,	,,	8th ,,	13th ,,	,, ,,	155
,,	2,789	,,	Coimbatore,	,,	10th ,,	15th June	,, ,,	93
,,	6,375	,,	Salem,	,,	19th ,,	22nd Dec.	,, ,,	236
,,	912	,,	Canara,	,,	26th Feb. in Cons.,	7th March	,, ,,	30
,,	1,066	,,	Malabar,	,,	9th in Cons.,	15th March	,, ,,	41

1. To render the abandonment on the part of Government Officials of all interference with Religious Endowments complete, it was suggested by the Board in a Sketch Act, submitted to Government, that, where provision did not already exist for filling up vacancies in Trust bodies, recourse should be had to election. But here again a difficulty presented itself, growing out of the many Creeds of the people and of the varying numbers of those who are interested in the worship at particular Institutions. The constituency might, it was thought, be unmanageably large on the one hand, while on the other, if restricted to given limits, many persons might be included who were in no way connected with the Institution. For the fuller consideration of this point, the Collectors were requested, in the Circular referred to above, to ascertain the opinion of persons of weight and judgment among the Native Community, and to submit the same to the Board with their own views on the subject. The Replies of the several Collectors, now fall under consideration. Replies have not been received from the Collectors of Rajahmundry and Madras, but sufficient information has been elicited to enable the Board to dispose of the subject.

To Government, 6th April 1859, *No.* 1,213.

2. With one or two exceptions the idea of an electoral body is imperfectly understood. The desire that the connection of Government with the Religious Institutions of the country should be made closer, is almost universal among the Native Community. Without a supervision of this kind, it is apprehended that ceremonies will gradually fall into disuse, and that the Funds of the Institutions will certainly be misappropriated. The multiplicity of Creeds also, it is thought, is an insuperable bar to any satisfactory arrangement short of the direct interference of the Ruling Power, or of the delegation of full powers of supervision and control from the State to influential persons as Zamíndárs. The last view is, however, chiefly entertained in Guntoor, where the vast sums expended formerly by Zamíndárs, during the existence of the Zamíndári tenure, and the éclat given to ceremonies by the personal attendance of the Zamíndárs themselves, are still more or less fresh in the recollection of the people. The Zamíndári mode of Settlement has, however, altogether ceased in Guntoor, and the class, thus artificially raised up, no longer retains the status or the means for securing the objects desired by the Native Community of Guntoor, even supposing the arrangement itself to be practicable or expedient.

3. With the desire for Government supervision generally, the feeling, that the hereditary rights of families and individuals to the custody and management of the Institutions under

No. 204. MINUTE BY THE HONORABLE MR. W. ELLIOT.

The only point on which I agree with the opinions above expressed is in the difficulty of dealing with the subject.

I do not see that any of the schemes suggested will ensure the endowments from malversation. The institutions have already been entrusted to the management of trustees—some elected, some appointed by Government, some holding by hereditary prescription. Against many of them petitions have been received impugning their fidelity in the performance of their trust and there is a general feeling of insecurity on the minds of all interested in maintaining the integrity of the establishments in question.

The courts of justice cannot interfere, because they cannot move until the matter is initiated before them. Elected trustees and committees of audit are irresponsible bodies.

The former have a direct interest in perverting the endowments to their own use. The latter are under no obligation to interfere. If they act at all which is not likely, they will do so in a perfunctory manner.

All experience goes to shew that such honorary control is worthless.

To leave these endowments therefore, to the simple protection of the Courts, is to leave them without any safeguard whatever.

The only protection that can be suggested is that of placing them under a responsible public officer or guardian of charities.

The Attorney General is ex-officio such a guardian in England.

The Advocate General is the guardian of Pachiyappa's charities in Madras.

This like all similar endowments, left in charge of irresponsible trustees, was in a state of complete misappropriation when Mr. G. Norton became aware of its condition and in virtue of his office brought the condition of the Testators bequests before the Supreme Court. Under the authority of that tribunal they were thoroughly reformed and re-established. The Advocate General is the guardian of the endowments; the Board of Revenue are the auditors of the accounts.

The arrangement differs little from that established by Regulation VII of 1817.

Under that law the Board of Revenue was constituted the guardian of all mofussil endowments. It was the duty of Collectors, as agents of the Board, to see that they were not misappropriated.

This scheme did not necessarily connect the Government with the objects or ends of the religious institutions of the country.

It was the manner in which the control over their expenditure was exercised by their officers that did so.

They meddled with the details of the idolatrous services, giving rise to scandals which aroused the indignation of conscientious Christian men and the exposure of the system brought about the existing state of things. The Government has now withdrawn from all interference, and it has done well. But it has done more. By the mode of procedure adopted for the attainment of this end, it has placed an immense amount of valuable property beyond the pale of the law, without the provision of any remedy whatsoever.

The Regulation restraining the action of the Courts of Law remains in force; the agents of the Board of Revenue are forbidden to interfere.

It is now proposed to repeal Regulation VII of 1817 and to pass a new Law allowing parties feeling themselves aggrieved to have recourse to the ordinary tribunals.

But this will leave the matter very much as before. A Court of Law has no spontaneous action. Who then is to initiate proceedings? The trustees will not, unless they quarrel among themselves. Communities will not. Self interest prompts individuals to fly to the Law. But the public, and least of all a Native public, has no such motive. What is the business of all is undertaken by none.

In assuming the Government of India we have pledged ourselves to maintain the rights of property in their integrity, but this pledge will assuredly not be redeemed by the course it is now proposed to follow.

The people of the country see this and have never ceased to protest against it. They have protested not only against the principle but against the mode in which it has been carried out.

The trustees of money endowments protested against the substitution of land for Treasury disbursements. The land holders whose wishes were never even consulted in the matter, have protested against being made over to such masters. Ryots holding direct from the State and as such recognized as the proprietors of the lands in their occupation, have been made over to temples and mosques and their rights annihilated under the monstrous fiction that the State is the sole proprietor of the soil.

Thus a mode of procedure founded on the most righteous intentions, has not only failed to give satisfaction to any party but has been productive of all manner of injustice.

On the people of India generally the effect has been most unhappy. They see the inevitable tendency of the arrangement to produce mismanagement and malversation. They feel that such a policy must end in the distruction of their institutions. They view it as the indication of a settled purpose to undermine the religions of the land and as an underhand means for the establishment of Christianity in their stead.

At the meeting for the adoption of the anti-missionary petition, a speaker, one of the best educated men in Madras, who took honors at the Presidency College, and is now the most successful native pleader at the Sadr Bar spoke as follows:

"MR. CHAIRMAN AND GENTLEMEN.

"Before proceeding to move the Resolution in my hand, I shall beg leave to allude to one or two matters in connection with the Memorial.

"In the first place, I have to observe that some of our own countrymen, and I am ashamed to be obliged to call them such, have had the effrontery to call the movements regarding the preparation of the Address that has been just adopted, a rebellious proceeding. In my humble opinion, there is nothing rebellious in our proceedings. We have constitutionally met for a constitutional purpose. We do not seek to annihilate any religions, but simply to defend our own. As subjects of the British Crown we have a clear right to contend for the preservation of our civil and religious rights by means and measures which are legal and constitutional. The very fact of our having met here quietly and peaceably for the purpose of memorializing the Secretary of State, shows the spirit of loyalty which pervades the Hindu and Mahomedan society of the Presidency.

"The late lamentable riot at Tinnevelly forms one of the prominent topics of the Memorial you have just heard read to you. Some of the unfortunate sufferers in that event have come to Madras, and have tried in vain to move the authorities for an impartial investigation of the causes and consequences of the riot. Government have not only not thought it fit to institute a commission of enquiry, but have absolutely proclaimed to the world that the Proceedings of the local authorities during the event have been quite warranted and called for by the circumstances. It is not for me to question the propriety of the resolution the Government has arrived at. But I draw attention to this only to show how different the course pursued by Government has been in regard to the trifling incident at Nagercoil. If what I have heard be true, there is now a commission sitting to enquire into the causes and results of the affray at Nagercoil, at the suggestion, if not the orders, of the Madras Government. How different then are the measures and policy of the Government when its Officers are concerned, and when a foreign State is involved in difficulties. I would only say, look at this picture and at that. Here at Tinnevelly nearly thirty lives have been lost, and yet Government sees no necessity for a commission. At Nagercoil not a drop of blood is spilt, but on the contrary, the disturbance has been quelled instanter by the vigilance of the Dewan, and yet you have a commission of enquiry."

consideration, and of classes to the nomination of Custodians should be scrupulously respected,

Enclosures in letter from the Collector of Chingleput—See remarks of certain persons of the Vadagala Sect, attached to the Pagoda of Varadarajaswami, at Conjeveram.

is very strong. Thus in Conjeveram, in the District of Chingleput, three Pagodas are mentioned, in one of which the right to nominate is vested in a single individual; in another it rests with the class of Weavers, and in the third with the descendants of a certain family named.

4. Where the question of election has been discussed opinions vary as to whether a controlling body should be nominated for the whole district generally or whether each Pagoda should be governed by a separate body of its own. In either case it is wished to make that body subordinate to the Collector. In like manner in regard to the constituency, it is thought by some that it should be confined to the Town in which the Institution is found, and if that be a mere village, as is the case sometimes, to the nearest Town. Others again advocate a considerable extension of the Franchise in cases of Institutions of general interest, but would introduce a property qualification in order to keep down the number of voters. On the whole the weight of opinion would appear to be in favor of a separate Governing Body for each Institution with a restricted constituency, in this case also property qualification being suggested as expedient.

5. Some of the Native Community are of opinion that the right of voting should be confined to worshippers at the particular Institutions and contributors towards its support, and thus would throw it open to all without distinction of sect, or other consideration. One suggests that the Franchise be sold, the proceeds to be appropriated to the Endowment. An elaborate machinery of control, with a superior Superintending body at the Presidency, has also been suggested.

6. It should not be passed over, as pointed out by a Member of the Native Community,

From Collector of Madura, remarks of Mr. Narrainswami, paragraph 11.

that Hindoos for the most part are interested, only in the object set up and worshiped in their own villages respectively, showing that the parties on the spot are most entitled to elect the persons to be entrusted with the management of their Pagoda concerns. The same individual is of opinion that a large constituency is not needed in Pagodas of more general attraction. The Collectors of Madura and Tinnevelly, with other Collectors, adopt this view, while the Collector of Nellore suggests an extended constituency, greatly beyond the requirements of the case, and otherwise unsuitable.

7. The Sketch Act submitted for the consideration of Government, referred to in a preceding paragraph, embraces the principles and views which have chiefly obtained approval in the papers under discussion. It was there declared that hereditary succession to office and rights of nomination should be invariably respected; in all other cases a constituency, consisting of all males above the age of eighteen years, residing within five miles of the site of the Institution, and belonging to the sect to which it pertains, was provided for filling up vacancies among the Trustees. A Committee of Audit, of not less than three and not more than seven persons, was also to be elected by the same constituency for all Institutions in whatever way the vacancies among Trustees were to be filled up, whether in the course of hereditary succession or otherwise. Owing to the difficulty of naming any person unconnected with office for the duty, it was proposed that the votes of the electing body should be taken by the District Munsif, because, being a Judicial Officer, there was less appearance of the Government being mixed up with the matter.

8. The Board assigned their reasons for considering a Committee of Audit necessary.

Paragraph 13 of their letter to Government accompanying the Sketch Act.

They looked not only to the protection of the Endowments from spoliation, but also to that of the Trustees themselves and to the prevention of unnecessary and vexatious litigation and prosecutions. It was accordingly provided that a Certificate from the Committee should protect Trustees from all Civil Suits on account of the pecuniary transactions during the year it covered, but parties were still declared liable to prosecution criminally before the Magistrate.

9. The propositions of the Board embraced in substance, as observed above, what has been elicited by the further inquiries instituted by Collectors, which have now fallen under consideration. The only modification that suggests itself is that the Collectors, should, in the first instance, call together parties interested in the different Pagodas, and with the aid of their advice appoint Committees of Management and Audit (the same body) as well as Trustees for each Pagoda (which has indeed been already done in most instances), and then leave future vacancies both in the Committee or the Trust, to be filled up by the Committees without reference to the Collectors. Thus modified, the scheme has the recommendation of simplicity, and is more in unison with the expressed desire of the people, and the Board are not aware that it carries with it the idea of State interference more than the plan suggested in the Sketch Act. The requirements of the principle of withdrawal will probably be equally met either way, though in appearance the severance may be more complete under the action of a Native constituency.

NOTE.—*See remarks of the Native Community passim. Also views of M. Narrainsawmi mentioned in the margin above paragraph* 3.

10. Should the plan of a Native constituency be adopted by Government, it will be for consideration whether a property qualification may not be substituted with advantage for a general suffrage of all males above the age of eighteen years, belonging to the particular sect recognised by the Institution. In this case the Franchise may be declared open to all within the prescribed limits, without reference to denominational distinctions.

11. Ordered that copy of these Proceedings be submitted to Government, with reference to the Sketch Act laid before them with letter, dated 6th April 1859, No. 1,213.

(Signed) J. D. SIM, *Secretary.*

SUMMARY OF REPLIES FROM COLLECTORS.

GANJAM.—Electoral body unnecessary, there being no Religious Endowments sufficiently large to require Trustees.

VIZAGAPATAM.—Universal regret expressed at the discontinuance of connection of Government with the Temples and worship; thereby have arisen malversation of Funds, mal-observance of ceremonies and vested rights. Collector's own recommendation is "perfect neutrality;" interference of any kind will only be a compromise of the very principles, the enforcement of which has given rise to the present state of things. If the people cannot manage their own affairs, it is not the business of Government to do so.

ENCLOSURES FROM VIZAGAPATAM.

V. Ramaya, Huzúr Head Assistant Sarishtadar, thinks that Government should superintend all Religious Institutions, on the principle that the protection of subjects and their Religious Institutions is one and the same thing. Trustees to be elected by the votes of the respectable worshippers of the several Pagodas. Temples in Zamíndáris, &c., to be placed in possession of such Zamíndárs, &c., who should be responsible to Government for proper management.

C. Narasinga Ráu, Head Sarishtadar of the Vizianagaram Samastanam, proposes rules:—

(1.) For Pagodas of reputation.

Collectors to make a list of all the principal worshippers; from these to select a Committee of between 5 or 11. Committee to appoint a Trustee. If a vacancy occurs in the Committee another man to be chosen with their consent. If Committee cannot agree in choice of a Trustee, question to be referred to a Committee of 5 at Madras, who are to confer, if necessary, with the Committees of some of the largest Pagodas in Southern India, such as Tripati, &c. On a Trusteeship falling vacant, the heir of the last incumbent to have the preference. Names to be reported to the Board of Revenue through the Collector.

(2.) For small Pagodas.

The District Committee to appoint an intelligent villager. Committee for Mosques to be from 5 to 7 Mussulmen, headed by the Kazi.

In Zamíndáris, Jághírs, &c., the landlord to have the exclusive privilege of filling up vacancies in Trusteeships.

CUDDAPAH.—General wish of the people to leave election of Trustees in the hands of Government. Pagoda funds in the same way. If election by the worshippers is to be carried out, a meeting held at Cuddapah gave their opinion that

(1.) In case of a village Pagoda, all respectable inhabitants of each village should vote.

(2.) Pagoda of some celebrity, people of the villages four or five miles round should be entitled to vote.

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Mr. Fraser's own opinion is that a vacancy in a Trusteeship should be notified by the Heads of castes, &c., to all concerned, and that an election should be made

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All worshippers entitled to vote; each village should nominate its own body of electors of whom a register should be kept. Express wish of people that Government Native officials should take an active part in management of Temples.

BELLARY.—General opinion that an electoral body should be formed consisting of 20 or 30 of all classes (who worship at the Pagoda) selected both from that and the surrounding villages.

For Mosques a similar arrangement among the Mohomedans. Some consider that a superior assembly should be formed for disposal of all complaints against Trustees.

Mr. Hathaway's own opinion, much the same as above: number to be 25. Members to be empowered to fill up vacancies occurring in the body. Trustees to be amenable to Civil Courts only.

Three Pagodas are mentioned in Bellary District, the Trustees of which are elected. Constituency of Brahmins.

KURNOOL.—Number of Trustees should vary with importance of Pagoda. None to be appointed who are not worshippers at it. Otherwise franchise to be unrestricted. Trustees should be generally residents: never more than 25 or less than 9 in number.

N. B.—It is not quite clear whether Mr. Arbuthnott means that these *Trustees* should form the constituency for the election of *Dharmakartas*, or whether the terms are synonymous.

CHINGLEPUT.—Universal feeling in favor of Pagodas being brought under the direct management of Government. If election to be carried out, prevalent opinion that Government should appoint the electors. Mr. Shubrick has no faith in such a body, *with* or *without* a Legislative Act; in former case they would have no funds, in latter no power. No man would spend his own money in prosecuting a suit against a Trustee. The body would then be powerless. Trusteeship of certain Pagodas has been vested in certain families. These would resist the change. Considers the electoral system foreign to the Hindoo character; not to be carried out without English management, which implies Government interference, and so nullifies the object sought. Tendency of the system also to vest the Pagoda management in the Trustee, the very thing which is the matter of universal complaint. Solution of question how to discontinue Government interference: to vest the Pagoda absolutely either in the nearest heir to founders, if there is one, or in some person nearly connected with it. Such person to nominate his successor and register his name. Is of opinion that Pagodas will go to ruin when severed from Government control.

NORTH ARCOT.—Native community opposed to abandonment by Government of interference; rather wish to have present connection drawn closer. Under present system election of Trustees nominally rests with the village communities who would, however, never come to a conclusion, unless pressed by Tahsíldár. Mr. Robinson does not think that any general scheme could be

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devised, which would suit all cases. Constituencies should be purely local, and to entitle to a vote Members must possess the following qualifications :—

(1.) A *bonâ fide* Mírási title in the village.

(2.) A Patta of Rupees 10 and upwards, for three last consecutive years.

(3.) A house or shop valued at Rupees 100 or upwards ; a benefactor to the extent of 100 Rupees should also have a vote.

Trustees not to fall short of 3 or exceed 5 ; elegibility not to depend on belonging to any particular sect. Civil Courts to take cognizance of malversation, &c.

South Arcot.—People desirous that election of Trustees remain vested in Government. Mr. McDonell thinks that the head men of the different castes might form an electoral body.

T. Dharmaraydu, speaks of two classes of Pagodas, viz :—

Tasdik, having a fixed allowance from Government.

Minor, having Ináms as village Temples. The management of the former being vested in Trustees appointed by Government ; latter in the Monigars of the village or Priests. Of opinion that withdrawal of Government interference would prove detrimental to the Religious Institutions : if a change is to be made, power of selecting Trustees should be given in the case of more important Pagodas to those who contribute to its festivals, and in village Temples, to the Natamagars or Heads of castes, &c.

M. Devasekamani, Sub-Sarishtadar, proposes the formation in each District of a " Senate of the Hindoo Religious Endowments." Number of Members to depend on amount of Devastánam Fund in each Zila. If the annual value does not exceed a lac of Rupees, 12 would be sufficient, if above, 24. Half the Members to possess landed property valued at 10,000 Rupees. Other half, men who spend annually for charitable purposes, 200 Rupees. Half to be Vishnavahs, half Sivas. One quarter of the number to be selected from the capital of the District, the remainder from the Táluqs. President to possess a knowledge of English. There should be a Secretary paid by a percentage on the Pagoda funds. Senate to fill up vacancies and dismiss incompetent Trustees, prosecute for embezzlement, &c., cost of action being defrayed out of the funds of Pagoda concerned. No appeal from decision of Senate.

Tanjore.—General opinion against electoral bodies ; more direct management by Government desired. Mr. Cadell's own opinion is that the appointment of a limited electoral body by the Government would rather augment than lessen Government interference, and add to the confusion and discontent which now prevail.

V. Ramiah, Deputy Collector thinks the present state of Native Society opposed to corporate action especially in religious matters. Objects to a general system of franchise, but recommends its adoption in a limited form. A Committee of twelve or sixteen might be formed in each province ; besides the duty of filling up vacancies of Trustees, such a body might be useful in a variety of ways. It should be formed originally by Government ; subsequent vacancies in itself to be filled up by the remaining Members. Alludes to a project said to be in contemplation at Tinnevelly for making all Pagodas over to the Institutions called " Mattams," but does not support it.

Trichinopoly.—General opinion adverse to an electoral body, and in favor of Government interference. Mr. Bird thinks the Native Community incapable of exercising the right of franchise properly : difficulty too in settling whose property the Pagodas are : is of opinion that things should be left as they are.

Madura.—Franchise to be restricted to the Town in which a Pagoda is situated. Mr. Clarke of the same opinion. Qualifications for votes, pure Hindoo descent, possessed of or renting houses in the Town of 2,000 Rupees value or paying 100 Rupees a year on Patta, or receiving salary of 50 Rupees a month, and able to read and write. Certain rules proposed for voting and registering. Governing body of a Pagoda to consist of five persons to audit the accounts yearly, print and publish them. Manager to be elected by them ; Manager to have control over the treasury, jewellery, servants. No suit against Manager to be entertained in the Courts unless under a certificate from governing body.

Tinnevelly.—General wish expressed that Government would take all management : in default of that, that a European gentleman, to be paid out of the revenues of all the Pagodas

Inhabitants of Bimlipatam consider administration by Government officials best ; next to that by Hindoo Zamindárs and Proprietors residing near. If there are none such, by a Committee of 10 or 5 respectable inhabitants of the largest Town near. Half yearly meetings to be held of all the people worshipping at such Pagodas, to see if the Trusts have been properly administered.

A. V. Narasinga Ráu, District Munsif, deprecates the appointment of an electoral body composed of the whole Native community, without the interference of Government. Some rich Native would take the place of the people and have it all his own way, electing as Trustee some man agreeable to him. Equally objectionable would it be were the franchise restricted to a particular class. Other classes would be dissatisfied, and a breach of the peace might ensue : is of opinion that Government officials should hold a meeting of the respectable men interested in the Pagoda, and elect as Trustee the person they consider fit.

Mr. G. W. Gajapati Ráu thinks it impossible that the Endowment of Pagodas can be legitimately appropriated in the absence of surveillance on the part of Government Officials.

Masulipatam.—General feeling that Trustees should be Members of the family by whom the Pagoda was founded or endowed, to be elected by the respectable inhabitants of village where Pagoda is. Of opinion that it would give general satisfaction were Government to nominate either the Trustees themselves, or a body who should elect Trustees, and overlook them. In Zamindáris, Zamindárs to take the place of Government. Suggestion that Heads of castes alone might vote, not approved. Mr. Knox thinks that each street in a large Town, and each division in a smaller one, might choose representatives by whom Trustees should be appointed.

V. Venkatachellam, District Munsif of Ellore, recommends that the election of Trustee for each Pagoda be made in each village in presence of a Native Officer of Government ; electors to be those inhabitants of the village who can read and write. In case of a Pagoda of great renown the surrounding villagers to be consulted. Trustee to furnish accounts to Government Officer.

Vadapalli Lingaya, Revenue Péshkár, considers that the election should always be made by a Government Officer, either out of the family which founded the Temple, or in default, of the worshippers. He should consult with the respectable people of the place. Objects to the power of election being reposed in the hands of the people. In many cases it would be impossible for all concerned to vote ; they would besides, abuse their authority from selfish motives ; neither would it be possible to give the power to a few, out of many. Expresses strong opinion on propriety of Government resuming general supervision. Regulation VII of 1817 has been practically repealed, and there is no control over the misappropriation of Church Revenues.

A. Sashiah, Head Sarishtadar of Masulipatam, now Deputy Collector, proposes a scheme for the purchase of right of voting in an election, from ½ a Rupee to 5, 10, or 100 Rupees according to the size of the Town and repute of Pagoda. None eligible to purchase who have not an interest in it. Proceeds to go to Pagodas. Franchise to be for life. One person can purchase one or more votes. By this means an electoral body of manageable dimensions and respectable character, would be found. Objection.—Rich men will monopolize the franchise. True ; but it is an evil incident to all elective systems based on money or property. This body will be composed of men who really have an interest in the Pagoda : it will control the Trustee, examine his accounts, &c.

P. Sánda Ráu, Cash-keeper. Government should appoint three respectable persons to select Trustees, for every shrine. In case of complaint against Trustees, this body to assemble a Punchayet of respectable villagers. Trustees to abide by their decision or be dismissed. Government interference not to be withdrawn.

Rájá Kándraguda Jagaunátha Ráu, Gópál Ráu, Bahadur. As a general rule inhabitants of a village where Pagoda is, may elect Trustees. In cases of Pagodas of repute, surrounding villagers to have votes. In some cases, family of founder of Temple, or landlord of the country to have the power ; or Head of castes.

K. Lakshmenarana. Villagers should elect a Trustee from the family of founder of Temple if any ; if not, of the villagers, and report to Tahsíldár. In cases of celebrated Pagodas, neighbouring villagers might have votes. If the villagers agreed, the right of voting might be confined to the Heads of castes.

GUNTOOR.—Mr. Dykes gives first what he considers to be the public, professional, and official sentiments on the subject.

Public. That Pagodas should be given back to the Zamíndárs. The people remember the time of the profuse liberality of these landlords.

Professional. Such as Agraháramdars; object to an electoral body; disturbances would be sure to take place in consequence of ceremonial differences: desire that Government should nominate Trustees.

Official. Electoral body for each Town where a Pagoda exists, not less than five. Vistnasaits for Vishnu Temples, and Senartútus or Swaits for Siva Temples. Electoral body to be elected by each Town. Government interference will, however, still be sometimes necessary.

Mr. Dykes considers none of these schemes practical. Proposes an electoral body of landholders; qualification to be Patta.

For village Pagoda.—All landholders in the village paying, say above 50 Rupees to Government, to elect Trustees.

For a larger Pagoda.—All landholders in the Táluq paying, say above 100 Rupees.

For the *principal* Pagoda in a District.—All landholders in the District, paying say above 500 Rupees.

For the great Pagodas of Tripati, Calaastri, Conjeveram, &c. &c., landholders of neighbouring Districts, as well, paying say 1,000 Rupees.

Provisional Trustees to be elected.

Limitation again would result from the distinction between the followers of Siva and Vishnu; one party would have nothing to do with the elections of the other.

However elected, Trustees should receive suitable salary out of the Temple funds and should give security. They should hold Office for a limited period, say 5 or 7 years, which would be a check on fraud. Trustees to have full power, subject to Civil action, over all persons attached to the Pagoda.

Franchise granted as above would induce the mercantile classes to register their titles and take out Pattas; it would also induce the richer Raiyats to consolidate their holdings into one Patta, and in both cases the advantage would be great.

NELLORE.—Mr. Elton's inquiries were limited. Correct principle is undoubtedly to take the rolls of those who worship at the Pagodas; in large Pagodas, franchise to be restricted by a property qualification. Elections at great Pagodas might take place at the festivals.

Dodla Puttabhiramreddi, considers that in cases of vacancy in Pagodas which have been built by former Rulers, &c., or by contribution of the villagers, Trustees should be elected by a body of respectable villagers, provided that the person so appointed is not a servant of the Pagoda. Where a Pagoda may have been built by a family, the office of Trustee should vest in one of the heirs.

Rungacharlu.—Delicacy required in touching the question. Pagodas may be divided into

(1.) Immemorial and of general interest in a District.

(2.) Founded by families.

(3.) Village Pagodas.

In the 1 and 2 classes often prescriptive rights of particular families which must be considered in appointing Trustees. Village Pagodas generally ruled by the village community.

To form an electoral body. The District should be divided into a certain number of parts, from each part a respectable person of each sect to be returned. All together would form general body for election of Trustees for all the Pagodas in the District. Powers of this body to last so many years; then a re-election. Landholders of the several sects holding land of the annual value of 100 Rupees and upwards to elect these Members in each Division. The electoral body besides choosing Trustees, to settle disputes. No suit to be admissible against a Trustee either before a Court or Collector without authority to sue from this Committee.

uld be Manager of all Pagodas in the District. Other propositions discussed. All Vishnu godas to be placed under the Jeers of certain places, and all Siva Pagodas under the Pandarams certain Pagodas: some advantages in this measure, but distasteful to the head inhabitants, ose influence would become nil. Disputes might also arise. Central Committee to be tioned at Tinnevelly, met with favor from the Tinnevelly people, but not from the country rty. Different Committees for the different Pagodas most feasible; impracticable to make m over to one Zamíndár. Inhabitants of each Town should be left to appoint Managers, in it, this is already done; the persons nominated by them being generally confirmed by the Col- tor. Mr. Levinge proposes to limit right of voting to holders of 50 Rupee Pattas, and to lders of lands paying rates to Pagodas, as Tripani, Swamibhogam, &c. Constituency to smiss and appoint Managers. Observes that as long as Government make ready money pay- nts to Pagodas, Government connexion cannot be completely severed. Arrangements should made for Dharmakartas to collect their own dues.

COIMBATORE.—People generally have expressed no opinion whatever, though Notifications the subject have been issued. Mr. Thomas thinks that nothing better can be done than to ave matters as they are. The interference of the Officers of Government is confined to nfirmation of the Nominees brought forward by the several Communities; it would be difficult to lect a constituency, and any selection would furnish cause for dispute, especially where the tivites and Vaishnavas have a joint interest in any Pagoda. Any change is calculated to crease the interference of Government officials.

SALEM.—Great majority of the people opposed to abandonment of Government interference; ea of an electoral body not comprehended. Mr. Knox proposes to leave matters alone for ie present.

CANARA.—Mr. Fisher points out that in most Religious Institutions, the Trustees are ound to elect the nearest male heir of one of their number deceased, or in default of such heir select and nominate any other fit person. In a few small village Endowments, the villagers lect a Trustee who is confirmed by Government Officers. It would be easy to form a nstituency, if necessary, those individuals enjoying particular marks of respect being easily istinguishable.

MALABAR.—Mr. Grant has not thought it necessary to enquire the opinion of the people on e subject, as in Malabar the principal Temples are attached to old Hindoo families and managed n their responsibility, without any interference from any one else.

Read also the following further papers:—

o. 206. From W. GREY, Esq., Secretary to the Government of India, to T. PYCROFT, Esq., Chief Secretary to the Government of Fort Saint George, dated Fort William, 11th May 1860, No. 985.

SIR,

1. I am directed to request the attention of the Government of Madras to the Bill for pealing Regulation XIX. of 1810 of the Bengal Code, and Regulation VII. of 1817 of the adras Code, which was read a second time in the Legislative Council on the 28th ultimo.

2. A copy of the "objects and reasons" for the Bill is annexed, from which it will be seen at the Bill has been brought in by desire of the Secretary of State, with a view to relieve the oard of Revenue and other Officers of Government from the duty imposed on them by the egulations quoted, as far as relates to the charge and administration of religious and chari- able endowments.

3. I am desired to request that you will favor the Government of India with any remarks suggestions which may occur to His Excellency the Governor in Council of Madras in connec- on with the Bill, as far as it is intended to give effect to that portion of the instructions of e Secretary of State.

4. It will remain to give effect to the orders of the Secretary of State that provision be ade "for an appeal to the established Courts of Justice in all disputes relating to the appoint- ments and succession to the management of Hindoo and Mahomedan religious institutions, and to the control and application of their funds."

5. It is believed that the ordinary Courts of Law already exercise an equitable jurisdic- on to enforce the execution of such trusts as those referred to, and that, in a great majority

of cases, no special Legislative provision is required to prevent misappropriation of such endowments. There is none in Bombay, and the President in Council has no reason to believe that any complaint has been there made of the want of means to enforce due execution of such trusts since they were left to the action of the ordinary Courts of Law, under instructions from the Court of Directors several years ago.

6. In some cases it may be necessary, either by an order of Government, or of the Board of Revenue, to indicate for the future guidance of Courts of Law the parties interested in the trusts, or who may be entitled to sue or be sued in any action relating to the management of these endowments. But it will not probably be necessary to make any provision for this purpose in the general Bill now before the Legislative Council. The Board of Revenue should be requested to indicate for the information of the Government of India the steps they propose to take for providing for such cases as have just been described.

7. It is possible that there may be some endowments of an extent or character which would entitle them to have the due administration of their property provided for by a special sunnud or charter, or even by a special Legislative enactment. If there are any such endowments now managed by the Board of Revenue under the authority of the Regulations which it is proposed to repeal, I am directed to request that you will state the course which his Excellency the Governor in Council of Madras would propose to follow with regard to them, giving the fullest particulars on all points which may be required to enable the Government of India to judge of the necessity for making special provision for such cases.

8. Finally I am directed to request that it may be pointed out to the Board of Revenue, that the instructions of the Secretary of State are imperative on the point of divesting the Fiscal Officers of Government of all control over or concern in the management of such endowments, and that the only point to be considered is how to provide for the future due execution of trusts which have been assumed by or been devolved on Government, so that every protection, which the ordinary tribunals of the country can afford, may be provided to prevent misappropriation of the property belonging to any of the endowments to which the Regulations now to be repealed have been applied.

No. 207. MINUTE BY THE HONORABLE THE PRESIDENT.

1. The recent Proceedings under this Government will enable us to furnish a reply to the Letter from the Government of India, dated the 11th ultimo.

2. After nearly another year's experience, during which the subject has come before me in a variety of shapes, I continue to hold the opinion expressed in my Minute dated the 20th of July last. It appears to me that there is no alternative between managing Religious Endowments as they were managed under Regulation XIX of 1810 of the Bengal Code and Regulation VII of 1817 of the Madras Code, and leaving them purely and simply to the protection of the Courts of Justice like every other description of property.

3. If we were of the same faith with the majority of our fellow subjects in this country and if there was a prevailing feeling in favor of a State religion, we should probably adopt the former alternative and establish an Ecclesiastical commission, but the actual circumstances entirely preclude this.

4. In various parts of the correspondence it is assumed that the Courts would be unequal to the task of administering justice in this class of cases. I do not concur in this view. In the exercise of their *equitable* jurisdiction, the Courts can adapt their action to the circumstances of each case, however peculiar they may be. Those circumstances are so various, that any attempt to define and regulate them beforehand by general Enactments would only embarrass the Courts and diminish their power of administering substantial justice. Mr. Cadell, the Collector of Tanjore, justly observes "that the appointment of a limited electoral body by the Government "or its officers would rather augment than lessen the interference which now exists, and would "only tend to add to the confusion and discontent which now prevail." The slightest examination of the correspondence shows that this remark may be made in a more extended sense. Our proper course, I am convinced, is clearly to fix the responsibility upon the Courts, and to leave them, at any rate at first, entirely untrammelled. They will then appoint trustees, or provide for their appointment by the proper individuals or classes of persons; call for accounts

Collector, that Officer's hands were strengthened by enabling him to deal punishment to delinquent servants in the same manner as the Revenue servants of Government are summarily punished for embezzlement and corruption under Regulation IX of 1832. This appears to me unnecessary and open to objection. I would leave the servants of Mosques and Pagodas to the ordinary course of the law when they are charged with criminal embezzlements and malpractices.

4. But I concur with the Honorable Messrs. W. Elliot and Morehead and numerous other authorities, that Government ought to make some special provision to protect the endowments of those Institutions which have been so long under its charge. To place them entirely and suddenly under the Civil Courts would, I conceive, be dangerous to the safety of the property, and cause well-founded dissatisfaction among the native community. The Civil Courts cannot act without being put in motion, and what persons are entitled to call for their interference is at present unknown. If, therefore, Regulation VII of 1817 is abolished, I conceive that an Act ought to be passed authorizing the people to appoint Trustees and elect committees of management to superintend the Trustees and audit their accounts. This audit is necessary, not only for the proper management of the Institutions, but to secure the services of qualified persons as trustees, since men of respectability would be slow to accept the office if they could not terminate their responsibility and ensure themselves from malicious accusations at distant periods.

5. Arrangements for this purpose were sketched by our late Member in the Legislative Council,* Mr. D. Eliott, and more recently by the Revenue Board, under whose consideration the subject came during the preparation of the new Revenue Code.

* *See Parliamentary Return, Idolatry, India, No.* 621 *of* 1849, *page* 108, *&c.*

6. Their letter of 6th April 1859 laid before the Government a sketch Act for the future management of Mosques and Hindoo Temples; and with the aid of the above papers, and the various Minutes recorded by the Members of the Supreme and Madras Governments, I believe that the Legislative Council will be able to deal satisfactorily with the subject.

7. The Collector's part will be to see that the local committees of control are maintained and perform their duties. But after the new system is understood by the people and has been brought into working order, it may be practicable to relieve the Collector from all interference, and leave these Institutions to the jurisdiction of the Civil Courts as in the Bombay Presidency.

(Signed) E. MALTBY.

3rd July 1860.

No. 210. ORDER THEREON, 18th September 1860, No. 1,586.

1. The letter from the Member of the Legislative Council for the Madras Presidency, dated 20th October 1858, gave cover to a Petition from certain Missionaries in Bengal, praying for the repeal of Regulation XIX of 1810 of the Bengal Code and Regulation VII of 1817 of the Madras Code. The matter was referred for report to the Sadr Adalat and the Board of Revenue; whose replies, with the Minutes thereon by the Members of Government, have now been brought on record.

2. The Proceedings of the Board of Revenue, dated 20th March 1860, lay before Government the reports of the Collectors as to the means to be adopted hereafter for appointing Trustees of Religious Endowments in cases of vacancy; together with a number of opinions on the subject obtained from competent persons in all parts of the country. A summary of these opinions prepared in the Government Office, will form a part of the record.

3. The letter from the Government of India, dated 11th May 1860, asks for the opinion of this Government on a Bill brought into the Legislative Council by Sir Bartle Frere, to repeal the two Regulations specified above in paragraph 1.

4. The papers thus before Government contain suggestions for four modes of dealing with the case. First, Sir Bartle Frere's Bill would 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 also is the course advocated by Sir Charles Trevelyan, in both his Minutes, both 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.

5. 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 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. Three different courses are proposed to prevent these evils.

See letter of April 6th 1859.

6. 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 (paragraph 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 was to create an entirely new species of 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 (paragraph 10) as containing the least objectionable 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 Revenue consulted, in all parts of the country, shows how little there is of any settled or definite opinion on the subject: all seems vague and speculative.

* *Procs. April 6th* 1859.

7. The Court of Sádr Adálat on the other hand (letter December 11th 1858) approve the provisions of a previous Draft Act which was sent down from Calcutta in 1846.† The course proposed in that Draft was that the Government should nominate Committees of Natives with power to supervise the affairs of Trusts, to appoint Managers, call for accounts, &c. Vacancies occurring in the Committees to be also filled up by the Government. This is the third of the four proposed modes of proceeding above referred to.

† *Received from Calcutta with a letter in the Home Department, dated June 20th* 1846, *No.* 389.

8. The fourth course proposed was to leave the control of the Pagodas in the first instance, in the hands of the Collectors. This is advocated by Mr. W. Elliot and by Mr. Morehead; but their recommendations do not quite agree in all points. Mr. Elliot would continue Regulation VII of 1817 almost unchanged; but would restrain the Collectors from doing more than audit the accounts and bring cases of malversation to the notice of a "Public Prosecutor," in view to criminal Proceedings 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 Regulation; 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.

9. By both it is argued that the Courts must be powerless as controlling authorities, because they cannot take the initiative.

10. It appears from the foregoing review that with the exception of Sir Charles Trevelyan, all the Members of the Government, both present and past, who have taken any part in the discussion, are agreed that Regulation VII of 1817 ought not to be abolished without some special provision being made for the future care of the Pagoda Endowments; but the views expressed vary greatly as to the nature of such provision. Under these circumstances the present Government consider that the best course will be to transmit the papers to the Government of India together with the Minutes recorded, but without any collective expression of opinion as to the direction to be taken by Legislation on the subject.

11. His Excellency the Commander-in-Chief does not wish to go into the subject.

(Signed) J. D. BOURDILLON,
Secretary to Government.

punish malversation, and perform all other acts necessary for the protection of this description of property. By degrees, the subject will be well understood by the members of our Judicial Establishments; an established practice will grow up; and, where necessary, specific regulations (like the schemes for the proper application of charitable endowments at Home) will be laid down suited to the circumstances of each particular case.

(Signed) C. E. TREVELYAN.

Madras, June 7th 1860.

No. 208. MINUTE BY THE HONORABLE MR. W. MOREHEAD.

1. I agree with Mr. Elliot in the opinions which he has recorded in his Minute of the 10th December 1859, in regard to the value and importance of the provisions of Regulation VII of 1817.

2. I hold with Mr. Elliot that it is the bounden duty of Government to provide for the due preservation of the religious and charitable endowments of the country; and as I cannot discover the existence of any reasonable cause why as an honest and just Government we should seek to escape from the responsibilities imposed upon us by the Regulation in question, I must object to the introduction of a Bill merely providing for its repeal and leaving these endowments to be dealt with by the Civil Courts only.

3. The endowments which by the preamble of Regulation VII of 1817, it is wisely declared to be "the duty of the Government to provide" for the due appropriation and management of—are of two kinds (1) Religious, (2) Civil or General. The former class comprises Pagodas, Mutts and Mosques of every description; the latter, Choultries, Hospitals, Tanks, Schools and Colleges.

4. There can be no ground of objection to the 2nd class continuing under the control of Government Officers. They are all works of public utility. To give them up to the management of private individuals, free from all official check, would be to consign them at once to ruin.

5. In England and elsewhere all public charities are more or less under official control or guardianship. And in India it is surely but just and right that such endowments should be allowed to continue under a like protection.

6. With regard to the religious endowments of this Presidency it has been well explained by Mr. Elliot that it is a mistake to suppose that Regulation VII of 1817 enjoins on Government any interference with the religion or ceremonies of Hindus or Mahommedans. It was the manner in which, formerly, the control over the expenditure of the funds of religious institutions was exercised by the Officers of Government, combined with their unauthorized interference in the affairs of such institutions, that has occasioned the misapprehension which so generally prevails in respect to the true nature of the duties required by the Regulation in question of Government in connection with the religion of the people of the country. From all such objectionable proceedings the Government have however long since withdrawn. And all that the people of the country have a right now to ask from the Government, or the promoters of this movement to expect, is that the law as it stands, or a modified form of it, may be permitted to take its course.

7. I think that Regulation VII of 1817 might with benefit be modified to this extent. That the Collector of the District, instead of the Revenue Board, should be constituted the controlling authority over all endowments within his range; that in dealing with them the Collector should be guided by the provisions of Sections 9, 10, 11 and 12 of that Regulation; and that parties dissatisfied with his orders or awards should have recourse to the Civil Courts of the District, as provided for by Section 14 of the same Regulation.

8. The Collector should also be directed or empowered to cause the accounts of all endowments within his range to be annually audited, published, and the balances examined by persons appointed by him for the performance of such duties.

9. Beyond the above acts the Collector should not in any way interfere with the affairs of the institutions in question. Nor need further special protection be provided by Government for such institutions.

10. That any reasonable person can construe the performance by the Collector of these duties into an interference with the religious concerns of the people, appears to me to be quite impossible. As well may the Civil Courts presided over by Christian Judges be said to be guilty of like interference when adjudicating on Pagoda rights and disputes. The same imputation may also with the same force be brought against the Court of Wards, when in administering to the estates of Minor Zamindárs, it has to manage the religious and charitable endowments appertaining to such estates.

11. At present, Trustees, Managers, Superintendents, &c., who may be guilty of fraud or embezzlement of the funds or other property of public institutions, are punishable under Regulation IX of 1832. This I would alter. The Regulation has never worked well, and all such cases would be better dealt with by the Courts under the general regulations enacted for the punishment of such offences.

12. It is in my opinion a mistake to imagine that the Courts of the country can, as contemplated by the proposed new Bill, and by the President in his Minutes, meet the difficulties that must arise from the repeal of Regulation VII of 1817. It is impossible for the Courts to act as suggested by the President. A Court cannot take the initiative. And Courts constituted as our Courts cannot therefore exercise a general superintendence over endowments.

13. That the religious and charitable endowments of this Presidency require to be placed under some general superintendence is not denied, and that it is the duty of Government to provide such superintendence must also be admitted. Unless therefore due means are provided by Government for the preservation of these endowments from fraud and plunder, the State beyond all question will be guilty of a grave dereliction of one of its inherent duties. In many instances it has happened that individuals anxious to perpetuate an act of charity or munificence, have made the Government the trustee and manager of their endowments—a trust which the Government have never refused to accept. In other instances, the Government have actually received large funds on the condition that no repayment of the principal was ever to be asked for, but that an annual sum was to be paid to support certain endowments. Now it is desired to abandon all such trusts, and to refuse to redeem such pledges, on the plea that we are a Christian Government, and that therefore for Government longer to keep faith with its subjects in respect to such matters is incompatible with the creed which we profess.

14. As I however entertain a firm conviction that Regulation VII of 1817 is in its object a just and wise Regulation, and as I think with Mr. Elliot, "that no better machinery," (modified in some of its details, as I have suggested,) "can be provided," to enable a Christian Government to deal fairly with itself and its idolatrous subjects, I cannot do otherwise than enter my protest against the proposed Bill being brought into operation in this Presidency.

(Signed) W. MOREHEAD.

20th June 1860.

No. 209. MINUTE BY THE HONORABLE MR. E. MALTBY.

1. This subject has been so much discussed, and such detailed Minutes have been recorded upon it both here and at Calcutta, that I shall limit myself to expressing the opinion at which I have arrived.

2. Regulation VII of 1817 ought, I consider, to be repealed. The Collector can hardly be charged with the superintendence of Hindoo Temples and Mosques without being occasionally obliged at least to arbitrate in, and advise, regarding their religious services. "The scandals "which aroused the indignation of conscientious Christian men," to use the words of the Honorable W. Elliot's Minute of 10th December 1839, would thus be continued, and the transference of the internal management of these Institutions to native agency would be impeded.

3. Another argument for getting rid of the Regulation is, in my opinion, its final Section. When the religious institutions of the country and their establishments were placed under the

Ordered that the following letter be despatched.

No. 211. From J. D. BOURDILLON, Esq., Secretary to the Government of Fort Saint George, to W. GREY, Esq., Secretary to the Government of India, dated 13th September 1860, No. 1,587.

SIR,

1. I have the honor to acknowledge the receipt of your letter of the 11th May last, calling for the views of this Government on a Bill brought into the Legislative Council by Sir Bartle Frere, for repealing Regulation XIX of 1810 of the Bengal Code and Regulation VII of 1817 of the Madras Code.

2. In reply I am desired to forward the papers noted in the margin, together with the Minute recorded thereon by Members of this Government as also noted in the margin. The Government of India will observe that the subject of the administration of the religious and charitable endowments of this Presidency engaged the careful attention of this Government during the time that Sir Charles Trevelyan was at its head, and various methods of dealing with them were proposed. No Resolution, however, was arrived at; and as the present civil members of the Government are not agreed as to the proper course to be pursued, the Governor in Council considers that the best plan will be to transmit the whole of the papers to the Government of India, without any attempt at the expression of a collective opinion. His Excellency the Commander-in-Chief does not desire to take any part in the discussion.

From the Madras Member of the Legislative Council, dated 20th October 1858.
" *Acting Register of the Sádr Adálat, dated 11th Dec.* 1858.
" *Board of Revenue, of 6th April* 1859, *No* 1,213.
Minute by the President, dated 20th July 1859.
Do. by His Excellency the Commander-in-Chief, dated 22nd July 1859.
Do. by the Honorable Mr. W. Elliot, dated 10th Dec. 1859.
Procs. Board of Revenue, with summary of replies from Collectors, dated 20th March 1860, *No.* 1,422.
Minute by the Honorable the President, dated 7th June 1860.
Do. by the Honorable Mr. Morehead, dated 20th June 1860.
Do. by the Honorable Mr. Maltby, dated 3rd July 1860.

3. I am directed to refer you to the order of this date which accompanies this letter for a brief summary of the views contained in the various papers transmitted.

Extract from the Minutes of Government

Under date the 29th Sept. 1809.

Read the following

letters.

Standing Orders of the

Surveyor Genl. of

Woods under date 1st December 1808.

From the Secretary to the

Board of Revenue

Dated 6th April 1809 [illegible]

These Regulations which

to the important and effential

objects of the encouragement

natural Religion & Civilization,

& with the means of providing

security against the Invasion

or encroachment of their pro-

perty, entitled Government

interference in their concerns.

2. The object is not

Peruse only

the parts of this

Printed pamphlet

[illegible]
in the first of my last draft
rule at least have been prepared
before with the same object,
the one in 1845 by the Court
of Sudder Adawlut at
Madras, and the other in
1846 by the authorities in
Bengal. The present dis-
cussion of the matter arose
out of a petition addressed
to the Legislative Council
in September 185[illegible]
of India by a number of
Christian Missionaries, com-
plaining that many Native
religious Institutions were
still under the charge of
the Officers of Government,
and praying for the repeal
of Bengal Regulation 19
of 1810, and Madras Regu-
lation 7 of 1817. That Petition
being sent to this Govt was

out the insuperable
practical objections
to the plan of managing
the Religious Endowments
through the medium
of popular elections.

Minute legislation
on this subject would
certainly defeat its
object. It is impossible
to lay down beforehand
any set of rules which
would meet all the
varieties of the Hindu and
Mahommedan Endowments
throughout the Country.
The true principle is
that which has been
reaffirmed in the 7th
Paragraph of Lord
Stanley's Dispatch to
the Governor General dated
the 21st February last.
That is that Regulation
7 of 1817 of the Madras
Code by which the
superintendence of
Religious Endowments

is vested in the
Revenue Officers of
the Government, should
be repealed, and that
the Endowments should
be ~~[illegible]~~
distinctly placed under
the protection of the
Courts of Justice.

Nothing can be
worse than the present
position of the question.
Religious Endowments
are nominally but
not really under the
management of the
Collectors; and by
virtue of that ~~[illegible]~~
safeguard they are
deprived of the common
protection of the Courts
of Justice.

I see no reason
for thinking that
when this restriction
is withdrawn, the
Courts will be unequal
to the task of affording
protection. Of this

forwarded to the Court of
Sudder Adawlut and to
the Board of Revenue respe[ctively]
for report, and the papers
[illegible] recorded are their
replies.

5. That of the Sudder
Adawlut is brief. The
Court state their opinion that
the protection of the ordinary
tribunals is all that is
necessary for the trusts
in question; and that no
more is needed in order
to give them the benefit
of these tribunals, than
to supply the communities
interested in them with
measures for appointing
managers and exercising
supervision over them.
As respects such measures
they recommend the
adoption

of the Commissioners in question and the Govt are clear of the same opinion.

The Board of Revenue have gone more deeply into the question. They are also of opinion that the ordinary Courts are competent for the security of property of the kind in question, and that the only restriction is to provide the means of bringing it within the jurisdiction of those Courts. That Regulation considered the interests of Hindoo property more than those of Mussulmans, and have evidently been partial to the suspicions much exposed to the latter. They submit a draft of an Act embodying the leading principles which they recommend for adoption, though not purporting to be complete in detail; the Govt have

Care Fredk

Received 20th/47

42

protection of the
justice like
description
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e more
would be
ation and
ument
Thursday
July 1859 -

Colonel Cuthbert
Sly

at any rate, I am quite sure, that if our Judges are left free to adapt their remedies to the special circumstances of each case - either insisting upon accounts being rendered, or appointing trustees on the recommendation of trustworthy persons, or making such other arrangements as the occasion may demand - they will be much more likely to save the Endowments from depredation than if they are trammelled by detailed Regulations which must be inapplicable in the majority of cases -

I am, therefore, of opinion that Regulation VII of 1817 should be repealed and that Religious Endowments should be placed

of

of the Officers of Government in such place the management of

which of the Provinces of
Bengal and Behar which
Provinces are severally
in following their Government
may exercise control and maintain
Commissioners of Wakfs, with
authority to respond to the
claims of the Courts, and
to appoint Managers in
cases in which the Govt
have heretofore made the
appointment, and ascertain
other cases, the Managers
to be accountable to the
Commissioner. Moneys paid
into Court by Trustees
or Managers, &c., &c.,
or the like shall be invested
and applied in conformity
with the Orders of Government
and the Officers of Government
shall perform the managements

especially considered the provisions contained in that Draft, which they cannot recognize as in all respects well adapted to their end, and they will now record their sentiments upon them.

5. The leading feature of the Scheme is, that there shall be a Board of Trustees for the management of each Institution, and a Committee of Audit subordinate to the Trustees' Board to audit the Trustees' accounts, and also to perform certain other functions.

6. Clause first provides that the management of all Mahomedan and Hindoo

Hindoo religious institutions shall be vested in not more than seven nor less than three persons to be styled Trustees of the endowment for the general and peculiar objects of each Institution. The object is to provide security for the property of such Institutions from the misapplication and mismanagement of Govt, but from the nature of the Institutions many could not be subjected to such supervision, and some perhaps not so much, such as never shared and never needed that protection and which do not proceed to be interfered with; it would be very difficult in the opinion of Govt to make the Act applicable generally to those Institutions

Governor in Council is by no means of opinion that the deliberations of the Board have been barren, on the contrary he thinks this clause contains the germ of future practical usefulness, but in its present form it is hardly precise enough for proper working. In the first place the distance of five miles is wholly arbitrary, and is impossible to say in general terms what is preferred to four or six. It is equally impossible to say what individuals are to have votes, and the smaller it would be the more unjust, on any given ratio, would individuals

stations which from 6 1842 were under the management more or less immediate of the servants of that, with provision of means whereby others also might be brought under it by the persons interested in them respectively.

7 Repeal and third Clause contain nothing which appears open to objection or seems to need remark.

8 Clause 8 prescribes the mode of electing trustees where no other mode of appointment or succession exists by Custom. This is the real difficulty of the case, viz. to frame a fit and proper constitution. The

Governor

thoroughly met it provides
by ~~in~~ the first
article the Board remarks
(Para 7) that as large
proprietors make so much
the property of the Zemin-
dars but is situated
as of the country ge-
nerally, but in very
many cases of trifling
& few pounds would
be very far indeed to
free existing rights
recommended. To give
the encouragement of the Zem-
indars of Tirhoot, Serun-
gam, Chittlemahum,
Trinellore & Conjeve-
ram, to persons residant
within five miles dis-
tance, would be little
less exclusive than to
confer it on the posses-
sion Proprietors. On
the other hand, in the
case

of small villages
proprietors; the number
of which, however can-
not) under the provi-
sion of the act provided
for must be restricted
under the rules pro-
posed above in Para
6, the geographical
limit would be too
large, in such cases
the person not belong-
ing to the village
would be in many
cases any right to
interfere -

7. ~~It~~ and the
condition of the right
of suffrage appears
too large - to prevent
appears why they
should

should include every
inhabitant, it would
seem to be certainly
sufficient to give it
to every Head of a fa-
mily. But even that
seems too much for
useful and necessary
knowledge, encourage-
ment to the whole
people to endeavour
to the utmost of
their power to
contribute their
assistance, and
to

It is not altogether clear
now, though the Memorandum
is so, what the Contents
-tics of the Draft
of 1870 would have
been but greatly
enlarged Three modes
of proceeding the rela-
-tive proposals to have
suggested to their
minds, and which
calculated, whether
honestly performed
to secure the restitu-
-tion from damage,
as well as to pro-
-tect the Trustees
from

from vexatious actions
and prosecutions, may
perhaps be doubted in-
-deed whether the protec-
-tion thus proposed to be
given to Trustees, in re-
-gard to sales made
under the power in
practice be great. With
respect to the proper
mode of selecting the
Committees, where they
are to be elected, there
seems no provision
not left to the arrange-
-ments as they
already are with
respect to the nomina-
-tion of the Trustees.
It is apparently
the intention of the
Draft act that
certain Institutions, the
Trustees should be liable
to the prosecution suits
by any person, for

misconduct

misconduct in their trust; but it would seem to be necessary, in order to maintain the function of the Audit Committee complete, that it should be made more positive, by giving them authority to enforce legal proceedings, either at criminal against the Trustees, or their sureties may appear, and to charge the offender to the institution, or certificate to that effect from the judge trying the case. The completion of the scheme of reform would involve in the plan, it also seems necessary that provision should be made for inspecting public the accounts, to those

concerned

concerned at the A.
12 other than Lord
in the temporary
the Trustees and the
Audit committee and
to the respectively elected
-d. If both are to be
for life or would be
to the like intention,
deems to Government
that for all useful
Control
purposes the committee
would be empowered
to elect of themselves
to vacancies in their
body, and to nominate
the Trustees on
vacancies, which latter
provision was contained
in the Bengal Draft
Act of 1846.

13 Again, the
plan is not complete
as to

without some decision of the relation in which the committee are to stand to the Trustees, with respect to any provision of inspection or removal.

4. The plan of protecting deeds respecting titles and conveyances by Memorandums for accession, contained in the draft act, appears to the committee unnecessary, and useful only as a check upon the officers employed in the execution of the act. But if the Trustees should be of a different opinion, it is the final decision of both parties should be necessary to the registries.

5. The Government have recommended the

the remarks which occur to them on the draft act. In various parts it appears to them insufficient or unsuitable, but they do not feel to recognize the value of the suggestions it contains. In a subject of so much difficulty it was not to be expected that a first essay at legislation would be entirely free from objection, and only by free discussion that a satisfactory measure can be arrived at. The Government regard the plan now laid before them as a decided step in advance with a view to further

discussion and the framing of further and more detailed information, the Governor in Council considers it desirable that the papers should now be circulated to all Judges and Collectors, with the request that they will carefully consider the draft Act and report to the Board of Revenue their opinion upon it, and particularly how the proposed electric arrangements could be likely to work.

The Remarks of each of the

23 will hopefully have special reference to the institutions within his own District or Zillah.

Two months will be allowed for the receipt of these Reports and the Governor in Council trusts that no officer will fail to send in his Report within that time. The Board will then examine them, and submit their matured views for the consideration of Government.

The Board will at the same time, or sooner if in their power, state whether it

It is true as appears in the Bengal petition that "many such endowments by Hindoos or Mahomedan religious endowments still continue under the superintendence of Government officers in the Madras Presidency" and if this is in any degree true the Board and the Commissioners of the institutions and state the nature and extent of the interference or controll exercised over them by officers of Government

MINUTE BY THE HONORABLE W. ELLIOT.

The only point on which I agree with the opinions above expressed is in the difficulty of dealing with the subject.

I do not see that any of the schemes suggested will ensure the endowments from malversation. The institutions have already been entrusted to the management of trustees—some elected, some appointed by Government, some holding by hereditary prescription. Against many of them petitions have been received impugning their fidelity in the performance of their trust and there is a general feeling of insecurity on the minds of all interested in maintaining the integrity of the establishments in question.

The courts of justice cannot interfere, because they cannot move until the matter is initiated before them. Elected trustees and committees of audit are irresponsible bodies.

The former have a direct interest in perverting the endowments to their own use. The latter are under no obligation to interfere. If they do at all which is not likely, they will do so in a perfunctory manner.

All experience goes to shew that such honorary control is worthless.

To leave these endowments therefore, to the simple protection of the Courts is to leave them without any safeguard whatever.

The only protection that can be suggested is that by placing them under a responsible public officer or guardian of charities.

The Attorney General is ex-officio such a guardian in England.

The Advocate General is the guardian of Pachiyappa's charities in Madras.

This like all similar endowments, left in charge of irresponsible trustees, was in a state of complete misappropriation when Mr. G. Norton became aware of its condition and in virtue of his office brought the condition of the Testators bequests before the Supreme Court. Under the authority of that tribunal they were thoroughly reformed and re-established. The Advocate General is the guardian of the endowments; the Board of Revenue are the auditors of the accounts.

The arrangement differs little from that established by Regulation VII. of 1817.

Under that law the Board of Revenue was constituted the guardian of all mofussil endowments. It was the duty of Collectors, as agents of the Board, to see that they were not misappropriated.

This scheme did not necessarily connect the Government with the objects or ends of the religious institutions of the country.

It was the manner in which the control over their expenditure was exercised by their officers that did so.

They meddled with the details of the idolatrous services, giving rise to scandals which aroused the indignation of conscientious christian men and the exposure of the system brought about the existing state of things. The Government has now withdrawn from all interference and it has done well. But it has done more. By the mode of procedure adopted for the attainment of this end, it has placed an immense amount of valuable property beyond the pale of the law, without the provision of any remedy whatsoever.

The Regulation restraining the action of the Courts of Law remains in force: the agents of the Board of Revenue are forbidden to interfere.

It is now proposed to repeal Regulation VII. of 1817 and to pass a new Law allowing parties feeling themselves aggrieved to have recourse to the ordinary tribunals.

But this will leave the matter very much as before. A Court of Law has no spontaneous action. Who then is to initiate proceedings? The trustees will not, unless they quarrel among themselves. Communities will not. Self interest prompts individuals to fly to the Law. But the public, and least of all a Native public, has no such motive. What is the business of all is undertaken by none.

In assuming the Government of India we have pledged ourselves to maintain the rights of property in their integrity, but this pledge will assuredly not be redeemed by the course it is now proposed to follow.

The people of the country see this and have never ceased to protest against it. They have protested not only against the principle but against the mode in which it has been carried out.

The trustees of money endowments protested against the substitution of land for Treasury disbursements. The land holders whose wishes were never even consulted in the matter, have protested against being made over to such masters. Ryots holding direct from the State and as such recognized as the proprietors of the lands in their occupation, have been made over to temples and mosques and their rights annihilated under the monstrous fiction that the State is the sole proprietor of the soil.

Thus a mode of procedure founded on the most righteous intentions, has not only failed to give satisfaction to any party but has been productive of all manner of injustice.

On the people of India generally the effect has been most unhappy. They see the inevitable tendency of the arrangement to produce mismanagment and malversation. They feel that such a policy must end in the distruction of their institutions. They view it as the indication of a settled purpose to undermine the religions of the land and as an underhand means for the establishment of christianity in their stead.

At the meeting for the adoption of the anti-missionary petition, a speaker, one of the best educated men in Madras, who took honors at the Presidency College, and is now the most successful native pleader at the Sudr Bar spoke as follows:

"Mr. Chairman and Gentlemen.

"Before proceeding to move the Resolution in my hand, I shall beg leave to allude to on or two matters in connection with the Memorial.

"In the first place, I have to observe that some of our own countrymen, and I am ashamed to be obliged to call them such, have had the effrontery to call the movements regarding the preparation of the Address that has been just adopted, a rebellious proceeding. In my humble opinion, there is nothing rebellious in our proceedings. We have constitutionally met for a constitutional purpose. We do not seek to annihilate any religions, but simply to defend our own. As subjects of the British Crown we have a clear right to contend for the preservation of our civil and religious rights by means and measures which are legal and constitutional. The very fact of our having met here quietly and peaceably for the purpose of memorializing the Secretary of State, shews the spirit of loyalty which pervades the Hindu and Mahomedan society of the Presidency.

"The late lamentable riot at Tinnevelly forms one of the prominent topics of the Memorial you have just heard read to you. Some of the unfortunate sufferers in that event have come to Madras, and have tried in vain to move the authorities for an impartial investigation of the causes and consequences of the riot. Government have not only not thought it fit to institute a commission of enquiry, but have absolutely proclaimed to the world that the proceedings of the local authorities during the event have been quite warranted and called for by the circumstances. It is not for me to question the propriety of the resolution the Government has arrived at. But I draw attention to this only to shew how different the course pursued by Government has been in regard to the trifling incident at Nagercoil. If what I have heard be true, there is now a commission sitting to enquire into the causes and results of the affray at Nagercoil, at the suggestion, if not the orders, of the Madras Government. How different then are the measures and policy of the Government when its officers are concerned, and when a foreign State is involved in difficulties. I would only say, look at this picture and at that. Here at Tinnevelly nearly thirty lives have been lost, and yet Government sees no necessity for a commission. At Nagercoil not a drop of blood is spilt, but on the contrary, the disturbance has been quelled instanter by the vigilance of the Dewan, and yet you have a commission of enquiry.

"I shall alude to one more topic and I have done. You have heard the Memorial on the subject of the attempts of the Missionaries to effect conversion inside our jails. This has not been the first time that this question has been mooted. Some time ago the same question has been mooted at Rangoon. The Prisoners in the jail were called to shave their beards, this produces a disturbance. The question goes before the Home authorities. And Lord Ellenborough, at the head of the Board of Control, condemns the interference of Government with the Jails. And yet we see when the Neilgherry Missionaries are audacious enough to raise the same question to the Madras Government, instead of treating their application with the indifference it deserves, they say that the subject is under their *earnest* consideration."

Such an impression is not less mischievous because it is untrue, and it has derived strength from the avowed hopes of zealous men among ourselves who have not scrupled to exult at the prospect of such a consummation.

I believe the distrust of our professions of toleration manifested by the people of this country has been aggravated in no small degree by the policy which has been pursued in this matter. They contrast our open professions of neutrality with acts which they regard as covert assaults on their most cherished institutions, and they draw the conclusion that such ostentatious iterations of proclaimed non-interference are blinds to cloak a system of proselytism.

During six centuries of Muhammadan supremacy characterized by a haughty, openly declared contempt of idolatry, by frequent sallies of iconoclastic zeal and by occasional attempts at forcible conversion, no such widespread distrust was ever manifested. The Hindus knew exactly what they had to expect, they saw their rulers acting openly, they could distinguish between occasional ebullitions of intolerance and a fixed purpose on the part of their conquerors, and they felt that when the present tyranny was overpast they could return to the secure exercise of their ancient rites.

Our professions of neutrality have had an effect just the reverse, and I cannot help thinking that a more straightforward and consistent course would have tended to prevent the general feeling of alarm which, no doubt, exists. A too great readiness to disclaim offence addressed to a people so remarkable for credulity, may have helped to produce those very suspicions which have of late manifested themselves in such exaggerated forms.

But whether this opinion is right or wrong, there can be no question that we are bound to provide not a nominal but a secure and effectual protection for property connected with religious endowments, just as much as for every other description of property which was found to be in existence when the sovereignty of the country was assumed.

I have shown that the means by which it is proposed to secure these endowments from spoliation, viz. by the ordinary course of civil process, is inadequate and insufficient. I have also endeavoured to show that this object can only be attained by means of a responsible agency specially appointed to watch over its safety.

I can see no better machinery than that provided by Regulation VII of 1817. I can devise no other expedient fitted to secure the end in view with less expense and with the same degree of certainty.

Some change would be required in the existing law to adapt it to present circumstances. The Collector should be restrained from all direct interference with expenditure or management. His duty should be confined to those of auditing the accounts and of bringing to the notice of the public prosecutor* all breaches of trust detected by him, and it should be the duty of that officer to proceed against the authors of acts of malversation in the constituted courts.

I think that the check on misappropriation afforded by such an arrangement will be as perfect as can be obtained in such cases. It seems to offer the only solution of the difficulty of reconciling the duty of the State—to afford full and equal protection to all its subjects—with that of a christian Government—to avoid all contact with idolatry and superstition.

10*th December* 1859. (Signed) WALTER ELLIOT.

* This office though not yet in existence cannot surely be deferred much longer. Meantime the Collector would have to exercise the functions of such an officer.

Revenue to Government -
Re-of Govt for re-taken
Lands &c. 1858

Comm.ⁿ Letter to England
of 25th January 61 No 17.

Minute Hon'ble Elliot.

30-1-23

Dated 10th December 1859.

Observes that he can
not better express his
views than that provided -
by Reg.ⁿ VII of 1817 entitling to the
Charge & administration of
Religious & Charitable en-
dowments -

Copy to the Govt of Madras
13 Sept/60 No 1587.

No 204.

1826. 13 Feb/61

26

STATEMENT OF OBJECTS AND REASONS.

This Bill is brought in at the request of the Council of India accordance with the desire of the Secretary of State for India as expresse in the subjoined Extract from his Despatch.

The Courts already exercise an equitable jurisdiction to enforce the execution of trusts, and there does not appear to be any necessity for providing any special remedies or mode of proceeding in respect of the particular trusts which hitherto have, in some cases, been superintended by the Boards of Revenue under the Regulations now to be repealed. But as it might be contended that jurisdiction is exercised only under these Regulations, a Proviso is added to the repealing Clause.

The Bengal Regulation extended to the repair and maintenance by the Board of Revenue of Public edifices, but this part of it was rescinded by Section XVI Regulation XVII. 1816. Both the Bengal and Madras Regulations provided for the superintendence of Escheats by the Boards of Revenue. This however is a duty which can be imposed on them or any other Public Office, as fully as by these Regulations, by an order of the Executive Government.

H. B. E. FRERE.

The 31st March 1860.

Extract paragraphs 1 to 7 *of a Despatch in the Legislative Department from the Secretary of State No.* 2 *of* 1859, *dated the* 24*th February.*

1. Among the proceedings of the Legislative Council which have recently been received are two Petitions presented by certain Missionaries, the one praying for the repeal of the Regulations of the Bengal and Madras Codes

by which the general superintendence of lands granted for the support of Mosques and Temples is vested in the Officers of Government; the other praying for a Legislative measure for the suppression of all cruel and inhuman practices at the Hindoo Festival of the Churruck Poojah. These Petitions having been laid before me in Council, I have now to communicate to you the following remarks.

2. With regard to the first mentioned of these Petitions, I have to observe that the severance of all connection between the Officers of Government and the religious institutions of the Natives has formed the subject of correspondence between the Government of India and the authorities in England for several years, and it has been recognized as a principle of the greatest importance, that in every thing connected with their religious worship, and with the management of their religious endowments, the people of India should be left entirely to themselves.

3. In the year 1841, enquiry was directed to be made in the Presidencies of Bengal and Madras for the purpose of ascertaining the extent to which the management of endowed lands was in the hands of Government Officers. On that occasion, the Court of Directors expressed their desire that the Regulations of the Bengal and Madras Codes, by which the general superintendence of all endowments in land or money granted for the support of Mosques and Temples is vested in the Revenue Officers of Government, and the rules which required any of the European Officers to interfere in the management of the funds and affairs of any such institution, might be rescinded.

Legislative Dispatch No 17, dated 25th August 1841.

4. Again in their letter in the Legislative Department No. 1 dated 7th January 1846, the Government of India, after reviewing the subject with reference to the connection then existing in the several Presidencies of India between its Officers and the religious institutions of the people, recorded their opition "that Regulation XIX. 1810 of the Bengal Code, and Regulation VII. 1817 of the Madras Code should be repealed."

5. The Petitioners admit "that to a large extent the endowments formerly managed under the superintendence of Government Officers have been conveyed to Trustees to be administered like ordinary Trusts, subject

No 1626. 13 Aug 46

to the usual remedies provided by the laws for breaches of Trust." They state however that some endowments in Bengal and many in the Madras Presidency, continue under the superintendence of Government Officers. There are no recent returns from the Governments in India to enable me to judge of the extent to which the allegations of the Petitioners are borne out by facts, but as they refer to particular instances of the prohibited connection as still existing, the statement is probably not altogether without foundation.

6. If such be the case it is evident that the total withdrawal of all interference on the part of Government with the religious institutions of the people of India has not been completed, and indeed it is difficult to perceive how such a result can be fully attained so long as a law which declares it to be the duty of the Board of Revenue and its subordinate Officers to take care that all endowments of land, or of the land revenue, made for the maintenance of religious establishments, be duly appropriated to the purpose for which they were destined by the Government or individuals by whom such endowments were made, remains in force.

7. Respecting the degree of protection to be afforded to the religious institutions of the people of India, the sentiments of Her Majesty's Government are essentially those of the Court of Directors as above referred to. It is the duty of the Government of India to see that those institutions "enjoy the equal and impartial protection of the law," but it is not called upon to provide specially for their management or superintendence by its own Officers. It appears then to Her Majesty's Government that the repeal of the Regulations in question, or such parts of them as relate to the management of religious endowments, should no longer be delayed; provision being made at the same time for an appeal to the established Courts of Justice in all disputes relating to the appointment and succession to the management of Hindoo and Mahomedan religious institutions and to the control and applications of their funds. I request that you will take the necessary steps for bringing the subject under the consideration of the Legislative Council.

Legislative Council of India.

Annexure

TO

Bill to repeal Regulation XIX. 1810 of the Bengal Code, and Regulation VII. 1817 of the Madras Code.

P 1086/60

	Page.
1. Statement of objects and reasons	1
2. Extract paragraphs 1 to 7 of a Despatch in the Legislative Department from the Secretary of State, No. 2 of 1859, dated the 24th February	ib.

Price 2 Annas.

PRINTED AT THE ALBION PRESS.

Acc 526. 13 Feb 60

22

A

BILL

TO

Repeal Regulation XIX. 1810 *of the Bengal Code and Regulation VII.* 1817 *of the Madras Code.*

Preamble.

WHEREAS it is expedient to relieve the Boards of Revenue and the Local Agents in the Presidency of Fort William in Bengal and the Presidency of Fort St. George, from the duties imposed on them under Regulation XIX. 1810 of the Bengal Code *(for the due appropriation of the rents and produce of lands granted for the support of Mosques, Hindoo Temples, Colleges, and other purposes, for the maintenance and repair of Bridges, Serays, Kuttras, and other public Buildings, and for the custody and disposal of Nuzzool property or Escheats)* and Regulation VII. 1817 of the Madras Code *(for the due appropriation of the rents and produce of lands granted for the support of Mosques, Hindoo Temples, and Colleges or other public purposes, for the maintenance and repair of Bridges, Choultries or Chuttrums, and other public Buildings, and for the custody and disposal of Escheats)*; It is enacted as follows:—

Regulations repealed.

I. Regulation XIX. 1810 of the Bengal Code, and Regulation VII. 1817 of the Madras Code, are repealed.

30-1-23

Legislative Council of India.

Religious Endowments.

A

BILL

TO

Repeal Regulation XIX, 1810 of the Bengal Code, and Regulation VII. 1817 of the Madras Code.

P 1856 bo

(*Prepared and brought in by Sir Bartle Frere.*)
READ A FIRST TIME ON THE 31ST MARCH 1860.

Price 2 Annas.

PRINTED AT THE ALBION PRESS.

A 1856. 13 Sept 60

30

Minute by the Honorable the President

The recent Proceedings under the Government will enable us to furnish a reply to the Letter from the Government of India on dated the 11th Ultimo.

After nearly another year's experience, during which the subject has come before me in a variety of shapes, I continue to hold the opinion expressed in my Minute dated the 20th of July last. It appears to me that there is no alternative between managing Religious endowments as they were managed under Regulation XIX of 1810 of the Bengal Code and Regulation VII of 1817 of the Madras Code, and leaving them purely and simply to the protection of the Courts of Justice like every other description of property.

If we were of the same faith with the Majority of our fellow subjects in this Country, and if there was a prevailing feeling in favor of a State Religion, we should probably adopt the former alternative and establish an Ecclesiastical Commission, but the actual circumstances which preclude

practice &c.

The various parts of the correspondence it is apprehended that the Courts would be engaged in the task of administering justice in this class of Cases. I do not concur in this view. In the exercise of their equitable jurisdiction, the Courts can adapt their action to the circumstances of each case, however peculiar they may be. These circumstances are so various that any attempt to define and regulate them before hand by general enactment would only embarrass the Courts and diminish their power of administering substantial justice. The Collector of Tanjore justly observes that the appointment of a limited "electoral body by the Government or its officers "would rather augment than lessen the mischief complained of which now exists, and would "in fact add to the confusion and litigation "which now prevails". The slightest examination of the correspondence shows that this term may be made in a more extended sense. Our proper course, I am convinced, is clearly to fix the responsibility upon the Courts, and to leave them, at any rate at first, entirely untrammelled. They will then appoint Trustees or provide for their appointment by the proper Individuals or Classes of Persons; call for Accounts; punish maladministration, and perform all other acts necessary for the protection of the descriptive of property. By degrees, the subject will be well understood by the Members of our Judicial Establishments; an Established practice will grow up; and, where necessary, specific Regulations (like the schemes for the proper application of charitable endowments at Home) will be laid down suited to the circumstances of each particular case.

I have &c.

Madras June 7th 1860.

12 Minute.

Copies sent to Mr. Elliot & Mr. Campbell
respectively with Mr. Secretary Edmonstone's
Confidential letter of 30th January 1861 No. 17.

30-1-93

Revenue 1860 Depart.
Dispatch from Govt of India
No. 2054.

Minute by the
Hon'ble the President.

Dated 7th June 1860.

"Continues to hold
the opinion expressed
in his Minute of 20th
July 1859 on the subject
of Repealing Reg. VII of
1817 relating to the charge
& Administration of
Religious & Charitable
Endowments."

Copy to the Govt of India
13th Sept. 1860 No. 1587.

No 207.

R. 1586-13th Sept.

[illegible] and as I believe this was
the distinct object of [illegible]
[illegible] as an
honest & just Government we
cannot [illegible]
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lation [illegible]
[illegible] to the [illegible]
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the [illegible]
the endowments

Minute.

I agree with Mr. Elliot in the
opinions which he has recorded

which by the preamble
of Reg. VII of 1817 it is wise
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duty of the Government to
provide for the due ap-
propriation and manage-
ment of all the funds
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Religious [illegible]
General [illegible] the preamble
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& Mosques [illegible]
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Hospitals, [illegible], Schools,

[illegible] of the Civil [illegible]

Minute.

I agree with Mr Elliot in the opinions which he has recorded

11e Minute.

I agree with Mr Elliot in the opinions which he has recorded

33

Copy to the Editor
13th Feb. 1818

Jan. 11th 1817

Copy to the Epis. 13th Feb. 1860 JA

Minute.

I agree with Mr. Elliot in the opinions which he has recorded

Copy to the Sec'y
13th Sept. 1860 A

Minute.

I agree with Mr Elliot in the
opinions which he has recorded

Minute.

I agree with Mr. Elliot in the opinions which he has recorded

Copy to the Sec'y
of Int. Dec. 16

Minute.

I agree with Mr. Elliot in the opinions which he has recorded

President — A Court can not take the initiative — Courts [illegible] as soon [illegible] cannot [illegible] a general [illegible] [illegible] endowments [illegible] That the religious & charitable endowments of this Presidency had taken place [illegible] general [illegible] is [illegible] denied & that it is the duty of Govt to provide [illegible]

Minute.

I agree with Mr. Elliot in the opinions which he has recorded

[illegible]

By the preamble of Regulation

[illegible] by the Court [illegible] — 17

Minute.

I agree with Mr Elliot in the opinions which he has recorded

[illegible] Court [illegible]

Sec. 2 of Amendment to Section 2 of Article 1 of the Constitution of the State of Florida as proposed by Joint Resolution No. 17 is a just and wise Republican measure. It will enable the Legislature to provide for a Uniform System of Public Schools throughout the State, and to secure to the children of the State the benefits of a Common School education. It will also enable the Legislature to provide for the education of the children of the State without distinction of race or color. It will also enable the Legislature to provide for the education of the children of the State without distinction of race or color.

Sec. 3 of Amendment to Section 2 of Article 1 of the Constitution of the State of Florida as proposed by Joint Resolution No. 17 is a just and wise Republican measure. It will enable the Legislature to provide for a Uniform System of Public Schools throughout the State, and to secure to the children of the State the benefits of a Common School education. It will also enable the Legislature to provide for the education of the children of the State without distinction of race or color. It will also enable the Legislature to provide for the education of the children of the State without distinction of race or color.

Sec. 4 of Amendment to Section 2 of Article 1 of the Constitution of the State of Florida as proposed by Joint Resolution No. 17 is a just and wise Republican measure. It will enable the Legislature to provide for a Uniform System of Public Schools throughout the State, and to secure to the children of the State the benefits of a Common School education. It will also enable the Legislature to provide for the education of the children of the State without distinction of race or color. It will also enable the Legislature to provide for the education of the children of the State without distinction of race or color.

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Sec. 7 of Amendment to Section 2 of Article 1 of the Constitution of the State of Florida as proposed by Joint Resolution No. 17 is a just and wise Republican measure. It will enable the Legislature to provide for a Uniform System of Public Schools throughout the State, and to secure to the children of the State the benefits of a Common School education. It will also enable the Legislature to provide for the education of the children of the State without distinction of race or color. It will also enable the Legislature to provide for the education of the children of the State without distinction of race or color.

Sec. 8 of Amendment to Section 2 of Article 1 of the Constitution of the State of Florida as proposed by Joint Resolution No. 17 is a just and wise Republican measure. It will enable the Legislature to provide for a Uniform System of Public Schools throughout the State, and to secure to the children of the State the benefits of a Common School education. It will also enable the Legislature to provide for the education of the children of the State without distinction of race or color. It will also enable the Legislature to provide for the education of the children of the State without distinction of race or color.

Sec. 9 of Amendment to Section 2 of Article 1 of the Constitution of the State of Florida as proposed by Joint Resolution No. 17 is a just and wise Republican measure. It will enable the Legislature to provide for a Uniform System of Public Schools throughout the State, and to secure to the children of the State the benefits of a Common School education. It will also enable the Legislature to provide for the education of the children of the State without distinction of race or color. It will also enable the Legislature to provide for the education of the children of the State without distinction of race or color.

Sec. 10 of Amendment to Section 2 of Article 1 of the Constitution of the State of Florida as proposed by Joint Resolution No. 17 is a just and wise Republican measure. It will enable the Legislature to provide for a Uniform System of Public Schools throughout the State, and to secure to the children of the State the benefits of a Common School education. It will also enable the Legislature to provide for the education of the children of the State without distinction of race or color. It will also enable the Legislature to provide for the education of the children of the State without distinction of race or color.

Sec. 11 of Amendment to Section 2 of Article 1 of the Constitution of the State of Florida as proposed by Joint Resolution No. 17 is a just and wise Republican measure. It will enable the Legislature to provide for a Uniform System of Public Schools throughout the State, and to secure to the children of the State the benefits of a Common School education. It will also enable the Legislature to provide for the education of the children of the State without distinction of race or color. It will also enable the Legislature to provide for the education of the children of the State without distinction of race or color.

Sec. 12 of Amendment to Section 2 of Article 1 of the Constitution of the State of Florida as proposed by Joint Resolution No. 17 is a just and wise Republican measure. It will enable the Legislature to provide for a Uniform System of Public Schools throughout the State, and to secure to the children of the State the benefits of a Common School education. It will also enable the Legislature to provide for the education of the children of the State without distinction of race or color. It will also enable the Legislature to provide for the education of the children of the State without distinction of race or color.

Sec. 13 of Amendment to Section 2 of Article 1 of the Constitution of the State of Florida as proposed by Joint Resolution No. 17 is a just and wise Republican measure. It will enable the Legislature to provide for a Uniform System of Public Schools throughout the State, and to secure to the children of the State the benefits of a Common School education. It will also enable the Legislature to provide for the education of the children of the State without distinction of race or color. It will also enable the Legislature to provide for the education of the children of the State without distinction of race or color.

Sec. 14 of Amendment to Section 2 of Article 1 of the Constitution of the State of Florida as proposed by Joint Resolution No. 17 is a just and wise Republican measure. It will enable the Legislature to provide for a Uniform System of Public Schools throughout the State, and to secure to the children of the State the benefits of a Common School education. It will also enable the Legislature to provide for the education of the children of the State without distinction of race or color. It will also enable the Legislature to provide for the education of the children of the State without distinction of race or color.

Sec. 15 of Amendment to Section 2 of Article 1 of the Constitution of the State of Florida as proposed by Joint Resolution No. 17 is a just and wise Republican measure. It will enable the Legislature to provide for a Uniform System of Public Schools throughout the State, and to secure to the children of the State the benefits of a Common School education. It will also enable the Legislature to provide for the education of the children of the State without distinction of race or color. It will also enable the Legislature to provide for the education of the children of the State without distinction of race or color.

Sec. 16 of Amendment to Section 2 of Article 1 of the Constitution of the State of Florida as proposed by Joint Resolution No. 17 is a just and wise Republican measure. It will enable the Legislature to provide for a Uniform System of Public Schools throughout the State, and to secure to the children of the State the benefits of a Common School education. It will also enable the Legislature to provide for the education of the children of the State without distinction of race or color. It will also enable the Legislature to provide for the education of the children of the State without distinction of race or color.

Sec. 17 of Amendment to Section 2 of Article 1 of the Constitution of the State of Florida as proposed by Joint Resolution No. 17 is a just and wise Republican measure. It will enable the Legislature to provide for a Uniform System of Public Schools throughout the State, and to secure to the children of the State the benefits of a Common School education. It will also enable the Legislature to provide for the education of the children of the State without distinction of race or color. It will also enable the Legislature to provide for the education of the children of the State without distinction of race or color.

Sec. 18 of Amendment to Section 2 of Article 1 of the Constitution of the State of Florida as proposed by Joint Resolution No. 17 is a just and wise Republican measure. It will enable the Legislature to provide for a Uniform System of Public Schools throughout the State, and to secure to the children of the State the benefits of a Common School education. It will also enable the Legislature to provide for the education of the children of the State without distinction of race or color. It will also enable the Legislature to provide for the education of the children of the State without distinction of race or color.

Sec. 19 of Amendment to Section 2 of Article 1 of the Constitution of the State of Florida as proposed by Joint Resolution No. 17 is a just and wise Republican measure. It will enable the Legislature to provide for a Uniform System of Public Schools throughout the State, and to secure to the children of the State the benefits of a Common School education. It will also enable the Legislature to provide for the education of the children of the State without distinction of race or color. It will also enable the Legislature to provide for the education of the children of the State without distinction of race or color.

Sec. 20 of Amendment to Section 2 of Article 1 of the Constitution of the State of Florida as proposed by Joint Resolution No. 17 is a just and wise Republican measure. It will enable the Legislature to provide for a Uniform System of Public Schools throughout the State, and to secure to the children of the State the benefits of a Common School education. It will also enable the Legislature to provide for the education of the children of the State without distinction of race or color. It will also enable the Legislature to provide for the education of the children of the State without distinction of race or color.

Minute.

I agree with Mr. Elliot in the opinions which he has recorded in his Minute of the 10th Dec.r 1859. in regard to the value and importance of the provisions of Regulation VII of 1817. —

I feel with Mr. Elliot that it is the bounden duty of Government to provide for the preservation of the Religious and Charitable endowments of the Country, and I am not unaware of the existence of any reasonable cause, arising out of long and inveterate abuse, why our Government should shrink to escape from the responsibilities imposed upon them by the Regulation in question, & I am not adverse to the introduction of a Bill [++] for its repeal & leaving the endowments

[++] merely providing

~~for the repeal & leaving the endowments~~ by the preamble of Regulation VII

[++] (made to the Act which the Bill purports to be —

In England and elsewhere all public charities, are more or less under official control, as guardianships - and in India it is surely but just and right that such be endowments should be allowed to continue under a like protection.

With regard to the proposition contained in Mr Elliot's letter I have to state to the effect that Regulation VII of 1817 enjoins on Government, any interference with the religious or ceremonies of Hindus or Mahomedans - the management the manner in which, formerly, the control over the expenditure of the funds of religious institutions were exercised by

by the officers of Government - added to their unauthorized interference in the affairs of such institutions that has occasioned the misapprehension which so generally prevails in respect to the Government connection with the religion of the people of the country. Steps should be forthwith taken by the Govt. to rescind Congress withdrawn.

And still that the funds of the Country shall be applied to the promotion of the improvement & prosperity of it, in such manner as the law as it now stands, or modified from it may be permitted to do its powers.

I think that Regulation III of 87 should be modified to the extent that the Collr. of the District should instead of the Rent Board be constituted the controlling authority in all matters of Government within his range - and in dealing with them he should be guided by the provisions of Sect XXXIX XII of that Regulation, but

under

Special Instructions to be issued by Govt. for such duties -

vision - the Collector should also be directed, or empowered, to cause the accounts of all endowments within his range, to be annually audited, published and the balances examined.

Beyond the above acts the Collector should not in any way interfere in the concerns of the institutions in question - for real any further

That any reasonable person can construe the performance by the Collector of these duties into any interference with the religious concerns of the people appears to me to be quite impossible. As well may the Civil Courts presided over by Christian Judges be said to be guilty of like interference when adjudicating on Pagoda rights and disputes. The same imputation may also

also with the same force be brought against the Court of Wards, when in administering to the estates of Minor Zamindars, it has to manage the religious and charitable endowments appertaining to such estates.

At present, Trustees, Managers, Superintendents &c. who may be guilty of fraud or embezzlement of the funds or other property of public institutions, are punishable under Regulation IX. of 1832. This would alter. The Regulation has never worked well, and all such cases would be better dealt with by the Civil Courts, under the general regulations enacted for the punishment of such offences.

It is a mistake to imagine, that the Courts of the Country, as contemplated by the proposed new bill, and by the President in his minute, meet the difficulties of the case.

It is impossible for the Courts to

to act as suggested by the President. A Court cannot take the initiative. Courts constituted as our Courts, cannot exercise a general superintendence over endowments. That the religious and charitable endowments of this Presidency need to be placed under some general superintendence is not denied and that it is the duty of Government to provide such superintendence must be admitted. Unless therefore due means are provided by Government for the preservation of these endowments from fraud and plunder the State beyond all question will be guilty of a grave dereliction of one of its inherent duties. As many instances it has happened that individuals anxious to perpetuate an act of charity or munificence have made the Government the Trustee and Manager of their endowments, a Trust which the Government have never refused to accept.

In

On other instances Government have actually received large funds on the condition that no repayment of the principal must ever be asked for but that an annual sum was to be paid to support certain endowments. Now it is desired to abandon all such trusts, and to refuse to redeem such pledges on the plea that we are a Christian Government, and that to afford full and equal protection to all our subjects is incompatible with the creed which we profess. We however entertain a firm conviction that the Regulation viz of 1817 is unjust and unwise Regulation and as I think with Mr Elliot "that no better machinery can be provided" to enable a Christian Government to deal fairly with itself, and its idolatrous subjects - I cannot do otherwise than enter my protest against

Made by the House of its details as I have so frequently

46 brought

against the proposed Bill during the present Session of the Legislature by this Presidency.

30th June 1860. (Signed) H. Morehead

Copy in a Letter to England
of 25th January 1861 No 17.

39-1-93

Revenue 1862 Declaration
Rec'd 1st for September

№ 2055.

Minute by the Hon'ble
the Chairman

dated 20th June 1862

Copy to the Govt of India
13th Feb 1863

№ 208.

Covering abstract
of the Bills passed
by the Governor
General of India
in Council and
assented to
during the year
1862

№ 1586-133 Sept 12

This subject has been so much discussed, & such detailed Minutes have been recorded upon it both here & at Calcutta, that I shall limit myself to expressing the opinion at which I have arrived.

– Regn XII of 1817 ought, I consider, to be repealed. The Collector can hardly be charged with the superintendence of Hindoo Temples & Mosques without being obliged accessorially to arbitrate in Hindoo disputes regarding their religious services, – the "scandal" which roused the indignation of conscientious Christian men", to see the works of the Ann Calv. Ch. of Madras committed to the management of Government Officials, would thus be continued, & the transference of the internal management of these Institutions to Native Agency would be impeded. –

Another argument for getting rid of the Regulation is, in my opinion, its penal Section. – When the Religious Institutions of the country & their Establishments were placed under the Collector, that Officers hands were strengthened by enabling him to deal summarily & punishment to delinquent Servants, in the same manner as the Revenue Servants of Government are punishable for Embezzlement & Corruption under Reg IX of 1822. – His officers do not appear necessary & seem to objection. – I would

lease the inmates of Mosques & Pagodas to the ordinary course of the Law when they are charged with criminal imbezzlement & mal-practices.

But I concur with the Honble Messrs Elliot & Morehead and numerous other authorities that Government ought to make some Legal provision for to protect the endowments of these Institutions which have been so long under its charge. To place them entirely & suddenly under the Civil Courts would, I conceive be dangerous to the safety of the property & cause well founded dissatisfaction among the native community. The Civil Courts cannot act without being first in motion & those persons are entitled to call for their interference is at present unknown — I therefore Reg VII of 1817 is abolished, I conceive that an Act ought to be passed authorizing the people to appoint Trustees, & elect Committees of Management to superintend the Trustees & audit their accounts. This audit not only for the proper management of the Institutions but is necessary to secure the services of qualified persons for as Trustees, since men of respectability would be slow to accept the office, if they could not terminate their responsibility & become disabled from malicious accusations at distant periods. —

Arrangements for this purpose were sketched by our late Member in the Legislature Council, Mr. D. Elliott, and more recently by the Revenue Board, under whose consideration the subject came during the preparation of the new Revenue Code. Their letter of 6 April 1859 laid before the Govt a sketch Act for the future management of Devasthan & Endow Temples, and with the aid of the above papers, & the various Minutes recorded by the Members of the Supreme & Madras Governments I believe that the Legislature Council will be able to deal satisfactorily with the subject. —

+ See Parliamentary Return Idolatry - India No 621 of 1849 - Page 408 &c -

The Collectors part will be to see that the Committees of control are maintained & perform their duties - But after the new system is understood by the people & has been brought into working order, it may be practicable to relieve the Collectors from all interference, & leave them to the jurisdiction of the Civil Courts as in the Bombay Presidency

3 July 1860.

T Pycroft

This subject has been repeatedly brought and made detailed Minutes have been recorded upon it both here and at Calcutta, that I shall limit myself to stating the principal points that have arrived.

Regulation XII of 1807 ought, I consider, to be superseded. The Collector can hardly be charged with the different tendence of their Sanguis and Mosques, unless I bring accusations against them, and I am not disposed to do this, unless I am obliged to. I have published all my addresses, regarding their religious, civil and criminal communications. Christian Priests, under the Honorable the Court's Act of the 13th December 1813 continued, and the transference of the criminal Superintendence of their Institutions to Native Agency provided for in such Act.

Another argument for getting rid of the Regulations is, in my opinion, the fact

general protection. When the Religious Institutions of the country and their establishments were placed under the Colonial Government their hands were strengthened by enabling them to deal from time to time with grants of lands in the same manner as the Roman Catholic Clergy of Lower Canada are summarily punished for embezzlement and corruption under Geo. IV. of 1828. This appears to be necessary, and often to be objected to. When the servants of Corporations are charged in the ordinary course of the Law when they are charged with criminal embezzlements and malfeasances.

But I cannot conclude the Honorable Mr. Elliot and others, and numerous other authorities, that the permanent capital be granted some special provision to protect the endowments of these Institutions which have been so long under the Crown entirely and exclusively under the Civil Courts as well, I cannot see the dangerous

dangerous to the safety of the property and civil rights involved dissatisfaction among the parties to an investigation by the Civil Courts cannot but be beneficial, being fruitful in protecting and enforcing persons responsible to each for their interference with servants and trustees of the Crown. By Geo. IV. of 1837 it is also declared, that all the powers vested in the Governor in Council by the Statute of Geo. IV. of 1828 shall be exercised by the Governor with the advice of the Executive Council, and that all Orders in Council made under the authority of the said Statute shall be laid before both Houses of Parliament within fifteen days after the making thereof, if Parliament be then sitting, and if not, within fifteen days after the next Session of Parliament.

Arrangements for this purpose were effected by me late in December with the Legislative Council, the Hon. Mr. Elliott, and

* See Parliamentary Returns & Statutes Session of 1821 of 1847 Page 408 &c.

and pray to be heard by Counsel upon the Motion and
remain at liberty for consideration the subject
matter during this Session of the
new Criminal Code.

Ordered that the Petition be received
and granted and that the Act for the
future organization of the Legislature
Municipal Corporations, and the Act of
the present Session, entitled the Act of
the Session, be referred by the Members of
the Province and Executive Government
Lower Canada that the Legislative Council
will be able to take such steps as they will
see expedient

Ordered that the Petition be referred to
the Local Committee of Inquiry and
Examination and that the Petitioner
Bent after three days notice
summoned to the Petition and
have leave to adduce proof in
support of the prayer of the Petition
and that the Petitioner be at liberty
to retain Counsel to attend the
Petition and that Mr Attorney General be
requested to attend the Committee

6

the jurisdiction of the Civil Courts
as in the Bombay Presidency

3rd July 1838 Signed by Colonel

Revenue 1860 Departt.
Exs: of Govt for Sept.r

Forwarding Letter to England
Dy 25th January 1861 No. 17.

21-1-25

No 2056

Minute by the Honble
the Member
Dated 5th July 1860.

Colyto the Govt of India
13th Sept. 1860 ch 1587

Noting above Minute
in the Rolls in pursuance to
Resolution VII of 19th October
1860 Change the nomenclature
of the Revenue and Finance
Departments accordingly.

No 209.

Ex 1586 - 13 Sept 12

5

Rev. Dept.

No 1586

Proceedings of the Madras Government
Under date the 13 ~~August~~ September 1860

Read again the following papers.

From the Madras Member of the Legislative Council dd 25th Oct.
& recorded in Dpt to Cons. 23d Nov. 1858 No 4711.

From Govt Sec.t of the Judicial Dpt dd 11th Dec. 1858 & recorded in
Dpt to Cons. 11th January 1859 No 1937.

Read the following papers.

From Board of Revenue — Letter enter 6th April 59 No 1513
Minute by the President — d — " — 29th July — " — d
Do — by the Ex. the Commr in Mysore d — " — 22 — " — d
Do — by the Hon.ble H. Elliot d — " — 10 Dec.r — " — d

Read also Rec: Dpt Proc.s
with summary of reference
from Govt by them involved
Letter enter 30th March 1860 No 423

Read also the following
further papers

From Govt of India — Letter enter 11th May to No 903
Minute by the Hon.ble the Presidt — d — " — 7th June — " — d
Do — by the Hon.ble Mr Maclead — d — " — 20th — " — d
Do — by the Hon.ble Mr Maltby — d — " — 3rd July — " — d

Ordered, That the letter from
the Member of the Legis-
lative

-lative Council for the Ma-
-dras Presidency, dated 30th
October 1858, gives cover to a
Petition from certain Mis-
-sionaries in Bengal, pray-
-ing for the repeal of Reg:
XIX of the Bengal code
and Reg: VII of the Ma-
-dras Code. The matters
referred for ~~the~~ report ~~of~~ to
the Sudr Udalut and Board
of Revenue, whose replies,
with the Minutes there-
-on by the Members of
Government, have now
been brought on record.

3. The Proceedings of
the Board of Revenue dated
2nd March 1860 lay before
Government the reports
of the Collectors as to the
means to be adopted
hereafter for appointing
Trustees of Religious endow-
-ments

-ments in cases of vacancy,
together with a number of
opinions on the subject
obtained from competent
persons in all parts of
the country. A summary
of these opinions ~~has been~~
prepared in the Govt Office,
will form
a part of the record.

3. The letter from the
Government of India
dated 11th May 1860 asks
for the opinion of this
Government on a bill
brought into the Legis-
-lative Council by Sir
Barnes Peacock, to repeal
the two Regulations spe-
-cified above in para 1.

4. The papers ~~contain~~ thus before Govt
suggestions for four modes
of dealing with the case.
First, Sir Barnes Peacock's
Bill would simply repeal
the

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 also 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.

5 Second, But it is argued against that course

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

6 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

see letter of April 6th/59.

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 was to create an entirely new species of constituency, to exercise the new function of electing Trustees. Much point had been bestowed on the Draft, but the Board were not satisfied with it, and only spoke of it (Para 10) as containing the least objectionable rules that had occurred

to

× Govt. April 6. 1853

to them. The unsatisfactory result of this attempt made with much point and much ability, proves the difficulty of the task, and the varying opinions expressed by the intelligent native gentlemen whom the Board of Revenue 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.

7 The Court of Cadr Adalut on the other hand (letter December 11th 1850 para 3) approved the provisions of a previous Draft act which was sent down from Calcutta in 1846, the course proposed in that Draft was that the Government should nominate Committees

of

† from Calcutta Recd with a copy in the Hon Dft, dated June 26/46. No 380.

an Act should be handed ——

pr

w Justices with power to
app[illegible] the appointment of
the [illegible] to appoint managers
cal [illegible] for assemblies. Ma-
ny cases occurring in Virgin
don Committees to be atten-
shou filled up by the Gover-
nment. This is the third of
the the four proposed modes
sent of proceeding alone referred
a Re[illegible]

pur[illegible]

2. The fourth course pro-
posed was to leave the con-
trol of the Regulations in the
first instance, in the hands
of the Collectors. This is advo-
cated by Mr W. Elliot and
by Mr Moorhead, but their
recommendations do not
quite agree in all points.
Mr Elliot would continue
Regulation 7 of 1817 almost
unchanged; but would
restrain the Collectors from
giving more than an audit

[illegible]

[illegible] to the Board
of Revenue as at present.

3. By both it is agreed
that the Courts must
be powerless 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 ac-
-counts.

ceive and bring to
cases of maladministration to the
notice of a Public Prosecutor
to be proceeded against in
the Courts. Regulations
as to the mode of electing or
appointing Trustees. The Board
would leave to the Col-
-lectors the general control
provided by the Regulations,
but would confer on them dis-
-satisfied with his orders to
the Courts, instead of giving
them an appeal to the Board
of Revenue as at present.

3. By both it is agreed
that the Courts must
be powerless as controlling
authorities, because they
cannot take the initiative

[illegible] Regn VII of 17-
[illegible] 9- X, XI, XII
[illegible] 1111 - [illegible]
[illegible]
[illegible]

All appears from the foregoing reasons that with the exception of the Chinese & Frenchmen, all the members of the Government, either present or past, who have taken any part in the discussions are agreed that Regs: VIII of 1827 ought to be abolished without some special provision being made for the future care of the Pindaree Government but that views expressed vary greatly as to the nature of such provision. Under these circumstances will the present Government consider it best that the best course will be to transmit the papers to the Government of India together with the Minutes recorded, but without any collective expression

redition of opinions as to directions to be taken in Legislation on the subject.

His Excellency the Commander-in-Chief does not wish to go into the subject.

Ordered accordingly that the following letter be written.

12 Copies
Rec'd from Secy to Govt
Judicial Dept
4 Feb 1829