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MADRAS RECORD OFFICE

Government of Madras

DEPARTMENT

G.O. No.

B.P. No.

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Dated

15.2.1872 195

Not to be folded or roughly handled

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

Read the following papers:—

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

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

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

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

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

4. Under these circumstances, I am to request that His Excellency the Governor in Council will be so good as to take the subject into consideration and to favour the Governor-General in Council with his opinion. I am to add that, in making any changes which may be considered desirable, it is the wish of the Government to abide by the leading policy of Act XX. of 1863, viz., the withdrawal of Government from any active concern with the management of these endowments.

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

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

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

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

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

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

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

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

From T. E. RAVENSHAW, Esq., Officiating Commissioner of the Cuttack Division, to the Secretary to the Government of Bengal, dated Cuttack, 20th August 1867, No. 606.

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

2. I am aware this is a delicate subject to touch on; but I believe there is a general and widespread desire on the part of respectable and conscientious Hindoo gentlemen to improve the administration of these endowments, which have been made with the primary object of feeding the poor and destitute, or affording assistance to travellers and pilgrims. I believe I am correct in stating that the revenues of these endowments are enormous, and that, had they been applied properly and in furtherance of the original purposes of the grantors, the whole starving population of Orissa might have received the relief and assistance which has now been administered at the direct cost of the State. For some idea of the extent of these charitable and religious endowments, I would beg reference to a valuable report from the Collector of Pooree, submitted with my No. 250 of 28th November 1865 to your address, which gives the annual estimated revenues of Pooree muths alone as Rupees 1,41,200. Were inquiry made throughout the country the result would show an incredible revenue appertaining to these institutions.

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

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

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

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

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

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

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

Referring to your No. 214-B. of 3rd April 1867 and to Circulars No. 9 of December 1865 and No. 9 of January 1867, I have the honour to state that the Committees of Management appointed under Act XX. of 1853 appear to be apathetic and indifferent, and to have taken no action whatever. The duty of a member of the Committee carries with it neither emolument nor weight, and consequently is neglected. I believe in no instance has any registration of names been made; the parties interested in, and holding direct charge of, these endowments look with great jealousy on the Committees and refuse to give the smallest information, or register their names. In point of fact, the result of Act XX. of 1853 has been to leave the entire management of religious endowments formerly supervised under Regulation XIX. of 1810 in the hands of the hereditary or officiating priests and pundits. The revenues of the endowments are squandered or appropriated to private uses, while the services of the temples and charitable distribution of food or alms have been entirely neglected and abused.

2. The Committees of Management are a mere nominal body and exercise neither supervision nor control, and the law as well as the rules are inoperative, except as relieving Government of any direct connexion with the management of religious endowments. One instance has occurred in Pooree in which a member of the Bhoobunnessur Temple Committee died before any register of the persons interested therein had been made, and now there is a vacancy in the Committee. Nothing, it appears, can be done until the action of the Civil Court be invoked, under Section 10 of Act XX. of 1853, by some party interested in the endowment, the management of which is most unsatisfactory; but no person, the Committee included, is willing to take action or to enter a suit in the Civil Court the result of which would be protractive and uncertain, and the person instituting such a suit would be obliged to provide the funds to carry it on.

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

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

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

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

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

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

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

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

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

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

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

(Same as above.)

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

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

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

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

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

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

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

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

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

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

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

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

With reference to your letter, No. 46, dated 24th January 1868, and previous correspondence, Revenue Procs., Feb. 1868, No. 26. I am directed to forward, for the consideration of the Government of India, copies of the papers noted on the margin, being the instructions issued to, and the report submitted by, the Committee appointed to inquire into the condition of religious endowments in Orissa.

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

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

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

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

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

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

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

Revenue Proceedings for February 1868, No. 26.

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

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

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

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

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

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

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

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

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

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

For COTTACK.

Baboo Juggo Mohan Roy.
Babla Sham Narindro.
Bisheera Sund Doss.

For POENTS.

Baboo Paeratum Patnaik.
Mohan Lal Panday, Munshi.

Draft Instructions for Orissa Endowment Committees.

Under Regulation XIX. of 1863 provision was made for the supervision of endowments made by former rulers, Governments or individuals for charitable, pious, and beneficial purposes, and to provide for the proper application of such funds, in accordance with the intention of the donors, under that Regulation, the management was carried on by local agents under control of the Board of Revenue.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

No. 72.

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

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

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

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

2. The subject is one of much difficulty. It appears to the Board that the only really efficient and practical supervision possible at present is that which would be conducted by Government officials. As this, however, is, they presume, out of the question, the remaining alternative is to trust to Committees, to whom should be delegated power sufficient to enable them to act, and who should be guaranteed from all risk of loss from any acts done in good faith.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15. According to the settlement records the extent of the *suddabarāt* lands is 27,610 acres,

	<i>Suddabarāt</i> .	<i>Suddabarāt Dewottur and Dewottur.</i>
	Acre.	Acre.
Cuttack ...	15,614	88,913
Pooree ...	9,579	109,433
Balasore ...	2,417	59,194
Total ...	27,610	257,540

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3. Act XX. of 1863 empowered the Government to make over to independent trustees, who were thereafter to be subject to no control or interference of any kind, all institutions

Section 4.

which at the time of the passing of that Act were under the management of any trustee whose nomination did not in any way vest in, or was exercised by, the Government or their officers. It also provided for the

Sections 3 and 7.

appointment, once for all, of local Committees to take the place and exercise the powers of the Board of Revenue and Collectors under Regulation VII. of 1817, in the case of all institutions falling under that Regulation and the nomination of the trustees of which, at the time of the passing of Act XX. of 1863, rested with the Government or their

Sections 8 and 9.

officers. The members of the Committees were to be appointed by election from among persons professing the religion for the purposes of which the institution was founded and in accordance with the general wishes of those interested in the maintenance of the mosque, temple, or other religious establishment. They were to hold office for life unless removed for misconduct or unfitness, and no member to be removed except by an order of the Civil Court. Vacancies among the members of the Committees were to be filled up in like

Section 10.
Do. 13.

manner by election under rules framed by the Government. The Committees were empowered to require the production of regular accounts of receipts and disbursements from the trustees of the institutions under their control, and it was to be open to any person interested to sue in the Civil Court any trustee or member of any Committee for any misfeasance, breach of trust, or neglect of duty. It was further provided that no suit should be entertained under the Act without a preliminary application being first

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

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

5. Act XX. of 1863 was the product of almost twenty years' deliberation and discussion by authorities both in India and England. Abstractedly, it substituted perhaps the best possible machinery for that which had previously existed under Government management. Yet it is unquestionable that the Act, in this Presidency at least, has failed to answer its purpose; that neither Committee, nor trustee, nor the general public are satisfied with its working; and that the almost proverbial neglect of pagodas and the mismanagement of their endowments form a staple grievance of the people in every district or place where there is a religious institution of any note.

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

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

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

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

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

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

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

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

9. It may, indeed, be urged that the trustees of such institutions, though not subject to the control of the Pagoda Committees, are amenable to the Civil Courts, inasmuch that it is open to any "person interested" in them or in the performance of the worship or service thereof to sue the trustee for any misfeasance, breach of trust, or neglect of duty; but this is practically no safeguard, as was foreseen during the discussions which preceded the passing of Act XX. of 1863. It was then observed, "All experience shows that even in countries

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

"where there is less of dishonesty to abuse and more of public spirit to correct abuse, the common Courts of justice afford no adequate

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

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

11. Such special legislation for the due administration of charities in England appears to be the basis upon which the Board of Revenue in Madras were charged with the duties they had exercised under the old Regulation VII. of 1817 in regard to endowments for religious institutions. The Board stood apparently in the place of the Attorney-General in England. It was the place of this Board of Revenue that the Pagoda Committees appointed under Act XX. of 1863 were intended to occupy; and it is, therefore, inexplicable on what grounds the provision in Section 4 was enacted in words the effect of which has been to leave some of the most venerated and wealthiest shrines in Southern India entirely independent of the Committees and practically uncontrolled and without any guarantee for their proper management.

12. Here I should guard myself from being supposed to approve altogether of the machinery of Committees brought into existence by Act XX. of 1863. It has been a total failure. I believe it is known to Government that there is not a single instance in which the rules* as to elections under Sections 8 and 10 have been put in requisition. Notices of vacancies are not given, elections are not held, and the Civil Court is not moved to fill up vacancies as required by the Act. The consequence is that many of the Committees originally appointed are not now composed of the full complement of members. In some districts, such as Madras and North Arcot, the

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

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

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

14. Other defects in the Act may be noticed.

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

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

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

Section 13 is strongly objected to in reference to its practical operation. It enjoins that a preliminary application for leave to institute a suit shall be made to the Civil Court, who are forbidden from entertaining any suit without leave first obtained from itself for its institution. A conscientious Judge is unwilling to hold any preliminary inquiry, or to give any permission which would commit him to a particular view of the case or have the appearance of the matter being prejudged by the very Court which has afterwards to decide; so that, in effect, suits, even where there may be a disposition to come forward on the part of the "person interested," are discouraged.

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

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

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

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

All religious endowments are divided into two classes—

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

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

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

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

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

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

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

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

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

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

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

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

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

18. It will be seen from the foregoing summary of the chief provisions of the proposed Bill that it is intended that the constitution and powers of the present Pagoda Committees should be materially altered. Although, in the terms of the present Act, those Committees (most vaguely) "occupy

Section 7.

the place and exercise the powers of the Board of Revenue," still in practice they find themselves unable, in the absence of any definite powers, to exert any influence for good. The great object of legislation in respect of the extensive endowments which are now practically without efficient supervision is to secure, by a close and careful annual scrutiny of the accounts of the revenues and disbursements of the several institutions, the application of the funds to the purposes for which they were granted, and to prevent waste and misappropriation. The power, therefore, of calling for accounts, the power of enforcing that requisition, and the power of prosecuting the trustees for wilfully rendering false and fraudulent accounts, is all that need and can advantageously be vested in the Committee. To confer upon them vague and undefined general powers of control and interference seems to me to be both unnecessary and inexpedient—unnecessary, because any violent or wrongful exercise of their powers by the trustees who are responsible for the immediate management of the institutions will render them amenable to the Magistracy and to the established Courts, and inexpedient, because, adverting to the character of the religious institutions in this Presidency, the two great religious factions into which those directly connected with these institutions are divided, the sectarian zeal and bigotry which characterize each of them, and the impossibility of forming a Committee not composed of representatives and partizans of each of these factions, any opening which is sure to be afforded for intermeddling by powers of general interference and control vested in the Committees must prove mischievous by keeping alive and promoting that animosity and party spirit which now too often interfere with the proper management of native religious institutions.

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

Preamble.

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

Act repealed.

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

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

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

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

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

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

4. In cases of trusts in which the right to superintend and manage any religious endowments shall be found to vest either by prescription, patent, or decision of competent authority (to be proved in case of dispute to the satisfaction of the Civil Court, who shall hold a summary inquiry for the purpose) hereditarily in any one or more persons or in any body of people, or in any family or families, such right shall continue to be exercised and enjoyed by such persons, or bodies, or families, and the right of succession to such trusts on the

Right of succession.

occurrence of a vacancy by death, resignation, retirement, or dismissal shall be regulated by such usage as has been in force or by such rules or compact as may be entered into from time to time among such persons, bodies, or families possessing such right of management, and no other individuals or community of persons shall have any right to interfere with the succession to such trusts except in the instances and in the manner provided for in Section 5 of this Act.

Exception.

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

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

Appeal against such appointment to be by regular suit.

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

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

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

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

7. When a vacancy occurs in a locality which is either uninhabited or deserted, the residents of villages within ten miles of such locality and professing the same religion as that of the institution shall have the right to elect.
8. All vacancies existing in any hereditary or elective trusts at the time this Act shall come into operation shall be filled up according to the provisions of this Act.
9. On the occurrence of a vacancy in any such elective trusts as are described in Sections 6 and 7 of this Act, the Magistrate, or his Assistant or Deputy, as Sheriff of the place, shall, at the requisition of not less than three of the electors described in those sections, convene a general meeting of the electors at such time or place as may be agreed upon, and the electors so assembled in public meeting shall choose from among themselves or other electors, or from the inhabitants of any other locality, a person to fill up the vacancy, and the person so appointed shall succeed to the vacancy and his appointment shall be notified by the trustees in the District Official Gazette.
10. At all meetings of the electors convened in the manner described in the preceding section, a Chairman shall be selected to conduct the proceedings. The Magistrate or one of his Assistants or Deputies shall remain as long as the meeting continues. The election shall be according to the majority of votes, and, where the votes are equal, the Chairman shall have a second or casting vote. The proceedings of the meeting shall be taken down in writing signed by the Chairman and countersigned by the Magistrate or his Assistant or Deputy then present, and the same shall be deposited among the records of the Magistracy.
11. Where the annual revenue of the religious institution may not exceed 500 Rupees, the Magistrate may depute a Sub-Magistrate to be present at such election.
12. All such elections in the town of Madras shall be convened by the Sheriff, who shall act the part of the Magistrate or Deputy Magistrate described in Sections 9 and 10 of this Act.
13. In all elective trusts there shall be three trustees in office, who shall jointly manage and superintend the institution. When any difference of opinion shall arise among them the opinion of the majority shall prevail. Provided that, where there are already more than three trustees in the case of any such elective trust, they shall be reduced to that number on the occurrence of vacancies.
14. All elections under this Act shall be held under rules which shall from time to time be framed by the local Government and published in the Official Gazette.
15. If the body of electors neglect or refuse to make the necessary elections to any vacancy for three months after the occurrence thereof, the Civil Court shall, on the application of any person whatever, or of the Auditing Committee, pass an order appointing any person to fill the vacancy. Such order shall not be open to appeal, but shall be liable to be set aside by a decree of the Civil Court in a regular suit brought by a party aggrieved by such order. Such decree shall be open to appeal to the High Court.
16. Every trustee appointed as above shall hold his office for life unless removed for misconduct or unfitness, and no such member shall be removed except by an order or decree of a Civil Court. Provided, however, that from all such orders or decrees passed by the Civil Court an appeal shall lie to the High Court.
- Right of election to vacancy occurring in uninhabited or deserted locality.*
- Vacancies existing in hereditary or elective trusts at the time of commencement of this Act how to be filled.*
- General meeting of electors by whom to be convened.*
- Election how to be made.*
- a person to fill up the vacancy.*
- Notification of appointment in Gazette.*
- Election of a Chairman.*
- Magistrate or his Deputy to be present at the meeting.*
- Proceedings of the meeting how to be recorded.*
- When a Sub-Magistrate may be deputed to be present at meetings of electors.*
- In the town of Madras the Sheriff shall act the part of a Magistrate or his Deputy.*
- Elective trusts to be managed by three trustees.*
- Provided that, where there are already more than three trustees in the case of any such elective trust, they shall be reduced to that number on the occurrence of vacancies.*
- All elections under this Act shall be held under rules which shall from time to time be framed by the local Government and published in the Official Gazette.*
- If the body of electors neglect or refuse to make the necessary elections to any vacancy for three months after the occurrence thereof, the Civil Court shall, on the application of any person whatever, or of the Auditing Committee, pass an order appointing any person to fill the vacancy.*
- Such appointment can be set aside only by a regular suit in Civil Court.*
- Appeal.*
- Members of an elective trust to hold office for life unless removed for misconduct or unfitness by Civil Court.*
- Appeal.*

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

17. All trust bodies, whether hereditary or elected, shall be entitled to draw out of the revenues of the institution under their charge an allowance of four per cent. of the annual revenues as a remuneration for their labour and in discharge of all personal expenses incurred by them on account of such institutions, and such allowances so drawn shall be a legal charge on the revenues of the institution, and such amounts shall be equally divided among the trustees. But the amount shall not be drawn till after the accounts of the institution for the year have been passed and published in the District Gazettes in the manner hereinafter required.
18. Such trustees shall likewise be entitled and it shall be lawful for them to defray any law charges *bona fide* incurred by them as such on account of the institution in any civil or criminal proceeding out of the funds of the institution under their management, and all such charges shall be debited in the accounts of the institution.
19. In each Collectorate there shall be appointed by the Civil Court a Committee composed of five individuals for the purpose of auditing the accounts of the several religious institutions within such Collectorate. Of the five individuals composing the Committee, four shall be Hindoos, viz., two Sivites one Tungalay Vishnuvite one Vadagalay Vishnuvite, and the remaining member any person at the discretion of the Court but not belonging to any of the aforesaid sects. Vacancies in the post of any one of these religionists shall be filled up by the said Court by one of the same religion or sect. Such individuals shall not be trustees of any religious institutions in the district.
20. At the commencement of every year one of the members of the Auditing Committee shall retire by rotation and his place filled up by the Civil Court according to the provisions of the preceding section. The order of rotation for such retirement shall be the same as that mentioned in the preceding section in naming the various religionists and sectarians. Persons appointed to vacancies other than those caused by such retirement shall, as respects the order of rotation, occupy the place of the person whom he has been appointed to succeed.
21. In the case of any mosque or other Mahomedan religious institution, it shall be lawful for the Civil Court to appoint a separate Auditing Committee, composed entirely of Mahomedans, for auditing the accounts of such institutions and for performing in respect to such institutions the other duties devolving upon Auditing Committees appointed under this Act.
22. The trustees of every institution, whether falling under Section 4 or Section 6 of this Act, shall, within two months after the expiration of every Calendar year, submit to the Auditing Committee the accounts of the institution for that year under their signature together with all vouchers connected therewith. Such accounts shall embrace all receipts and disbursements for the year, the Dittum or fixed scale of expenditure of such institution, and a list of landed and personal property and effects belonging to the institution at the end of the year, and any trustee or trustees who shall neglect, refuse, or omit to render such accounts without reasonable cause within the time so limited shall be liable to a penalty not exceeding 50 Rupees, and to a further penalty not exceeding 20 Rupees for every day during which the accounts are withheld. Such penalty to be recovered on application to the Magistrate in the manner described in the Code of Criminal Procedure by distress on the private property of the defaulting trustee.
23. Any parties wishing to impugn the accuracy of such accounts shall personally present their complaint in writing to the Auditing Committee.
- Remuneration of trustees.*
- Law charges to be debited to the institution.*
- Appointment and composition of Committee for auditing the accounts of the religious institutions within each Collectorate.*
- Members of such Committee shall not be trustees of any institution in the district.*
- One of the Auditing Committee to retire annually by rotation.*
- Vacancies caused thereby how to be filled up.*
- Civil Court may appoint Committee of Mahomedans for Mahomedan institutions.*
- Submission of annual accounts of the institution for audit.*
- Penalty for neglecting or refusing to submit accounts.*
- Complaints about inaccuracy of accounts to be preferred to the Auditing Committee.*

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

Auditing Committee to examine and return the accounts within three months.
To take stock of moveable property and effects.
To examine balance of cash.

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

Accounts so passed and returned to be published in the District Gazette.
Penalty for non-publication.

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

After accounts are passed trustee shall not be liable to criminal prosecution.
But liable to be sued in Civil Courts.
And to make good amounts misappropriated.
And to be dismissed by decree of Court subject to appeal.

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

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

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

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

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

False and fraudulent accounts how to be dealt with.

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

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

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

32. Upon the accounts of any institution being passed by the Auditing Committee as correct or finally refused by them as false and fraudulent, they shall be entitled to charge a fee of two per cent. on the annual revenues or income thereof, which fee shall be sent to them by the trustees as soon as the accounts of the year have been passed and published in the District Gazette in the manner hereinbefore set forth. The fee so received shall, after defraying the costs of any establishment and other charges incurred by the Committee, be equally divided among the members thereof.

Remuneration of Auditing Committee.
How to be recovered.

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

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

Any elector may sue Auditing Committee for misfeasance or neglect of duty.
Civil Court may direct specific performance of any act and decree damages.

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

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

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

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

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

Trustees to keep buildings in repair from the income of institutions.
Effect of Act in respect of Regulation VII. of 1817 and of buildings of antiquity.

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

Trustees to invest surplus funds in Government securities.
Proviso.

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38. The provisions of this Act shall not apply to any private endowment founded by any individuals or bodies for their own private use and benefit and not dedicated by them to public use.

Application of Act.

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

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

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

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

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

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ancestral property by a Hindoo widow (12 Weekly Reporter, 299), and I feel little doubt that this is the correct principle, and that the ordinary doctrines of the Hindoo law, as to the power of alienation and encumbrance possessed by the managing member of a Hindoo family, are applicable to the trustee or manager of a charity. His debts and alienations will be binding on the charity property if the contracting and making them was necessary for the preservation of the property. I think the Government are quite right in the contention urged in their Proceedings noted in the margin, that the burden of proof is on the person seeking to make good the debt of a trustee against the charity. In the case out of which this reference arose the Civil Judge had found as a fact that the debt was contracted for the benefit of the charity, and the High Court on special appeal was bound by that finding unless it could have been shown that there was absolutely no evidence to support it.

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

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

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

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to the necessity of appointing Commissioners armed by law with authority similar to that invested in the Charity Commissioners of England.

3. Mr. Handley points out that the provisions of Regulation VII. of 1817 were vague and perhaps insufficient; but, so long as that Regulation was in force with regard to religious endowments, no need of a new law was experienced. Things were in the state in which they had been from time immemorial, the British Government admitted the responsibility it inherited from its predecessors, the endowments were devoted to their proper purposes, and the people were content.

4. Directly Act XX. of 1863 was passed and Government suddenly divested itself of its responsibilities, everything was changed. Committees, to all intents and purposes irresponsible to any one, with no sense of responsibility, and in many cases the tools of designing men, have too often abused their trust, and the enormous property committed to their charge is neglected, or, worse still, squandered. Public opinion is so strong as to the evils of the present system and the necessity of a change that it ought not to be neglected any longer.

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

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

(A true Copy and Extract.)

(Signed) J. GROSE,
Acting Secretary.

Transferred to the Judicial Department.

FORT ST. GEORGE,
3rd August 1871.

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

No. 106.

OPPEN THEREON, 31st January 1872, No. 118.

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

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

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

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endowments, has proved a complete failure in this Presidency; and, before the receipt of Mr. Secretary Hume's letter of the 5th January last, the question of amending the law had been under the consideration of this Government and had also engaged the earnest attention of the Hon. V. Ramiengar, an Additional Member of the local Council for making Laws and Regulations.

4. This gentleman has prepared and submitted a draft of an Act which he suggests should be passed for this Presidency in supersession of Act XX. of 1863, and in the letter which accompanies the Draft he has drawn what is believed to be a faithful picture of the effect of the present law; and the Government observe that the views of the Board of Revenue as to the present condition and management of native religious institutions under the operation of Act XX. of 1863 and as to the expediency of amending the Act accord with those expressed by the Hon. V. Ramiengar.

5. The Government resolve to forward a copy of the Draft Act prepared by the Hon. V. Ramiengar to the Honourable the Chief Justice and Judges of the High Court, with a request that they will, after communicating on the subject with some of the most experienced judicial officers in the Mofussil, favour the Government, at their earliest convenience, with an expression of their opinion on the Draft and also on any points not dealt with therein on which the present law requires amendment.

6. Copies of the Draft will also be forwarded to the Board of Revenue, and they will be requested to refer it to the Collectors of the several districts, being obtained, as all on the pro

in the Draft, as on any point not dealt with in the Draft but in respect of which the provisions of Act XX. of 1863 have been found to be defective. The Collectors should be instructed to procure and submit the opinions of selected natives in each district, together with their own opinions on the subject.

7. The Honourable the Acting Advocate-General will also be requested to submit any observations which he may deem it proper to make in connexion with the subject of these Proceedings.

8. In the meanwhile copies of these Proceedings will be submitted to the Government of India, with an intimation that this Government are sensible of the necessity of legislation in the matter of native religious and charitable endowments, and that they propose to address the Supreme Government at length on the question as soon as they have obtained the opinions of their officers on the Draft Act above referred to.

9. Ordered, accordingly, that the following letter be despatched:—

(Here enter No. 120, dated 31st January 1872.)

(True Extract.)

R. S. ELLIS,
Chief Secretary.

To the Honourable the Judges of the High Court.

„ Board of Revenue.
„ Revenue Department.
„ Acting Advocate-General.

Exd. A. S. Rodgers.

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JUDICIAL.

To THE HONOURABLE THE JUDGES
OF THE HIGH COURT.
Secy. &c. &c.

Dated January, 31st.

Book.

O. O. 31st January 1872, No. 118.

JANUARY.
Nos. 101-108.

Having order on certain papers relating to the
-management of the law regulating the administra-
-tion of public religious endowments.

24522
Nunich

MADRAS RECORD OFFICE.
Government Records.

Revenue Department.

Miscellaneous
G. O. (Printed).

Dated 15-2- 1872

No. 87.