

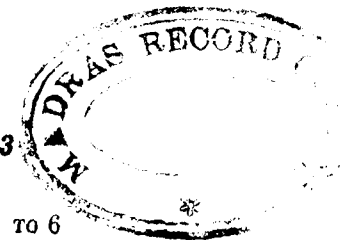
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TO THE PROCEEDINGS OF THE MADRAS LEGISLATIVE COUNCIL

THIRD SESSION

March & April 1923

VOLUME XIV—Nos. 1 to 6



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The Council re-assembled at the Council Chamber, Fort St. George, at 11 a.m. on Monday the 26th day of March 1923, the hon. Diwan Bahadur Sir P. RAJAGOPALA ACHARIYAR, M.C.S.I., C.I.E., President, presiding.

I

QUESTIONS AND ANSWERS.

[Order made by the President of the Madras Legislative Council under Standing Order No. 15—

(1) Printed copies of the questions and answers to be put and given at a meeting of the Council shall be placed on the Council table an hour before the President takes his seat.

(2) The questions shall be put and answered in the following manner:—

The Secretary shall call the name of each interpellator in alphabetical order, specify the serial numbers of his questions, and make a sufficient pause to allow him or any other member a reasonable opportunity of rising in his place if he is desirous of asking a supplementary question. Supplementary questions must be put immediately after the principal questions to which they relate.]

Executive Engineers in the City.

921 Q.—Mr. T. SIVASANKARAM PILLAI: Will the hon. the Minister for Education and Public Works be pleased to state—

(1) if there has been a workshop and stores for the Public Works Department in the city of Madras in charge of an Executive Engineer and if so, for how long;

(2) what has been the annual cost of the workshop and the stores for each of the ten years ending with March 1922;

(3) whether the kind of articles turned out in the workshop cannot be got from any of the engineering firms in the city or elsewhere in the open market at lesser cost;

(4) whether it is a fact that the bulk of the engineering stores is ordered from foreign countries and that the Engineer in charge is entrusted with the work of receiving and distributing the said stores to the several Executive Engineers in the Presidency;

(5) whether there is an officer called the Agent for Government Consignments at the Madras Ports, appointed to take delivery of all foreign stores including the engineering articles;

(6) whether the work of receiving and distributing the engineering articles now being done by the Executive Engineer in charge of the workshop and the stores cannot be left to be done by the said Agent for Government Consignments with additional establishment, if necessary;

(7) whether the number of the Executive Engineers in the Madras City cannot be reduced by one without prejudice; and

(8) whether it is a fact that the Superintending Engineer in charge of the present V Circle has very little work by way of supervision over the workshop and the stores?

A.—(1) The Public Works Department Workshops and Stores, Madras, have been in existence since 1864. They are not in charge of an Executive Engineer but in charge of an officer who is outside the cadre of the Engineer establishment. His designation is General Superintendent, Public Works Department Workshops and Stores.

[26th March 1923]

- (2) The annual charges incurred in the Public Works Department Workshops and in the Public Works Stores are as follows :—

Public Works Workshops.

	RS.		RS.
1912-13	... 45,992	1917-18	... 73,412
1913-14	... 54,492	1918-19	... 82,476
1914-15	... 56,790	1919-20	... 90,579
1915-16	... 62,614	1920-21	... 1,18,839
1916-17	... 71,127	1921-22	... 1,05,856

N.B.—Increased charges are owing to increased orders. During the war no money was spent on repairs and the increased charges were the result of heavy orders from the Board of Munitions.

Since the war the further increase is partly the result of increase of wages but until last year the orders have remained heavy and repairs to buildings and machinery are overdue. The charges will only fall considerably after these repairs are executed.

- (3) Many articles turned out by the Public Works Workshops could be manufactured by local Engineering firms and could be got in the open market but not at so low a cost.
- (4) In the past most of the stores have been obtained by Home indent, but local indents are freely made now. The General Superintendent prepares Home indents, places local indents and guarantees quality, receives and distributes stores to all Government departments and not only to the 34 Executive Engineers.
- (5) The answer is in the affirmative.
- (6) The answer is in the negative.
- (7) The number of officers in the Madras City has been reduced by one, the Stores and Workshops having been combined into one division under the General Superintendent with effect from 1st April 1922.
- (8) Yes.

The Superintending Engineer, V Circle, however controls the establishment of Shops and Stores.

Report of the Indigenous Drugs Committee.

922 Q.—Sriman BISWANATH DAS Mahasayo: Will the hon. the Minister for Local Self-Government be pleased to state—

- (a) the action which the Government have taken or propose to take on the Report of the Indigenous Drugs Committee presided over by Khan Bahadur Usman Sahib, M.L.C.; and
- (b) whether they propose to place the said Report on the Editors' table for the use of the public?

A.—(a) The Government have not yet considered the report which has only just been received.

- (b) The question is under consideration.

26th March 1923]

Police in the Rampa Agency Fituri.

923 Q.—Sriman BISWANATH DAS Mahasayo: Will the hon. the Home Member be pleased to state—

- (a) the number of officers of different cadres of the police services and also the number of the police force now engaged in the Rampa Agency Fituri;
- (b) whether a conference or conferences were held by the commanding officer with the people of the Agency during this year;
- (c) if the answer is in the affirmative, whether the Government will be pleased to lay either the proceedings or the result or both on the table; and
- (d) whether they or the Agency Commissioner have received any representation or telegram from the people or the village officers regarding police oppression till the end of 15th February 1923, ever since the outbreak of Fituri?

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- (b) Yes, frequently.
- (c) There are no proceedings to lay on the table and there was very little result. Promises of help was freely given by the villagers, but were very seldom carried out.
- (d) The only allegations of Police oppression were contained in three petitions sent to the Agency Commissioner in December after the engagements with the rebels at Peddageddapalem and Lingapuram when certain houses caught fire in the course of the operations. It was found that these petitions were all engineered by one man and all the villagers wanted was free permits to get timber to rebuild their houses. These have been granted.

II

COMMUNICATION TO THE COUNCIL.

With reference to the answer given to question No. 535 delivered at the meeting of the Council held on the 18th December 1922, the SECRETARY laid on the table the 'Proceedings' of the first meeting of the Road Board, Fort St. George, dated the 7th March 1921.

III

THE MADRAS HINDU RELIGIOUS ENDOWMENTS BILL, 1922.

The hon. the PRESIDENT :—"Before taking up the consideration of the Madras Hindu Religious Endowments Bill, 1922, I should like to say a few words.

"Hon. Members are aware that, though no specific time-limit is provided by Rules or Standing Orders in the case of speeches on Bills or other legislative business, I have, acting under my residual power of regulating the conduct of business in all matters not provided for in the Act, Rules or

[The President]

[26th March 1923]

Standing Orders, laid down in December 1921, and been enforcing since then, a time-limit of 30 minutes for every hon. Member making a motion and for the Member of Government answering him and 10 minutes for every other hon. Member. So far as the Religious Endowments Bill which the House is now taking up is concerned, notices of over 800 amendments have come in, and in view of the circumstance that the House has been hard at work on the Budget from the 12th of this month, it will, I think, be agreed that the limitation of the period and the consequent focussing of attention on important points of discussion is called for in the public interests. I have come to the conclusion that a time-limit of 10 minutes in regard to the mover of an amendment when moving it, and the Member answering on behalf of the Government in the first instance, and of 5 minutes in all other cases, may be imposed for the purpose of crystallizing the debate. In all probability the main principles of the Bill will have been settled when the definition and the first few clauses have been disposed of, and much of the subsequent debate will be concentrated on amendments, verbal in character or of a comparatively minor importance or of a consequential nature. I trust that hon. Members will realize that the step I have taken is absolutely necessary, and I appeal to them to give me their support in the matter."

The Madras Hindu Religious Endowments Bill, 1922, as amended by the Select Committee, was taken up for consideration.

Clause 1.

Clause 1, for which there was no amendment, was put and passed and allowed to stand part of the Bill.

(Amendment No. 1.)

New clause after Clause 1.

Rao Bahadur T. NAMBERUMAL CHETTIYAR :—" Sir, I beg to move—

(a) Insert the following as clause 2 :—

" 2. It shall come into force within a year or earlier when all the records and inventory of temple properties and mathas have been gathered by the Board constituted under section 6 of the Act."

(b) Re-number the subsequent clauses.

Sir, this Bill has an illustrious pedigree. Eminent persons like Rama Ayyangar, Muttaswami Ayyar, Chentsal Rao and others have considered and left valuable reports on the conditions and management of religious institutions in this Presidency. The object with which I tabled this amendment was to suggest that, although the Bill should be passed into an Act now, the provisions should be enforced only a year after—a procedure advocated in one of the valuable reports mentioned above. I can only repeat that in previous Bills dates were omitted, and one Bill advocated that the Bill should be put into force four years after the date of its passing."

The hon. the RAJA OF PANAGAL :—" Sir, the amendment, if accepted, would land us in a vicious circle. The idea seems to be self-contradictory. The Board can function only after the Bill comes into operation. It is in fact a creature of the Act, and as such cannot function before the Act is put into force. The amendment therefore cannot be accepted."

The amendment was put and lost.

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Clause 2.

Sub-clause (1).

(Amendment No. 2.)

Rao Bahadur A. S. KRISHNA RAO PANTULU :—

For the word 'It' substitute the words 'This Act'.

"Sir, the amendment that stands in my name is more of a drafting character than anything else. It will be found that the words 'This Act' are used in sub-clauses 2 and 3, but not in sub-clause 1. We generally find that reference is made in subsequent clauses only to words used in the previous clause."

The hon. the RAJA OF PANAGAL :—" Sir, I have no objection to the amendment. It is a mere verbal amendment and is harmless."

The amendment was put and carried.

(Amendment No. 3.)

Rao Sahib U. RAMA RAO :—

After the words 'Presidency of Madras' insert the words 'except South Kanara'.

"Mr. President, Sir, the South Kanara district stands on a different footing altogether from other districts. The temples and mutts of South Kanara have a different tale to tell. In the first place, I want to know whether the Minister in charge of the Bill has obtained enough of information from this district to justify his including them in the purview of this Bill. Sir, I am a native of South Kanara, and, to my knowledge, no mismanagement of any kind exists in the temples and mutts of South Kanara, for they are, with very few exceptions, very poor and have not got enough of income to meet their own expenses. Unless the devotees give something in the shape of *dakshina* or *kanika*, the affairs of the temple cannot be properly managed. So if a Bill like this is forced upon them, the whole temple management will go to ruin."

"There is another thing which is very peculiar to South Kanara. Every community there has its own temple. For example, the Brahmans have their own temple, and every sect of the Brahmans (Madhwa, Saivite, etc.) has its own temple. Non-Brahmans also, like Bants or Nadavas, have their own temples; they are their own trustees, and they have their own committee management. Under these circumstances, I do not see any reason why the temples of South Kanara should be brought within the purview of this Bill and made to pay a contribution of 3 per cent towards the maintenance of a Board of Directors elsewhere. Then again, there are certain temples which may be called family temples and to which the ordinary public cannot have recourse. According to the present provisions, even such temples will be brought under this Bill."

"In fact, I wanted to include Malabar also in this amendment so that South Kanara and Malabar might be exempted from this Bill. But as my hon. friend from Malabar, who is with the party in power, had tabled an amendment, I thought he might have a chance of carrying out that particular amendment. So I did not include Malabar, though South Kanara and

[Mr. U. Rama Rao]

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Clause 2—cont.

Malabar both stand on the same footing in this respect. With these few words, I appeal to the hon. the Minister to exclude South Kanara where there is no mismanagement of temples at all."

The hon. the RAJA OF PANAGAL :—"Sir, my hon. friend, Mr. Rama Rao, suggested that there was no mismanagement in the case of temples and mutts in South Kanara. If that is true, there need not be any anxiety on the part of the managers of those institutions about the introduction of this Bill.

"Sir, the hon. mover said that this Bill might affect private temples. Private temples are excluded from the operation of the clauses of the Bill. The provisions of the Bill apply only to public temples.

"Sir, he further observed that there were different communities owning different temples each having its own committee to manage. That is a matter for consideration by the Board when it has to frame schemes. In any case, there are amendments, notices of which have been given under sub-clause (2) of clause 2. This question of exemption in favour of any particular temple or mutt for extraordinary reasons will be considered when that sub-clause is taken up for discussion. As to contribution, it is a sort of insurance fee."

Rao Sahib U. RAMA RAO :—"Sir, the hon. the Minister said that if there was no mismanagement the temple authorities need not be anxious. But all the same, they are made to pay a contribution of 3 per cent unnecessarily. They are awfully poor and cannot pay. But if the hon. the Minister promises to consider their case for exempting them from these charges, I shall not press the amendment."

The hon. the RAJA OF PANAGAL :—"It is a matter for the Board to examine each case as it comes and decide it on its merits."

Rao Sahib U. RAMA RAO :—"If that is the case, I shall withdraw my amendment."

The amendment was by leave withdrawn.

(Amendment No. 4.)

Rao Bahadur O. TANIKACHALA CHETTIYAR :—"Sir, Mr. President, I am asking that—

The words 'save and except the City of Madras' be inserted after the words 'Presidency of Madras.'

"My object is to see that in this Bill no illegality or irregularity from a constitutional point of view creeps in. I may point out that this Bill, as originally presented to this House, had excluded the City of Madras from its operation. I may say, Sir, that the saying 'first thoughts are always the best thoughts' is well illustrated by what has happened. Unfortunately, an after-thought has crept into this Bill apparently by way of submission to an agitation which was carried on by certain hon. Members of this House, as to why Madras should be exceptionally treated. With reference to that argument, my hon. friend, the Raja of Panagal, said in his speech the other day in answering the criticisms passed on the Bill when it was introduced :—

One refers to the fact that Madras City has been excluded from the operation of the Bill. It was the intention of this Government to bring Madras within the scope of the Bill, but the Government of India objected to its inclusion on technical considerations; for in the Bill as

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Clause 2—cont.

was originally drafted, power was given to the Original Side of the High Court to entertain suits and the Government of India thought that the Local Legislature could not invest the High Court with jurisdiction.

I am afraid, Sir, there is some misapprehension as to the object with which the Government of India objected to investing the High Court with jurisdiction. But the High Court is fully invested with jurisdiction conferred upon it by the Letters Patent which is a document emanating from the Houses of Parliament, and it is not open to the Indian Legislature to alter what has been laid down as conferring this jurisdiction by the Letters Patent. For, with respect to the City of Madras, the jurisdiction of the High Court on the Original Side is derived from Sections 11 and 12 of the Letters Patent. With reference to all the mufassal courts including the City Civil Court in Madras, the jurisdiction is derived by virtue of legislation passed by the Government of India or by the Local Government. That being the difference, it is not, I submit, open to Provincial Legislatures to interfere with the jurisdiction of the High Court, even though it may be with the previous sanction of the Government of India, unless also sanction of the British Parliament has been accorded to take away the jurisdiction possessed by the Original Side of the High Court in virtue of Sections 11 and 12 of the Letters Patent.

"Sir, I may draw the attention of the House to Section 65 of the Government of India Act which says :

The Indian Legislature has power to make laws—

(a) for all persons, for all courts, and for all places and things, within British India; and Provided that the Indian Legislature has not, unless expressly so authorized by Act of Parliament, power to make any law repealing or affecting—

(i) any Act of Parliament passed after the year one thousand eight hundred and sixty and extending to British India including the Army Act and any Act amending the same.

The inclusion of Madras within the operation of this Bill would, in fact, amend the jurisdiction conferred by the Letters Patent upon the High Court of Madras. I shall invite the attention of the House, with your indulgence, to Section 12 of the Letters Patent issued in respect of Madras :

And we do further ordain that the said High Court of Judicature at Madras, in the exercise of its ordinary original civil jurisdiction, shall be empowered to receive, try, and determine suits of every description, if, in the case of suits for land or other immovable property, such land or property shall be situated or in all other cases if the cause of action shall have arisen, either wholly or, in case the leave of the court shall have been first obtained, in part, within the local limits of the ordinary original jurisdiction of the said High Court, or if the defendant at the time of the commencement of the suit shall dwell or carry on business, or personally work for gain, within such limits; except that the said High Court shall not have such original jurisdiction in cases falling within the jurisdiction of the Small Cause Court at Madras, in which the debt or damage, or value of the property sued for, does not exceed one hundred rupees.

Sir, this limitation is only in respect of property which does not exceed Rs. 100. This means that property which is below Rs. 100 cannot be the subject of any suit or proceeding entertained by the High Court. But in respect of all others the High Court is the proper authority and no exception to the jurisdiction of the High Court can be taken on the ground that its value is, say, about Rs. 1,000, or Rs. 2,000 or even Rs. 2,500. I know, Sir, that we are all accustomed to saying that the jurisdiction of the City Civil Court is to the extent of Rs. 2,500. That is only a right or privilege given to a litigant to take it to the City Civil Court. But the privilege to have one's suit filed in the High Court cannot be taken away by the Indian Legislature, and the only penalty which is provided for people who want to

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Clause 2—cont.

will have no practical effect? If temples with such scanty incomes as Rs. 250 are not within the scope of this Bill—and to secure an income of Rs. 250, the property must be worth Rs. 4,000 or Rs. 5,000—and they are therefore within the jurisdiction of the High Court, and the jurisdiction with respect to them cannot be ousted by this Act, what is the use of having such a Bill as this? It can only create confusion and furnish an opportunity to those who are wrong-minded to harass the people. I may say with a certain sense of responsibility that if this provision is retained, it is likely to lead to conflict between the authorities constituted by this Act and the various temples in Madras whose rights, it may be pretended, will be affected by this Bill. They will challenge the jurisdiction of this legislature to introduce a provision relating to the City of Madras. For these reasons I do ask that this amendment might be decided by this House."

Mr. C. MADHAVAN NAYAR (Advocate-General):—"Mr. President, Sir, there is really nothing which deserves any serious reply to the position now taken up by my hon. friend. His point is that there will be no property below Rs. 2,500. But it is quite possible for people, by consent, to arrange about the value of the properties forming the subject matter of suits. Therefore in this way the argument can be met, and really there is no point in what my hon. friend has put forward."

The amendment was put to the House and lost.

(Amendment No. 5.)

Mr. K. PRABHAKARAN TAMPAN :—"Mr. President, Sir, I beg to move the first part of my amendment, and that is:

After the words 'Presidency of Madras', insert the words 'save and except the district of Malabar'.

"Sir, I am afraid I shall not be able to do justice to the amendment under my name within the short time allotted to me; but if you will kindly show me some indulgence, and if the hon. Members will bear with me for a short while, I hope to be able to show that for all that might be said to the contrary, it is not altogether without reasonable grounds that I request that the district of Malabar should be excluded from the operations of this Bill. I said at the First Reading of the Bill that temples and *devaswams* in Malabar were, as in all other matters, peculiar and stood on a very much different footing from those in other districts. Elsewhere, such institutions are mostly founded out of the donations of an indefinite and unknown body of general public without any specific intention to reserve to themselves any private right or control over the corpus or income of such donations. The close and compact village life in the East Coast gives occasion for public places of common worship, many of them having their origin in Puranic antiquity without any identity as to their founders or donors. But the configuration of the villages in Malabar and the peculiar social habits of its inhabitants with their rigid customs and disabilities render such an origin of a common place of worship impossible. *Tarwad* houses scattered apart, each at a distance of a mile or two from one another, are grouped together only for administrative purposes. Each house is a self-sufficient entity, with its compound and garden, grazing and cremation ground, paddy field, bathing tank and temple.

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Clause 2—cont.

Except in a few localities in the Palghat taluk that are exposed to the eastern influence, there is hardly any tank or temple that may be called a public property in Malabar, although no one belonging to a caste inferior to that of the owner is generally denied access to it. This has been uniformly recognized in judicial decisions. Mr. Justice Seshagiri Ayyar, an eminent Judge and experienced lawyer, says in one of his judgments as follows:

In Malabar, people are divided into *tarwads* which are practically domains, each clan or *tarwad* has its place of worship, its own burial-ground, its own bathing tank, etc. Each of these *tarwads* has been regarding itself as a separate entity different from the rest. There are therefore numerous private temples in Malabar and the questions which have come before courts mostly relate to the trusteeship in such temples among members of the *tarwad*. Malabar, in this respect, stands by itself. This clannish feeling is not what we find outside the West Coast. In the South, common ownership in the temple and communal rights in the burial-ground and in bathing places are everywhere to be found.

"So also in the matter of the Keralapuram temple in Koduvayar—a case that came on second appeal to the High Court, before Sir Abdur Rahim and Napier, JJ., and in letters patent appeal, before Sir John Wallis and Spencer, JJ.,—the view was held that a village of roughly 160 members can be owners of a private temple. Every *tarwad* having the least pretensions to respectability had its own temple mainly for the use of its members and dedicated a portion of the family property for its maintenance. As a matter of fact, many a *tarwad* or *illom* has consecrated itself by dedicating all its properties in the name of its guardian deity. Tradition has it that the whole of the Travancore State is dedicated to the great Padmanabhaswami, and the Maharaja is only His humble servant. This conception is typical of the general feeling in the whole of Kerala, and every temple is more or less of this kind. This view is borne out with little alteration by Mr. Logan, one of our distinguished Collectors and an eminent authority on Malabar matters. He says in his Malabar Special Commission Report:

In former times it was considered to be incumbent on every family of any position to endow one or more temples. I have reason to think also that these endowments were also largely increased in a way not unknown in Europe, where the Church reaped the benefits of such endowments and in return guaranteed the safety of the endower against the might of some powerful adversary. But in all such cases, the family of the original grantor retained a voice as *Uralen* in the management of the endowed institution and the institution itself has always been regarded more or less in the light of private property. (Paragraphs 238 and 239.)

"It may be that fear of internal dissipation and external aggression has led to the nominal dedication of the family property to the family temples. Between the period of the last Cheraman Perumal and the establishment of British power by the defeat of Tippu Sultan, Malabar was the scene of constant internecine wars and quarrels. Life was unsettled and property extremely unsafe. The nominal dedication of the family property to a family temple did not deprive its members of the virtual use of it while it forcibly operated as a powerful deterrent against the ruthless rapacity of an enemy. It must also be said to the credit of the invaders of Malabar, excepting Tippu Sultan, that they scrupulously respected the religious prejudices of the Hindus. Or it may be, in those remote ages the Hindus of Malabar got at the Muhammadan idea of tying up the family property to a family god or deity as the ultimate residuary of their wealth as a means of preserving their family property. This can be satisfactorily accounted for by the close contact with and settlements of Arab Muhammadan traders on the Malabar Coast from whom our ancestors might have copied the Muhammadan form of dedication known as *Wakf*, by which though the property was nominally

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Clause 2—cont.

have the luxury of litigation on the Original Side for sums exceeding Rs. 100 is that in the discretion of the Court the successful party may be deprived of his costs as a suit instituted on the Original Side of the High Court, while it could also be instituted in the City Civil Court. This being so, it would not be right by clause 2 of this Bill to extend the provisions of this Bill to the whole of the Madras Presidency regardless of the extensive power conferred upon the Original Side of the High Court by the Letters Patent. Moreover, it is said in clause 3 of this Bill:

Nothing in this Act shall be construed to affect, or in any way derogate from, the powers in respect of religious endowments which the Advocate-General may exercise under sub-section (2) of section 114 of the Government of India Act or which the High Court in the exercise of its ordinary original civil jurisdiction may possess.

"Sir, I am aware that there are a number of rich temples in the city of Madras, such as the Sri Parthasarathiswami temple at Triplicane, the Ekambaranathaswami temple and the Kandaswami temple in Georgetown, for each one of which a scheme has been framed by the High Court. I am aware of a provision here that religious institutions or endowments in respect of which schemes have been framed by the High Court may be treated as part of the schemes to be regulated or given effect to by the Board or the Committee to be appointed therefor. But a question arises in a case of this kind. Under clause 65, it is said:

(1) Every math and temple shall pay annually for meeting the expenses of the Board such contribution not exceeding one and a half per centum of its income as the Board may determine.

(2) Every temple other than an excepted temple shall pay annually for meeting the expenses of the Committee such contribution not exceeding one and a half per centum of its income as the Committee may with the approval of the Board determine.

"Then again clause 66 says:

(1) The costs, expenses and contributions payable under sections 64 and 65 shall be assessed on and notified to the trustee of every math and temple in the prescribed manner.

(2) Such trustee shall within three months of his receipt of such notice pay out of the funds of the math or temple concerned the amount so demanded to the President of the Board or Committee, as the case may be, or to any person authorized by him; and, in default of his doing so, the court shall, on the application of the President of the Board or Committee, recover the amount as if a decree had been passed for the amount by the court against the religious endowment concerned.

"I now raise the question whether the 'Court' is a District Court or the City Civil Court. Is the Court going to execute as a decree the application of the Board for recovery of any contribution which the Board or the Committee may impose on temples? Can also, in the case of schemes already framed by the High Court in its original jurisdiction or in respect of such schemes, the matter be moved in the High Court itself? Does the Board or Committee take upon itself the power of deciding matters or take concurrent jurisdiction with the High Court?

"Again, Sir, under clause 69 it is said:

Sections 92 and 93 and Rule 8 of Order I of the First Schedule of the Code of Civil Procedure, 1908, shall have no application to any suit claiming any relief in respect of the administration or management of a religious endowment and no suit in respect of such administration or management shall be instituted except in conformity with the provisions of this section.

"Sir, I beg to submit that, so far as the Original Side of the High Court which derives its power from the Letters Patent is concerned, it is not open to the local Legislature to restrict the power it has of entertaining suits of

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Clause 2—cont.

any description by limitations such as these. It may be answered on behalf of the Government that the scheme of this Act will not have operation on such religious institutions as are already governed by schemes, so far as the City of Madras is concerned, or in respect of temples or other institutions the income of which does not exceed Rs. 250. But then the question arises as to why you should include the City of Madras or the temples which are already governed by schemes framed by the Original Side of the High Court. Is it to be merely of an academic interest or are you furnishing material for issues to be fought as to the jurisdiction of the courts or of the various authorities constituted under the Bill?"

The hon. Mr. C. P. RAMASWAMI AYYAR:—"Mr. President, 11-30 a.m. Sir, I may say at once . . ."

Rao Bahadur C. V. S. NARASIMHARAJU:—"Sir, is it not necessary that the amendment should be seconded?"

The hon. the PRESIDENT:—"No, it is not necessary."

The hon. Mr. C. P. RAMASWAMI AYYAR:—"Mr. President, Sir, I may at once say that the objection raised by my hon. friend, Mr. Tanikachala Chettiyar, is valid up to a certain point. It is undoubted that the jurisdiction of the High Court on its Original Side cannot be interfered with by legislation of this type, and indeed in a case reported in 44 Madras, 446, the Act, generally styled Seshagiri Ayyar's Act, was held to be *ultra vires* in so far as it purported to affect the original jurisdiction of the High Court. Therefore, when it is remembered that Clause 3 definitely saves the powers of the Advocate-General exercised under Section 114 of the Government of India Act and the jurisdiction of the High Court—its ordinary, original civil jurisdiction—it is clear that this Bill does not purport to affect its ordinary jurisdiction. Therefore, I think I may also say at once that in so far as civil jurisdiction. Therefore, I think I may also say at once that in so far as any schemes may have been framed by the High Court on its Original Side the working out, modification and results of such schemes cannot be affected by this Bill. This is also correct. Then, it may be asked, 'What is the use of bringing in the City Civil Court?' Now, under the City Civil Court Act, Section 6 undoubtedly saves the jurisdiction of the Original Side of the High Court; but there is nothing to prevent the City Civil Court from trying cases cognizable by the Original Side if the parties to the suit consent to such trial. The object in giving power to the City Civil Court is to provide for those cases in which, having regard to the comparative scantiness of the resources and the smallness of the income, parties might be willing to go in under the powers of the City Civil Court. It is only for this purpose that the Bill is intended, and the Government recognize that it is a partial measure."

Rao Bahadur O. TANIKACHALA CHETTIYAR:—"Sir, so far as the latter portion of the speech of the hon. the Law Member is concerned, viz., that certain properties within the jurisdiction of the City Civil Court, I do point out that the properties in respect of which the City Civil Court has jurisdiction are not so low as Rs. 100. Then if the value is Rs. 100, the income coming from it cannot be anything worth speaking of. In fact, under this Bill, properties of temples, the income of which falls short of Rs. 250, are excluded from the scope of its operation. Then, what object is gained by putting on the statute-book a measure which is only of an academic interest, but which

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Clause 2—cont.

dedicated to God, the family got the benefit till it lasted, and on its extinction it went to the fulfilment of the dedicated object. This ostensible dedication of the family property to a family temple did not deprive its members of the virtual use of it and it often contributed to dissuade the manager of the family from mismanaging it for fear of incurring the divine displeasure. In my own family, i.e., the estate set apart for the maintenance of its junior members, the management of which is vested in the eldest lady of the house, there are some temples with large endowments directly under her control. Wherever family properties are in the hands of females, trusteeship of the temples attached thereto has also devolved upon them, sex disabilities not operating as any disqualification for such offices. If regard be had to the line of succession to the management of Malabar temples which is invariably vested in the *karnavan* of the *tarwad* or *illom* for the time being and in case of a removal or any disability attaching to the *karnavan*, the management of the temples and its properties descends alike to the next *karnavan*, the family character of the temple property becomes quite patent. It will therefore be easily understood why the law courts have uniformly held that the trusteeship of a temple belonging to a Malabar *tarwad* is indefeasible and hereditary and also indivisible and inalienable. It has also been held that each member of a trustee's family has a right of questioning and setting aside any act of misfeasance by the trustee thereby affording ample protection to the temple properties in Malabar.

"It was because of these reasons that the previous enactments on religious endowments did not apply to Malabar. Agreeably to the provisions of Regulation 7 of 1817 which was passed with a view to exercise the *melkoima* right of the Crown over all religious and charitable endowments in the Presidency, Mr. Green, who was then the Commissioner of Malabar, prepared a detailed list of all temples in the district showing the right and usages attached to each temple and the character of their trustee or trustees. In the report he submitted to the Board of Revenue he recommended that all temples in Malabar were more or less private endowments and interference in their affairs was unjust and unnecessary. The correctness of Mr. Green's *paimash* has to this day not been impugned, and in all disputes concerning temple properties and trusteeships it is being freely availed of as the safest and most reliable evidence by the law courts. Mr. Vaughan who succeeded Mr. Green also recommended in his letter, dated 23rd December 1817, the same course and accordingly the Board of Revenue resolved not to exercise any right of control over temples in Malabar. In 1841, when Government were taking steps to carry out their policy of withdrawing their *melkoima* right over these institutions, Mr. Conolley, the Collector of Malabar, wrote:

The pagodas in Malabar generally are and always have been independent of the Government interference. They were either the property of some influential family the ancestors of which built and endowed them or, as is commonly the case, are claimed and managed by a body of trustees called *Ooralans* who derive their rights from immemorial inheritance.

"He reported that the only temples under the management of the Government were those that had escheated from the Battath Raja and the Chenat Nair which were recommended to be handed over to the Zamorin of Calicut and the Raja of Palghat respectively. The Government approved of his proposal and the escheated temples were accordingly entrusted to these chiefs who are still managing them as their own temples.

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Clause 2—cont.

"When the Regulation 7 of 1817 was superseded by Act XX of 1863, it was not enforced with regard to Malabar temples. Mr. Ballard, the Collector of Malabar at that time, reported in his letter that the Act was ill-adapted to Malabar, and as there were no temples of a public character in the district the Regulation of 1817 was not enforced and therefore the new Act could not apply. He made out also a strong case that even the trustees of these escheated temples that were handed over by the Government in 1842 were not without any claims to the management of those temples and should not be interfered with. Malabar was therefore let alone. That this Act did not extend to Malabar was also decided by the High Court in *Itunni Panicker v. Travi Nambudripad* in 3 Madras. 401.

"Later on, when the hon. Mr. Rama Ayyangar drafted his Bill in 1872, Mr. G. A. Sharp, the then District Judge of Malabar, in his letter, dated 1st April 1872, stated that so far as Malabar temples were concerned no new law was necessary, the law as administered in British Courts of Justice and public opinion giving ample protection to such institutions, and that the trustees of these temples had independent rights of ownership over them and the properties attached thereto unlike their compeers in other districts.

"It is apparent therefore that it is only now, for the first time in the history of British India, that Malabar is contemplated to be brought under control in regard to its religious endowments. It is therefore incumbent on the framer of the Bill and his supporters to show what new facts, what new evidence has been adduced and duly considered to warrant a change of policy in regard to our temples. Not the slightest consideration seems to have been given to the previous history and the overwhelming mass of evidence on the subject which is absolutely unimpeachable and eminently reliable. The Select Committee has not cared to devote a line in its report to justify this new step. I take it they have proceeded on the assumption that our temples are on a par with those in other districts and might be brought under the scope of the proposed Bill. It is said, and the hon. Ministers used it as an argument the other day, that sections 92 and 93 of the Civil Procedure Code have not been excluded from Malabar and there have been instances in which they were resorted to. The Minister said that the present Bill would apply only to such cases. So far as I know, there is only one temple in Malabar for which a scheme has been framed by the High Court; the family of the original trustee or trustees became extinct and the management devolved upon new people and the question of the applicability of these sections did not arise. Two other cases that came up before the High Court were dismissed without entering into their merits. The public character of the temple arose only when the family of the original donors became extinct or the management changed hands through some circumstance or other. It may be there are a few such temples. Is it expedient and prudent to legislate for the sake of a few, while in general an attempt in that direction will only tend to deprive temple property from those families who have endowed it calling themselves *udamas* or *urallams* and managing it unchallenged by any, and accountable to none? One is tempted to call it confiscation pure and simple. Grave social and economic crisis is bound to arise in Malabar in the wake of this ominous Bill."

The hon. the RAJA OF PANAGAL:—"Mr. President, the amendment of my hon. friend from Malabar stands on the same footing as that of my hon. friend from South Kanara. Mr. Prabhakaran

11-45 a.m.

[The Raja of Panagal]

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Clause 2—cont.

Tampan referred to the fact that the district of Malabar was excluded from the operation of the Regulation of 1817 and of the Act of 1863. But, Sir, later provisions of the Civil Procedure Code do not exclude the Malabar district from their operation. He himself has admitted that there has been a case brought under that provision. My hon. friend has referred to private temples and the chances of the Bill interfering with them. I may assure him, Sir, temples which do not come under the definition laid down in clause 5, sub-clause (12). Besides, Sir, as I have stated in the case of South Kanara, if there are any extraordinary circumstances which would justify the exclusion of any particular temple in Malabar from the operation of the provisions of the Bill, that is a matter for consideration. Amendment No. 9 of Mr. Venkataramana Ayyangar raises that question. When that amendment is taken up for discussion the House will decide it on its merits."

Mr. K. PRABHAKARAN TAMPAN :—"Sir, I am not satisfied with the arguments advanced by the hon. Minister and I press my amendment."

The amendment was put and lost.

(Amendment No. 6.)

Mr. K. PRABHAKARAN TAMPAN :—"As this part of my amendment has been lost, I formally move the other part which reads—

For Clause 2, Sub-Clause (1), substitute—

- (1) It extends to the whole of the Presidency of Madras except the district of Malabar and applies, save as hereinafter provided, to all Hindu religious endowments other than Jain religious endowments and the Local Government may by notification extend the provisions of this Act and of any rules framed thereunder to such religious endowments or classes of religious endowments or religious endowments in such areas in the district of Malabar as may be determined upon by the Local Government after enquiry, and may declare such extension to be subject to such restrictions and modifications as they think fit."

The motion was put and lost.

(Amendment No. 7.)

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—"Sir, I beg to move :—

After the word 'Hindu' insert the word 'public'.

"Sir, my amendment is a formal one. The hon. Minister told us that it was not the idea of the framers of this Bill to make it applicable to the case of private religious endowments. It is to make this fact plain that I have suggested that the expression 'public religious endowments' be inserted instead of 'Hindu religious endowments.'"

The hon. the RAJA OF PANAGAL :—"I think the amendment is not necessary because we have taken care to define temple as a place of public religious worship. But if my hon. friend thinks that the amendment is necessary to make the definition free from any doubt, I have no objection to accept it."

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Clause 2—cont.

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—"The consideration that the hon. Raja referred to was also present in my mind when I suggested the amendment and I have no reason for changing my view. I press my amendment."

The hon. the RAJA OF PANAGAL :—"Sir, I accept it then."

The amendment was put and carried.

(Amendment No. 8.)

Rao Sahib U. RAMA RAO :—"Mr. President, Sir, I beg to move—

After the words 'other than' insert the words 'maths and'.

"Sir, the most objectionable part of the Bill is the inclusion of maths also under its operation. The legislature has not got any legal right to interfere in the affairs of the maths. Hereditary trustees of temples and maths have been managing their affairs for the last eighty years and more, and as such they have certain rights and privileges against the Government, which the Bill seeks to destroy. No case of mismanagement of funds has as yet been made public, and the uncalled-for interference in the affairs of the maths will be characterized as nothing short of a violent invasion on rights to property. Neither the disciples of the maths, nor the disciples of the *Jagatgurus*, have ever made any representations to the Government to come and set right their internal affairs. The irresponsible and unfounded cry raised in some quarters about the misuse and abuse of math funds cannot be the basis for a legislation of the nature proposed to be introduced at present. The *matadhipatis* are mostly Brahmans and the present Bill will be interpreted as an attempt of the party in power to exploit their resources."

Diwan Bahadur P. KESAVA PILLAI :—"There are many non-Brahman maths also."

Rao Sahib U. RAMA RAO :—"The system of voting large grants of money and property to religious endowments can be traced back to the period even prior to the Vedic Ages. King Janaka, we are told, placed the whole of his kingdom under the disposal of his *guru*. The relative positions of the *guru* and the *shishya*, at least as far as Hinduism is concerned, is not what is generally accepted as the modern standard. Even Bhagwan Sri Krishna brought up his *acharya's* long deceased son back to life as a sort of *gurudakshina*. In the case of the *matadhipatis*, the people honour their personality more than the institution. Their Holinesses *Jagatgurus* Sankaracharya of Kumbhakōnam and of Sringeri Math are honoured everywhere. That a Board of laymen should exercise dictatorship over a *Jagatguru* is highly irreligious and must be viewed as an outrage against Hinduism.

"The various maths that are scattered over the country were not at any time created by the rulers of the land. They have got their own glorious tale to tell. Wandering ascetics of Ancient India formed themselves into groups and selected places for meditation, penance and holy communion with God. As time progressed they got disciples and the maths came into existence. The math is an institution primarily intended for the spiritual welfare of its disciples, and the *matadhipati* is an ascetic who has no interest other than that of the math. The charges of abuse that have been hurled against the maths have

[Mr. U. Rama Rao]

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Clause 2—cont.

often been the mischievous insinuations of interested people who were in one way or other discontented with a particular math. Even granting that there are stray cases of defalcation of funds or mismanagement, that cannot be the reason for passing a Bill of far-reaching importance to curtail the powers of the heads of all these institutions. No institution is absolutely perfect, and so it may be with the maths. The disciples of the maths are people who have attained a high stage of spirituality and they will not tolerate any abuse of the math funds.

"There is every possibility of divergence of opinion between the *matadhipatis* and the Board of Charity Commissioners. The question of the propriety and impropriety of allotting funds for certain purposes will not be viewed from the same angle of vision by the devotee and the ordinary layman. The *sanyasi* may like to spend some money upon chanting prayer, but the Board may consider it of secondary importance and would opine that the sum could be usefully spent upon sanitation. There is also the possibility of curtailment of funds for the yearly festivals, as the pomp and splendour in them are likely to appear as superfluous to a Board composed of laymen. This Bill is more an attempt to introduce the much-hated element of materialism even in the matter of religious service against which it is the duty of every true Hindu to enter his emphatic protest. We do not want any of the ancient usages or customs, which we cherish most dear, to be trampled upon by a piece of legislation.

"The *matadhipati* is required to keep accounts and submit them for the general superintendence of the Board. The *sanyasins* will be mostly touring from place to place, and they cannot be expected to adjust themselves to any rules or regulations that govern the workings of modern institutions. The disciples themselves keep strict accounts, and they are not bound to satisfy any other foreign agency. Frequently it so happens that the *Swamiji* gives some money as gift to any learned man who visits him. A Board which looks for economy and surplus funds is not likely to allow such a course of action. The ancient Hindu Kings of India gave all their support to religious endowments. The Muhammadan Emperors of the later period did not interfere with religious institutions. The East India Company, when they took charge of the management and control of religious institutions, left the maths alone. After the transference of authority to the Crown of England, Her Majesty Queen Victoria issued the famous Proclamation promising to abstain from all interference in religious matters and it must be said to the credit of the British Government in India that they have acted up to that promise up to the present day. But it is a matter of regret that the present Bill attempts at the violation of the sacred pledges given from the Imperial throne.

"The iniquitous features of the Bill will become more clear when we realize that only the Hindu religious endowments are included in its operation. The Christian churches and Muhammadan mosques are left alone. Will the Catholic community ever accept the domination of a Board of laymen over His Holiness the Pope of Rome? Will the several Young Men's Christian Associations in India tolerate the idea of dictatorship by a foreign agency in the allocation of funds for the various functions of their religious institutions? A good deal of the money that is now spent upon propaganda work for converting poor Hindus could be more usefully spent upon other charitable purposes. Or, are we to understand that defalcation of funds,

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Clause 2—cont.

misappropriation and mismanagement of trust property are confined to Hindu endowments only? Facts would prove otherwise. I quote the above instances not to include the Christian and Muhammadan endowments within the purview of the Bill but only to show that the attack is directed only to those points where the relation is considered to be feeble or ineffective.

"The agitation of the Akali Sikhs of the Punjab to uphold their religious tenets and of the Indian Mussalmans for the restoration of the Khilafate must come as an eye-opener to the Government that an attempt to interfere or annoy or wound religious feelings would lead to disastrous consequences. Particularly, the simple, mild and seemingly harmless Swamijis who confine themselves to religious teachings in normal times, may become dangerous elements very difficult to handle if their traditional rights and privileges are attacked. We have enough of agitation in the land and would be well-advised to have nothing more.

"With these few words, I strongly commend my amendment for the acceptance of the House."

Rai Bahadur T. M. NARASIMHACHARLU :—"Sir, I strongly support the motion before the House. Till now some attempts have been made to bring the maths under legislative control; but they have proved futile. We find that out of the eight Bills that were introduced here and in the Supreme Legislative Council, only two sought to include the maths within their scope. Both the Bills sought to be introduced in this Council, Mr. Chentsal Rao's and Mr. Muttuswami Ayyar's, definitely excluded the maths from the scope of their operation. Mr. Chentsal Rao's Bill was in 1900, and during the last 23 years nothing new has intervened; no new circumstances have crept in to compel the legislature to include the maths.

"My next point is this. There is a fundamental error which the legislature has committed with reference to the rights of the maths. My contention is that the properties belonging to the maths are the absolute properties of the *matadhipatis*. In support of my contention, I will only quote Wallis, J., in 33. Mad., 265 :

Gifts made to heads of *maths* without any mention of the purposes to which they were to be applied cannot be considered to have been given upon trust for charitable purposes. Even if we were at liberty to resort to implication, it would be difficult to imply any trusts which could be regarded as valid charitable trusts.

"After quoting some other cases, the learned Judge goes on :

What is still more important, no attempt has been made to show that there is any usage that gifts made to *maths* should be applied exclusively to purposes which the law regards as charitable. If not, the conditions of a valid charitable trust are not made out and the effect of raising such trusts would be to bring the validity of gifts in question and if English principles apply, to render them invalid.

"Later on :

Further, in my opinion, where gifts were given to heads of *maths* without any specific trust, the inference suggested by the circumstances of the case and by usage is that it was not intended to fetter the donees by any trusts in dealing with the gifts or to make them accountable in a Court of Law for the manner of dealing with them. The ascetic character of the donees and the great reverence in which they were held would, I think, have rendered such restriction the eye of the donors both unnecessary and unbecoming. The fact that the heads of *maths* have more or less frequently abused their position is not of itself a sufficient reason for treating them as trustees of the math endowments.

"Then, Sir, as regards the law on the point, though some confusion was created by the decision of their Lordships of the Privy Council in 43 Calcutta, yet the point has been set at rest by the

12 noon.

[Mr. T. M. Narasimhaachari] [26th March 1923]

Clause 2—cont.

decision in 44 Madras. The decision of Sir Sankaran Nayar in 33 Madras has been upheld. His decision was that the *matadhipatis* were neither trustees nor tenants for life, but they were owners of the properties which they held absolutely unfettered and which they might or might not spend for the benefit of the institution or the disciples and which they might even accumulate. That is the law on the point which has been upheld by their Lordships of the Privy Council so recently as 44 Madras. I therefore submit that the fundamental error consists in considering that the properties of the *matadhipati* are trust properties or that they are in any way subject to charge for the benefit of the disciples. To consider that the disciples have given properties under a so-called trust to the *matadhipati* shows downright ignorance on the part of those who are responsible for the framing of this Bill. The properties of the *maths* are merely offerings made absolutely out of free will and unconditionally. I submit, Sir, that to bring them within the purview of this Bill will amount to confiscation of private rights. I wish to ask the House whether they are competent to legislate regarding managers of Hindu families, for the impartible and inalienable properties of the zamindars and with reference to estates held by women. When no legislation could be contemplated for any of the above, I submit that the *maths* also should be excluded from the purview of this Bill."

Mr. P. SIVA RAO:—"Sir, I have also given notice of a similar amendment, and I therefore strongly protest against the inclusion of *maths* in this Bill. Sir, this is the most objectionable feature of the Bill and it has provoked widespread consternation and dissatisfaction in the Presidency. Not a day passes without memorial after memorial pouring in protesting against the inclusion of *maths* in this legislative measure. Sir, within the time allotted to me, I wish to put before the House only the most prominent objections against this provision in the Bill. For the first time in the annals of legislation it is proposed to define 'math' and 'religious endowment' so as to make even voluntary offerings of disciples like *gurupuja* or *pathapuja* given by disciples to the heads of the math accountable by the head of the math or the trustee of the religious endowment. I also submit, Sir, that for the first time a Board of Commissioners is created to control the actions of the *matadhipatis*.

"The law with reference to the properties in the hands of the *matadhipatis* is somewhat anomalous. Sometimes it is said they are liable to control by a Board; sometimes it is said that they are neither tenants nor trustees; and sometimes it is also said that the whole institution forms a sort of trust in the hands of the *matadhipatis* who have to exercise very wide administrative powers in respect to its properties. In the present state of law, the attempt on the part of the legislature to treat a *matadhipati* as an ordinary trustee is an anomaly of anomalies.

"Another objection against the inclusion of *maths* within the purview of the Bill is that these *matadhipatis* are venerable religious heads of institutions founded solely for the purpose of the propagation of religious knowledge and so forth. They are held in very high esteem and veneration throughout the land. We therefore ought to discourage any attempt on the part of the legislature to lower the dignity, the prestige or honour of the *matadhipati*.

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Clause 2—cont.

"Then, Sir, I have to point out to the House that, except in one or two instances, in no previous legislation has there been any proposal to bring these *maths* under control. In this connexion, I cannot do better than quote a few sentences from the report of Sir T. Muttuswami Ayyar. On page 85, elaborate reasons are given for the exclusion of *maths* from the purview of the Bill. It is said:

One way in which we have endeavoured to limit the scope and application of the proposed Act is by placing *matams* outside the field of its operations.

The reasons are very elaborate and I do not think I will be justified in taking the time of the House in reading at great length from the report.

"I wish to submit a few words before I close. Now, Sir, it is proposed to bring these *maths* under the control of the Board. In my opinion, nobody else is interested in the administration of the *maths* except the disciples or the members of the sect to which the institution belongs. My fear is that the Central Board may be composed of any kind of members. No doubt the Bill provides that the President should be a lawyer; but no qualification is prescribed for the other members. I would like to ask the hon. Minister for whose benefit this legislation is intended. Did the members of any particular sect move in the matter? Unless there was any such demand from some sect of the Hindu community, there would be no justification for a measure of this kind. My submission is that these *maths* should be administered according to the views of the members of the particular sect to which the math belongs. Is there any provision made in the Bill for the purpose of constituting the Central Board in such a way that members of particular communities might be represented in it? I submit, Sir, that there must be some kind of self-government or self-determination in the case of the administration of *maths*. In the absence of any such safeguards, I strongly protest against the inclusion of *maths* within the purview of the Bill."

Mr. R. SRINIVASA AYYANGAR:—"Sir, as a disciple of the Ahobilam math, I feel it my duty to give my support to the amendment before the House. By that I should like to make it absolutely clear that I am not anxious for the exclusion of the Ahobilam math alone. I rise because I feel thoroughly satisfied that the inclusion of the *maths* of any description within the scope of the Bill is pernicious and mischievous. I do not think that the framers of the Bill have had any adequate conception of the power, position, prestige, influence and sanctity of the *matadhipatis*. Let it not be stated that we of the Reformed Council were parties to rush into fields where the old bureaucracy feared to tread. The old bureaucracy, whatever might have been its failings, was very scrupulous to respect our feelings and sentiments and even our religious susceptibilities. Let it not be said that in the twentieth century synchronizing with the new dispensation we are giving our assent to a measure which will have the effect of lacerating and wounding needlessly the feelings and susceptibilities of a large number of people of this province. I do not propose at this stage to take the House in detail over the halo of sanctity that hovers round these *matadhipatis*. Whatever view others who are less religiously minded may take, to me and to others who are of my way of thinking our religious guru is our God on earth. He is our religious preceptor. We prostrate before him and we look to him for our consolation in this world and salvation in the next. To subject such a spiritual head to

[Mr. R. Srinivasa Ayyangar]

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Clause 2—cont.

a Central Board of Commissioners will not only destroy his influence but will impair his dignity and also considerably affect the spiritual influence which he is expected to exercise with respect to the propagation and promotion of spiritual knowledge and culture. I should like to ask whether there has been any demand from any quarter to include these *maths* within the purview of the Bill. It may be that some of these *matadhipatis* have not been behaving properly. Will that, I ask, be a sufficient justification to include all the *matadhipatis* within the scope of this Bill? I venture to submit with confidence that the remedy proposed is worse than even the disease. I do not know if hon. Members of this House are aware of the enactment passed by the Imperial Legislative Assembly entitled Act XIV of 1920 which is not at all referred to in the present Bill except in one particular wherein one provision has been copied for the purpose of tracing the different sources from which properties can be recovered. To meet the instances of recalcitrant trustees, adequate and ample provision is made in this Act XIV of 1920 to which no reference has been made unfortunately."

The hon. Rai Bahadur K. VENKATAREDDI NAYUDU:—"I may mention for the information of the hon. Member that I was present when the Bill was passed in the Imperial Legislative Assembly. At that time, this question was raised, and it was decided that it was open to Provincial Legislative Councils to alter the law as they liked."

Mr. R. SRINIVASA AYYANGAR:—"Sir, I only take the matter as it stands in the Preamble. We lawyers are aware of the fact that these Statutes are to be understood and interpreted according to their spirit and letter rather than in the light of the reports of Select Committees and the discussions that take place in the legislature which are not permissible."

"The Act says:

An Act to provide more effectual control over the administration of Charitable and Religious Trusts:

Whereas it is expedient to provide facilities for the obtaining of information regarding trusts created for public purposes of a charitable or religious nature and to enable the trustees of such trusts to obtain the directions of a court on certain matters . . .

Then comes Section 3, which, I submit, is quite sufficient to meet any case. This Section lays down:

Save as hereinafter provided in this Act, any persons having an interest in any express or constructive trust created or existing for a public purpose of a charitable or religious nature may apply by petition to the court within the local limits of whose jurisdiction any substantial part of the subject matter of the trust is situate to obtain an order embodying all or any of the following directions, namely:

(i) directing the trustee to furnish the petitioner through the court with particulars as to the nature and object of the trust, and of the value, condition, management and application of the subject matter of the trust, and of the income belonging thereto, or as to any of these matters, and

(ii) directing that the accounts of the trust shall be examined and audited.

"I therefore submit, Sir, that in the face of this provision it would be futile to bring the *matadhipatis* within the purview of the present Bill."

The hon. the RAJA OF PANAGAL:—"Sir, my hon. friend from Cuddapah said that some of the *matadhipatis* were very venerable. I do not for a moment deny the fact that some of them are venerable and deserve the highest respect. I wish to ask him what it is that we are doing. Are we

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[The Raja of Panagal]

Clause 2—cont.

showing them any disrespect? Not at all. What we propose to do is to see that the properties belonging to the *maths* are properly managed, regular accounts of income therefrom being maintained. I suppose there can possibly be no objection to such a proposal.

"My hon. friend, Dr. U. Rama Rao, said that in the previous attempts at legislation the *maths* were excluded. I may at once mention that that is not the case. In the Sullivan's Bill the definition of an institution is given thus:

'Religious or charitable institution' and 'Institution' include every Hindu pagoda, temple, shrine, *devasthanam*, *devasam*, *muttam*, *ohatram*, choultry, or other Hindu establishment or foundation of a religious or charitable character, or both combined, by whatever local designation known."

"It was further stated that Sir T. Muttuswami Ayyar in his later Bill omitted the *maths* from the definition. The reason for that was that Sir T. Muttuswami Ayyar wanted to frame a Bill which was to be in accordance with the directions of the Government of India. In considering a previous Bill the Government of India observed that that Bill had too wide an application. Hence, Sir T. Muttuswami Ayyar had to limit the operation of the Bill to temples alone.

"It was further stated that the present Bill interfered with the spiritual activities of the heads of *maths*. I repudiate the statement. It is not the intention of the Government in framing this Bill to interfere with the spiritual activities of the heads of *maths*. On the other hand, Sir, it is in the interest of the *maths* themselves that this legislation has been taken up. The legislation is intended to safeguard the proper management

of math properties. In these circumstances, I am afraid I cannot accept the amendment. This question was considered at great length both by the Raja of Ramnad's Committee and also by the Select Committee in connexion with the present Bill. Both the committees decided not to exclude math from the operation of the Bill."

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR:—"Sir, I believe the House will recognize that so far as public feeling goes, nothing has stirred it so much as this proposal to include *maths* under the purview of this Bill. Whatever might be one's opinion as to the justice, or the propriety, or the wisdom of this volume of very strong feeling that has been roused, I think this House would be very ill-advised and would be acting in an altogether—if I may respectfully say so—unstatesmanlike manner if it ignored this volume of opinion against the inclusion of *maths* in this Bill. It cannot be stated, Sir, that the reasons which have induced those who oppose the inclusion of *maths* in this Bill are altogether frivolous in character. My hon. friend, the Raja of Panagal, pointed out to us that if in the later Bill for which Sir T. Muttuswami Ayyar was more responsible than for the earlier Bill, *maths* had been excluded, it was because of a mandate that those who were responsible for that Bill had received. As a matter of fact, it was due to nothing of that kind. If hon. Members would look at page 85 of the papers relating to this Bill that have been circulated to them, they would find that it was not that Sir T. Muttuswami Ayyar and his colleagues saw that whatever their individual opinions might be, they were compelled by the order to which they owed their appointment to exclude *maths* from the Bill. On the other hand, they definitely say that while they recognize that in the

[Mr. L. A. Govindaraghava Ayyar] [26th March 1923]

Clause 2—cont.

earlier Bill these *maths* have been included, circumstances, which with them weighed powerfully, point to the wisdom and the necessity of the *maths* being excluded. They point out that it is not to be expected that secular interests like Committees—and, if you please, Boards—would treat these spiritual heads with that amount of respect and reverence which is their due; and they even go so far as to say this: if the spiritual head of a *matam* should be found guilty of malversation, it should be thought a grave abuse of power for any secular committee such as those to be appointed under the proposed Bill to remove them from office, as their continuance or removal depends upon the wishes of the votaries of the *matam* who are almost always disposed to overlook all shortcomings and lapses on the part of their *guru* or high-priest. Now, Sir, this was the language of that Committee in 1893; and the Robinson's Committee and Sullivan's Committee belong to the years 1877 and 1886. As the House will recognize, a good deal of water has flowed under the bridge subsequent to Sir T. Muttuswami Ayyar's Bill, and we have had a number of decisions of the courts and also of the Privy Council which has gone into the question of the exact position of the heads of *maths*.

"It is a mistake, as has been pointed out already by more than one hon. Member, to identify the heads of *maths* with the trustees of institutions, and I may point out for the information of the House that we have in the reported cases instances wherein heads of *maths* were recognized as not being trustees of a public, religious, or charitable trust, so that the provisions of Section 92 of the Civil Procedure Code which relate to the framing of schemes cannot be made applicable to them. I refer to a decision which is reported in 44 Madras, page 283, which is a decision of the Privy Council, wherein their Lordships have explicitly upheld a decision of the High Court which declared that the head of a *math* was not a trustee so as to come under the purview of Section 92. This, I point out, for the consideration of the House, only to lay emphasis upon the fact that you cannot say that by its inherent nature, a *math* will attract to itself all the consequences of a public trust. Now, if that be the case, and if the *maths* require special treatment, it appears to me, Sir, that it is not wise policy, particularly taking into consideration the feelings that you are likely to affect and the variety of the cases that will be influenced by this decision, to include *maths* as a class under the scope of this Bill."

The hon. the RAJA OF PANAGAL:—"I have only one word to say, Sir. My hon. friend opposite from North Arcot referred to the report of Sir T. Muttuswami Ayyar and stated that the real reason why Sir T. Muttuswami Ayyar omitted the *maths* was not on account of any consideration for the mandate from the Government. Sir, I am reading from the same report, page 83, where Sir T. Muttuswami Ayyar stated:

In their letter No. 472, dated 23rd February 1888, the Government of India observed that the Bill was too wide in its application, and as such, the introduction of a measure with a limited scope . . ."

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR:—"I do not deny that, Sir, but what I do say is this—and that is borne out by paragraph 7 of that report—that in excluding the *matam* from the Bill, the Committee was itself satisfied that it was a wise exclusion."

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Clause 2—cont.

The hon. the RAJA OF PANAGAL:—"Well, Sir, I have only to say that the Government of India compelled them to take that view."

Rao Sahib U. RAMA RAO:—"I have nothing more to say, Sir. I press my motion."

The amendment was put and lost.

On the motion of Rao Sahib U. Rama Rao a poll was taken and the House divided as follows:—

Ayes.

- | | |
|---|--|
| 1. Mr. K. Adinarayana Reddi. | 7. Mr. C. V. Venkataramana Ayyangar. |
| 2. Diwan Bahadur K. Suryanarayana-murti Nayudu. | 8. Rai Bahadur T. M. Narasimhaiahari. |
| 3. " M. Ramachandra Rao Pantulu. | 9. Rao Sahib U. Rama Rao. |
| 4. " L. A. Govindaraghava Ayyar. | 10. Diwan Bahadur D. Seshagiri Rao Pantulu. |
| 5. Rao Bahadur A. S. Krishna Rao Pantulu. | 11. Mr. K. Srinivasa Ayyangar. |
| 6. Mr. P. Siva Rao. | 12. " K. Prabhakaran Tampam. |
| | 13. Diwan Bahadur Govindas Chathurbaja-doss. |
| | 14. Rao Bahadur T. Namburumal Chettiyar. |

Noes.

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|---|--|
| 1. The hon. Sir Charles Todhunter. | 26. Mr. M. Narayanaswami Reddi. |
| 2. " the Raja of Panagal. | 27. Rao Bahadur O. Natesa Mudaliyar. |
| 3. " Rai Bahadur K. Venkatarreddi Nayudu. | 28. Mr. V. P. Pakkiriswami Pillai. |
| 4. " Rao Bahadur A. P. Patro. | 29. " P. T. Rajan. |
| 5. Mr. E. S. Lloyd. | 30. " W. P. A. Soundara Pandiya Nadar. |
| 6. " A. Y. G. Campbell. | 31. " B. K. Shanmukham Chettiyar. |
| 7. Rai Bahadur N. Gopalaswami Ayyangar. | 32. " K. Sitarama Reddi. |
| 8. Mr. C. Madhavan Nayar. | 33. " T. Somasundaram Pillai. |
| 9. Diwan Bahadur T. N. Sivagnanam Pillai. | 34. " S. Somasundaram Mudaliyar. |
| 10. Mr. E. Periyannayagam. | 35. " P. Subbarayan. |
| 11. Rao Sahib T. C. Tangavelu Pillai. | 36. " V. C. Vellingiri Gounder. |
| 12. Mr. A. Ramaswami Mudaliyar. | 37. " C. Venkataranga Reddi. |
| 13. Rao Bahadur C. A. Kamalinga Chettiyar. | 38. Diwan Bahadur P. Kesava Pillai. |
| 14. Mr. S. T. Shanmukham Pillai. | 39. Rao Bahadur C. V. S. Narasimha Raju. |
| 15. Diwan Bahadur S. Rm. M. Ct. Pethachi Chettiyar. | 40. Diwan Bahadur H. Venkataratnam Nayudu. |
| 16. " C. Arunachala Mudaliyar. | 41. Mr. S. Muttam-nikkachari. |
| 17. Rao Bahadur P. C. Etirajulu Nayudu. | 42. " A. T. Palmer. |
| 18. Diwan Bahadur Sir P. Tyagaraya Chettiyar. | 43. " T. Sivasekaram Pillai. |
| 19. " M. Krishnan Nayar. | 44. Abbas Ali Khan Bahadur. |
| 20. Mr. W. Vijayaraghava Mudaliyar. | 45. Muhammad Abdur Rahim Khan Sahib. |
| 21. Rao Bahadur K. Gopalakrishnayya. | 46. Khan Bahadur Muhammad Usman Sahib Bahadur. |
| 22. Mr. J. Kuppuswami. | 47. Mr. G. Vandanam. |
| 23. " B. Maniswami Nayudu. | 48. Rao Sahib P. Venkatarangayya. |
| 24. " P. C. Muttu Chettiyar. | 49. " Sir M. C. T. Muttayya Chettiyar. |
| 25. " A. T. Muttukumaraswami Chettiyar. | |

Fourteen voted for and 49 against; the motion was lost.

(Amendment No. 9.)

Rao Sahib U. RAMA RAO:—"I beg to move the following amendment:—

After the words 'other than' insert the words 'maths in South Kanara and'.

The unique nature and constitution of the *maths* in South Kanara, especially the Ashta *maths* of Udipi, necessitate a special consideration of their case. To include them hastily without adequate consideration in the Bill

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Clause 2—cont.

and allow them to be controlled by a Board which is quite alien from the view-point of the disciples concerned, will not only be injurious to their interests and their further development, but may bring about their destruction. Therefore, before submitting them for the first time in history to the control of the Government-appointed Board of Commissioners, it is necessary that we should consider how they are managed now, what the object of the original founder, Sri Madhwacharya, was in laying down a constitution for them, how it has worked during these several centuries, and whether the proposed legislation would improve them or make their position worse.

"The founder of Madhwa Philosophy, Sri Madhwacharya, installed the idol of Sri Krishna at Udipi to preach the practical and ethical side of his philosophy and ordained eight bachelor *sanyasi sishyas* to worship the idol and manage the institution. Sri Krishna Math where this idol is installed is the centre of the institution and the eight sanyasis have their own individual *maths* or residences with some property attached to them. They manage the central institution by turns of two years,—*Pariyaya*, as they are called. Thus, each *swamiyar* gets 14 years of respite before he gets his turn of management and worship. It is only those who are in touch with these *maths* that know with what religious fervour each *swamiyar* waits his turn of worshipping Lord Krishna, with what an amount of care, diligence and zeal he accumulates funds and provisions to celebrate his *Pariyaya* of two years, and what an amount of keen competition there is amongst the eight *swamiyars* to make his own *Pariyaya* a great success. But for this individual and personal interest they take, it would be impossible to meet the expenses of their *Pariyaya* from the income of their individual *math*, or the Krishna Math. In addition to the ceremonies and festivals and the feeding of the devotees that flock to the place, a Sanskrit college, which has more than two hundred students and which has been found by the University authorities to be one of the best Sanskrit institutions in the presidency, is maintained by these *maths* and all the students are given not only free teaching, but free boarding by the *Pariyaya* Swami.

"With the little income they have, it is impossible to meet all these expenses. In fact every individual who knows something of these *maths* knows that they run into large debts when they finish their turn of management of Krishna Math. Then during the 14 years which they have before the next turn, they liquidate these debts by touring all over the country and receiving *kanikas*, and also try to accumulate something for the next *Pariyaya*.

"Not only this, these eight *maths* are divided into what are called 'Dwanduva Maths', that is, two of them are paired together, and in times of need or when one of the *swamiyars* is a minor, the *swamiyar* of its Dwanduva Maths is to support the other. Over and above all these, the eight *swamiyars* form a committee of general superintendence. Their power has been recognized by our High Court when this body of the eight *swamiyars* dismissed one of their own *swamiyars* for misconduct and the matter came before the Court. Thus there is the minimum chance for any mis-

management of these *maths*. The original founder of this religion of Madhwas, has with great foresight given a democratic constitution for his ordained *sishyas*, and at the same time retained that individual interest, for each *swamiyar* without which no institution can really flourish.

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Clause 2—cont.

"Thus the nature and the constitution of the Udipi *maths* are altogether different from those of other *maths*. The final authority is not vested in one individual as in the case of other *maths*; it is vested in a committee of eight *swamiyars* of the same religion and faith, of equal position and of common interest. The central institution is managed by turns; but for the personal efforts of the individual *swamiyar*, helped by the Dwanduva *math*, it would be impossible for a *swamiyar* to celebrate his *Pariyaya*. This system of management by turns supplemented by the general superintendence of eight religious heads gives scope both for personal zeal and competition amongst themselves, while at the same time mismanagement is made almost impossible, as the eight *swamiyars*, in a body, do not go against the interests of their religion and their institution. No other *math*, so far as I am aware, has a constitution of such a peculiar nature. If the personal interest of each *swamiyar* and his pride for his institution is removed, the fate of these poor *maths* is sealed—poor, because their income is quite inadequate to meet the expenses of *Pariyaya*, ranging between 2 and 3 lakhs. If the immemorial general superintending power of these eight *swamiyars* is supplemented by that of the Board of Commissioners, the entire object of the original founder is put an end to.

"Therefore, to subject such an institution, which has worked so well for several centuries, to the control of a body of Government nominees, is tantamount to ruining them. The *swamiyar* loses all his personal interest in the celebration of the *Pariyaya*; the body of the eight *swamiyars* loses its superintending power over the *math*, and the consequence will be that the *Pariyaya* will not be conducted with as much enthusiasm and zeal as it is done now. If a committee of eight holy men, who have given up all worldly connexions and devoted all their life to the service of Lord Krishna, are not fitted to superintend these *maths*, it is hard to conceive who else would do it better. The proposed Board is surely inferior to them. Firstly, considered from the standpoint of the disciples concerned, it is an alien body which may be composed even of persons who are inimical to the faiths and ceremonials of these institutions. Unless hon. Members of this House intend ruining these institutions—I am sure, they do not intend it—they will not consent to such a proposal.

"But above all, who are the persons that are vitally interested in these institutions? It is not the general public, not the hon. Minister in charge of the Bill, nor any individual inside or outside the House who is not a Madhwa-disciple of these *maths*. It is these *swamiyars* and their disciples, and they only, are the persons that are interested in these institutions, which are as good as the private property of the *swamiyars* and their disciples. No body else can or should have any right to interfere in their affairs. If that be so, have the *swamiyars* or their disciples sought any protection from the hon. Minister of this Council? This is a vital question. We ought to consider it. If the individuals who are interested in these institutions persist in this piece of legislation, it will be nothing else than oppressing an unfortunate minority in their religious affairs. In this connexion, I would like to draw the attention of the House to the numerous protests that have come from South Kanara from all persons interested. The most responsible persons in the district have submitted a monster petition to this Council to exclude their *maths* from the scope of this Bill.

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Clause 2—cont.

"Under these circumstances, when persons who are vitally interested in the *maths* have not sought for any legislative measure, but have vehemently protested against their inclusion in the Bill, when the peculiar constitution of the *maths* are better suited to their welfare than any proposed control, when this constitution was laid down with great foresight by their founder, and when we find it has worked well for centuries without giving cause for complaint,—it is but mere justice and fair play that they should be excluded from the purview of this Bill. With these words I recommend this amendment to the House."

The hon. the RAJA OF PANAGAL:—"The question of excluding individual institutions or particular areas from the operation of the Bill was considered at great length by the Select Committee, and the Select Committee came to the conclusion that such exclusion was not desirable. Now, Sir, my hon. friend, Mr. U. Rama Rao, seeks to make out a case that in the case of a particular institution such exclusion is desirable. Sir, I do not think that the question whether in a particular instance the *math* deserves or does not deserve to be excluded, can be taken up by this Council. But, as I said already, when we take up the amendment of Mr. Venkataramana Ayyangar we shall consider whether power can be taken to the Board or to the Government to exclude certain institutions on the merits of individual cases" ('hear, hear' from Mr. Sivasankaram Pillai).

Rao Sahib U. RAMA RAO:—"With that assurance, Sir, I withdraw my amendment."

The hon. the RAJA OF PANAGAL:—"The only assurance is that individual cases will be considered on their merits."

Rao Sahib U. RAMA RAO:—"If the hon. the Minister does not give an assurance, I will ask for a division."

The hon. the PRESIDENT:—"Of course, the assurance, if any, of the Minister is contained in the words he has uttered. He cannot take back those words now. The hon. Member had better make up his mind to ask for a division or not."

Rao Sahib U. RAMA RAO:—"I do not ask for a division."

The motion was by leave withdrawn.

(Amendment No. 10.)

Rao Sahib U. RAMA RAO:—"Sir, I formally move the amendment that stands in my name, viz.—

After the words 'other than' insert the words 'the eight "Ashta" maths of Udipi in South Kanara, and'."

The hon. the RAJA OF PANAGAL:—"I formally oppose it."

The hon. the PRESIDENT:—"Does the hon. Member formally withdraw it?"

Rao Sahib U. RAMA RAO:—"Yes, Sir, I formally withdraw it."

The motion was by leave withdrawn.

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Clause 2—cont.

(Amendment No. 11.)

Mr. C. V. VENKATARAMANA AYYANGAR:—"I beg to move—

Add the following proviso at the end of Sub-Clause (1):—

'Provided that the Local Government may at any time reserve any Hindu Religious Endowment from the operation of this Act.'

"Sir, as the time at our disposal is very short and since some hope has been given by the hon. the Minister in charge of this Bill, I do not want to say much. However, I would take the liberty of saying one or two words. So far as this House is concerned, evidently the whole thing depends upon the hon. the Minister. We have practically surrendered our powers of discretion into his hands and it is therefore desirable that I should appeal to his good sense. From what he has said there seems to be a doubt as to whether the power of exclusion should be given to the Government or to the Board. When I heard the first part of the hon. the Minister's speech, I thought that he had made up his mind that the Board should have this power, and I was very much disappointed; but when I heard his concluding words, it was clear to me that he was only considering the question as to whether the Board or the Government should have this power. Now, if I say a few words, it is to request the hon. the Minister to vest this power in the Government. I am not at all particular as to the wording of my amendment. Any word may be taken away and any word may be put in or altered. What I say is, this power should not be placed in the Board alone. The Government may consult the Board.

"Under the provisions in the Bill there may be a number of Boards constituted throughout the Presidency although at present it is contemplated to constitute only one Board. If the power to exempt particular endowments from the operation of this Act is given to the Board so far as religious matters are concerned, people will always be ready to dispute the decision of the Board which will lead to a multiplicity of boards throughout the Presidency, and it would be necessary, at no distant date, to have a Board for two or three districts. If that is so, it is impossible for us to expect the Boards to be free from the bias of the local population. It is therefore necessary that the power of exempting any endowment from the operation of this Act should not be given to the Board.

"There is another thing also to be said. Whatever may be said about the present Government, there is no doubt whatever that the transferred portion of it is expected to be responsible. In this House we move various motions and resolutions questioning the correctness of the action of Government and various other things. If power is given to the Board, there will be no power to this House or anybody else to question the action of the Board. Therefore, this power may be given to the Government, if necessary under some restrictions, as for instance after taking the sense of this House or after consulting the Board. I am of opinion that this extraordinary power of exempting particular endowments from the operation of this Act should be in the hands of the Government. It is with this object in view that I appeal to the hon. the Minister to accept my amendment."

The hon. the RAJA OF PANAGAL:—"I have carefully considered the amendment of my hon. friend, Mr. Venkataramana Ayyangar. I am

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Clause 2—cont.

not against the object of the amendment. I have no objection to accept it if it is worded—

‘Provided that the Board may, with the sanction of the Local Government, exempt any such endowment from the operation of all or any of the provisions of this Act.’

“Sir, it is better that at the first instance the Board is given the power to recommend the case. Then it would be open to the Government to accept the recommendation or not. In that case there would be two checks: firstly, the Board will have to make up its mind to recommend a particular instance, and, secondly, that recommendation will have to be approved by the Government. So, if my hon. friend withdraws his amendment, I will move this amendment.”

Mr. C. V. VENKATARAMANA AYYANGAR :—“Sir, I will just say a word. The objection that I mentioned has not been taken away, that is to say, the final power is given to the Board. Since the Board will be receiving from every endowment 1½ per cent of its income, it will not view with favour the exemption of any endowment and will not be willing to exempt particular endowments from the operation of this Act. I therefore suggest that the Government should have this power to exempt after consulting the Board. It comes to the same thing. Whereas under the hon. the Minister’s definition the Board may, with the sanction of the Government, do it, what I say is that the Government must have full power and that it may use this power in consultation with the Board. If it is entirely left to the Board, owing to the bias of the Board and its personal feeling for a particular district, it may not be willing to sacrifice its income. I therefore appeal to the hon. the Minister just to reverse his amendment, viz., the Board may be consulted and the Government may have full power.”

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—“I beg to oppose the amendment of the hon. the Raja of Panagal for the obvious reason that I am against the constitution of the Board and against the retention of the Board as an authority. I oppose my hon. friend’s introduction of the words ‘the Board may’. If I accept that position, it means that I am accepting the position ascribed to the Board under this definition. The question whether the Board should be the controlling authority of these religious institutions comes up for discussion at a later stage. Therefore by the introduction of these words and by asking the House to accept these words, it would be really asking the House to commit itself to the constitution of the Board as defined in this Bill. I object to this amendment for this very obvious reason.

“Apart from that, I should like to make one or two observations on the general question raised by my hon. friend, Mr. Venkataramana Ayyangar’s amendment, which I support. There are, as hon. Members are aware, large tracts of country where, under the Act of 1820, no committees have been constituted. For example, in the Northern Circars there is not a single committee, and I believe it is so also in the Ceded Districts. Therefore, it seems to me, in regard to the operation of this Bill and in regard to its usefulness, there are questions as to whether this Bill should be applied to areas where mismanagement of these religious endowments has not been felt. I

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Clause 2—cont.

submit that the power of exempting large areas and institutions should rest with the Government rather than with a Board such as that constituted here.

“I venture to think that this legislation has been undertaken somewhat in the dark. If hon. Members look into what exactly happened 12-45 p.m. in regard to the legislation that was passed in England with reference to Charity Commissioners, they will find that four or five Royal Commissions were appointed before that legislation was passed and they collected all the materials with reference to the state of administration of all the charitable endowments throughout the country. In fact, they collected voluminous records extending over 32 volumes, and these formed the basis of information to the Members of the House of Commons who had to deal with the question of reforming all the religious institutions there. What is it that we are doing in this case? There is absolutely no information as to the state of things in any part of the country. In these circumstances, we cannot help coming before the House with this amendment, namely, that powers should be reserved with the Government to exempt portions of the Presidency where such committees have already been constituted and where *maths* have not been mismanaged. My hon. friend wants to delegate this power to the Board, and not to the Government. The last point I would urge upon the attention of the House is, that the hon. the Minister or whoever will be administering these committees, should be made amenable to the decision of this House. That is the last argument which I would urge against this Board. After all, my hon. friend is ready to leave the initiative to the Board, the very existence of which is not still admitted and whose success is problematical, and we know we can certainly deal with this question much more effectively if we leave this matter in the hands of the Government. Therefore it is entirely left to my hon. friend to make up his mind as to whether he will delegate this power to the Board or to the Government.”

The hon. the RAJA OF PANAGAL :—“Sir, practically there is little difference between my amendment and that of my hon. friend’s. In either case the ultimate authority is the Government. The reason why I want that the initiative should be taken by the Board is that the Board is in touch with the management of institutions, and that therefore they would be in a position to know whether any particular institution deserves to be excluded or not. It is on that account that I prefer the recommendation to come from the Board. If my hon. friends are very particular that the initiative should be taken by the Government, I shall, with your permission, Sir, alter the amendment.”

The hon. the PRESIDENT :—“Let the hon. the Raja of Panagal withdraw his amendment.”

The amendment of the Raja of Panagal was by leave withdrawn.

The hon. the RAJA OF PANAGAL :—“Sir, then, I beg to move my amendment to the amendment under consideration. It reads:

That the Local Government may, after consulting the Board, exempt any such endowment from the operation of all or any of the provisions of this Act or vary, alter, or cancel such exemption.”

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Clause 2—cont.

Rao Bahadur C. V. S. NARASIMHA RAJU:—"I want to urge the desirability of having some more power vested in the Local Government to vary or alter such notification."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU:—"I have some objections even to this new amendment moved by my hon. friend. After all, my hon. friend wants to consult somebody. He can certainly consult without mentioning the same in the Statute."

The hon. the RAJA OF PANAGAL:—"Does the hon. Member mean that the Minister without consulting the Board should exclude a particular institution or an endowment?"

The hon. Rai Bahadur K. VENKATAREDDI NAYUDU:—"It is not necessary that Government should have that power."

Mr. C. V. VENKATARAMANA AYYANGAR:—"I accept the amendment."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU:—"I should like to know whether I would be in order in moving for the deletion of the word 'Board' because there is another amendment standing in my name."

The hon. the PRESIDENT:—"Yes, the hon. Member may move it."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU:—"I beg to move—that the words 'after consulting the Board' be deleted from this amended clause."

My main reason for making this amendment at this stage is to indicate to the Council that several hon. Members and I who have given notices of amendments against the retention of the word 'Board' in this Bill are desirous that the question relating to the constitution, the powers, and the necessity for the central authority such as is proposed to be constituted under this Bill should be brought under the consideration of this House. Sir, this question of the creation of a Board was considered at some length in the Select Committee and I differed from those of my colleagues who thought that the best way of administering the religious institutions was by the constitution of this Board. I had explained at some length my reasons for the opinion that I hold, namely, that the constitution of a Central Board such as the Board of Charity Commissioners is not the best way of managing our religious institutions. Sir, a good deal has been said about the Charity Commissioners during the course of the discussion on the previous occasion as well as in the Select Committee. I should at the outset point out that the constitution of Charity Commissioners in England was preceded, as I said, by a most comprehensive enquiry into the administration of charitable trusts. Four Royal Commissions were appointed, and the information regarding the administration of all the religious institutions was made available to those who were responsible for that legislation which ultimately culminated in the Charitable Trusts Act of 1893, and which Act was subsequently amended by a number of other Acts. Essentially, the difference between the Board, as constituted under the former the judicial powers of the Court were not taken away and that in the case of endowments whose annual income exceeded £50 the Board was merely a court of concurrent jurisdiction exercising its judicial functions.

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Clause 2—cont.

At the same time I may say its powers of jurisdiction could be taken with the consent of parties. That is the chief difference between the Board as constituted under the English Act and that which is sought to be created here, namely, a body which is partly administrative and partly judicial, exercising judicial functions to the exclusion of the civil courts. I believe the best way of dealing with this question would be to introduce administrative functions, as far as possible, in the district committees and to strengthen the local control; the rest of the judicial functions should be discharged by the principal court of original jurisdiction in the districts. That was the line on which Justice Sir T. Muttuswami Ayyar proceeded in the draft report that he prepared.

"I may venture to think that the central authority, such as is proposed to be constituted, apart from its constitution and the powers which it is going to possess, is merely going to deal with the general question; for, I take it, that the various questions relating to the exact composition of the Board and the pay of its officials will come up under other amendments at a later stage. I think that a central authority like this will destroy the usefulness of local committees; for, it will be noticed, that in the Bill, as amended by the Select Committee, it is sought to give powers of general superintendence over all religious institutions in this Presidency. This, I have no doubt, will be greatly detrimental to the efficiency of local control. I submit that there are two methods of administration, namely, administration by a Central Board supervising the local committees, and administration by strong local committees performing merely administrative duties, the judicial duties assigned to the Central Board being performed by the principal court with original jurisdiction. I have no hesitation in saying that the latter method is the best. This is the main reason why I am opposed to the constitution of the Central Board."

"Hon. Members will see that the Bill, as originally introduced, did not contain any provision for the constitution of a central authority. That was advisedly omitted and the Bill proceeded on the basis of district committees subject to the general jurisdiction of the courts. I have not heard anything either in the Select Committee or here as to why that principle of the original Bill was departed from. Another reason why I am against the constitution of this Board is that the machinery of the central authority will be more costly than is justified by the circumstances. I have also adverted to that fact in my note and I think on all grounds considered together this Board ought not to be one of the controlling authority."

The hon. the PRESIDENT:—"The situation is a little more difficult than I imagined. Of course, the hon. Member is entitled to discuss the whole question of the central authority in this place; because this is the first place where there is a reference to that authority. At the same time I take it that the question of the Board will be dealt with more fully and more appropriately later on. It is a matter for consideration whether the hon. Member will not do well to withdraw his amendment at this stage, on the understanding that if the House rejects the Central Board at a later stage, he will ask for special leave to re-open this clause and have these words put in."

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Clause 2—cont.

Diwan Bahadur M. RAMACHANDRA RAO PANTULU:—"It is exactly to obtain that ruling, Sir, that I made the statement at the beginning."

The hon. the PRESIDENT:—"Even if the hon. Member does not do it, the Government when they frame the consequential amendments are bound to omit the words relating to the Boards. That being so, I hope the hon. Member will withdraw his amendment."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU:—"Certainly, Sir."

The motion was by leave withdrawn.

The amendment of Mr. Venkataramana Ayyangar as amended by the hon. the Raja of Panagal was then put and carried. The provision was then inserted.

(Amendment No. 12.)

New Sub-Clause after Sub-Clause (1).

Rao Bahadur A. S. KRISHNA RAO PANTULU:—"Sir, I move (a) for the insertion of the following as Sub-Clause (2):—

- (2) *This Act shall come into force on such dates within such local areas to such extent and in respect of such religious endowments as the Local Government may, by notification, direct.*
- (b) *Re-number the subsequent sub-clauses.*

"It is quite clear that before the introduction of this Bill there has not been that comprehensive and full enquiry regarding the various religious endowments in this Presidency and regarding the question of mismanagement thereof to justify this Bill being made applicable to all religious endowments whether *maths* or temples throughout the Presidency. All that we know is that from the year 1817 various legislative measures have been brought forward for the purpose of checking some of the abuses which have come to the notice of the public regarding the various religious endowments. But, Sir, to come to the conclusion that because there are cases of mismanagement in the case of some temples we should make the Act generally applicable at once throughout the Presidency is, I submit, quite unreasonable and unjust. The amendment which has just been accepted by the House—apart from the reference to the Board which depends upon the final decision of this House—is that though the Act may be made generally applicable, the Local Government will reserve the power to exempt particular endowments from time to time. My amendment, if accepted, will necessitate the Government making some preliminary enquiry. The exclusion of *maths* is altogether out of consideration. The hon. the Minister told us that it was not a question to be gone into separately, and that it was a matter for the consideration of the Board. He incidentally suggested that though the provisions might be made applicable to all institutions at once, the power to exempt them which was to be reserved to the Government would satisfy all the requirements of the case. But if this House is satisfied that we have not got any history prepared about these religious institutions as were made before the Charitable Trusts Act, 1853, was passed, is it not reasonable that we should pass the clause stating that this Bill shall come into force on such dates and within such local areas as the Local Government may by notification direct? I think, Sir, that we shall be doing justice to the various

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Clause 2—cont.

representations that we have received and to the various charities, to which the misapplication of the provisions of this Bill is likely to cause trouble. The Local Government are not hampered in any way in discharging their duty of placing these institutions on a satisfactory footing. It will only necessitate their making a close enquiry and then issuing notifications from time to time as to what institutions the provisions of this Act should be applied."

The hon. the RAJA OF PANAGAL:—"Mr. President, my hon. friend from Nellore has based his arguments for accepting this amendment mainly on the ground that there has not been an exhaustive enquiry into the history of the religious institutions. Sir, ever since 1870, when the late hon. Rama Ayyangar moved in the matter, the question has been seriously engaging the attention of the thinking section of the Hindu community of the Presidency. Sir, my hon. friend's case becomes weaker especially after the acceptance of the previous amendment. If, as a matter of fact, there is an institution which deserves exclusion from the operation of the Bill, it will be open to the Government after consultation with the Board to exclude such institution from the operation of any or all of the provisions of the Bill."

Rao Bahadur A. S. KRISHNA RAO PANTULU:—"Sir, I only wish to add that the arguments advanced by the hon. the Minister with reference to the papers placed in our hands are not convincing. I have carefully gone through the papers placed in our hands. No doubt they refer generally to some of the abuses relating to the religious endowments; but they do not indicate that there was at any time any exhaustive enquiry relating to these provisions separately."

The hon. the RAJA OF PANAGAL:—"May I say that these reports were the results of elaborate enquiries?"

Rao Bahadur A. S. KRISHNA RAO PANTULU:—"I can only speak from the information supplied to us. So far as this information goes, we have no evidence of the enquiry made. Unless the hon. Member places before us some record to show that there has been an exhaustive enquiry, I do not think we can accept his argument. For these reasons I press the amendment."

The motion was put and lost.

Sub-clause (2).

(Amendment No. 13.)

Mr. R. SRINIVASA AYYANGAR:—"Mr. President, the amendment standing against my name runs as follows:—

After the words 'Government may' insert the words 'with the approval by resolution of the Legislative Council'.

"Sub-Clause (1) of Clause 2 exempts from the operation of this Bill all Jain religious endowments. We all believe that for very valid reasons on the part of the framers of this Bill the Jain religious endowments have been exempted from the operation of the Bill. Brahmoism *plus* Brahminism is Jainism. While they do adopt some portion of the Hindu law and while they are also of Hindu origin, they do not go to the full length of Hindu law with respect to various matters of detail. Owing to their customs,

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Clause 2—cont.

their habits and their susceptibilities, the Minister appears to be kind enough to exclude the Jain religious endowments from the scope of the Bill. In other words not only has an exemption been made in their case but a privilege has been conferred upon the Jains. In Sub-Clause (2) the Local Government wants to take power by notification to remove the exemption and thereby extend the Bill to the Jain religious endowments as well. I seek by my amendment to take away the executive authority which the Local Government wants for the purpose of removing this exemption from a large body of Jains and I desire that before the Local Government resorts to the extreme step of removing this exemption or privilege it will be much better that it has before it the considered opinion of the Legislative Council. The reason is not far to seek. You allow to a certain body of individuals or a certain class of persons the privilege of escaping from the provisions of the Bill. When you think of withdrawing this benefit or privilege and of bringing them within the purview of this Bill, reason, prudence and justice demand that this power of inclusion should not be exercised by the executive Government automatically and without the benefit of the opinion of the Legislative Council. I seriously appeal to the Minister to withdraw this power of the Government."

The hon. the RAJA OF PANAGAL :—"I have already stated, Sir, in reply to the debate on the amendment of my hon. friend, Mr. Rama Rao, that it is neither reasonable nor expedient to exempt religious institutions individually."

Mr. R. SRINIVASA AYYANGAR :—"In the case of Jain institutions, they were already excluded. In the case of South Kanara it was not so."

The hon. the RAJA OF PANAGAL :—"In any case I do not think it is desirable to exclude at this stage any particular institution from the operation of the Bill. As I have already stated a general power is taken by the Government and when applications for exemption come before the Government they will be considered on their merits. It is not possible to accept the amendment."

Mr. R. SRINIVASA AYYANGAR :—"I fear I have not been correctly understood. My amendment is of a totally different character from that of Mr. Rama Rao who wanted to take away from the Bill certain classes which have been included in the provisions. Udupi (South Kanara) and Malabar have been included in the provisions of the Bill. The ministerial reply may aptly apply to them. My amendment deals however with a converse case, to wit, Jain institutions which are expressly excluded from the Bill and for the inclusion of which hereafter the power of removing the exemption is taken by the Local Government. The distinction between these two classes of cases is marked and it is necessary to treat them differently. Therefore I am not at all convinced by the arguments advanced by the hon. the Minister. Far from supporting his contention they strengthen my position. In this case by reason of the special exemption conferred on the Jain institutions, they ought to be considered from a totally different standpoint."

The motion was put and lost.

26th March 1923]

Clause 2—cont.

1-15 p.m.

A poll was demanded and the House divided as follows :—

Ayes.

- | | |
|--|--|
| 1. Diwan Bahadur M. Ramachandra Rao Pantulu. | 7. Rai Bahadur T. M. Narasimhachari. |
| 2. " L. A. Govindaraghava Ayyar. | 8. Rao Sahib U. Rama Rao. |
| 3. Rao Bahadur A. S. Krishna Rao Pantulu. | 9. Diwan Bahadur D. Seshagiri Rao Pantulu. |
| 4. Mr. P. Siva Rao. | 10. Mr. R. Srinivasa Ayyangar. |
| 5. " C. V. Venkataramana Ayyangar. | 11. " A. Ranganatha Mudaliyar. |
| 6. " M. Suryanarayana. | 12. Rao Bahadur T. Namburumal Chettiyar. |

Noes.

- | | |
|---|--|
| 1. The hon. Sir Charles Todhunter. | 28. Rao Bahadur K. Gopalakrishnayya. |
| 2. " Khan Bahadur Muhammad Habib-ullah Sahib Bahadur. | 29. Mr. J. Kuppuswami. |
| 3. " the Raja of Panagal. | 30. " B. Muniswami Nayudu. |
| 4. " Rai Bahadur K. Venkatarreddi Nayudu. | 31. " A. T. Muttukumaraswami Chettiyar. |
| 5. " Rao Bahadur A. P. Patro. | 32. " M. Narayanaswami Reddi. |
| 6. " Mr. A. R. Knapp. | 33. Rao Bahadur C. Natesa Mudaliyar. |
| 7. " C. P. Ramaswami Ayyar. | 34. Mr. V. P. Pakkiriswami Pillai. |
| 8. Mr. E. S. Lloyd. | 35. " P. L. Rajan. |
| 9. " A. Y. G. Campbell. | 36. " W. P. A. Saundarapandya Nadar. |
| 10. Rai Bahadur N. Gopalaswami Ayyangar. | 37. " R. K. Shanmukham Chettiyar. |
| 11. Mr. C. Madhavan Nayar. | 38. " K. Sitarama Reddi. |
| 12. Diwan Bahadur T. N. Sivagnanam Pillai. | 39. " T. Somasundara Mudaliyar. |
| 13. Mr. E. F. Thomas. | 40. " S. Somasundaram Pillai. |
| 14. " E. Periyannayagam. | 41. " P. Subbarayan. |
| 15. Rao Sahib T. C. Tangavelu Pillai. | 42. Diwan Bahadur K. Suryanarayanamurti Nayudu. |
| 16. Mr. A. Ramaswami Mudaliyar. | 43. Mr. V. C. Vellingiri Goundar. |
| 17. Rao Bahadur T. A. Ramalinga Chettiyar. | 44. Rao Bahadur C. Venkataranga Reddi. |
| 18. Diwan Bahadur S. Km. M. Ct. Pethachi Chettiyar. | 45. Mr. S. Muttumanikkachari. |
| 19. S. R. Y. Ankineth Prasad Bahadur. | 46. The Raja of Ramnad. |
| 20. Mr. M. Appalarasayya Nayudu. | 47. Abbas Ali Khan Bahadur. |
| 21. Diwan Bahadur G. Arunachala Mudaliyar. | 48. Hamid Sultan Marakkayar. |
| 22. Rao Bahadur P. C. Ethirajulu Nayudu. | 49. Muhammad Abdur Rahim Khan Sahib. |
| 23. Sir P. Tyagaraya Chettiyar. | 50. Khan Sahib Munshi Muhammad Abdur-Rahman Sahib. |
| 24. Diwan Bahadur M. Krishnan Nayar. | 51. Khan Bahadur Muhammad Sadulla Badsha Sahib. |
| 25. Mr. C. Ramalinga Reddi. | 52. Mr. Haji Abdulla Sahib. |
| 26. Rao Bahadur O. Tanikachala Chettiyar. | 53. Khan Bahadur Muhammad Usman Sahib. |
| 27. Mr. W. Vijayaraghava Mudaliyar. | 54. Rao Sahib P. Venkatarangayya. |

Twelve having voted *for* and 54 *against*, the amendment was declared lost.

(Amendment No. 14.)

Rai Bahadur T. M. NARASIMHACHARLU :—"Mr. President, Sir, I beg to move—

Insert the words 'to any math, if so desired by a majority of the disciples of the math or' between the words 'extend' and 'to Jain.'

"It will be seen, Sir, that if this amendment is accepted, the Sub-Clause will read thus :

The Local Government may, by notification, extend to any math, if so desired by a majority of the disciples of the math, or to Jain religious endowments the provisions of this Act. and so on."

Mr. A. RAMASWAMI MUDALIYAR :—"I rise to a point of order, Sir. I do not think that Mr. Narasimhacharlu's amendment is in order. We

[Mr. A. Ramaswami Mudaliyar] [26th March 1923]

Clause 2—cont.

had a discussion just now under Sub-Clause (1) of Clause (2) as to whether *maths* should be included or excluded. This Sub-Clause (1) says that the Act

extends to the whole of the Presidency of Madras and applies, save as hereinafter provided, to all Hindu religious endowments other than Jain religious endowments.

The House has voted on the inclusion or exclusion of maths. If the present amendment of Mr. Narasimhacharlu is accepted, it will be inconsistent with the previous decision of the House."

Rai Bahadur T. M. NARASIMHACHARLU:—"I am sorry, Sir, my hon. friend, Mr. Ramaswami Mudaliyar, is making a mistake. The former amendment was to exclude the *maths* under all circumstances. That is, if an institution was called a math, then it could not come under this Act at all, under any circumstances. That was the scope of the amendment which was brought forward under Sub-Clause (1) of Clause (2) and it was vetoed. But I want to place a limitation and say that a math can be brought and administered under this Act only if the disciples desire so. I want to place a limitation on the control of the maths. Therefore, I am perfectly in order in moving this amendment."

The DEPUTY PRESIDENT (in the Chair):—"I think Mr. Narasimhacharlu can go on with his amendment."

Rai Bahadur T. M. NARASIMHACHARLU:—"In this connexion I wish to refer to paragraph 5 of the Select Committee's Report. They say:

The *math* as an institution exists for the spiritual welfare of its disciples. The *Matadhipathi* is an ascetic and could, *ex hypothesi*, have no interests other than those which are proper and which subserve the interests of his disciples.

"Now, that being the view with regard to the *matadhipathis*, what I submit is this: If the institution exists for the disciples of the *matadhipathis* and for their benefit, and if the disciples feel that there is no grievance at all, why should the Government at all interfere on their behalf before they say, 'we have a grievance, please rectify it'? I cannot understand this kind of voluntary or gratuitous offer on behalf of the disciples. The disciples say: 'we have a perfect *guru*; we like him; we allow him to spend money as he likes; it is to our interest that he spends or ceases to spend, and we allow him to do as he pleases.' Why should Government interfere in such a circumstance? I am supported not only by *a priori* argument but by the opinion of Sir Muttuswami Ayyar's Committee, who say distinctly at page 85 of the book supplied to us that it should be left to the disciples to see whether they should control the *matadhipathis* or not in the matter of administration. Besides, the difficulty is this. We have got a Central Board. This Board is going to be constituted with a president of the standing of perhaps a barrister from London; and the other commissioners will be of any sect or any creed or no creed whatsoever. They have to sit in judgment and issue orders to the *matadhipathis*. This is quite a new experience, Sir, that we are now feeling. Therefore, I say that if the disciples desire that this Act should be applied to any particular math, then let the Government take control of it, let them not unduly interfere with the religious independence which they have. I, therefore, submit that this amendment is a very desirable one."

[26th March 1923]

Clause 2—cont.

The hon. the RAJA OF PANAGAL:—"Mr. President, Sir, my hon. friend from Cuddapah has gone technically too far to make out a case that the motion of his amendment is not inconsistent with the rejection of a previous amendment. But I am sure the House will bear in mind what their decision was in regard to the other amendment and deal with the present amendment accordingly. In the course of his speech, the hon. Member referred once again to the venerable nature of some of the heads of these maths. I have already acknowledged, Sir, that some of them are really venerable. All respect to them. But this Bill does not aim at the curtailment of any of their spiritual activities. On the other hand, it is intended only to check the abuses of the trust properties. Under these circumstances, I am afraid I cannot accept this amendment."

The amendment was put and lost.

(Amendment No. 15.)

Rao Bahadur A. S. KRISHNA RAO PANTULU:—"Sir, I beg to move—

Insert the following as a proviso:—

'Provided that before issuing such notification, the Local Government shall issue a notice to the managers, trustees or other persons interested in the Jain religious endowments concerned in the prescribed manner, and consider the objections, if any, urged by them to the issue of such notification.'

It will be seen from this Bill that in the first instance it does not apply to Jain religious endowments. But the Government are given the power to extend the Bill to such endowments. I think that, before exercising this power, the persons concerned should have some previous notice so that they may make the necessary representations. Without such safeguards, it will be dangerous to bring these endowments within the purview of this Bill. These endowments do not primarily come within the scope of this Bill."

The hon. the RAJA OF PANAGAL:—"Mr. President, I see the reasonable nature of the object of the amendment. But I take objection to the wording of the proposed proviso. Therefore, with your permission, Sir, and with the permission of the House, I move the following amendment to be substituted in place of my hon. friend Mr. Krishna Rao's amendment:—

Insert the following as a proviso:—

'Provided that before issuing such notification, the Local Government shall publish in the *Fort St. George Gazette* a notice of their intention to do so, fix a reasonable period for the persons interested in the endowments concerned to show cause against the issue of such notification and consider their objections, if any.'

The amendment of Rao Bahadur A. S. Krishna Rao Pantulu was by leave withdrawn.

The amendment of the hon. the Raja of Panagal was put and carried.

At this stage (1-30 p. m.) the House adjourned for lunch.

The Council re-assembled after lunch at 2-30 p.m. with the hon. the Deputy President in the Chair.

[26th March 1923]

Clause 2—cont.

(Amendment No. 16.)

New Sub-Clause after Sub-Clause (2)

Mr. R. SRINIVASA AYYANGAR:—"Sir, I move —

(a) Insert the following as Sub-Clause (3):

'(3) Nothing in this Act shall apply to Sri Nataraja temple in Ohidambaram and other religious endowments which the Local Government may, by notification, exempt from the operation of this Act.'

(b) Re-number the existing Sub-Clause (3) as (4).

"Mr. President, in view of the attitude of the House, which has taken on itself the power of investing the Local Government with discretion in the matter of exemption, I propose to confine myself only to the first half of this amendment, which seeks in effect to exempt from the operation of this Bill the Sri Nataraja temple of Ohidambaram. My reasons, Sir, are briefly these. As everybody is aware, as every pious Hindu is aware, the Sri Nataraja shrine at Ohidambaram is noted for its antiquity and is in charge of a number of *dikshitar*s, about 250 or so. These *dikshitar*s are the trustees and *archakas* of the temple and the management is entirely in the hands of that one single community. They are not merely trustees, but also beneficiaries entitled to share the offerings made by the several votaries to the temple. The management of this pagoda is somewhat unique. It may best be described as a democratic hierarchy and, as the House is aware, these *dikshitar*s are on duty in the pagoda by twenty at a time, and each batch of 20 stays on for 20 days till each has in his turn performed the complete tour of *pūja* at the different shrines. The moment their turn is over, it is taken up by another batch and so on until the full circuit is made up. So far as this temple is concerned, it receives no *Tasdic* allowance from the State; its trustees have not been nominated by Government and Government have at no time claimed to itself the right to appoint these gentlemen; nor has the nomination at any time vested in or been subject to the confirmation of Government or any public officer.

"As regards the so-called endowments, it would be a misnomer to call them endowments. We know, as a matter of fact, that many land-owners devote the produce of some particular plot of land to the service of the pagoda, and the value of this is either sent or delivered in person to the particular *dikshitar* who will be visiting the family and performing sacrifice on their behalf in the temple. Whenever there is a deficit these gentlemen go about and collect money or meet the deficit out of their own contributions. These persons, as I have submitted before, do not maintain accounts, for there is absolutely no necessity for it. The votive offerings which they receive every day are divided among the twenty people in turn; and when a special festival takes place, or *paradai* is done, the offerings are distributed among the whole lot of *dikshitar*s, and there is absolutely no necessity to bring within the purview of this Bill an institution of this singularly remarkable character. It may perhaps be said that this institution has a large number of valuable jewels and that there is no guarantee that these people will not misappropriate them. To that my answer is mainly this: things have gone on for centuries and centuries, and until now we have not heard of any dispute except in one solitary instance thirty years ago, when, owing to the

[26th March 1923] [Mr. R. Srinivasa Ayyangar]

Clause 2—cont.

splitting up of the *dikshitar*s into two factions known as the major faction and the minor faction, some trouble arose, which went up to the High Court and was decided by Justice Muttuswami Ayyar in 14 Madras. Since then, absolutely no case of mismanagement has come to our notice; and as one who has studied in Ohidambaram, as a native of that district possessing an intimate knowledge of this institution and as carrying on my avocation in that district, I am emboldened to state that there is absolutely no justification for bringing that temple within the purview of this Bill.

"Before I resume my seat, I should like to remind this House of one other aspect of the question. The present management is a purely autonomous body. They have a set of rules and regulations, which are far more stringent than any rules which the Board or the Court can be expected to frame for the purpose of governing their actions and activities. In this body each man feels that he is bound to pay the highest regard to the opinions of others. These *dikshitar*s are interested, therefore, in keeping up the worship and in celebrating the festivals so as to command the complete approval of the orthodox Hindus, inasmuch as the income depends for the most part upon the bounty of the worshippers. So, any outside control, to use the language of the memorialists, is bound to damp the enthusiasm of the *dikshitar*s and even prejudicially affect the management of the institution. One argument I anticipate from the hon. the Minister. Perhaps he may say in his reply that the Local Government has reserved for itself the power of exempting these institutions and it is perfectly open to it, either on the recommendation of the Board or *suo moto* to exempt this Sri Nataraja temple. My only justification for taking the view of this House on this point is that, instead of all these members of the *dikshitar* community being placed either at the mercy or the sweet will and pleasure of the executive Government or the Board, its subordinate body, I think it is far better that the House gives its assent to the exclusion of this temple from the purview of this Bill."

The RAJA OF RAMNAD:—"Mr. President, I have tabled an amendment almost identical with the one that has now been moved. But the original amendment of my hon. friend from Cuddalore covered a wider ground. So I wish to know whether I should offer my remarks now or have another chance."

The hon. the DEPUTY PRESIDENT:—"You had better do it at once."

The RAJA OF RAMNAD:—"Sir, I think the position of these *dikshitar*s has not been correctly understood. It was stated by a previous speaker that they were the trustees and the *archakas*. I will go a step further and say that they form the constituent part of the temple itself. According to the Saivites, the *dikshitar*s hold a unique position. They formerly numbered three thousand and were known as Thillai Moovayiravars, of whom the god Nataraja was said to be one. They are held in the highest esteem and veneration. In the memorial which I had the honour to present the other day, it was given out that they had no relations among other peoples in any other part of the country. Now, their number has considerably dwindled; and they are only about 250 or so. The Saivites prostrate before them and even Brahmans do so. Recently, I witnessed such a respectable person as the Mahamahopadhyaya Swaminatha Ayyar prostrating before one of the

[The Raja of Ramnad]

[26th March 1923]

Clause 2—cont.

*dikshitar*s. That is the position which they occupy among the Hindus. I can say, Sir, that to Saivites, there is no higher sacred book than Thevaram and Thiruvachagam in Tamil. They are actually called the Tamil Vedas. In the Thevaram, one of the Nayanmars says 'இவ்வைவாழ் அந்தணர்தம் அடியார்க்கும் அடியேன்'. That is the position which they have enjoyed from time immemorial. Of course, I anticipate what the answer from the Government Bench will be to this proposition. However, I should earnestly request them to kindly consider whether it is not unnecessary to bring these *dikshitar*s and the temple of Chidambaram under the provisions of this Bill.

"Further, we have not heard of any mismanagement or irregularity in the temple in question. Its management is unique. It is not under five people or ten people as is the case with other temples. The trustees that control the affairs of this temple number about 250, and the number varies with the growth of the family. So, is it right that their management should be interfered with or that they should be asked to go to Government with a petition for the exclusion of their temple from the operation of this Bill? All things taken into consideration, they should be left alone; and I do not think any one will be sorry for Government adopting this wise course. Further, the temple has been renovated at a very considerable cost—about a crore of rupees, I think—and our gratitude is due to the S.R.M.M. Council, Sir M. C. Muttayya Chettiyar and Diwan Bahadur Pethachi Chettiyar, and I am sure I am voicing their feelings when I say that this temple of *dikshitar*s should be left alone. We should consider it as sacrilegious if these *dikshitar*s who have existed from time immemorial are put on a par with the other trustees and dealt with by any such legislation. I have taken some pains to read the judgment of Sir T. Muttaswami Ayyar in 14 Madras. I think the case there was whether the majority view or the minority view should prevail, and whether the properties appropriated by the minority should be returned or not. That was the main issue in that case. I think the word 'trustee' is used there in a very wide sense and not in the limited sense in which it is sought to be interpreted. I shall illustrate it thus: by saying that the King is the guardian of his subjects you cannot say that he is to come under the Guardians and Wards Act. I therefore think that the word 'trustee' is used there in a wider sense. These *dikshitar*s go to form the constituent part of the temple and should not be treated as common trustees. With these words, I support the motion."

Mr. A. T. MUTTUKUMARASWAMI CHETTIYAR:—"Mr. President, I beg to support this amendment as I have also given notice of a similar amendment. The great Sri Nataraja temple at Chidambaram, one of the five ancient temples in Southern India, is one which gets on without any endowed properties. There is no account maintained by the temple, and it is stated in the District Manual that the one charming peculiarity of this institution is that there are no accounts kept. If it has no endowment, certainly the present Bill should not apply to it. To say that this enactment would apply to a temple which has no endowments is a contradiction in terms. But serious doubts are entertained that such temples are likely to be brought within the purview of the Bill and the trustees would unnecessarily be called upon to render an account of the income which they

[26th March 1923] [Mr. A. T. Muttukumaraswami Chettiyar]

Clause 2—cont.

get in the discharge of their duties as priests. Unlike the trustees of other Hindu temples, the trustees of this temple, who number nearly 250, are merely *archakas*, i.e., they conduct the daily *pūja* or worship and take what the worshippers or *kattaladars* give as offerings. They entirely depend on this daily income for their living. It is stated in ancient Hindu religious writings that the original number of these trustees, who now go by the name of *dikshitar*s, was 3,000. Now their number has dwindled down to about 400. Clause 2 says that this Bill applies only to religious endowments, and the definition of a religious endowment in Sub-Clause 11 of Clause 5 is such that the daily offerings made in the temple by worshippers cannot by any stretch of imagination be construed as an endowment or endowed property. The *dikshitar*s are managing the temple very well. The festivals and daily *pūjas* are conducted in a very orderly way and without any hitch. So, it is better that such temples are specifically excluded from the operation of this Bill. With these words, I support the amendment."

Mr. S. SOMASUNDARAM PILLAI:—"Mr. President, I oppose this motion. 2-45 p.m. When we pass a general Act, nobody is entitled to ask for exemption from the Act. For instance, in the case of the Penal Code, it may be necessary to exempt many people who may say 'I am an honest man; why should you make me submit to a Penal Code? No, I do not want it.' Of course, prestige, holiness and all that is not the point here; let the *dikshitar*s continue in their usual prestige and holiness. The point here is that when there are institutions having large properties, whoever is in possession of that property is a trustee. If he is honest, the Act will not affect him."

The RAJA OF RAMNAD:—"May I say that even honest people are required to render accounts?"

Mr. S. SOMASUNDARAM PILLAI:—"The Bill is intended to put down dishonest people, and if there are honest people also there will be no harm done to them. It is true that there were once three thousand *dikshitar*s in Chidambaram, and that the Chidambaram temple is the most important one in Southern India. It is venerated and honoured by all Saivites from the lowest parathesi to the highest sastri. Nevertheless, if this temple is exempted, every other temple will ask for exemption: the Thirumalai people, for instance, will say, 'we are very holy persons and we must be exempted'. No human being is holy in my opinion; all are sinners, and such sinners must be made holy by imposing some check on them. Of course, we do not interfere with their worship or rites or any other thing. We simply ask every one in possession of public property to submit to some check. I know that the *dikshitar*s of Chidambaram are highly honoured people, but I have also known some people who are for including the Chidambaram temple in this Bill."

The RAJA OF RAMNAD:—"May I ask the hon. Member to name one *dikshitar* who is in favour of including this temple in the Bill?"

Mr. S. SOMASUNDARAM PILLAI:—"I am sorry, Sir, I cannot give the name, but one *dikshitar* very strongly spoke in favour of including this temple also."

[26th March 1923]

Clause 2—cont.

Sir M. C. T. MUTTAYYA CHETTIYAR :—“ He may be a *dikshitar*, but not a Chidambaram *dikshitar* ” (laughter).

Mr. S. SOMASUNDARAM PILLAI :—“ He is a Chidambaram *dikshitar* and he belongs to the Chidambaram temple.”

Sir M. C. T. MUTTAYYA CHETTIYAR :—“ One who takes *diksha* is a *dikshitar*.”

Mr. S. SOMASUNDARAM PILLAI :—“ What I say is that it will be very unjust to exempt one temple, simply because certain hon. Members here feel that it ought to be exempted. With these few words, I oppose this amendment.”

Sir M. C. T. MUTTAYYA CHETTIYAR :—“ This amendment is a special one inviting our attention to a special set of facts and usage the like of which we do not meet with elsewhere in the whole Presidency of Madras. Here is a famous shrine venerated as a most sacred place of worship and pilgrimage, which is managed on peculiar and distinctive lines. Its management is singular and has been described as a democratic hierarchy. The turns of management and the close identification of the interests of the *archakas* or the *dikshitars* with the endowment, both of whom are interdependent for mutual upkeep, for prosperity and popularity, ensure excellent service in the conduct of the institution. Here is a joint-family-like group ready to stand by and live or die with the institution. Can there be a better mode of securing careful management? Can there be a better safeguard which this Bill may claim to provide for this institution than the instinct of self-preservation of its guardians? Of course, this amendment may be an exception, but it will be an exception which proves the rule. We need therefore have no misgiving in sanctioning the exemption of this temple which has come to us from antiquity, and whose internal management and government is by the vote of the majority according to modern ideas. So I would earnestly request the hon. the Minister to exempt this temple from the operation of this Bill and to leave the institution as at present managed.”

The hon. the RAJA OF PANAGAL :—“ Mr. President, it has been pointedly stated that the *dikshitars* of Chidambaram command high respect from devotees. It is not for me to dispute that statement. But I cannot understand how the circumstance that they command respect from some others can be a guarantee for the proper management of the trust properties. The question before us is whether there is any property belonging to the temple which deserves preservation. My hon. friend opposite, Mr. Srinivasa Ayyangar, has conceded that the temple has valuable properties. Now, Sir, the question is: how are we going to guarantee the safety of these properties? It is proposed that there should be some sort of check imposed on the management of the temple properties. That really is the object of the Bill. Sir, I do not say that all cases are alike. There may be differences. This morning my hon. friend, Mr. Rama Rao, stated that the Udupi math and the temples of South Kanara should be exempted, my hon. friend, the Member from Malabar, maintained that Malabar temples were peculiar; and now, my hon. friends who have spoken this afternoon, say that the case of Chidambaram is singular. Well, Sir, each may have a peculiarity in its own way; each may have its own sanctity. But the object of the present Bill

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[The Raja of Panagal]

Clause 2—cont.

is to preserve these institutions from mismanagement. If on inquiry it is found that there is any temple which deserves exemption, then that case will be considered by the Government. We have taken power to the Government under the amendment of the hon. Mr. Venkataramana Ayyangar, to exempt such institutions from the operations of any or all of the provisions of this Bill.”

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—“ Sir, I do not propose to traverse the ground that has already been covered by my hon. friends who supported this amendment. The hon. the Raja of Panagal gave two or three reasons why this temple of Chidambaram should not have a differential treatment, and I propose addressing myself to them.

“ His first reason is this: although it may be that the present management of the temple may be unimpeachable there is the duty cast on us of securing proper management in the future, and it is therefore necessary that this temple should come within the purview of this Bill. Now, Sir, my reply to it is simply this: as a matter of fact, this is not one of the temples that are covered by Act XX of 1863, and we have not here . . . ”

Rai Bahadur N. GOPALASWAMI AYYANGAR :—“ I dispute that statement, Sir. I would refer the hon. Member to 14, Madras, where it was held that the temple fell under Section 4 of that Act.”

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—“ We have to recognize that the trusteeship is not one which has to be in any way approved by the Government. But, as a matter of fact, it will be found that so far as this temple of Chidambaram is concerned, there has not been any litigation respecting any mismanagement of it or speculation by the trustees.”

Rai Bahadur N. GOPALASWAMI AYYANGAR :—“ I dispute that statement again, Sir. 14, Madras again is authority to show that there was an allegation of speculation and mismanagement.”

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—“ That was, Sir, due to the party spirit among the *dikshitars* themselves. As a matter of fact, that is what has been made out by that decision itself. Now, what I wish to press strongly upon the consideration of this House is this: if you find that there is an ordinary law which relates to trustees and by which any kind of mismanagement or speculation by trustees can be guarded against, the additional protection which is given by this Bill is not required in the case of such *devasthanams* as the Chidambaram *devasthanam*. The reason is this: it will be found—that cannot be gainsaid—that whatever remains over and above what has been expended for the temple becomes the property of the *dikshitars*. Now, what exactly this Bill will do is this: so far as the payment of the percentage is concerned, namely, 1½ per cent or 3 per cent as the case may be according to the view you take of the nature of the temple, it will have to come out of the income of the temple. Practically, it means that you will have to penalize the *dikshitars* so far as this 1½ or 3 per cent goes. Now, the question is, have they done anything in the past which will justify this kind of penalizing, especially when you find that the functions of the *archakas* and the trustees are so indissolubly blended in these persons that their case is very different from what you find in respect of the *harmakarthas* of other temples? That is an excellent reason why you should differentiate their case from the others.

[Mr. L. A. Govindaraghava Ayyar] [26th March 1923]

Clause 2—cont.

"My hon. friend, the Raja of Panagal, has told us that there is another provision by which it is possible for us to exempt this temple from the operation of this Bill — the provision under which the Local Government is given the power to do so. Now, if we are agreed — I believe the arguments already advanced by the hon. gentlemen that have preceded me must have convinced this House — that, so far as this temple is concerned, it is one which deserves exemption, I submit there is no need for us to wait until the Local Government once again exercises the power that is vested in them by the provision already passed by this House.

"For these reasons, I would request that this amendment be accepted."

Mr. R. SRINIVASA AYYANGAR:—"I should like to examine briefly the reasons advanced by the hon. the Minister against the amendment moved by me. I always believed that the object of any kind of legislation was to fight an existing evil or to meet the existing state of things. I do not think that it is the policy of any legislation to provide safeguards against the possibility of posterity erring at a remote period of time. If I understood the hon. the Minister correctly, he asked if the people who were at present responsible for the management were all honest, and what guarantee there was that their successors might continue to be honest. If their successors show a disposition to relax the excellence of the management, or to lapse into questionable ways, then it will be perfectly open to the Council of the time to seriously think of tackling that question and grappling with any contingency that may possibly arise. That is my answer, Sir, so far as that argument of his is concerned.

"Then, the hon. the Minister said: 'Well, it is conceded that the temple holds some substantial property. Is there any reason why any effective check should not be placed upon the property?' As regards that I may at once ask whether we would relish the idea of being called upon to submit an inventory of the properties to the authorities concerned. Moreover, this Chidambaram temple is unlike other temples where the maximum number of trustees is about five. I have known instances of various temples

having one or two trustees, the maximum not going beyond five. 3 p.m. But this is a peculiar institution in which we are having as many as 250 trustees, and this circumstance, I submit, goes a great way in reducing the possibilities of any spoliation or speculation, for it is difficult in the very nature of things to escape the vigilance of a large body of *archakas*. Therefore, all things considered, and regard being had to the history of the institution and to the way in which this institution is being properly managed and worked to the satisfaction of all concerned, I submit it is imperative upon this House to vote for this amendment; and I have not the slightest doubt that a day's visit to that shrine will remove any fears which any hon. Member may entertain on this matter."

The hon. the RAJA OF PANAGAL:—"Sir, I have listened to the speeches of my hon. friends Diwan Bahadur L. A. Govindaraghava Ayyar and the reply of Mr. R. Srinivasa Ayyangar. They have adduced two arguments in support of their position. To me, Sir, both of them appear to be arguments more against than in favour of their contention. In the first place, Diwan Bahadur L. A. Govindaraghava Ayyar has stated that whatever remains after meeting the expenses of temples will go to the *archakas*. That is

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Clause 2—cont.

exactly the reason why we must have some means of control whereby we can induce these *archakas* to do their best in the matter of worship to the deity.

The RAJA OF RAMNAD:—"May I just say a word, Sir? It is not correct to say that whatever remains is appropriated by the *dikshitaras*. They receive the money; they purchase the articles; they make the offerings; and they appropriate the offerings among themselves."

The hon. the RAJA OF PANAGAL:—"Sir, I only repeated what my hon. friend Mr. Govindaraghava Ayyar had stated in refuting his arguments. He said the *dikshitaras* were both trustees and *archakas*.

"Again, Sir, Mr. Srinivasa Ayyangar has stated that the number of *dikshitaras* is enormous and that they are the trustees of the temple. Even in cases where the number of trustees is limited, control seems to be necessary. But where the number is unlimited it goes without saying that the control is much more necessary. Again, Sir, the contention of my hon. friends who are in favour of the amendment is that this is a very peculiar temple and a temple with very strange usages. If that is the case, it is for them to demonstrate to the Government, when they apply for exclusion, that the temple is a very peculiar one. So, Sir, I do not see any reason why this amendment should be accepted by the Government."

The amendment was put to vote and declared lost.

Rao Sahib U. Rama Rao demanded a poll which was taken with the following result:—

Ayes.

1. Mr. S. T. Shanmukham Pillai.
2. Diwan Bahadur S. Rm. M. Ct. Pethachi Chettiyyar.
3. Mr. K. Adinarayana Reddi.
4. " A. T. Muttukumaraswami Chettiyyar.
5. " P. Subbarayan.
6. " K. Sitarama Reddi.
7. Diwan Bahadur M. Ramachandra Rao Pantulu.
8. " L. A. Govindaraghava Ayyar.

Noes

1. The hon. Sir Charles Todhunter.
2. " Khan Bahadur Sir Muham-mad Habib-ul-lah Sahib Bahadur.
3. " the Raja of Panagal.
4. " Kai Bahadur K. Venkata Reddi Nayudu.
5. " Rao Bahadur A. P. Patro.
6. Mr. E. S. Lloyd.
7. " A. Y. G. Campbell.
8. Kai Bahadur N. Gopalaswami Ayyangar.
9. Mr. C. Madhavan Nayar.
10. Diwan Bahadur T. N. Sivagnanam Pillai.
11. Mr. E. F. Thomas.

9. Rao Bahadur A. S. Krishna Rao Pantulu.
10. Rai Bahadur T. M. Narasimhachari.
11. Rao Sahib U. Rama Rao.
12. Diwan Bahadur D. Seebagiri Rao Pantulu.
13. Mr. R. Srinivasa Ayyangar.
14. The Raja of Ramnad.
15. Mr. K. Prabhakaran Iampam.
16. Rao Sahib Sir M. C. T. Muttayya Chettiyyar.

12. Mr. E. Periyarayagam.
13. Rao Sahib T. C. Tangavelu Pillai.
14. Mr. A. Ramaswami Mudaliyar.
15. " S. R. Y. Ankineedu Prasad Bahadur.
16. Diwan Bahadur C. Arunachala Mudaliyar.
17. Rao Bahadur P. C. Etirajulu Nayudu.
18. Diwan Bahadur Sir P. Tyagaraya Chettiyyar.
19. Diwan Bahadur M. Krishnan Nayar.
20. Rao Bahadur O. Thanikaachala Chettiyyar.
21. Mr. W. Vijayaraghava Mudaliyar.
22. Rao Bahadur K. Gopalakrishna Ayya.
23. Mr. J. Kuppuswami.

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Clause 2—cont.

Noes—cont.

24. Mr. B. Muniswami Nayudu.
 25. „ M. Narayanaswami Reddi.
 26. Rao Bahadur C. Natesa Mudaliyar.
 27. Mr. V. P. Pakkiriswarai Pillai.
 28. „ P. T. Rajan.
 29. „ W. P. A. Saundaram Pandiya Nadar.
 30. „ R. K. Shanmukham Chettiyar.
 31. „ S. Somasundaram Pillai.
 32. „ C. Venkataranga Reddi.
 33. Diwan Bahadur R. Venkatarajnam Nayudu.
 34. Mr. S. Muttusamikkachari.
 35. „ T. Sivasankaram Pillai.

36. Abbas Ali Khan Bahadur.
 37. A. D. M. Bavotti Sahib Bahadur.
 38. Mohammad Abdor Rahim Khan Sahib.
 39. Khan Sahib Munshi Mohammad Abdur Rahman Sahib.
 40. Saiyid Diwan Abdul Razaak Sahib.
 41. Khan Bahadur Muhammad Sadulla Badsha Sahib Bahadur.
 42. Khan Bahadur Muhammad Usman Sahib Bahadur.
 43. Rao Sahib M. C. Madurai Pillai.
 44. Mr. G. Vandanam.
 45. Rao Sahib P. Venkatarangayya.

Sixteen voted for the motion and 45 against it. The motion was lost.

Sub-Clause (3).

(Amendment No. 17.)

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR:—“Sir, the amendment that stands in my name runs as follows:—

For this Sub-Clause, substitute the following:—

- (3) Nothing in this Act shall apply to any math nor to any temple whose annual average gross income from endowments connected therewith for a period of five years immediately preceding the commencement of this Act was less than Rs. 250 provided that the Local Government may at any time issue a notification declaring that all or any of the provisions of this Act shall apply to any math or to any such temple.

Now, Sir, it is not necessary for me to labour the second portion of this amendment, because it is practically repeating what we find in the text of the Bill itself. It is only with respect to *maths* that I shall have to make my observations. What I wish to state for the consideration of the House is this. If hon. Members had followed the discussion that we have had so far with respect to the propriety or otherwise of including the *maths* in this Bill, they would have noticed that there was a great variety of *maths* and a great difference amongst them with respect to their constitution and the exact powers the heads of these *maths* had over the funds of the institutions of which they were the heads. As has been pointed out in the case reported in 44 Madras to which I referred, there are institutions whose heads do not exactly stand in the position of trustees; but those cases may be taken to come under the provisions of Clause 57. There may be other cases wherein the position of the head of the *math* is exactly the same as that of a trustee.”

Mr. A. RAMASWAMI MUDALIYAR:—“May I rise to a point of order, Sir? This amendment of my hon. friend, Mr. Govindaraghava Ayyar, raises exactly the same question as has been already decided by the House, viz., whether *maths* should be excluded from the Bill. The clause that is now proposed says:

Nothing in this Act shall apply to any *math* . . .

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[Mr. A. Ramaswami Mudaliyar]

Clause 2—cont.

so that *maths* are proposed to be excluded from the scope of the Bill. But that is a point on which a decision has already been arrived at by the Council.”

The hon. the DEPUTY PRESIDENT:—“But in this motion, Mr. Govindaraghava Ayyar adds the words:

‘Whose annual average gross income’.”

Mr. A. RAMASWAMI MUDALIYAR:—“That applies, Sir, according to the language employed in the amendment, to the temples but not to the *maths*.”

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR:—“Sir, I have two replies to give. The first reply is that my hon. friend, Mr. Ramaswami Mudaliyar, is too late in raising his point of order. The second reply is that the present case is governed by your previous ruling, Sir, that is, the ruling which you gave with reference to an amendment in respect of which my hon. friend raised the same objection but with no success. But my present motion—”

Mr. A. RAMASWAMI MUDALIYAR:—“May I submit, Sir, that you did not then give any ruling. I understood you not to have given any ruling, but that you allowed the discussion to proceed.”

The hon. the DEPUTY PRESIDENT:—“But in this amendment, there is the clause:

Whose annual average gross income from . . .

Mr. A. RAMASWAMI MUDALIYAR:—“That clause, Sir, qualifies the word ‘temple’. If it is meant to apply to both temples and *maths*, there is not much distinction between this and the clause as it stands now.”

The hon. the RAJA OF PANAGAL:—“Sir, I myself thought of the point of order, but I wanted to hear how the hon. the mover of the amendment was going to justify the motion now that he has spoken.”

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR:—“I have not yet finished speaking, Sir.”

The hon. the RAJA OF PANAGAL:—“Sir, if the word ‘nor’ is disjunctively used, it would exclude *maths*. If, however, having an income of Rs. 250 annually applies both to temples and *maths*, he is right and he is within his limits. But, Sir, from the tenor of his speech I gather that he wants to make an exception in favour of all *maths* and of those temples whose annual income is less than Rs. 250. In these circumstances, I ask, on a point of order, if this is permissible.”

The hon. the DEPUTY PRESIDENT:—“I cannot imagine that Mr. Govindaraghava Ayyar has brought in the amendment without any reference to the income of the *maths*.”

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR:—“I am sorry to say, Sir, that is what I meant: to raise the question of income only in the case of temples.”

The hon. the DEPUTY PRESIDENT:—“Then I am afraid, the hon. Member is out of order. The amendment would be inconsistent with the

[The Deputy President] [26th March 1923]

Clause 2—cont.

decision already arrived at by the House. The hon. Member is bringing in a matter which has already been disposed of."

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR:—"If that is the ruling of the Chair, I have nothing to say."

The amendment fell out.

(Amendment No. 18.)

Rao Bahadur C. NATESA MUDALIYAR:—"Sir, I move the amendment standing in my name :

For the words 'five hundred' substitute the words 'three thousand'.

"Sir, it is very difficult for the *maths* with a small income to make both ends meet, and I think the enforcing of this Bill may work hardship upon such *maths*. If any complaint of mismanagement is brought against them it is better that the Government and the Board interfere in their administration. In the Wakf Estates Act passed recently by the Government of India Rs. 2,000 is fixed as the minimum. With these words, I move the amendment for the consideration of the House."

The hon. the RAJA OF PANAGAL:—"Sir, this question has been considered at great length in the Select Committee stage of the Bill. Various standards were suggested, and after a long discussion it was decided by the Select Committee that the minimum in the case of *maths* should be Rs. 500, and in the case of temples Rs. 250. Besides, Sir, as matters stand, there are a number of temples under committee management whose income is Rs. 250 or thereabout. In these circumstances, I appeal to the hon. Member to withdraw the amendment."

The amendment was by leave withdrawn.

(The hon. the President here took the Chair.)

(Amendment No. 19.)

Rao Bahadur C. NATESA MUDALIYAR:—"Sir, I move—

For the words 'two hundred and fifty' substitute the words 'two thousand and five hundred.'

"Sir, in all these small temples with small income it is the trustee that spends out of his pocket to celebrate the various festivals. Moreover, Sir, there will be thousands of temples which it would be unwise to bring under the provisions of this Bill. If any complaint of mismanagement is brought in the case of any such temple, I think the Government and the Board may interfere. I again repeat what I stated already, that the Wakf Estates Act provides for a minimum of Rs. 2,000."

The hon. the RAJA OF PANAGAL:—"Sir, I have already explained my position in regard to a similar amendment moved by my hon. friend, Dr. Natesa Mudaliyar. This question was discussed by the Select Committee and, as I have already stated, there are a number of temples with incomes of about Rs. 250 a year. They are already under the management of committees. It will not be proper therefore to exclude them from the committee management. I quite see the force of the hon. Member's argument. If I could, I would be quite willing to exempt the temples with

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Clause 2—cont.

small incomes. But on account of the fact that there are such temples already under committee management, I think it would be inexpedient to exclude them from the management of the committee."

The amendment was by leave withdrawn.

(Amendment No. 20.)

Rao Bahadur A. S. KRISHNA RAO PANTULU:—"Sir, I move—
To omit the proviso.

"Sir, the House is aware that Sub-Clause 3 specifies that it is only in the case of *maths* having an income of Rs. 500 and temples having an income of Rs. 250 that this Bill shall apply. But my hon. friend, Mr. Natesa Mudaliyar, moved amendments to the effect that the limits should be increased to Rs. 3,000 and Rs. 2,000, respectively, evidently suggesting thereby that the limit of Rs. 500 and Rs. 250 was so circumscribed that there ought to be further increase. But his amendments have had the same fate as the others from this side of the House. Though he did not succeed, I would suggest, Sir, that this proviso would create further hardship in the direction. Having fixed the limit to Rs. 500 and Rs. 250, to say that there should be a special power reserved to the Local Government that even in the case of temples and *maths* with incomes less than Rs. 250 and Rs. 500 a notification may be issued declaring that the provisions of this Bill shall apply is undesirable. When the House is agreed not to go further than Rs. 500 and Rs. 250, to say that the Government shall have further powers to bring the small temples and *maths* within the scope of the present Bill is unreasonable. I therefore move that the proviso be deleted."

The hon. the RAJA OF PANAGAL:—"Mr. President, mismanagement is mismanagement whether it is perpetrated by trustees of small or big temples. The idea with which this Bill is introduced is to prevent mismanagement. Further, it is true it will be very inconvenient to attack the management of these temples; but it seems to me, Sir, that it is much better to have provision to interfere with them—a provision to be used in cases of mismanagement. It is for that reason that this proviso has been added."

Rao Bahadur A. S. KRISHNA RAO PANTULU:—"Sir, I am not at all satisfied with the reasons adduced by the hon. Minister in opposing this motion. I believe that we follow some logical principles in pushing through this Bill. If, as a matter of fact, the Government proceed on the footing that mismanagement is mismanagement relating to all temples, let us have all institutions under control. There is no necessity for Sub-Clause (3) at all. Why they have fixed a limit on the income at Rs. 500 and Rs. 250, I cannot at all understand. Again, I wish to remind the House that though in the original Bill there was no provision for anything like excepted temples, still the distinction was made by the Select Committee in deference to the wishes of zamindars."

The hon. the RAJA OF PANAGAL:—"I rise to a point of order, Sir. I wish to know how the question of excepted temples is relevant in connexion with the discussion on this amendment."

Clause 2—cont.

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Rao Bahadur A. S. KRISHNA RAO PANTULU :—" If my hon. friend had only waited, my next sentence would have made the relevancy clear. Because the hon. the Minister has stated that mismanagement is mismanagement, and that therefore we should have a uniform principle in all cases of mismanagement, I fail to see why there should be a class of excepted temples or *maths*. If we are legislating in the case of different temples and different institutions in that manner, we cannot object to the taking away of this proviso from this clause. Because we have created that distinction in this Bill we have imposed a limit as to the income in Sub-Clause (3) of Clause 2. I would ask the Minister to confine himself to the provisions already embodied in the Bill. Why there should be any further power for extending the operation of the Bill is not plain."

The amendment was put and lost.

Clause 2, as amended, was then put and carried and added to the Bill.

Clause 3.

Clause 3 was put and carried and added to the Bill.

Clause 4.

Clause 4 was put and carried and added to the Bill.

Clause 5.

Sub-Clause (1).

(Amendment No. 21.)

Diwan Bahadur S. Rm. M. Ct. PETHACHI CHETTIYAR :—" Sir, in view of a later amendment of mine suggesting a committee of disciples, I would now but formally move this amendment, viz.—

Omit this Sub-Clause and re-number the subsequent Sub-Clauses."

The hon. the PRESIDENT :—" Probably, it may be convenient to the House that the whole discussion about the existence of the Board is taken up in connexion with the definition in this Sub-Clause, if it is agreed that subsequently, when we come to the various operative clauses of the Bill, we shall abide by the decision arrived at now."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—" May I point out, Sir, that there are various amendments to delete portions of Clauses 6 to 15? In view of the President's ruling on the other amendment it seems to me that the best course will be to take the amendment under Clause 6. The whole question can be discussed under that clause."

The hon. the PRESIDENT :—" I think that the suggestion of Mr. Ramachandra Rao is very sensible. I think that the best place for us to consider the question of the Board will be when we come to Clause 6."

The hon. the RAJA OF PANAGAL :—" I have no objection, Sir."

The hon. the PRESIDENT :—" That being so, the hon. Member Mr. Pethachi Chettiyar will be well advised to withdraw his motion on the understanding that, if later on the House decides not to have a Board, the Government will move a consequential amendment."

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Clause 5—cont.

Diwan Bahadur S. Rm. M. Ct. PETHACHI CHETTIYAR :—" I have no objection to withdraw."

The amendment was by leave withdrawn.

Sub-Clause (2).

(Amendment No. 22.)

Diwan Bahadur S. Rm. M. Ct. PETHACHI CHETTIYAR :—" I formally move the amendment standing in my name:

Add the following at the end of Sub-Clause (2), Clause 5 :—

'so far as non-exempted temples are concerned and includes the committee of disciples so far as the Saiva Siddhanta maths and institutions subject to such maths are concerned'."

The hon. the RAJA OF PANAGAL :—" I object to this amendment, Sir. The question of forming committees is more or less a matter to be taken up when the question of framing schemes is under consideration. It is left to the Board to form committees and to make schemes, and in exercise of that power the Board may consider the desirability of appointing such committees as are contemplated in this amendment."

Diwan Bahadur S. Rm. M. Ct. PETHACHI CHETTIYAR :—" As this question is not in any way related to the decision that the House may come to on the existence of a Central Board, I choose to press it to a division."

The amendment was put and lost.

Sub-Clause (3).

(Amendment No. 23.)

Mr. M. SUNYANARAYANA :—" Sir, I beg to move—

After the words 'District Judge' insert the words 'or the Court of a Subordinate Judge or District Munsif.'

" Sir, the House will observe that the committee to be constituted under the Bill have jurisdiction over all temples other than 'excepted temples' whose gross annual receipts do not exceed Rs. 250; and the Local Government may extend the Bill to these latter class of temples also. I expect thousands of temples of this description in this Presidency. Turning to Schedule II of the Bill, the House will find that there are a number of clauses under which a suit or an application can be filed in court. In item 2 of the Schedule it is stated that an application under Clause 51 (2) authorizes a Board under stated circumstances to frame a scheme for the administration of a temple under the jurisdiction of a committee. Suppose a scheme is prepared in respect of a temple whose annual gross income is Rs. 500. Where is the need for wasting the energy of the District Judge in respect of such a small matter? Besides the matter specially referred to in the Schedule, I take it that there will be a hundred and one other matters in respect of which parties could go to a court. If such suits not specially excepted by the Bill could be tried in a subordinate civil court, I do not see any reason why suits or applications contemplated by the Bill should alone be tried by the District Court."

[Mr. M. Suryanarayana]

[28th March 1923]

Clause 5—cont.

"Sir, we have been complaining that the Sessions and other criminal work are engaging the attention of the District Judges and that they have not sufficient time to attend to civil work. The hon. Member, the Raja of Ramnad, the other day complained that the District Judges who were invested with special jurisdiction in regard to appeals in rent cases were not able to attend to them, with the result that there were heavy arrears. Why should the suits and applications under the present Bill be made to lie to the District Judge when the Subordinate Judges can try suits of an unlimited value, when a District Munsif can try suits up to the value of Rs. 3,000 which include suits in regard to redemption of mortgage, etc.? Why cannot the suits under the Estates Land Act be tried by the Subordinate Judge and a District Munsif having regard to their pecuniary value?"

"With these few words, I beg to commend the amendment for the acceptance of the House."

The hon. the RAJA OF PANAGAL:—"This question was discussed at great length in the Select Committee and the Committee by a majority decided to allow the Bill to stand as it does. But, Sir, I have no objection to accede to the principle aimed at in this amendment provided I am permitted to slightly alter the wording of the amendment."

The amendment of Mr. M. Suryanarayana was by leave withdrawn.

(Amendment No. 24.)

The hon. the RAJA OF PANAGAL:—"Sir, I beg to move—

Add at the end the following:—

'and includes any court inferior in grade to the Court of the District Judge which is specially empowered by the Local Government to exercise within such local limits as may be prescribed by the Local Government the whole or any part of the jurisdiction conferred on a court by this Act.'

The amendment was put and carried.

Sub-Clause (5).

(Amendment No. 25.)

Rai Bahadur T. M. NARASIMHACHARLU:—"Sir, I beg to move—

Omit this Sub-Clause.

Sir, I submit that this provision regarding excepted temples is creating an invidious distinction. It is stated in paragraph 7 of the majority report of the Select Committee:

The trustees of most of the 'excepted temples' on the other hand are zamindars and other wealthy landholders or other persons who have made and, in some cases, continue to make voluntary contributions for their support. They take strong exception to control by local committees and any alienation of their sympathies is likely to affect prejudicially the pecuniary support which the temples have received and are receiving at their hands.

My submission is that this argument is not only invidious but that it is also fallacious. If it is apprehended that the zamindars and landholders will withhold the charity on account of the mere fact that they are controlled by local committees, then their charity is not worth having. On the other hand, if they are really pious and good people they will continue to make

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Clause 5—cont.

contributions. If they really mean to serve God, they will continue their charity without being offended by the control exercised over them by the committee. I submit, Sir, that the Government should not make any invidious distinction between temples which are managed by zamindars and wealthy landholders and those which are not managed by such people. The Government, on the other hand, ought to take a very impartial view of the matter. In this connexion I wish to draw the attention of the House to the remarks made by Sir T. Muttuswami Ayyar's Committee upon this point. The Committee say:

We feel convinced that the limited control we have suggested, while it can in no way interfere with the internal management of temples by hereditary trustees, or diminish the prestige enjoyed by them, is a sufficient check against malversation or improper expenditure. We have arrived at this conclusion not because we think there have been no instances of malversation or laxity of management in the case of temples under the management of hereditary trustees, nor because we think that they are in principle entitled to any concession, but because we know that temples of this kind often receive periodically voluntary contributions of money from the raja or zamindar under whose management they happen to be, and that it is not desirable in the interests of the temples themselves to weaken or destroy such motives by alienating their sympathies.

This shows, Sir, that even the zamindars sometimes misappropriated and that there was sometimes laxity in their administration also. My submission is that no zamindar has got the time or the inclination to attend to the petty details of any such institution and therefore it is all the more necessary why they should also be kept under control. If this House is not going to respect the sentiments of *matadhipathis*, I am surprised why it should respect the sentiments of zamindars."

The hon. the RAJA OF PANAGAL:—"Do I understand the hon. Member to say that under this Bill the status of the trustee of an excepted temple is much better than that of the head of a math?"

Rai Bahadur T. M. NARASIMHACHARLU:—"That is exactly my contention, Sir. Hitherto no distinction was made at all between one temple and another and no maths were included in any enactment. Now, certain temples are constituted as 'excepted temples' and preferential treatment is meted out to them. I submit, Sir, that even from the Government point of view, it would show that they have some partiality."

The RAJA OF RAMNAD:—"Sir, I think the differentiation made in this Bill is not with respect to zamindar owned temples and private people owned temples, but the differentiation made is between temples that existed in 1842 and never came into the management of the Government and temples which actually came into the hands of the Government but subsequently handed over to very many people. That is the differentiation that is made in the Bill. Of course, my hon. friend, Mr. Narasimhacharlu, wants to belittle the importance of zamindars and other landholders. He complained that the zamindars would not have the required time to attend to the duties of trustees of temples. I can only say that experience has shown that they did find the time and also the required money. Many of such temples are even to this day under the control of zamindars without any complaints made against them. They had the time to found most of these temples; they had the time to endow them and lavish their wealth on them and they had the time to manage them down to this date; and, as I have already stated in my speech during the first reading of the Bill, it is not right that these

[The Raja of Ramnad]

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Clause 5—cont.

facts should be forgotten. It is not just on the part of communities who have never in their life thought of contributing even a single pie to these temples to belittle the importance of a community such as that of the zamindars and the landholders who have spent so much of their wealth on these temples. It is not fair to ask this House not to make any differentiation between the zamindars and the ordinary people. I therefore not only oppose this motion, but also appeal to hon. Members to show that consideration which the zamindars and landholders are legitimately entitled to."

The hon. the RAJA OF PANAGAL:—"I am rather surprised at the attitude of the hon. Member from Cuddapah. I cannot for a moment understand why he characterises this particular class of temples as temples endowed by zamindars and landholders. There may be as many temples endowed by merchants and even vakils. It is not in favour of zamindars and landholders that this exception is made, but it is in favour of the temples of a defined class. That, Sir, ought to be borne in mind in considering this particular question."

"My hon. friend says that invidious distinction has been drawn between temples and temples. But the distinction exists in spite of and even against any attempted legislation. There are temples endowed and managed by the State and there are also temples endowed and managed by others. If a temple which had been managed by the State was handed over subsequently to a private individual, then the claim of that individual to continue in the absolute management of that particular temple is not the same as that of another whose ancestors having endowed the temple continued to manage its affairs."

"Apart from this there is yet another consideration which is very important. If to-day we say that the endowments which are maintained, not from the funds of the endowments, but from annual gifts from some of the wealthy people, be they zamindars or others, are included in the category of the committee-managed temples, there would be difficulty: who is to maintain these temples? I am afraid, Sir, that the committee may not pay out of their own pockets funds to maintain such temples. This exception therefore has been made more or less as a matter of administrative expediency. In this connexion I may say, Sir, that Lord Carmichael, who was responsible for one of the Bills on this subject, draws a distinction in the case of these temples and says that they should not at all be brought under the operation of the Bill. Again, Sir, Sir T. Muthuswami Ayyar, who was responsible for a similar Bill, also proposed to make an exception in the case of such temples; so too the late Mr. Chengal Rao. The present Government have only followed the policy. Sir, I cannot accept the amendment."

Rai Bahadur T. M. NARASIMHACHARLU:—"Sir, the hon. the Minister said that this Clause applied not to the zamindars but to particular temples, and that there were temples endowed by merchants and vakils."

The hon. the RAJA OF PANAGAL:—"I said 'there may be', Sir."

Rai Bahadur T. M. NARASIMHACHARLU:—"Only, Sir, that 'may be' is a mere hypothesis."

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Clause 5—cont.

The hon. the RAJA OF PANAGAL:—"If there are not, Sir, I am only sorry for it. But that only adds so much to the credit of the class whom my hon. friend wants to condemn."

Rai Bahadur T. M. NARASIMHACHARLU:—"Anyhow, there is no such mention made here, Sir. Only zamindars are mentioned here. I am not at all imagining a thing and saying it; I only quote from paragraph 7 of the Report which speaks distinctly of the zamindars and other wealthy landholders. Therefore, I say that specifying these people and excepting the temples which they manage, amounts to an invidious distinction. It may no doubt be true that their ancestors might have endowed these temples, but as true descendants of those ancestors, I expect them to be pious."

The hon. the RAJA OF PANAGAL:—"It is not for this Government or any legislative body to dictate piety to others."

Rai Bahadur T. M. NARASIMHACHARLU:—"Yes, Sir, we do not certainly expect piety to come from dictation; it must be inborn. Then again, Sir, it is feared by the Government that if these temples are not excepted, the zamindars will cease to give their annual gifts; but I am very doubtful about this. People who have been giving every year some amount to a temple will be bound to give it year after year."

The hon. the RAJA OF PANAGAL:—"Are they legally bound?"

Rai Bahadur T. M. NARASIMHACHARLU:—"Such a temple has got a legal claim over the purse of the zamindar. Therefore, Sir, we need not at all take notice of this threat from the zamindars, and if the zamindars are likely to withhold the gift simply because the temple is not excepted, then that gift is not worth having. Let us have a temple without their gift rather than with it."

The amendment was put and lost.

(Amendment No. 26.)

Rao Bahadur T. NAMBERUMAL CHETTIYAR:—"Sir, I beg to move the following amendment:—

For Sub-Clause (5), substitute the following:—

(5) "Excepted temple" means a temple which at the time of the commencement of this Act is under the management of a hereditary trustee."

In this connexion I should like to say, Sir, that the year 1842 appears to have been arbitrarily fixed. When hereditary temples founded since the year 1842 have been classed as 'excepted temples', there is no reason why temples founded before that date and which are under the administration of hereditary trustees since 1843 should not be accorded the same treatment. There are trustees who have been in possession for nearly 80 years; and 60 years of adverse possession enables a person to claim a prescriptive right even as against the Government, not to speak of the period of 20 years which is sufficient to vest such prescriptive right as against individuals. I may also point out that in the previous Report of the Bill prepared in the year 1863, it is clearly stated, as being the opinion of some of the eminent gentlemen who constituted that Select Committee, that such temples should be excluded

[Mr. T. Namberumal Chettiyar]

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Clause 5—cont.

from the purview of the Bill. Apart from that, it is not stated anywhere that in the year 1842 alone the Government divested itself of all their powers in respect of the temples. They began gradually to abandon their rights and not until the year 1844 or 1845 did the entire abandonment take place. I would therefore suggest that my amendment should be substituted for (a), (b) and (c) of Sub-Clause 5.

"I may also submit, Sir, that there is a general impression among persons who will be affected by the introduction of this Bill that the object of the legislature in fixing the year 1842 is to bring in the Tirupati temple, whose income is something like 14 lakhs a year, within the purview of the Bill. Before the scheme under which the temple is now being administered was prepared, the income of the Tirupati temple was only about 4 lakhs or so; but under the scheme the temple began to improve and at present its income has risen to something like 14 lakhs or so. Instead of excluding that temple, it is a pity to ask it to contribute a percentage towards the expenses of the Board and the committees that are to come into existence under the Bill."

The hon. the RAJA OF PANAGAL:—"Sir, the hon. mover of this amendment wanted to make out a case that the line of demarcation is rather arbitrary. It is not arbitrary, Sir; it is quite scientific. In the year 1842 the Government came to the conclusion that they should be divested of the management of all temples and they began to give them away from that time. So, those temples which before the year 1842 were State-managed temples came into the hands of individuals who really were not the endowers of their property or their descendants. I am very sorry, Sir, that my hon. friend should have singled out persons who are likely to be affected by this legislation and suggested that the object of the framers of this legislation is to bring a particular institution under the operation of this Bill. I am afraid, Sir, he is not justified in making that remark. As a matter of fact, Sir, that particular institution which he has referred to has been the subject of very serious comments ever since this legislation to amend the Act of 1863 was thought of. The hon. Mr. Rama Ayyangar in his report refers to the management of this temple and takes the Government to task for having allowed a single individual, an irresponsible individual, to be in management of this celebrated temple with very large incomes both from the landed properties and from gifts from the public. Sir, judging from the experience of the past, this particular institution requires the protection of legislation. During the last 30 years, that is to say during the time of the three predecessors of the present manager, or trustee, there have been cases in which their management has been questioned seriously."

The hon. the PRESIDENT:—"I do not think that the hon. the Minister can go into such great details with regard to one temple though he can refer to it as an instance; because if we begin to go into the merits of the management of the Tirupati temple, it will be rather going too far."

The hon. the RAJA OF PANAGAL:—"It is not my idea, Sir, to go into such details, but since my hon. friend referred to the temple, I wanted to explain matters."

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[The Raja of Panagal]

Clause 5—cont.

"In these circumstances, it is evident, Sir, that it is not the intention of Government to single out this or that institution for bringing it under the management of the Committee, but it is only to bring a class of institutions under its management."

Rao Bahadur T. NAMBERUMAL CHETTIYAR:—"Sir, since that temple is now working under a scheme which provides simple means of rectifying all irregularities, if at all the State wants to interfere with its management, the High Court can as well be moved to review the scheme instead of duplicating the machinery of control. But, Sir, it may be contended that such references to the Court would mean a lot of time; but I understand that preference is to be given to temple suits in the same way as criminal suits are preferred to civil suits. The scheme management appears to provide against all sorts of contingencies. I therefore press my motion."

The amendment was put and lost.

(Amendment No. 27.)

Mr. T. SOMASUNDARA MUDALIYAR:—"Mr. President, the amendment standing against my name reads as follows:—

(a) For items (a) and (b) substitute the following:—

"(a) a temple which before 1801 was, and since 1863 has continued to be, under the sole management of a trustee whose nomination did not vest in, nor was exercised by, Government, nor was subject to the confirmation of the Government or of any public officer."

(b) Re-letter the subsequent item (c).

Since the abandoning of the temples began only in 1842—and it cannot be positively said that all temples were handed over in 1842 itself—and as it is well-known that the properties of many temples were handed over long after, it is necessary to fix another later date. I therefore move my amendment."

The hon. the RAJA OF PANAGAL:—"Sir, there is some force in my hon. friend's contention. I have no objection to accept the amendment, provided after the word 'by' and before the word 'Government' the definite article 'the' is inserted. The second part of the amendment is only a verbal change in the lettering of the item."

The amendment, as altered by the Raja of Panagal, was put to the House and carried.

(Amendments Nos. 28, 29 and 30.)

The hon. the PRESIDENT:—"Amendments Nos. 46 and 46-A on the agenda go out because the words 'in 1842' do not occur anywhere in the new amended Sub-Clause. At present, I can only go according to the agenda paper."

Diwan Bahadur L. A. GOVINDARAGHAYA AYYAR:—"I am only referring to the agenda paper. I wish to move the amendment (No. 46-A) standing in my name."

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Clause 5—cont.

The hon. the PRESIDENT :—"The hon. Member will please permit me to finish what I was saying. The hon. Member's proposal is :

In item (a) for the words 'in 1842' substitute the words 'at the time of the passing of the Act XX of 1863'.

"The words 'in 1842' occur nowhere in item (a) as now amended."

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—"What I wish to mention is this : Of course, in giving notice, I can only go upon the Bill as it stands and therefore it was that I had to mention 1842. Now that this has given place to another date, if I may respectfully say so, Sir, you should allow me to move my amendment, the amendment being that all temples the appointment of the trustees of which did not vest in Government at the time of the passing of Act XX of 1863, must be considered as excepted temples. I quite agree that if the spirit of this amendment is opposed to something which has been already passed, I am not entitled to move it. As a matter of fact all that I am seeking is to add to the class of excepted temples and therefore it is I wish to move my amendment. I wish that not merely temples which had a hereditary trustee and were founded before 1801 and subsequent to 1863 should be considered as excepted temples, but also those which have had a succession of hereditary trustees from 1863 onwards."

The hon. the PRESIDENT :—"All the same the hon. Member is out of order. As a matter of fact, I have nothing to do with the intentions of hon. Members when they give notices of amendments. I can only put amendments as they come up. The hon. Member will remember that when the previous amendment was taken up I advisedly asked, 'Does any other hon. Member wish to speak on the subject?' meaning particularly those hon. Members who had given notices of motions which would automatically go out. That was why I took the somewhat unusual course of inviting hon. Members who had not spoken to speak on the subject. That was not an accidental statement at all. What the hon. Member should have done I had better explain now so that it may be of help to other hon. Member also. When hon. Members find that a motion which would turn them out of order is coming on before the House they should at once rise and speak against it or put forward their suggestions as amendments to that motion. Now, it is too late for the hon. Member Mr. Govindaraghava Ayyar, and I am awfully sorry I have to rule him out of order."

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—"With regard to 47-A I do not think you will allow me to move it, because I take it, that it is covered by the previous motion."

The hon. the PRESIDENT :—"The hon. Member is technically entitled to do so."

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—"I do not move amendment No. 47-A, viz., to omit item (b)."

The amendment was deemed to have been withdrawn.

(Amendment No. 31.)

Mr. C. V. VENKATARAMANA AYYANGAR :—"Since the amendment of Mr. S. Somasundara Mudaliyar has been carried, my amendment would have to be re-lettered and read thus :

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Clause 5—cont.

For item (b) substitute the following :—

'(b) a temple which is managed by a hereditary trustee.'

The hon. the RAJA OF PANAGAL :—"It is not substitution, it is addition that he wants."

Mr. C. V. VENKATARAMANA AYYANGAR :—"I simply want to say one or two words so as to point out that there is some difficulty in the matter of temples founded since 1842 in respect of succession and so on. That is to say the temples which would come under this particular class should have been founded after 1842. Supposing there is a temple founded before 1842, but managed by a trustee only since 1842, this temple would not be in a better position than a temple founded only two years ago. The class of excepted temples, as it is now defined, would be confined only to temples which have been recently founded and not temples which were existing before 1842 and which have only recently adopted the policy of having hereditary trustees. So that the words 'founded since 1842' do not put the latter class of temples in a better position even though they are much older and much more revered than the new temples."

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—"Sir, I rise to a point of order. I think this amendment is covered by the other one that has already been passed, viz., the one proposed by Mr. Somasundara Mudaliyar. If this amendment includes anything which is inconsistent with that amendment I submit, Sir, everything else will go. This will also be out of order."

Mr. C. V. VENKATARAMANA AYYANGAR :—"I am sorry that the hon. Member should have raised this objection at all. It is certainly not correct to say that. What I was going to say was that it was simply to remove the anomaly I referred to above that I had proposed this amendment. My hon. friend Mr. Govindaraghava Ayyar seems to have the Tirupati temple in his mind."

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—"I have not had only the Tirupati temple in mind."

Mr. C. V. VENKATARAMANA AYYANGAR :—"I have in mind so many temples which have been founded after 1841. Some of these are at this time managed by hereditary trustees. I simply say that the words 'founded since 1842' may affect temples which are older than those which will not be affected."

The hon. the RAJA OF PANAGAL :—"Prima facie, the amendment is against the spirit of the resolution which has already been passed. I cannot understand what my hon. friend means by saying 'temples managed by hereditary trustees'. There may be a hereditary trustee in regard to certain other trusts. He may be a trustee of a trust of which he or his ancestor is not the endower. In other words 'A' may be the hereditary trustee of a school. If he happens to come in possession of the management of a temple after 1842, does the hon. Member want that he should have the same privilege as one who endowed a temple or who held it before 1842? I cannot understand what my hon. friend aims at. I therefore oppose his amendment."

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Clause 5—cont.

MR. J. V. VENKATARAMANA AYYANGAR :—" My answer is this: The Bill, as it is, only provides for temples held by trustees after 1842. There may be temples managed by hereditary trustees before 1842. The Bill will not touch such temples."

The motion was put and lost.

(Amendment No. 32.)

RAO BAHADUR A. S. KRISHNA RAO PANTULU :—" Sir my amendment is: To omit the words 'founded since 1842' from item (c)."

If this amendment is carried, the item will read as follows:

'(c) a temple the right of succession to the office of trustee whereof is hereditary or specially provided for by the founder.'

The only point which we have to consider in dealing with this amendment is the circumstances which led to the fixing of the year 1842 as the criterion for making this definition. The hon. the Raja of Panagal in dealing with the previous amendment stated briefly the circumstances under which that year was fixed. I may draw the attention of the House to the Report of the Select Committee and to the remarks appearing in paragraph 7 of that Report. It gives us an idea of the reasons which induced the Committee to adopt the year 1842 as the dividing factor for the purpose of deciding what are excepted temples and what are not. This is what is stated in the report:

Even among temples in sole charge of hereditary trustees the Bill will exclude cases where the hereditary character of the trusteeship came into being for the first time after 1842. The year 1842 has been chosen as that was the year in which Government began abandoning their control over temples in pursuance of the orders of the Court of Directors directing severance of connexion with all idolatrous institutions. When handing over the institutions which had previously had no hereditary trustees, the Government started in certain cases a new line of hereditary trustees after 1842, and we consider that institutions in the sole charge of such trustees are not entitled to any privileged treatment.

The only reasons suggested by the Select Committee are that in 1842 the Government adopted a different attitude regarding the management of these institutions which till then lay in their hands. I think this cannot be taken as the criterion. Let me remind the House that in 1842 action was taken only as a matter of accident. We have no reason to suppose that what happened in 1842 could not have happened in other years. So it practically amounts to fixing that year arbitrarily. Let us also remember that since that year various changes have taken place and in 1863 we had the Religious Endowments Act of 1863. In view of the above and in view of the subsequent events, why we should go back to 1842 is a position which I cannot understand. If the hon. the Raja of Panagal cannot satisfy us that for fixing the year 1842 as the criterion there are reasons other than that of the accident of the Government's change of attitude, there is no justification for adopting that year arbitrarily. It is not necessary on this motion, as it was done unfortunately on a previous motion, to discuss about any particular institution at all. I think the hon. the President has correctly given the

4-15 p.m.

ruling that in amendments of this sort, questions relating to particular institutions should not come. Therefore, taking the question generally, may I ask whether we are going to have the year 1842 as the starting point because the Government took a certain action in that year? It would be much more reasonable if the Government had started

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Clause 5—cont.

from the year 1863 when there was a regular enquiry in regard to these religious questions. Again, a period of 80 years is too long a period to consider in dealing with these questions. There have been various Bills afterwards such as the Bill of 1872, the Bill of 1886, and other subsequent legislative measures. Therefore, to fix a period of 80 years is, I think, very unreasonable and unfair, because even in respect of ordinary matters, limitation period of 12 years is fixed. Therefore, to fix a period of 80 years for this question is altogether unreasonable."

The hon. the RAJA OF PANAGAL :—" I have already explained that the year 1842 has not been arbitrarily chosen, and that it was thought of because in that year the Government decided upon handing over the State-managed temples to private persons for management. Besides, Sir, in all the previous Bills that is the year that has been referred to as the starting point, and that is the reason why I have adopted the same year here."

The amendment was put to vote and lost.

(Amendment No. 33.)

DIWAN BAHADUR M. RAMACHANDRA RAO PANTULU :—" I beg to move—

- (i) At the end of item (c) substitute a semi-colon for the full stop and add the word 'or'.
- (ii) Add the following as item (d) :—
'(d) a temple in respect of which a scheme for administration has been framed by a court of competent jurisdiction'.

Hon. Members will see that there are two classes of temples included in the definition of 'excepted temples' and this will be a third class. As the Bill is framed, hon. Members will see that there are two methods of administration: one by the committee, and the other by the Board of Commissioners. Of course, the question of the Board of Commissioners has not yet been decided. The Bill proceeds on the assumption that there should be two methods of administration and control, and I suggest by this amendment that those temples whose administration has been conducted in accordance with the schemes framed by the courts should be placed in the category of the less rigorous control to be exercised by one of the two bodies mentioned in this Bill, namely, the Board. I may say, for example, that there are temples of all-India importance like the temple of Rameswaram for which schemes have been framed. I believe there is a scheme for the temple at Madura."

The RAJA OF RAMNAD :—" Not yet in Madura."

DIWAN BAHADUR M. RAMACHANDRA RAO PANTULU :—" It ought to have been framed. I express my desire for a scheme. Then as regards Conjeeveram temple, for which a scheme has been framed, I think it is in good working order. I believe there is a scheme in Srirangam temple which is being worked out. Then there is Tirupati. All these are temples in Southern India where administration has been carried on under schemes framed by competent courts, and I submit that if there is to be any variation made in these schemes then the fact that these temples are being now included in the category of 'excepted temples' will not prevent the framing of other schemes. If these temples have been administered under the direction of courts for all

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Clause 5—cont.

these years, it seems to me that it would be far better to pull them out of the control of the local committees and place them on the much more elastic body, namely, the Central Board which the Minister has in view, and whose inclusion in the Bill has yet to be decided. I therefore suggest that these temples should come under the category of 'excepted temples' and that I think will not in any way interfere with the general scheme of this Bill."

The hon. the RAJA OF PANAGAL :—"The classification is based not upon whether any scheme was framed in regard to particular temples, but whether a particular temple was a privately endowed temple, or was managed by the State and handed over to trustees. My hon. friend has referred to the fact that some of these are very important temples. That only goes to show why it is more necessary to bring these temples under proper control. Sir, for these reasons I am sorry I cannot accept his amendment."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—"My hon. friend has really missed the point of my argument, and that is, that those temples which are working under schemes would be pulled out of the contentious local committees. I do not say that they should be let off without any control. But I say that they should be controlled by a much more responsible body which my hon. friend wishes to introduce by this Bill. I may say, Sir, with the knowledge that I possess of these temples, that they are of an all-India character, that their affairs are very large, that their incomes are pretty good, and that their general administration is certainly much more important, though not so important to the particular locality. I do not think my hon. friend can say that a temple like that of Rameswaram or Madura can be managed by a local committee. I am mentioning a certain class of temples. There may be others. All that I am submitting is, that these are important institutions, and the best method of managing them is to bring them under the category of 'excepted temples' and manage them by a body which it is proposed to constitute under this Bill. My hon. friend knows that it is very easy to get the local committees to quarrel and disorganize the whole thing much to the discredit of the religious institutions. I really do not see how my hon. friend has met my point."

The hon. the RAJA OF PANAGAL :—"My hon. friend says that to bring them under the management of committees is to disorganize them. I do not think so. If my friend thinks otherwise I can only say that all those who in their previous Bills wanted to have the constitution of these committees must have erred along with me. There is one doubt which I have. Is it the contention of my hon. friend that, if the trustee of a temple for the management of which a scheme has been framed happens to be a non-hereditary trustee, that temple should go under the category of 'excepted temples'? Sir, in the framing of the scheme either on account of the collusion of the parties or of some other accident there might have been a mistake. Are we to allow the collusion or the accident to be taken advantage of by the trustees of such temples? I think the hon. Member wants to introduce a risky test, and I am not prepared to agree to it."

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—"It is somewhat difficult to follow the arguments of my hon. friend, the Raja. My hon.

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Clause 5—cont.

friend, the Leader of the Opposition, has raised a point very neatly. It was this: Schemes have been framed for certain temples which are not merely of local importance but of all-India importance. And it has already to be presumed that you have got schemes and that routine administration has been provided for; so that questions which are likely to arise again in connexion with scheme temples are questions more or less of a larger character which you can entrust to a Central Board with more confidence than to a local committee. The local committees are likely to be largely influenced by factious considerations. If, as a matter of fact, there is faction in a certain place—let me take it that in most of these places there will be factions—the Central Board or a Court will have a better opportunity, and it is possible that we may take them to possess a higher capacity than the members of the local committees. For the purpose of correcting any such matter and also in view of the fact that these temples are of an all-India importance, my hon. friend has suggested that the object of having these excepted temples could be very satisfactorily achieved by putting such temples for which schemes have already been framed in the category of 'excepted temples' than allowing them to be placed under the management of committees. That is really his point. As a matter of fact, schemes have done some work which the committees are expected to do in respect of these temples. It may be there are errors in the schemes that can be much better set right by a Board and by a recommendation coming from the Board. For that purpose it seems to me that the House would be well-advised in accepting this amendment."

Mr. A. RAMASWAMI MUDALIYAR :—"I rise to oppose the amendment that has been moved by my hon. friend, Mr. Ramachandra Rao. 4-30 p.m. Sir, the classification which has been adopted in our definition of excepted temples is a classification based upon the question as to who founded the temples. What he wants to bring in does not relate to that idea. It relates to all temples in respect of which schemes have been framed, whether big or small, and however unimportant they may be. The privilege that is sought to be given under the Bill is a privilege to the donor who has done some service to the public by endowing large properties from his private income on these temples. The privilege that my friend wants to maintain is for temples in respect of which schemes have been already framed and which *a priori* have been found to be mismanaged in some cases. As regards the question of throwing the scheme temples to the contentious local committees, I should like to draw the attention of my friend to Clause 16 by which the local Government constitutes committees for these temples. Under that clause sufficient care is taken to direct the constitution of a committee for any temple or temples or any class of temples, and to provide a particular electorate or a particular electoral area. Then if the local Government take into consideration some of the temples of all-India concern, they direct not localised committees but committees of a more extended and varied character. Lastly, I should like also to point out that in the Bill, as it is now framed, scheme temples are specially provided for and when the schemes now provided are considered to be schemes framed under the Bill it is the Board alone that can change these schemes. Under all these circumstances I oppose the amendment."

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Clause 5—cont.

Diwan Bahadur M. RAMACHANDRA RAO PANTULU:—"I think my hon. friend Mr. Ramaswami Mudaliyar has slightly misunderstood me. It is exactly the reason that he mentioned last that induced me to table this motion."

Rai Bahadur N. GOPALASWAMI AYYANGAR:—"May I point out that the Board can under the Bill frame a scheme in the case of excepted temples also?"

Diwan Bahadur M. RAMACHANDRA RAO PANTULU:—"I do not wish to say anything different from what my friend Mr. Gopalaswami Ayyangar has said. I think we should have had this illuminating argument at an earlier stage. But he has denied it to us."

The motion was put and lost.

A poll was demanded and the House divided as follows:—

Ayes.

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| 1. Diwan Bahadur M. Ramachandra Rao Pantulu. | 7. Rai Bahadur T. M. Narasimhacharlu. |
| 2. " L. A. Govindaraghava Ayyar. | 8. Diwan Bahadur D. Seshagiri Rao Pantulu. |
| 3. Rao Bahadur A. S. Krishna Rao Pantulu. | 9. Mr. R. Srinivasa Ayyangar. |
| 4. Mr. P. Siva Rao. | 10. Diwan Bahadur Govindoss Chathurbhaja Doss. |
| 5. " C. V. Venkataramana Ayyangar. | 11. Rao Bahadur P. Namburumal Chettiyar. |
| 6. " M. Suryanarayana. | |

Noes.

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| 1. The hon. Sir Charles Todhunter. | 25. Mr. M. Narayanaswami Reddi. |
| 2. " Khan Bahadur Sir Muhammed Habib-ul-Jah Sahib Bahadur. | 26. Rao Bahadur C. Natesa Mudaliyar. |
| 3. " the Raja of Panagal. | 27. Mr. V. P. Pakkiriswami Pillai. |
| 4. " Rai Bahadur K. Venkatarreddi Nayudu. | 28. " P. T. Rajan. |
| 5. " Rao Bahadur A. P. Patro. | 29. " W. P. A. Saundarapandiya Nadar. |
| 6. " Mr. C. P. Ramaswami Ayyar. | 30. " R. K. Shanmukham Chettiyar. |
| 7. Mr. A. Y. G. Campbell. | 31. " K. Sitarama Reddi. |
| 8. Rai Bahadur N. Gopalaswami Ayyangar. | 32. " T. Somasundara Mudaliyar. |
| 9. Mr. C. Medhavan Nayar. | 33. " S. Somasundaram Pillai. |
| 10. Diwan Bahadur T. N. Sivagnanam Pillai. | 34. " A. Subbarayudu. |
| 11. Mr. E. Periyannayagam. | 35. " P. Subbarayan. |
| 12. Rao Sahib T. C. Pangavelu Pillai. | 36. " V. C. Vellingiri Gounder. |
| 13. Mr. A. Ramaswami Mudaliyar. | 37. Rao Bahadur C. Venkataranga Reddi. |
| 14. Rao Bahadur T. A. Ramalinga Chettiyar. | 38. Diwan Bahadur R. Venkataratnam Nayudu. |
| 15. Mr. S. T. Shanmukham Pillai. | 39. Mr. S. Muttumanikkaachari. |
| 16. S. R. Y. Ankinedu Prasad Bahadur. | 40. " T. Sivasankaram Pillai. |
| 17. Rao Bahadur P. C. Ethirajulu Nayudu. | 41. The Raja of Ramnad. |
| 18. Diwan Bahadur Sir P. Tygaraya Chettiyar. | 42. Mr. Abbas Ali Khan Bahadur. |
| 19. Diwan Bahadur M. Krishnan Nayar. | 43. " A. D. M. Bavotti Sahib. |
| 20. Mr. W. Vijayaraghava Mudaliyar. | 44. Muhammad Abdur Rahim Khan Sahib. |
| 21. Rao Bahadur K. Gopalakrishnayya. | 45. Munshi Muhammad Abdur Rahman Sahib. |
| 22. Mr. J. Kuppuswami. | 46. Khan Bahadur Muhammad Usman Sahib. |
| 23. " B. Maniswami Nayudu. | 47. Rao Sahib M. C. Madurai Pillai. |
| 24. " A. T. Muttukumaraswami Chettiyar. | 48. Mr. G. Vandanam. |
| | 49. Rao Sahib P. Venkatarangayya. |

Eleven hon. Members voted for the motion and 49 against it. The motion was lost.

(Amendment No. 34.)

Rai Bahadur T. M. NARASIMHACHARLU:—"I beg to move—

- (1) At the end of item (c) for the full stop substitute a semi-colon and add the word 'or'.

26th March 1923] [Mr. T. M. Narasimhacharlu]

Clause 5—cont.

- (2) Add the following as item (d):—

'(d) a temple whose sole management since 1842 has continued to be under a trustee whose nomination did not vest in nor was exercised by the Government nor was subject to the confirmation of the Government or any public officer.'

"My point is that, when the Government resolved upon making over the management of these temples, they did it under an agreement and a counter-agreement between the parties. There was no reservation at all in those agreements that the Government would at any time resume the superintendence of these Hindu temples. Now, Sir, after 80 years, for the Government to go back upon their word and assume superintendence of these temples through their local committees, I submit, is wrong in principle. Moreover, to use the language of the Limitation Act, the Government are barred by the Limitation Act in trying to assume management of the temples through the committees. Even in the Act of 1863 these temples were classed under Section 4 and they were not brought under the management of the local committees. Now, Sir, the reason why Act 20 of 1863 was passed was that there was not sufficient and proper check on the temples which were not managed by the trustees. If this reason held good then they could have brought this also. But they thought that they should not go back upon their word and assume superintendence over these temples. Now, Sir, it was suggested that in some of the previous Bills, especially in Sir Muthuswami Ayyar's Bill, this was sought to be included. But I submit, Sir, that at that time the sixty years' rule had not lapsed. Sir Muthuswami Ayyar's Bill was in 1892 or 1893, and Mr. Chentsal Rao's Bill was in 1899. That was within 60 years. Now, Sir, 81 years have passed, and I submit this is a thing which has been given up by agreement between the parties, between the trustees on the one hand and the Government on the other. When there was no reservation or condition to that contract the Government ought not to go back upon their word. Secondly, even in the case of the adverse possession the rule exists only for sixty years. Now we have eighty-one years to the credit of these trustees. Therefore I submit, Sir, it is not proper for the Government to go back upon their word and assume management over these temples."

Mr. T. SIVASANKARAM PILLAI:—"Mr. President, I have heard carefully the discussion that has taken place over the definition of the 'excepted temple'. To my mind the difficulty can be obviated by accepting my amendment notice of which I have given two days back."

The hon. the PRESIDENT:—"I thought the hon. Member rose to support Mr. Narasimhacharlu's amendment."

Mr. T. SIVASANKARAM PILLAI:—"I only wanted to throw out a suggestion."

The hon. the PRESIDENT:—"To whom?"

Mr. T. SIVASANKARAM PILLAI:—"To the President or to the House."

The hon. the PRESIDENT:—"I must apologize. The hon. Member should speak on the amendment before the House."

Mr. T. SIVASANKARAM PILLAI:—"To obviate the difficulty, I suggest this amendment. What I say is only in the shape of a suggestion. If it is agreeable to the House or to the President himself, he may allow the amendment notice of which I have given three days back."

[26th March 1923]

Clause 5—cont.

The hon. the PRESIDENT :—" I understand the hon. Member wants to move an amendment notice of which was given three days ago and which was therefore ruled out. I now call upon the hon. the Raja of Panagal to reply."

The hon. the RAJA OF PANAGAL :—" What I said in regard to the previous amendment more or less applies to this amendment too. The criterion to determine whether a particular temple should be given the status of an 'excepted temple' or not is not the fact that it was for a long time managed by a hereditary trustee but the fact whether it is in the line of the original endowers. Moreover, Sir, my hon. friend said that the trustees in some cases had continued to be for more than sixty years, that the new rule of sixty years' limitation had come in, and that therefore it was not open to the Government to introduce any legislation after 80 years. I do not think, Sir, he is right in his reasoning, because there has been a lapse of 80 years."

"Another point to which my hon. friend has referred is, that the Government handed over the management to certain trustees, and so they should not now go back upon what they had done. But there is no attempt made to take any trust from the management of a trustee. The idea is to impose certain limitations, which, I think, the Government is entitled to do, whenever they think it necessary. Under these circumstances, I cannot accept my hon. friend's amendment."

Rai Bahadur T. M. NARASIMHACHARLU :—" I press this amendment for the simple reason that the Government did not make any such reservation when the management was handed over to the trustees. Not having done so, is it now open to the Government at this distance of time to say 'it is our pleasure to impose limitations and conditions now'?"

The hon. the RAJA OF PANAGAL :—" May I know from the hon. Member whether in the case of permanently settled estates, there was any land-cess levied prior to 1886? If not, is it now open to the Government to levy land-cess?"

Rai Bahadur T. M. NARASIMHACHARLU :—" Unfortunately, the hon. the Minister is not a lawyer. There is absolutely no connexion between the levying of a cess, where there was no agreement between the parties, and this case. Here it is a matter of agreement between the trustee and the Government. The agreement and the counter-part are also translated, printed and circulated to us."

Mr. A. RAMASWAMI MUDALIYAR :—" May I ask the hon. Member if it is not a fact that in the case of some hereditary trustees, the Government did not covenant with them for the proper administration of the trust property?"

The hon. the RAJA OF PANAGAL :—" My hon. friend as a lawyer suggested that I was not a lawyer and that therefore my contention was not good. In spite of it I maintain that there is every connexion and that the analogy is quite good. There was an agreement between the holders of permanently settled estates and the Government that they would not levy any more cess or assessment. So if to-day they are levying additional cesses, they would be going back upon the original agreement."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—" I wish to know, as a point of order, whether the complaint of the zamindars about the levy of additional cesses is in order."

26th March 1923]

Clause 5—cont.

The hon. the RAJA OF PANAGAL :—" It is not a complaint, Sir. I have introduced it only as an illustration to show that it is open to the Government to impose new conditions."

Rai Bahadur T. M. NARASIMHACHARLU :—" If there is any agreement and the Government are levying the cesses against the terms of the agreement, that wrong will not right this wrong."

The amendment was put and lost.

Sub-Clause (6).

(Amendment No. 35.)

Rai Bahadur T. M. NARASIMHACHARLU :—" Sir, I beg to move—

Add at the end the following :

'and includes trustees who succeed each other since 1842 without Government interference.'

"I want to add this clause so that there may not be any difficulty hereafter with regard to the definition of 'hereditary trustee' and confusion may not creep in. Only I wish to make matters clear."

The hon. Rai Bahadur K. VENKATAREDDI NAYUDU :—" Two people cannot succeed each other."

Rai Bahadur T. M. NARASIMHACHARLU :—" When one dies, the other succeeds. If there is any difficulty in the matter of language, the Government have a big beautiful machinery which can make it plain."

Rai Bahadur N. GOPALASWAMI AYYANGAR :—" Mr. President, Sir, so far as the amendment is concerned, it affects the definition of the term 'hereditary trustee'. What the hon. Member apparently wants is that where one trustee has been succeeding another since the year 1842 that should come under the definition of the term 'hereditary trustee'. One trustee must have always succeeded another since 1842. I do not know if the amendment of the hon. Member takes us any further than the definition we find already in the Bill. If he means that where one trustee has succeeded another in a particular order or according to a particular usage, that should be included in the definition of the term 'hereditary trustee', I submit that that is already provided for in the definition in the Bill. But if he wants to reopen under Sub-Clause (6) things which have already been disposed of under Sub-Clause (5), submit that the amendment is out of order."

Rai Bahadur T. M. NARASIMHACHARLU :—" I only wanted to make the matter clear. But as my hon. friend assures me that this is already included in the Bill, I beg leave to withdraw my amendment."

The amendment was by leave withdrawn.

New Sub-Clause after Sub-Clause (6).

(Amendment No. 36.)

Diwan Bahadur M. KRISHNAN NAYAR :—" Sir, in the absence of my hon. friend Mr. Namburumal Chettiar, I desire, with your permission and the permission of the House, to move the amendment standing in his name."

The permission was granted.

Diwan Bahadur M. KRISHNAN NAYAR :—" My thanks are due to you, Sir, and the House for granting me permission to move the amendment. I beg to move—

[Mr. M. Krishnan Nayar] . [26th March 1923]

Clause 5—cont.

(a) *Insert the following as Sub-Clause (7):—*

'Income means the income from landed properties, topos, houses, leases, morais, shares, Government securities, mortgages but not any sums offered by worshippers in the temple daily, or by Utsavagars occasionally at feasts and festivities or contributions towards special objects such as lights with ghee, camphor, moneys, or gilding vahanams and providing gold and silver vessels and jewels.'

(b) *Renumber the subsequent Sub-Clauses.*

"The object of this amendment evidently is to take into account the income derived only from permanent properties such as immovable properties and not from what may be called temporary property. The object is also to respect the wishes of those who make special contribution to the temples."

The hon. the RAJA OF PANAGAL :—"I do not wish to accept this amendment. But so far as the object of my hon. friend, Mr. Krishnan Nayar, is concerned, with regard to the offerings, that question will be considered when the definition of 'Religious Endowment' is taken up for discussion."

The amendment was by leave withdrawn.

Sub-Clause (7).

(Amendment No. 37.)

Omit this Sub-Clause.

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—"Sir, I wish, first of all, to ask your ruling whether it is open to me to move the amendment standing in my name. The question as to whether *maths* come within the scope of the Bill or not has been discussed already."

The hon. the PRESIDENT :—"I am very much obliged to the hon. Member. Of course, the well recognised principle of procedure is that any motion raising substantially the same question as has already been disposed of should not be made. I think that this morning, in another connexion, we dealt with and disposed of the question whether *maths* should come within the scope of the Bill or not. If this amendment is going to raise that question again, of course, it should not be moved. But I do not know whether the hon. Member is going to raise the same point."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—"So far as my amendment is concerned, I gave notice of it with a view to exclude the *maths* from the Bill."

The amendment was therefore deemed to have been withdrawn.

(Amendment No. 38.)

Mr. C. V. VENKATARAMANA AYYANGAR :—"Sir, I beg to move—

Omit the words 'other than a temple or places of religious instruction'.

In Sub-Clause (7) it is stated that the *math* includes places of religious worship other than a temple, places of religious instruction, and so on. Sir, there are several kinds of *maths*: the Saivite *maths*, the Vaishnavaites *maths*, the Saivasiddhanta *maths* and so on; every *math* has got a temple and in every *math* or temple people are allowed to worship. Therefore, by saying that the *math* includes places of religious worship and not a

26th March 1923] [Mr. C. V. Venkataramana Ayyangar]

Clause 5—cont.

temple, we shall be creating a difficulty. There is no important *math* without a temple. I do not know if my hon. friends opposite can tell me if there is any big *math* without some temple or other dedicated to some god or goddess. In all these temples, the *math* money is used for expenses. The *matadhipati* goes into the temple and performs the *puja*. I am not one of those who want *maths* to be excluded completely from the Bill. If

5 p.m. only this Clause remains as it is, the result will be that these *matadhipatis* will be subject to the control of the Board. As it is, anything that they get outside the temple they need not account for, but anything offered inside the temple must certainly be accounted for. Out of the income of the *math* a portion is spent for the temple and it will be very difficult to maintain a separate account for the temple. Therefore the provisions under which the *math* comes will be quite sufficient to include the temples attached to the *math*. Also, there is no *math*, so far as I know, without places devoted to religious instruction, nor is there any *math* without a temple attached to it. Anything done by the *matadhipati*, as giving instruction, paying some money to teachers, etc., should also come under the provisions of the Bill. Therefore, I request the hon. the Minister to give this exclusion to all temples, all places of religious worship and religious instruction. Otherwise, it will be placing unnecessary restrictions on the *matadhipatis* and will give rise to a lot of unnecessary litigation. For what is religious instruction apart from religious worship, and what is a temple apart from a place of religious worship? The purpose will be well served if whatever is connected with the *math*, either places of religious worship or religious instruction, comes under the definition."

The hon. the RAJA OF PANAGAL :—"If the temple referred to by my hon. friend from Coimbatore is a temple in the sense of Devatarchana belonging to a *math*, then it does not come under the definition of temple as defined in the Bill. If, on the other hand, it is a separate entity, then as I have already stated, the criterion is whether it is a temple once managed by the State or it is a temple which was endowed and continues to be in the hands of the head of the *math*. My hon. friend's amendment goes further than that. He wants to exclude all those temples which are under the management of heads of *maths* from the category of those other than the excepted temples."

Mr. C. V. VENKATARAMANA AYYANGAR :—"I have made it very clear that these temples referred to by the hon. the Minister are not coming at all under the definition, but the other temples appurtenant to such institution, although they are inside the *math*, will come under the definition of the temple. I have carefully read the definition of the temple."

The hon. the RAJA OF PANAGAL :—"The criterion is whether the public are entitled to worship or not."

Mr. C. V. VENKATARAMANA AYYANGAR :—"Certainly, if it is a place of religious worship, dedicated to the benefit of the public. So the Saradambal or Narasimhaswami temple or any other temple which is left open and dedicated to a portion of the public comes under the definition."

Rai Bahadur N. GOPALASWAMI AYYANGAR :—"May I ask the hon. Member whether it is his intention that the Lakshmi Narasimhaswami Vighraha for which *puja* is done in the Ahobilam *math* should be brought under the provisions of the Act which relate to temples or under the provisions which relate to *maths*? If it is his idea that it should be brought under the

[Mr. N. Gopalaswami Ayyangar] [26th March 1923]

Clause 5—cont.

temples I can understand his criticism; but if he thinks that that little shrine belonging to the math should be brought under the special provisions of the Act relating to maths, then I think his criticism is without foundation."

Mr. C. V. VENKATARAMANA AYYANGAR:—"I said clearly that I want the Narasimhaswami temple only to come under maths. I did not want it to come under temples. Unfortunately, as it is, it comes both under temples and under maths."

Rai Bahadur N. GOPALASWAMI AYYANGAR:—"The definition means that a scheme like the Narasimhaswami Vighraha for which *puja* is done will not be a temple within the definition of temple in the Bill, but will be a place of religious worship which is appurtenant to the math but is other than a temple. I think the English is perfectly clear."

Mr. C. V. VENKATARAMANA AYYANGAR:—"I certainly differ. The wording is 'a place of public religious worship and dedicated to or for the benefit of' the public. This Narasimhaswami temple is dedicated for the benefit of the public and it certainly comes within the definition of temple."

The motion was put and lost.

Mr. C. V. Venkataramana Ayyangar demanded a poll and the House divided as follows:—

Ayes.

1. Mr. C. V. Venkataramana Ayyangar. | 2. Mr. A. Ranganatha Mudaliyar.

Noes.

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|--|---|
| 1. The hon. the Raja of Panagal. | 26. Mr. P. T. Rajan. |
| 2. The hon. Rai Bahadur K. Venkatarajdi Nayudu Garu. | 27. " W. P. A. Saundara Pandiya Nadar. |
| 3. Rai Bahadur N. Gopalaswami Ayyangar. | 28. " R. K. Shanmukham Chettiyar. |
| 4. Mr. C. Madhavan Nayar. | 29. " K. Sitarama Reddi. |
| 5. Diwan Bahadur T. N. Sivagnanam Pillai. | 30. " S. Somasundaram Pillai. |
| 6. Mr. E. Periyannayagam. | 31. Dr. P. Subbarayan. |
| 7. Rao Sahib T. C. Tangavelu Pillai. | 32. Diwan Bahadur K. Suryanarayanamurti Nayudu. |
| 8. Mr. A. Ramaswami Mudaliyar. | 33. Mr. V. C. Vellingiri Gounder. |
| 9. Rao Bahadur T. A. Ramalinga Chettiyar. | 34. Rao Bahadur C. Venkataranga Reddi. |
| 10. Mr. S. T. Shanmukham Pillai. | 35. Diwan Bahadur R. Venkataratnam Nayudu Garu. |
| 11. Diwan Bahadur S. R. M. Ct. Potkachi Chettiyar. | 36. Mr. S. Muttumanikkachari. |
| 12. Mr. K. Adinarayana Reddi. | 37. Rai Bahadur T. M. Narasimhaachari. |
| 13. S. R. Y. Ankinedu Prasad Bahadur. | 38. Diwan Bahadur D. Seshagiri Rao Pantula. |
| 14. Rao Bahadur P. C. Ethirajulu Nayudu. | 39. The Raja of Ramnad. |
| 15. Sir P. Tyagaraya Chettiyar. | 40. Abbas Ali Khan Bahadur. |
| 16. Diwan Bahadur M. Krishnan Nayar. | 41. A. D. M. Bayotti Sahib. |
| 17. Rao Bahadur O. Panikachala Chettiyar. | 42. Muhammad Abdur Rahim Khan Sahib. |
| 18. Mr. W. Vijayaraghava Mudaliyar. | 43. Sayid Diwan Abdul Razaak Sahib. |
| 19. Rao Bahadur K. Gopalakrishnayya. | 44. Khan Bahadur Muhammad Usman Sahib Bahadur. |
| 20. Mr. J. Kuppuswami. | 45. Rao Sahib M. C. Madurai Pillai. |
| 21. " B. Muniswami Nayudu. | 46. Mr. G. Vandanam. |
| 22. " A. T. Muttukumaraswami Chettiyar. | 47. Rao Sahib P. Venkatarangayya. |
| 23. " M. Narayanaswami Reddi. | |
| 24. Rao Bahadur C. Natesa Mudaliyar. | |
| 25. Mr. V. P. Pakkiriswami Pillai. | |

Two voted for and 47 against. The motion was lost.

The House adjourned at 5-10 p.m. to meet again at 11 a.m. next day.

L. D. SWAMIKANNU,
Secretary to the Legislative Council.

The Council re-assembled at the Council Chamber, Fort St. George, at 11 a.m. on Tuesday, the 27th day of March 1923, the hon. Diwan Bahadur Sir P. RAJAGOPALA ACHARIYAR, K.C.S.I., C.I.E., President, presiding.

I

QUESTIONS AND ANSWERS.

[Order made by the President of the Madras Legislative Council under Standing Order No. 15—

(1) Printed copies of the questions and answers to be put and given at a meeting of the Council shall be placed on the Council table an hour before the President takes his seat.

(2) The questions shall be put and answered in the following manner:—

The Secretary shall call the name of each interpellator in alphabetical order, specify the serial numbers of his questions, and make a sufficient pause to allow him or any other member a reasonable opportunity of rising in his place if he is desirous of asking a supplementary question. Supplementary questions must be put immediately after the principal questions to which they relate.]

Money rewards to distinguished soldiers.

924 Q.—Rao Bahadur M. C. RAJA: Will the hon. the Home Member be pleased to state the names of soldiers who have been granted money rewards instead of land grants and the total amount of expenditure incurred thereby?

A.—The names of soldiers who have been already granted money rewards instead of the land granted to them for distinguished service in the late war are given in the list below. The charges in connexion with these money rewards are borne by the Central Government and this Government have no information regarding them.

List.

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| 1. Naick Madurappa Thevar. | 17. Sepoy Kondasami Nayudu. |
| 2. Sepoy Olaganathan. | 18. Subadar Narayanasami. |
| 3. " Ponnusami. | 19. Havildar Somasundaram. |
| 4. Naick Vijayarangam. | 20. " Chidambaram. |
| 5. Sepoy Annasami. | 21. Sepoy Marimuthu. |
| 6. " Patchappen. | 22. Subadar Subramoni. |
| 7. " Perumal. | 23. Havildar-Major V. N. Murugesan. |
| 8. " Ponnusami. | 24. Havildar Anthony. |
| 9. Lance-Naick Chinnappan. | 25. " Narayanasami. |
| 10. Sepoy Hussain Beg. | 26. Private Shaik Dawood. |
| 11. " Kotayya. | 27. " Chinniah. |
| 12. " Shaik Mahmud. | 28. Jamadar Palavesa Thevar. |
| 13. " Appadorai. | 29. Havildar Mothusami. |
| 14. Jamadar Ghulam Mohiuddin. | 30. Subadar Ramaswamy. |
| 15. Lance-Naick Sankarayya. | 31. Private Raman Nair. |
| 16. Naick Perumal. | 32. Havildar Chappuni Nair. |

Formation and closure of local boards since the advent of the new Ministry.

925 Q.—The RAJA OF RAMNAD: Will the hon. the Minister for Local Self-Government be pleased to state—

(1) how many new municipalities and new union boards have been created since the formation of the Ministry and how many closed; and

(2) from how many districts proposals for the formation of new municipalities and union boards were received, and how they have been disposed of with reasons, as far as possible, for the decision taken?

[27th March 1923]

- 4.—(1) One municipality and one union were created. Two municipalities and 46 unions were abolished.
- (2) Proposals for the formation of new municipalities were received from four* districts and those for union boards from five† districts. Sanction was accorded for the constitution of one union board, but it was subsequently abolished. The other proposals were not approved mainly for the reason that public opinion was strongly against them. In some cases one or other of the following reasons prevailed :—
- (1) Impossibility of securing suitable councillors and chairman.
 - (2) Illiteracy and the agricultural nature of the population.
 - (3) The smallness of the extent and the population.

II

COMMUNICATION TO THE COUNCIL.

The SECRETARY laid on the table a copy of the order of the hon. the President delegating his powers under the Standing Orders to the Deputy President.

Order by the Hon'ble the President dated the 26th March 1923.

Under Standing Order No. 79-A, I hereby delegate all my powers under the Standing Orders to the Deputy President, Diwan Bahadur P. Kesava Pillai Avargal, to be exercised by him during my absence from Madras.

P. RAJAGOPALA ACHARIYAR,
President, Madras Legislative Council.

III

THE FINANCE AND RETRENCHMENT COMMITTEES.

The hon. Sir CHARLES TODHUNTER :—“ Mr. President, in lieu of making the usual motion under Resolution No. 17 passed at the meeting of the 1st April 1921, I beg to make the motion standing in my name on the notice paper, namely—

That the Council do request the existing members of the Finance and the Retrenchment Committees to continue in the exercise of their functions.

These, as the Council are aware, are not statutory committees, although a majority of their members are elected by the House. The reason for which I make the suggestion that they should continue is that the members of the Finance Committee, having been constituted at the instance of the House into members of the Retrenchment Committee, are now in the midst of a very far-reaching enquiry, and it is important that they should continue without a change of personnel, which might involve the recommencement of a part or the whole of it. This is so in the case of the Retrenchment Committee only. As regards the Finance Committee, there is no reason why we should not elect the committee as usual, and I am quite ready to make a motion to that effect if such is the wish of the House; but it seems hardly worth while to do so since the amount of work that is likely to fall to be done

* South Kanara, Ramnath, Salem and Vizagapatam.

† Coimbatore (Andiyur), Guntur, Tanjore, Chingleput and Madura.

[27th March 1923]

[Sir Charles Todhunter]

before the election is very small. Meanwhile, I observe from questions received that hon. Members are beginning to be very critical of expenditure on committees; and if we continue the Retrenchment Committee, we shall be acting in the interests of economy if we ask the same committee to deal with any questions requiring reference to the Finance Committee that arise between now and the elections.

“ Without anticipating the discussion that is to take place on the amendment that is being put forward to this motion, I need hardly say that a permission implies a request and that the last thing that I intend to imply by my present motion is that the members of the Committee are seeking a continuance of office. I am sure that every one of them would welcome—just as I would welcome—relief from an onerous and unpopular task. We have held over 50 sittings already and are likely to be sitting almost continuously throughout April; and while I feel that the House owes a great debt of gratitude to these gentlemen for the way in which they have given their time and their talents to its service, I feel also that, if any opposition is to be expected to my motion, it is likely to come from the members of the Committee themselves.

“ I may say, in conclusion, that I do not propose to make a similar motion in connexion with the Public Accounts Committee at present, because the statutory rule relating to the same requires it to be appointed after the opening of the financial year, and the Audit and Appropriation Reports which are required to be laid before it are not expected to be ready till about the end of the year 1923. In these circumstances, I think the best course will be to postpone the appointment of this Committee to a date after the general election.”

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—“ I beg to second the motion.”

The RAJA OF RAMNAD :—“ May I ask for information as to whether the Retrenchment Committee is not the same Committee as the Finance Committee? When a proposal was made for the constitution of a Retrenchment Committee, it was suggested on behalf of the Government that the Finance Committee itself could constitute the Retrenchment Committee. But now, the hon. Member has been speaking of two different committees, the Finance Committee and the Retrenchment Committee. I want to have clear information on the matter.”

The hon. Sir CHARLES TODHUNTER :—“ The Retrenchment Committee is the Finance Committee with power to co-opt members for particular subjects.”

The motion was put and carried.

IV

FURTHER DEMANDS FOR GRANTS BY MEMBERS OF THE GOVERNMENT FOR 1923-24.

The hon. Sir CHARLES TODHUNTER :—“ Mr. President, though the additional demands which are now being put forward have been fairly fully explained already in the memorandum which has been circulated, I may perhaps be permitted to make a brief statement upon the general financial position.

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"The deficit we originally anticipated was Rs. 52 lakhs. By the time of the presentation of the Budget that had been reduced to Rs. 40 lakhs. As a result of the voting on the Budget and of the reductions made by the Government, it has now come down to Rs. 21 lakhs. But if the additional grants that are now to be moved are sanctioned, it will be raised again to Rs. 26 lakhs.

"We asked the Government of India at the outset for permission to borrow up to Rs 200 lakhs. The most they would agree to was Rs. 125 lakhs, which was to provide for a deficit of not more than the estimated figure of Rs. 52 lakhs. The reduction of the deficit renders it possible for us to provide more money for productive loans.

"And this explains why we have provided for Rs. 10 lakhs of new expenditure on irrigation and on loans to the Corporation for a town-planning scheme and for the development of a harbour at Tuticorin.

"Of the other demands now put forward, a great majority are for the purpose of straightening out matters as a result of votes in the Council. One or two supply omissions in the Budget. Of this nature are the provision for a commercial accountant, the provision for the purchase of a veterinary hospital, the additional provision for expenditure from revenue on the University and the provision for plague police which has been urged upon us by a large number of local bodies. I understand that disappointment has been expressed in some quarters that we have not been able to make more provision for new schemes for what is commonly known as nation-building. As to that, I can only say that, although the deficit has been largely reduced, it still stands at no mean figure and I think I shall have the House with me when I say that our first duty is to make revenue and expenditure balance. But I should like to add that the Retrenchment Committee are busy with schemes to that end and that my hon. colleagues, the Ministers, are ready with proposals for new expenditure to deal with any surplus that may appear. The most important of these is that for the opening of the Vizagapatam Medical College, and I do sincerely hope that we shall be able before very long to find funds by reappropriation from savings which will enable us to convert that scheme into a reality."

Demand XXXVIII—Land Revenue.

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur:—"Sir, I beg to move—

That the provision of Rs. 4,200 for leave allowances under 'Professional Survey Parties—Government villages' be omitted and that a provision of Rs. 4,200 may be made for a leave reserve officer.

This demand for Rs. 4,200 is to rectify an error which has unfortunately crept in the Budget for 1923-24. I do not practically ask for any additional sum of money being placed at my disposal. For, the money is there already in the Budget as sanctioned by the House. But it is merely a transposition, so to say, from one place to the other which this motion is intended to carry out. The effect of leaving the item where it is would be that the permanent cadre of the Survey Department which now stands at 14 officers will be reduced by one, and one of the officers will therefore have to be reduced. It has not been the intention of the Government to do so; it was not the intention of the Finance Department when they made this wrong

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Demand XXXVIII—Land Revenue—cont.

entry, nor is it the intention of the House to bring about a reduction in the permanent cadre. It is merely a matter of account business and I hope the Council will sanction it."

Rao Bahadur C. V. S. NARASIMHA RAJU moved—

To omit the allotment of Rs. 4,200 for a leave reserve officer.

In doing so, he said:—"Mr. President, if I understand the hon. Sir Habib-ul-lah Sahib correctly, as the figures now stand in the Budget the permanent cadre is to be reduced by one. This House has voted against the reserve officers in the year 1922-23, and I am not aware whether it has ever since voted for any leave reserve officers. When it was not provided for last year, I am not able to understand the reason why it should be provided for this year. How was it possible for this particular department to go on with the old cadre without any leave reserve staff last year, if this year they cannot manage without any reserve staff? I do not therefore see any reason why they should not manage without any leave reserve officers during the year to come."

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur:—"Perhaps my hon. friend in front of me has not been quite satisfied with the explanatory memorandum that has been attached to this note. If he will be good enough to refer to page 37 of the budget for 1922-23 that was put before the House he will notice that in the year 1922-23 there was a provision for four Assistant Directors of Survey in the Central Survey office. The necessity for these four officers, I may at once explain, was that two of them were intended to be in charge of the Central Survey office and the other two were intended as leave reserve, a leave reserve which had received the sanction of the Secretary of State. This sanction was accorded in the year 1919, and has been in force since then. But when the budget for 1922-23 came up before this House for discussion, a motion was tabled for the reduction of the four to three, and that motion was carried. At that time, Sir, it was distinctly stated by the House that the three should be divided into two for the Central Survey office and one for the leave reserve. So, therefore, during the year 1922-23 we have had three officers as against four which was entered in the budget for 1922-23. Of these three we are utilizing two for the Central Survey office and one as leave reserve. For the next year, i.e., 1923-24, we ought to have entered in the budget the same three, two for the Central Survey office and one for leave reserve. But as I have already pointed out, by a printer's devil, if I may say so, Sir, the provision entered for the Central Survey office on page 34 of the budget for 1923-24, in the column 'Numbers', is '2' instead of '3' for 1922-23 as was finally sanctioned by the House; and '3', as was indicated, ought to be automatically carried forward for 1923-24. The printer's devil was '4' and '2' for 1922-23 and 1923-24 which ought to have been '3' and '3'. But the Finance Department have however made a lump provision of Rs. 4,200 on page 35 of the budget to cover any officer going on leave. But that would be only by a temporary arrangement. It cannot be that the leave reserve can be regarded as permitting the Government to add to the cadre. Any man for whom this leave reserve is utilized can only be an acting man in that cadre and he cannot be added permanently to that cadre. So, the inevitable consequence has been that instead of 14 permanent officers for the Survey

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Demand XXXVIII—Land Revenue—cont.

department of whom one is intended to fill the place of the leave reserve we have been given only 13 in the budget for 1923-24 and one has disappeared, although there is money for him in the budget. I therefore merely ask that this sum of Rs. 4,200 which finds a place on page 35 be transferred to page 34 in the Central Survey office and that in lieu of '2' which is a clerical error so far as 1923-24 is concerned, the figure '3' be substituted."

Rao Bahadur C. V. S. NARASIMHA RAJU :—" I withdraw my motion."

The motion was by leave withdrawn.

The Demand was put to the House, and passed and the grant was made.

11-15 a.m. The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH
SAHIB Bahadur :—" Sir, I beg to move—

That the Government be permitted to appropriate the sum of Rs. 13,000 from the revenues of 1923-24, under Land Revenue, as appearing on page 2 of the memorandum.

The reasons which have justified this demand are given in an explanatory note attached to the demand. It is not my intention, nor is it my purpose at this juncture to discuss the merits of the question in regard to the grant of allowances to the officers of the various departments specified in this note. The House has been told that the question of allowances was engaging the attention of the Retrenchment Committee who were deputed to investigate it. They have quite recently completed their labours and have placed in the hands of Government five very interesting and exhaustive volumes for orders. They have given us the benefit of their opinions with regard to the general principles which should in future guide the Government in regard to the grant of allowances, and how these allowances can be co-ordinated between department and department if given for like and similar purposes. They have attached schedules to their report showing the allowances which from their standpoint and the principles they have discussed ought to be sanctioned. They have also attached schedules indicating the allowances which in their opinion should be discontinued; they have suggested changes in the nomenclature of some of the allowances in vogue in this province at the present moment; and they have finally suggested reduction in the amounts of some allowances. These are all rather stupendous tasks to be performed within the brief period at the disposal of the Government, because it was only last week that we received these five volumes, and we have been busy with the Legislative Council meetings, and we hope to be busy for five days more. This report needs a careful reading, consideration and decision. Pending that consideration and decision, it seemed to Government that it would be rather not only inequitable but undesirable that some of the officers employed should forthwith forego their allowances, while others still continue to enjoy them. Nor would it be right on the part of the Government to issue anything like an interim order stopping all allowances without having investigated into their merits as has been done by the Retrenchment Committee and without coming to any decision on the matter. As soon as we arrive at our conclusions on that report, we hope to inform the House of the same. But we are aware that the House will not be meeting for

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another four or five months. Therefore it has been considered that I might ask the permission of the House to sanction these allowances on a temporary basis for a period of five months, so that when the final decision of the Government is known to the House, they may probably give us such advice as they may consider expedient under the circumstances. In any case I ought to have come up before the House for the grant of at least one month's allowances, namely, that of March, for the allotment in respect of March is included in the allotment which the House eliminated by a vote. Now when I had to come up before the House for the allowances of March, I was confident that if I explained the circumstances to the House and pleaded on behalf of the poor subordinates of mine who necessarily look to me to safeguard their interests in this House and just showed how inequitable it would be that some of the officers should continue to get their allowances while others should be deprived of the same, the House would grant the money. Now I have ventured to come up before the House with a motion that the allowances for five months only may be sanctioned on a temporary basis, and when the final question is decided, these as well as all others will certainly be governed by one common rule."

Rao Bahadur C. V. S. NARASIMHA RAJU :—" Mr. President, the question of these allowances stands on quite a different footing from the previous motions for supplementary grants. The first Budget grant did include the various items under these heads, and this House by a large majority voted against every one of these items. My first objection is that it is not in order for the Government to move for grants regarding the same items that were already voted against, in the same session."

The hon. the PRESIDENT :—" What is the Standing Order which the hon. Member relies upon ? "

Rao Bahadur C. V. S. NARASIMHA RAJU :—" It is Standing Order No. 30, Sir, which says :—

A motion must not raise a question substantially identical with one on which the Council has given a decision in the same session."

The hon. the PRESIDENT :—" Is it contended by the hon. Member that these allowances, that is, the special pay of Deputy Collectors employed on revision of *adangals*, the special pay of Special Assistant Settlement Officers, the special pay of the Assistant Director of Survey, Controlling Office, and the charge allowance of Assistant Directors in charge of Survey parties, that every one of these questions has been decided by the vote of the House ? Is that the hon. Member's contention ? "

Rao Bahadur C. V. S. NARASIMHA RAJU :—" Yes, Sir."

The RAJA OF RAMNAD :—" I understand, Sir, that the same question was raised previously, and a ruling was given to the effect that it was permissible to bring forward such supplementary grants."

Rao Bahadur C. V. S. NARASIMHA RAJU :—" Then, the question of the same session did not arise. But now, the question of the session being the same arises. That differentiates the question on which a ruling was given from the point now raised by me."

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Demand XXXVIII—Land Revenue—cont.

The hon. Rao Bahadur K. VENKATAREDDI NAYUDU :—" May I just mention one thing, Sir? It was only yesterday I think that the Finance Bill regarding salt duty was reintroduced in the Imperial Legislative Assembly, after it had been rejected by that House. I take it that when it is a case of reduction or revision and when the Government come forward to place a certain matter for the reconsideration of this House such a question can come in."

The hon. Sir CHARLES TODHUNTER :—" May I submit, Sir, that this is a question that was discussed at some considerable length, I think, two years ago, when it was thought here that the only way of effecting reconsideration was by certification. In Bengal, the Police grant was deliberately referred back, and the identical grant which had been rejected was voted by the Council. At the same time, I should like to point out that this is not an identical motion. The motion that the Council voted upon was to the effect that they disallowed the allowances for the year. But the question that is being put forward now is that they should allow the existing arrangements to continue until the Government have had time to pass orders on the Retrenchment Committee's report. If it is held that a motion disallowing a payment, disallows it entirely, it would mean that an officer whose pay has been so disallowed is not allowed to draw his pay for the month of March at all. So that, when the House disallows a whole year's provision, it will be disallowing the pay of the officers for a month during which they have actually worked."

The hon. the PRESIDENT :—" Do the Government admit that these items in Demand No. XXXVIII, (a) to (d) have been voted on by the House?"

The hon. Sir CHARLES TODHUNTER :—" The larger amount of which the amount of the present demand forms a part, was voted on by the House. The present motion is intended to put right the results of that vote."

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—" The House voted on the full amount for the full year, Sir."

The hon. Sir CHARLES TODHUNTER :—" May I submit that the total amount that was disallowed included the pay that had already been earned by these officers, namely, the pay for the month of March, and the Council would have hardly intended to disallow the pay for the month of March?"

The hon. the PRESIDENT :—" So far as March is concerned, I believe last year we adopted the principle that any decision of the House on the Budget could only operate from the 1st of April following, and the House was prepared to grant such supplementary demands as might be necessary to enable the officers to be paid for the month of March. I think we decided that question last year. But I understand that the hon. Member's point now is that he does not want the decision of the House to come into operation till the Government reconsider the whole question in the light of the recommendations of the Retrenchment Committee, which would take about four or five months. Therefore, he wants that the pay for five months may be sanctioned. Do I understand the hon. Member rightly?"

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—" Yes."

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The hon. the PRESIDENT :—" Then, this Standing Order No. 30 comes into operation, namely :—

A motion must not raise a question substantially identical with one on which the Council has given a decision in the same session.

It is only a few days ago that the Council decided that the Deputy Collectors employed on revision of adangals, the Special Assistant Settlement officers, the Assistant Director of Survey, Controlling Office and the Assistant Directors in charge of Survey Parties, do not need special pay. That decision may or may not be right, and I have nothing to do with that. But that decision having been arrived at by the House, can we go back upon it?"

The hon. Sir CHARLES TODHUNTER :—" May I submit, Sir, that the question now in issue is not whether the pay should be granted or not, but whether the existing arrangements should be continued until a decision is come to by Government. I may also submit that motions of this class have been allowed by this Council and by other Councils."

The hon. the PRESIDENT :—" Is there a precedent in this Council for revising a vote like that within the same session?"

The hon. Sir CHARLES TODHUNTER :—" Yes, Sir."

The hon. the PRESIDENT :—" Will the hon. Member quote that precedent?"

The hon. Sir CHARLES TODHUNTER :—" I shall let you know presently, Sir."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—" Sir, I am afraid that my hon. friend is slightly under a misapprehension. What my hon. friend stated in reference to certain motions which came up last time was this. Having accepted the decision of the House, he said that he would like to have a grant to perform,—to use his words—the funeral or the obsequies of the departments which had been abolished for the month of March; and that was the reason why he wanted a supplementary grant, on the footing that the department was to be abolished or that the decision of the House was to be accepted. He wanted only a temporary demand, and he put it up before the House for the purpose of winding up the affairs of the department. On that footing, there could be no objection to any supplementary grant. That meant giving effect to the resolution of the House. But in this case, Sir, as you have already pointed out, I do not think any hon. Member would like to deprive these officers of their pay for the month of March, and obviously the budgetary arrangement can only come into force from 1st April."

The hon. the PRESIDENT :—" I assume that the motion tabled by Mr. Narasimharaju is with the object of giving them the allowance for the month of March, but of depriving them of that allowance for the succeeding four months."

Rao Bahadur C. V. S. NARASIMHARAJU :—" Yes, Sir."

The hon. Sir CHARLES TODHUNTER :—" As this point of order has been sprung upon us suddenly, I confess I am not able to meet it now by quoting precedents. I would therefore request your permission to adjourn all the supplementary demands to Thursday the 29th March so that we may, in the meanwhile, examine the question raised."

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The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—" I beg to second the motion."

The hon. the PRESIDENT :—" I reserve my decision on the point of order till the matter again comes up."

The motion that the further consideration of the demands be adjourned to 11 a.m. on Thursday the 29th March 1923, was put to the House and carried.

The hon. Mr. C. P. RAMASWAMI AYYAR :—" Sir, I beg to submit that there are certain demands which do not rest on this question at all. They may be taken up now."

The hon. the PRESIDENT :—" The House having already decided that the various items should be adjourned to the 29th, there is really nothing more to be said on the point."

V

THE MADRAS HINDU RELIGIOUS ENDOWMENTS BILL, 1922.

Clause 5—cont.

Sub clause (9).

(Amendment No. 39.)

Rao Sahib U. RAMA RAO :—" Sir, I beg to move—

For this sub-clause substitute the following :—

"(9) "Person having interest" means in the case of maths the disciples of the maths, and in the case of temples, a person who has a right of attendance at the performance of worship or service in any temple or who is in the habit of attending such performance or of partaking in the benefit of the distribution of gifts thereat."

"Sir, in the Bill as it stands now, the maths and temples have been mixed up. In the case of maths only, the disciples of the maths are interested, whereas in the case of temples, persons who have the right of attendance at the performance of worship or service may be called 'persons having interest.' In order to make this clear, I beg to move my amendment."

The hon. the RAJA OF PANAGAL :—" Sir, this question was discussed at the Select Committee stage and it was thought that a definition on the lines suggested by my hon. friend, Dr. U. Rama Rao, might not cover the cases of maths which had no disciples. It was pointed out that there were maths without disciples, and hence, in order to cover all those cases, the definition was widened."

Rao Sahib U. RAMA RAO :—" I think that the maths having no disciples must be exceptions to the rule. As far as I know, every math has got its own disciples. Unless it is distinctly laid down that in the case of maths, only disciples have got interest, I am afraid a lot of complications are sure to arise. As I am not satisfied with the explanation offered by the hon. Minister, I wish to press my motion to a division."

The amendment was put and lost.

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Clause 5—cont.

(Amendment No. 40.)

Rao Bahadur T. A. RAMALINGA CHETTIYAR :—" Sir, I beg to move—

Omit the words 'a disciple of a math or'

"Sir, my object in moving this amendment is this. In the case of maths, there are two difficulties. The first difficulty, as has been pointed out by the hon. the Minister, is that there are certain maths which have not got disciples. For instance, the Tiruppanandal math has got no disciples. The second difficulty is that it is not possible to specify who actually are the disciples. They may be only those who become *sanyasis* in the math. Again, a second class of disciples may be only those who get *diksha* or initiation according to the Saiva Siddhanta system. Lastly, the third class of disciples may be those who profess the Saiva Siddhanta religion. Thus there will be great difficulty in understanding the word 'disciple' as applied to maths, if the present definition is allowed to stand. So, something more definite is necessary to specify what exactly the word 'disciple' means. It is in that view that I want to omit the words 'a disciple of a math or' and also to take away the other qualifications mentioned in the definition which make it very difficult to understand the word 'disciple'."

"So far as maths are concerned, 'persons having interest' may be persons of the same persuasion to which the math belongs. I think if a definition to this effect is put in, it will obviate all the difficulties that I have already mentioned. As the House knows so far as the maths are concerned, they were founded only for the propagation of particular sects, and it is but natural that only those who follow the particular sect should be interested in the affairs of the math. It is with that view that I have given notice of the three amendments that stand against my name."

The hon. the RAJA OF PANAGAL :—" Sir, this question as I said was considered in the Select Committee stage and it was decided to make the definition as wide as it can possibly be. But if it is the intention of the hon. mover of this amendment to make the definition still wider, I would request your permission, Sir, to ask my hon. friend, Mr. Gopalaswami Ayyangar, to read the draft amendment which he proposes to move."

The hon. the PRESIDENT :—" If the hon. Member, Mr. Ramalinga Chettiyar has seen the new definition and is likely to accept it, the best thing for him would be to ask the leave of the House to withdraw his amendment and thus clear the ground for the hon. Member, Mr. Gopalaswami Ayyangar, to make his motion."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—" I would like to suggest that in cases where the hon. the Minister wants to put in new clauses and new definitions in the Bill, it would be advantageous if these drafts are circulated either printed or typewritten to the hon. Members of the House. If they are read for the first time in the House, hon. Members may not at the spur of the moment be able to apply their minds and see to what extent the draft amendments proposed require modification."

Rao Bahadur T. A. RAMALINGA CHETTIYAR :—" Sir, I am sorry I cannot accept the definition as drafted. I do not know whether the hon. the Minister wants to stick to it. There is a difficulty in accepting this amendment."

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Clause 5—cont.

The hon. the PRESIDENT:—"I cannot allow the hon. Member to discuss the contents of a piece of paper of which nobody is aware except the hon. Members, Mr. Ramalinga Chettiyar and Mr. Gopalaswami Ayyangar. The hon. Member, Mr. Ramalinga Chettiyar, must make up his mind and say whether he wants to press his motion. Any discussion on the amendment contained in that piece of paper can begin only after it is formally moved."

Rao Bahadur T. A. RAMALINGA CHETTIYAR:—"I would like to suggest that the best course would be to allow the hon. Member, Mr. Gopalaswami Ayyangar, to move his amendment as an amendment to my amendment. Then I may be in a position to say whether I can accept it or not."

The hon. the PRESIDENT:—"Does the hon. Member press his amendment?"

Rao Bahadur T. A. RAMALINGA CHETTIYAR:—"I am sorry I cannot really decide now whether I should press my amendment or withdraw it. If I find something satisfactory in the draft amendment which is in the hands of my hon. friend, Mr. Gopalaswami Ayyangar, I can withdraw my amendment. If I do not find anything satisfactory in that draft, my position will become difficult. As already suggested by me, if my hon. friend, Mr. Gopalaswami Ayyangar, is permitted to move his amendment as an amendment to my amendment, I can then say whether I accept the amendment or not. I have already explained the difficulties in the way of accepting a word like 'disciple.' I wish to know whether I will be in order in moving an amendment to the draft amendment to be proposed by Mr. Gopalaswami Ayyangar."

The hon. the PRESIDENT:—"I will consider that question when the new amendment is proposed."

The hon. the RAJA OF PANAGAL:—"In case my hon. friend Mr. Ramalinga Chettiyar is not going to withdraw, I am afraid I cannot accept the amendment as it has been presented to the House."

The amendment was put to vote and lost.

(Amendment No. 41.)

With the permission of the House, Mr. R. K. SHANMUKHAM CHETTIYAR moved the following amendment standing in the name of Mr. R. T. KESAVAN:—

For the words beginning with 'a disciple of a math' and ending with 'of gifts thereat' substitute the words 'any person professing the Hindu religion'.

In doing so he said:—"My object in moving this amendment is to make the provision of the Bill as drafted more consistent than it is at present."

"Clause 21 of the Bill says:

Every person shall be entitled to have his name included in the electoral roll of an electoral area if he professes the Hindu religion and possesses the qualifications prescribed for an electoral area in Part I of Schedule I and if he is not subject to any of the disqualifications described in Part II of Schedule I.

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Clause 5—cont.

So that a person who simply professes the Hindu religion can be a voter and he can become a member of the committee, he can become a trustee of a temple and he can even become a member of the Central Board.

"But from the way in which a 'person having interest' is defined, certain people who are professing the Hindu religion, but who have not got a right of access to the temples, cannot have a voice in certain matters relating to the management of the temples. Clearly, in clause 49 (2) in the fixing of standard scales of expenditure in places of religious worship, it is laid down that:

The trustee shall publish such proposals at the temple and in such other manner as the committee may direct, together with a notice stating that, if within one month from the date of such publication any objection or suggestion is received from any person having interest, the committee will consider such objection or suggestion.

So that if a person professing the Hindu religion, but not having the right of access to a temple, thinks that a certain item of expenditure which is proposed by the trustee is illegal, or is not proper, he has not got any right of objecting to such an item. This point as to the exact nature of a 'person having interest' came up for decision in a case reported in 42 Madras, page 360. In that case the question was raised whether a person, simply by professing the Hindu religion, had a right of instituting a suit, or of interfering with the management of a temple under section 92 of the Civil Procedure Code, and it was held by the Chief Justice in the dictum reported at page 366 as follows:

I am however clearly of opinion that 'the interest in the trust' must still, in Lord Eldon's words, be a 'clear interest', that is to say, a present and substantial, and not a remote and fictitious or purely illusory interest, and that, whilst indicating the necessity of taking a more liberal view than had been taken by our Courts in some cases, the legislature did not intend that we should go to the other extreme and allow any member of the Hindu and Muhammadan public to sue with the requisite consent in regard to every temple or mosque in British India.

The other Judge who sat, Justice Kumaraswami Sastriyar, said that any person professing the Hindu religion could interfere with the management of the temple. Under the Letters Patent this case was referred to a Full Bench and the Full Bench agreed with the view of the Chief Justice. Now, Sir, the definition of the words 'person having interest', as appearing in this Bill, enlarges the scope of this case which I just now quoted. I say, when once you have enlarged it, why not you also enlarge it to its logical consequence and have it as meaning not merely every person who has got a right of attendance at the performance of worship in the temple, but every person professing the Hindu religion shall have a voice in the management of the temple. In order to allay the feelings of the orthodox section among us, I may say that by changing the definition in the way in which I propose it to be changed, we will not thereby be giving a right of entering the temple to those who have not got any such right now, because it is specifically provided in clause 75:

Save as otherwise expressly provided in or under this Act nothing herein contained shall affect any established usage of a temple or the rights, honours, emoluments and perquisites to which any person may by custom or otherwise be entitled to in such temple.

"Therefore, there is no fear, Sir, that in adopting my definition of the words 'person having interest', we will break the wall of orthodoxy and allow Panchamas to enter the temples. Only, to be more logical, and to push our democratic principle to its logical conclusion, I press my amendment."

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Clause 5—cont.

The RAJA OF RAMNAD:—"Sir, I am afraid I must oppose this amendment. My hon. friend will at once admit that I am not a very orthodox Hindu, but all the same I must say that this amendment bristles with very many difficulties. Though not a lawyer myself, I think my hon. friend who is just a lawyer has quoted a decision which is quite against him. I fail to see why a person who has no right of admission into a temple should have a voice in the administration of the temple. Once he has a voice in the administration, he may appoint a trustee. What will be the position of the trustee? Will he be inclined to secure admission into the temple for the Committee Member or will he be opposed to it?"

Mr. R. K. SHANMUKHAM CHETTIYAR:—"As a matter of fact, person having no right of entrance can proceed under the present Act."

The RAJA OF RAMNAD:—"If that is so, it should be remedied, Sir. Any one who has had any experience of the southern districts will bear me out when I say that this will lead to considerable difficulties. In the first committee of which I had the honour of being the Chairman, and in the Select Committee, the matter of taking some steps in the direction in which my hon. friend from Coimbatore will like us to move was very seriously considered and it was thought better to leave matters as they were according to the local usage and customs. I am afraid if we are going to legislate like this giving permission to participate to classes who have no right of admittance now, it will lead to bloodshed and rebellion. I therefore very strongly oppose this amendment."

The hon. the RAJA OF PANAGAL:—"Sir, in spite of my desire to make the definition as wide as possible, I find that there are difficulties. Among those who profess the Hindu religion there are differences and it is those differences that are likely to lead to trouble. So, in order to avoid such trouble, the definition has been carefully worded. In these circumstances, Sir, I am very sorry that I am not in a position to accept the amendment."

The amendment was put and lost.

(Amendment No. 42.)

Mr. A. RANGANATHA MUDALIYAR:—"Sir, I beg to move the following amendment:—

After the words 'service in any' insert the words 'shrine or shrines within the premises of any'.

"My object in moving this amendment is to enable some persons who may not have a right to worship in one particular shrine, but may have a right to worship in another shrine within the precincts of one and the same temple, to have the right of moving under the Act extended to them as well. I know, for example, there is a sacred shrine called the Kumaraswami temple in the Sandur State, and within that temple there are a number of small shrines. In a particular shrine a class of people are not allowed to go and worship, but in another they are allowed. So, I want these words 'person having interest' to include and apply to all the people who may have a right to offer worship in one or another of the several shrines within the precincts of the temple."

The hon. the RAJA OF PANAGAL:—"Mr. President, the amendment of my hon. friend from Bellary, if accepted, will narrow the scope of the present definition. Particularly in the case of *maths* it may not be that there are

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[The Raja of Panagal]

Clause 5—cont.

shrines and even if there are shrines, it does not follow that every disciple of the *math* has a right to worship, or attend the performance of worship, in those shrines."

The amendment was put and lost.

New sub-clause after sub-clause (9).

(Amendment No. 43.)

Diwan Bahadur S. Rm. M. Ct. PETHACHI CHETTIYAR:—"Mr. President, in view of my having given notice to move an amendment for the formation of a 'disciples committee' for the Saivasidhanta *maths*, I move the following amendment standing against my name:—

(a) *Insert the following as sub-clause (10):—*

"(10) 'Disciple of a math' means any person professing the same religious principles and following the same religious persuasion as the head of the math to which the matter relates."

(b) *Re-number the subsequent sub-clauses.*

"In this connexion I may say that if my amendment for the formation of a 'Disciples Committee' is not carried, the definition of 'Disciple of a math' may be deleted."

The hon. the RAJA OF PANAGAL:—"Sir, it is unnecessary to accept this amendment. In fact, Sir, the definition that has been given of the 'person having interest' in a way conveys the idea which my hon. friend wants to convey in this amendment."

Diwan Bahadur S. Rm. M. Ct. PETHACHI CHETTIYAR:—"Sir, whether it is necessary or unnecessary is a question which will have to be decided after the consideration of my amendment for the formation of a 'Disciples Committee' is disposed of, and, as such, I think I must press my amendment."

The amendment was put and lost.

(Amendment No. 44.)

Sub-clause (11).

Rao Bahadur C. V. RANGA REDDI:—"Sir, I beg to move the amendment standing in my name, which runs as follows:—

Omit the words 'and all gifts and offerings made to the head of a math as such'.

"When gifts or offerings are made to the *maths*, I submit that it is not possible to say whether they are made to the head of the math in his personal capacity, or in his representative character, and it is therefore better to have these words omitted."

Rai Bahadur T. M. NARASIMHACHARLU:—"I also support this amendment, Sir, to omit the words:

And all gifts and offerings made to the head of a math as such.

[Mr. T. M. Narasimhacharlu] [27th March 1923]

Clause 5—cont.

It will be remembered that the head of a *math* is the *guru* of a particular section of the people who follow a particular persuasion of the *Vedantic* philosophy. It is laid down in the *Dharma Sastras* that when you offer to the *guru* anything, you offer it as *dakshina*, i.e., as gift, and the ordinance of the *Smritis* is:—

1. సర్వస్వం వా తదర్థం వా తదర్థాత్ ఆర్థమేవ వా ।
గురవే దక్షిణం దద్యాత్ యథాశక్త్యపివా పునః॥
2. శరీరం ఆర్థం ప్రాణం చ సమ్యక్త్యా నివేదయత్ ।
3. అప్రవిద్యాప్రదానస్య దేవైరపి న శక్యతే ।

"That being so, how can they be brought under the endowments and made to appertain to the *math*, or to the *sishyas*, or to anybody else? The very mention of them in the definition is self-contradictory, because the words used are: all gifts and offerings which mean giving them absolutely. Therefore, how can they be said to belong to the religious endowment? You use the word 'gift' and yet say that it does not belong to the person to whom it is made. I submit, Sir, that even a layman would not have ever thought of bringing the gifts and offerings within the definition of 'religious endowment.' They belong absolutely to the *guru* to be used by no one except himself and therefore I say, Sir, that they shall not be included in this definition. There is also another difficulty with reference to this. If you include these things, then no disciple will make any offering to the *guru*, because by so doing it goes to persons to whom it is not intended to be given.

"Secondly, no *guru* will accept offerings hereafter. If a disciple goes to the *guru* with an offering, the *guru* will say, 'Why do you give it to me, go and make use of it for the poor or for anybody else. If you give it to me it will be taken for a religious endowment and used by those for whom it is not intended; and therefore do not encumber me with these kinds of gifts.' That will be the position of affairs and all disciples will request the *guru* not to accept the offerings and gifts, and therefore your 3 per cent will be so much less. Sir, I submit, both as a point of practicability and also as a point of obedience to our ancient *shastras*, let not these be included under the definition of the religious endowments."

The hon. the RAJA OF PANAGAL:—"Sir, I am in sympathy with the substance of the amendment, but I take objection to the language in which it is drafted. Therefore if the hon. mover withdraws his amendment, I will move an amendment with the same substance but in a modified form."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU:—"Sir, I should have no objection to the offer made by my hon. friend. As it is, we are now placed in a very difficult position not knowing what his amendment is, and asking an amendment of this character to be withdrawn. Therefore, subject to the condition that he would subsequently move it, we should like to know at this stage what his amendment is, for the purpose of enabling us to withdraw this motion."

The hon. the PRESIDENT:—"Probably the hon. Minister may say that it is his intention to move the amendment at a later stage in case the House should allow him."

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Clause 5—cont.

The hon. the RAJA OF PANAGAL:—"It is my intention to move the following amendment if the amendment now before the House is withdrawn:

In clause 5 (1) for the words 'and all gifts and offerings made to the head of a *math* as such' substitute the following:—It does not include gifts of movable property expressly made as personal gifts or offerings to the head of a *math* or to the *archaka* or other employee of a temple."

Rai Bahadur T. M. NARASIMHACHARLU:—"I have a very great objection to this amendment. It will be insulting to the sentiments of the disciple to go and tell the *guru* that this offering is not given to him. This is given to the *math* or this is given to him and not to the *math*. It is impossible to distinguish between the *math* and the head of the *math*. There is no *math* without the *matadhipati*. We do not worship the buildings but the *guru*. Therefore, any gift that is made, is made only to the *guru* and nobody else. I am sorry that the proposed amendment cannot be accepted."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU:—"Sir, in the first place, I should like to inform the Council that we are guided by precedents of English law. I propose to quote the English law on the subject—my hon. friend was quoting from the *Shastras*—and that is—

all religious institutions which are supported by voluntary subscriptions and voluntary gifts are outside the pale and jurisdiction of the Charity Commission in England. In the case of charities maintained partly by voluntary offerings and partly by endowments, the jurisdiction only applies to the income from endowments to the exclusion of voluntary offerings.

The language is quite clear because what is given by these persons voluntarily is given by them subject to their own wishes and it cannot be a definite ascertainable amount and therefore the intention of the law is always not to subject these to the control of the Charity Commissioner. Sir, let us take the amendment that my hon. friend has proposed. Supposing a person goes to the Tirupati temple and pays about Rs. 5 to the hundi, he is to make a declaration, according to this amendment, expressly that he is giving it to so and so. In the amendment the word 'expressly' is used. The person making a gift should expressly say that he is giving it to the head of the *math* or to the *archaka* and not to this man or that man. Therefore it is really making it impossible for every man who goes to a temple to make this express declaration. My hon. friend ought to see that on broad principles. These voluntary gifts to *maths* should be excluded altogether from the definition of the religious endowments. I believe the definition as proposed makes it more difficult than the original Bill itself because it wants an express declaration from the person giving it that he gives it to the persons concerned and not to the endowment or institution. On these grounds, I think that the omission is the better course."

The hon. Rai Bahadur K. VENKATAREDDI NAYUDU:—"Sir, in order to make the position clear, my hon. friend, the Leader of the Opposition, should have made a somewhat close comparison between what is known as voluntary gifts in England and in this country. Whatever that may be, we know of cases in temples where people go and place their offerings in the hundi of which he was speaking. I have known cases where this hundi is taken in one case by the *archakas* and in another case by the *matadhipatis*."

Mr. P. SIVA RAO:—"Sir, is it permissible to talk about temples when the amendment does not relate to temples at all?"

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Clause 5—cont.

The hon. Rai Bahadur K. VENKATAREDDI NAYUDU :—" I wish my hon. friend had that shrewdness to object when Mr. Ramachandra Rao referred to temples."

The hon. the PRESIDENT :—" The amendment is to sub-clause (11). This sub-clause does relate to temples as well as maths."

The hon. Rai Bahadur K. VENKATAREDDI NAYUDU :—" Thank you, Sir. In fact, my hon. friend, Mr. Ramachandra Rao, raised the question of the Tirupati temple. In that very temple I saw cases where votive offerings were made. Some people made vows, according to their conception, to God; some gave offerings to the *archakas*, and some to the head of the place. In such cases, a distinction will have to be made. Sir, after all, with all respect that may be due to the *archakas* and the *mahants*, the person who makes the offerings wants only to please the God and not the man. When these offerings are made, the *prima facie* intention will always be that it is intended for God and not for man. If it is intended that a certain thing should go to God and not to man, express provision should be made for that. Because, after all, people going to temples are mostly illiterate. Some of them cannot make any distinction between one thing and another, and often prefer man to God. By all means it is open to offer to the God or to the *archakas*. But it is necessary that they should give expression to it."

Mr. R. SRINIVASA AYYANGAR :—" Sir, the amendment which is now engaging the attention of the House is to delete the words

'and all gifts and offerings made to the head of a math as such'.

"Sir, as a matter of common knowledge these matadhipatis do not insist on any offerings. Offerings are in a large majority of cases purely voluntary and it is a matter between the giver who is a disciple and the taker who is the *guru*. And with respect to that matter, I submit, it will be unfair, impolitic and unwise that any other third party should claim to have a right of control or be allowed to exercise any control over it.

"Sir, these offerings may take any form or shape. They may be in kind, they may be in cash, they may be in the nature of a shawl or a *paduka* similar to the one presented to His Holiness the Jeeyar when he visited South Arcot. There is also considerable danger in bringing within the limits of religious endowments voluntary offerings made for the satisfaction of the *guru*. Because all these offerings are, if I may say so, to be viewed as the meritorious acts on the part of the giver to propitiate or to invoke the grace or the blessings of the *guru*. If these are to be brought within the pale of the endowments, there is the danger of these offerings being appraised at their value for the purpose of enabling the central board to claim 1½ per cent contribution thereon. In other words, if out of piety or feelings of reverence to my *guru*, I place Rs. 10,000 at his disposal, it will be open to the central board to claim out of it Rs. 150 as contribution to it. As a matter of fact, if I am called upon to make that contribution I may decline to do so. So, what I would refuse to give, the committee will be indirectly enabled to take, by these offerings and gifts being brought within the purview of this Bill. Therefore it is absolutely necessary that the gifts and offerings made to the head of a *math* as such should be excluded. I would even say that their inclusion will be mischievous."

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Clause 5—cont.

Mr. P. SIVA RAO :—" Sir, I am strongly in favour of the amendment that has been proposed by the hon. Member, Mr. Venkatarangareddi. Sir, there is one main reason why these offerings should be excluded from the operation of this Bill. It is this: when a person, a devotee or a disciple makes *padapuja* or makes gifts or offerings to the head of a *math* out of personal devotion or personal veneration, he never dreams that he will be, by so doing, creating any trust thereby and he makes that gift with the absolute intention that it should be at the absolute disposal of the *matadhipati*. There is evidently no ghost of an idea of creating a trust in a matter like this. Now, Sir, it would be the height of injustice that even the *padapuja* should be included in the definition of a religious endowment.

"Then, the amendment which the hon. the Raja of Panagal intends moving has absolutely no merit. It will only lead to all kinds of complications by asking an ordinary man or a devotee when he makes these gifts or offerings to make an express declaration that his offerings or gifts are meant for the present head of the math or for the God or for the deity enshrined in the math. First of all, there is the difficulty of maintaining a record that any gift was made with any particular declaration and all that. For all these reasons it is necessary that the offerings made to the head of a *math* should be omitted.

"Sir, I do not quite understand why there was any discussion about temples at all. Even under the present law, offerings made to the head of a *math* are supposed to be at the absolute disposal of the *matadhipati* for the time being. This amendment has reference only to *maths*. I think, therefore, that any discussion of a temple is out of place in discussing an amendment of this sort. It applies only to offerings made to the head of a *math*."

Rao Bahadur C. VENKATARAMA REDDI :—" I do not know what the hon. the Raja of Panagal's amendment is. A good deal of consultation is going on. I do not know what the amendment itself is."

(The amendment of the hon. the Raja of Panagal was handed over to Mr. Venkataranga Reddi.)

12-15 p.m. Rao Bahadur C. VENKATARAMA REDDI :—" I beg to withdraw my amendment."

The amendment was by leave withdrawn.

Mr. P. SIVA RAO :—" There are other identical amendments. Can the hon. Member be allowed to withdraw his amendment?"

The hon. the PRESIDENT :—" Several gentlemen have tabled a single motion. When the hon. Member whose name appears first was called, he made the motion and others supported him. Of course, it was open to other hon. Members to object to the mover being allowed to withdraw the motion when I asked the House whether it was their pleasure to allow him to withdraw his motion. Now there is no use of saying there are other people who have given notices of identical motions and that therefore they should be allowed to start the discussion again."

The hon. the President called on Mr. C. V. Venkataramana Ayyangar to move the next motion.

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Clause 5—cont.

Rao Bahadur A. S. KRISHNA RAO PANTULU:—"May I point out, Sir."

The hon. the PRESIDENT:—"Order, order. In future, it will be convenient if, whenever I call upon an hon. Member, he speaks at once. Of course, any point of order may be raised by another hon. Member. But to do anything like pointing out to me how I should conduct the proceedings and so on, is wholly irregular."

(Amendment No. 45.)

Mr. C. V. VENKATARAMANA AYYANGAR:—"I beg to move—

For the words 'and all' substitute the words 'but not the gifts or offerings of money or cloths'.

I am not going to be very long in my speech. But I think the amendment which the hon. the Minister has the intention of moving seems to be wider than my amendment. I am only anxious that there must be some exclusion of the offerings and gifts made to the head of a *math* as such. In spite of the amendment of the hon. the Minister, there will be a considerable amount of difficulty if we do not modify the first portion of the clause. Therefore I say that there should be some exclusion and for this purpose, if the hon. the Minister is going to amend the clause as he has just now proposed, I have no objection to withdraw my amendment. Anyhow to avoid all troubles, I would respectfully ask the hon. the Minister in charge to take out the word 'expressly' or to allow my amendment. I formally move my amendment."

The hon. the RAJA OF PANAGAL:—"I am not very keen about the retention of the word 'expressly'. I think the word 'personal' connotes the very idea which the word 'expressly' would convey. It was simply to emphasise that connotation I used the word 'expressly'. Now, if the hon. Member is very anxious to drop that word, I have no objection."

The motion was by leave withdrawn.

(Amendment No. 46.)

The hon. the RAJA OF PANAGAL:—"This is the amendment which I intended to move which I formally move now:—

In clause 5 (11) for the words 'and all gifts and offerings made to the head of a math as such' substitute the words 'but does not include gifts of moveable property made as personal gifts or offerings to the head of a math, or to the archaka or other employee of a temple'."

Rai Bahadur T. M. NARASIMHACHARLU:—"I would only request the hon. the Minister to omit the word 'personal' also."

The hon. the RAJA OF PANAGAL:—"That cannot be done."

Rao Bahadur T. NAMBERUMAL CHETTIYAR:—"When Mr Krishnan Nayar moved on my behalf an amendment purporting to the definition of the word 'income', he was told that at the time of dealing with the clause with reference to religious endowments, a motion for the definition of the word 'income' might be brought. In order to avoid any differences of

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Clause 5—cont.

opinion that might arise with regard to the interpretation of this word, may I urge on the attention of the House that the word 'income' should be defined? The definition must convey some idea of the income which the amendment purports to convey. The meaning of the word 'income' as an ordinary business man would understand is purchases *minus* sales, or sales *minus* purchases. That meaning should not at all be applied in the case of temples. In this connexion I may refer to an instance: A lady made a gift of Rs. 1,000 to Vanamamalai Swami when His Holiness was passing through Triplicane, with a request that it should be devoted for making a silver peetam to be used by His Holiness when distributing Sreepada Thertham. Another instance is, a Dubash of Messrs. Parry & Co. handed to a Darmakartha a large sum in Government paper with a request to utilize the interests therefrom for feeding Athithi pilgrims daily. Such sums should not be treated as income nor percentage claimed thereon for the maintenance of the Board to be constituted under the Bill.

"I have therefore taken care to give a definition of the word 'income' to make it clear that such sums as specified above are to be excluded."

The amendment was put to vote and carried.

Sub-Clause (12).

(Amendment No. 47.)

Mr. T. SIVASANKARAM PILLAI:—"I beg to move—

After the words 'means a place' insert the words 'tree, well, stone or other thing.'

"Sir, the places of worship are many. There are stones, there are trees, and there are wells which are used as places of worship. Therefore in order to include them, I move this amendment."

The hon. the RAJA OF PANAGAL:—"I am not prepared to accept it."

The motion was put to the vote and lost.

(Amendment No. 48.)

Sriman SASIBHUSHAN RATH Mahasaya:—"I beg to move—

After 'public religious worship' insert the words 'of any image, idol, sign or symbol.'

"This amendment is moved with a view to show that those places where images or symbols are not worshipped should be excluded from the purview of this Bill. Sir, in Ganjam and Vizagapatam districts and also in the Uriya tracts there are certain classes of institutions called Bagavatha Mandhis. They are places where there are no idols or symbols of worship. The people of the villages meet only to read the Purana. They also meet after their day's labour to decide certain village matters. Therefore these Bagavatha Mandhis cannot be called temples. They should be excluded from the scope of this Bill. There is no sign or symbol in those institutions, although the people may keep some lights burning there or have their books from which the Puranam is read. Under these circumstances, I suggest that a provision should be inserted in order to omit such classes of institutions. In this connexion I may also refer to another fact, namely,

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Clause 5—cont.

that there are in this country Brahma Samajas and Prarthana Samajas which will also have to be included according to the definition of the clause as it at present stands. Will it be contended seriously that those also should be included? In view of all this, I think it is but fair that my amendment should be accepted."

The hon. the RAJA OF PANAGAL:—"I do not think the amendment is called for. As the clause stands at present, the definition refers to places of worship. The objects of worship may be anything, from nothingness to everything. In the case of Chidambaram temple it is mere nothingness that is worshipped. Therefore I cannot accept the amendment."

Sriman BISWANATH DAS Mahasayo:—"The definition given in the Bill would not have been contended for unless special difficulties had been observed. In Uriya tracts we have in every village what is called Bagavatha Mandhi. All the village people gather there in the evening after their hard day's labour for the purpose of reading the Purana which is kept there. Sometimes, all the villagers and even some outsiders contribute very large sums of money for performing the annual *utsavams*. I am afraid that a strict construction of the definition would bring these Bagavatha Mandhis under the purview of this Bill, and therefore I think it is desirable that they should be excluded from its operation. In that view I support the motion."

Sriman SASIBHUSHAN RATH Mahasayo:—"Just a word, Sir, about the Chidambaram temple about which mention was made by the hon. the Raja of Panagal. I have heard about it and I am informed that there is no idol or symbol there. If he is afraid of the Chidambaram temple he may bring in an amendment for that and accept my amendment. In every village there is a Prarthana Samaj and Brahma Samaj and therefore there is a larger question involved."

The hon. the RAJA OF PANAGAL:—"I am afraid, Sir, my hon. friend has altogether misunderstood me. I simply said that the definition as it is covers everything subject to worship."

Sriman SASIBHUSHAN RATH Mahasayo:—"Therefore I do not want that the definition as it is should bring in Brahma and Prarthana Samajists together. I want that it should be applied only to temples except in the case of Chidambaram."

Diwan Bahadur R. VENKATARATNAM NAYUDU:—"With your permission, Sir, I will say one word with reference to the point raised by my friend Mr. Ratho. As a member of the Brahma Samaj itself, I feel that there would be no trouble if in any distant future the community were to be recognized as a distinct section of the Hindu community. Just now we are untouchables. I hope we shall have our entry also into Hinduism (hear, hear). If that day comes, then, instead of moving for an amendment, it is better the community is treated according to the existing law. If these Prarthana Samajams and Brahma Samajams should have endowments—which they have not now—big enough, then it will be all the better that they are brought under the operation of this Bill; because a member of the Brahma Samaj would be the first to wish that surplus money should be spent upon philanthropic and beneficent objects. If on some day there should be a Brahma priest, he should require only such allotment as a real minister of religion would do for his

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Clause 5—cont.

bare living and mere sustenance, and he should welcome this measure. At present there is no necessity for being anxious about the future."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU:—"The apprehension of Mr. Ratho seems to be that the Prarthana Samajams and Brahma Mandirs where Puranams are read would be brought within the purview of this Bill where regular worships such as are performed in temples are not performed. But, so far as I can see, the words 'public religious worship' will not be applied to cases where Hindu Puranas are read or to assemblies where *Kalakshepams* are performed. I therefore think that my hon. friend need not entertain such apprehensions."

Sriman SASIBHUSHAN RATH Mahasayo:—"I am advised by the Leader of the Opposition to withdraw the motion and I do so."

The amendment was by leave withdrawn.

(Amendment No. 49.)

Mr. C. V. VENKATARAMANA AYYANGAR:—"I formally move, Sir—

Add at the end the following:—

'but does not include a *math* or an excepted temple.'

"I am not particular about excepted temples. I will be satisfied if it does not include *maths*. The definition of temple might also cover *maths*. I leave it to the hon. Member in charge."

Rai Bahadur N. GOPALASWAMI AYYANGAR:—"Sir, I have only to explain the definition of *maths*. Temple includes both the excepted and the non-excepted temples. That part of the amendment the hon. Member has already withdrawn. So far as the definition of temple is concerned, I do not think there is anybody holding that the definition as it stands will include *maths*. The hon. Member moved an amendment yesterday, Sir, for the omission of the words 'other than temples' in the definition of *maths* in sub-clause (7), clause 5, but the motion was defeated. After this explanation that I have given I hope the hon. Member will see the justification for withdrawing the motion."

Mr. C. V. VENKATARAMANA AYYANGAR:—"If he still thinks so, I will withdraw."

The motion was by leave withdrawn.

(Amendment No. 50.)

Mr. K. PRABHAKARAN TAMPAN:—"I move—

Add at the end the following:—

'but it shall not include any place intended for the worship of private deities, though such places might be left open for public worship.'

This again refers to Malabar. Each big *tharwad* has got some temples attached to it. Generally, anybody who lives in the neighbourhood and

[Mr. K. Prabhakaran Tampan] [27th March 1923]

Clause 5—cont.

does not belong to a lower caste than that of the owner is admitted to it. It is a difficult matter to say whether such people come there as a matter of right or as a matter of courtesy. They do not contribute anything towards the maintenance of such temples. Therefore, in order to make the definition clear it is advisable that my amendment should be accepted."

The hon. the RAJA OF PANAGAL :—" Sir, this amendment is absolutely unnecessary especially in view of the amendment notice of which my hon. friend, Mr. Govindaraghava Ayyar, has given."

Mr. K. PRABHAKARAN TAMPAN :—" If the principle is accepted I do not see why it should not be accepted."

The motion was put and lost.

(Amendment No. 51.)

The hon. the PRESIDENT :—" I understood in the course of the debate in connexion with the amendment moved by Mr. Ramalinga Chettiyar that the hon. the Raja of Panagal expressed his intention to move for some change."

The hon. the RAJA OF PANAGAL :—" With your permission, Sir, I will move the amendment which I propose to move in place of the amendment of Mr. Ramalinga Chettiyar."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—" I rise to a point of order. The clause relating to persons having private interest has been passed. It is with reference to that my hon. friend is now moving."

The hon. the PRESIDENT :—" We are taking only sub-clause after sub-clause. Till the clause as a whole is passed it is open to any hon. Member to re-open the question of any sub-clause. So I ask him to move the amendment."

The hon. the RAJA OF PANAGAL :—" The amendment I intend to move runs as follows :—

Substitute the following for sub-clause (9) of clause 5 :—

' Person having interest means

- (a) in the case of a math, a disciple of the math or a person of the persuasion to which the math belongs; and
- (b) in the case of a temple a person who is entitled to attend at the performance of worship or service in the temple or who is in the habit of attending such performance or of partaking in the benefit of the distribution of gifts thereat."

The hon. the PRESIDENT :—" Probably hon. Members will like to have copies of this. I hope the Leader of the Opposition has seen it."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—" I have seen it, but other hon. Members would like to have copies of it."

The hon. the PRESIDENT :—" Very good. In order to save time I think we may well leave it as it is and then deal with it after supplying the copies. Half an hour hence we will take it."

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Chapter II.

(Amendment No. 52.)

Sriman SASIBHUSHAN RATH Mahasayo :—" I move—

Omit this chapter and re-number the subsequent chapters and clauses.

This chapter relates to the Board of Commissioners."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—" May I point out, Sir, that it will be more convenient if, instead of having a discussion on the whole chapter, we confine to a general discussion on clause 6? The subsequent discussion on the other clauses might go on then. There are a large number of amendments. One of them relates to the Board and the others seek to modify the Board. Therefore, I suggest that the necessity for the Board may be discussed under clause 6 and the other points might be discussed in their appropriate places."

The hon. the PRESIDENT :—" The idea with which this motion was given precedence was that if the House decided to omit the whole chapter, there would be no necessity for the other motions. As a matter of convenience, the general question about the need for the Board of Commissioners may be discussed now. When vote is taken upon it, no attempt should be made afterwards to repeat those arguments. Any motion that might be taken up afterwards will solely be about matters of detail such as constitution and other things. The understanding is that the House should not again discuss the general question when dealing with the specific amendments. It should be understood that after this thing is over, we will again take up clause 5."

Sriman SASIBHUSHAN RATH Mahasayo :—" The first reason why I move the amendment is that this Board of Commissioners was not contemplated when the Bill was originally framed. It is only an after-thought and has been introduced in the Select Committee stage. The country has not had sufficient opportunity to give its opinion on this matter. The newspapers may have done something; but, so far as our constituencies are concerned, they have not been able to give any opinion with regard to this matter of the Board of Commissioners. The guidance and the co-ordination that this Board of Commissioners is expected to undertake can be easily done by the District Courts. There is no necessity to have this extra institution. It costs us lakhs of rupees. People will have great difficulty in coming to Madras and this Board itself will find it difficult to go to the various districts to decide questions with regard to temples and maths. This Board is quite unnecessary and it is up to us to see that this chapter is deleted."

Mr. R. SRINIVASA AYYANGAR :—" Mr. President, I have tabled a similar amendment and I should like to say a few words in support of this motion. It seems to me that this chapter, which was not found in the original Bill and which I am inclined to characterize as the off-spring of the labours of the Select Committee, must go and must inevitably disappear on the ground that it is not necessary and on the further ground that it will entail heavy expense on the several institutions concerned. So far as this chapter goes, it vests the Central Board with enormous powers over a lot of things. The Board is given the power of nomination, the power of checking

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registers, power over the trustees, power to settle schemes to come before courts and to apply to courts to sanction such schemes, power to move the courts for utilizing or diverting any surplus funds, and so on. Therefore, for the first time in the Statute Book of this country, a new machinery, to which we orientals have not been accustomed, is sought to be set up, supplanting an older machinery, which so far has been found not wanting and which has, if I may say so, inspired the confidence of the country or, in other words, in which people have greater confidence. The machinery which has given us immense satisfaction is sought to be replaced by a machinery of a different character, great complexity and greater expense—a machinery of doubtful utility or utility which has hereafter to stand the acid test of time. Is there any justification for erecting or installing such a heavy and costly machinery and for arming it with enormous powers which, far from minimizing the strife, will really introduce complications? The powers are very extensive and to the extent to which the Board will have the right to claim contributions from *maths* and excepted temples, I venture to submit, the Board will cause a drain upon the otherwise slender resources of these institutions.

“That this question is likely to lead to a great deal of trouble and that this provision will be viewed as really a contentious one, is apparent from the observations to be found in paragraph 8 of the Select Committee’s report, where it is stated:

To the machinery of control provided in the original Bill we have by a majority decided to add a Central Board or Boards on the lines of the Charity Commissioners in England.

“I lay great stress on the word ‘majority,’ for it indicates a strong divergence of opinion; at any rate, there was not unanimity on this point. The report continues

A Board will essentially be an administrative body.

“In other words, an administrative body is sought to be ushered into being for the purpose of sitting in judgment for the better governance of these religious institutions. The question is, whether there is any necessity for this. I think it also necessary to point out the danger of our slavishly following or imitating the western models so far as religious matters and religious tenets are concerned. In respect of this matter we are entitled to claim that our system is by far the best and remarkable. We all know that most of these local institutions are being managed, as everybody knows, by honorary workers as a work of love. In these days of decentralization, I must enter my most emphatic protest against any idea of centralizing and vesting extensive powers in a body which is to be paid not by the State but by some other agency. Moreover, the idea at present is to have only one single body for the entire province. There are *maths* and *maths*, temples and temples, religious institutions and religious institutions, the usages and customs of which are entirely different. To set up one central body to deal with and dispose of various matters connected with *maths* dealing with various systems of philosophy, governed by different codes of morals—keeping all the *maths* and other institutions under the control of one secular body—is something to which I find myself unable to give assent. The constitution of the Central Board is undesirable on account of its inordinate cost and the unnecessary complexities which it will introduce into the administration of religious institutions, where, if at

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all, simplicity, directness and thorough absence of red-tapism are so essential. Moreover, a central authority for the entire province will find the work unwieldy besides lacking in local knowledge and influence which are indispensable in dealing with questions that arise for its consideration. The inconvenience and trouble that the parties concerned will have to undergo, in having to approach the Board situated in Madras, will be enormous. The cost of the machinery will, I venture to submit, make it a real white elephant. In this connexion, I think I can do no better than quote the opposition view, which has been summarized by Sir Muttuswami Ayyar’s Committee at page 87 of the book supplied to us. It is stated there:

On the other hand, it was held that centralization of authority would be prejudicial to the growth of a capacity of Local Self-Government; that the large salaries paid to the members of the Central Board would be a heavy tax on temple funds; and that the appointment of a Central Board would introduce an elaborate and complex machinery and lead, in course of time, to a harassing amount of interference with local agencies.

“There the danger signal is given; and, is it right, is it necessary, is it expedient and do circumstances warrant to create a Central Board and force it upon these religious institutions? Therefore, I appeal to the House that no case has been made out for the constitution of the Central Board which, far from serving any real necessity, is likely to operate as a drain to the extent of 2 lakhs of rupees a year.”

Diwan Bahadur S. Rm. Ct. PETHACHI CHETTIYAR:—“Sir, the Central Board proposed by the Select Committee is one involving a very heavy expenditure which has to be borne by *maths* and temples. As the office of the Central Board now proposed is to be located in Madras, it places the several applicants, complainants and witnesses, etc., of the various districts under a considerable hardship, personal trouble and inconvenience, besides forcing them to spend more moneys on litigation than would be the case, if such petitions, complaints, etc., were disposed of by the respective district and subordinate courts.

“If the mover of the Bill should say that, as it is contemplated by the Bill itself, some more Central Boards may be formed for the convenience and comfort of the public, then I will have to point out that, although this may give some relief to the public, still the expenses for the maintenance of such Boards will only become greater and thereby it will only mean an additional taxation on the Religious Endowment funds. Instead of wasting the trust funds by forming and maintaining such Central Boards, I think it would be much better to utilize all such money for some useful public purposes, as was proposed by the hon. the Raja of Panagal in chapter IV, section 33 of his original Bill.

“The Board can easily be replaced by vesting the powers, as far as it is necessary, in the independent judicial officers, viz., District Judges and City Civil Judge. A few of the members of this Council seem to be of opinion that the Central Board will help to minimize the legal charges of these institutions in disputes of their own and that there would be no harm if the *maths* are made to contribute a small percentage of their income, considering the considerable wastage of money in purposes other than those for which the trust properties were intended. Sir, I am not prepared to agree with this opinion of theirs; for, I am quite aware that they think of

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only one or two *maths* which might have misused the trust funds in the said undesirable manner; besides, I cannot understand how any incidental disputes of these *maths* can be avoided by the existence of a Central Board.

"Further, many temples which are deprived of their landed properties and always remain crying to have a small increase in the *mohini* allowances cannot afford to contribute even one-hundredth of what is now proposed to be taxed on them by this Bill.

"Sir, some hon. Members of this Council say that the Commissioners of the Board may be honorary and elected officers and some others propose that their remuneration may be reduced. But, Sir, with due deference to their views, I have to point out that though the expenditure in connexion with the Board is curtailed to a certain extent as far as the remuneration of the Commissioners is concerned, still the expenses on behalf of the staff of this Board and the unnecessary and enormous expenditure on the part of the public seeking the help of the Board in litigations, etc., will not at all be minimized in any way.

"When taking into consideration the facts that with a defective and blind Act of 1863, the several Hindu temples are still preserving their sanctity and that some of them are even now administered satisfactorily—though this may be due to the very large donations and offerings towards the upkeep as well as the princely contributions towards the renovation of temple buildings—the provision for the formation of a Central Board in this much improved Bill, which gives enormous powers to the Temple Committee, should be considered superfluous and unnecessary. For these reasons, the abolition of the Central Board and the replacement of the same by the judicial officers with the necessary and limited powers is a main change that is desired widely by the public at large."

Rai Bahadur T. M. NARASIMHACHARLU :—"Sir, I also support the deletion of this chapter relating to the establishment of the Board of Commissioners. In doing so, I shall confine my remarks to the position which this Board of Commissioners will occupy in connexion with the *maths* in general. No doubt *maths* have been included in the scope of this Bill, but I would request the hon. the Minister to spare them the further humiliation of being controlled by a Central Board. I would rather like them to be controlled, if control was necessary, by the Government or the Court which represents the King for administering justice. Another reason why I do not like the Board of Commissioners is on account of the position it will occupy. Clause 8 says that the Commissioners shall be persons professing the Hindu religion. That is all. They need not perform the rites and duties enjoined on them by the Hindu Sastras; they need not be learned in the Sastras; they need not have respect for or faith in our religion; it is enough if they simply say that they are Hindus. Then what is the other qualification insisted on for the president? He shall be a barrister or a judicial officer or a High Court pleader of certain years' standing. I think, Sir, that of all the humiliations that can be heaped upon the heads of *maths*, the placing of a barrister or of a pleader of certain years' standing to superintend over them, is the worst (hear, hear). If it is said that the president is to be a Mahamahopadhyaya or some other person well versed in Sastras, such an appointment will be welcomed.

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"Clause 14 says that the general superintendence of all religious endowments within the territorial jurisdiction of a Board shall vest in such Board; and we know what general superintendence means. It means superintendence over everything. Not only that. The heads of the *maths* will be required under the Bill to prepare and submit accounts and statements to the Board. If the submission of accounts was to the Government, certainly it should have no objection, because Government is impersonal. But the Board of Commissioners is personal; it will be composed of persons who will command the patronage of the Minister in power (hear, hear) and who will draw fat salaries and allowances. It is inconceivable that a layman could try to control and issue orders to the heads of *maths* who have been their own trustees hitherto, and who hereafter will be required to carry out the orders of the Board and act in accordance with their directions. Under clauses 58 and 59, the Board can make enquiries and frame schemes and forth, and if it comes to the conclusion that a particular head of a *math* should not be there, it is empowered to institute proceedings to remove him. These are all quite new experiences to the heads of *maths* who have been without any control except the control of their own exalted conscience and the public opinion of the disciples. These have been the only safeguards till now, and, what is more, the *maths* were getting on very well with them. Now that the Board is given the power of supervision over their affairs, I consider it improper for any Hindu ministry to impose all these restrictions on the freedom of the heads of *maths*. Therefore I say let us spare these further humiliations to the heads of the *maths* by omitting this chapter altogether.

"Again, Sir, this Board is not to work gratis. A contribution of $1\frac{1}{2}$ per cent is to be levied from all the *maths* on their gross income, not even net income, for the upkeep of this Board which is not at all wanted and which is quite unnecessary. Moreover such a sort of centralized authority is opposed to all modern principles of democracy. Therefore the best thing would be to constitute the disciples of each *math* as a sort of Board. That at least will be tolerable, because those that are interested in the *math* will then constitute the advisors of the head of the *math*. We have not got even that consolation. The proposed Board will consist of men who have no faith or respect for these heads of *maths* and will domineer over them, so to say. So it will be extremely unwise to constitute such a Board.

"We can labour the point to any extent and for any length of time, but our time is very short. Therefore I would entreat the hon. the Minister to devise some other means of control over these *maths* than the one that is proposed in this chapter."

Mr. P. SIVA RAO :—"Sir, I have sent notice of a similar motion relating to the constitution of this Board of Commissioners. It must be remembered that when this Bill was introduced first in this Council there was no provision whatever for the formation of this Board. It was said yesterday that the first impressions were always the best impressions, and it has turned out to be so even in this case. The Board of Commissioners was an after-thought which originated in the Select Committee, and I am not in a position to make out what were the grounds for departing from the provisions of the Bill as introduced for the first time in this Council.

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My objection to the inauguration of this Board is mainly on the score of expense. This matter came up for discussion even in 1894 before a Committee presided over by Sir T. Muttuswami Ayyar; the *pros* and *cons* were carefully considered, and the idea was given up in deference to the instructions of the Government of India. Even now I think that it is very likely that the Government of India may refuse to give leave to the introduction of this Bill. We are all aware that this new provision has been sent up to the Government of India, and in all probability—and I very much wish it—this provision relating to the Board of Commissioners will be chucked out” (laughter).

The hon. the RAJA OF PANAGAL:—“ May I know, Sir, whether the hon. Member would stand by the opinion of the Government of India?”

Mr. P. SIVA RAO:—“ That question I am not in a position to answer. From the way in which the question is asked, it looks as if the hon. Member has received their opinion.

“ I should view this question on its own merits, independent of the opinion of the Government of India or any committee that may have been appointed at any time. The foremost objection to the constitution of the Board is its enormous expenditure. It is a costly pageantry without any corresponding advantages. Under clause 8, power has been taken by the Local Government to direct the constitution of a Board for the whole Presidency or any specific part thereof. Now the Government may be satisfied with the constitution of a Board for the whole Presidency. To-morrow or some time later they may say that the whole Presidency cannot be managed by one Board and they may want to multiply it. I do not know where this policy would land us. As it is, it is calculated that the Board would cost about a lakh of rupees or a lakh and a half. For this purpose, it is proposed to levy a contribution of 1½ per cent from the maths and temples concerned. Now, on the score of expenditure, I strongly object to the formation of this Board, nor do we think it proper that the temple funds should be devoted to such purposes. There is another point. In these days, when everything is tending towards decentralization, this proposal for over-centralization by the appointment of a Central Board seems to be quite against the spirit of the times. There is yet another objection. I would ask in all fairness whether it is possible for the Board constituted at Madras to supervise all the religious institutions in our Presidency, to supervise all the concerns of all the religious institutions of our Presidency. It is much better to leave it to the local committees or to the district courts, and they will be best able to solve the difficulties that crop up then and there.

“ Again, Sir, this Board, as it appears from the provisions of this Bill, is more a judicial body than an administrative one. I also see a tendency to discredit the working of the law courts, the regularly established civil courts of the land, by transferring all these powers to this new body. The qualification prescribed for the chairman of the Board is that he must be either a barrister or a High Court official or a judicial officer. Personally, I am glad that one more avenue is created for the members of the legal profession. But I agree with the hon. Member from Cuddapah in saying that a barrister, a lawyer, is not the officer solely qualified to be the chairman of a Board like this. I should very much like that this body is presided

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over by one who is acquainted with the customs and usages of the religious institutions of this country. There is also another difficulty. If every matter has to be referred to the Board of Commissioners established at Madras, just consider the enormous expenses which the rival claimants or disputants will have to undergo in bringing their cases to a central and distant court.

“ Nowadays, I observe one tendency in almost all the Bills that have come up before us, namely, a tendency to create certain costly appointments and impose additional burdens on the revenues. Only the other day, in the University Reorganization Bill, we had the costly appointment of a Vice-Chancellor. The present Bill provides for three to five Commissioners who are sure to consume about Rs. 800 each per mensem and a chairman of the Board who is likely to consume Rs. 1,200 per mensem from the math and temple funds. I therefore seriously object to the formation of this Board of Commissioners.”

The hon. the RAJA OF PANAGAL:—“ Mr. President, both in the minutes of dissent submitted by the hon. Members of the Select Committee and in the speeches which the hon. Members opposite have made in the course of the present debate I have been at considerable pains to see if there is anything to justify the alarm which the hon. Members have raised in regard to the constitution of a Board of Commissioners. Sir, a great deal of ingenious reasoning and astounding eloquence have been brought into play by hon. Members to make out a case that the Boards are not desirable. They have adduced various arguments against the constitution of these Boards. But, Sir, I confess that though I have been closely following their arguments, I have yet to come across an argument which really justifies the apprehensions of the hon. Members. Sir, it has been said that the late Sir T. Muttuswami Ayyar, although he attempted to advocate the constitution of a Board of Commissioners in his first Bill, did not advocate its constitution in his second Bill, and that that shows there was a change in his opinion since later on he thought that the constitution of a Board of Commissioners was unnecessary. Sir, if only we examine the reasons why he did not provide for the constitution of a Board of Commissioners in his second Bill, we shall be convinced that far from being against any such constitution he was more in favour of it; only he was under a disability. He was under a mandate from the Government of India not to introduce anything new but to be content with the amendment of Act XX of 1863. Sir, that was the reason why, although he was very much in favour of the constitution of a Board, he did not introduce the system of Commissioners in his second Bill.

“ Secondly, Sir, my hon. friend from Bellary (Mr. P. Siva Rao) said that the Government of India had expressed themselves against the constitution of the Board, and that that was one of the reasons why we should not introduce the system of Commissioners. Now, Sir, I shall read from a Government Order of the Government of India where they say:

The policy of Act XX of 1863 should be maintained. The proposals of Sir William Robinson, which involve no direct interference with the administration of the endowments by the European officers of the State, provide that the duty should be entrusted to a strong native Board exclusively devoted to the work and armed with full powers to enquire into and obtain redress for abuses of authority by the local management.

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"Sir, is there any reason now to think that the Government of India will not stand by that opinion? Again, I refer my friend to the opinion which the late Sir T. Muttuswami Ayyar, Sir Subrahmanya Ayyar, Sir Sankaran Nayar and a number of other eminent men have conjointly expressed:

Although we are strongly of opinion that a Central Board would most effectively remedy the evils that exist, yet in accordance with the instructions of the Government of India, we have avoided proposing a Central Board."

Rai Bahadur T. M. NARASIMHACHARLU:—"They had not then in their minds the idea of including maths."

The hon. the RAJA OF PANAGAL:—"I am sure, Sir, my hon friend is not quite correct, because some of those Bills did include the maths. If only we examine that statement by Sir T. Muttuswami Ayyar and others, we shall come to know that even they wanted to have the maths included, but they could not do it.

"The next argument was based on the costly nature of this machinery. But, Sir, if you consider the cost that is incurred at present in endless litigation in connexion with the management of temples and maths, you will observe that the cost will be very much less and that the whole process of litigation will be greatly simplified by the introduction of this Board. So, instead of the machinery being costly, it will minimize the cost of the management of these maths and temples.

"Another argument was advanced that because the system of Commissioners was an English system it was not desirable and that it would be slavish to follow that system. Sir, if we are to follow that advice, we will not be sitting in this Council this morning."

Mr. R. SRINIVASA AYYANGAR:—"I said in matters of religion let us not follow the west."

The hon. the RAJA OF PANAGAL:—"My hon. friend wants to exclude religion in following the western systems, but in other matters he is prepared to follow them. I am glad he has told me that. Sir, the object of the constitution of the system of Commissioners is to simplify the management and at the same time efficiently guard against the abuse or the probable abuses of trust management. Complaint has been made on the ground that the constitution of a Central Board would lead to centralization. But at the same time my hon. friends have no objection to control by the district courts. Well, if the district courts can control the management of these institutions, I fail to see why the Board cannot control them. In the circumstances, Sir, I cannot accept the suggestion to delete the chapter."

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR:—"Sir, I have also given notice of a motion whose object is to delete the chapter relating to the constitution of a Central Board. I listened, Sir, with very great interest to the arguments that were advanced by the hon. the Raja of Panagal. I had also the privilege of being a member of the Select Committee when this question was discussed. Further, I have looked into paragraph 8 of the Select Committee's report which summarizes the arguments prevailing with the majority of the members in their recommendation for the constitution of a Central Board. But, Sir, the position for the establishment of a Central Board does not, in my opinion,

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derive any strength from the views that have been expressed. My hon. friend has stated that the arguments that have been urged have not in any way shaken his view regarding the necessity for a Central Board. I am not sure whether the arguments I now propose to offer will serve any better purpose than those already offered and whether my arguments will have any better effect than the arguments already advanced. But I wish at least to have the satisfaction that I have put forward my own objections to the constitution of a Central Board and to have had my say on that point. Something was made of this fact, viz., that there was a recommendation for the constitution of a Central Board in some of the earlier Reports and Bills that were brought up for the consideration of the Government of Madras and of the Government of India. Now, Sir, if hon. Members only look into the literature on the subject, they will find that the kind of board that was then asked to be constituted was more or less a Government Department. You will find there that there is a Central Board; there is a system of inspectors who are to work out the duties of the Central Board; all these being accepted, you have no doubt a system of district boards or district committees. Curiously enough, in the two Bills which recommended the constitution of a Central Board you find that whereas in the one the Central Board or the members thereof are to be appointed by the Government, in the other the appointment is to be made by the High Court. As a matter of fact, you will find that subsequent to the second Report, which is dated 1886, there has not been any proposal to have a Central Board.

"Now, Sir, we have been told that this Central Board was constituted on the analogy of the Charity Commissioners of the West. Apart from the question whether we should be justified in slavishly or otherwise copying the institutions of the West, I am afraid, Sir, that this argument will give very little support to the view that the hon. the Raja of Panagal is interested in maintaining. I submit, Sir, that on very many vital, fundamental points, the constitution of this Board is altogether different both in point of functions and in point of constitution from the system of Charity Commissioners. I may just point out wherein these fundamental differences lie. You will find that there is one central idea that runs through all the powers and duties that are assigned to the Central Board in this Bill. No doubt, we are asked now to discuss the question as to the wisdom of having a Central Board, and in discussing that question, it is impossible to avoid reference to the functions expected to be discharged by that Central Board. That is my excuse, Sir, for going into the question of what these Central Boards are expected to do. Now, as I said, you will find that in the whole of this Bill there is what I have called in my dissenting minute as an excessive dread of the interference of the courts. You will find provisions have been made as far as possible to give finality to the decisions of this Central Board so as to constitute it, if I may say so, into a final court of appeal. Now, you will find that the functions of the Charity Commissioners are altogether different. They do not serve in any way to take away the jurisdiction of the ordinary courts. The Chancery Division was to function as much as it would even if the Charity Commissioners had not been created; so that you find that this is a very important point in which the present Bill differs from the constitution of the Charity Commissioners.

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"Another point, Sir, is this: The jurisdiction of the Charity Commissioners is reserved to cases wherein the income of the endowments—such income being calculated otherwise than on the basis of voluntary subscriptions—does not exceed £50 per year. In our Bill it is not so. It is not only some particular institutions with limited incomes but every temple and every math whatever might be its income—provided of course it does command an income of over Rs. 500 in the case of a math and an income of over Rs. 250 in the case of a temple—that come under the control of the Central Board.

"The third point, Sir, is this: You have certain institutions excluded from the purview of the Charity Commission even as it has been constituted in England. Such an exclusion you do not find here. Of course, it is true that the Bill itself does not provide for cases of maths having incomes less than Rs. 500 and of temples having income less than Rs. 250 a year. But so far as the Board is concerned, in one way or another, whether through the committee or independently of the committee, it will have jurisdiction over all religious institutions subject to the proviso just referred to.

"Another point which is also of great importance is this. The Charity Board are advised that in cases wherein contentious questions might arise, they must decline jurisdiction. On the other hand, Sir, in our Bill power is given to the Central Board to exercise jurisdiction even in the most contentious of cases, and what is worse, the interference of the civil courts by way of setting right what is considered to be the error of the Central Board, is excluded. I think I have shown sufficient reasons why we should not be led away by the analogy of the Charity Commission for the purpose of believing in the need for a Central Board.

"But, Sir, there are other grounds why a Central Board should not be constituted. My hon. friend was saying that the effect of constituting these Central Boards would be that we could avoid costly litigation. I am not sure that it would have this effect, unless you are going to have stringent rules which will prevent people from arguing their cases before the Central Board by means of advocates as is the case in courts. But we must remember that where a person's rights or what he considers to be his rights are affected, it is necessary that he must at least have the satisfaction that he has been given every opportunity of representing to the authorities whose power it is to set matters right, what exactly his case is, and I think the Board or the Government will think twice before they make up their minds not to hear parties or their pleaders before they dismiss their cases. Now, Sir, the costliness of the litigation cannot therefore in any way be minimised by the course to which my hon. friend has referred. The costliness of the litigation that you now complain of is not a costliness due to the expenses incurred by the institutions affected. If, for instance, some office-holder complains, or if somebody else complains, that the management of an institution is not properly conducted, then, Sir, it is the persons that complain that pay; whereas what we are now called upon to do is to mulct these various endowments in the amounts that have to be paid to the persons who are to constitute the Board. As has already been pointed out, the House will remember that a certain percentage—1½ per cent of the total income—

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will have to be collected from the maths and temples which will come under the jurisdiction of the Board. Now, the expenses that will have to be entailed by these Boards will come, as I have pointed out in my dissenting minute, to something like a lakh of rupees. If you calculate it at 1½ per cent, the income on which this percentage will be levied will come to about 70 lakhs of rupees. I have stated in my dissenting minute and I repeat it now, that we have not enough data before us to justify the view that this 1½ per cent will come up to at least a lakh of rupees. The best argument in support of this view that I should like to take up is this: that you find that in the Bill there is provision made for institutions which need no kind of interference whatever from the Central Board, which have got their schemes already settled, and which are in an excellent state of management, being still brought under the purview of the Board simply on the passing of this Bill, and I hope I am not uncharitable when I say that the object of that provision is to secure that 1½ per cent is taken away from their income. That I think is a confiscatory provision in this Bill. You therefore find that you are bringing into existence a costly machinery which will, I submit, have the effect of depleting the resources of these various bodies which certainly do not deserve that kind of treatment."

The House adjourned for lunch at 1-37 p. m.

The Council re-assembled after lunch at 2-30 p.m., the Deputy President, presiding.

MR. C. V. VENKATARAMANA AYYANGAR :—"Sir, I am one of those who think that on this question of religious endowments, there should be no party ideas and that every one should think for himself and speak for himself. For the gods' sake and for the goddesses' sake let us for a moment forget all other considerations except what is to be done for our gods and goddesses. I therefore welcome any attempt on the part of the hon. Members on the other side to speak against Government opinions in this case. It is that idea that has made me speak against the opinions so far expressed by my colleagues on this side. If my hon. friends on this side have spoken against the constitution of the Board of Commissioners, I have been from the very beginning pointing out the necessity for the constitution of such a Board.

"Looking into the history of the Boards of Commissioners, my hon. friend Mr. R. Srinivasa Ayyangar rather misquoted the portion from the report of Sir T. Muttuswami Ayyar's Committee. Before going into the whole question, we may just go into the voluminous report that has been placed at the disposal of the House. Mr. Rama Ayyangar with whose Bill the history begins did not specifically provide for the constitution of the Boards of Commissioners. The Robinson Committee, of which Mr. Rama Ayyangar was a Member, specifically referred to the constitution of a Board of Commissioners. Then we had the Sullivan's Committee, in which Sir T. Muttuswami Ayyar also was a Member; and that also recommended that a Board of Commissioners should be constituted. In this connexion I must say, Sir, that much injustice was done to the Government of India by the hon. Member in charge of the Bill as well as by other hon. Members when they said that it was the Government of India that was against the constitution of a Board of Commissioners."

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The hon. the RAJA OF PANAGAL :—“ I did not say that the Government of India were against the Board of Commissioners.”

Mr. C. V. VENKATARAMANA AYYANGAR :—“ At least the Government of India were made to be against the constitution of the Board of Commissioners. If we read the history of the Bill, it will be found that it was not the Government of India that was against the constitution of the Board of Commissioners, but that it was the Secretary of State for India that dictated the terms to the Government of India. The Secretary of State, at the instigation of some Christian missionaries in England, instructed the Government of India not to go to the length of constituting a Board of Commissioners. In accordance with those instructions the Government of India ordered the Muttuswami Ayyar Committee not to go to the length of altering the provisions of the Religious Endowments Act XX of 1863 to a large extent. In that very paragraph quoted by my hon. friend, Mr. R. Srinivasa Ayyangar, the first portion begins by citing arguments in favour of the constitution of the Board and the latter portion ends by citing arguments against such a constitution. The particular passage quoted by my hon. friend, Mr. R. Srinivasa Ayyangar, was not the opinion of the Committee.”

Mr. R. SRINIVASA AYYANGAR :—“ I never stated it was the opinion. I said the views were correctly summarised by Sir T. Muttuswami Ayyar. I never misquoted the passage.”

Mr. C. V. VENKATARAMANA AYYANGAR :—“ At the end of the paragraph the Committee say :

Although we are strongly of opinion that a Central Board would most effectively remedy the evils that exist, yet in accordance with the instructions of the Government of India, we have avoided proposing a Central Board.

Although the later Committee, presided over by Mr. Chentsal Rao, did not make any provision in their Bill for the constitution of a Central Board, they specifically said that all the ills connected with the religious endowments could only be remedied by the creation of a Central Board. Unfortunately their hands were tied by the Government of India, and so they did not give effect to their views. That is the history concerning the old Bills on the subject of religious endowments.

“ We will now go into the question whether the constitution of a Board of Commissioners is essential or not. When I spoke on the Bill at the time it was first introduced into the House, I said that it was necessary to do something to put an end to the wasteful litigation in connexion with temples. I did not say that a Central Board of Commissioners should be constituted. I said that Boards of Arbitration should be created in various centres of the Presidency. I appeal to the hon. Minister to see whether he cannot come to some understanding on this matter of the constitution of Boards of Commissioners and respect the views of both sides of the House. I must say that not a pie should be spent on matters which can be attended to by honorary workers. There are certainly enough workers in this Presidency who will be willing to undertake this task of arbitration without being remunerated. But this is a matter of detail which can be attended to later on. All of us are agreed that steps should be taken to put an end to the costly litigations that are now going on in connexion with religious endowments. I submit that this object can be secured not by the constitution of one Central Board

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of Commissioners but by the creation of a number of Boards in various parts of the Presidency. If we increase the number of Boards and limit their jurisdiction, much money will not be wasted by way of travelling allowances, etc. Therefore it is quite essential that we should have a large number of Boards. If we look into the ancient history of all the religious institutions, it will be found that a great deal of their income was wasted in useless litigation. If we are really anxious to prevent this enormous waste, it can only be by the constitution of several Boards of Arbitrators. All the leading men should be requested to undertake this honorary work. I am one of those who think that in ordinary matters the jurisdiction of courts should be shut out. The Board that is to be constituted can be asked to deal with all the minor matters which the courts cannot take cognizance of. Though I strongly support the constitution of a Board for the purpose of preventing waste of money in litigation, yet it does not mean that I am fully in sympathy with all that has been put in the Bill for the constitution of the Board of Commissioners. I request the hon. Minister to arrange for a Round Table Conference, and come to a final and satisfactory decision regarding the appointment of the members of the Board, their jurisdiction and their powers.”

The RAJA OF RAMNAD :—“ Sir, like my hon. friend Mr. Venkataramana Ayyangar, I also wish to support the appointment of a Board of Commissioners. I only wish to say a few words regarding the objections raised by my hon. friends against the constitution of a Central Board. At the outset I may say that the two main objections that have been raised, namely, that this constitution of a Central Board is an after-thought and that it is an expensive machinery are absolutely without foundation. My hon. friend, Mr. Venkataramana Ayyangar, has clearly stated how all the previous committees considered the matter and how some of them very strongly advocated the constitution of a Central Board. The Committee which considered the draft Bill and over which I presided did not make this recommendation simply because it had no opportunity of going into all the earlier Bills which are now made available to the House. If only they had the facilities to go into the earlier Bills I have no doubt that they would have very strongly recommended the formation of a Central Board of Commissioners. Thus, it is clear that the idea of constituting a Central Board is not an after-thought. It is the other way. The second objection that was taken against the Board of Commissioners was that it was an expensive machinery. After it was decided yesterday to treat the *maths* and excepted temples separately from the endowments, I fail to see how the Central Board of Commissioners can be dispensed with.”

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—“ May I ask my hon. friend whether this question of the constitution of a Central Board of Commissioners was not considered by the Committee over which he presided and whether it was not voted against ? ”

The RAJA OF RAMNAD :—“ I said that if the Committee of which I was the Chairman had read all the earlier Bills, they would have strongly recommended the constitution of a Central Board of Commissioners. The Committee decided the question without sufficient materials before them and hence they decided against the constitution of a Central Board.

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"I was mentioning, Sir, how the Central Board had become an absolute necessity after the House had resolved yesterday to treat the excepted temples and *maths* in a way different from the endowed temples. If the affairs relating to the excepted temples and *maths* are to be taken to courts, is it at all possible for the judicial officers who are already overburdened with work to deal with all litigation about religious endowments. From practical experience we find that the hon. the Law Member comes to this House often for supplementary demands for the establishment of additional Sub-Courts and District Munsifs' Courts. So, if we empower the courts to deal with questions arising out of this Bill and constitute additional courts for that purpose, would it not be very expensive? In my opinion, to create courts to deal with these questions would be much more expensive than the constitution of a Central Board to attend to this work. I therefore think that it is not correct to say that the formation of a Central Board would be expensive. As the two objections, namely, that it is an afterthought and that it is an expensive machinery, have thus no strength, I think a strong case has been made out for the constitution of a Central Board."

Diwan Bahadur D. SESHAGIRI RAO PANTULU:—"Sir, I give my hearty support to the motion to omit the Chapter relating to the constitution of a Central Board of Commissioners. My chief reason for not having this Central Board is that it would not be useful in its operations. No religious institutions managed from a distance, such as the Central Board proposed to be constituted is, will be satisfactory. In order that the administration of the religious institutions may be satisfactory it should be carried on by people in the vicinity. I think that local committees, composed of really honest, pious and useful gentlemen, manage the religious institutions, these will be more prosperous. The administration of a Central Board, such as the one proposed, would smack of red-tapism. It will not enter into the spirit of the religion which requires constant attention and honest application."

The hon. the RAJA OF PANAGAL:—"Does my hon. friend suggest that the Central Board will not enter into the spirit of religion to the same extent as the Courts do at present?"

Diwan Bahadur D. SESHAGIRI RAO PANTULU:—"Not that. The religious institutions will be better managed by people in the vicinity. It is no use having a costly Board in a place like Madras and asking it to manage institutions hundreds and hundreds of miles away. If you want to enter into the spirit of religion, the temples must be managed by those who have a sympathy for that religion and that sympathy will be wanting in a Board, however eminent the members might be, which sits at a long distance from these institutions. Constant touch with the people, and a grasp of the spirit of the religion are the essence of a satisfactory management. But these qualities will be wanting in a Board which is situated at a long distance. So much as to the usefulness of a Board which is situated at some central place."

"Secondly, the cost of these Boards is prohibitive. Even supposing for the sake of argument that these Boards will be composed of Commissioners

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who will be honorary men, their travelling allowance and the expenses of inspection will be very prohibitive. Therefore, the Government ought to think twice before they can entertain the idea of spending the money from these *maths* and temples on such costly institutions. This is an indirect taxation upon these temples.

"Then, with reference to this Board, one has only to see the various Bills that have been introduced from time to time. Mr. Rama Ayyangar's Bill of 1872 makes no mention of the Central Board. Mr. Robinson's Bill of 1877 no doubt mentions it, but Mr. Carmichael's Bill of 1884 vetoes it. Mr. Carmichael in fact leaves the religious institutions to the management of District Boards under the Local Boards Act. I do not know whether these District and Taluk Boards which consist of honorary men will not be better able to manage these institutions than any costly Board that is contemplated by this Bill. Then again, Sir, Mr. Sullivan's Bill of 1886 no doubt says that these central committees . . ."

The hon. the RAJA OF PANAGAL:—"Is it the contention, Sir, of the hon. Member that the trustees must be left to themselves to manage the trusts?"

Diwan Bahadur D. SESHAGIRI RAO PANTULU:—"Certainly not. I only provide for District Committees and not for a Central Board of a costly description. I do not want the trustees to be left to themselves. I am one of those who have supported this Bill on the ground that there is a lot of misappropriation going on with regard to the temple funds. But it is quite a different thing to say that in order to check that misappropriation you will have to pay for a costly institution in a central place like Madras. That is my view."

"Mr. Sullivan's Bill of 1886 no doubt introduces a provision for the appointment of a Central Board with pay. Mr. Raghunatha Rao's opinion on this question may very well be taken to heart here. He says that these members should be honorary members. Then again we have Mr. Justice Muttuswami Ayyar's Bill of 1894. It omits the Central Board altogether. No doubt, in the report it is stated that the Committee were told to do so by the Government of India. From what the hon. the Raja of Panagal says, this prohibition of the Government of India is perhaps now taken away as is manifest from the fact that all the Christian, Muhammadan and other Members who have not got much to do with Hindu religious institutions have freely voted on this Bill. I quite see that perhaps the Government of India have withdrawn their ban now. However, Sir T. Muttuswami Ayyar's Bill contains no mention of a Central Board. Then comes Mr. Chentel Rao's Bill. It only speaks of District Committees and never of Central Committees."

"This is the previous history of the question and it is for the Council to see how far this costly Board will have to be thrust upon the religious institutions of the country. Religion, of course, has to be encouraged; but I believe this Central Board will only make matters worse. With these few words, I support the amendment."

Mr. S. SOMASUNDARAM PILLAI:—"Mr. President, the question of the appointment of a Central Board which is now under discussion is one that was under consideration from the year 1842. Of course, the object of the Government in handing over the religious institutions to Indian management

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is very clear. The missionaries raised a hue and cry against a Christian Government managing institutions where idolatrous worship was conducted. They asked the Government to hand them over to Indian management and said that their object was that idolatry should be put down, and that that object would be realised only if those institutions were handed over to Indian management. They were thus handed over and subsequent events have clearly proved that what they said was quite true. From the time they were handed over to the Indian management until now, it is plain that many of the temples have ceased to exist and many poor fellows have become rich at the expense of such temples. From the year 1871, constant attempts have been made to systematise the management of these endowments and to bring them under proper control. Consequently various Bills were prepared and submitted. Now that the Government have handed over the control of these institutions to our own Ministers, they consider it better to bring the management of temples and *maths* under proper control. This is the only department in which Englishmen have no hand and it is the only department also in which mismanagement has gone too far.

"Religious endowments have got two aspects, secular as well as religious. The Bill proposes not to interfere with the religious side of it. As regards the secular side, the Bill proposes to place these endowments under the control of a Central Board. About the religious side of it, we need not say much. I know a lot about the *matadhipatis* and temples, and I am reminded in this connexion of an anecdote which is current in Hampshire. The anecdote says that a passer-by once asked another man to direct him to a certain place. The latter advised him to walk straight to the north till he met a parson then turn to the right and walk till he met a bishop, and then if he were to turn to the left, a few minutes would bring him to his destination. And the passer-by said, 'What do you mean by this? Do you mean to say that the parson and the bishop will wait for the pleasure of meeting me?' Then the other man said, 'Why Sir, we call a sign-post a parson, and a broken sign-post a bishop; for a sign-post only directs, but does not lead, and a broken sign-post neither directs nor leads.' This anecdote applies to some of our temples and *matadhipatis*—temples which only direct but do not lead, and *matadhipatis* who neither direct nor lead."

Rai Bahadur T. M. NARASIMHACHARLU:—"I protest against that statement, Sir."

Mr. S. SOMASUNDARAM PILLAI:—"I said 'some' and by that I meant, Sir, my own Saiva *matadhipatis* of whom I have some intimate knowledge. The money given to these people is trust property and not their own private property. They are only trustees. They are *anyasis* and do not require any money. We give money for the purpose of propagating our own religious principles. But they consider that the property belongs to them and begin to squander it away. Some young men with little brain and less culture and morally and intellectually weak are all on a sudden put in possession of wealth and authority, and they want to enjoy all the luxuries of a young rich man and waste all the money entrusted to them. To ensure the proper use of the property this Bill is proposed to be passed, and the control will be thorough only when there is a Central Board. Sir, if you do not want to have a Central Board, it is the same thing as saying that a

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body need not necessarily have a head. I think most of the hon. Members here are inhabitants of municipalities where there are water-works. Where do you get the water from? First it is carried to a central place and then only it is distributed. Of course, some of the hon. Members objected to the payment to these members. But considering the amount of money wasted by those *matadhipatis* in profligacy, the cost of the Central Board is nothing. It is only when you pay the members that they will discharge their duties honestly, earnestly and sincerely.

"With these few words, Sir, I protest against the motion to omit Chapter II."

Rao Bahadur A. S. KRISHNA RAO PANTULU:—"Sir, I think I agree with my hon. friend, Mr. Venkataramana Ayyangar, in suggesting that we should be free to give expression to our views, and that this question is not under any circumstance to be viewed as a party measure. I shall proceed to take up this question from that standpoint and try to satisfy this House, if I possibly can, that, notwithstanding all that has been said, there has been no justification made out for the retention of this provision for a Board of Commissioners. In understanding this question, it should be remembered that we ought not to concern ourselves with the mere idea, or name, of the Board, or the principle underlying it, but we ought also to take into consideration the other provisions in Chapter II relating to the constitution and powers of the Board.

"Much has been said, Sir, about the history of this question from the time of the earlier Bills. But a more careful examination of the facts will show that there were some features regarding the constitution of the Boards proposed in the earlier Bills which we do not find at present, and that there are some defects in them which are retained in the present Bill. I will now draw the attention of the House to the report of the Committee appearing on page 56 of the printed papers on Mr. Sullivan's Bill wherein they discussed this question and pointed out, as one of the objectionable features of the constitution of the Board, that the Commissioners were appointed by the Local Government. That is an objection which you find even now. What they said was this:

"In clause 4 of the Bill, we have made a radical alteration. One of the provisions, which in our opinion constituted a grave objection to the Bill of 1878, was that under which the central body of Commissioners was nominated by the Governor in Council. In any measure which may eventually be passed upon the subject, it appears to us desirable that all the machinery by which the management of the Hindu religious institutions will be conducted shall be removed as far as possible from any immediate direct control by Government. We had much discussion as to the mode of appointing the Central Committee, being only unanimous in our disapproval of the method followed in the Bill of 1878."

It is, therefore, clear that when they examined the question on the second occasion, they condemned, in no unmistakable terms, the policy of these members being appointed by the pre-Reform Government. But what we find now is that that provision still remains in the present Bill. Having discussed the desirability of making provisions for election and having at that stage found some difficulties in the way of introducing the principle of election, this is what they state later on:

"These and other reasons led us to abandon the idea of constituting the Central Board an elective body. We finally resolved to suggest that the Government in its legislative capacity, should appoint by name the first members of the Central Committee and that subsequent vacancies should be filled up by the High Court."

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Then they state later on :

The Judges of the High Court have much opportunity of finding suitable men for appointment to the Central Committee, and we consider that the probability of obtaining an efficient committee will be best secured by leaving the subsequent appointment of members in their hands.

This, Sir, was the constitution which was provided for in the second Bill and we also find clause 4 and the subsequent clauses of that Bill making provision for this contingency. That is the second stage in discussion of this question.

“When we come to the third stage, the Report of Sir T. Muttuswami Ayyar's Committee, and the observations therein, it is quite true that that Committee stated distinctly, unlike what my hon. friend, Mr. Srinivasa Ayyangar, stated, that they were in favour of appointing a Central Committee but that, under instructions from the Government of India, they had to abandon their proposal. But, Sir, it will be remembered that they came to that conclusion after disposing of the question of the exclusion of maths in paragraph 7 of their Report. This abandonment of the plan of constituting a Central Committee was under the instructions of the Government of India notwithstanding their own inclinations in favour of it; that is made clear from paragraph 12 of the Report. What we find there is that in the previous paragraphs they considered the question of the maths and came to a deliberate conclusion that *matams* ought to be excluded. Having come to that conclusion, they had no difficulty in deciding that a Central Board was desirable; but they found themselves unable to proceed with that suggestion further on account of the instructions received from the Government of India.”

The hon. Rai Bahadur K. VENKATAREDDI NAYUDU :—“They received most effective instructions from the Government of India.”

Rao Bahadur A. S. KRISHNA RAO PANTULU :—“It was their opinion; but that opinion was arrived at after they disposed of the really contentious and thorny question of the exclusion of *matams*. Now, my hon. friend, Mr. Venkataramana Ayyangar, suggested that he accepted the idea of a Board to be constituted but that the powers of the Board should be transferred to the court and from that time onwards the Board should not exercise those powers. He wound up by asking the hon. the Minister to consider the matter in a Round Table Conference. I may point out that if there is a proposal on the part of the hon. the Minister in charge of the Bill that he is going to consider the various suggestions for modifying the provisions regarding the Board of Commissioners and that he is going to give an elected and representative Board whose members will be honorary, I can understand the House coming forward and considering a question of that sort.”

Dr. P. SUBBARAYAN :—“Mr. President, I had no idea of intervening in this debate because I cannot lay claim to the knowledge of religious endowments that is possessed by my hon. friends opposite. But certain words that fell from my hon. friend, Mr. Narasimhachari, and reiterated by my hon. friend, Mr. Siva Rao, have made me intervene in this debate. Mr. Narasimhachari was so hard up for arguments against the constitution of this Central Board that he caught hold of a reed in the person of a barrister and objected to the President of the Board being a barrister and

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spun out a story. Evidently, Mr. Narasimhachari wanted that the President of this Board of Commissioners should be a Panchanga Brahman. I can quite understand why he wanted such a thing. Hon. Members of this House might remember the sort of speech which Mr. Narasimhachari made when a resolution was brought by my hon. friend, Mr. Krishnan Nayar, on Dr. Gour's Bill. It is this type of reactionary gentlemen, like Mr. Narasimhachari, that make the progress of this country impossible. If we can get out of the ordinary groove that we are running in, we shall be better. I think that the Central Board is a necessary thing. I have heard from people who are heads of *matams* that they would prefer to be controlled by a Central Board rather than by local committees, because the local committees would be controlled by local factions whereas a Central Board would be free from such obsessions and would be able to look upon matters from an independent point of view. I think I can say that a barrister may be expected to have at least liberal views on the subject, because he has travelled far and his outlook on life is very different from that of men who have stayed at home. Persons in that position can certainly bring in an independent point of view in settling religious disputes, and perhaps that is the reason why the Raja of Panagal put in a word about barristers in this Bill and the barristers are very thankful for it.”

Rao Bahadur T. A. RAMALINGA CHETTIYAR :—“Mr. President, Sir, for a long time I was of two minds. After considering the *pros* and *cons*, it occurs to me that there is no way out of this Chapter. As we stand at present, the Central Board seems to be a necessity in the conditions in which we have to work under this Bill. For instance, we have got a number of institutions about which there was a lot of talk yesterday, namely, institutions of more than local importance, institutions of probably all-India importance like Rameswaram, Madura and Srirangam. It will be very difficult indeed to allow these institutions to be managed by district committees which seem to be the only other alternative. Then, Sir, there are also the maths which are also big institutions whose disciples and the persons interested in them are distributed over several districts. It will, indeed, be difficult to allow the management of these institutions to be carried on by the district committees; and I am also aware of the strong feeling among at least a large section of the zamindars that the local committees should have nothing to do with the institutions under them, which are really institutions of a very important character, many of them of all-India importance. Then, Sir, there is also other point, viz., from the district committees we want appeals to be allowed. There is nobody who can undertake these appeals as we stand at present. The only alternative we have will be the District Court which is purely a judicial body. I do not know whether, in administrative matters, an appeal to this judicial body will be all that is wanted.”

“But there are one or two matters in the constitution of this Central Board which do require consideration. One of the objections is that we are having only one Board at Madras which will be far away from the religious institutions and its members which may not know the local conditions and also that the cost of litigation on account of the Central Board will be something heavy. With reference to this, there is a provision in the Bill now under consideration for the constitution of more than one Board. So I would ask the Government to consider, as soon as this Bill is passed,

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whether they ought to be satisfied with only one Board or whether in view of the reasons that have been urged it would not be better to constitute more than one Board.

"The other objections are also such as ought to be considered. One is the question of cost. Here again, it ought to be considered whether it will not be possible to reduce the cost by providing for the appointment of only one paid officer and associating with him a number of people who are elected and honorary. In that way a portion of the objection that has been raised can be met. The other objection raised by Mr. Krishna Rao that some of the Commissions which sat on the matter previously objected to the appointment of these Boards can be done away with if one of the persons of the Board, viz., the President, is appointed by the Government and paid, and the other members are non-paid men elected in some way by constituencies that may be brought into existence. It will not be difficult to bring into existence such constituencies. If the proposal to have three or four Boards in the Presidency is accepted, about half a dozen districts will come under each constituency. Thus, six or seven districts may be very easily arranged to elect people to these Boards and associate them with the President. In this way that difficulty also can be surmounted. So, Sir, as I said, taking the measure as it is I do not see how we can avoid this Board at all. This Board seems to be a necessity if the Bill goes out and I do not think there is any agency by which we can work the provisions of the Bill. It is in this view that I shall vote for this Central Board, and as I said I would leave the objections which require consideration to the consideration of the hon. Minister when the time comes."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU:—"Sir, there is no doubt that the constitution of a Central Board is one of the very important provisions in this Bill and, quite naturally, a certain amount of criticism has been directed against the provision for the constitution of the Central Board. Some attempt has been made to answer the objections raised. Sir, the hon. the Minister seems to be under the impression that the onus of proving why the Central Board should not be constituted lies on us. I am afraid that the process of reasoning ought to be the other way."

The hon. the RAJA OF PANAGAL:—"I did not say that the onus is on the Opposition. I have made out a case and I only said that the arguments of the other side were not quite sound."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU:—"I am pleased to hear that the hon. the Minister now says that the onus is not upon us. I have now the very plain duty of examining the arguments advanced by him and the arguments offered by the hon. gentlemen who have supported this motion. The hon. the Raja of Ramnad already informed the House that, so far as the Advisory Committee that was appointed in regard to this was concerned, it did consider this question of the constitution of a Central Board and came to the conclusion that there should not be any Central Board."

The RAJA OF RAMNAD:—"What I said was that the majority decided like that for want of materials."

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Chapter II—cont.

Diwan Bahadur M. RAMACHANDRA RAO PANTULU:—"My hon. friend says that there was a difference of opinion and that the majority decided against the constitution of the Board. So, the rule of the majority applies also to the Committee over which my hon. friend had the honour to preside. Though there was a majority and a minority with reference to this question, it does not at all take away the fact that the majority did decide that the Central Board was not necessary. My hon. friend makes some strange observations to the effect that the materials were not placed before the Committee. I suppose that the same officers who are now assisting the Government in the framing of this proposal were then available to my hon. friend."

The RAJA OF RAMNAD:—"I never said that they did not give their advice. I only said that the materials were not available."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU:—"Why did not those hon. gentlemen who are assisting the Government now in piloting this measure place the materials before that Committee?"

The RAJA OF RAMNAD:—"I can only say that it was not my fault."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU:—"My hon. friend is certainly wrong in thinking that I am blaming him for not getting all the necessary materials. I am only saying that these materials were not placed before him. It is not at all a thing which I need explain further."

"Apart from that, when the hon. the Minister introduced this Bill, he certainly considered the recommendations of the Committee which he himself had appointed, accepted them, and came into this House with a measure which did not provide for the Central Board. Having done that, when the Bill was taken up by the Select Committee, the provision of a Central Board has been suddenly introduced into this Bill. So, it will lie upon him very heavily in view of the advice and the consultation which he has had, and upon those hon. gentlemen who took part in the Select Committee, to show what further materials they had to come to a conclusion opposite to that to which the Advisory Committee had come. I am not at all now concerned as to what the Government of India did in 1876 or 1884 or even in the present case and whether they sanctioned this proposal or did not sanction it. It certainly has not any bearing on this question. Therefore, we are left with these facts before us."

"Another hon. gentleman, Dr. Subbarayan, said that if reactionary gentlemen like my hon. friend, Mr. Narasimhachari, objected to the proposals for the reform of religious institutions, it was to them that all the blame for want of progress in India was to be traced. If reform and progress consisted in undertaking legislation for hitting temples and *maths* and disorganizing their affairs and putting on them a control which is not necessary and which is not advisable. . . ."

The hon. the RAJA OF PANAGAL:—"The object of the Bill is organization and not disorganization."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU:—"There may be difference of opinion. What may appear as organization to one man may appear as disorganization to another. Therefore, I should think that my hon. friend, Dr. Subbarayan, was not at all right in thinking that gentlemen who

[Mr. M. Ramachandra Rao Pantulu] [27th March 1923]

Chapter II—cont.

differed from this broad view of a Central Board, are necessarily reactionary and unprogressive. Of course, he put in a good word for himself as a barrister of the Inns of Courts, and certainly I have not the slightest objection to the statement he made as regards the value of the training which my hon. friend had received outside this country. I am particularly pleased with that statement. I may say, however, that it is not certainly due to any appreciation on the part of the hon. the Minister of the value of the services of the barristers that this provision is there in the Bill. This provision has certainly been taken from the rules made by the Government of India. Therefore, this point has absolutely no bearing on the present question.

“Mr. Ramalinga Chettiyar said that one of the reasons for the constitution of the Central Board was the inconvenience that the zamindars felt towards the constitution of the local committees. It is really a very strange argument to say that one of the methods of administration of temples and *maths* is devised for that purpose.”

Rao Bahadur T. A. RAMALINGA CHETTIYAR :—“I said, also, Sir, that many of the temples under the zamindars were more than of local importance.”

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—“While the opinions of the zamindars are respected by the constitution of a Central Board . . .”

The hon. the DEPUTY PRESIDENT :—“I am afraid you are rather losing time . . .”

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—“What am I to do, Sir? The gentlemen opposite make absolutely irrelevant statements, and I have to answer them. I am therefore losing time. I request you, Sir, to allow me more time.”

“As I said, Sir, these *matadipatis* do not want the Central Board and they are administering their *maths* according to their view. They never asked for the constitution of a Central Board.”

Rao Bahadur T. A. RAMALINGA CHETTIYAR :—“They also come under the Board. I should like to ask my hon. friend whether any single *math* has informed him that it did not want the constitution of a Central Board.”

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—“May I ask him whether any zamindar has approved of the constitution of the Central Board?”

Diwan Bahadur Sir P. TYAGARAYA CHETTIYAR :—“I may mention for the information of my hon. friend that several *matadipatis* who talked with me said that they wanted only a Central Board, and not District Committees.”

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—“As between the two methods of machinery, perhaps they would like to have the less rigorous. Apart from that, Sir, I may inform my hon. friends that petitions were presented to this House in hundreds objecting to any control whatsoever. We shall leave that there.”

Diwan Bahadur Sir P. TYAGARAYA CHETTIYAR :—“The *matadipatis* prefer a Central Board to local committees.”

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Chapter II—cont.

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—“I do not think it necessary to dilate further on the statements made by several hon. Members opposite. I shall refer to one or two observations made by my hon. friend, the Raja of Panagal. The question that the House has really to consider is whether this institution is required for the purpose of co-ordination or control of all these religious endowments on a uniform basis. I should like to ask my hon. friend seriously whether the administration of all these temples should be brought under some kind of Civil Service Regulations and that *dhittams* should be made on an uniform principle in all the temples.”

The hon. the RAJA OF PANAGAL :—“I never wanted that the *dhittams* should be made according to the standard of Civil Service Regulations or orders of the Government. What I wanted was that there should be some sort of control over the purse.”

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—“I do not know whether my hon. friend is right in saying that the Board will have an authority in controlling the purse. It is really an authority that calls for accounts. It does not control the purse.”

The RAJA OF RAMNAD :—“May I know whether the five minutes' time-limit is no longer in operation?”

The hon. the DEPUTY PRESIDENT :—“Sometimes leaders take advantage and they are heard with very great attention, and as such, the President has kept up to the wishes of the hon. Members. However, I may say that the time for my hon. friend, Mr. Ramachandra Rao, is over.”

Rao Bahadur O. TANIKACHALA CHETTIYAR :—“After listening to the speeches of some of the hon. Members opposite, one forms the impression that there is lurking behind their minds the idea that the Central Board has been devised or manufactured by the party in power as an engine of oppression. If there is any such idea, I beg to disillusion that by saying that there is an engine which has been devised and forged in the country for which my hon. friend, Mr. Ramachandra Rao, has an admiration, for he spoke with great approval of the institutions prevailing in the West. This institution of a Central Board is but another name for the Charity Commissioners of England. My hon. friend has been asking the question why this institution did not find a place in the Bill when it was originally placed before the House and why it now finds a place here. May I suggest an answer? It may be the influence of my hon. friend, Mr. Ramachandra Rao, who spoke of the Charity Commissioners in England, that has given this idea to the Select Committee of which he had the honour of being a Member.”

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—“May I ask my hon. friend whether he means to say that I suggested the institution of a Central Board in the Select Committee?”

Rao Bahadur O. TANIKACHALA CHETTIYAR :—“I cannot say that the hon. Member suggested the idea. But I know he spoke a good deal in the Select Committee about the practice in England. However that may be, the idea of a Central Board originated . . .”

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—“If my hon. friend says that I was in favour of the institution of the Charity Commissioners, I would ask him to quote the chapter and verse.”

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Chapter II—cont.

Rao Babalur O. TANIKACHALA CHETTIYAR.—“I do not think it necessary to answer anything that is put to me by way of cross-examination.

“Now, coming to the subjects under discussion in certain matters, such as the salaries of officers, etc., we are but reviving what was done in the past with reference to this question. I have before me the report of the Robinson's Committee which consisted only of two Europeans and two non-Brahmans—men for whose names I have a great reverence, Mr. P. Soma-sundaram Chettiyyar and Mr. P. Ramamuja Nayudu—and five other gentlemen with the best experience both as lawyers and as administrators of the country, namely, Messrs. V. Rama Ayyangar, P. Srinivasa Rao, P. Chentsoal Rao, V. Krishnamachariyar, and T. Rama Rao; and this is what they say:

It will be observed that we propose to assign liberal salaries to the Members of the Board and their chief officers, in consideration of the responsibilities which their duties will entail and of their exclusive devotion to the interests committed to their charge. The Bill also provides for an honorarium being paid to the trustees out of any surplus which may remain after the accounts of the year are duly audited and closed. It is absolutely necessary for us to go into the obvious reasons which have guided us in framing these provisions.

Again they say:

We propose to meet the cost of the Central Board and administration by a percentage charge on the revenues of each institution whose gross annual income amounts to fifty rupees and upwards. We have fixed a maximum limit of this charge at 6 per cent. Doubtless a much smaller percentage on the true income when this is ascertained will suffice to defray all necessary expenditure.

For obvious reasons they are pleading for the ordinary principle that the labourer is worthy of his hire. Surely, even the Charity Commissioners in England cannot be expected to give their best to a work, however true a cause it may be, for a period of five years, without any reward or remuneration for their services. Even the Charity Commissioners will not do their work for charity.

“It is hardly necessary to say that the Central Board is not an institution which has been engineered by the inner consciousness of the party in power, but is one upon which a seal of approval had been set about forty years ago by people who had been connected with the administration of the country. Under these circumstances, and especially in view of the fact that most of the powers of control over the religious institutions have been taken away and only a residuum is left, and of the fact that so far as the final disposal of certain matters is concerned, the Central Board is not merely given the administrative powers, but also powers of a different nature, it is but right that such an institution should have its headquarters at a place which will not be subjected to the influence of those who are creating intrigues with reference to the various religious institutions. With these few words, I strongly oppose the motion.”

Sriman SASIBHUSHAN RATH Mahasaya:—“I wish I belonged to the Non-Brahman party for being able to carry this motion, because, Sir, unfortunately hon. Members sitting on the opposite benches have not thought it fit to support me in spite of the volume of support that I have from this side of the House. I shall only sum up and say that the volume of support is in my favour and that very good reasons have been advanced in support of carrying this motion. The hon. the Minister in charge of the Bill has not advanced any convincing arguments against my motion. He has made one statement only and that is that the Central Board will be a less costly

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Chapter II—cont.

institution and that a large sum of money is wasted in litigation. He has not produced any statistics as to how much money has been spent in the last five or ten years in litigation and what the Board of Commissioners will cost us during the next five or ten years. If he has produced figures to show that the Board will be less costly, then with those figures before us we will be able to see whether that institution is less costly or more costly. As an originator of the Bill he ought to have produced such a statement. In the absence of any such information, to argue that a Central Board located at Madras will be profitable and that it will look to the interests and into the accounts of the temples at say Ganjam as well as the one is a thing which I cannot understand. A Central Board such as the one proposed is always expensive, and it will not know the usages and customs of the country just as the local committee will know them. It is suggested that local people will have factions and will introduce their personal feelings into the management of the temples. If for every two districts we have a committee, that question will not arise, and what co-ordination there is in the Central Board will be found in the District Board.

“We have the District Board; there is a Forest Board and there is a suggestion for an Irrigation Board. This is a Religious Board that we are now going to have. After the Central Board other Boards will crop up and we shall have more and more costly machinery that will wipe away all the temples. This is an organisation for the disorganisation and destruction of ancient institutions. This will be an organisation to throw out our religion root and branch. I am myself not an idle worshipper, and the people whom I represent are orthodox. They do not want the temples to be dominated by Central Committees the Members of which may not belong to the same persuasion and who may belong to some religion which may not believe in idol worship.”

The hon. the RAJA OF PANAGAL:—“Well, Sir, I am glad that the Leader of the Opposition made this statement that in the present case the onus is on the Minister to oppose the particular amendment of which notice has been given. In fact, Sir, I have made out a case and the Opposition I see has not been able to rebut it.”

Sriman SASIBHUSHAN RATH Mahasaya:—“Because it was a very poor case.”

The hon. the RAJA OF PANAGAL:—“In support of my case I have quoted the opinions of most eminent men such as Sir Muttuswami Ayyar, Sir Subrahmanya Ayyar, Sir Sankaran Nayar, Mr. Chentsoal Rao, Mr. Rama Ayyangar and so on. Sir, it has been said that there have been no Royal Commissions and that in the case of the appointment of Charity Commissioners in England there was a Royal Commission preceding it. But in this case we have had more than one commission. We had the Sullivan's Committee, the Robinson's Committee, the Muttuswami Ayyar's Committee and the Chentsoal Rao's Committee. Lastly, we have had the Committee of the Raja of Ramnad, and, later on, the Select Committee. The Select Committee has approved of the constitution of the Board.

{The Raja of Panagal]

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Chapter II—cont.

"Sir, another question my hon. friend Diwan Bahadur Govindaraghava Ayyar has raised is that we have not ascertained what the income from the religious institutions is likely to be. There is a statement by Mr. Chentsal Rao according to which the income of the endowments, leaving alone the *maths*, amounts to a crore of rupees. It is not the intention to collect the maximum rate at present. At 3 per cent the amount that is derivable from the temples alone would amount to three lakhs of rupees a year. But a great deal more is being spent upon litigation by these institutions, and if an attempt is made to minimise the opportunities for litigation I think the House ought to welcome it."

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR:—"May I draw the hon. Member's attention to page 21 of the printed book given to us wherein it is stated that the total income of the pagodas will be 54,34,000?"

The hon. the RAJA OF PANAGAL:—"Sir, he takes care to omit certain items which are added to arrive at the figure mentioned by me. It is from the *inams* alone that he arrives at the figure of 54,34,000. But there is besides that the Hundi income."

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR:—"I am sorry, Sir, I have to correct the hon. the Raja once again. The items are referred to in paragraph 2, viz., rent free lands or lands subject to favourable assessment or quit-rent; assignments of land revenue; ryotwari lands paying assessment to Government; rents of buildings; cash payments by Government and private contributions and presents."

The hon. the RAJA OF PANAGAL:—"The income Mr. Chentsal Rao estimated was about 40 years back; it has now risen considerably; besides, to that income we have to add the incomes of the *maths*. The income from the *maths* alone is roughly estimated to be 40 or 50 lakhs of rupees. In these circumstances to say that the Government have no idea of the probable income from these institutions does not stand to reason."

"Another argument that has been advanced is that there has been a great deal of agitation and that there have been a number of protests from several bodies. In this connexion, Sir, I have only to refer to a statement, a conjoint statement made by a number of eminent men such as Sir Muttuswami Ayyar, Sir Subrahmanya Ayyar, Sir Sankaran Nayar and so forth. The statement is at page 115 in the last portion of paragraph 16 of the printed book. It says:

There can be no doubt that any legislation for providing a workable machinery for the superintendence and control of the trustees and managers of these endowments will be welcomed by all classes of the community, with the exception of such of the trustees and managers themselves as from interested motives are averse to any efficient check or supervision being placed over them. It seems probable that it is from the petulance and protests admitted or inspired by the latter that the Government of India has derived the impression that the proposed legislation is disliked or resented by the conservative sections of the community."

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR:—"No Central Board is required there."

The motion was put and declared lost.

A poll was demanded and the House divided as follows

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Chapter II—cont.

Ayes.

1. Diwan Bahadur S. Ram. Ch. Pathachi Chettiyar.
2. " M. Ramachandra Rao Pantulu.
3. " L. A. Govindaraghava Ayyar.
4. " M. Krishnan Nayar.
5. Mr. P. Siva Rao.

6. Sriman Biswanath Das Mahasayo.
7. Raj Bahadur T. M. Narasimhaonarain.
8. Rao Sahib U. Rama Rao.
9. Sriman Sasibhasan Rath Mahasayo.
10. Diwan Bahadur D. Seshagiri Rao Pantulu.
11. Mr. K. Srinivasa Ayyangar.

Noes.

1. The hon. Sir Charles Toddhunter.
2. " Khem Bahadur Sir Muhammad Habib-ul-Jah Sahib Bahadur.
3. " The Raja of Panagal.
4. " Raj Bahadur K. Venkatarreddi Nayudu.
5. " Rao Bahadur A. P. Patro.
6. " Mr. A. R. Kupp.
7. " C. P. Ramaswami Ayyar.
8. Mr. E. S. Lloyd.
9. " A. Y. G. Campbell.
10. " C. Madhavan Nayar.
11. Diwan Bahadur T. N. Sivasubramanian Pillai.
12. Mr. E. F. Thomas.
13. " E. Periyasamyasam.
14. Rao Sahib F. C. Tangavelu Pillai.
15. Mr. A. Ramaswami Mudaliyar.
16. Rao Bahadur T. V. Ramalinga Chettiyar.
17. Mr. K. Adinarayana Reddi.
18. " K. R. Y. Annamadu Prasad.
19. Diwan Bahadur C. Arunachala Mudaliyar.
20. Rao Sahib S. Ellappa Chettiyar.
21. Rao Bahadur P. C. Ethirajulu Nayudu.
22. Sir P. Thyagaraya Chettiyar.
23. Diwan Bahadur M. Krishnan Nayar.
24. Rao Bahadur G. Umakachala Chettiyar.
25. Mr. W. Vijayaraghava Mudaliyar.
26. Rao Bahadur K. Gopalakrishnaiah.
27. Mr. K. A. Kandaswami Kandar.
28. " J. Kuppuswami.
29. " B. Muttuswami Nayudu.
30. " P. C. Muttu Chettiyar.
31. " A. T. Muttakumaraswami Chettiyar.
32. " M. Narayanaswami Reddi.

33. Rao Bahadur C. Natesa Mutaliyar.
34. Mr. V. Lakkirajawami Pillai.
35. " P. T. Rajan.
36. " R. K. Shanmukham Chettiyar.
37. " K. Sitarani Reddi.
38. " T. Somasundaram Mudaliyar.
39. " S. Somasundaram Pillai.
40. Dr. P. Subbarayan.
41. Diwan Bahadur K. Suryanarayanaamurti Nayudu.
42. Mr. V. C. Vellingiri Goundar.
43. Rao Bahadur C. Venkataranga Reddi.
44. " C. V. S. Narasimha Raju.
45. Mr. C. V. Venkataramas Ayyangar.
46. Diwan Bahadur R. Venkataratnam Nayudu.
47. Mr. M. Suryanarayana.
48. " S. Muttumazhakkachari.
49. " A. Rangaswami Mudaliyar.
50. " T. Sivasankaran Pillai.
51. The Raja of Ramnad.
52. Mr. K. Prabhakaran Tampar.
53. Akbar Ali Khan Bahadur.
54. Hamid Sultan Marakkayar.
55. Muhammad Abdul-Rahim Khan Sahib.
56. Khan Sahib Munshi Muhammad Abdur Rahman Sahib.
57. Sayid Diwan Abdul Razaak Sahib.
58. Muhammad Haji Abdullah Sahib.
59. Khan Bahadur Muhammad Usman Sahib Bahadur.
60. Rao Sahib M. C. Madurai Pillai.
61. " P. Venkatarangayya.
62. " Sir M. C. Muttayya Chettiyar.
63. Rao Bahadur T. Samburam Chettiyar.

The motion was lost.
Eleven voted for and 64 against.
Clause 5 was again taken up for consideration.

Clause 5—cont.

(Amendment No. 51) cont.

The hon. the RAJA OF PANAGAL:—"Sir, I move for the substitution of the following for sub-clause (2) of clause 5:—
'Person having interest' means

- (a) in the case of a *math*, a disciple of the *math* or a person of the persuasion to which the *math* belongs, and
- (b) in the case of a temple, a person who is entitled to attend at the performance of worship or service in the temple or who is in the habit of attending such performance or of partaking in the benefit of the distribution of gifts thereat."

[Mr. L. A. Govindaraghava Ayyar] [27th March 1922]

Clause 5—cont.

cases and to give a wider definition such as this amendment seeks to do will be to enable the provision being put to misuse."

RAO BABADUR T. A. RAMALINGA CHETTIYAR: "Sir, I support the amendment moved by the hon. the Minister. I am really surprised that objection is taken to this amendment on the ground that the definition is very wide. As a matter of fact what appears in the Bill as it has emerged from the Select Committee is, that anybody who may be in the habit of going and worshipping in a *math* can move the Central Board to frame a scheme. Now it may so happen that a person belonging to the opposite persuasion may go to the *math* and attend for a few days and at once apply to the Central Board for a scheme. That is the sort of thing that is sought to be avoided by the present amendment. Is it seriously contended that the restriction now proposed to be introduced in this amendment is going to widen the nature of the provision and result in more dangerous consequences than the definition as it stands in the Bill? That is an argument that I cannot possibly understand. My hon. friend, Mr. Govindaraghava Ayyar, himself admitted that these *maths* exist for the purpose of propagating a particular persuasion. That being granted, I cannot see, Sir, how this restricted definition giving the right only to those persons who follow the particular persuasion will make it wider and is going to bring in undesirable persons. The *math* propagates a particular religion and it is only those persons who profess that religion that can bring any complaint against it. That being so, I do not at all see what difficulty there can be and what nefarious object can a person who professes the same religion as that of the *math* have to take action against the *math* or to do any damage to it."

"The other argument that has been raised is that this should be restricted only to the disciple of the *math*. My hon. friend, Mr. Govindaraghava Ayyar, himself has stated that there are several *maths* which have not got disciples. As I have already stated, there is a great difficulty in understanding who a disciple of a *math* is. As I said in connexion with my amendment No. 60, there are various interpretations placed on the word 'disciple'. It may be a *sanyasi* who takes *kashayas* in a particular *math*. In the Tirupati *math*, for instance, the discipleship is confined to those who take *kashayas* in it. Again, as I already said, among the Siddhanthists the taking of *deeksha* from a *guru* is essential. It is said that only such persons as take the *deeksha* are called disciples. In any case, only these disciples or persons who profess the particular persuasion of the *math* are interested in looking to the proper administration of the *math*. That being so, I do not see how the definition is wide in its scope. I do not at all think that the objections that have been raised are real. They are merely imaginary."

MR. S. SOMASUNDARAM PILLAI: "Mr. President, Sir, of course, it is true that the word 'Hinduism' is loosely applied to all the sects obtaining among the Hindus; and the different sects are at loggerheads with each other. The Saivasiddhanthas, the Ekathnavadias, the Vaishnavites, the Madhwias, the Lingayats are all diametrically opposed to each other. They have each different principles to follow. Sir, according to the Saivasiddhantha, you have got the right of *sanyasam*. Ekathnavadias deny this right to Sudras. If any Hindu is allowed to file a complaint against any

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Clause 5—cont.

other Hindu *math*, for instance, the Ekathnavadi who does not respect any *Sanyasi math*, will at once lodge a complaint against a Saivasiddhantha *math*. So if we adopt the suggestion of my hon. friend Mr. Govindaraghava Ayyar, it will give room for a lot of trouble. Of course, the term 'Hindu' is intended to mean a tangled jungle of disorderly superstitions. We must carefully examine the different sects of Hinduism and only allow that person who belongs to the same *math* or who is of the same religious persuasion as that of the *math* to have anything to do with it. On the whole Vaishnavites, Smarthas and Saivites are three important sects and it is quite proper that any person who belongs to the same persuasion as that of any of the *maths* can interfere in the affairs of these *maths*. With these words I object to the suggestion made by Mr. Govindaraghava Ayyar and support the amendment moved by the hon. the Raja of Panagal."

THE HON. THE RAJA OF PANAGAL: "Sir, I am not prepared to accept the amendment of my hon. friend from Vizagapatam. There is no necessity for that amendment because, obviously, worship means either the whole or part of it."

"Next, Sir, coming to the objection raised by my hon. friend, Mr. Narasimhaiah, he wanted to persuade me to believe that the creed that is taught by the Saiva Siddhantha system is the same as the Vedanta philosophy taught in the Madhwa schools. I cannot accept that interpretation. There are very many points of difference between the two schools of philosophy and it cannot be said that there will be any chance of mistaking the one for the other."

"My hon. friend, Mr. L. A. Govindaraghava Ayyar, said that there might be cases where Americans could be classed as persons who were of the same religious persuasion or of the same particular school of philosophy as the *math*. In this connexion, I may say there are also cases where people who have gone to foreign countries are chucked out from the discipleship of certain *maths*. What is to become of them? In order that such cases may be covered, the definition is widened. I think the House will be pleased to accept this widening of the definition."

THE MOTION OF MR. M. SURYANARAYANA WAS BY LEAVE WITHDRAWN

THE SUBSTITUTION PROPOSED BY THE HON. THE RAJA OF PANAGAL TO SUB-CLAUSE (9) OF CLAUSE 5 WAS PUT AND CARRIED.

RAO BABADUR T. NAMBERUMAL CHETTIYAR: "Sir, I wish to bring in a motion regarding sub-clause (7) of clause 5 in which 'matt' is spelt as 'math.' It is not on the agenda paper. If *matt* is spelt as *math*, the chances are that it will be confounded with *matam*, which means a place or abode where the disciples reside. Therefore I should like that wherever the word *math* occurs it should be spelt as *matt*."

THE HON. THE PRESIDENT: "The hon. Member cannot make any motion at this stage. I am sure the whole spelling of the Bill will be carefully looked into by the hon. the Minister before it is finally passed."

CLAUSE 5 AS AMENDED WAS PUT AND PASSED AND ADDED TO THE BILL.

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Clause 6.

Sub-clause (1).

(Amendment No. 53.)

Mr. T. SOMASUNDARA MUDALIYAR :—“Sir, I beg to move—
For the words ‘the Local Government may’ substitute the words ‘the Local Government shall.’”

“Sir, if the Government assures me that the word ‘may’ will mean ‘shall’ I am prepared to withdraw the motion.”

Mr. T. MADHAVAN NAYAR (Advocate-General) :—“Mr. President, I am prepared to give my hon. friend the assurance that ‘may’ in this case does mean ‘shall’; and if he wants authorities, I can refer him to a good many.”

The motion was by leave withdrawn.

New proviso after proviso (1).

(Amendment No. 54.)

Rao Bahadur A. S. KRISHNA RAO PANTULU :—“Sir, I beg to move—

(a) Insert the following as second proviso to sub-clause (1) :

‘Provided further that the Local Government may constitute different boards for different kinds of religious endowments or for religious endowments of different faiths and persuasions.’

(b) Re-number the subsequent provisos

“Sir, I believe the volume of opinion which has been recorded and published in the papers must have made it quite clear that when we proceed to the consideration of the constitution of these Boards it may become necessary for the efficient management of the religious institutions to have different Boards for temples and different Boards for *maths*. It may also become necessary, according to exigencies, to constitute different Boards for endowments of different faiths and persuasions. The proviso suggested is only one of an enabling character. It will be found that even in the Report of the Select Committee they have made provision for the constitution of more Boards, though it may not be necessary to do so all at once. This proviso, if accepted, would justify the Government considering the desirability of opening Boards not merely for different local areas or for different parts of the Presidency, but, as necessity arises, for different kinds of endowments or endowments of different faiths and persuasions. I need not take any more of the time of this House, because even the representations that have been received here make it clear that the circumstances relating to one class of endowments are different from another, and endowments of one particular faith are different from those of another faith. Therefore, it is desirable, if found necessary, that the Government should have power for creating different Boards.”

Rao Bahadur N. GOPALASWAMI AYYANGAR :—“Mr. President, there is on the surface a good deal of force in the argument that has been advanced by the hon. Mr. Krishna Rao in favour of the amendment that he has just

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Clause 6—cont.

moved. But the whole object of this Bill is to create a Board or Boards with jurisdiction over particular territorial units. If we are going to constitute different Boards for different sets of endowments or endowments of different faiths or persuasions, we shall be landed in a multiplicity of Boards such as the committees we find in districts like South Kanara, where I think they have got 50 or 60 committees working at the same time. Each having jurisdiction over certain temples. I only wish to point out, Sir, that the questions that are likely to come up before these Boards are not questions which will involve any very intimate knowledge of the tenets of a particular religious persuasion or faith. As regards rituals and usages in temples, they are safeguarded by a particular clause in the Bill. I do not think that these Boards will be called upon to go very much into detail over questions of that sort. It is best, under these circumstances, to retain the territorial basis for these Boards.”

Rao Bahadur A. S. KRISHNA RAO PANTULU :—“Sir, I am not satisfied with the reasons adduced by my hon. friend, Mr. Gopalaswami Ayyangar. He said that on the surface there was some reason, though if we got deeper, there were difficulties. He merely stated that the plan adopted was to have Boards for particular territorial areas. Has he taken into consideration the fact that the Commissioners who are likely to be appointed may not be such as possess a knowledge of institutions of all classes, of all faiths and of all persuasions? If it is the object of this Bill to provide for the efficient management of the religious institutions, it is certainly necessary that there should be an implied provision for all faiths and persuasions being properly represented.”

“Another argument is this. We have, notwithstanding all the objections, decided to place the *maths* also under the control of the Boards. Having decided that, and realizing as we do that there are institutions of a peculiar character, as pointed out in the Committee's report, that there are some questions relating to the constitution of the *maths* and to the relationship between the disciples and the *matadhyatis*, I would ask whether my hon. friend on the other side expects that it will be possible with a limited body of 3 or 5 members to deal with the whole question in any satisfactory manner. I think therefore that I cannot find any justification for the Government not accepting this provision which is only an enabling provision and which gives them the power to appoint Boards when necessary.”

The motion was put to the House and lost.

(Amendment No. 55.)

Rao Bahadur A. S. KRISHNA RAO PANTULU :—
In the second proviso for the words ‘more Boards than one’ substitute the words ‘a Board’.

“Sir, the discussion upon the previous motion relating to the necessity for the constitution of a Board must have convinced every one in this House, if only he was prepared to be convinced, that several difficulties are likely to crop up in connexion with the constitution of this Board. If the amendment suggested is accepted, it will give a guarantee that the proposal for the constitution of a Board will be placed before a responsible body like the

[Mr. A. S. Krishna Rao Pantulu] [27th March 1923]

Clause 6—cont.

Legislative Council and approved by it before it comes into existence. That will be the effect of this amendment, and I fail to understand why the Government should object to this notification being placed before the Legislative Council for its approval before it becomes law. The amendment is so reasonable; but all the same it depends on the hon. the Minister making up his mind to accept it."

Rao Bahadur N. GOPALASWAMI AYYANGAR:—"Sir, there is what I consider to be a preliminary objection to the amendment that has just been moved. The fact that the constitution of a Board has been accepted by the House is a very strong reason why we should not accept this amendment of my hon. friend, Mr. Krishna Rao. The amendment that was moved by the hon. Member, Mr. Somasundara Mudaliyar, has been withdrawn on the assurance of the hon. the Advocate-General that it is imperative for the Local Government on the passing of this Bill into law to constitute a Board and that the word 'may' in sub-clause (1), clause 6, really means 'shall'. If that is so, and if it is obligatory on the part of the Local Government to constitute at least one Board, I do not see any reason why a proposal for constituting what is obligatory should be published for criticism or placed on the table of the Legislative Council. The Bill really cannot be worked without at least one Board being in existence. The reason why this second proviso was put in is that it was intended that a check should be placed on the executive that they should not be allowed to create more Boards than one without adequate consideration and without hearing the representatives of the people in the Legislative Council. The safeguard was provided only for that purpose. I do not think a safeguard is necessary for doing what is really obligatory under the Bill."

Rao Bahadur A. S. KRISHNA RAO PANTULU:—"Sir, I think that even as regards the constitution of a single Board there are some provisions in the Bill which would require some consideration. For instance, the strength of the Board is to be fixed by clause 7, which says:

A Board shall consist of a President and such number of other Commissioners not being less than two nor more than four as the Local Government may fix.

This is a question affecting the constitution of the Board. Again, we find there are provisions as to the pay, namely:

That such salary shall not exceed one thousand and two hundred rupees per mensem for a President or eight hundred rupees per mensem for any other Commissioner.

It may be that there are means for making the place honorary, and it may be that, when it is found you can get men who will work without salary, the Council may come to understand that the place shall be honorary. Therefore, there are several questions affecting the constitution of the Board which had better be considered by the Legislative Council, instead of the Government formally issuing a notification constituting a Board. All that the House is agreed upon is for the retention of the provision for the constitution of a Board. But in giving effect to it there are certain limitations which have to be placed on the powers of the Government, and for that purpose I have moved this amendment, and I have therefore to press it."

The amendment was put to the House and lost.

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Clause 6—cont.

(Amendment No. 56.)

Mr. T. SIVASANKARAM PILLAI:—"Sir, the motion that stands in my name is this:

In the second proviso after the words 'shall be' insert the words 'published in the prescribed manner and'.

The constitution of these Boards is a very important matter in the whole of the present scheme. It is provided in the second proviso that before a Board is constituted the notification shall be laid on the table of the Legislative Council. That kind of publication may not be enough, considering the importance of the step. What I propose by this amendment is to make room for a wider publication. That is why I wish to have the words 'published in the prescribed manner' inserted. What the prescribed manner is will be a matter to be decided by the rules to be framed. It may be allowing publication in some of the newspapers that are published in the area where the Board is to be constituted, or it may be by beat of tom-tom in some of the villages where important temples are situated. With this view, I propose this amendment."

The hon. the RAJA OF PANAGAL:—"The amendment does not seem to me to be necessary, for a notification that is placed on the table will be published in the papers. But, however, I have no objection to accept the hon. Member's amendment."

The amendment was put and carried.

Sub-clause (2)

(Amendment No. 57.)

Mr. T. SIVASANKARAM PILLAI:—"Sir my amendment is—

After the words 'which is' insert the word 'so'.
It is merely a verbal alteration that I propose in this amendment. This is how sub-clause (2) reads:

The Local Government may pass such orders as they deem fit as to the transfer or other disposal of the assets and liabilities of a Board which is varied or abolished.

I only want to insert the word 'so' before the words 'varied or abolished' so as to make it read: 'Which is so varied or abolished.' It is only a suggestion that I make."

The hon. the RAJA OF PANAGAL:—"I think it is unnecessary to say 'so varied or abolished'."

The motion was by leave withdrawn.

New sub-clauses after sub-clause (2).
(Amendment No. 58.)

Mr. C. V. VENKATARAMANA AYYANGAR:—"Sir, I beg to move for the addition of the following as sub-clause (3):—
(3) The Local Government may also at any time invest any court with all or any powers of the Board and the Board shall not then exercise those powers within the jurisdiction of that court."

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Clause 6—cont.

I have got so many reasons for this amendment, that probably there will not be enough time to enumerate all of them. I shall, therefore, only give a few reasons, on hearing which hon. Members will agree with me that this amendment is necessary.

"First of all is the consideration of distance. In a particular case it may seem to the Government that it is necessary for a local court being empowered to dispose of a simple case instead of the Board located in Madras disposing of it. That is one reason, so far as the question of distance is concerned, which means also more cost.

"Secondly, there may be some intricate questions of law, in which case it may be considered that the court may dispose of the matter more easily than the Board.

"A far more important reason for this is this. We have only one Board to begin with. Supposing two or more members of the Board are personally interested in a particular religious institution and feel that they cannot take part in an inquiry, they may express their inability to take part in the inquiry. Then we have no right to transfer the case to any other Board, because there is no other Board, and there is no provision in the Bill for transferring it to anybody else. So, it is absolutely necessary in cases where the members of the Board express their inability to judge the particular matter or where the Government are satisfied that it is not fair for them to ask the Board to deal with a particular question, that there must be some provision for disposing of such a matter. This is only an enabling provision that I have suggested. The Government perhaps may not have the opportunity of exercising such powers, except in some rare or extraordinary case. Therefore, I move this amendment formally, and I hope it will be accepted."

The hon. the RAJA OF PANAGAL: "I too, Sir, have very many reasons against accepting this amendment. But, Sir, I will not refer to all those reasons and I will be content with one reason alone. If I accept this amendment, the object of the constitution of the Board which has been so very eloquently supported by my hon. friend over there will be frustrated."

Mr. C. V. VENKATARAMANA AYYANGAR: "The hon. the Minister has not said a word to meet the arguments I have raised. Suppose the President in a particular matter, is the enquiry to be made by the same Board, or if not by whom else is it to be made? It is only to provide for such a case that I wanted a provision to be made. I do require the Board to be there; I have nothing to say against it, and I do respect it. But if there is a case in which the Board cannot be impartial, what is to be done? The hon. the Member, in spite of the many reasons which he said he had, has not said one word on this point."

The hon. Rai Bahadur K. VENKATAREDDI NAYUDU: "Only the hon. Member assumes that it is impossible for the Government to constitute a Board of three or five members who are not interested in any of the institutions in this country."

The amendment was put to the House and lost.

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Clause 6—cont.

(Amendment No. 59.)

Mr. A. RANGANATHA MUDALIYAR:—"Sir, I beg to move—

Add the following as sub-clause (3):—

(3) The Local Government may pass such orders as they may deem fit as to the investment of the funds of the Boards, Committees and Trustees."

"Under the Bill, Sir, the Board has the power to make by-laws relating to the investment of funds of the Board, Committees and Trustees. I think it would be in the best interests of the country that this power should be reserved in the hands of the Local Government, so that they may decide what kinds of investments are permissible under the Bill. After all, experience has shown that it is not wise to entrust all and sundry with the power of investing the funds just as they choose. So I am for giving this power to the Government, so that they may lay down rules which will guide the subordinate Board and Committees under them as to how they should act in respect of the investment of the funds."

The hon. the RAJA OF PANAGAL:—"Clause 15, sub-clause (g) makes provision for the contingency contemplated by my hon. friend."

Mr. A. RANGANATHA MUDALIYAR:—"I know that power is given there to the Board to make by-laws. But I wish that the power should be in the hands of the Local Government, so that they may guide their subordinate Boards or Committees."

The hon. the RAJA OF PANAGAL:—"The by-laws have to be confirmed by the Government."

The motion was by leave withdrawn.

Clause 6, as amended, was then put, passed and added to the Bill.

Clause 7.

(Amendment No. 60.)

Rao Bahadur A. S. KRISHNA RAO PANTULU:—"Sir, I move—

To omit the words 'a President and'

"The object of this amendment will not be clear unless hon. Members of this House read along with it amendments 92-A, 93-A, 93-B, and later 102-B and 107-A. The amendments being so scattered, I wish to draw the attention of hon. Members to the fact that these amendments have to be considered before the object of this amendment is understood and accepted. The present clause 7 is:

A Board shall consist of a President and such number of other Commissioners not being less than two or more than four as the Local Government may fix.

If this amendment as such and the other corresponding amendments of mine are accepted, the clause will read as follows:

A Board shall consist of such number of Commissioners not being less than five nor more than nine as the Local Government may fix.

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Clause 7--cont.

Even according to the scheme of the present Bill, if we proceed to consider what we have done in the case of the committees later on, it will be found that the course which I have suggested here has been adopted. It will be seen from clause 17 (1) that

A committee shall consist of such number of members as may be fixed by the Local Government, such number to be not less than six and not more than twelve.

Later on, there is a provision in clause 24, which says:

Every committee shall elect a president, a vice-president from among its members.

I shall refer to that point when we deal with the question of committees. But so far as the constitution of the Board is concerned, my object is to provide for the election of the President and the Commissioners. In order to carry out my object, there are two amendments coming in later on, and I may draw the attention of hon. Members to amendments 102-B and 107-A, where it is said:

The Commissioners shall be elected by the members of the committees in the prescribed manner. The Commissioners shall elect a President from among themselves.

We have had a considerable discussion as to the desirability of the constitution of the Board, and we have just now decided that there ought to be primarily one Board for the whole of the presidency, though power has been taken for the constitution of more Boards. If we consider the various institutions of different characters which will be dealt with by these Boards, the provision I have suggested, namely, that it should consist of at least five and not more than nine would not be considered to be an unreasonable provision. That is one thing to which I wanted to draw the attention of the House.

"Secondly, I suggest that the appointment of Commissioners is a matter which the Government should leave to the members of the committees. I suggest the election of Commissioners instead of their being appointed. I am suggesting this method forty years after we find observations to that effect in Sullivan's Bill. The Religious Endowments Committee, in their report to the Chief Secretary to the Government, dated 19th March 1886, dealt with this question of the constitution of the Board, and considered the advisability of introducing the principle of election in the constitution of the Board. This is what they stated:—I am only reading the important portions:

In any measure which may eventually be passed upon the subject, it appears to be desirable that all the machinery by which the management of the Hindu religious institutions will be conducted shall be removed as far as possible from any immediate direct control by the Government. . . . Several methods suggested themselves, and if we could have seen our way to any practical method of election, that method would have seemed to us the most suitable.

Therefore so long ago as 1886, that is about 40 years ago, that committee suggested that, if they could have seen their way to devise a method of election it would be the most suitable. I would only request the House to consider whether, when we are asking for and having representative institutions on an electoral basis, and when we have a fully elected or substantially elected Legislative Council, it would not be possible for us to devise proper electorates for the appointment of suitable persons as Commissioners. The election of the Commissioners will remove most of the objections which have been urged against the appointment of these Commissioners to the Boards. I quite realize that the President will have to be appointed. As I said, when the

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Clause 7--cont.

president of a committee is elected by the members of that committee, I do not see any justification for the Government trying to reserve that power to themselves. The Commissioners are responsible men; they are to be paid a decent salary of Rs. 800 the maximum; and in such a case I do not see any reason why we should not allow them to elect their president. It is for these reasons that I move my amendment, and it is only when all the amendments mentioned by me are considered together that my object can be clearly seen."

Rao Bahadur N. GOPALASWAMI AYYANGAR:—Sir, the arguments that have been advanced by Mr. Krishna Rao are not so much germane to the particular amendment that is now under consideration as to the general question as to how the board is to be constituted. But I shall confine my reply only to two points to which he referred in the course of his remarks. He thought that election was about the best method for choosing the members of the board. Well, Sir, that position can be conceded if the other position is also conceded, namely, that the members of the board are going to be honorary non-officials. But we have at the present moment—I am not referring to the amendments that have been tabled on that question—to take it that the members of the board or boards are going to be paid salaries, the maxima of which have been fixed in this Bill. I would ask the hon. Member to consider whether election is the best method of choosing people who are going to be paid a salary. It is hardly necessary for me to advance arguments against a position of that sort. I believe America is a standing example of the evils of salaried employees being elected by large masses of the people. In this case, I no doubt recognize the fact that Mr. Krishna Rao proposes the electorate to be the members of the committees of various districts. But we have got to consider that we have *prima facie* a valid objection against election being introduced at all in regard to the appointment of salaried members of a small board.

"The second point he referred to was that in the scheme of the Bill as regards the committee, the committees are first mentioned and then the election of the president. He seemed to imply that the same principle should be followed in the case of the Board also. We have to remember, Sir, that the minimum of this board is three and the maximum is five. I do not know whether any advantage would be gained by giving the power of election to this very limited number of commissioners. I recognize that Mr. Krishna Rao himself contemplates that the minimum should be five and the maximum should be nine. But even those numbers, I submit, are not sufficient to give any wide range of choice for a proper election of the president."

Rao Bahadur A. S. KRISHNA RAO PANTULU:—Sir, the objections are, as usual in other cases, based upon a conception that the Board should continue to be in the form suggested in the report of the select committee. Even supposing for the sake of argument that these Commissioners are to be paid officers, I do not find any valid objection to their being elected. It has been asked by Mr. Gopalaswami Ayyangar whether, in the matter of the choice of salaried officers of a petty Board, it is necessary to provide for election. May I point out, Sir, that the fact of their being salaried officers is no reason why they should not be elected? I have got instances even in the Government of India Act. Though the President of the Legislative Council is appointed by the Governor for the first four years, afterwards he has to be elected by the members of the Legislative Council, though he is a salaried officer.

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Clause 7—cont.

Again, in the case of the Ministers, though they are now selected by the Governor, they are the elected members of the House. So, Sir, I do not think it is a valid objection against the suggestion to elect the members of the Board or Boards.

"Secondly, I wish to point out another fact. I am really surprised at the attitude of the Government objecting to the principle of election being introduced in this case. I do not really understand why they have not got much faith in constituting proper electoral units for the purpose of choosing proper members for the Boards. I do not also really understand why they should be anxious to reserve to themselves the power of appointment of President and Commissioners. Sir, in these days of democracy when we claim that it is as a result of the working out of the principle of election in our councils that we have so far advanced and are now going forward further, and when that principle has been recognized in all bodies, I am surprised that the Government object to the system of election being introduced in regard to the control of religious endowments. I think it is a position which cannot be defended. I, therefore, press my motion."

The amendment was put to the House and lost.

(Amendment No. 61.)

The RAJA OF RAMNAD:—"Sir, I move the following amendment:—

For the words 'and such number of other commissioners not being less than two nor more than four as the Local Government may fix' substitute the words 'and two or four commissioners as the Local Government may fix.'

"Sir, my object in moving this amendment is this. The number of commissioners should be odd, but not even. If the number of other commissioners is to be fixed as three, the total number, including the president, will be four, an even number. Therefore, I propose that the number of other commissioners shall be either two or four, but not three."

The hon. the RAJA OF PANAGAL:—"Sir, I cannot see any reason why there should not be a board consisting of four members. But, however, Sir, that question will be considered in its time. It is only a matter for the consideration of the Government at the time of appointment of these commissioners."

The amendment was by leave withdrawn.

(Amendment No. 62.)

Sriman BISWANATH DAS MAHASAYO:—"Sir, I beg to move that:—

For the words 'such number of other commissioners' as the Local Government may fix' substitute the words 'two other commissioners.'

"Sir, clause 7 as it stands at present provides for three members, including the president, or four or five. If my motion is accepted, it would fix the number at three instead of four or five, as now contemplated in clause 7. Now, Sir, the Government have got the power of constituting under clause 6 either new Boards or varying the number of Commissioners or varying the territorial jurisdiction of these Boards. Now, as an effect of passing this Bill, we shall have to begin the work of controlling the religious institutions. I do

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Clause 7—cont.

not see any reason why at the very outset we should have provision for more Commissioners. If this motion is accepted, as I already said, we shall have a maximum of three Commissioners, including the President. We know that all new appointments made under this Bill after it is placed on the Statute Book will not come before the Legislative Council, because we shall not have to vote money for their pay, since their pay will have to be met out of the contributions paid by the religious endowments. Therefore, this House will be at a disadvantage in criticizing the work, etc., of these commissioners from time to time. It is therefore highly necessary that we should fix the number of these Commissioners in such a way as to make the executive part of the Government approach the Legislative Council time after time for more members or for the constitution of more Boards. When the executive come forward with a proposal of that sort, the Legislative Council can make a review of the administration and offer criticisms or give consent if they find it necessary either for an increase in the number of Commissioners or for the constitution of new Boards. Therefore, I think it desirable that we should now limit the number of Commissioners to three."

The hon. the RAJA OF PANAGAL:—"Sir, the existing provision is only an enabling provision, and it does not follow that the Government should at once appoint all the Commissioners, four or five whatever their number may be. But it gives only a small margin of variation from three to five members, including the President. My hon. friend may have this assurance, that at the time the appointments are considered, the Government will bestow their best consideration on the subject."

Sriman BISWANATH DAS MAHASAYO:—"Am I to understand that only three Commissioners will be appointed, Sir?"

The hon. the RAJA OF PANAGAL:—"Government will consider the matter."

The motion was by leave withdrawn.

(Amendment No. 63.)

Rao Bahadur T. A. RAMALINGA CHETTIYAR:—"Sir, I beg to move the following amendment:—

Omit the words 'not being less than two nor more than four'.

"Sir, this motion forms part of a series of motions of which I have given notice and it really forms part of a scheme which I should like to place before the House for its consideration. The scheme of the Central Board as brought out in the Bill is to have three or five Commissioners who would be all paid men and who would be all full-time officers, all appointed by the Government. That is the nature of the Board that is proposed. In the course of the discussion we have had this morning as to the necessity of the Board itself, several arguments were advanced on the ground that the payment of these Commissioners would come up to a large amount, and that along with the travelling allowances, etc., of the Commissioners and incidental expenses the expenditure would come to a very large figure. And it was mentioned by my hon. friend Mr. Govindaraghava Ayyar that the income that could be expected might not be enough to meet the cost of this board. It was also stated that one Board sitting in Madras might not be able to decide satisfactorily all the questions that might arise, and it might be necessary to have more than one Board to

[Mr. T. A. Ramalinga Chettiyar] [27th March 1923]

Clause 7—cont.

deal with the matters for which they have made provision in this chapter and in other chapters of this Bill. It was also stated that by one of the Commissioners, an extract from whose Report was read by my hon. friend Mr. Krishna Rao Pantulu, some objections were raised against the constitution of a Board the members of which were appointed by the Government.

"Whatever may be said here and there about election, I think, Sir, that election has come to stay in this country and we cannot say that election will not bring the right sort of men. It cannot be contended that by reverting to the old system alone we can get proper men to work the religious institutions properly. To meet the various difficulties and to devise something which would be really workable and not lead to difficulties, I have framed a scheme the several parts of which appear as amendments to the Bill on the agenda.

"My scheme is this. We may have more than one board and, as I said this morning, I will leave it to the Government to decide whether they shall not have more than one Board even from the very beginning. Even if this Board is constituted, we ought to have somebody who can attend to the routine work of receiving accounts, getting audit notes and so on. We want somebody to look into these matters. A mere Board which will meet once or twice a month will not be in a position to attend to the routine work. I therefore propose that the President may be appointed by the Government. The President must be a man who knows law and who is capable of running the Board. Such a person may be appointed by the Government."

The RAJA OF RAMNAD:—"According to the Bill the Commissioners ought to be full-time officers. They cannot meet once or twice a month and then disperse."

Rao Bahadur T. A. RAMALINGA CHETTIYAR:—"I am sorry my hon. friend should have thought fit to correct me in that way. I already said that I had framed my own scheme and under my scheme the President alone should be a full-time officer and the other members should merely be honorary workers."

The hon. the PRESIDENT:—"The hon. Member has apparently an alternative scheme which he is explaining now. Though the whole of it may not be relevant to this motion, it is understood that if the scheme does not carry conviction to the House, the hon. Member will not press his other motions."

Rao Bahadur T. A. RAMALINGA CHETTIYAR:—"Yes, Sir, I was saying, Sir, that the President of the Board would be a full-time officer and that he would be appointed by the Government and paid some salary. In that way the work of the Board will be satisfactorily attended to. The other Commissioners that I propose need not be men appointed by the Government, nor need they be full-time officers. I want them to be Commissioners to meet occasionally to deal with important matters which will be prepared for their deliberation by the President of the Board. I propose that these men should be elected. In one or two of my amendments I suggest the way in which these Commissioners should be elected. I suggest that the Hindu Members of this House may elect them and this is on the assumption that there should be only one Board of Commissioners. If it is decided that there should be more than one Board, probably the members of the district

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Clause 7—cont.

committees concerned may easily elect the other Commissioners. Where we have got only one Board, probably the most convenient constituency would be the Hindu Members of this House. My idea is that it will be necessary to elect some 8 or 9 members. Half of them is to form a quorum: so that we may always be sure of having 4 or 5 members to deal with all important matters. It is with this view that I propose that the President shall be a salaried and full-time officer, and that the other Commissioners shall be elected and need not be full-time officers nor be paid anything more than their travelling allowances. As I already said, my proposal will meet the several difficulties that have been pointed out both in this House and in numerous other places where people have discussed the provisions of this Bill.

"By the present amendment, I want to take away the maximum and the minimum prescribed for the strength of the Commissioners so that it may be left to the Government to fix the number from time to time or for each Board. Considering the extent of territory that is to be administered by the Board, the Government may fix the number of members. It is with this idea that I propose this amendment and I hope it will meet with the acceptance of the House."

The hon. the RAJA OF PANAGAL:—"If I understood my hon. friend rightly, what he meant was this: that he was going to press this amendment in case the scheme which he proposed was acceptable to the House. I am afraid I am personally against his scheme. I think it is impossible to get work done by unpaid Commissioners, and as to the question of election it is too soon to introduce that element into this infant body. What I want to say is that the Board will be given control and that the Government will watch how it is getting on and later on, if it is found necessary, the question of election and unpaid Commissioners may be considered. In these circumstances, I cannot accept the scheme, and it, therefore, follows that I cannot accept this amendment."

Diwan Bahadur M. KRISHNAN NAYAR:—"I am afraid that I have to differ from my hon. friend Mr. Ramalinga Chettiyar. My hon. friend suggests that the President alone shall be nominated by the Government and that the other Commissioners shall be elected. He also suggests that the President shall be a full-time and salaried officer and that the other Commissioners shall be honorary workers. I do not think that such work as is contemplated in this Bill could be expected to be done by honorary workers. The Bill as it is framed requires the Commissioners to sit throughout the year. If their work is to be effective, it is essential that they should be salaried officers. If the President alone is paid and the other Commissioners are unpaid, the President will practically become the sole executive head of the Board and the other Commissioners will cease to take any interest in the affairs of the institution. I have no faith in work of this nature being done by honorary workers efficiently. It may be that in the case of the district boards and municipalities and taluk boards the members do their work satisfactorily without any remuneration. But it should not be forgotten that the district and taluk boards and municipalities meet only once or twice a month. On the other hand, according to the Bill the Board of Commissioners are required to sit throughout the year and devote their whole time and energy to the institution. If they are to be salaried officers, it necessarily follows that they must be appointed by the Government. If they are to be paid and if they

[Mr. M. Krishnan Nayar] [27th March 1923]

Clause 7—cont.

are to be appointed by the Government it necessarily follows that their number should be restricted. Of course, personally I should like to see a large number of members appointed as Commissioners. But having regard to the financial consideration, it is necessary that their number should be restricted.

"I therefore think that the provisions in the Bill, namely, that the Commissioners shall be paid and that their number shall be restricted, should be retained."

Rao Bahadur T. A. RAMALINGA CHETTIYAR:—"Sir, I will only say a few words in regard to the point raised by my hon. friend Mr. Krishnan Nayar, namely, that we cannot find honorary workers to look after the duties of the Board of Commissioners. I do not know, Sir, if the temporary absence of my hon. friend from British India has made him forget the fact that we have got ever so many presidents of taluk boards and district boards and chairmen of municipalities who are devoting a large part of their time and energy to the administration of these bodies. Even after such worthy examples on the part of our countrymen, is it to be supposed that we cannot find men prepared to take similar interest in religious matters? I thought, Sir, if anything touched a Hindu most, it was religion. For religion, a Hindu will be prepared to sacrifice to any extent, in fact to a much greater extent than to anything else. So when we have got men who will be prepared to attend to this work, it cannot for a moment be contended that the administration of the institutions will suffer in the absence of paid officers."

The hon. the PRESIDENT:—"I wish the House to understand that though technically it is only Motion No. 93 that is now going to be put to the House, it is really the whole scheme which has been adumbrated by the hon. Member Mr. Ramalinga Chettiyar that the House has to vote upon."

The amendment was put to the House and lost.

(Amendment No. 64.)

The RAJA OF RAMNAD:—"Sir, I beg to move

Add the following as a proviso at the end:

'Provided that the President shall be an ex officio Commissioner of the Board.'

"Sir, I am aware that in the body of the Bill the impression of 'President' and other 'Commissioners' occur. But I think special mention ought to be made that the President shall be ex officio Commissioner. It is to bring out this clearly that I move this amendment."

The hon. the RAJA OF PANAGAL:—"It is obviously unnecessary, Sir, because the definition itself makes it incumbent that one of the Commissioners shall be appointed President."

The RAJA OF RAMNAD:—"I take it that the hon. the Minister has considered it unnecessary after due consultation with the the Law officers of Government. If so, I do not press my amendment."

The amendment was by leave withdrawn.

Mr. B. MUNISWAMI NAYUDU:—"Sir, with your permission, I wish to move motion No. 136 that stands against my name further down on the agenda."

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Clause 7—cont.

The hon. the PRESIDENT:—"The hon. Member cannot now take up that motion. Of course if that motion is accepted later on, it will rest with the Government to locate it in its proper place. I do not think that I can allow the agenda to be disturbed."

Clause 7 was put, passed and added to the Bill.

Clause 8.

Sub-clause (1).

(Amendment No. 65.)

Rao Bahadur T. NAMBERUMAL CHETTIYAR:—"Sir, I beg to move—

For this sub-clause substitute the following:—

'The Commissioners shall be persons professing any of the Hindu religions and shall have had, by social usage, access into Hindu temples or maths.'

Sir, professing religion is quite different from practising it. I am not suggesting any violent change. I am simply expanding what is properly understood by 'practising religion'. If an English Barrister or a person who has crossed the seas and who by social usage has no access to the Hindu temples is appointed as a Commissioner, then it would lead to all sorts of complications. It is with a view to avoid the friction that may arise consequent on the Commissioner forcing entry into a Hindu temple that I propose this amendment."

The RAJA OF RAMNAD:—"I am afraid, Sir, it will be absolutely unworkable, because I know that a Hindu who may be allowed 5 p.m. into temples in half-a-dozen places may not be allowed in another half-a-dozen places. There are local customs and it is impossible for a Central Commissioner recruited to the Central Board to possess this qualification, viz., of admission into all the temples all over the Presidency. There are very many other reasons also, Sir, apart from the question of caste. For instance in a certain place an England-retained man is not allowed access, however high a caste he may belong to. Therefore, I think, in practice it will be absolutely unworkable if we were to accept this amendment. So I oppose it."

The hon. the RAJA OF PANAGAL:—"I am afraid, Sir, that this amendment, if accepted, will lead to serious complications. As my hon. friend, the Raja of Ramnad, pointed out, an England-retained man may not be admitted into certain temples. Are we to exclude him from the commissionership? Again, Sir, in the case of Barristers-at-Law, they have necessarily to put in terms in the Inns and they have to go to England. Such people will not be eligible. I do not think, Sir, that I can accept this amendment."

The amendment was put and lost. The House divided as follows:—

Ayes.

1. Rao Bahadur T. M. Narasimhaiah.
2. Mr. B. Brinivasa Ayyangar.

3. Rao Bahadur T. Namberumal Chettiyar.

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Clause 8—cont.

Nos.

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| 1. The hon. Sir Charles Todhunter. | 20. Rao Bahadur K. Gopalakrishnaiah. |
| 2. " Khan Bahadur Sir Muhammad Habib-ol-Jah Sahib Bahadur. | 21. Mr. B. Muniswami Nayudu. |
| 3. " the Raja of Panagal. | 22. " A. T. Muttukumaraswami Chettiyar. |
| 4. " Rai Bahadur K. Venkataraddi Nayudu. | 23. " M. Narayanaswami Reddi. |
| 5. " Rao Bahadur A. P. Patro. | 24. Rao Bahadur C. Natesan Mudaliyar. |
| 6. Mr. E. S. Lloyd. | 25. Mr. V. Pakkiriswami Pillai. |
| 7. " A. Y. G. Campbell. | 26. " P. T. Raju. |
| 8. Rai Bahadur N. Gopalaswami Ayyangar. | 27. " R. K. Shanmukham Chettiyar. |
| 9. Mr. C. Madhava Nayar. | 28. " K. Sitarawa Reddi. |
| 10. Diwan Bahadur T. N. Sivagnanam Pillai. | 29. " S. Somantharam Pillai. |
| 11. Mr. E. Periyannayagam Pillai. | 30. " M. Subbarayan. |
| 12. " A. Ramaswami Mudaliyar. | 31. Diwan Bahadur K. Saryanarayana-murti Nayudu. |
| 13. Rao Bahadur T. Ramalinga Chettiyar. | 32. " R. Venkataratnam Nayudu. |
| 14. Mr. K. Adinarayana Reddi. | 33. Mr. S. Muttumaniicks Ashwariyar. |
| 15. " S. K. Y. Ankineedu Prasad Bahadur. | 34. The Raja of Ramnad. |
| 16. Rao Sahib S. Ellappa Chettiyar. | 35. Abbas Ali Khan Bahadur. |
| 17. Rao Bahadur P. C. Ethirajulu Nayudu. | 36. Muhammad Usman Sahib Bahadur. |
| 18. Diwan Bahadur M. Krishnan Nayar. | 37. Rao Sahib M. C. Madurai Pillai. |
| 19. Mr. W. Vijayaraghava Mudaliyar. | 38. Mr. G. Vandanam |

Three voted for and 38 against. The motion was lost.

(Amendment No. 66.)

Rai Bahadur T. M. NARASIMHACHARLU :—“ I beg to move, Sir, the following :

Between the words ‘ be ’ and ‘ persons ’ insert the word ‘ caste ’.

“ No doubt, Sir, from a social point of view, this word may not appear to be desirable, but when we are legislating for institutions wherein caste is particularly observed, we ought not by any legislation make it appear to the people concerned that this legislation is going to revolutionize their religious ideas and religious habits. It is only to save the Government from such an aspersion that this amendment is proposed. With reference to the previous amendment of my hon. friend, Mr. Namburumal Chettiyar, the hon. the Minister said that it was quite unnecessary, but I should rather think, Sir, that it is the other way. If we are going to allow a person who is other than a caste Hindu to be appointed as a Commissioner, then I submit, Sir, that it will lead to much bloodshed over this affair. The reason is the Commissioner has got general powers of superintendence over all institutions and he can enter into any institution for the purpose of this superintendence. He can even go and inspect such institutions. Therefore, I submit, Sir, that if the Government take it into their head to appoint persons who are not caste Hindus as Commissioners— and I may say that under the scheme now proposed there is nothing to prevent them from appointing such persons—the difficulties will become enormous. In order to prevent any member of the Government from appointing such persons and thereby anticipate disorders in the country, I submit that my amendment should be accepted.”

The hon. the RAJA OF PANAGAL :—“ Sir, I oppose the motion. In the first place, I am not in a position to understand what the hon. Member means by the words ‘ caste Hindu ’. Every Hindu has his own caste. There are no casteless Hindus, and therefore the word itself does not give an accurate idea of what the hon. Member means.

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[The Raja of Panagal]

Clause 8—cont.

“ Secondly, Sir, it does not follow that if he is a Commissioner, he should have the right of entry to any place and every place. There is the clause 75 which insists upon usages and customs being respected. I do not think, Sir, that really any fear of bloodshed need be entertained and I am, therefore, unable to accept the amendment proposed.”

Rai Bahadur T. M. NARASIMHACHARLU :—“ I submit, Sir, I thought that the hon. the Minister knew what caste meant. There is no other country in the world where caste prevails, and caste means the four castes of our religion, viz., Brahma, Kshatriya, Vaisya and Sudra. Therefore, when we are dealing with the Hindu Religious Endowments Bill, is it at all difficult to understand what caste means? I am only surprised that the hon. the Minister was not able to understand the meaning of ‘ caste ’ in the case of Hindu religious endowments for which he is proposing to legislate.”

The hon. the RAJA OF PANAGAL :—“ Sir, if my hon. friend speaks from an orthodox point of view, I can claim to speak from that point too. I know the Sastras, I know Puranas. According to the Puranic and the present-day Sastric conception, there are only two castes in Kaliyuga. The four castes do not exist in Kaliyuga. The Kshatriya and the Vaisya have disappeared, and, therefore, there are only two castes now whatever they are. Beyond these two castes, there is none else. So all the Hindus have to come under the category of either the one or the other. Further more, Sir, there is the oft-quoted Puranic aphorism, *కలీ యుగమునందు నరకము లేదు*. That is, after 5,000 years in Kaliyuga there will be no caste.”

Rai Bahadur T. M. NARASIMHACHARLU :—“ Then, Sir, as regards the question that the Commissioners need not enter into these places, I submit there is no such provision anywhere in the Bill. All I can say is that the Bill does not prevent a Commissioner from entering into any math or temple. Then, Sir, the hon. the Minister says that there is a section which deals with that point and says that customs and usages shall not be violated. But I submit that that section relates to other matters and not to the superintendence of the Commissioners. Therefore I press my amendment.”

The amendment was put and lost.

The House then adjourned at 5-15 p.m. to meet again at 11 a.m. the next day.

L. D. SWAMIKANNU,
Secretary to the Legislative Council.

The Council re-assembled at the Council Chamber, Fort St. George, at 11 a.m. on Wednesday the 28th day of March 1923, the hon. Diwan Bahadur Sir P. RAJAGOPALA ACHARIYAR, K.C.S.I., C.I.E., President, presiding.

I

THE MADRAS HINDU RELIGIOUS ENDOWMENTS BILL, 1922.

The Council resumed consideration of the Madras Hindu Religious Endowments Bill, 1922.

Clause 8—cont.

Sub-clause (1).

(Amendment No. 67.)

Rai Bahadur T. M. NARASIMHACHARLU :—" Sir, I beg to move—

Between the words 'professing' and 'the Hindu religion' insert the words 'and practising'.

My object is that the word 'professing' does not convey clearly the qualification that is essential for being a Commissioner. Sub-clause (1) of this clause says that persons professing the Hindu religion shall be Commissioners. I submit that it is not enough. In support of my contention I may refer to page 65 of the book containing the history of the previous Bills where a similar qualification was sought to be prescribed. The words used were 'all Hindus by religion.' Similarly, in the latter Bills also, page 100, you find in clause 6, sub-clause (b), a person must be a Hindu by religion. Similarly, at pages 116 and 117 also you find the same wording: a person must be a Hindu by religion. I fail to see why, with these Bills before them, the framers of the present Bill adopted the wording 'professing the Hindu religion.' The words I have quoted from the previous Bills insist on the commissioner or a member of the committee being a Hindu by religion. The phraseology in the Bill before us is somewhat weak. A man may profess the Hindu religion though he may not be practising it. I wish to know whether there is any reason why this altered phraseology is adopted or whether this means the same thing as the phraseology of the older Bills. If it is assured that it means the same thing, I certainly will not press my amendment. But if it means something less than what was intended in the earlier Bills, I would press that the phraseology should be the same as in the earlier Bills, i.e., that the words 'and practising' may be inserted between the words 'professing' and 'the Hindu religion'."

The hon. the RAJA OF PANAGAL :—" A Hindu by religion and one who professes the Hindu religion are practically the same. If the latter is vague, the former is vaguer still. As to the amendment of my hon. friend, I am sorry I cannot accept it because it will land us in great difficulties. Durjās practising the Hindu religion are expected to perform *sandhyavandana* thrice a day. Who is to find out whether a certain person is performing it as prescribed or not? That will be an inconvenient affair and we shall have to employ detectives on a somewhat large scale. The proposed definition will lead both the Government, the Board and all concerned to awkward positions. In these circumstances I am afraid I have to reject the amendment."

Rai Bahadur T. M. NARASIMHACHARLU :—" I am glad the hon. Minister said that there was no difference in the phraseology."

The hon. the RAJA OF PANAGAL :—" Practically there is no difference in the phraseology."

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Clause 8—cont.

Rai Bahadur T. M. NARASIMHACHARLU :—"The hon. Minister says that there is no practical difference. He said that a large number of detectives would have to be employed in order to find out whether a person actually practises the Hindu religion or not. Sir, I submit he need not go to the length of exercising that kind of patronage of employing detectives; a person's declaration that he is not only professing but practising the Hindu religion would be enough. I shall ask the question how are you going to find whether a person is professing the Hindu religion. I suppose you cannot find it except by the declaration of the person that he is a person who professes the Hindu religion. Well, you must also take the declaration of that individual that he is not only professing it but also practising it. That is quite enough. Therefore I submit that the hon. the Minister need not be at his wits' end to find detectives for the purpose. I press my amendment."

The hon. the RAJA OF PANAGAL :—"Sir, I adhere to the statement I made. The fact that one professes the Hindu religion can easily be ascertained by the statement of the party concerned. But when we begin to examine the question of practising the religion, I am afraid many a Hindu Member in this House may not stand the examination. All the Hindus are required to perform certain rites. But many of them never think of them."

The motion was put to the House and lost

(Amendment No. 68.)

Sriman SASIBHUSHAN RATH Mahasayo :—"I beg to move—

Add at the end the following :—
'and belief in idol worship'.

Sir, professing the Hindu religion is not quite enough qualification for one who wants to become a Commissioner and administer temples in which idols are worshipped. I am not one of those who believe that gods are worshipped through the idols; but all the same, temples and *maths* are places where idols form a very prominent part and it would be well if we introduce this also that the man who wants to become a Commissioner ought to be one who believes in idol worship, so that orthodox people who resort to the temples may not say that the man professes the religion but does not believe in idol worship. It is for this purpose that I want to introduce these words."

The hon. the RAJA OF PANAGAL :—"Sir, the attitude of the Government towards this amendment is somewhat similar to that of the one assumed in the case of the previous amendment. Here too, Sir, the amendment would land the Government in difficulties. Besides, I do not know whether one who believes in Hinduism should necessarily believe in the worship of idols. I am afraid even Sankaracharya does not seem to have belief in the worship of idols though he might have taught that that belief was necessary in the case of those who had not risen high in spirituality."

Sriman SASIBHUSHAN RATH Mahasayo :—"My point is this. The Hindu religion is not one religion, and therefore it cannot be said that it belongs to one sect or the other. There are very many sects among Hindus. Now we are concerned with temples and *maths* only. These are places of idols and of idol worship. Therefore only such people should be chosen as Commissioners as are connected with idol worship or who know something of it or who approve of it. I can understand why Sankaracharya did not take

28th March 1923] [Sriman Sasibhushan Rath Mahasayo]

Clause 8—cont.

to idol worship. There are certain classes of people who are worshippers of Siva, who boast that they are themselves gods and say that they do not believe in idols. I know that we are equal to the deity. But here is a case of temples and *maths* where the gods are worshipped through the idols. The idol is there and one should profess his belief in the idols if he is to be put at the head of these institutions."

The hon. the RAJA OF PANAGAL :—"Whether Sankaracharya and his followers believed in idols or not, it is not for me to assert. But in connexion with another amendment Mr. Sivasankaram Pillai wanted to include trees, wells and other things. I know as a matter of fact there are temples where there are no idols worshipped. So, if we were to adopt the amendment of my hon. friend, we would have to give up all these temples and those who have belief in them."

Sriman SASIBHUSHAN RATH Mahasayo :—"I do not want to stand between the hon. the Raja of Panagal and his Bill. I therefore withdraw my motion. Let him have his way."

The motion was, by leave, withdrawn.

(Amendment No. 69.)

Mr. S. T. SHANMUKHAM PILLAI :—"Sir, I beg to move the amendment standing against my name :—

Add at the end the following :—
'of the description which the concerned institution or institutions represent.'

Sir, my reasons for moving this amendment are these. Among the Hindus, there are Saivasiddhantins, Vaishnavites, etc. Among these again, there are people who worship the elements without any symbols. I do not know how it is proposed to deal with such temples. Several temples represent several faiths; some have idols and some have not. I think that a person who has no faith in the particular form of worship obtaining in a temple should not be given any power over the affairs of that particular temple. So, what I say is, nominations to the central board should be made from the class of people who have faith in the particular form of worship in a temple. Each denomination may be represented in the Board. Otherwise discussions and decisions on questions affecting different sets of people like the Vadagalais and Thengalais, cannot be easily settled. I have no objection to the Board controlling temples representing different faiths. What I want is that for each faith there should be a representative on the Board. It is for that purpose that I move this amendment."

The hon. the RAJA OF PANAGAL :—"Sir, this amendment too would involve practical difficulties. There are temples and temples of many, many denominations. But we are going to have only three, or five commissioners at the most, on the Board. How can we appoint Commissioners representing all these different denominations?"

Mr. S. T. SHANMUKHAM PILLAI :—"My difficulty is that if we leave the constitution of the Board as it is now proposed, it will not be conducive to the harmonious relations between people of different denominations. However, I beg leave to withdraw my motion."

The motion was by leave withdrawn.

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Clause 8—cont.

(Amendment No. 70.)

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—" Sir, my amendment runs thus :—

Add the following as a proviso :—

' Provided that not more than one of the Commissioners may be a person professing the Jain religion if the provisions of the Act are extended to Jain religious endowments.'

This amendment is one which, I think, the hon. the Raja of Panagal might see his way to accept. There is a provision in the Bill for the extension of the provisions of this Bill, when it becomes law, to cases of Jain endowments; and my amendment merely proposes that, in the event of the extension of the Act to Jain endowments, the insistence upon every member of the Board being a professor of the Hindu religion, should not be had, but that liberty should be given to the appointing authorities to put in also a Jain if a suitable man is available. According to my amendment there is nothing which compels them to do it, only the liberty to do so is given."

Rai Bahadur N. GOPALASWAMI AYYANGAR :—" Sir, under clause 2, sub-clause (2) the extension of the Act to Jain religious endowments by the Local Government may be subject to such restrictions and modifications as they think fit. It is open to the Local Government to say, when the Act is applied to Jain religious endowments, that clause 8, sub-clause (1) should be modified in an appropriate manner so as to include a representative of the Jain community. What I wish to point out here is that the amendment proposed by the hon. Member, Mr. Govindaraghava Ayyar, really restricts the freedom of the Local Government in regard to this matter. If he left the Local Government alone it would be possible for them to include two Jains in a Board of five, when the Act is extended to Jain religious endowments. But if his amendment is accepted, the Government will be compelled to restrict the number of Jains on the Board to one. As the Bill contemplates the constitution of more Boards than one—it may be that in a particular area the number of Jain Endowments is so large as to require two Jain representatives—I would ask him to allow a certain amount of elasticity to the Local Government."

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—" I am afraid that the hon. Member who spoke last is under a misapprehension in saying that the effect of this amendment would be to restrict the powers of the Local Government. My amendment prescribes for only one Jain Commissioner, and it will not be necessary to have more than one. But it may be necessary to have more than one Board in which case it may become necessary to have more Commissioners than one. I quite appreciate the hon. Member's objection, but my amendment is not open to that objection, because the House will observe that the Commissioners of a Board will be mostly persons professing the Hindu religion. The presence of a Jain member in a Board is with reference only to a particular Board. If there are two Boards there can be two Jain members, one in each Board, so that that objection vanishes. No doubt, as my hon. friend says, the amendment will have the effect of preventing more than one Jain member from being in any one Board. I did intend that consequence, but taking the circumstances of the Madras Presidency as they stand at present, and comparing the number and

28th March 1923] [Mr. L. A. Govindaraghava Ayyar]

Clause 8—cont.

value of the Jain endowments and Hindu endowments it is impossible to suppose that there can be such a large number of Jain endowments as to require more than one Jain member to become the members of a Board for the purpose of safeguarding the interests of Jain endowments. That is what I have to say to the last objection of my hon. friend.

" With reference to the first objection namely, that in a way my demand is provided for in Clause 2 which has already been passed, what I wish to mention to the House is this: if my hon. friend is really serious that it is contained in that clause, there can be no objection to making the matter more explicit. But my only fear is that Clause 2 may be so construed as not necessarily to mean that the constitution of the Board may have to be changed, because it will be observed that what the Local Government is asking to do is to extend the provisions of this Bill with such restrictions and modifications as they think fit to the Jain endowments. It is a far fetched and strained construction to say that it is not with respect to the nature of the endowments that this provision is applicable, but it is to the constitution of the Central Board that the Local Government might address itself in proposing to exercise the powers vested in it under Clause 2. In these circumstances, I thought the better and the more easily understandable course was the adoption of the amendment that I have suggested. There is this advantage in accepting my amendment; that the clause, as amended, necessarily draws the attention of the authorities, in whose hands power is vested to constitute the Board, to the fact that the Jain endowments having been included under the purview of the Act the desirability as to whether a change should be made in the Board has to be considered. These are the observations that I have to make with reference to the amendment of which I have given notice."

The motion was put to vote and lost.

Sub-clause (2).

(Amendment No. 71.)

Rao Bahadur A. S. KRISHNA RAO PANTULU :—" I beg to move—

For this sub-clause substitute the following :—

' (2) The Commissioners shall be elected by the members of the committees in the prescribed manner.'

" Sir, I gave reasons for this amendment when I discussed the previous motion of mine. But the vote upon that cannot be considered as a vote upon this motion. That is why I move this amendment. This motion involves two questions, namely, whether the Commissioners should be elected and whether they should be members of the committees. So far as the committees are concerned, according to the scheme of the Bill, three-fourths of them are to be elected, and there are rules for the election of such members. Therefore I think we must have this principle, namely, that once we want the members of committees to be elected, we must also adopt the same principle in the case of Commissioners. For these reasons, I move my amendment."

The hon. the RAJA OF PANAGAL :—" There is some difference between the status of Commissioners and that of the members of the committees. In the

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Clause 8—cont.

case of the members of the committees they are not salaried, while the Commissioners are paid officers. I do not think that the system of election will be satisfactory in the case of paid appointments."

The RAJA OF RAMNAD:—"I have tabled amendment No. 110. There is a similarity between that amendment and this. If you, Sir, are not going to allow me to move it later on, I think I had better move it now."

The hon. the PRESIDENT:—"How can the hon. Member know that I am not going to allow him later on?"

The RAJA OF RAMNAD:—"If the hon. the President thinks that I can move that amendment now only, I think of doing so."

The hon. the PRESIDENT:—"I cannot think anything in the matter at all. When I come to that amendment I will decide one way or the other. At present, the hon. Member can speak on the amendment of Mr. Krishna Rao."

The RAJA OF RAMNAD:—"The hon. the President can tell me now whether my amendment is similar to this or not."

The hon. the PRESIDENT:—"The hon. Member can decide that for himself."

The motion was put to vote and lost.

(Amendment No. 72.)

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR:—"I beg to move—

After the word 'President' insert the words 'and not less than one-half of the other Commissioners of a Board.'

"Sir, this amendment of which I have given notice is one of considerable importance from the standpoint which I wish to take. The amendment requires that not merely the President but not less than one-half of the other Commissioners who constitute the Board should be gentlemen with qualifications that are prescribed for the President. Perhaps it may be within the recollection of some Members of the Select Committee, rather all the Members of the Select Committee, that such a view was at one time thought of in the Select Committee, and that only when the final decision of the Committee was adopted that the more liberal provisions that we now find in the Bill were fixed upon. Now, I venture to think, taking into consideration the functions of the Board, that it is necessary that those who are to constitute the Board should be, at least the majority of them, gentlemen who have had judicial experience or experience of legal matters. It will be observed by the House that there are three kinds of functions that are sought to be vested in the Board. One kind is inquisitorial powers, the second administrative, and the third judicial. In so far as judicial powers are concerned, it will be found that on a reading of the various provisions of the Bill which affect the Board and their relations to the committees, trustees and heads of *maths*, there are a number of judicial functions of a very important character that are vested in the Board. It stands to reason that before you give a Board the power to decide in respect of these judicial matters and in many instances make their decisions final, the persons who are responsible for these decisions should be gentlemen who have had some kind of judicial training or at least a training in the branches of the law which chiefly concern the functions of a Board. Therefore it appears to me that the insistence upon the possession by

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Clause 8—cont.

the Commissioners of the Board of some legal knowledge is not at all unreasonable. It is not that I am anxious that lay element should be in any way taken away, from the Board or that the Board should lose the benefit of lay opinion. Therefore it is that my amendment proposes that only one-half of the other members of the Board, two or one as the case may be, should be gentlemen who have the qualifications which the President has.

"Only one other objection against my proposal it is possible to think of, namely, that there may be a paucity of candidates who are available for being put on this Board. I believe that it will not be difficult to the party in power or the Local Government to find candidates who answer their description of what the requirements of the Board should be, so that it may be possible to the Government to put them into the Board. My object is to see that, once this House has accepted the principle of having a Board, that Board is composed of gentlemen who will really command the confidence and respect of the people in general, and to ensure for that purpose that it is made a statutory obligation that not less than one or two according to the strength of the Board should be, in addition to the President, gentlemen who possess the qualifications to which reference is made in clause 8, sub-clause (2)."

The hon. the RAJA OF PANAGAL:—"My hon. friend has made reference to the party in power in securing the services of qualified men for the appointment of Commissioners. I have only to tell him that it is not the party in power that is responsible for the appointment, but it is the Government.

"Coming to his objections, I may say that the fact that legal qualifications are insisted upon in the case of one does not preclude the Government from appointing men with legal qualifications as other members of the Board. Most of the functions assigned to the Board were at one time exercised by the Board of Revenue. Sir, not even one member of the Board of Revenue is by law required to be a lawyer. When the question of appointment of the members of the Board is being dealt with, Government will give their attention to the discussions of this Council. With this assurance I trust the hon. mover will withdraw his amendment."

Rao Bahadur C. V. S. NARASIMHA RAJU:—"I have given notice of a similar motion, viz., No. 107. My object in bringing this amendment is that the functions of the Board are mainly judicial. We know that at present all powers regarding the adjudication of questions regarding service tenure attached to the temples are vested in the ordinary civil court; but by the special provision of this Bill all these are taken away from the jurisdiction of civil courts and vested in the Central Board whose decision is final. This makes it clear that the majority of the Board must have a judicial training or some judicial experience; for, the public will not have great confidence in a Board which is composed mostly of non-lawyers or men without judicial training. Men with mere administrative experience may not be quite desirable officers to settle religious litigations. It was said by the hon. the Chief Minister that the Government could nominate men with a legal or judicial training to form a majority of the Board. If the Government have no objection to make such a kind of appointment, I am not able to understand why they should have objection to reduce it to a statutory obligation."

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Clause 8—cont.

Mr. R. SRINIVASA AYYANGAR :—“ If the Board that is to be constituted is to function properly, having regard to the nature of the duties that they are expected to discharge, I think it is necessary that in its composition the majority should consist of men of the qualifications set out in sub-clause (2) of clause 8 of the Bill. Moreover, this Central Board is intended to oust largely the jurisdiction which the civil courts exercise under the present Act. That is an additional reason why the Board of Commissioners, at least a majority of them, should possess that judicial training and experience which are now possessed in a marked degree by officers presiding over civil tribunals. On these two grounds, I support the motion.”

The RAJA OF RAMNAD :—“ I quite realize the anxiety of some of my lawyer friends here to get one more recruiting field to lawyers of public service. I say, Sir, as matters stand at present most of the District Judges are non-lawyers. When officers holding such high positions as District Judges are recruited from non-lawyers, I fail to see why these Commissioners should be recruited from lawyers alone.”

Rao Bahadur T. A. RAMALINGA CHETTIYAR :—“ I am a lawyer and I do not agree in thinking that my friend the Raja of Ramnad is quite correct in saying that the District Judges are non-lawyers. As a matter of fact, his arguments certainly go to strengthen the force of the arguments in favour of lawyers. But there is one reason why I am not able to agree with my hon. friend who has asked for some restricted provisions with regard to the appointment of these members. We have got a large number of retired Government servants who do not come under the definition but who at the same time are as competent as others in these matters and who command the confidence of the public—I mean people like retired Collectors and retired Deputy Collectors. If the Board is going to consist of three Members and if you are going to impose the qualifications mentioned to two, then there will be one other person left, and you will have to choose probably between the retired Government servant and the public man who is taking interest in religious endowments and whose opinion and advice will be very valuable. Such a sort of restriction, I think, will not be good. I think it is better to leave the matter in the hands of the Government. In a commission of the nature of a judicial body, it is better that persons who have got some experience either as public men or as retired Government servants are appointed. With these observations, I hope the motion will not be pressed.”

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—“ The arguments that have been advanced in opposition to the amendment, I think, I may utilize for the purpose of commending it to the acceptance of the House. The hon. the Raja of Panagal appears to have misunderstood my statements regarding the party in power and Government. I took care to say that it was so long as it is the Minister that is in charge of the department, it is obvious that the party in power from whom the Minister is necessarily drawn will have a great deal to say in these matters of the distribution of patronage. Therefore I said that the party in power and Government need have no difficulty in finding out gentlemen of their own following. With respect to the need for a judicial element and the strengthening of it, even those criticising the amendment seem to agree. The only point where they and I

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Clause 8—cont.

differ is as regards the persons among whom the choice has to be made. If it is to be conceded that there are men whom it might be desirable to put on the board but who do not possess the qualifications required here, one of the two seats which will still remain to be filled up may be given to any one of them and my amendment gives enough scope for such men being drafted in. All that I want is that there ought to be a statutory obligation to see that the judicial element in the board is sufficiently strong for the purpose of discharging the judicial functions with which they are to be entrusted.

“ Now, my hon. friend, the Raja of Ramnad, said that there were District Judges who were not lawyers. But he forgot that District Judges were not made Judges all in a day straight after their having entered the Civil Service. They are given a great deal of judicial training and it is after that that they are made District Judges.”

The hon. the RAJA OF PANAGAL :—“ Sir, what is that training? Is that training different from the training that is given to a Deputy Collector?”

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—“ It is different, Sir, in one way and it is this. The House knows that there have been also cases where District Judges were asked before they became District Judges to look after the duties of the District Munsifs and the Subordinate Judges. Secondly, it will be found that so far as these District Judges are concerned, it is the very pick of the covenanted Civil Servants who are either Collectors or Sub-Collectors that are taken. They are people of very great capacity

“ . . . ”
The hon. the RAJA OF PANAGAL :—“ May I know, Sir, if it is not a fact that sometimes those who have been found unfit to hold executive appointments are shunted to the judicial appointments?”

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—“ I do not know if my hon. friend will have the support of his colleagues, the Members of the Executive Council—who are not here—in the statement that he has made.”

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—“ I am glad that it has come from a Government Member himself.”

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—“ But if it is so, it only goes to show that there are persons who are intended for executive posts but are not by that circumstance unfit for judicial posts.”

The hon. the RAJA OF PANAGAL :—“ I did not suggest any reflection upon those who have been appointed to judicial posts. I only said that those who were not fit for executive appointments were sometimes posted to judicial appointments. They may be quite good for judicial appointments.”

The hon. the PRESIDENT :—“ It is a matter for consideration whether we may not leave the question of the recruitment of the judiciary. At present the House is considering the question of the Board of Commissioners under the Hindu Religious Endowments Bill. I think we have drifted into the question of the recruitment of the judiciary. I do not say that it is irrelevant. The point was raised by the Raja of Ramnad, and so the hon. Member had to defend the judiciary. We have been led on from stage to stage and the hon. Member is losing much time out of his five minutes. If he spends it on this question he will not have time to attack the Board.”

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Clause 8—cont.

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—" I am not responsible for drifting into that question as you have already observed. In the case of District Judges they are chosen on account of their fitness. As I said, if there are eminent men, who have filled judicial offices from whom you can get Commissioners and if you also have sufficient room for other elements to come in, there is no reason why my amendment should not be accepted."

The motion was put and lost.

(Amendment No. 73.)

Mr. S. T. SHANMUKHAM PILLAI :—" I beg to move—

For items (a), (b) and (c) substitute the following :—

' a person who is a well-educated gentleman of good reputation and respectable status in life and who professes the Hindu religion of the description which the concerned institutions represent.'

" My reasons are these. The Central Board is intended to exercise administrative and judicial functions in connexion with the religious institutions. I understand that the arguments advanced by the previous speakers are also for giving final powers to this body. At a time when we are fighting tooth and nail for the principle of the separation of the executive and judicial functions we should not combine both these functions in one single body. If the Central Board is to be converted into a court of law the question should be settled in conjunction with the Government of India and the Secretary of State. I think the present Council has no such power. The separation of these two powers will save a good deal of trouble and difficulty both to the parties and the people. The qualification for membership need not be the holding of a high judicial post. It is quite unnecessary, and need not be required at all. The qualifications I propose are quite enough for administration. These will meet the end in view. The Members of the Board are intended for the protection of the trust and the promotion of the welfare of the institutions. That is all we all long for. If that cannot be done I hope the matter may as well be left to the public to be taken care of by them."

The hon. the RAJA OF PANAGAL :—" The amendment prescribing the 11-45 a.m. qualifications is rather vague in its nature. I, therefore, regret I cannot accept it."

The amendment was by leave withdrawn.

(Amendment No. 74.)

Rao Bahadur T. NAMBERUMAL CHETTIYAR :—" Sir, I beg to move—

Omit item (a) and re-letter the subsequent items.

As items (b) and (c) of the sub-clause (2) prescribe the legal qualifications of the President, there is no necessity for item (a). It may, therefore, be deleted."

Rai Bahadur T. M. NARASIMHACHARLU :—" Sir, I have given notice of a similar amendment and to amplify what my hon. friend, Mr. Namberumal Chettyar, has said, I may say that this clause (a) will be somewhat jarring

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Clause 8—cont.

to the ears of the orthodox *maths* and temples. I will also give another reason. A European gentleman may reside in India and may cast off his Christianity and profess Hinduism. As a matter of fact, we have got several such gentlemen, though a little outside the municipal limits of Madras, yet residing in the vicinity of Madras. My point is that if such a gentleman happens to be a barrister of England or Ireland or a member of the Faculty of Advocates in Scotland of not less than ten years' standing, he will be qualified to be appointed President. We may not for ever have a sympathetic Minister like our Raja of Panagal. The Minister may happen to be a European gentleman. Now, of course, all the Ministers are Hindus. But next time or sometime later, one Minister may happen to be a European, another Muhammadan and another Hindu and the European gentleman may happen to be in charge of the Local Self-Government and Religious Department. He may then appoint as President a European gentleman who professes the Hindu religion and who is a barrister practising in the High Court of Madras. Then, what is to be done? (*Laughter.*) As my hon. friend, Mr. Namberumal Chettyar, has pointed out, a pleader of the High Court includes advocates, barristers and others of England or Ireland who come out to India for the purpose of encouraging litigation or administering justice in our courts. I, therefore, submit that there is no necessity for putting any clause which, as I said, is somewhat jarring to the orthodox ears."

The hon. the RAJA OF PANAGAL :—" Sir, the word 'barrister' may be jarring to the ears of some of our friends. Barristers are a respectable class of people. It is stated, Sir, that they come here to encourage litigation. In that case, I do not know if vakils who come out of the Law College of Madras cannot be charged with the same offence. However, I do not think that the Government will be justified in precluding barristers from being eligible for this appointment."

Rao Bahadur T. NAMBERUMAL CHETTIYAR :—" Sir, I beg to point out that no case has been made to retain this item (a). The qualifications mentioned in items (b) and (c) cover those mentioned in (a), and therefore item (a) seems to be unnecessary. I, therefore, press the amendment to a division."

The amendment was put and lost.

(Amendment No. 75.)

Mr. P. SUBBARAYAN :—" Mr. President, Sir, I beg to move—

In item (a) for the word 'ten' substitute 'five'.

My reason for moving this amendment is very simple. Section 101 (3) (a) of the Government of India Act says: 'A Judge of a High Court must be a Barrister of England or Ireland, or a member of the Faculty of Advocates in Scotland, of not less than five years' standing.' It is well known that a Judge of the High Court can sit in judgment over cases that arise on this Bill. I, therefore, think that the same period of five years may also be fixed in the case of the President of the Board as well. I have no objection to alter 'ten' into 'five' in the case of a pleader of a High Court also."

The hon. the RAJA OF PANAGAL :—" I accept the amendment."

The amendment was put and carried.

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Clause 8—cont.

(Amendment No. 76.)

Rai Bahadur T. M. NARASIMHACHARLU :—" Mr. President, Sir, I beg to move—

In item (c) omit the words ' of a High Court '.

" Sir, what I mean is that a person having been a pleader for a period of not less than ten years is a sufficient qualification. I do not think any good purpose will be served by insisting on the pleader being a pleader of the High Court as well. It is quite well known that there are several pleaders practising in the mufassal who are not pleaders of the High Court, but who can challenge very good comparison and even better comparison with many of the pleaders of the High Court even of twenty years' standing. My point is, why restrict the selection to pleaders of High Court instead of leaving it as wide as possible ? "

The hon. the RAJA OF PANAGAL :—" I accept the amendment."

Rai Bahadur T. M. NARASIMHACHARLU :—" Many, many thanks, Sir."

The amendment was put and carried.

Sub-clause (3).

(Amendment No. 77.)

Rao Bahadur A. S. KRISHNA RAO PANTULU :—" Sir, I beg to move—

For this sub-clause substitute the following :—

' (3) The Commissioners shall elect a President from among themselves.'

I already stated my reasons in connexion with an amendment that was already discussed. The previous amendment was about the Commissioners being elected."

Mr. A. RAMASWAMI MUDALIYAR :—" I think the hon. Member has already moved an amendment that the President should be elected."

Rao Bahadur A. S. KRISHNA RAO PANTULU :—" I have not. The previous amendment referred to the election of Commissioners. My present amendment is that the President should be elected by the Commissioners from among themselves. I know that my friends find it difficult to accept this amendment. But still I think that all the objections hitherto raised do not apply to this, especially when we remember that there are institutions which elect their own presidents. I object to the appointment of the President by the Government. The Commissioners should have the liberty of electing their own President. In most other institutions we have given this power. Even in the matter of the Legislative Council, the next President is going to be elected."

The hon. the RAJA OF PANAGAL :—" I oppose the amendment, Sir."

Rao Bahadur A. S. KRISHNA RAO PANTULU :—" I can give no reply as no reasons are given by the hon. the Minister."

The hon. the RAJA OF PANAGAL :—" The reasons were all given when we discussed a similar amendment already."

The amendment was put and lost.

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Clause 8—cont.

(Amendment No. 78.)

12 noon. The RAJA OF RAMNAD :—" I beg to move—

Add at the end the following :—

' until such time as the Local Government by notification vest such appointment by election in a constituency to be devised for the purpose.'

" Sir, I copied this from the Local Boards Act. I have heard the hon. the Minister saying with reference to an earlier amendment that when an officer is paid he should not be elected. It is rather a curious proposition. The President of this House is to be elected from next year and he is to be a paid officer, the Deputy President is elected and he is also paid, and the hon. the Ministers are elected Members of this House and they are also paid. To apply the principle that payment is opposed to election rather comes too late. I do not ask the Government to throw the appointment open to election at once. It is purely a permissive provision. When the Government wants to throw open these appointments for election after devising a suitable constituency they should have necessary powers in this Act itself to do so.

" There is also one other matter, and a very serious matter too. These Commissioners are going to be paid not from Government funds, but from the contributions to be levied from the religious institutions. But the Government are going to derive some income from the sale of stamps, as all petitions will have to be stamped, and they are not going to spend a pie on this establishment. They are going to pay the commissioners only from the fees which they are going to levy. If Government say that they are going to pay the Commissioners, then I can understand their position. Even then it is not a strong argument. I do not see why there should be any difficulty in accepting this permissive provision. I may at once say that it will not be quite proper to dispute at this stage that election should not be provided for and everything should be by nomination. We have long passed that stage, and election is the order of the day. When the hon. the Minister has introduced a Bill to amend the Local Boards Act, providing direct election to the district boards for the first time in its history, I do not think he will be opposed to my amendment now. After all, my amendment is very modest. I ask the Government to take power to throw the appointment open to election when suitable occasion arises. If even this is not going to be accepted, I can only say that the attitude of the Government let me at least hope will not be acceptable to the majority of the Members of this House."

The hon. the RAJA OF PANAGAL :—" Sir, my hon. friend, the Raja of Ramnad, says that his proposal is a permissive provision. I am afraid it is not a permissive provision; it imposes an obligation on the part of the Government to throw the appointments open for election at one time or another. Personally, I am not against throwing any of them open for election; but I do not want that it should be obligatory upon the Government. We do not know how the scheme is going to work; we have to wait and see the results of the scheme. So, at this stage, Sir, I do not think it is desirable to accept this amendment."

Mr. C. V. VENKATARAMANA AYYANGAR :—" Sir, I want to support this motion. The hon. the Raja of Panagal said that it was possible to have a

[Mr. C. V. Venkataramana Ayyangar] [28th March 1923]

Clause 8—cont.

time when these posts could be thrown open for election. Where is the provision for it?"

The hon. the RAJA OF PANAGAL:—"The Act may be amended when that time comes."

Mr. C. V. VENKATARAMANA AYYANGAR:—"We do not want such small things to form Amending Bills. Therefore it is our desire to have this provision in the Bill. What does after all my hon. friend, the Raja of Ramnad, say? He does not fix any time. It may be during the time of this Government or the next Government. The succeeding Government may not think it desirable to leave it open for election. The present Minister may change his mind or his successor may not want to have election. Wherever it is possible, it should be made easily. I do not think it is necessary to go through the process of having a Bill prepared and sent through the various stages."

"It is said that there is nothing obligatory at all. The amendment says: Until such time, etc. It may be till eternity. It only gives power to any Minister at any time to leave this post open to election."

"We know that before the Reforms the Government did not want to have much to do with religious endowments. It may be said that this is a Reformed Government where the Minister is responsible to the people. But it may chance that a Muhammadan or a European gentleman may become the Minister in charge. In such circumstances, it is better to be prepared for some consequences. The amendment gives ample powers to wait as long as the Government wants and then issue the notification. I think the hon. the Minister will on reconsideration accept this amendment."

The RAJA OF RAMNAD:—"Sir, I gather from what the hon. the Raja of Panagal has said that he has no objection to accept the amendment, but he only feels that it will make it obligatory on Government to throw it open to election immediately. If he suggests a *via media* I am prepared to accept it. More than that, let me also inform him that even in the Local Boards Act of 1884 there was a provision to this effect, and again in the Local Boards Act of 1921 there is some such provision. So a permissive provision like this exists in very many of the Acts passed in this Council and earlier Councils. I do not see wherein comes the difficulty. If the hon. the Raja of Panagal will suggest a *via media* I shall withdraw my amendment."

The motion was put and declared carried.

Mr. A. Ramaswami Mudaliyar demanded a poll and it was taken with the following result:—

Ayes.

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|--|---|
| 1. Rao Bahadur T. A. Ramalinga Chettiar. | 10. Mr. M. Suryanarayana. |
| 2. Mr. S. T. Shanmukham Pillai. | 11. Sriman Bishwanath Das Mahasaya. |
| 3. Mr. K. Adinarayana Reddi. | 12. Rai Bahadur T. M. Narasimhaiah. |
| 4. Diwan Bahadur M. Ramachandra Rao Pantulu. | 13. Sriman Sasibushana Rath Mahasaya. |
| 5. " L. A. Govindaraghava Ayyar. | 14. Mr. R. Srinivasa Ayyangar. |
| 6. Rao Bahadur A. B. Krishna Rao Pantulu. | 15. " M. B. Seturathnam Ayyar. |
| 7. " C. V. S. Narasimha Raja. | 16. " A. Ranganatha Mudaliyar. |
| 8. Mr. C. V. Venkataramana Ayyangar. | 17. " T. Sivasankarum Pillai. |
| 9. Diwan Bahadur R. Venkataratnam Nayudu. | 18. The Raja of Ramnad. |
| | 19. Sri Meka V. Apparao Bahadur. |
| | 20. Mr. K. Prabhakaran Tampian. |
| | 21. Sir M. C. T. Muttayya Chettiar. |
| | 22. Rao Bahadur T. Namburumal Chettiar. |

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Clause 8—cont.

Noes.

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|---|---|
| 1. The hon. Khan Bahadur Sir Muhammad Habib-ul-lah Sahib, Kt., C.I.E. | 17. Mr. W. Vijayaraghava Mudaliyar. |
| 2. " the Raja of Panagal. | 18. " K. A. Kandaswami Kandar. |
| 3. " Rai Bahadur K. Venkatarreddi Nayudu. | 19. " B. Maniswami Nayudu. |
| 4. " Rao Bahadur A. P. Patro. | 20. " A. T. Muttukumaraswami Chettiar. |
| 5. Mr. E. S. Lloyd. | 21. " M. Narayanaswami Reddi. |
| 6. " A. Y. G. Campbell. | 22. Rao Bahadur C. Natesa Mudaliyar. |
| 7. Rai Bahadur N. Gopalaswami Ayyangar. | 23. Mr. V. P. Pakkiriswami Pillai. |
| 8. Mr. C. Madhavan Nayar. | 24. " P. T. Rajan. |
| 9. Diwan Bahadur T. N. Sivagnanam Pillai. | 25. " W. P. A. Saundara Pandiya Nadar. |
| 10. Mr. E. Periyannayagam Pillai. | 26. " R. K. Shanmukham Chettiar. |
| 11. Rao Sahib T. C. Tungavelu Pillai. | 27. " K. Sitaraswami Reddi. |
| 12. Mr. A. Ramaswami Mudaliyar. | 28. " S. Rama-undaram Pillai. |
| 13. S. R. Y. Ankineedu Prasad Bahadur. | 29. Dr. P. Subbarayan. |
| 14. Diwan Bahadur C. Arunachala Mudaliyar. | 30. Rao Bahadur C. V. Ranga Reddi. |
| 15. Rao Sahib S. Ellappa Chettiar. | 31. Mr. S. Muttumaniakachari. |
| 16. Rao Bahadur P. C. Etirajulu Nayudu. | 32. Khan Bahadur Muhammad Sadulla Badsha Sahib Bahadur. |
| | 33. " Muhaimmad Uman Sahib Bahadur. |
| | 34. Rao Sahib M. C. Madurai Pillai. |

Twenty-two voted for and 34 against. The motion was lost.

(Amendment No. 79.)

Rao Bahadur C. NATESA MUDALIYAR:—"Sir, Mr. President, 12-15 p.m. I move the amendment that stands in my name which reads thus:—

Add at the end the following:—

'due regard being had to the representation of various religious sects and provided that a majority of them shall always be non-Brahman Hindus.'

Sir, it is highly desirable that the Commissioners of the Board are larger in number and are elected preferably by this Council to give a democratic turn to the Board, failing which it is wise to have the maximum number of Commissioners contemplated in this Bill each of them being of different Hindu religious denominations and a majority of them being non-Brahman Hindus. For, most of the endowments are given by non-Brahmans. Sir, let me not be misunderstood that I am bringing the communal question even here. I do this not with a feeling of apathy towards any community. I assure the House that I have no hatred for any community. I love all communities alike. (Cries of *Hear, Hear*.) But the elevation and the progress of my country requires recognition of the communal element. Seeing how one of my communal resolutions was treated some time ago by the Local Government and by the House, I thought I was perhaps at least a quarter of a century ahead of the times. But seeing how the communal question is being taken up by the Government of India, the Legislative Assembly, the Councils of Bengal, Punjab and Assam and recently by the Secretary of State for the Colonies on the question of reforms for Ceylon where the communal element has come to stay, I fear I will be behind the times and will be failing in my duty to my constituency if I do not press constantly the communal claim in this House.

"Sir, coming to my communal amendment, if it is included in the Bill, the effect of it will be that the Central Board will be like the village boards

[Mr. C. Natesa Mudaliyar] [28th March 1923]

Clause 8—cont.

which are accustomed from time immemorial to communal representation. If the amendment is included it will create confidence in the public, prevent heart-burning and make the Bill work smoothly when it is passed into law. So in the interests of Government and in the interests of the country, I request the hon. the Minister to accept the amendment."

The hon. the RAJA OF PANAGAL:—"Sir, the remarks that have fallen from my hon. friend, Dr. Natesan, will be borne in mind; but I do not think it is advisable to tie the Government to any set of rules in a matter like this. As he rightly said, the question of communal representation is engaging the attention of various Governments. That is true and that is the very reason why such a hard and fast rule is not necessary."

Rao Bahadur C. NATESA MUDALIYAR:—"After the assurance given by the hon. the Minister—I hope the Ministry will continue for a long time and I am sure that it will be for many years (*cheers*)—I withdraw this amendment."

The amendment was by leave withdrawn.

(Amendment No. 80.)

Mr. C. MADHAVAN NAYAR:—"Mr. President, Sir, the amendment that stands in my name reads—

Add at the end the following:—

'and shall, during their term of office, be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.'

"Sir, the object that I have in moving this amendment is sufficiently obvious. There are certain sections of the Indian Penal Code which protect the public servants in the proper and effective discharge of their duties and certain other provisions which compel them to discharge their duties properly. I move this amendment with a view to make these provisions applicable to the President as well as the Commissioners. Mr. President, as the Bill stands at present, these members, the President and the Commissioners, are highly paid officials and it is only proper that the House should see these provisions are made applicable to them. With these words, I commend the amendment for the acceptance of the House."

The hon. the RAJA OF PANAGAL:—"I accept the amendment."

The amendment was put and carried unanimously.

Clause 8 as amended was put and carried and added to the Bill.

Clause 9.

(Amendment No. 81.)

Rao Bahadur A. S. KRISHNA RAO PANTULU:—"Sir, I move—

For the word 'five' substitute the word 'three.'

Sir, the object of my amendment is to substitute 'three' years for 'five' years in sub-clause (1) of clause 9. The sub-clause at present reads:

Every Commissioner of a Board other than the President shall be entitled to hold office for five years from the date of his appointment.

28th March 1923] [Mr. A. S. Krishna Rao Pantulu]

Clause 9—cont.

"Five years is the prescribed tenure of office of the Commissioners as also of the President. I think, Sir, that under the present circumstances, three years ought to be sufficient. The Board of Commissioners are to be appointed; they are invested with wide powers and their work will be watched with keen interest by the public. One of the chief defects of the previous committees was that they were holding their office for a long period so that even if their misconduct was brought to the notice of the public, they could not be removed. That defect was sought to be removed by limiting the duration of their term. Seeing that even in the case of responsible officers like the Ministers three years is the period fixed, I think we shall not be justified in providing for a longer period in this case."

Sriman SASIBHUSHAN RATH Mahasaya:—"Sir, we have a number of institutions in the country in which we have the period of three years fixed. For instance, the chairmen of municipal councils, presidents of district boards and a number of other officers hold office only for three years. Even our own term is fixed at that period. Only in the case of the Council of State a longer period, namely, five years is fixed. I do not see any reason why this long period should be suggested in this particular case. On the analogy of the existing institutions of the country, we should fix the period at three years. Moreover, the Board is a new creation in the case of religious endowments and we should see how it works. If a longer period is fixed, people may get vexed and it is to the advantage of the Government and the Ministry that due provision is made and the period so fixed as to give them occasion to change the personnel of the Commissioners of the Board. It is therefore that I support the amendment."

The hon. the RAJA OF PANAGAL:—"Sir, there are two difficulties in the way of accepting this amendment. One is we may not get very desirable men if we impose this time-limit and reduce the period of appointment from five to three years. Suppose the Government wants a Government servant or a man with good practice either in the High Court or in the mufassal courts, unless the appointment is guaranteed for a sufficiently long period, I do not think we shall be able to secure the services of competent people. Another difficulty is this, viz., that this is a case in which continuity of policy is desirable. So, for these two reasons, I feel nervous to accept the amendment. But if it is the wish of the House, I shall have no objection."

Mr. R. SRINIVASA AYYANGAR:—"Sir, if I understood the hon. the Minister aright, he insisted upon continuity of policy as justifying the retention of the period of five years. So far as policy is concerned, we are also having policy in the local bodies and institutions where presidents are generally nominated and their term is limited to three years. Likewise is the case of Ministers who are in charge of very many departments and whose duties are various and multitudinous."

The hon. the RAJA OF PANAGAL:—"Mr. President, may I remind my hon. friend from South Arcot that it is on this account that the term of chairmanship of the municipal councils is extended from one year to three years."

Mr. R. SRINIVASA AYYANGAR:—"That does not alter the situation nor does it weaken my argument. Moreover, when a body is to be constituted,

[Mr. R. Srinivasa Ayyangar] [28th March 1923]

Clause 9--cont.

in its earlier stages or in the transitional period, instead of having a man fixed to the spot for five years, prudence suggests that a shorter term should be fixed. Moreover, this is not a case where a person has to get into the place by the process of election, because the appointment is entirely in the hands of the Executive Government and the same person may be reappointed. A continuity of policy may be kept up without any break."

The hon. the RAJA OF PANAGAL:—"But the difficulty I suggest is from the standpoint of the applicant or the candidate for the appointment. What guarantee is there that the Government will reappoint him? The Government may reappoint him or may not. What is the guarantee that he will be continued in the post?"

Mr. R. SRINIVASA AYYANGAR:—"If, after a period of three years the Government is not in a position to extend the term, that is all the greater reason why the period should be limited to three years. If within a period of three years, the Commissioner is not in a position to command the confidence of the Government which will entitle him for reappointment, it affords additional reason why the tenure should be reduced to three years. So far as the appointments or reappointments are concerned, they are entirely in the hands of the Executive and unless the Commissioner has done something to forfeit the confidence of the Ministry, the probability is that he will have a claim for a further lease of life and he will automatically or without even asking, be entitled to continue in office. There is one other circumstance. So far as these gentlemen are concerned, they will not be worried by the bogey of any election. They have only to discharge their duties properly to their own advantage and to the advantage of the public and in such a manner as to inspire confidence in the Government so as to merit or to justify their continuity in office for a further period."

Mr. A. RAMASWAMI MUDALIYAR:—"Sir, I rise to oppose the amendment. I am afraid, my hon. friend, Mr. Srinivasa Ayyangar, in his anxiety to make a very involved argument involved himself in very many difficulties. What the hon. the Minister said was . . ."

Mr. R. SRINIVASA AYYANGAR:—"I am incapable of involved arguments, Sir."

Mr. A. RAMASWAMI MUDALIYAR:—"We have our own opinions of what my hon. friend, Mr. Srinivasa Ayyangar, is capable of. What the hon. the Minister said was that from the applicant's point of view unless he had sufficient guarantee that he would be in office for a fairly long time, it might not be possible for him to accept the offer of the Government. My hon. friend says that it will be open for the Government to reappoint the person. But the person would like to have an assurance even at the time of the appointment and if the Government is asked to give him such a guarantee, the Government will not be in a position to say what its mind will be after three years. Therefore *a fortiori* on the arguments of my hon. friend, the most desirable men will not accept the appointment."

"As regards the period it will take sometime for these men to get themselves into touch with the office, to get into the details of religious administration and to know what is expected of them. My hon. friend cited the example of the Ministers. We know from our experience of two and a half years that it will be very much better if the Government of India

28th March 1923] [Mr. A. Ramaswami Mudaliyar]

Clause 9--cont.

prescribes a longer period. At the same time, I should say that none of us are anxious that we should extend our own time. We do not want to sit for a longer time than we have been returned for. But I say generally speaking, even for the next Council, if the authorities at Home can be induced to extend the term to five years, I have no doubt that the Members opposite as well as on this side of the House would welcome the move." (*Cries of No, No, from Opposition Benches.*)

"Sir, I see that hon. Members are anxious to go away. But those who succeed them will, I daresay, be glad to have an extension of 12-30 p.m. the period. That, Sir, is really the reason why a longer time should be prescribed. After all, there is not much to be said on the merits of the question on either side, except the fact that the better class of people will not be willing to take up the appointment unless a longer time and a greater guarantee of security of tenure of office is given to them."

Diwan Bahadur M. KRISHNAN NAYAR:—"Sir, I am for retaining the period of five years. Besides the arguments already advanced with reference to the difficulty of finding suitable candidates for the appointment, if the appointment is only for three years, there is the additional reason that the President and the Commissioners naturally will take sometime to settle down and learn their business, and by the time they settle down and learn the business if they are to be turned out—as that will practically be the case if the time is limited to three years,—it will be difficult for any body of Commissioners to do their work satisfactorily. In addition to this, there is also this other circumstance; the evils of a long term—if five years can be regarded as a long term—cannot exist having regard to the amendment that was moved by the hon. the Advocate-General and accepted by the hon. the Minister, namely, that the President and the Commissioners will come under the definition of public servants within the meaning of section 21 of the Indian Penal Code, so that they are amenable to all the discipline and they are also liable to all the disabilities and penalties of public servants, if they abuse their trust, their responsibilities and their duties. There is no danger therefore in the period being so long as five years. Then, again, there is this additional circumstance also: that if people are to be turned out at the end of three years and not continued for five years, the arguments that have been advanced with regard to the difficulty of finding proper persons, I submit, will hold good very strongly. Persons who are either retired judicial officers or who are practising at the bar will be extremely unwilling to accept this office if it is to endure only for a period of three years. It goes without saying that a person who has a very good practice in the bar, a person whose services are worth having, will generally be very reluctant to leave the bar to accept this office for a short term of three years. With reference to retired officials also, it will be difficult to induce them to accept the appointment if they are to be turned out in three years. For these reasons, I oppose the amendment."

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR:—"Sir, there is one observation which suggested itself to me as I was listening to the speeches of hon. Members for and against the acceptance of this amendment. We were told that it might be difficult to get persons who would be eligible for this office if the term was restricted to three years. Now, Sir, from every

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[Mr. R. Srinivasa Ayyangar] [28th March 1923]

Clause 9--cont.

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28th March 1923] [Mr. A. Ramaswami Mudaliyar]

Clause 9--cont.

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"Sir, I see that hon. Members are anxious to go away. But those who succeed them will, I daresay, be glad to have an extension of 12-30 p.m. the period. That, Sir, is really the reason why a longer time should be prescribed. After all, there is not much to be said on the merits of the question on either side, except the fact that the better class of people will not be willing to take up the appointment unless a longer time and a greater guarantee of security of tenure of office is given to them."

Diwan Bahadur M. KRISHNAN NAYAR:—"Sir, I am for retaining the period of five years. Besides the arguments already advanced with reference to the difficulty of finding suitable candidates for the appointment, if the appointment is only for three years, there is the additional reason that the President and the Commissioners naturally will take sometime to settle down and learn their business, and by the time they settle down and learn the business if they are to be turned out—as that will practically be the case if the time is limited to three years,—it will be difficult for any body of Commissioners to do their work satisfactorily. In addition to this, there is also this other circumstance; the evils of a long term—if five years can be regarded as a long term—cannot exist having regard to the amendment that was moved by the hon. the Advocate-General and accepted by the hon. the Minister, namely, that the President and the Commissioners will come under the definition of public servants within the meaning of section 21 of the Indian Penal Code, so that they are amenable to all the discipline and they are also liable to all the disabilities and penalties of public servants, if they abuse their trust, their responsibilities and their duties. There is no danger therefore in the period being so long as five years. Then, again, there is this additional circumstance also: that if people are to be turned out at the end of three years and not continued for five years, the arguments that have been advanced with regard to the difficulty of finding proper persons, I submit, will hold good very strongly. Persons who are either retired judicial officers or who are practising at the bar will be extremely unwilling to accept this office if it is to endure only for a period of three years. It goes without saying that a person who has a very good practice in the bar, a person whose services are worth having, will generally be very reluctant to leave the bar to accept this office for a short term of three years. With reference to retired officials also, it will be difficult to induce them to accept the appointment if they are to be turned out in three years. For these reasons, I oppose the amendment."

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[Mr. L. A. Govindaraghava Ayyar] [28th March 1923]

Clause 9—cont.

point of view, I am afraid between three and five there is not much difference. There is one point perhaps on which I might lay stress, namely, that it would be largely in the hands of the members themselves who are appointed to the Board as to whether they would be continued or not, so that if they are anxious to be continued, whether for three years or five years, they will so conduct themselves as to make it worth the while of the Government to continue them in the office. That is a point, I submit, Sir, which perhaps might be kept in mind by hon. Members when they criticize this amendment."

Rao Bahadur A. S. KRISHNA RAO PANTULU:—"Sir, I thought that the Raja of Panagal only stated that there would be some difficulty in securing proper men if the time was limited to three years, and that otherwise he had no objection to limiting the time to three years. Now, Sir, the only objection which has been stated if the term is limited to three years is that it may not be possible to get proper men for the office, and that was the objection pointed out also by Mr. Ramaswami Mudaliyar and Mr. Krishnan Nayar. I think, Sir, I may assure the hon. the Raja of Panagal that there will not be any chance of a paucity of suitable candidates with the limitations which have been prescribed. I am quite aware that the provisions in clause 8, which we have just passed, limit the candidates for this office to persons who possess the qualifications, and yet we then thought that there was ample scope for a number of proper persons coming in. Let us also realize that in the case of Commissioners we have not prescribed any qualifications at all. In reply to a motion by my hon. friend, Mr. Govindaraghava Ayyar, it was pointed out that the suggestion that at least half the number of Commissioners should be persons possessing the qualifications of the President was unnecessary, and the hon. the Raja of Panagal was not willing to accept that amendment, because he wanted to have a wide margin for the selection of persons for the office of Commissioners without any limitation in the Statute that they shall possess such qualifications. I would ask the hon. the Raja of Panagal to consider whether, when a decent salary such as Rs. 1,200 for the President and Rs. 800 for the Commissioners has been provided by the Bill, there will not be a number of persons, such as retired officials like Deputy Collectors, Judicial officers and so forth whose case was specially brought before the notice of this House, who will be willing to offer themselves for the appointment. It is not therefore a difficulty of securing proper persons for the pay of Rs. 1,200 and Rs. 800 respectively. But my reason for bringing this amendment to this House is more than that. There is provision for some of these gentlemen being reappointed, if necessary. But is the Raja of Panagal going to say that even if the President or a Commissioner misbehaves or misconducts himself there should not be the means of sending him out even within that period?"

The hon. the RAJA OF PANAGAL:—"We have got the power to deal with him under the Bill."

Rao Bahadur A. S. KRISHNA RAO PANTULU:—"I know that, Sir. But how is it possible to remove persons who have been appointed under these provisions? It will therefore be more satisfactory to limit the operation of this provision to a period of three years. It is well known that the

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Clause 9—cont.

period of three years has been accepted as a proper term for many well-known institutions. Is it to be said that either the local boards or the municipalities where the period of office is only for three years have not been satisfactory or responsible? Notwithstanding the limitations which have been created from time to time, there have not been persons wanting to come forward and take up membership in them. I believe the hon. the Minister for Local Self-Government will bear testimony to the fact that he is so much pressed with the claims of a large number of persons for the office that he finds it difficult whom to choose. The difficulty has not been a dearth of persons to choose from but rather who should be chosen and who should be rejected from out of the numerous persons who presented themselves for selection. I therefore think it will be dangerous if the period is allowed to extend for five years. Let us not be too sanguine of a new step and let us take care to provide against any errors or any injustice being done by these officers continuing for a long period."

The amendment was put and declared carried.

Mr. S. Somasundaram Pillai demanded a poll which was taken with the following result:—

Ayes.

- | | |
|--|--|
| 1. Diwan Bahadur M. Ramachandra Rao Pantulu. | 7. Sriman Biswanath Das Mahasayo. |
| 2. " L. A. Govindaraghava Ayyar. | 8. Rai Bahadur T. M. Narasimhacharlu. |
| 3. Rao Bahadur A. S. Krishna Rao Pantulu. | 9. Sriman Sasibhushan Rath Mahasayo. |
| 4. " C. V. S. Narasimha Raju. | 10. Mr. R. Srinivasa Ayyangar. |
| 5. Mr. C. V. Venkataramana Ayyangar. | 11. " M. R. Seturathnam Ayyar. |
| 6. " M. Suryanarayana. | 12. Rao Sahib Sir M. C. T. Muttayya Chettiyar. |
| | 13. Rao Bahadur T. Namburumal Chettiyar. |

Noes.

- | | |
|---|--|
| 1. Rai Bahadur N. Gopalaswami Ayyangar. | 17. Rao Bahadur C. Natesa Mudaliyar. |
| 2. Mr. C. Madhavan Nayar. | 18. Mr. P. T. Rajan. |
| 3. Diwan Bahadur T. N. Sivagnanam Pillai. | 19. " W. P. A. Saundarapandiya Nadar. |
| 4. Mr. E. Periyannayagam. | 20. " R. K. Shanmukham Chettiyar. |
| 5. Rao Sahib T. C. Tangavelu Pillai. | 21. " K. Sitarana Reddi. |
| 6. Mr. A. Ramaswami Mudaliyar. | 22. " S. Somasundaram Pillai. |
| 7. Rao Bahadur T. A. Ramalinga Chettiyar. | 23. Diwan Bahadur K. Suryanarayana-murti Nayudu. |
| 8. Diwan Bahadur C. Arunachala Mudaliyar. | 24. Mr. V. C. Vellingiri Gounder. |
| 9. Rao Sahib S. Ellappa Chettiyar. | 25. " C. Venkataranga Reddi. |
| 10. " P. C. Ethirajulu Nayudu. | 26. Diwan Bahadur R. Venkataratnam Nayudu. |
| 11. Diwan Bahadur M. Krishnan Nayar. | 27. Mr. S. Muttumaniikkaachari. |
| 12. Mr. W. Vijayaraghava Mudaliyar. | 28. " T. Sivasankaram Pillai. |
| 13. " J. Kuppuswami. | 29. The Raja of Ramnad. |
| 14. " B. Muniswami Nayudu. | 30. Sri Meka V. Apparao Bahadur. |
| 15. " A. T. Muttukumaraswami Chettiyar. | 31. Khan Bahadur Muhammad Sadulla Bahadur. |
| 16. " M. Narayanaswami Reddi. | 32. " Muhammad Usman Sahib Bahadur. |

The amendment was lost, 13 voting for and 32 against.

[28th March 1923]

Clause 9—cont.

(Amendment No. 82.)

Rao Bahadur A. S. KRISHNA RAO PANTULU :—" Sir, I move—

That in sub-clause (2) for the word 'five,' substitute the word 'three.'

" Sir, what I wish to point out is that though the period of office of the Commissioners may be five years, that of the President may be reduced to three years. I may remind the hon. the Raja of Panagal that according to the District Municipalities Act which was passed sometime ago, but which has been since altered, though the term of office of Municipal Councillors was three years, the term of office of the Chairmen was fixed as one year. I do not want to take up the time of the House by reminding them very valuable arguments were advanced by the hon. the President who was then Member in charge of the Bill, as also by other hon. Members, showing that the term of office of the Chairmen ought to be limited to one year. Though the period of office of the Commissioners in this Bill may be five years I urge that the term of office of the President should be three years only, because the President will be the Chief Executive officer of the Board, and it is very desirable that his period of office should be limited. For these reasons, I would press the motion which stands in my name. I would like only to remind the hon. the Raja of Panagal that it would be doing justice to the principles already enunciated in this House, if he accepts the motion."

Diwan Bahadur M. KRISHNAN NAYAR :—" Sir, I oppose this amendment for the very same reasons for which this House opposed the motion to the effect that the period of office of the Commissioners should be three years, but not five years; and I submit that the period of office of the President should be similarly five years but not three years. I should think that the reasons which induced this House to accept a period of five years for the Commissioners hold good more in the case of the President than in the case of the Commissioners. For, he is the executive head of the Board and his responsibilities are very much greater than those of the ordinary Commissioners. For these reasons, the term of office of the President should certainly be five years even if the term of the other Commissioners is three years. But the House have by a large majority already decided that in the case of the ordinary Commissioners the period of their office should be five and not three years. My hon. friend, Mr. Krishna Rao, has stated that in the District Municipalities Act there is a provision fixing the term of office of the Chairmen as one year, while the term of office of a Councillor is three years. That provision, the House will remember, has been altered by this Council by means of an Amending Bill by which the term of the Chairmen has been extended and they continue in office for the period for which they are entitled to sit as ordinary Councillors. So, the reason adduced by the hon. the mover does not hold good. Therefore for the same reasons which have been urged in connexion with the term of office of Commissioners, I think it is necessary to have the period of office of the President also fixed at five years."

The hon. the RAJA OF PANAGAL :—" Sir, in view of the decision of the House in regard to the previous motion, I do not think I will be justified in accepting this amendment."

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Clause 9—cont.

The amendment was put to the House and negatived.

Clause 9 was then put to the House, passed and added to the Bill.

New clause after clause 9.

Mr. M. SURYANARAYANA :—" Sir, I beg to request that the consideration of the amendment No. 116 on the agenda which stands against my name may be postponed until amendment No. 122 of the agenda that stands against the names of Mr. Srinivasa Ayyangar and four other hon. Members is disposed of. That amendment relates to the deletion of the entire clause 10. Some hon. Members may not be in favour of the deletion of the entire clause 10 which requires not only that the Commissioner shall devote his whole time and attention to his duties but also says that :

the Commissioners shall each receive out of the funds of the Board such salary as the Local Government may fix.

The House may not be disposed to favour the deletion of the entire clause, but may still be prepared to accept my amendment, namely, that the President and Commissioners shall be honorary until such time as the Local Government may notify after due and adequate consideration of the financial condition of maths and temples under the jurisdiction of the Boards, that the President and Commissioners shall be paid a salary. I therefore request that you may be pleased to permit the consideration of my amendment No. 116 until after the other amendment to clause 10 is disposed of."

The hon. the DEPUTY PRESIDENT :—" The hon. Member can move a motion to that effect."

Mr. M. SURYANARAYANA :—" Sir, I beg to move—

that the consideration of the amendment No. 116 on the agenda be deferred until amendment No. 122 on the agenda is disposed of."

Rao Bahadur A. S. KRISHNA RAO PANTULU seconded the motion.

The motion was put and carried.

Clause 10.

(Amendment No. 83.)

Rao Bahadur A. S. KRISHNA RAO PANTULU :—" Sir, I beg to move—

That for clause 10, the following be substituted :—

'The Commissioners shall not receive any salary but may receive out of the funds of the Board such travelling or halting allowances as the Local Government may prescribe.'

" Sir, incidentally in the course of the discussion of the motion for the abolition of the Board, arguments were advanced pointing out the undesirability of having paid officers to discharge these functions . . ."

Mr. M. SURYANARAYANA :—" Sir, I beg to rise to a point of order. In regard to amendment No. 116 on the agenda, it has been decided that its consideration be postponed until amendment No. 122 on the agenda is disposed of. But amendment No. 122 is for the deletion of the entire clause 10, and the motion which my hon. friend is now moving will be practically

[Mr. M. Suryanarayana] [28th March 1923]

Clause 10—cont.

the same as No. 116. I submit that, the House having accepted the postponement of amendment No. 116, all amendments that follow upon it are also postponed."

Rao Bahadur A. S. KRISHNA RAO PANTULU:—"The motion my hon. friend is referring to was that the consideration of amendment No. 116 on the agenda be postponed for the purpose of taking it up after the other amendments on the agenda up to No. 122 were disposed of. I have nothing to do with that, and when my motion is reached in the ordinary course, I have every right to move it. I do not think there is any point of order in what has been stated by my hon. friend."

"Sir, only two questions arise in connexion with this motion. One is whether you will be able to get proper persons for discharging the duties of either Commissioner or President if you do not offer them substantial pay as suggested in this clause. The second question that arises is whether in the present condition of the various religious institutions in the Presidency and in view of the necessity that is imposed by this Bill of making a contribution for the upkeep and cost of this Board, it is desirable that we should embark upon such a scheme. Thirdly, another question would arise, namely, whether we shall get proper persons having at heart the interests of the country at large or having greater interest in the upkeep of the religious institutions by making them honorary or whether we can get better persons by making the position attractive enough owing to the salary it carries with it. It is from these three standpoints that I wish the House to consider this question. I may say that I am one of those who believe that persons have not lost faith in the efficacy of the religious institutions and are not lacking in their anxiety to see that they are maintained in as satisfactory a manner as possible. Sir, when voluntary and honorary workers are forthcoming in sufficient numbers for the purpose of discharging the various important duties concerning local administration, I refuse to believe that there will not be such persons forthcoming for the purpose of setting these institutions in order and seeing that they are managed in a satisfactory manner. I would, therefore, submit that any argument based on the footing that it is necessary to have pay, so as to attract proper persons is an argument which cannot be accepted. The second point which arises is whether it is desirable that in the case of the various religious institutions, whether temples or *maths*, we should force them to contribute at a certain rate provided for in the Bill and then out of that income to maintain this costly machinery in the Board. We cannot at present state what the cost will come to. We have started with only one Board, but we have provided for Boards being increased as time goes on, and when we are going to have all the Boards in full swing all over the Presidency, we do not really know what the whole cost of the scheme is going to be.

"Let us also remember that we are imposing this Board not at the voluntary request of the managers of the religious institutions but against their will. While we are doing so we can only tax the institutions for the mere upkeep of the Board. Therefore there is no justification for incurring such a heavy expenditure in the shape of salaries to the Commissioners.

1 p.m.

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Clause 10—cont.

"The third point is, the salary offered, namely, Rs. 1,200 for the President and Rs. 800 for the other Commissioners, is certainly not such as will attract the best men. The Commissioners will be required to discharge all the functions of a court in several matters. One of the chief objects of the creation of the Board of Commissioners is to do away with the costly litigation in courts. We want to introduce a cheap machinery whereby those affected might have their grievances redressed. It will be remembered that several of these important questions arising out of religious endowments are at present adjudicated in courts presided over by very experienced and highly salaried judges. Some of these judges draw a much higher salary than what is offered to the Commissioners under the Bill. I would ask whether it is reasonable to expect the best sort of men for the pay offered to them. They are all expected to carry on the most important duties. If we really have faith in the country which has already produced very eminent men—men who have discharged their duties in the most satisfactory manner, we shall not look in vain for retired men to offer their services voluntarily for the discharge of the important task connected with the religious endowments. If once we say that it is a paid appointment, not one of them is likely to accept the post. If we make this appointment honorary and offer it to the people, then I have not the slightest doubt that really competent men will be forthcoming. I therefore suggest to the House that the appointment of Commissioners should be made honorary. If the hon. the Minister thinks that he will not get capable and respectable persons for the purpose of discharging the duties of Commissioners, it is really casting a reflection upon the public spirit and upon the large-heartedness of the people. I have ample faith that really capable persons will be forthcoming if the post is declared honorary. If it is said that their interest, patriotism and public spirit should be reduced to rupees, annas and pies, it is, to say the least, very unfair. With these few words, I commend my amendment for the acceptance of the House."

The hon. the RAJA OF PANAGAL:—"Sir, we have passed a clause which fixed the number of Commissioners from three to five. The acceptance of that clause results in the work of these Commissioners being very heavy. We have also accepted the hon. the Advocate-General's amendment bringing the Commissioners within the purview of section 21 of the Indian Penal Code, so that they will be deemed public servants. In these circumstances and particularly taking into consideration the fact that in all the previous Bills framed by such eminent men as Sir T. Muttuswami Ayyar, Mr. Chentsal Rao and Sir William Robinson provision has been made for paid Commissioners, I am unable to accept this amendment."

Mr. M. SURYANARAYANA:—"Sir, the hon. the Raja of Panagal was pleased to say that Sir T. Muttuswami Ayyar, Mr. Chentsal Rao and Sir William Robinson had advocated the appointment of paid Commissioners and that therefore we ought not to say that these Commissioners should not be paid."

The hon. the RAJA OF PANAGAL:—"I did not altogether base my argument upon their not having provided for unpaid Commissioners. I stated my own reasons for not having unpaid Commissioners."

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Clause 10—cont.

Mr. M. SURYANARAYANA :—" I wish to remind the hon. the Minister and the House that those committees presided over by such eminent men as Sir T. Muttuswami Ayyar, Mr. Chentsal Rao and others were held more than half a century ago when probably it was not possible to find a large number of people prepared to sacrifice their time and energy in the public cause. But since then times have considerably altered. I am quite sure that the aspirations of the public at large and the readiness of the people to sacrifice their time and energy for the public cause cannot now be said to be so limited as that we shall not be able to find the necessary persons with the requisite qualifications to fill the office of Commissioners. As an instance I would remind the House that the hon. Members here do sacrifice their time and energy for the public cause. Similarly the presidents of district boards and taluk boards, chairmen of municipal councils and the presidents of educational and academic councils are people who render such assistance as they possibly can to the public cause without any salary whatsoever. I submit, Sir, that when this is so in matters mundane, shall we say that in matters spiritual hon. gentlemen will be wanting to place their time and energy at the disposal of God? When the qualifications of the President at all events and very probably of the Commissioners also are the same—namely, being retired district judges or subordinate judges—is it seriously contended that persons with the requisite qualifications will not be forthcoming to place their services at the disposal of the country without any remuneration? I am quite sure that these retired gentlemen will do their utmost so that when they have finished their sublunary work and go to Heaven they will be able to answer before God and give an account of the good they have done even after retirement. I therefore think that persons will be forthcoming to undertake honorary work."

Mr. C. V. VENKATARAMANA AYYANGAR :—" Sir, I must first appeal to the hon. the Minister to proclaim in this case also that the House will be free to vote as it pleases. He cannot say that hon. Members who have given notices of similar motions, such as the hon. Members Messrs. Sivagnanam Pillai, Shanmukham Pillai, Ranga Reddi, Ramalinga Chettiyar, cannot know what they are about."

The hon. the RAJA OF PANAGAL :—" I wish to point out that those hon. gentlemen gave notices of amendments when they did not know that the Advocate-General's amendment to treat the Commissioners as public servants would come in. Now that the amendment of the Advocate-General has been accepted, it is a different matter."

Mr. C. V. VENKATARAMANA AYYANGAR :—" I do not know, Sir, whether the acceptance of the Advocate-General's amendment has anything to do with the making of the post of Commissioners honorary. The Advocate-General simply wanted to treat the Commissioners as public servants. Similarly, bench magistrates are public servants, the taluk board members are public servants, members of municipal councils are public servants. In the same way the members of this Board of Commissioners are also public servants. As regards the question whether the Commissioners should be paid or not, I am surprised to find the hon. Minister making reference to the fact that because the Commissioners are public servants, they should not be

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Clause 10—cont.

honorary. All I can say is that the one has absolutely nothing to do with the other. Whether the Commissioners are paid or not, they have to discharge certain duties. As they are taking a responsible position they must have attached to their office all the duties, responsibilities and rights that appertain to public servants. I therefore submit that the first objection raised by the hon. Minister goes away.

"Then, Sir, as for the previous history, the hon. Minister seems to have forgotten the fact that Mr. R. Ragunatha Rao in his minute of dissent, written half a century ago, said that people would be forthcoming to accept honorary posts."

The hon. the RAJA OF PANAGAL :—" That goes only to strengthen my position that this aspect of the question was considered even then and that in spite of one dissentient voice, the committee has, as a body, decided in favour of paid Commissioners."

Mr. C. V. VENKATARAMANA AYYANGAR :—" I only mentioned the dissenting minute of Mr. R. Ragunatha Rao to correct the impression that the various reports were unanimous as to having paid Commissioners. It will be observed that times have considerably changed since the date when Mr. Ragunatha Rao wrote his dissenting minute. We certainly have got now a large body of rich, influential, educated and leisured men. Aristocrats like the Raja of Ramnad and the Raja of Panagal have taken the lead in the democratic party. That is proof positive that really competent people will be forthcoming to place their services at the disposal of the public. I submit it is too much to say that not even one in this world would be forthcoming to take up honorary work. So far as India is concerned, the question of religion is quite different from that in other countries. We are born in a country where great kings gave up their entire kingdoms for the sake of religion. We are born in a country where great teachers like Sri Vedanta Desika have spurned gold coins as mere dust. We are born in a country where scores of Saiva and Vaishnava Acharyas have flourished sacrificing their all for the sake of religion. In this country the great Swami Vivekananda was born but a few years ago and we have got scores of sanyasis who are prepared to dedicate their lives for religion. Having been born in such a country, it is really unfair to say that we cannot find competent men to undertake the duty of Commissioners unless they are paid."

"One other thing that I wish to say is this. We have at present decided to have one central board consisting of four or five Commissioners. But as time goes on there may be necessity for very many boards in all the centres of the Presidency. They will be called upon to decide important questions connected with religious institutions. We will require intellectual giants, men with great experience, to serve on those boards. We all know the saying that if a pie of a God goes to the estate of any individual, that individual will be ruined. It has been stated over and over again and it is also a fact that many families of people who have misappropriated God's money have been ruined. If we carefully analyse the families, we will find that the God's money they have misappropriated has not only vanished but that it has also taken away with it the other money which the family might have legitimately got into possession. Like the proverb that new

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Clause 10—cont.

flood takes away the old flood, a single pie of God will utterly ruin the family to which it goes. On this ground also I say that it is desirable to have honorary Commissioners who will faithfully discharge their duties for the sake of God and their religion. I would appeal to the hon. Minister to see whether he could not arrange for a compromise and decide that in cases where honorary workers could not be found, payment could be made. If we are able to get people who volunteer their services, why can we not avail of their services. I am sure that retired district judges and subordinate judges could be had in large numbers to perform the duties of Commissioners without any pay. There are also retired High Court vakils who would be willing to offer their services for the sake of God. I therefore appeal to the hon. Minister to see his way to accept the amendment."

Mr. S. SOMASUNDARAM PILLAI:—"Mr. President, I am very glad to find that my hon. friend, Mr. C. V. Venkataramana Ayyangar, has got an extensive knowledge of the world, but I am sorry to say that with all that he has not understood human nature. For, no human being will be willing to work without any consideration. That is also animal nature. According to our friend's proposition:—

காசுக்கொரு குதிரையும் வேண்டும்
காற்றைப்போல் பறக்கவும் வேண்டும்,

that is, he wants a horse for a pie and it should fly like the wind. How is this possible? He said that temple funds should not be wasted in this way and added that whoever devoured such funds, would be ruined. According to that principle, most of the families of lawyers must come to an end, because they have grown fat at the expense of religious endowments. In framing schemes for the better management and proper conduct of religious affairs, the High Court appoints receivers who are paid amply out of the funds of the endowments. They are appointed for the purpose of attending to religious affairs. But in the present case, the Board of Commissioners is to be constituted for the purpose of looking after the secular affairs of the temples. They are not appointed to perform *bajana* during day and night. They are there absolutely for the purpose of settling disputes and other affairs connected with religious endowments. As such, we cannot expect them really to work without remuneration. It is impossible to expect any man, however saintly and religious he may be, even though he paints himself with all the colours of the rainbow, to work without any remuneration. If he were to do honorary work the work would not be done satisfactorily. That is human nature. Such being the case, to say that these Commissioners of the Board should be honorary is childish and absurd on the very face of it. I therefore oppose this amendment."

Mr. R. SRINIVASA AYYANGAR:—"Mr. President, I have given notice of a similar amendment. Our fear is that if this amendment goes out, ours amendment?"

The hon. the DEPUTY PRESIDENT:—"Yes, the hon. Member can speak."

Mr. R. SRINIVASA AYYANGAR:—"I thank you, Sir, for your indulgence. My amendment is almost similar in substance to the one that has been moved by my hon. friend, Mr. A. S. Krishna Rao, but on one fundamental point

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Clause 10—cont.

there is a difference. I am also for doing away with pay mentioned in sub-clause (2) and the proviso thereof for this body of Commissioners. In the course of his arguments, if not to-day, at least yesterday, my friend, Mr. Krishnan Nayar, made a statement on the floor of this House that he had no faith in efficient work being done by honorary workers."

Diwan Bahadur M. KRISHNAN NAYAR:—"May I rise to offer a personal explanation, Sir? I added also 'provided the work is heavy'."

Mr. R. SRINIVASA AYYANGAR:—"My hon. friend never said that, and to-day he comes forward with that explanation."

The hon. the DEPUTY PRESIDENT:—"I think the hon. Member had better accept that and proceed."

Mr. R. SRINIVASA AYYANGAR:—"My friend, Mr. Krishnan Nayar, also spoke of presidents of district boards going to office once in two months and finishing off their work. But, as a matter of fact, I must demur to the accuracy of that statement. I know of instances of district board presidents spending on an average not less than two hours a day in dealing with files and other matters of detail and importance affecting the policy of the various departments in their charge and under their control. Now, I ask, is it desirable to have a paid agency? My submission is that the central board must purely and completely consist of honorary and unpaid agency if that agency is to function satisfactorily, to function religiously, and to function in a manner that will commend itself to their conscience and command the confidence of the people at large. The hon. the Minister quoted the opinion of Sir T. Muttuswami Ayyar, Mr. Chentsal Rao and others in support of the view he took up. When I make these observations, I am not unmindful of the views adumbrated by Mr. Robinson therein who insisted upon these officers being paid heavily and largely. In spite of that, I accept the opinion of Mr. Carmichael, a distinguished member of the Civil Service, and also a member of the Executive Council, who said that he was against the idea of the Board of Commissioners being paid. Now, times are changed. We have a plethora of men and it cannot be said that the country is wanting in talents, or wanting in men fired with patriotism, and desirous of placing their talents and service at the disposal of the country. I should submit that there will be men, and I can even mention some names in the ranks of our illustrious countrymen, who may be willing and who may be prepared to take up this work honorarily; and, if, as a matter of fact, men are found wanting, it will, I submit, be a sad commentary upon the public spirit of this province. Therefore, I submit that all these considerations incline me to the view that I take up, viz., that this agency must be wholly honorary and unpaid."

Rao Bahadur A. S. KRISHNA RAO PANTULU:—"Sir, the only objection that has been raised to this motion by the hon. the Raja of Panagal is that it is not possible to go back upon the theory that the Commissioners ought to be paid, because we supported the point of view of those illustrious persons who made reports upon these endowments forty or fifty years ago. It may be pointed out that even then there was a difference of opinion expressed and persons even then suggested that honorary workers would be forthcoming though the majority of the members of that committee were

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Clause 10—cont.

against them. But, Sir, does the hon. the Raja of Panagal realize that between that period and the present period there has been such a long interval of fifty years, and we have seen clear indications of a growth in public spirit in this country? Does the Minister realize that we have witnessed several voluntary workers in this country spending all their time and energy in public work gratuitously and at considerable self-sacrifice? I do not wish on this occasion to draw any invidious distinction by mentioning names, but suffice it to say that, if the hon. the Raja of Panagal has not realized that in the last twenty or thirty years there have been, before the public, persons who have been devoting their time with earnestness and devotion to the public cause at considerable sacrifice to themselves, I believe, Sir, that he is not a good observer of things which had been happening during all these days. I wish to point out that even in the report of the select committee in connexion with this Bill, though the majority were for the appointment of paid Commissioners, there were persons who sent up their minority reports suggesting definitely that persons would be forthcoming and that, therefore, the idea of paid Commissioners ought not to be accepted. May I draw the attention of this House to some of the observations made by my hon. friend, Mr. Sivagnanam Pillai, in his minute of dissent? This is what my hon. friend says:

I object entirely to the proposed system of payment of salary to the president or any members of the board.

Persons possessing the necessary qualifications and willing to serve their country gratuitously are available in plenty as is evidenced by the presence of similar classes of persons in the Legislative Council. It will be quite sufficient if the members and the president of the board are paid their travelling allowance when they go on tour.

The only point which the hon. the Minister made in reply to the suggestion was that probably they came to that conclusion not being aware of the possible amendment since put forward by the hon. the Advocate-General. Now, what does that amendment say? It only says that the Commissioners are deemed to be public servants. But that is nothing at all. So far as that is concerned, we find it in any constitution of the local board. In the local board, every officer, and every president is a public servant with reference to the Penal Code. They have got the same protection and they are subject to the same disabilities as any other public servant. The municipal councillors also are public servants."

The hon. the RAJA OF PANAGAL:—"I repudiate that statement, Sir. The municipal councillors are not public servants."

Rao Bahadur A. S. KRISHNA RAO PANTULU:—"So far as the Local Boards Act is concerned, Sir, I am positive, and I can give reference to my hon. friend, if necessary, that they are placed under the category of public servants."

The hon. the RAJA OF PANAGAL:—"May I know, Sir, whether the municipal councillors and the municipal chairmen are public servants according to Mr. Krishna Rao?"

Rao Bahadur A. S. KRISHNA RAO PANTULU:—"I shall just give the reference, Sir. I am positive about the Local Boards Act and if my hon. friend, Mr. Gopalaswami Ayyangar, who is the Inspector of Municipalities, will kindly hand over the Municipalities Act, I think I can point out the

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Clause 10—cont.

reference. Sir, I take it that my hon. friend, the Raja of Panagal, does not repudiate it in the case of the local boards, but that he repudiates it only in the case of the municipal councillors."

The hon. the RAJA OF PANAGAL:—"Sir, when my hon. friend did not refer to it, how could I repudiate it?"

Rao Bahadur A. S. KRISHNA RAO PANTULU:—"With regard to the point that has been raised, I think it is better that that is cleared."

The hon. the DEPUTY PRESIDENT:—"I think they are public servants for the purpose of the Penal Code. That is my recollection. The hon. Member can proceed."

Rao Bahadur A. S. KRISHNA RAO PANTULU:—"With your assurance also, Sir, I must state that there is no force in that contention. But, after all, does it make any difference? Every officer in charge of public funds who is expected to administer public funds is a public servant and is liable to the penalties arising therefrom. What is the distinction drawn between a paid worker and an unpaid worker? I fail to understand the difficulty which the hon. the Raja of Panagal finds in the way of the suggestion of mine being accepted. There is no force at all in the objection that has been raised on the score of paid and unpaid workers. After all, it reduces itself to this. Are they going to further the position of these endowments by appointing a body of paid workers, or are they going to further it by making them do honorary work?"

The hon. the RAJA OF PANAGAL:—"Sir, I have followed the speeches of my hon. friend opposite, but I am afraid that he has failed to make out a case for the acceptance of his amendment. It has been stated in the course of this discussion that in India there have been a number of public spirited men, charitably and spiritually disposed. But, Sir, in a country like England, where I suppose there are also public spirited men and men charitably and spiritually disposed, the Commissioners are even to-day paid Commissioners. If we do not pay these Commissioners, the difficulty will be this. We will have to practically limit the choice of these Commissioners

1-30 p.m. to particular places where the Board will be situated. No man living outside will, at his own cost, come down to the Headquarters of the Board, be it at Madras or some other place, and live there and expose himself to the cost of living in a place like Madras and work for the mere cause of religion. I know, Sir, there is a good deal of sentiment involved in the argument, but when we have to deal with hard facts, I think mere sentiment need not stand in our way.

"Reference has been made to the salaries of these Commissioners being chargeable to religious institutions. This expenditure is incurred on account of the institutions themselves. If a man who keeps a car or some other valuable article and wishes not to incur the risk of damage, what he should do is this: he should get it insured and voluntarily pay its insurance fee. So, Sir, this is a matter which ensures the successful management of these institutions. They need not grudge paying this small percentage.

"Again, Sir, reference has been made to the fact that Sankaracharya, Madhwacharya and Ramanujacharya took their birth in this land of religion. But is it meant that these spiritual teachers would have cared to administer

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Clause 10—cont.

any of these trusts? It is said that if a request was made they would have acceded to it. I for my part think that they would not have acceded to any such request. I ask the House to consider for a moment and say whether such people would have undertaken responsibilities of this sort.

"Another fact that was introduced during the course of the discussion was that on previous occasions when Bills of this sort were introduced there were dissenting minutes. I do not deny that. But the fact that only one out of a large number of members of a committee objected to the appointment, only goes to strengthen my view.

"Reference was also made, Sir, to the fact of some of the members of the Select Committee taking a different view. I do not deny that also. But a large majority of the Select Committee were in favour of paid Commissioners. I am very sorry I am not in a position to accept the amendment which my hon. friend has proposed."

The amendment was put to the House and declared lost.

Rao Bahadur A. S. Krishna Rao Pantulu demanded a poll which was taken with the following result:—

Ayes.

- | | |
|---|---|
| 1. Diwan Bahadur T. N. Sivagnanam Pillai. | 8. Rao Bahadur C. V. S. Narasimha Raju. |
| 2. Mr. S. T. Shanmukham Pillai. | 9. Mr. P. Siva Rao. |
| 3. " K. Adinarayana Reddi. | 10. " C. V. Venkataramina Ayyangar. |
| 4. " P. C. Muttu Chettiyar. | 11. " M. Suryanarayana. |
| 5. Diwan Bahadur M. Ramachandra Rao. | 12. Sriman Bieswanath Das Mahasayo. |
| 6. " L. A. Govindaraghava Ayyar. | 13. Rai Bahadur T. M. Narasimhacharlu. |
| 7. Rai Bahadur A. S. Krishna Rao. | 14. Sriman Sasibhushan Rath Mahasayo. |
| | 15. Mr. R. Srinivasa Ayyangar. |

Noes.

- | | |
|---|---|
| 1. The hon. Sir Charles Todhunter. | 23. Mr. W. P. A. Saundara Pandiya Nadar. |
| 2. " the Raja of Panagal. | 24. " R. K. Shanmukham Chettiyar. |
| 3. " Rai Bahadur K. Venkatarreddi Nayudu. | 25. " K. Sitarama Reddi. |
| 4. " Rao Bahadur A. P. Patro. | 26. " T. Somasundara Mudaliyar. |
| 5. Mr. E. S. Lloyd. | 27. " S. Somasundaram Pillai. |
| 6. " A. Y. G. Campbell. | 28. " V. C. Vellingiri Goundar. |
| 7. Rai Bahadur N. Gopalaswami Ayyangar. | 29. " S. Muttumanikkachari. |
| 8. Mr. C. Madhavan Nayar. | 30. Diwan Bahadur R. Venkataratnam Nayudu. |
| 9. " E. Periyannayagan. | 31. The Raja of Ramnad. |
| 10. " T. C. Tangavelu Pillai. | 32. Mr. K. Prabhakaran Tampan. |
| 11. " A. Ramaswami Mudaliyar. | 33. " Abbas Ali Khan Bahadur. |
| 12. Rao Bahadur P. C. Ethirajulu Nayalu. | 34. Mustapha Ravuttar Ahmad Miran Sahib. |
| 13. Diwan Bahadur M. Krishnan Nayar. | 35. Munshi Muhammad Abdur Rahman Sahib Bahadur. |
| 14. Mr. C. Ramalinga Reddi. | 36. Khan Bahadur Muhammad Sadulla Badsha Sahib Bahadur. |
| 15. Rao Bahadur O. Tanikachala Chettiyar. | 37. " Muhammad Usman Sahib Bahadur. |
| 16. Mr. W. Vijayaraghava Mudaliyar. | 38. Rao Sahib M. C. Madurai Pillai. |
| 17. " J. Kuppuswami. | 39. Mr. G. Vandanan. |
| 18. " B. Muniswami Nayudu. | 40. Rao Sahib P. Venkatarangayya. |
| 19. " M. Narayanaswami Reddi. | |
| 20. Rao Bahadur C. Natesa Mudaliyar. | |
| 21. Mr. V. P. Pakkiriswami Pillai. | |
| 22. " P. T. Rajan. | |

Fifteen hon. Members voted for the motion and 40 against. The motion was lost.

Clause 10 was put and passed and added to the Bill.

The House adjourned for lunch at 1-40 p.m. and re-assembled at 2-30.

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New clause after clause 10.

(Amendment No. 84.)

Mr. B. MUNISWAMI NAYUDU:—"I beg to move—

2-30 p.m. Add the following as clause 10-A:—

'10-A. Every Board shall by such name as the Local Government may determine be a body corporate and shall have perpetual succession and a common seal and shall by the said name sue and be sued.'

"Sir, a similar provision has been made in the Bill with regard to Committees. I think, due to oversight or some other cause, this provision has not been made with regard to the Board of Commissioners. I therefore formally move for the addition of this new clause."

The hon. the RAJA OF PANAGAL:—"If this motion is accepted, it will have to go as a sub-clause to clause 7. If the hon. mover has no objection to that course, I shall accept his motion."

Mr. B. MUNISWAMI NAYUDU:—"I have absolutely no objection."

The new sub-clause was put and passed and inserted as sub-clause (2) of clause 7.

Clause 11.

Sub-clause (2).

(Amendment No. 85.)

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR:—"I beg to move—

Add at the end the following:—

'or the Jain religion as the case may be'.

"Sir, there is a provision in clause 11, sub-clause (2), that a Commissioner shall cease to hold his office if he ceases to profess the Hindu religion. My amendment is that if a Commissioner happens to be a Jain and if he ceases to profess the Jain religion, he also must cease to hold his office in the same way as those who profess the Hindu religion cease to hold their office if they cease to profess the Hindu religion. That is my object in moving this amendment."

The hon. the RAJA OF PANAGAL:—"Since a previous amendment to make it obligatory on the part of the Government to appoint a Jain Commissioner has not been accepted, the contingency of a Jain member ceasing to profess his religion does not arise. So, Sir, there is no necessity for this consequential amendment."

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR:—"It is not exactly a consequential amendment. In the first place, it neither presupposes the appointment of a Jain Commissioner nor does it lay an obligation on the Government to appoint as a Commissioner, whether he is a Jain or Hindu. It simply says that if a Jain is appointed as a member of the Board and if he ceases to profess the Jain religion, he is liable to be removed from the Board."

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Clause 11—cont.

The hon. the RAJA OF PANAGAL :—" It presupposes that one of the Commissioners is a Jain."

The amendment was put to vote and lost.

Clause 11 was put, passed and added to the Bill.

Clause 12.

Sub-clause (2).

(Amendment No. 86.)

Mr. M. SURYANARAYANA :—" I beg to move—

For the words 'the senior Commissioner in order of appointment' substitute the words 'any Commissioner elected by the Board for the time being.'

"Who out of the two or three Commissioners is to preside is a very small matter. A notification is put in the *Gazette* on the same date that such and such persons have been appointed as Commissioners. Unless you say that the question of seniority is to be decided according to the order of the names in the *Gazette* I cannot understand what you mean by saying that 'the senior Commissioner in order of appointment' shall preside. I do not think you are justified in saying that a certain gentleman is senior simply because the name of that gentleman, purely by accident, happens to be the first in the notification. Under these circumstances, I do not think there is anything wrong if you elect the President for the time being."

The hon. the RAJA OF PANAGAL :—" If I accept the hon. Member's amendment there will be this difficulty. The appointment is a paid appointment carrying a higher salary than that of the Commissioner. There will be very keen competition for the place. There will be two candidates supposing each of the Commissioners gives his vote to himself, then the question who is to be President has to be decided by casting lots. On the other hand, the provision, as it stands at present, is quite plain and the Government can very easily indicate the seniority in the order of the appointment."

The motion was put to vote and lost.

Sub-clause (3).

(Amendment No. 87.)

2-45 p.m. Rao Bahadur T. NAMBERUMAL CHETTIYAR :—" Mr. President: I move—

Add at the end the following :—

'who with the President shall make the quorum of three.'

"Sir, no business should be conducted unless there are three Commissioners present, i.e., the President and two other members. It is a simple motion. I hope the hon. the Minister will accept."

The hon. the RAJA OF PANAGAL :—" The difficulty is this. There may be a Board consisting of three members and if all of them are obliged to be present, where is the question of quorum? Therefore it is not possible to accept the amendment."

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Clause 12—cont.

Rao Bahadur T. NAMBERUMAL CHETTIYAR :—" May I know, Sir, what quorum he intends fixing for the meeting?"

The hon. the RAJA OF PANAGAL :—" We have fixed the number of Commissioners from 3 to 5. The contingency may arise when the number of Commissioners may be 3. In such a case if we insist on forming a quorum then it would be insisting upon all members being present."

Rao Bahadur T. NAMBERUMAL CHETTIYAR :—" That any measure should be disposed of by a Board consisting of one or two members is very objectionable. Therefore, I say that even if the Board consists of only three people let all of them attend. I press my amendment."

The amendment was put and lost.

New Sub-clause-after Sub-clause (4).

(Amendment No. 88.)

Mr. C. V. VENKATARAMANA AYYANGAR :—" I formally move—

Add the following as sub-clause (5) :—

'(5, In emergent cases or when there is no sufficient work for the meeting, the President may circulate the papers among the Commissioners and the opinion of the majority of the Commissioners shall be considered to be the decision of the Board, the President having an additional vote in the case of equal opinions.'

Provided, however, that if at least two of the Commissioners desire that any subject be placed at a meeting of the Board, it shall be done so."

The hon. the RAJA OF PANAGAL :—" What my hon. friend wants is covered by clause 15."

The motion was by leave withdrawn.

Clause 12 was then put, passed and added to the Bill.

Clause 13.

Sub-clause (a).

(Amendment No. 89.)

Mr. A. RANGANATHA MUDALIYAR :—" I move—

After the words 'of its' insert the words 'officers and'.

"If you turn to clause 15 you will find that the Board has to take security from its officers as well as servants. I take it that some of these officers also may have to be paid. In order to provide for the fixing of their salaries, I suggest that the words 'officers and' may be inserted after 'of its'."

The hon. the RAJA OF PANAGAL :—" I have no objection to accept this amendment."

The motion was put and carried.

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Clause 13—cont.

Sub-clause (b).

(Amendment No. 90.)

Rai Bahadur T. M. NARASIMHACHARLU:—"I move—

Insert the word 'may' between the words 'appoint and' and 'transfer'.

"It is only a verbal amendment that I propose. It is said that the President of the Board shall appoint and transfer such servants . . . etc. You will find, Sir, that the word 'shall' will also go with transfer. If it remains as 'shall transfer' it means that there is an obligation on the part of the President to make transfers even though there may be no necessity for them. So I propose that the President of the Board shall appoint such servants, but *may* transfer them if there is any occasion for it."

The hon. the RAJA OF PANAGAL:—"I see that there is some force in what the hon. Member says. But instead of having the amendment in the form in which it is proposed if the hon. Member withdraws the motion I will move to substitute 'may' for 'shall'."

Rai Bahadur T. M. NARASIMHACHARLU:—"Certainly, I have no objection. But the other day the Advocate-General created the dilemma that 'may' meant 'shall'."

The hon. the RAJA OF PANAGAL:—"In that case even this may is capable of being interpreted as shall."

Rai Bahadur T. M. NARASIMHACHARLU:—"Here if 'may' means 'may' then the President may not appoint any servants at all. If 'may' means 'shall' the President shall appoint. The same difficulty will arise. Therefore I have no objection if the President is made clear that he need not transfer under a statutory obligation."

The hon. the RAJA OF PANAGAL:—"We now know, Sir, what the hon. Member wants. In finally redrafting the Bill this point will be attended to."

The motion was by leave withdrawn.

(Amendment No. 91.)

Mr. T. SIVASANKARAM PILLAI:—"Sir I move—

Add at the end the following:—

'subject to a right of appeal to the Board in cases of suspension or dismissal'.

"Sub-clause (b) reads thus:—

The President of the Board shall appoint and transfer such servants and may fine, reduce, suspend, remove or dismiss them for breach of rules or discipline, for carelessness, unfitness, neglect of duty or misconduct."

"Similar provisions exist in the Local Boards Act, the Municipalities Act, and so on any similar Acts. All these Acts provide for the hearing of appeals. But a similar provision does not find a place here. Ordinarily, even in insignificant union boards the servants are allowed the right of appeal. The Board is likely to have officers, probably, decently paid like Superintendents, Inspectors and their Assistants. Of course, I want to confine this provision to cases of suspension and dismissal."

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Clause 13—cont.

Rai Bahadur N. GOPALASWAMI AYYANGAR:—"Mr. President, Sir, if I heard the hon. Member aright, I think he said that there was some specific provision in the Local Boards and District Municipalities Acts giving the right of appeal in terms of this amendment. If I remember right, I do not believe there is any provision specifically mentioning the right of appeal. I would also point out to him that the language adopted in this clause is almost exactly the same as the language there. The words 'subject to such control as may be prescribed' are found in those Acts also. It is under this provision of the Local Boards and District Municipalities Acts that the Government allow appeals by means of rules. In the same way, under this Act rules will no doubt be made by Government to allow appeals in the manner suggested in the amendment."

Mr. T. SIVASANKARAM PILLAI:—"Appeals have to be made to the Board. It is the Board that has to punish."

Rai Bahadur N. GOPALASWAMI AYYANGAR:—"May I say a word just to correct a misapprehension the hon. Member is labouring under. The words used here are:

Subject to such control as may be prescribed.

If you turn to the definition you will see that 'prescribed' means 'rules prescribed by the Local Government'."

The motion was by leave withdrawn.

(Amendment No. 92.)

Mr. A. RANGANATHA MUDALIYAR:—"I move—

Add at the end the following:—

'or other sufficient cause'.

If you turn to clause 11 you will find that the Local Government has the power to suspend or remove any Commissioner from his office for several reasons the last of which is for corruption, misconduct or other sufficient cause. I think the same reasons which would justify the Government to remove a Commissioner should apply also in the case of the servants of the Board. So, to make it plain I think that the words 'or other sufficient cause' must be added."

3 p.m.

3 p.m. Commissioner should apply also in the case of the servants of the Board. So, to make it plain I think that the words 'or other sufficient cause' must be added."

The hon. the RAJA OF PANAGAL:—"I accept the amendment."

The amendment was put and carried.

Clause 13 as amended was put and passed and added to the Bill.

Clause 14.

(Amendment No. 93.)

Diwan Bahadur M. RAMACHANDRA RAO PANTULU:—"Sir, I beg to move—

Omit this clause.

"The existing clause 14 of the Bill is as follows:—

(1) The general superintendence of all religious endowments within the territorial jurisdiction of a Board shall vest in such Board.

[Mr. M. Ramachandra Rao Pantulu] [28th March 1923]

Clause 14—cont.

(2) Subject to the provisions of this Act, the Board may do all things which are reasonable and necessary to ensure that maths and temples are properly maintained and that all religious endowments are properly administered and duly appropriated to the purposes for which they were founded or exist.

"Sir, I think hon. Members are now sufficiently familiar with the draft before them. We see that so far as the Board is concerned, its various duties, its powers on the temple committees, its jurisdiction in regard to religious endowments in general and in regard to the temples and excepted temples and maths in particular, and also in regard to the application of endowment funds and other matters, are all specifically referred to and laid down in various clauses of this Bill. That being so, I submit that this wide power of general superintendence of all religious endowments and the power to do all things which are reasonable and necessary is far too wide and unnecessary. If this Board is to function properly, it should not have this wide general power of superintendence but should have specific powers as contained in the various clauses. It seems to me that this residual power is far too wide an order even for the Board as conceived by my hon. friend, the Raja of Panagal. He says 'we are living in Kaliyuga; many things may be done in Kaliyuga which were not done in the previous yugas'. But even in this Kaliyuga there should be some limitation of powers in a Bill of this nature."

The hon. the RAJA OF PANAGAL :—"I do not know what my hon. friend, Mr. Ramachandra Rao, is aiming at. What does he mean by saying that I said things might or might not be done in Kaliyuga? I never said that anything that might not be done in other yugas might be done with impunity in Kaliyuga."

The hon. the DEPUTY PRESIDENT (in the Chair):—"Does the hon. Member propose to read a chapter of the *Puranas*?"

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—"I do not propose to do it, nor do I wish to say anything as to what might be done or might not be done in Kaliyuga. But as some reference was made by my hon. friend to the Kaliyuga in which we were living, I referred to it."

"I think that even now, it is certainly not too late to define the powers of the Board specifically; and we should not leave this large order of superintendence and doing all acts, which are reasonable and necessary, to the wisdom of the Board. I think my hon. friend is putting far too much power in the hands of the Board by saying that it can do whatever it considers necessary and reasonable in the matter of the administration of the religious endowments. I will think that this particular provision is likely to cause a great deal of embarrassment to the Government, to the Board and also to the institutions which will be committed to the control of the Board. I have already stated that the exact powers or the specific duties and responsibilities of the Board in regard to the excepted temples, etc., are all defined in the other provisions of the Bill. These powers and duties having been defined, I am really unable to see what the reasonable and necessary things are which are not covered by the specific provisions of this Bill or what the general superintendence is which the Board has to exercise. It may be said that Regulation VII of 1817 contained the words employed in this clause. But it is now a century since that regulation was drawn up, and, as my hon. friends are aware, under cover of one section all the duties were performed hitherto. But in these days, when we have made an advance

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Clause 14—cont.

in drafting, when specific duties are laid down in Bills, to give a general power such as this is likely to cause a good deal of embarrassment to the Board and the institutions. It is quite possible that, with reference to some Act, the Board might issue some instructions and say 'we consider this to be reasonable and necessary'. It therefore seems to me that it is wiser to drop this clause 14 altogether."

Rao Bahadur A. S. KRISHNA RAO PANTULU :—"Sir, I have also tabled an amendment of a similar nature. I submit that as the clause stands, there is no provision even for an appeal against the orders of the Board when it exercises powers under this clause. Apart from the fact that there is general superintendence and that it can do all things which are reasonable and necessary to ensure that maths and temples are properly maintained and so on, the fact that there is no provision for any appeal from the orders of the Board would lead to dangerous consequences. I would further point out that if there have been no provisions in the Bill regarding the powers of the Board, I can find some justification for such a general clause. The framing of the Bill would show that in chapter IV and subsequent chapters, there have been specific provisions inserted regarding the powers of the Board as to what they are to do, how they are to control, and so on. When we find such specific provisions in the Bill itself regarding the powers and duties of the Board, to add another clause saying that all the general superintendence is vested in the Board, will be opening a wide field for their doing acts which may not be quite acceptable. When, further, we remember there is no means of checking their acts, it will be dangerous to allow such a provision as this in the Bill."

The hon. the RAJA OF PANAGAL :—"I see there is a good deal of force in what the hon. Members say. I trust that the amendment of Mr. Govindaraghava Ayyar, if accepted, will satisfy the hon. Members. Hence, if the hon. mover will withdraw this amendment, I will accept the amendment of the hon. Member, Mr. Govindaraghava Ayyar."

Mr. B. MUNISWAMI NAYUDU :—"Mr. President, Sir, it will be seen that under Regulation VII of 1817 the general power of superintendence was vested in the Board of Revenue. We are now repealing Regulation VII of 1817. In the Bill as originally presented to this House, there was no clause repealing Regulation VII of 1817. In the Select Committee we wanted that Regulation VII of 1817 should be repealed, and when it was repealed the general powers which were hitherto vested in the Board of Revenue had to be transferred to the Board contemplated by this Bill. Therefore that general power mentioned in sub-clause (1) cannot be really objected to."

"With reference to the objection to sub-clause (2), viz., that it is rather wide, that powers are given to the Board to do all things which are reasonable and necessary to ensure that maths and temples are properly maintained, I may point out that very eminent committees presided over by eminent judges, who were experts in drafting, adopted the same course. I may refer to Sir Muttuswami Ayyar's Bill first. Clause 28 of that Bill says :

From and after the date on which this Act comes into force, every committee, established under Act XX of 1863 for any local area and which by section 25 is constituted a committee established under this Act, shall have superintendence and control over all temples within such local area.

[Mr. B. Muniswami Nayudu]

[28th March 1923]

Clause 14—cont.

Clause 41 of the same Bill says :

Subject to the provisions of this Act, it shall be the duty of every committee to take such measures as may be necessary to ensure that all endowments of temples under its superintendence are duly appropriated to the purposes for which they were founded, that they are not converted to the private use of individuals or otherwise misappropriated, and that the established usages of such temples are observed and maintained.

Thus there are two clauses here, one giving general power of superintendence and the other giving powers of taking such measures as may be necessary. Instead of saying 'taking such measures as may be necessary', we have in our Bill—

May do all things which are reasonable and necessary.

I do not really see how the present wording takes us further than the wording in the original Bill. The very same words are had in Chentsal Rao's Bill. Instead of two separate clauses as are found in those Bills, we have used two separate sub-clauses. Sub-clause (1) refers to the general superintendence and sub-clause (2) says :

Subject to the provisions of this Act, the board may do all things which are reasonable and necessary and so on.

I do not see any reason for the alarm raised by my hon. friends and for saying that very extraordinary powers are given to the Board. I submit, Sir, that if in this matter we have erred, we have erred in good company, in the company of Sir Muttuswami Ayyar and other eminent men."

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—"Sir, I am afraid that the hon. Member from Chittoor, Mr. Muniswami Nayudu, has not correctly grasped the significance of clause 14 of this Bill or the significance of the measures to which he has drawn our attention for the purpose of showing how this clause is to be retained in the Statute Book. There are two arguments which have been pressed upon the attention of this House. The first is this: that we are merely reproducing the provisions of Regulation VII of 1817. The second argument is that in Bills of a similar character framed by Sir Muttuswami Ayyar's and Chentsal Rao's committees we find provisions similar to this. I shall endeavour to meet both these points.

"So far as the first point is concerned, namely, that we find a similar provision in Regulation VII of 1817, the House will notice that the details of the superintendence, which we find embodied now in the present Bill, are not mentioned in Regulation VII of 1817; and apart from the question of lapse of a century and therefore the possibility of better drafting, we find that the power of general superintendence was given without stating what exactly that general superintendence meant. But as a matter of fact, we find

3-15 p.m. in the present Bill specific provisions showing how this general superintendence is to be exercised, and it will be competent for courts to say that whereas specific provisions are given, there is the residual power also given to the Boards in question, so that the effect of that will be that whatever is not covered by the provisions which give specific powers may be brought in under the provisions of this clause. Obviously this is not what the House intended. As the House would recollect, a distinction has been made between temples which are to be under the control of committees and excepted temples and maths which

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Clause 14—cont.

are to be under the control only of the Board. These are to have less stringent control by the Board than the Committee Temples will have under the Committee. In these circumstances, to invest the Board with general superintendence which will cover almost every act of superintendence—and this has certainly not been intended so far as the scheme of this Bill is concerned—will be somewhat improper. But that is not the only reply to that part of my hon. friend's argument. You will find that under Act XX of 1863, which is the Act that we are now seeking to repeal, so far as this Presidency is concerned, much of Regulation VII of 1817 as relates to religious endowments has been repealed, so that it is no longer law. You will find that in Act XX of 1863 there is no similar provision in regard to temples coming under section 4 of the Act. The reason is obvious. For in Act XX of 1863 you find specific provisions laid down as to how this superintendence is to be exercised where it has to be exercised. That is what I have to say so far as the first portion of my hon. friend's criticism of the amendment is concerned.

"With reference to the second portion, you will find that neither Chentsal Rao's Committee nor Sir T. Muttuswami Ayyar's Committee advised the creation of a Board, a Board as distinct from a Committee, giving the Board a different function from what is being given to the committee. In these circumstances, Sir, it is but reasonable to expect that they retained the scheme of having committees and giving them certain powers of superintendence. Now, this question may have to be considered when we go into the question of the powers of the committees which is covered by a separate clause altogether. So far as the Boards are concerned, I venture to think that according to the scheme in the Bill these Boards ought to have certain specific functions which functions vary as the institutions which they control are committee temples or what are called excepted temples and maths. You will be taking away the efficacy or the meaning of this provision by retaining this general clause which gives all kinds of power to the Boards with reference to the institutions under their control."

Mr. C. V. VENKATARAMANA AYYANGAR :—"I have given notice of a similar motion so far as the second part of the amendment is concerned, so that the whole is not to be taken away till the second sub-clause is considered. I shall just say a few words as to why the second sub-clause should be taken away. So far as the general superintendence is concerned, if it is there it will be subject to the powers of the Act. The whole poison is in the second clause. It says :

Subject to the provisions of this Act, etc.

The provisions give some powers to the Committees and some to the Board."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—"If my hon. friend wants to retain any portion of this clause he can certainly move a separate amendment. But I am moving for the deletion of the whole clause."

The hon. the DEPUTY PRESIDENT (To Mr. Venkataramana Ayyangar) :—"You can move your amendment later on."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—"Sir, my hon. friend Mr. Muniswami Nayudu referred to two later drafts, Muttuswami Ayyar's

[Mr. M. Ramachandra Rao Pantulu] [28th March 1923]

Clause 14—cont.

draft and Chentsal Rao's draft. But I think he would have done well if he had referred to the two earlier drafts which had proposed to constitute a Central Board."

Mr. B. MUNISWAMI NAYUDU:—"May I point out that they did not propose the abolition of Regulation VII of 1817?"

Diwan Bahadur M. RAMACHANDRA RAO PANTULU:—"That does not matter. So far as the question of the two earlier drafts which aim at the creation of a Central Board is concerned, the duties of the Central Board are specifically mentioned, and this power of general superintendence is not vested in the Board. As to whether any other authority has it is entirely a different question. My only point is the Board whose duties are referred to in the later clause should not have the general power of superintendence. As it stands, clause 14 will be out of harmony with the general scheme of the Bill. I may say that this clause has suffered a good deal by the attempt to take one clause from one draft and another from another draft. This has really upset the harmony of the Bill. The question that we have to consider is what the general scheme of this Bill is, and whether clause 14 is in general harmony with the specific provisions of control and supervision which are dealt with in the later clauses of this Bill; and if it is not in harmony, clause 14 ought to go. That is the only point we have to consider, and I contend that a good deal of argument has been advanced for the purpose of showing that it is altogether dangerous, inconvenient and unnecessary to have clause 14 in the Bill."

The hon. the RAJA OF PANAGAL:—"Mr. President, I have listened to the arguments of both my hon. friends, Mr. Govindaraghava Ayyar and Mr. Ramachandra Rao. If I understood them correctly, the main criticism that they directed was towards the indefiniteness of the residuary powers that were given to the Board. That was the reason, Sir, why I said that I was prepared to accept the hon. Mr. Govindaraghava Ayyar's amendment. If I accept that, the indefiniteness will be removed, because then the Board can only exercise supervision to the extent provided for definitely by the provisions of this Bill."

The motion for omission of clause 14 was put and lost.

Sub-clause (1).

(Amendment No. 94.)

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR:—"I beg to move—

Insert at the beginning the words 'Subject to the provisions of this Act.'

"Sir, after all, as the House will recognize, this is more in the nature of a drafting amendment. I may mention, Sir, that as the sub-clauses stand at present in clause 14, the first sub-clause vests the powers of general superintendence over maths of all kinds in the Board. Then, it is stated, with reference to certain things which are necessary for the proper maintenance of maths and temples that the Board may do these things. Now, Sir, the resolution that has been just rejected by the House contemplated that the Board should have only specific powers and no more. What I refer to is the very indefinite nature of the provision in sub-clause (1) which will

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Clause 14—cont.

practically grant powers to be exercised by the Board which are generally inconsistent with the rest of what you find in the Bill. The powers of general superintendence that are contemplated in this clause are subject to this specific provision, so that where the general power and the specific provision come into conflict it is the specific provision that will operate and not the general power; so that anything over and above this specific power, what is called the residuary power, will unhappily still vest in the Board in consequence of the rejection of the previous amendment. So, the next best thing is to propose the amendment in question and that I have ventured to put on the agenda paper."

The hon. the RAJA OF PANAGAL:—"I accept the amendment."

Rai Bahadur N. GOPALASWAMI AYYANGAR:—"With the leave of the hon. the Deputy President and the House I would propose this amendment:

That the word 'and' be inserted after the word 'Board' in sub-clause (1) and the words 'subject to the provisions of this Act' be inserted before the figure (1)."

This was accepted by the House. The amendment was put and passed.

(Amendment No. 95.)

Mr. R. SRINIVASA AYYANGAR:—"I beg to move—

After the words 'religious endowments' insert the words 'except maths'.

"Sir, I move an amendment of a radical character to sub-clause (1). On turning to the Bill, Members of this House will be pleased to observe that this is the first provision in the Bill which subjects these maths to the general superintendence of the Central Board known as the Board of Commissioners. The other day, in spite of much debate and discussion, our attempt to take maths out of the definition of the term 'religious endowments' proved futile. But all the same that does not debar me from bringing up this motion for the consideration of the House. I want to exclude this particular institution, namely, the math, from the general supervision to be exercised by the Board. Sir, I do not propose to go at length into fields already traversed by speakers on Monday and Tuesday, and I am equally conscious that in attempting to stand before this House I am really fighting a losing battle, or to be more accurate, I am leading quite a forlorn hope. If, in spite of that, I make this motion, it is due to a strong conviction on my part of the justice of my cause.

"I should only briefly indicate the peculiar character and the position which these *matadhipatis* occupy. And I think it is futile to

3-30 p.m.
make any serious attempt to reform these religious institutions by means of a legislative enactment. Nor is it possible to change the character of these religious functionaries by any legislative measure. Any reform to be effective and effectual must be from within. I think, in a matter like this, it is much better to look to the force of public opinion or the views of the disciples or the ordinary courts of law to intervene and set matters right than to invest the central authority with any wide powers. In the long run, I think it will be far more injurious to religion to place the *matadhipatis* under the control of this body than to get any occasional abuse of trust

[Mr. R. Srinivasa Ayyangar] [28th March 1922]

Clause 14—cont.

remedied either by the force of public opinion or by recourse to courts. And in this connexion, I am somewhat tempted to read out some observations of Sir T. Muttuswami Ayyar which are really germane to the point under consideration.

(Here the hon. the President took the Chair.)

It seems undesirable to subject *matams* to the control and scrutiny of committees of a general character, with no special sectarian leanings and no motive to pay the heads of *matams* that deference which their position as high priests makes them feel they are entitled to. If the spiritual head of a *matam* should be found guilty of malversation, it would be thought a grave abuse of power for any secular committee such as those to be appointed under the proposed Bill to remove them from office, as their continuance or removal depends upon the wishes of the votaries of the *matam*, who are almost always disposed to overlook all shortcomings and lapses on the part of their guru or high priest. Though some from whom we have received replies to our circular are emphatic in their denunciation of the general character of the financial administration of *matadhiputis* and pressing in their demand for putting *matams* on a par with temples, yet the preponderance of opinion is strongly in favour of the exclusion of *matams* as such."

The hon. the PRESIDENT: "Order, order. The hon. Member's proposal is to insert the words 'except maths' after the words 'religious endowments' in sub-clause (1) of clause 14. The question of maths coming within the purview of the Bill has been debated at considerable length."

Mr. R. SRINIVASA AYYANGAR:—"The whole discussion centred round the question whether maths were to be brought within the definition of religious endowments. That it should be brought in was accepted. This is a special clause dealing with the powers of superintendence to be exercised by the Central Board over the religious endowments."

The hon. the PRESIDENT:—"So far as I am able to understand, the hon. Member's plea is that on the previous occasion he objected to maths coming within the definition, while now he objects to the maths coming under the control of the Board of Commissioners. Later on, when he comes to chapter III, he will perhaps ask that maths cannot come under the control of temple committees. Again, still later, when he comes to the succeeding chapter, he will ask that they should not come under the head of 'Endowments in general'. We have to work the rules, and if any question has been substantially discussed and disposed of, no useful purpose will be served by re-opening it, and therefore I have no hesitation in ruling him out."

Sub-clause (2).

(Amendment No. 96.)

Mr. C. V. VENKATARAMANA AYYANGAR:—"I move, Sir—
Omit this sub-clause.

"I will just say a few words as to why I propose the omission. In the general discussion dealing with the clause . . ."

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Clause 14—cont.

The hon. the RAJA OF PANAGAL:—"I rise to a point of order, Sir. There was an amendment proposed by Mr. Govindaraghava Ayyar—amendment No. 94—in discussing which both the sub-clauses were dealt with and the Council accepted an amendment."

Mr. C. V. VENKATARAMANA AYYANGAR:—"As you, Mr. President, were not here, I may be permitted to say what took place. Mr. Ramachandra Rao wanted that the clause should be omitted, and I then wanted to move the amendment standing in my name. As Mr. Ramachandra Rao feared that his case would be prejudiced, the hon. the Deputy President ruled that my amendment would come after that of Mr. Ramachandra Rao had been disposed of. So after speaking for one or two minutes I had to sit down in due deference to the ruling."

The hon. the PRESIDENT:—"The hon. the Minister is apparently referring to amendment No. 159 on the agenda which Mr. Ramachandra Rao moved. Now, Mr. Venkataramana Ayyangar wants to omit sub-clause (2) of clause 14. There may be people who object to omitting the whole clause but yet may be willing to omit a portion of it."

The hon. the RAJA OF PANAGAL:—"My point, Sir, is this. The amendment of Mr. Govindaraghava Ayyar has been accepted, and the effect of the acceptance is that the clause amended as such is accepted by the Council."

Mr. C. V. VENKATARAMANA AYYANGAR:—"I will proceed, Sir. According to the argument suggested by you, my case is that there is no necessity for sub-clause (2) as sub-clause (1) is allowed to stand. Sub-clause (2) is, in my opinion, very mischievous and deserves to be deleted. Mr. Muniswami Nayudu referred to the drafts of Mr. Chentsal Rao and Sir Muttuswami Ayyar. I am sorry that he was out of place in doing it, for the proper time for him to refer to them will be when clause 31 dealing with committees comes up for discussion. Now, we are dealing with the Board, and we have absolutely nothing to do with committees at present. That is one reason why we need not trouble ourselves about the previous history of the question."

"My second point is this: There is no reason at all why the scope of clause 14 should be wider than that of clause 31. Clause 31 gives powers of superintendence to committees and says exactly what sub-clause (1) of this clause lays down. I have no objection to sub-clause (1) being retained because it gives powers of general superintendence subject to the provisions of the Act. The jurisdiction of the Board is quite different from that of the committee in the Bill. I would respectfully submit that the position of the maths and excepted temples is far superior to that of the temples under committees. The restrictions to be imposed on maths and excepted temples should indeed be far less than those laid down in the case of temples. But unfortunately, Sir, the framers of this measure have invested the Board with greater powers than those allowed in the case of committees under clause 31. I submit, Sir, that this sub-clause will be very dangerous and mischievous in its operation. The words:

Subject to the provisions of this Act

[Mr. C. V. Venkataramana Ayyangar] [28th March 1923]

Clause 14—cont.

at the beginning of the clause are of no use and do not afford any safeguard. There is no limitation of the powers given to the Board. The Bill gives certain powers to the Board to enable it to do what it should, but nowhere does it say what the Board should not do. Therefore I say, Sir, that wide powers are given, and it does not much matter if it is subject to the provisions of the Act. The members of the Board are respectable gentlemen no doubt, but the *matadhipatis* are also very respectable persons and the temples that have to be dealt with are also respectable. Supposing, for instance, the Board asks the Sri Mahant of Tirupathi to be always up the hill on the ground that this is necessary to ensure proper administration of affairs, there is no appeal provided for. The Board is given absolutely wide powers to restrict the actions of *matadhipatis*. Again, if the Board orders that the Peria Jeeyangar of Tirupathi who has jurisdiction over the temple at Tinnanur should reside at Tinnanur, the order will be quite legal and regular and anything done against it will be irregular. This provision, I am sure, will lead to friction. Again, Sir, the object of this Bill is to reduce litigation. But every action of the Board can only be fought out in a regular suit. If, for instance, the Board says that the Peria Jeeyangar should live at Tinnanur in the interests of the temple for about six months in the year or for a certain number of days in a month, the Jeeyangar has only to file a suit for declaring the order illegal. Every order, unless it specifically comes under specific clauses of the Bill, can be taken to a court of law. If under clause 31 only general powers of superintendence are given to the committees, I do not see any reason why a wider provision should be made in the case of the Board. I will therefore appeal to the hon. Minister to accept the amendment. There is the first sub-clause which gives ample powers of superintendence. The second sub-clause may be taken away to avoid all possible friction and unnecessary litigation. The powers of the Board are clearly defined, and to give the Board ample powers over and above that definition will cause friction. The Board may consist of a Vadagalli-anti-Thengalai or a Saivite-anti-Vaishnavite and may choose to pass frivolous orders and this will lead to endless litigation. Therefore, I think it will be dangerous to give unlimited powers to the Board, and propose the deletion of the sub-clause."

The hon. the RAJA OF PANAGAL :—" I am still of opinion, Sir, that sub-clause (2) of clause 14 is, as it were, a sequence to the acceptance of sub-clause (1) of the same clause. According to the first sub-clause, the Board will have powers of general superintendence subject to the provisions of the Act, as amended by Mr. Govindaraghava Ayyar. The Board having these powers must be allowed to exercise them to the extent necessary, otherwise it will be in the plight of Shylock when he was to cut the pound of flesh without shedding a drop of blood. What is the meaning of giving them general powers of superintendence if they are not in a position to take any necessary steps?"

Mr. C. V. VENKATARAMANA AYYANGAR :—" I can only say, Sir, that we do not see such a sub-clause in clause 31. Only the first sub-clause of clause 14 is reproduced there. I do not think that clause 14 will be useless without this sub-clause. General superintendence is different from the powers given under this sub-clause. General superintendence is different

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Clause 14—cont.

from giving orders as to what they think is proper. So, when in a later clause a subordinate body is given general powers without any such sub-clause, I do not see any reason why wider powers should be given in this clause."

The hon. the RAJA OF PANAGAL :—" I am unable to follow the arguments of my hon. friend. He says that elsewhere there is an inconsistency. That will not justify any inconsistency here. Even the inconsistency that he wants to make out does not really exist in clause 31. That clause begins with the words :

Subject to the provisions of section 14

and therefore the whole argument fails."

The amendment was put and lost.

(Amendment No. 97.)

3-45 p.m. Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—" Sir, my amendment is—

Omit the words 'Subject to the provisions of this Act.'

" This follows from what has been done by this House with reference to my previous amendment to sub-clause (1), where the words

Subject to the provisions of this Act

have been added. These words occurring again in sub-clause (2) are obviously unnecessary, if they already find a place in the clause before the number '(1)'. I formally move my amendment."

The hon. the RAJA OF PANAGAL :—" I accept the amendment."

The amendment was put and carried.

(Amendment No. 98.)

Sir M. C. T. MUTTAYYA CHETTIYAR :—" Sir, I move—

Add at the end the following :—

' Excepting institutions maintained wholly or in part by voluntary subscriptions or offerings or managed by communities.'

Mr. President, the object with which I have tabled this amendment is to get excluded temples like the Sri Natarajaswami temple at Chidambaram and the temples managed by the Nattukottai Nagarathars. The latter class of temples, which is managed by a particular community, are not only places of worship but also places of social and communal arbitration in cases of communal disputes. The Council has already decided the case of the inclusion of the Chidambaram temple. So I do not know what the fate of my amendment will be with regard to the temples managed by particular communities. If the Government will only consider the case of these temples, I shall withdraw my amendment."

The hon. the PRESIDENT :—" The hon. Member cannot withdraw a motion which he has not made. Is the hon. Member formally moving it?"

Sir M. C. T. MUTTAYYA CHETTIYAR :—" With these few remarks, I do not move the amendment."

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Clause 14—cont.

The hon. the PRESIDENT:—"If the hon. Member does not move an amendment, he should not have made a speech. But nevertheless he has done it (laughter). This motion is therefore not made."

The motion was deemed to have been withdrawn.

New sub-clause after sub-clause (2).

(Amendment No. 99.)

Rao Bahadur A. S. KRISHNA RAO PANTULU:—"Sir, I move to—

Add the following as sub-clause (3):—

- (3) The trustee or servant of a religious endowment may prefer an appeal against the acts of the Board under the above sub-section to the Court, within three months from the date of the communication of the order of the Board.

"Notwithstanding the attempts made by certain amendments to have this whole clause deleted, the House has by a majority voted for its retention in the Bill. Having done that, it is, I believe, the duty of the House to provide all necessary safeguards to ensure that persons are not injuriously affected by the orders of the Board. So far as this clause is concerned, I have pointed out already in the previous motion that the powers given to the Board are so wide and dangerous that they must naturally give rise to considerable alarm and apprehension in the minds of those who are entrusted with the management of maths and temples. But, Sir, I would ask whether it is fair and just that those who are affected by the decisions of the Board under this general residuary clause, which gives wide and extensive powers, ought not to have a right of appeal to properly-constituted tribunals so far as they are affected. If we are not only giving the Board extensive powers but also refusing to give the trustees and servants of a religious endowment the right to prefer an appeal against the decisions of the Board, I think it will be doing something which will be a violation of all accepted principles of justice. So, I would request that this House may be so good as to limit the extensive and wide powers of the Board by providing for an appeal against the acts of the Board if preferred within three months from the issue of orders by the Board. I have suggested that the appeal may lie to the Court, the Court having been defined in the Bill itself, and that provision will take away much of the objections which have been urged for the retention of this clause in the Bill."

The hon. the RAJA OF PANAGAL:—"Sir, wherever it is found necessary that an appeal should be provided for, the right of appeal is provided for in the Bill. But to give a general power of appeal would mean the frustration of the very object of the Bill. The object of the Bill is to minimise as far as possible litigation in connexion with religious endowments. If every act which the Board does is appealable to a court of law, it means multiplication instead of minimization of litigation."

Rao Bahadur A. S. KRISHNA RAO PANTULU:—"Sir, I am rather surprised at the attitude of the Government so far as this motion is concerned. I can understand a case where the powers of the Board are limited and defined, and in such a case one can reasonably ask whether there ought to be a right of appeal given or not. But where you are giving wide and extensive powers and where the powers are undefined and enable the Board to do

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Clause 14—cont.

anything they please, is it reasonable not to provide for any power of appeal and allow the Board to do whatever they like? I am so surprised at the attitude of the Government that I have no other alternative but to press this amendment."

The amendment was put and lost.

Clause 14 as amended was then put, passed and added to the Bill.

Clause 15.

Sub-clause (1)

(Amendment No. 100.)

Rai Bahadur T. M. NARASIMHACHARLU:—"Sir, I move to—

Insert the words 'or the rules made thereunder' between the words 'with this Act' and 'or with any other law'.

The hon. the RAJA OF PANAGAL:—"I accept the amendment, Sir."

The amendment was put and carried.

(Amendment No. 101.)

Rao Bahadur T. NAMBERUMAL CHETTIYAR:—"Sir, I beg to move the following amendment standing in my name:—

(a) *Insert the following as item (e):—*

'(e) appointment of referees or religious panchayats, mahamahopadhyayas to inquire into religious disputes, whose decisions being accepted as final.'

(b) *Re-number the subsequent items.*

"Among the objects for the introduction of this Bill, it is very forcibly mentioned in the Preamble that when this Bill becomes law litigation will be greatly minimised. I consider, Sir, that religious disputes will continue unless some such provision as I have suggested is introduced. This simply gives power to the Board to co-opt some Commissioners to inquire into the religious disputes, and, after ascertaining their merits, come to a decision upon the particular matter in dispute and convey the decision to the contending parties who should accept it as final. My object in pressing this amendment is that litigation will not be minimised if such a provision is not introduced. Therefore, power for the Board to co-opt members to settle religious disputes is essential."

The hon. the RAJA OF PANAGAL:—"Sir, I have a great respect for the erudition and religious-mindedness of the mahamahopadhyayas. But, Sir, I do not think that that question arises in connexion with this clause. But when occasion requires that the Board should make a reference to these learned people, it is a matter for consideration for the Board. If the Board consider it necessary to refer any matter to the mahamahopadhyayas or other authorities, I am sure that they will do it. But I cannot understand why we should make special provision for it. Sir, I cannot accept the amendment as it is."

The amendment was by leave withdrawn.

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Clause 15—cont.

(Amendment No. 102.)

Mr. C. V. VENKATARAMANA AYYANGAR:—"Sir, I beg to move—

Omit item (i).

"I want that this item (i) which refers to by-laws regarding the details which shall be included in or excluded from the budgets of committees and religious endowments may be taken away, because the addition of this specific power to the very wide powers that have been given will always be a danger and a source of friction. For instance, supposing the members of the Board consider a particular way of performing *puja* in a temple will be enough or that a more expensive way of performing it is necessary, this can be enforced in spite of the usual practice of the temple. Again, it may be that in a particular *math* in the matter of feeding Brahmans, or non-Brahmans or Siva-Siddhanta disciples the majority of the members of the Board may say that so much will be enough for feeding, or they may honestly think that such feeding is not necessary. Then there will be nothing to prevent them from doing such things, because there is absolutely no power to which the difference between the Board and the *math* people can be referred. That is the unfortunate position. Where specific powers are given and specific orders are made by the Board, there is provision for appeal. But where very extensive and unlimited powers are given, no power of appeal is allowed. I think this wide power of the Board over the details to be included or excluded from the budgets of religious endowments will certainly lead to unnecessary friction so far as the *matadhipatis* and the trustees of big temples are concerned. Take, for instance, the Mahant of Tirupati. I have particulars to show that the annual income of the Tirupati temple is Rs. 14 lakhs. We also know from the ancient history of this temple that there are a number of factions there. If three or four of them are able to file a petition to the Board and persuade them to condemn a certain action of the Mahant, the Board can make a rule *ex parte*, for there is no necessity for the Board to give any notice or anything like that to the Mahant. Supposing out of these 14 lakhs, some expenses are considered wasteful by the members of the Board, though this may appear very reasonable to the trustees, the Board may very well say 'here is a waste of money; it should be discontinued.' Or, they may say that some other particular item of expense is very useful and that it shall be incurred. All that will go without any right of appeal. The power that is given, therefore, seems to be

4 p.m. very wide. There is already a specific provision in the Bill to the effect that budgets should be submitted, that auditors should go into the question of budgets, etc., and report thereon as to the inclusion or otherwise of any items or expenses. Therefore, there are powers which the Board, the auditor or the Government have under the Bill to restrict unnecessary, irregular or improper expenditure. That this general power should be given to the Board as to the details which shall be included in or excluded from the budgets of committees and religious endowments, seems as a consequence to be very strong and very wide. I think it is necessary that we should avoid friction in such matters and should not unnecessarily give room for troubles like this. *Matadhipatis* and excepted temples may be placed under the Board so that their accounts or budgets may be scrutinized; but they cannot be so placed for the sake of unnecessary orders from the Board as to details of

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Clause 15—cont.

budget items. It would be asking the Board to decide as though the whole power of the *matadhipati* was taken away. Therefore, Sir, I would appeal to the House, and through the House to the hon. the Minister—after all it seems that the decisions of the Minister guide the whole House—to see that some such thing as I have suggested is done, and see that room for friction is removed. With these words, I move my amendment."

Rai Bahadur T. M. NARASIMHACHARLU:—"Sir, the reason that weighed with me in tabling a motion for the deletion of this sub-clause (i) is that I had another amendment, Amendment No. 433, to omit sub-clause (a) of clause 57. That amendment is with reference to the provision under which a *math* or excepted temple is bound to submit budget and account statements to the Board. Clause 57 (a) reads thus:

The trustee of every *math* and excepted temple shall in each year submit to the Board before such date and in such form as the Board may require

(a) a budget showing the probable receipts and disbursements of the following year.

"I have given notice of this amendment No. 175 also in order to be consistent with the other amendment; for this sub-clause (1) also deals with the details of the budgets. I have no doubt that this is only a power given to the Boards for making by-laws and I am also aware that under sub-clause (2) no by-law or cancellation or alteration of a by-law made by the Board shall have effect until the same is confirmed by the Local Government. Therefore, if with reference to any particular detail there is any objection, it is open no doubt to *maths* and excepted temples and other religious institutions to submit to the Government the nature of the objections and if the Government think that the objections are valid, they will certainly modify the by-laws framed by the Board. Therefore, I have no doubt that improper activities on the part of the Board will certainly be curtailed by the Government under sub-clause (2). Therefore, I have not that fear which is lurking in the mind of my hon. friend Mr. Venkataramana Ayyangar (laughter). But I support this motion because I want to see that *maths* and excepted temples do not submit their budgets. I wish to know from you, Sir, whether a decision on this amendment would cover the other amendment also. With reference to clause 57 (a) I have tabled an amendment that that should be deleted so far as budgets are concerned. This sub-clause (i) to clause 15 also refers to budgets, as it says:

The details which shall be included in or excluded from the budgets of committees and religious endowments.

I wish to know from you whether, if this amendment now under discussion is negatived, I will not be permitted to move that other amendment to clause 57 (a)."

The hon. the PRESIDENT:—"If the hon. Member wants to know what would happen, in case this motion is negatived, to the amendment which he may move later on to a subsequent clause, that is what is called a hypothetical proposition. Probably the hon. Member's motion may be carried, and there may be no necessity for discussing that point at all. I really cannot assume that the hon. Member's motion is going to be lost, and I am also sure that the hon. Member himself cannot assume any such thing. He had better assume that his motion is going to be carried."

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Clause 15—cont.

Rai Bahadur T. M. NARASIMHACHARLU :—"Then, would you permit me to move that amendment now, Sir?"

The hon. the PRESIDENT :—"I am afraid that cannot be done. I have not called upon the hon. Member to move that amendment now. He is now standing up to support Mr. Venkataramana Ayyangar's motion to omit sub-clause (i) to clause 15. He has already supported it by saying that he does not agree with the hon. gentleman (Mr. Venkataramana Ayyangar)" (laughter).

Rai Bahadur T. M. NARASIMHACHARLU :—"I agree with him in suggesting the deletion of the sub-clause, but for a different reason, Sir."

Rai Bahadur N. GOPALASWAMI AYYANGAR :—"Mr. President, Sir, the arguments that were advanced by the hon. mover have been already answered by the hon. the seconder, if I may so call him. The latter has suggested the deletion of the item relating to details of budgets from clause 15. This particular item is really not a substantive provision. It only provides for the making of by-laws for determining the details which may be included in or excluded from the budgets of committees and religious endowments. So far as the fears of Mr. Narasimhacharlu are concerned, I do not think that he is proposing to delete any provision in this Bill regarding powers taken relating to the submission of the budgets of the committees. His fears, so far as I understand them, relate to the submission of budgets by maths and excepted temples. He has tabled an amendment so far as that point is concerned. Even if his amendment to clause 57 is carried, this item would still be consistent with the Bill because it would in that case apply only to budgets which are contemplated by the Bill. So I do not think he need be very apprehensive that if this item is carried, his later item would be ruled out of order."

Rai Bahadur T. M. NARASIMHACHARLU :—"I am satisfied, Sir."

The hon. the PRESIDENT :—"Is the hon. mover satisfied? Is he going to withdraw the motion?"

Mr. C. V. VENKATARAMANA AYYANGAR :—"Certainly not. The hon. gentleman who has no confidence in my reasoning has been satisfied. So far as I am concerned, I simply want to say that from the position which Mr. Gopalaswami Ayyangar occupies—for he has secured a very important seat on the Government Benches—whatever he says must be carried by the House now. The only thing I want to say is this: it is a very dangerous position to say in the by-laws that the Board can have power to discontinue the feeding of a number of people, that a particular item in the budget should be excluded, and so on. It gives them very wide power if they are allowed to interfere with such things. That was why I said that the sub-clause was not very satisfactory. I press my motion, Sir."

The motion was put and negatived.

(Amendment No. 103.)

Mr. M. SURYANARAYANA :—"Sir, the term 'religious endowment' has been defined in clause 5 (11) as meaning all property belonging to or given or endowed for the support of *maths* or temples. In this sub-clause (i) you find the following:—

The details which shall be included in or excluded from the budgets of committees and religious endowments,

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Clause 15—cont.

This gives no meaning, because endowments mean property. So, the Budgets of religious endowments, as is stated in this sub-clause (i), would mean Budgets of property. That is why I move that—

In item (i) for the words 'Religious endowments', the words 'of maths, excepted temples or temples', be substituted."

Rai Bahadur N. GOPALASWAMI AYYANGAR :—"Mr. President, Sir, I am afraid that the acceptance of this amendment would really restrict the scope of the expression 'religious endowments.' According to the definitions in clause 5, while *math* and temple would not include endowments attached thereto, the words 'religious endowments' would include the premises of maths as well as the premises of the temples, so that I think the expression 'religious endowments' is certainly more appropriate in this particular item than merely 'maths, excepted temples or temples'."

The motion was by leave withdrawn.

(Amendment No. 104.)

Mr. C. V. VENKATARAMANA AYYANGAR :—"Sir, I move—

That item (j) be omitted.

"Sir, I have some premonitions that I will succeed at least in this motion. I appeal to the hon. the Minister to accept this amendment as the power sought to be given under this item is very wide. After giving every power to the Board, you need not also give the *olla podrida*. Therefore, it is better that the hon. Member is satisfied with the various items given here and need not add general provisions also."

The hon. the RAJA OF PANAGAL :—"Sir, the acceptance of this amendment would mean the cutting off of the branch on which one perches. I do not think I can accept it."

The motion was by leave withdrawn.

Sub-clause (2).

(Amendment No. 105.)

Rai Bahadur T. M. NARASIMHACHARLU :—"Sir, I move—

That the words 'published for public criticism and thereafter' be inserted between the words 'teen' and 'confirmed'.

"I think from what I have said in defence of the Government on the motion of Mr. Venkataramana Ayyangar, the Government will give an opportunity to the concerned institutions to see whether the by-laws are properly made. And therefore there need be no fear in accepting this amendment which intends to carry out that intention. Let the sub-clause read:

No by-law or cancellation or alteration of a by-law made by the Board shall have effect until the same shall have been published for public criticism and thereafter confirmed by the Local Government."

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Clause 15—cont.

The hon. the RAJA OF PANAGAL :—" I accept the motion, Sir."

The motion was put and carried.

Sub-clause (3).

(Amendment No. 106.)

4-16 p.m. Sriman BISWANATH DAS Mahasayo :—" Sir, I beg to move—

After the words 'Gazette and' insert the words 'approved by the Legislative Council by a resolution and'.

"If this amendment is accepted, it would make the hon. the Minister to come to this Council. The Council may have a discussion over the by-laws and they may then be placed on the Statute Book. Sir, it is always a dangerous thing to tread on religion and it will be more so in a country where people are prepared to sacrifice to any extent for the sake of their religion. Under this Bill the House has very little control over the Board of Commissioners. The rules framed by them may not come before this House unless this amendment is accepted. Since these by-laws have the force of law, I appeal to the hon. the Minister to accept this amendment and thus consult the wishes of the representatives of the people before the by-laws are finally accepted as binding. I have got also a precedence for this. I would refer the hon. the Minister to clause 6, sub-clause (1), where similar provision has been made. Whenever he wishes to create a new Board or to increase the existing number of Commissioners or to vary the limits of the Board, the hon. the Minister has to come to this House. It is also desirable that he should come before this House to ratify the by-laws framed by the Board."

The hon. the RAJA OF PANAGAL :—"The usual method of publication is by publication in the *Fort St. George Gazette*. In all important matters provision is made for the particular matter being placed before the House. In these days of elected representatives, it is for the elected members in the Legislative Council to see that any complaint which a constituency has to make is made by moving resolutions or asking questions. In this way this House can control the action of the Board through the Minister."

Sriman BISWANATH DAS Mahasayo :—"Sir, it takes a very long time for resolutions to come up for discussion in this House. The same is the case with interpellations. I would refer the hon. Minister to many of the resolutions which have been appearing on the agenda for several months without any chance of being discussed in the House. My hon. friend, Mr. Ramachandra Rao, was complaining the other day that it took an unduly long time to get interpellations answered by the Government. He also quoted several instances where interpellations were not answered for more than three or four months. When such is the fate of resolutions and interpellations how can the hon. Minister advise us to have recourse to them? I would appeal to the hon. Minister to accept my amendment. It would not in any way hamper the work of the Board. On the other hand, the Board would be benefited by the enlightened criticism of this House."

The amendment was put and lost.

Clause 15 as amended was put, passed and added to the Bill.

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Clause 16.

Sub-clause (1).

(Amendment No. 107.)

Mr. M. SURYANARAYANA :—"Sir, I beg to move—

*In item (a) omit the semi-colon at the end and add the following :—
'managed by the same trustee'.*

Sir, in clause 16 we find :

The Local Government may by notification direct the constitution of a committee for any temple or temples or for any class of temples.

Immediately below there is a proviso which says :

Provided that not more than one committee shall have jurisdiction over the same temple or the endowments connected therewith.

My difficulty is this. There are some temples under the control of the same trustee. Some of those are endowed while others are not so endowed. If there should be a committee for each temple as is provided for by the proviso, the trustee may not be permitted to transfer some of the funds which are available for expenditure from the endowed to the unendowed temples in the manner in which he has been doing hitherto. The result will be that some of the endowed temples will have large surplus, while the unendowed temples will be left without any money for expenditure. If my amendment is accepted, the trustee will be able to arrange his budget in such a manner as to provide for the necessary expenditure in all the temples which are not endowed."

Rai Bahadur N. GOPALASWAMI AYYANGAR :—"Sir, I do not exactly understand what the point of the hon. mover is. He seems to suggest that, as far as possible, there should be only one committee exercising jurisdiction over temples managed by the same trustee. What I wish to point out is that the clause as it stands does not prevent the constitution of such a committee, because the clause is perfectly elastic and it allows the Government to constitute a committee for any temple or class of temples. If there are a number of temples under the same trustee there is nothing to prevent the Government from constituting a committee for all the temples which are in charge of the same trustee."

Mr. M. SURYANARAYANA :—"I would have no objection if there had not been the proviso. It is the proviso that stands in the way."

Rai Bahadur N. GOPALASWAMI AYYANGAR :—"The proviso as it stands really means that there should not be one committee exercising jurisdiction over a temple and another committee exercising jurisdiction over the endowments connected therewith. That is the whole object of the proviso. With that explanation I hope my hon. friend will not press his amendment."

Mr. M. SURYANARAYANA :—"The explanation will be correct if the words used are 'and the'. What we have now is 'or the'. My only object is to see that temples which are under the same trustee are governed by the same committee. I do not think there is anything in my amendment which is inconsistent with the scheme of the Bill."

The amendment was put and lost.

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Clause 16—cont.

(Amendment No. 108.)

Rai Bahadur T. M. NARASIMHACHARLU :—" Sir, I beg to move—

*Add the following at the end of item (a)—
'in any local area'.*

Sir, the clause as drafted runs thus :

The Local Government may by notification direct the constitution of a committee for any temple or temples or for any class of temples.

I think, Sir, if no reference is made to the local area, that is, if committees are not to be appointed for local areas of the temples, it may happen that committees may be appointed for temples one of which may be in one district and another in another district. What I want to urge is that these committees should be local committees having jurisdiction over a temple, or temples or any class of temples."

Rai Bahadur N. GOPALASWAMI AYYANGAR :—" The answer which I gave to the hon. Mr. Suryanarayana's amendment partly covers the point raised by my hon. friend Mr. Narasimhacharlu. The scheme of the Bill is that committees should be appointed for supervision over temples and their endowments. I take it that the difficulty arises from the fact that, if we do not limit the particular area for which a committee could be constituted, the Government may exercise its discretion in the wrong way and constitute a committee for a temple in Ganjam, another in Gōdāvari and another in Cuddapah and so on. But that contingency will not happen if the hon. Member would look at clause 19 which says :

For the purpose of election of members, the Local Government shall, for each committee, notify an electoral area.

This clause really provides for territorial electorates and therefore the fear entertained by the hon. Mr. Narasimhacharlu may not arise."

Rai Bahadur T. M. NARASIMHACHARLU :—" Again the electoral area may be so constituted as to have one in Ganjam, another in Cuddapah and so on."

Rai Bahadur N. GOPALASWAMI AYYANGAR :—" If the Government is so wrong minded as to notify an electoral area of the sort complained of by the hon. Member it may so happen."

The amendment was by leave withdrawn.

Sub-clause (2).

(Amendment No. 109.)

4-30 p.m. Rai Bahadur T. M. NARASIMHACHARLU :—" Sir, I beg to move—

For the word 'Board' substitute the words 'Local Government'.

This sub-clause is a very important provision. It says :

The Board may pass such orders as it may deem fit as to the transfer or other disposal of the assets and liabilities of a committee which is varied or abolished.

I submit, Sir, that such a power should not be vested in the Board, but should be reserved by the Government in its own hands, because it concerns the assets and liabilities of the committees that are to be varied or abolished. On such an important matter, I submit that the Government must reserve the

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Clause 16—cont.

power. If the Board is to deal with it subject to the sanction of the Government, that will be another matter. It is stated here that the Board may pass any orders as it may deem fit; that is to say, absolute discretion is given to it without any sort of control. Therefore, I submit that my amendment may be accepted."

The hon. the RAJA OF PANAGAL :—" Sir, sub-clause (2) of clause 16 deals only with the assets and liabilities of committees. They are practically minor matters and I do not think that it is necessary that power should be taken by the Government to control these transactions."

The amendment was by leave withdrawn.

Clause 16 was then put and passed and added to the Bill.

Clause 17.

Sub-clause (1).

(Amendment No. 110.)

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—" Sir, the amendment that stands in my name is :—

Between the words 'such number' and 'of members' insert the word 'elected'.

"The motion that I wish to make for the acceptance of this House is that the members of the committee should be elected. As hon. Members will notice, the scheme of the present Bill is that the members who are to constitute the committee should be partly elected and partly nominated. My proposal is that the whole of the members of the committee should be elected and is that the whole of the members of the committee should be elected and none of them nominated except in certain contingencies. Now, Sir, in doing so I am merely carrying out the provisions that we at present have in Act XX of 1863 which in the first instance makes provision only for election; but supposing that election miscarries, there are other provisions of course as to how the members of committees shall have to be brought into existence. So far as the literature on this point goes, it will be found that no fault has been found with reference to Act XX of 1863 simply because that Act in the first instance requires that members of committees should come in by election. There have been, no doubt, other provisions in the Act to which objections have been taken very rightly, but this is not one of those provisions. In these days when hon. Members love to associate democracy with the doings of this House, I rather think, Sir, that the process of election which has found favour so early as 1863 and in respect of which no serious objections or complaints have been made so far, might well be allowed to stand. With these few words I move the amendment."

The hon. the RAJA OF PANAGAL :—" I am surprised, Sir, to hear from the hon. Member opposite that no complaints about elections have so far been made. I would only refer him to the evidence given by Mr. T. R. Ramamade. I have no objection to accept the position taken up by the hon. Member, but, Sir, I would rather leave the discretion to the House. In the Bill of Sir T. Muttuswami Ayyar he provided for 50 per cent of elections, and the Select Committee in connexion with the present Bill provided for only 25 per cent of elected members. They thought that it was desirable that there should be some proportion reserved

[The Raja of Panagal]

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Clause 17—cont.

for nomination for non-represented communities. If my hon. friend is particular to have all members elected and if the House is prepared to accept the amendment I have no objection. So far as the Government are concerned, their position in regard to this matter is neutral."

Mr. R. SRINIVASA AYYANGAR :—" Sir, I have tabled an amendment for the deletion of sub-clause (2) because the idea at the back of my mind was that the entire body of the committee ought to contain only the elected element. I therefore rise to give my support to this motion. For the past sixty years this system has been working. The hon. the Minister draw our attention to a statement of Mr. T. R. Ramachandra Ayyar expressing dissatisfaction with the system. So far as my knowledge which covers a period of 30 years goes, I have not come across a single suit instituted for the purpose of questioning the validity of elections to the temple committees. So far as the law reports go, it is impossible to lay one's finger upon any such case on the subject. There might have been some irregularities, but those irregularities have not been of so serious a nature as to arrest one's attention or to justify any departure from the existing state of things. The practice nowadays is to extend the principle of election instead of cutting it down. In good old days it was found possible and it was even found necessary and desirable in the interests of the proper administration of the temple that the entire body of the temple committee ought to be upon an elective basis and that no element of nomination should come in. Rather, Sir, I should venture to think that it is a sad commentary that sixty years later we should seriously think of setting aside that machinery by introducing into it some proportion of nominated element. In making this submission I am fully aware of the existence of a provision in the Pagoda Act XX of 1863 which confers upon the court, as described in that Act, the power of nomination only in one class of cases where the committee concerned commits a default in filling up a vacancy within three months of its occurrence. I hope that the House will be agreeable to the amendment moved by Mr. L. A. Govindaraghava Ayyar."

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—" I have only one word, Sir, to say. My hon. friend the Minister referred to the evidence of Mr. Ramachandra Ayyar. I may mention, Sir, that the evidence of Mr. Ramachandra Ayyar was to this effect: not that in the case of temple elections he found anything specially wrong which he did not find elsewhere, but he said he was losing faith in elections as a whole. If my hon. friend will subscribe to that view, then of course, the position might be quite different."

The hon. the RAJA OF PANAGAL :—" Sir, when the whole is bad, I take it that the part too is bad."

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—" Because the whole is not bad, that is the reason why the part may not be bad."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—" May I know if the hon. Member assigns that as a reason for not accepting this amendment and suggesting that, because of the statement of Mr. Ramachandra Ayyar that he has no faith in the elections, and that he was losing faith in it, he cannot accept the amendment."

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Clause 17—cont.

The hon. the RAJA OF PANAGAL :—" It was said, Sir, that there had been no complaints and I only wanted to say there had been complaints."

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—" In the amendment that I proposed there is a slight mistake which I wish to correct. As amended the clause will read as follows :

A committee shall consist of such number of elected members, etc.

So that the word 'elected' should come in between 'of' and 'members' and not between 'such number' and 'of members'."

The motion as amended by the mover was put and carried.

Sub-clauses (2) and (3).

(Amendment No. 111.)

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—" Sir, the sub-clause (2) must go in consequence of what has been done, and with your permission, Sir, I shall move it. I have already given notice of a motion for the omission of sub-clause (3). My memory is that I gave notice of the omission of both the sub-clauses, but in the agenda I find only sub-clause (3) mentioned. With your permission, Sir, I move that—

sub-clauses (2) and (3) and the figure (1) in sub-clause (1) be omitted, as both of them really must go out in consequence of what has been already accepted by the House."

The motion was put and carried and the omissions made.

Clause 17, as amended, was passed and added to the Bill.

Clause 18.

(Amendment No. 112.)

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—" Sir, the amendment that stands in my name reads as follows :—

For the word 'Board' substitute the word: 'Local Government'.

" Clause 18, Sir, provides for the appointment of members of committees who will serve, as it were, as members for an interregnum period which will intervene between the present time and the time when the provisions of this Bill will be brought into full operation. As hon. Members will notice, it is stated in that clause :

Where the Local Government direct the constitution of a committee for the first time or in place of a committee which has been abolished, the members of such new committee shall hold office for such period not exceeding one year as the Local Government may fix and during such period may be all appointed by the Board.

Now, my amendment is that the appointment of these persons shall be by the Local Government and not by the Board. The Local Government will be in a better position to find out who the members of the committee shall be rather than the Board who will have for the first time entered upon their work. After all, the appointment is only for one year, and until the Board gains some experience in these matters, it is better that the Local Government is allowed the privilege or the power of appointing members of this committee which is to function only for a year instead of the Board."

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Clause 18—cont.

The hon. the RAJA OF PANAGAL :—" I accept the amendment, Sir."

The amendment was put and carried.

Clause 18, as amended, was then put, passed and added to the Bill.

Clause 19.

Sub-clause (2).

(Amendment No. 113.)

4-45 p.m. Rai Bahadur T. M. NARASIMACHARIU :—" Sir, I beg to move the amendment that stands in my name —

For the word 'Board' substitute the words 'Local Government'."

The hon. the RAJA OF PANAGAL :—" It is a matter of detail. I think the power had better be left with the Board than with the Government."

The motion was by leave withdrawn.

Clause 19 was put and passed and added to the Bill.

Clause 20.

Clause 20 was put, passed and added to the Bill.

Clause 21.

(Amendment No. 114.)

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—" Sir, the amendment that I have to move is as follows :—

After the words 'Hindu religion' insert the words 'or where the provisions of this Act are extended to Jain religious endowments, the Jain religion'.

" Sir, my amendment, though it is formal, is very necessary. The Bill contemplates the extension of its provisions to cases of Jain religious endowments. If it is to be so applied it is but proper that persons who profess the Jain religion should have a voice in the constitution of the committee. Therefore it is that my amendment proposes that where the provisions of this Bill are extended to Jain religious endowments, names of persons professing the Jain religion should be included in the electoral roll. So that persons who will be entered in the electoral roll will be not merely those who profess the Hindu religion, but also persons who profess the Jain religion in the event of the Bill being extended, when it becomes an Act, to cases of Jain religious endowments also. I venture to think that this is a necessary provision that has to be made and if it has not been made by the Select Committee it is due to an oversight."

Rai Bahadur N. GOPALASWAMI AYYANGAR :—" Sir, this is really the same thing as the other amendment which my hon. friend, Mr. Govindaraghava Ayyar, moved with reference to a previous clause in the Bill. The answer is the same as has been given in respect of the previous amendment. Under clause 2, when the Act is extended to Jain religious endowments, the extension may be subject to such restrictions and modifications as the Local Government may think fit. So, when a committee is constituted and that committee is given jurisdiction over the Jain temples also, it would be quite open to the Government to say that persons professing the Jain religion should also be

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Clause 21—cont.

included in the electoral roll of that committee. It is quite possible, I would point out in this connexion, that the Government may direct the constitution of a committee for Jain religious endowments alone. In that case it would be quite within the powers, under clause 2, to restrict the electorate entirely to Jains."

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—" I am afraid the hon. Member is under a mistake in the way in which he opposed me. Now, what clause 2 says is this :

may declare such extension to be subject to such restrictions and modifications as they think fit.

" Now, it is the extension that is to be restricted or modified. So that the House will notice that they cannot modify or restrict the proviso that is suggested here. It may be that in some places the number of Jains who profess the Hindu religion or the number of Jain religious endowments which has to be brought under the control of the committee will be so inconsiderable that it is not worth while to constitute a separate committee for that. The proper course for these persons then will be to get into the Jain electorate. If my amendment is accepted then it will mean, when the extension of the Act is made, that the persons professing the Jain religion may be, in appropriate cases, taken out of the general list and put into the special list so that they may constitute persons who can elect a special Jain committee. The hon. Member will carry out his object effectively and avoid any subsequent difficulty by accepting the amendment rather than by opposing it."

Rai Bahadur N. GOPALASWAMI AYYANGAR :—" Sub-clause (2) of clause 2 speaks of extension of the provisions of the Act. One of the provisions is that which relates to the qualifications for members of the electorates for the committee and one of those qualifications is that a man should profess the Hindu religion. If under sub-clause (2) of clause 2 it is open to the local Government to extend the provisions of this Act, subject to such restrictions and modifications as they think fit, I think it is quite within their competence to say that a particular clause which requires a man to profess the Hindu religion should be modified to the effect that persons professing the Jain religion should also be included in the electorate of those committees or that persons professing the Jain religion alone should constitute the electorate for purely Jain committees."

The amendment was put to the House and declared lost.

Clause 21 was put, passed and added to the Bill.

Clause 22.

Sub-clause (1).

(Amendment No. 115)

Mr. S. T. SHANMUKHAM PILLAI :—" Sir, my amendment is this :

In item (a) add at the end the following :—

'and if he is not of good reputation and of respectable status.'

Sir, I think the names of persons of ill-repute and mean status should not appear in the electoral roll. We shall never be too cautious in the selection of the men who are going to control our *maths* and temples. In my opinion

[Mr. S. T. Shanmukham Pillai] [28th March 1923]

Clause 22—cont.

people who are not of good reputation and of respectable status should not be allowed to stand for election. Those who stand for election must be men of good reputation and of respectable status in life. Only such men can enter the four walls of a temple."

The hon. the RAJA OF PANAGAL:—"Sir, in rejecting another motion of the same nature, I stated that the amendment was very vague. Besides, in this case, the members are all to be returned by election. It is for the electorate to decide whether a candidate is of good reputation or bad reputation. Under these circumstances I am afraid I cannot accept the amendment."

Mr. S. T. SHANMUKHAM PILLAI:—"If a man of ill-repute were to come in by election, it will lead to endless complaints. Sir, I press my motion for the acceptance of the House."

The motion was put and lost.

Further consideration of the Bill was postponed to the next day.

II

DISCUSSION ON THE HOLDING OF MEETING DURING THE EASTER HOLIDAYS.

Diwan Bahadur M. RAMACHANDRA RAO PANTULU:—"Sir, may I know when the further sittings will be?"

The hon. the PRESIDENT:—"With regard to the further sittings, they are in the hands of the House. Of course in regard to the progress made in the Bill I am not in a position to say when it will be over. All that I can say is, we had better go on with this from day to day until we come to the end of it. I think it will be convenient to hon. Members to do that instead of going home for a few days and then coming back presently in this uncomfortable weather. So I propose to have the meeting to-morrow and I do not know what we should do on Good Friday."

Diwan Bahadur M. KRISHNAN NAYAR:—"Sir, as far as the Hindu Members are concerned I can say they will have no objection to sit on Friday. I also think that the Christian members will have no objection."

The hon. the PRESIDENT:—"I do not know if the hon. Member is speaking on behalf of the Christian members also."

The hon. Sir CHARLES TODD HUNTER:—"As a general rule I think it is undesirable to sit on Good Friday."

The hon. the PRESIDENT:—"As a general rule it is undesirable, but at the same time it is purely a Hindu Religious Endowments Bill and the Christian members are absenting themselves. Of course, they are entitled to be present. But I do not want to say anything on a matter like this."

Rao Bahadur T. A. RAMALINGA CHETTIYAR:—"Sir, unless the Christian members think it undesirable to sit to-morrow, we may have the meeting to-morrow and the day after."

The question whether the House should sit on Thursday and on Friday (29th and 30th March 1923) was put to the House and the House declared its assent.

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The hon. the PRESIDENT:—"In regard to day after to-morrow I think we shall decide it to-morrow afternoon when we know where we stand. In any case, I think we need not sit on Saturday and Sunday and we may give a respite to hon. Members and take up the Bill again on Monday."

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR:—"May I suggest, Sir, that if you are not sitting on Saturday it is much better not to sit on Friday but sit on Saturday. I do not want to create a precedent which may be somewhat dangerous. I do not want that any portion of the House should feel that it is put into a delicate position. I think we ought to respect their views and so I would suggest that if you are not going to sit on Saturday, we may transfer the non-session to Friday."

The hon. the PRESIDENT:—"I agree with the hon. Member but it has so happened that I have taken the sense of the House and decided that we should sit on Friday. On Friday we shall know clearly where we stand."

The House adjourned at 5 p.m. to meet again at 11 a.m. the next day.

L. D. SWAMIKANNU,
Secretary to the Legislative Council.



The Council re-assembled at the Council Chamber, Fort St. George, at 11 a.m. on Thursday the 29th day of March 1923, the hon. Diwan Bahadur Sir P. RAJAGOPALA ACHARIYAR, K.C.S.I., C.I.E., President, presiding.

I

COMMUNICATION TO THE COUNCIL.

The SECRETARY laid on the table copies of the * Proceedings of the Public Accounts Committee held on the 22nd March 1923 as well as copies of † Appropriation Report for 1921-22.

II

THE HON. THE PRESIDENT'S ANNOUNCEMENT REGARDING THE HOLDING OF MEETING DURING EASTER HOLIDAYS.

The hon. the PRESIDENT :—" Before I begin with the proceedings, I think it will be convenient if I ask the House to reconsider the decision it arrived at yesterday. There is apparently some dissatisfaction among hon. Members over this decision. Though, of course, it is a decision which the House has already arrived at, still it is a matter for consideration whether we may not defer to-morrow's sitting. Some hon. Members require a holiday to-morrow on account of Good Friday and, after all, we might reasonably defer to their wishes."

Mr. M. SURYANARAYANA :—" Is it not possible to adjourn the meeting to some day later than Monday ? "

The hon. the PRESIDENT :—" No. I think we had better rest to-morrow and the day after. Government will require some time to check the whole of the Bill as amended, so that, in case there are consequential amendments, they may be incorporated in the Bill before it is passed. For this purpose they may require a couple of days. So far as I am able to say, I think the Bill will have been gone through by Tuesday evening, as we have still three days including to-day in which to finish the Bill."

The House agreed to reconsider its previous decision and to refrain from sitting on Good Friday.

III

FURTHER DEMANDS FOR GRANTS FOR 1923-24.

The hon. the PRESIDENT :—" Before this order of the day is taken up, I think I should inform the House that I considered the question of the disposal of the point of order raised by the hon. Member, Mr. Narasimha Raju, namely, that these demands raise a question substantially identical with others on which the House had already given its decision. Hon. Members will have to see whether the issues are substantially the same. The Standing Order says that if a certain matter has been discussed and disposed of, the House shall not be asked to go over the same ground during the same session. Now, with reference to these Budget motions, while it will not be open to the Government to move for the same grant or to ask for anything that has been voted against, what happened in certain cases last year and the year before was that they asked for supplementary grants for the purpose of winding up particular departments and offices which had been voted down by the House. I think such demands may not come within the purview of the Standing

* Vide Appendix on page 3082 infra.

† Printed separately.

[The President]

[29th March 1923]

Order. I have looked into the past instances where the Government came forward with supplementary demands for funds. But whether the Government are justified or not in asking for supplementary funds in this particular case is a question to be decided on its merits. So far as I am concerned, the point of order which I would look into after hearing the speeches of hon. Members will be whether these demands are made during the same session and whether they are made with the intent to reopen closed questions, or whether they are meant to enable the Government to carry into effect the decisions of the House. If I am satisfied that the latter is the case, I shall allow the motions to go forward and over-rule the point of order raised by the hon. Member. We shall now take up the further demands for grants."

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur:—"Sir, you were pleased to adjourn these motions to this day to enable us to examine the question of precedents of the proposition that was advanced, namely, that a demand for supplementary grants for a portion of the year was not substantially identical, in the wording of the Standing Order, with a demand for a full year. I am bound to confess that the Bengal precedent which was cited does not appear to be in point. It is true that the Bengal Council, within the space of a little more than a month, rejected a demand of 23 lakhs on account of Police and passed the same demand. What I did not realize before is the fact that there was a prorogation and a reassembling of the Council between the 17th March, on which date the demand was rejected, and 21st April on which it was passed. As regards our own Council we have a precedent for a fresh demand in order to pay the salary for March, which is payable in April, as, for instance, in the case of Assistant Commissioners of Labour. We have a precedent for paying an officer in addition to his pay a sum which he was entitled to on his services being dispensed with in lieu of notice, as in the case of the Personal Assistant to the Sanitary Engineer. We have a precedent for a grant for a specific period for winding up a department, as in the case of the Department of Land Records. We have a precedent for employing an officer on a scale of pay different to the one abolished as in the case of the Manager of the office of the Commissioner of Labour. The conclusion which I would venture to draw from these precedents is that the part is not substantially identical with the whole and that this Standing Order will not therefore apply.

"Finally, Sir, I beg to invite your attention to a passage in the Report of the Joint Committee from which I suggest that the conclusion might be drawn that there was distinct intention to permit a review of the decision, if for instance, as in one of the cases now before the House, the votes of the Council are diametrically opposite in two resolutions. I might invite the attention of the House to the fact that the special pay in respect of the seven party officers in charge of the Survey Party was put to the House and carried. But when the special pay of the eighth party officer was put before the House, 32 voted in favour of the continuance of the allowance and 33 against. The Joint Committee to which I have already referred say:

In cases where the Council alter the provision for a Transferred Subject, the Committee consider that the Governor will be justified, if so advised by his Ministers, in resubmitting the provision to the Council for a review of their former decision. But they do not apprehend that any statutory prescription to that effect is required.

"With these words I leave the matter to the House."

[29th March 1923]

The hon. the PRESIDENT:—"May I take it that these items in Demand XXXVIII which the hon. Sir Habib-ul-lah wishes to move are all intended for the pay of these people for twelve months?"

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur:—"No, Sir, only for five months—a part of the whole. That is what I beg to draw the hon. the President's attention to. I regard the part not exactly identical with the whole. Inasmuch as I now come to the House for only a period of five months I say this motion is not identical with the motion already considered."

The hon. the PRESIDENT:—"May I assume that the hon. Member wants pay for five months, because the Government have not made up their minds either to follow or not to follow the decision of the House?"

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur:—"Exactly."

The hon. the PRESIDENT:—"They want five months to make up their minds as to what to do in the matter? They want to keep the decision of the House in abeyance for some time until they can decide whether they are to follow it or not?"

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur:—"No, Sir, I would have been satisfied only with one month's grant, if there was the least chance of the House meeting before. It is not that the Government want to keep it in abeyance in order to make up their minds. It is perfectly possible for the Government to come to a decision within next week or within two weeks. But inasmuch as there is a decision of the House I do not wish to set that decision at naught; I wish to give the House an opportunity to discuss the steps to be taken by the Government on their recommendation and that cannot be done until they meet again. That will be about five months later and not earlier. That is why I specifically ask for five months."

The hon. the PRESIDENT:—"I have nothing to do with the merits of the question, and if I may say so, the hon. Member is perfectly right in taking that view. So far as the point of order is concerned, it is clear that the motion is not for the purpose of carrying out the decision of the House but for the purpose of enabling the Government to consider that decision. I, therefore, think it is out of order."

DEMAND XXXIX. GENERAL ADMINISTRATION—SECRETARIAT, ETC.

The hon. Sir CHARLES TODHUNTER:—"Mr. President, I beg to move for—

a grant of Rs. 34,950 under General Administration.

This grant consists of three items of which some difference of opinion exists as to the first, and little if any, I believe, as regards the two latter. So, perhaps, it will be convenient if I deal with them in the reverse order.

"In this order the first item is a small one of Rs. 3,400 for the continuance of the employment of the Publicity Officer and his staff until the completion of the piece of work on which he is now engaged. Hon. Members will see that we have gone further than other provinces or the Government of India in abolishing our Publicity Board. After a discussion with the Finance Committee, however, we thought it wise to carry on the staff to the end

[Sir Charles Todhunter]

[29th March 1923]

of the current year and we now ask for permission to carry it on for another month and a half to complete a particular piece of work. That particular piece of work consists of the preparation of a Madras Year Book, and it is perhaps right that I should explain to the Council how we came to undertake this. The Council are aware that for many years past Government officers and others have depended for a large amount of miscellaneous information upon a '*lal khitab*' known as the *Asylum Press Almanac*, of which we used to subscribe for a large number of copies. Of late, however, this publication has fallen on evil days, and last year it was so badly put together that we were compelled to give the compilers notice that we could not continue to subscribe to it. We understood that that meant that it would cease publication, and we thought that it would be for the public benefit if the Publicity Bureau were to put together a Madras Year Book on lines which would be more useful to the public in general. I need hardly say that there was no intention of making this a regular Government publication. What we wanted to do was to get together the basis of a useful work of reference, in the hope that private enterprise would thereafter take it on. When the work was too far gone to be abandoned and a number of orders for copies and advertisements had already been booked, we learned that another firm had embarked on the publication of the *Lawrence Asylum Press Almanac*, which we thought was defunct, and they are now advertising it as the only authorized directory. I need hardly say that I am very sorry that this competition should have arisen and that we should have been only too glad to stand down if we had had any timely assurance that the *Asylum Press Almanac* was to be continued in a shape that would be useful to Government officers. As matters stand Government would not only lose what they have expended by withdrawing their year book, but I think the public would also lose what I hope will be the basis of a very useful annual publication in future years. In these circumstances we have thought it best to go on and we ask for a further grant of Rs. 3,400. The Publicity Officer believes that this will be more than covered by the sale proceeds of the book.

"To come now to the second item, namely, the Commercial Accountant, hon. Members are aware that we are anxious to get our commercial concerns put on a business basis, the present account arrangement under which the income of a concern cannot be used for immediate expenditure being such as to render proper accounting almost impossible. This is no new question and, in fact, it has been under discussion since 1915. Meanwhile the Government of India have been working on parallel lines and have employed one of the largest firms of Chartered Accountants in England to assist them. They first lent us some officers from this firm, and since September last we have had an officer trained by them engaged in taking up our commercial concerns one after another and drawing up profit and loss accounts and accounts of their assets and liabilities. He has now dealt with five of these concerns and has still a large number to attack.

"So far, since his employment under this Government, his salary has been paid through a charge levied upon the concerns audited. This is an arrangement which the departments concerned would like to see altered and at the same time one which is likely to create difficulties where, for instance, the officer is on transfer from one concern to another or on leave for a short period or advising the Government on matters connected with his work. On the whole, therefore, it seems to be best to ask the Council to agree to his employment as a whole-time officer for the space of one year, and as the

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other departments concerned are not anxious to bear his charges, it is proposed to debit them to the Finance Department. It is hoped that we may secure a contribution towards his salary from the Auditor-General, who is responsible for the auditing of the accounts, and at the same time it would not be unreasonable to charge the various concerns with the fees which would be leviable from them if they were limited companies and had to get their books audited under the Companies Act.

"I hope that in these circumstances the Council will agree to this grant which is really a provision for the continuance of an existing and a very necessary arrangement.

"I now come to the question of the Director of Office Systems, in regard to which, as there are motions for reduction on the paper, I shall be as brief as possible in these opening remarks. What I desire to say is that, much as they regret it, the Government loyally accept the decision of the Council that this office should come to an end. All that they are now asking for is a small grant to wind up the work that is actually in hand. Perhaps I may borrow again the metaphor of an hon. Member of the front Opposition Bench who opposed the original grant. He compared himself to a gardener who economized wages on the garden by neglecting to water the fruit trees which it contained. That policy being imposed upon us, we must accept it. But we have watered the trees up till now and there is rare and refreshing fruit upon them which will ripen in the next few months. I ask the Council to let us continue watering until that fruit has ripened and been gathered, after which we will do their bidding and cut down the trees.

"The question is how long this ripening will take. As to that, I hope I may be permitted to say that I left myself absolutely in the hands of the Finance Committee, who know a good deal about the work that has been done. Their suggestion was six months and I have accordingly put on the paper a motion for half the provision originally asked for.

"I have already wearied the House with a long account of the work that has been done and is being done, and I do not think the House will wish to listen again to a long catalogue of what is still in hand. But I have one here and can give the details if any hon. Member so wishes. I can assure the House that there is work in hand, the completion of which will fully occupy six months. In fact, it might easily take more if we permitted it. But I can assure them also that we are not going to permit it, that we are going to close down, and if we find that we cannot do so without leaving some branches incomplete, we shall leave those branches incomplete, only taking steps to ensure that the work is rounded off at some convenient stage and not left in a state of chaos as it will be if we abolish the whole staff with effect from next Saturday night."

Mr. V. P. PAKKIRISWAMI PILLAI:—"Mr. President, Sir, I move—

For the reduction of the allotment of Rs. 34,950 for General Administration by Rs. 10,420.

"It is only the other day that this House permanently voted for the abolition of this Director of Office Systems. Even now it is a matter of doubt whether the question can be reopened to the extent of moving a supplementary grant for retaining him for six months. I really cannot understand why the hon. the Finance Member should be so solicitous of retaining this officer for another six months. This gentleman being

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pensioned officer, the question of giving him notice of six months or anything of that sort does not arise. We can dispense with his services at any time without giving notice. If we have a mind to do it, we can close his office within 15 days. Once we have abolished the post, the question of keeping it open does not arise. If any attempt is made by any officer to retain his services, such officer should be held responsible by this House for the expenditure incurred, and the expenditure should be collected from him. The Finance Committee should not have the final word to say in such matters. The question should come up before the House.

"I should like to draw the attention of the House to the Finance Member's arguments about the necessity of retaining this officer.

11-30 a.m. "The hon. the Finance Member in his speech on 15th March 1923 said :

If the issue of orders would have done all that was needed, we should have saved lakhs of rupees long ago. The trouble is that it is not sufficient to issue orders. You have to see that they are carried out.

"Perhaps the Director of Office Systems should go along with a Government Order and see that it is carried out. I think that if the departments are not able to carry out the Government Orders without the help of the Director, they ought to be warned or punished if necessary for neglect of duty. I may also say that many communal resolutions have been passed by this House and Government Orders respecting them have been issued by the Government. Perhaps the Government would like to have another Director appointed to go and see that every departmental head carries out these orders (laughter). If they don't carry out the orders, bring them to book and let action be taken by the Government. The other day, my hon. friend, Mr. A. T. Palmer, drew the attention of the hon. the Finance Member to the fact that when a post of superintendent in one of the Secretariats fell vacant, it was given to a Brahman. I presume it refers to the Law Department. Here the Under Secretary is a Brahman, the Assistant Secretary is a Brahman and all the superintendents are Brahmans and when the post of a superintendent fell vacant, it was also given to a Brahman."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—" May I know, Sir, whether all this is relevant to the discussion ? "

The hon. the PRESIDENT :—" I myself do not quite see the relevancy of the communal Government Orders in this connexion. At present the hon. Member should confine his attention to these three items, viz., Director of Office Systems, Commercial Accountant, and Publicity Officer."

Mr. V. P. PAKKIRISWAMI PILLAI :—" I object to the continuance of the Director of Office Systems. The hon. the Finance Member says that when a Government Order is published, the Director has to go and see that that Government Order is carried out. If that be the case, we want another Director to carry out the Government Orders on communal representation.

"I want to point out the way in which we are treated by the hon. the Finance Member. It is an insult to the Members of this House. We are asked to vote for six months' pay of the Director of Office Systems when we have rejected the proposal to continue him. Another point is, I cannot understand how the Members of the Committee allowed the hon. the Finance Member to bring in this proposal. I think we ought to be careful hereafter in electing the Members of the Finance Committee."

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Rao Bahadur T. A. RAMALINGA CHETTIYAR :—" Sir, I wish to say a word as a matter of personal explanation. Apparently there has been some misunderstanding in the Finance Committee. On a particular day, when this matter was placed before us, only information as to what the Government wanted to do was placed before us, and we never thought that our opinion was asked for."

The hon. Mr. C. P. RAMASWAMI AYYAR :—" Sir, I desire to raise a point of order, viz., whether the proceedings of the Finance and other Committees can be referred to in this House, as apart from the published results."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—" I should like to know, Sir, what the particular statement is to which my hon. friend takes exception, so that we may know what the point of order is."

The hon. the PRESIDENT :—" If I understand it aright, the hon. Member, Mr. Ramalinga Chettiyar, referred to a particular phase of the proceedings of the Finance Committee. He said that on a particular day on which a certain matter was disposed of, certain things took place, and he was proceeding to tell us what they were."

Rao Bahadur T. A. RAMALINGA CHETTIYAR :—" What I said was this : the hon. the Finance Member made a statement that the Finance Committee approved of this thing or itself suggested it. I was going to explain what actually took place."

The hon. the PRESIDENT :—" Have the proceedings of the Finance Committee for that day been placed on the table of the House ? "

Rao Bahadur T. A. RAMALINGA CHETTIYAR :—" Then, Sir, the hon. the Finance Member's reference to them will also be out of order."

The hon. the PRESIDENT :—" Unfortunately the hon. Member did not raise that point earlier. If he had done so, he would have known whether the hon. the Finance Member was in order or not."

Rao Bahadur T. A. RAMALINGA CHETTIYAR :—" My difficulty is this, Sir. You yourself, Sir, decided on a previous occasion that proceedings of Committees of this House are not confidential and may always be referred to in the House. That is the reason why I did not raise any objection when the hon. the Finance Member made the statement ; and it is for you, Sir, to consider whether, after having allowed that statement to go in, it is not fair to allow me also to make my explanation."

The hon. the PRESIDENT :—" I quite sympathise with the hon. Member in his position. I think about a year ago I did say that the House could not be shut out from a knowledge of its own proceedings. I said so because I thought the Government were bound to place the proceedings of the Committees on the table of the House. They cannot withhold these proceedings. It was to enforce that point that I said so. Since then, the Government have accepted the view and have been placing the proceedings of Committees regularly on the table of the House."

The hon. Sir CHARLES TODHUNTER :—" May I say, Sir, that when I referred to the proceedings of the Finance Committee, I thought they had been laid on the table of the House ? I have a proof of those proceedings in my hand and I have just ascertained that they have not been placed on the table. In these circumstances I must apologise for having referred to them."

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The hon. the PRESIDENT :—“ Now that the proceedings of committees are being regularly laid on the table, I think it will be convenient if hon. Members make it a practice to refer to those proceedings that have been laid on the table and to what is contained in them and not go beyond them. Otherwise, we shall be landing ourselves in endless trouble and a Member could get up and say ‘ it is true that this is the language of the Committee’s report, but I thought otherwise ’; the Finance Member himself said so and so and so on. Then the question will be to find out what exactly took place. My own impression is that these proceedings of Committees should not be referred to at all till they are laid on the table and they should be laid on the table very promptly. If the Government do not lay them very promptly, the House has got the means of enforcing its wishes in the matter. They can be referred to only to the extent to which they are laid on the table; that is to say, only the facts contained in them should be referred to, and we should not go, if I may say so, beyond the four walls of those proceedings; because, once the House proceeds to do that, I think it will get into a great deal of difficulty.”

Mr. V. P. PAKKIRISWAMI PILLAI :—“ What I submit to this House is this : The Finance Committee should not have sanctioned more than what is necessary for one month’s pay. The present Finance Committee seems to be so very agreeable to the hon. the Finance Member.”

The hon. Sir CHARLES TODHUNTER :—“ Is the hon. Member in order, Sir, in referring to the relations that obtain between the Members of the Finance Committee and the Finance Member in Committee ? ”

The hon. the PRESIDENT :—“ Did I understand the hon. Member to say that the Members of the Finance Committee were very pliable ? ”

The hon. Sir CHARLES TODHUNTER :—“ Very agreeable.”

The hon. the PRESIDENT :—“ Yes, ‘ very agreeable ’; that is the term he used. I think there is no harm in saying that. It is a compliment to the hon. Member” (laughter).

Mr. V. P. PAKKIRISWAMI PILLAI :—“ I think, Sir, the Members of this House should be more careful in future in electing the Members of the Finance Committee.”

Mr. T. SIVASANKARAM PILLAI :—“ I rise to a point of order, Sir. These demands for supplementary grants are regulated by instructions Nos. 105 and 106. Instruction No. 105 says :

When money has been spent on any service for which the vote of Council is necessary during any financial year in excess of the amount granted for that service and for that year, a demand for the excess shall be presented to the Council by the Finance Member and shall be dealt with in the same way by the Council as if it were a demand for a grant.

“ Of course, that is not applicable here. Instruction No. 106 runs thus :

(1) An estimate shall be presented to the Council for a supplementary or additional grant when (i) the amount voted in the Budget of a grant is found to be insufficient for the purposes of the current year.

“ I lay emphasis on the words ‘ current year ’, because we are now dealing with a grant which is required not for the current year but for the next year. This grant may very well be moved on Monday next when we will have no trouble about this ‘ current year ’. If we discuss this item now, it will be against this rule. So, what I would suggest is that these demands, if they are to be moved at all, may be moved, to bring them within the rule, during the next year for which the expenditure is intended.”

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The hon. the PRESIDENT :—“ I think the word ‘ current ’ here refers to the year for which the original estimate was framed. So, there is really nothing wrong here. It is quite all right.”

The hon. Sir CHARLES TODHUNTER :—“ I submit, Sir, these are not supplementary grants. These are further grants. This is the tenth day of the days allotted by His Excellency the Governor for the moving of further grants.”

Mr. C. V. VENKATARAMANA AYYANGAR :—“ I rise to another point of order, Sir, as to whether this sum that is now asked for is only for the purpose of winding up the work. You will notice, Sir, that the money wanted is not merely for the existing establishment but also for additional establishment. The money wanted is for the officer and also a number of inspectors to serve under him together with their travelling allowance. This sum is required not only for winding up, but also for additional establishment. Further, they say that they want six months’ time for winding up. They may as well say that they want eleven months and twenty-nine days for winding up and afterwards ask for provision for one day.”

The hon. the PRESIDENT :—“ I may mention that when I heard the hon. the Finance Member’s speech, I did feel that he was quite within his rights. From what he said, my impression was that the money was for winding up. Whether it is right or wrong, I cannot say. But I do not think I can over-rule him as I did in the case of Sir Muhammad Habib-ul-lah Sahib with reference to the previous demand. After the speech the Finance Member had made in moving for a grant of Rs. 34,950, I felt that he was within his rights in moving for the grant. Whether in addition to his being within his rights, he is also administratively right is a different matter with which I have no concern.”

Diwan Bahadur M. KRISHNAN NAYAR :—“ Sir, the hon. the Finance Member has told the House that the Government have decided to accept its decision on the abolition of the Director of Office Systems. Nevertheless, he asks now under this head for a grant of Rs. 11,550, and that for the purpose of winding up his office. He states also that it is necessary to keep this office for another period of six months for winding it up. I submit, Sir, that it is absolutely unnecessary to keep it for another six months for the purpose of winding it up. But I shall have no objection to one-sixth of that sum being granted, viz., Rs. 1,925. I may be permitted to say that it is absolutely unfair to the House that the hon. the Finance Member should now come and say that it will take six months for winding it up. In other words, he is asking the House to reconsider its own decision. The House has a dignity of its own to keep, and if it is to go back upon the resolution which it passed only two days ago, I submit it would be stultifying itself. Therefore, consistently with our self-respect and with the self-respect of the House, we should reject this demand.

“ With reference to the sum of Rs. 1,925, that is one-sixth of Rs. 11,550, and with reference to items 2 and 3, i.e., grant for Commercial Accountant and grant for Publicity Officer, I do not see any objection, and they may be given.”

Mr. C. V. VENKATARAMANA AYYANGAR :—“ Sir, I am very much flattered by the Finance Member referring to my metaphor about the garden and the

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gardener. He used it in his speech when this grant was originally cut off, and after hearing the usefulness of having a gardener to water the trees that are likely to bear fruit, we thought that the cost of gathering the fruits would be higher than the value of the fruits themselves and that it was better that the trees should be cut away at once. That point was fully discussed last time and a decision was arrived at. As for the difference in figures, they want now Rs. 2,000 per month for six months, whereas the original allotment was Rs. 1,000 last month. Their reason is that they want additional establishment before winding up the office. The Government do not seem to be dealing with the House fairly in asking for this grant.

"Now, so far as the Agency was concerned, this House came to the conclusion that a cut of five lakhs might be made; but the hon. the Finance Member says in his new memorandum that our arguments were inaccurate and misleading."

The hon. Mr. A. R. KNAPP:—"May I rise to a personal explanation? The expression used was 'by certain inaccurate and misleading calculations'."

Mr. C. V. VENKATARAMANA AYYANGAR:—"Calculations lead to arguments, Sir. Whatever it may be, we are once for all to go into the whole question and come to a conclusion whether it is right or wrong. I simply say that we discussed the whole question and came to the conclusion that this officer was unnecessary. I am afraid, Sir, when the new Council comes into being, the Government will ask for another six months for further winding up. The Government motion does not seem to be fair. Therefore, I appeal to the House to be consistent with their self-respect and vote against this grant by a larger majority than last time."

Rao Bahadur O. TANIKACHALA CHETTIYAR:—"Mr. President, I crave your indulgence for mentioning certain circumstances however much it may not ordinarily be allowable to mention them; for the Finance Committee requires also to be protected against any attacks that may be made on it. My friend, Mr. Krishnan Nayar, referred to the fact that the winding up of the office need not cost anything."

Diwan Bahadur M. KRISHNAN NAYAR:—"What I said was that the Finance Member stated that it would take six months to wind it up. I said it certainly ought not to take six months."

Rao Bahadur O. TANIKACHALA CHETTIYAR:—"What I have understood as the object for asking for six months is to enable such inquiries as have been already initiated and which are in the process of completion. Otherwise, the labour and the money spent on such inquiries will be lost. Moreover, it has been said that with reference to the judicial establishments all over, there are some places where the clerks and other establishments are far more than necessary and in other places a little less. Therefore, we thought that to continue this inquiry and to make recommendations to the Retrenchment Committee, which is already sitting and looking into the matter, would be useful. It was, under these circumstances, that we were induced to permit the matter to be placed again before the House for its acceptance or rejection."

Rao Bahadur C. NATESA MUDALIYAR:—"Sir, Mr. President, I am a member of the Finance Committee, and I thank the Members here for having elected me to that Committee. We, the members of the Finance Committee, are guided by the materials placed before us, which I am sorry

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are not available to the whole House. I request the Council to trust us and think that we are trying to do all that we can do in its interests. Sir, here was the Director of Office Systems, who, we were told, had given us a substantial saving. We were further told that it was expected that if he was allowed to continue for six months, he would show a substantial reduction. Under the circumstances, supposing we, the Finance Committee members, had refused to allow his continuance, the House would take us to task and say that we have not done our duty; they would say that if his services were continued for six months more, he would show us a great reduction of expenditure. Again, there is the Publicity Officer. He is in the middle of his work and he is getting orders and also advertisements for the Year Book. He has shown us that he has earned for us, after giving 500 copies free, an amount almost treble his pay. With these words, I request the House to trust us."

Khan Bahadur MUHAMMAD USMAN SAHIB Bahadur:—"Sir, as a member of the Finance Committee, I should also like to associate myself with what has been said by my hon. friend, Mr. Natesa Mudaliyar. From the materials that had been placed before us, we came to the conclusion that it would be more economical to give the Director of Office Systems a lease of another six months, because he was in the midst of very useful inquiries after the completion of which there would be a reduction in the expenditure of the Government. Therefore, Sir, we thought that, in spite of the fact that the House had voted against the appointment, it might reconsider its decision in view of the new materials that were placed before the Finance Committee."

Mr. C. V. VENKATARAMANA AYYANGAR:—"Sir, I am raising a point of order. The hon. Member is referring to what took place in the Finance Committee and not merely to some conclusions."

The hon. the PRESIDENT:—"I thought the hon. Member was referring to what they decided."

Mr. C. V. VENKATARAMANA AYYANGAR:—"He refers to what was placed before them."

The hon. the PRESIDENT:—"The proceedings of the Finance Committee have not yet been placed before the House. The major ruling I gave was that they should not at all be referred to for any purpose. It has been referred to by the hon. the Finance Member, and I could allow it."

Khan Bahadur MUHAMMAD USMAN SAHIB Bahadur:—"I would like that the question is reconsidered, because a number of useful inquiries will have to be made, and in the interests of retrenchment we should continue the Director of Office Systems for six months more. I therefore strongly appeal to the House to reconsider their decision in view of the fact that three members of the Committee have already expressed their opinion in favour of the continuance of the office for six months more."

Mr. C. E. WOOD:—"Mr. President, I rise to oppose the motion. I do not know the officer who has been holding the appointment which it is now proposed to abolish. I do not know whether the previous decision of the House to do away with this officer would lead to further economy in expenditure. The post deserves to be continued in view of the fact that economies to the extent of one lakh of rupees have already been effected. It seems to me, Sir, that in considering the question of the abolition of the post we

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should take into consideration the economies that he would be able to effect in future. It is the usual procedure in Government and other offices, when changes in the system are required and when economies are sought to be effected, that a man with a special knowledge is posted to look after the work. Any official can express any opinion upon a system himself, but it requires some expert authority to tell us which is the correct system. This officer has been appointed to a duty which requires an amount of study and experience; and we are told that certain plans have been made for further improvements. It will be absolute waste of money if these plans are not allowed to mature. In my opinion, it will take six months for further complete his labours. If hon. Members say that further economies need not be effected or that the previous plans will be of no avail at all, then there will be some justification for supporting this motion. I strongly recommend, Sir, that this place be kept open for a further period of six months, though it cannot be retained permanently as it seems to me it should."

12 noon. Mr. A. M. MacDOUGALL:—"I feel more in the Council to-day what I felt three years ago when out of it, because the proceedings remind me very much of an annual general meeting of a firm where the directors are taken to task by the various shareholders for not caring for economy. When this Madras Government fell on evil days and required to retrench, they could be likened to a very large firm with hundreds of branches and the first thing that struck them was that it was necessary to retrench, and that with a vast number of branches there was every possibility of a great deal of leakage taking place. The Government very wisely appointed an official to examine the various office systems, and, if possible, economize in several other things and so save money. The record of that official, as the Council is aware, is a very good one. We do not require Government papers to see what economies have been effected. A number of Government officers occupying bungalows, paying huge rents, have been brought down into Government buildings, and that is only one item. The Director of Office Systems has gone so far, but he would go further still. He is more or less in the position of the liquidator of a firm who is trying to save it as much as possible giving the shareholders as great a return out of the assets left as he possibly can. Those who are in the Council can be said to be in the position of angry shareholders who for some particular purpose are wishing to cut down the liquidator's action shortly and say: 'Cut him off, one minute, let things go ahead.' As the office has been in existence for 12 months and no one ever knew in this Council that it would be cut off, no provision has been made to carry out the Director's projects. There are bound to be many of them on the table that still require his careful investigation, and if you cut him off, as has been suggested, to-morrow night and leave the things on the table to take care of themselves, where will the poor shareholders be? I think that is not the wish of the House, and I very strongly support the hon. the Finance Member."

Dr. P. SUBBARAYAN:—"Mr. President, I am sorry that my hon. friend, Mr. Pakkiriswami Pillai, characterized the members of the Finance Committee as being agreeable to the Finance Member. I should say, Sir, that what duties are considered agreeable by my hon. friend might be disagreeable to the Finance Member. Mr. Tanikachala Chettiyar has said that the Director of Office Systems has before him certain enquiries which it will take

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sometime before he can complete, and I think that it is but right that he should be allowed to continue these things so that the Government may have the full benefit of the economies that he can effect. Moreover, I know there are a number of people in the House who feel that they have committed a fault in having cut off the item. If they are coming to the conclusion that they have actually committed a fault, I think, Sir, it is really a sign of great by acknowledging their fault. I think, Sir, it is more than human to recognize greatness to accept a fault. No doubt, it is more than human to recognize that we have committed a fault, but, I think, by doing so we shall be showing not only to the country at large but also to the Government that we are willing to recognize that we have committed a fault and to go back on our decision."

Rao Bahadur A. S. KRISHNA RAO PANTULU:—"Sir, I rise to support the motion of my hon. friend, Mr. Pakkiriswami Pillai, for a reduction of this grant, making provision for the contingent establishment for a month. We are somewhat handicapped in the decision of this question owing to the attitude taken by some of the members of the Finance Committee. The hon. the Finance Member himself told us in the beginning that he accepted the decision of the House and that he required a period of five months for practically finishing up the work taken up by him. It is in the light of that statement that you, Sir, were pleased to give the ruling that he was not out of order in raising the question. But the discussion that has subsequently taken place and the statements made by certain members of the Finance Committee have suggested a reconsideration of the decision of this House, and not for a provision being made for the winding up of the business of the Director of Office Systems."

The hon. Sir CHARLES TODHUNTER:—"May I ask what the hon. Member is referring to? I have not heard any speech asking for an extension for more than six months."

Rao Bahadur A. S. KRISHNA RAO PANTULU:—"Sir, the speech of Dr. Subbarayan suggests no other inference. He even stated that though it was more than human to accept that one had committed an error, it was open to the Council if it felt that it had committed an error to correct itself. I can also point to the remarks of Mr. Usman Sahib, which were intended or calculated to support the same view. The speech of Mr. MacDougall left the same impression. While the hon. the Finance Member was not suggesting a reconsideration of the question, the discussion which has so far taken place has shown a desire on the part of some hon. Members, especially those who have the privilege to be in the Finance Committee, to suggest a reconsideration of the question. That point, Sir, is covered by the ruling already given that it is not open to the House in the first instance to reconsider the decision. That is the first point that I wish to refer."

"The second point that I wish to bring to the notice of the House is that there is absolutely no ground for suggesting that the decision was wrong and that on the merits it deserves reconsideration. Before we proceed further, may I draw the attention of this House to the fact that even in the explanatory note presented by the hon. the Finance Member there is no specific suggestion that this provision is required for the purpose of definitely winding up? I shall read the note—

The vote of the Council cancelling the whole of the allotment on account of the Director of Office Systems and his establishment is one which it is not practicable to give effect to since

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the staff have earned their pay for the month of March, which forms part of the allotment which has been cut out. A supplementary grant is therefore inevitable. In proposing it, the Government have thought it well to ask for a half-year's provision or Rs. 11,550 in order to provide, in addition to the pay for March, for continuance of the staff for a period sufficient to enable the schemes in progress in connexion with the retrenchment question to be completed. This seems to be desirable in the interests of economy, and in view of the circumstances under which the vote was taken, the Government consider that it is likely that the Council will be prepared to accept the proposal.

"By eliminating the provision for the Director of Office Systems, the House should not be under the impression that it is not willing to have the retrenchment proposals completed. There has been a Retrenchment Committee and a Retrenchment Secretary who are still working in that direction. If the Government should consider that their efforts are to be made in that direction the Council will be quite willing to consider any proposals, but to state that this office is necessary for the purpose of carrying out retrenchment proposals is neither fair nor just."

The hon. Sir CHARLES TODHUNTER:—"May I rise to make a personal explanation, Sir? The hon. Member says that the provision asked for is not for winding up the business. I can see no distinction between 'winding up a scheme' and 'carrying a scheme through to completion'. I have not asked for anything more than what you, Sir, were pleased to rule was in order."

Rao Bahadur A. S. KRISHNA RAO PANTULU:—"I am not questioning the ruling given, Sir. But I should point out that there is a difference between taking steps merely for the purpose of winding up the business and taking steps for the purpose of carrying on the work sometime longer."

The hon. Sir CHARLES TODHUNTER:—"May I ask the hon. gentleman to quote me correctly?"

Rao Bahadur A. S. KRISHNA RAO PANTULU:—"There is no question of quoting or misquoting my hon. friend, Sir. I am putting my own interpretation on the passage that I just read from the explanatory note of the hon. Member. Not that I wanted to paraphrase it, but I am putting my own construction on it."

"Sir, having said that, I would appeal to this House not to be carried away, with due respects to the members of the Finance Committee, by the suggestion that we have to reconsider the proposal. I have great respect for the members of the Finance Committee and I may assure my hon. friend, Mr. Natesa Mudaliyar, that we have every confidence in them. But, Sir, if we cannot permit either the Government or the hon. the Finance Member to ask us to reconsider the question, we will be stultifying ourselves if we permit our own members in the Finance Committee to reconsider the question. If we are agreed that there is no room for reconsidering the question, our duty is to accept the motion which suggests that provision for a month be retained."

Mr. V. P. PAKKIRISWAMI PILLAI:—"Sir, the members of the Finance Committee say that with the materials placed before them they could not arrive at a better conclusion than what they have. My belief is that all the materials required for sanction have been placed before the Committee, for the Committee would not have passed it if it were otherwise. This officer seems to have served in some other department and has recently retired. When he is found to be of little use in one department because of his

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age-bar, he cannot be of any use in this new office. As my hon. friend, Mr. Arumainathan, has said, public servants were efficient even before the Director of Office Systems came into existence, and I think the dignity and self-respect of this House demand that we should not reconsider the decision."

The hon. Sir CHARLES TODHUNTER:—"Mr. President, may I say at the outset that the very last thing that I had in my mind in moving this motion was to do anything in any way to affront the dignity or self-respect of this Council? I was very careful to say that we entirely intended loyally to carry out the conclusion the Council arrived at, namely, that this office should come to an end. But as Mr. MacDougall has said, you cannot suddenly and without warning wind up an enquiry within 48 hours, and not lose money in the process. The hon. mover's method of securing economy and maintaining the dignity of the Council was, so far as I could understand him, to replace this officer by a Director of Communal Representation, to which he added the further recommendation, if I understood him correctly, that the Council should elect the five or six most disagreeable gentlemen they can find to sit with the Finance Member and make his life a burden to him."

"Well, Sir, I do not think that these proposals will appeal to the Council as either dignified or business-like. He has said that the members of the Finance Committee are very agreeable to the Finance Member. I acknowledge, with the greatest possible gratitude, that our relations have been of the very best. But when I say that the Committee are very agreeable, that is altogether a different thing from saying that they are very pliable, or that they give way to the Finance Member every time. I do not wish to refer to the discussions as to what took place in the Finance Committee, but I do wish to lay stress on one point. The Finance Committee are the people who study every proposal for expenditure that comes up. The Finance Committee have held over 50 meetings this year, going into matters in detail, and as a result the Finance Committee are the people who know. That is the reason why the Finance Committee are people whose opinions should be given some consideration. There is hardly a member of the Finance Committee here who has not come forward now to assure the Council that the result of the study of the subject by him is that this officer is saving Government money."

Rao Bahadur T. A. RAMALINGA CHETTIYAR:—"If the hon. Member refers only to those members who have spoken, I have nothing to say. But if he means that all the members of the Finance Committee are of that opinion, I have to disagree with him. In fact, I am going to vote against this demand being granted."

The hon. Sir CHARLES TODHUNTER:—"I said, Sir, that the Finance Committee consist of the people who know. Do I understand that my hon. friend wishes me to make him an exception to that statement?"

Rao Bahadur T. A. RAMALINGA CHETTIYAR:—"Knowing does not always mean agreeing. It may also mean disagreeing with any particular matter."

The hon. Sir CHARLES TODHUNTER:—"Well, Sir, some reference has been made to the question of winding up. What we asked for in the note was time for the completion of the enquiries that are now in progress. But, as Mr. Tanikachala Chettiyar has very clearly put it, the winding up of an

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enquiry is different from the winding up of an office. Even the winding up of an office is not a matter to be done in 48 hours, if the papers are to be left in a state in which other officers can take them over and handle them. The officer in charge should be given at least a fortnight's time to sort the papers, and the Government should be given some little time to find out to whom they are to transfer the enquiries and to allow time for the officer conducting the enquiries to pass them on to the people who are to conduct them in the future; so that this one-month proposal would be exceedingly hard both on the officer and on the Government, because it would mean that the officer must go out on Saturday night, the interval being composed of holidays, and leave his papers exactly as they are at the present moment. What, however, we have asked for is time, not only to wind up the office, but also to complete enquiries which are in progress and not to undertake anything new.

"I quite see Mr. Venkataramana Ayyangar's point about the new expenditure and will only say with regard to it that it was merely for the sake of simplicity and following the motion which was tabled by Mr. Muniswami Nayudu on the last occasion that I took exactly one-half of the figure first asked for. The sum in issue is not large, but I could, of course, cut off a small amount on account of the inspectors of stationery if that was desired.

"Then, Sir, it has been stated that we are asking the House to reconsider by coming forward with fresh grants and that really this is an endeavour to keep the officer on right through the year. I venture to repudiate that statement. The office cannot be continued without a supplementary grant. Nobody can come forward for a supplementary grant except the Government, and I have given the House an assurance that the Government are not going to do so.

"It is also suggested that the crop of these fruit trees is not going to be worth the wages. I have offered to the House a balance sheet to show that they have been covered many times over, and I promise them that the very moment the office ceases to pay, the wages will cease. We only want to carry through the enquiries which are now in hand, and I can assure the House that every one of them will end in much economy to Government."

A poll was taken on the motion with the following result:—

Ayes.

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| 1. Rao Bahadur T. A. Ramalinga Chettiyar. | 19. Rao Bahadur A. S. Krishna Rao Pantulu. |
| 2. Mr. S. T. Shanmukham Pillai. | 20. C. V. S. Narasimha Raju. |
| 3. Rao Sahib S. Ellappa Chettiyar. | 21. Mr. T. Siva Rao. |
| 4. Diwan Bahadur M. Krishnan Nayar. | 22. C. V. Venkataramana Ayyangar. |
| 5. Mr. C. Ramalinga Reddi. | 23. Diwan Bahadur R. Venkataratnam Nayudu. |
| 6. W. Vijayaraghava Mudaliyar. | 24. Mr. M. Suryanarayana. |
| 7. J. Kuppuswami. | 25. Rai Bahadur T. M. Narasimhaachari. |
| 8. B. Muniswami Nayudu. | 26. Rao Sahib U. Rama Rao. |
| 9. A. T. Muttakumaraswami Chettiyar. | 27. Mr. R. Srinivasa Ayyangar. |
| 10. V. P. Pakkiriswami Pillai. | 28. M. R. Seturatnam Ayyar. |
| 11. P. T. Rajan. | 29. T. Arumainatha Pillai. |
| 12. W. P. A. Seandarapandiya Nadar. | 30. A. Ranganatha Mudaliyar. |
| 13. B. K. Shanmukham Chettiyar. | 31. T. Sivasankaram Pillai. |
| 14. T. Somasundara Mudaliyar. | 32. Sri M. V. Apparao Bahadur. |
| 15. A. Subbarayadu. | 33. Mr. K. Prabhakaran Tampam. |
| 16. V. C. Vellingiri Goundar. | 34. Ahmad Miran Sahib Bahadur. |
| 17. Diwan Bahadur M. Ramachandra Rao Pantulu. | |
| 18. L. A. Govindaraghava Ayyar. | |

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Noes.

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| 1. The hon. Sir Charles Todhunter. | 19. Dr. P. Subbarayan. |
| 2. Khan Bahadur Sir Muhammad Habib-ul-lah Sahib Bahadur. | 20. Diwan Bahadur K. Suryanarayanamurti Nayudu. |
| 3. the Raja of Panagal. | 21. P. Kesava Pillai. |
| 4. Rai Bahadur K. Venkatarreddi Nayudu. | 22. Sir P. Desika Achariyar. |
| 5. Rao Bahadur A. P. Patro. | 23. The Raja of Ramnad. |
| 6. Mr. A. R. Knapp. | 24. Muhammad Abdur-Rahim Khan Sahib Bahadur. |
| 7. Mr. C. P. Ramaswami Ayyar. | 25. Khan Bahadur Muhammad Sadulla Badsha Sahib Bahadur. |
| 8. Mr. E. S. Lloyd. | 26. Haji Abdulla Sahib Bahadur. |
| 9. A. Y. G. Campbell. | 27. Khan Bahadur Muhammad Usman Sahib Bahadur. |
| 10. C. Madhavan Nayar. | 28. Rao Bahadur M. C. Madurai Pillai. |
| 11. Diwan Bahadur T. N. Sivagnanam Pillai. | 29. Rao Sahib P. Venkatarangayya. |
| 12. Mr. E. F. Thomas. | 30. Mr. A. M. MacDougall. |
| 13. E. Periyannayagam. | 31. Rao Sahib Sir M. C. T. Muttayya Chettiyar. |
| 14. A. Ramaswami Mudaliyar. | 32. Rao Bahadur T. Numbermal Chettiyar. |
| 15. Rao Bahadur P. C. Eibirajulu Nayudu. | 33. Mr. C. E. Wood. |
| 16. O. Tanickachula Chettiyar. | |
| 17. C. Natesa Mudaliyar. | |
| 18. Mr. S. Somasundaram Pillai. | |

The motion was carried, 34 voting for and 33 against it.

The demand *minus* the reduction was then put and the grant was made.

DEMAND XL. POLICE.

The hon. Mr. C. P. RAMASWAMI AYYAR:—"Sir, I move for a grant not exceeding Rs. 25,000 under Demand XL. Police.

"I hope this will be a non-controversial matter. The provision for Plague Police had to be taken away owing to the decision of the House on a previous occasion. But 21 local bodies now require this to be restored as they feel that this provision is necessary for the purpose of guarding the evacuated houses. The memorandum explains itself.

The demand was put to the Council and passed. The grant was made

DEMAND XLI. EDUCATION—NON-EUROPEAN.

The hon. Rao Bahadur A. P. PATRO:—"Sir, I beg to move for a grant not exceeding Rs. 23,000 in addition to Grant XVII already sanctioned by this House. The reasons for this demand are explained in the memorandum."

Rao Bahadur C. V. S. NARASIMHA RAJU:—"Sir, I beg to move—

To reduce the allotment of Rs. 23,000 for Education (Non-European) by Rs. 100.

Mr. President, the object with which I have given notice of this motion is to say that we are not satisfied with the reasons that are given in the memorandum. The House will remember well that all the reasons (1) to (9) were mentioned by the hon. the Minister when he moved sometime ago for a recurring grant of Rs. 65,000 for the University. The House will also remember that before the vote of the House was taken, he said that he was going to utilize the amount on every one of those items. Then, the question was raised whether it was a lump sum grant or whether there were details. I believe it is within the recollection of this House that every one of these details was given as the details that were before the Minister, and he said

[Mr. C. V. S. Narasimha Raju] [29th March 1923]

that those were the various objects required to be carried out by the University from time to time. With those objects, the demand was then placed before the House. But I am not able to understand why an additional sum of Rs. 23,000 is required now at this stage. Is it a case of miscalculation or wrong calculation, or has the University subsequently asked the Minister to find some more money for these very objects? Of course, some of us coming from the mufassal will always view additional grants for the metropolis with great jealousy and will require greater explanation. At least, it will be politic on our part to demand for more details and scrutinise all the grants for expenditure on the metropolis."

The hon. Rao Bahadur A. P. PATRO :—"Sir, after the grant was passed by the House at the time of the budget, certain items were again brought up, and we found that larger sums were needed under all these items. Therefore the probable amount is put in and a demand therefor has been made."

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—"Sir, if the hon. the Minister expected that this House should give an intelligent vote upon this question, I think it was his duty to have taken us a little more into his confidence and told us what exactly the requirements of these various Chairs were and of the studentships that he mentioned as the items with respect to which this additional amount was required. The House will remember that it is practically a recurring grant that we are now asked to vote for in this supplementary grant. As my hon. friend, Mr. Narasimharaju, has pointed out, the requirements on account of these various items which are specified in this Demand might have been present to the hon. Member's mind at the time when the original vote was taken and given. Now we are in the dark altogether as to what exactly the various sums are that are required, and it may be that the House is of opinion with respect to particular items or all of them, that more expenditure has been proposed to be incurred than is necessary. The House may be of opinion that in the case of some of these Chairs the amounts that are promised to their possible incumbents are far too low to attract the right quality of men. In those circumstances, it appears to me necessary for him to tell us exactly what the various details of the proposed expenditure are on account of these items; and in doing so, I take it that I am not asking Members of Government to do anything more than what is being done in the budget estimate of expenditure. If hon. Members will look into it they will find that not only the amounts, but also the various details thereof are given therein. But now we are asked to vote for a supplementary grant without being informed of what the exact amounts are that are expected to be required for the purpose of meeting these various items of expenditure. I believe the hon. Member himself will grant that my request is a perfectly reasonable one. I am perfectly in sympathy with the activities of the University being begun early and on a large scale and being made effective. But before we are sure that we are spending money for a good purpose and in the right direction, the House has to be told what exactly the amounts are that are required for these various items coming under heads 1 to 9, beginning with the Chair for Experimental Psychology, and ending with two studentships in Philology and Study of Languages and Literature according to modern critical methods."

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Rao Bahadur C. V. S. NARASIMHA RAJU :—"I have nothing to reply, Sir, except stating that I am not satisfied with the necessity for the supplementary grant."

The motion of Mr. Narasimha Raju for reduction of the grant by Rs. 100 was put to the House and negatived.

The Further Demand No. XLI. Education—Non-European—for Rs. 23,000, was then put to the House and carried; and the grant was made.

DEMAND XLII—LABOUR INCLUDING FACTORIES.

The hon. Mr. A. R. KNAPP :—"Sir, having regard to the observations that fell from you earlier in the day in regard to the point of order, I do not move 'Further Demand No. XLII' for a grant not exceeding 10,220 for Factories."

DEMAND XLIII. CIVIL WORKS (TRANSFERRED).

The hon. Rao Bahadur A. P. PATRO :—"Sir, I beg to move for a grant not exceeding Rs. 9,500, under Demand No. XLIII. Civil Works (Transferred). The explanation in connexion with this demand is given in the printed memorandum circulated to all hon. Members."

The demand was put to the House and carried and the grant was made.

DEMAND XLV. IRRIGATION—PUBLIC WORKS OFFICERS.

The hon. Mr. C. P. RAMASWAMI AYYAR :—"Mr. President, it will be noticed that this demand relates to schemes for capital expenditure in regard to Irrigation. The explanation given in the printed memorandum is perfectly clear, but I may add that there is a further project which will be put into operation, namely, the Kistna Anicut Shutters scheme which has not been included here because I expected to move for a supplementary grant for it later on when the necessity arose. I move for the grant not exceeding Rs. 1,76,000 under Demand No. XLV. Irrigation—Public Works Officers."

The demand was put to the House and carried and the grant was made.

DEMAND XLVI. LOANS AND ADVANCES BY THE PROVINCIAL GOVERNMENT.

The hon. Sir CHARLES TODHUNTER :—"Mr. President, I beg to move for a grant not exceeding Rs. 8,00,000, under Demand No. XLVI Loans and Advances by the Provincial Government for expenditure on Debt Heads. The sum is to be divided between the Port Conservancy Board, Tuticorin, which wants a sum of Rs. 3,00,000 for the Tuticorin Harbour, and the Madras Corporation, which wants Rs. 5,00,000 for the Mambalam Town-Planning Scheme. As I explained in opening these further demands for grants, these are two items of expenditure to be incurred out of Loan Funds, the amount which we have available from these funds having increased owing to the reduction in the deficit in the Budget. We had a total sum of 125 lakhs of rupees which we completely used up in the first instance. But now that we have got reduction in the deficit, we have included these two most urgent schemes which would together cost 8 lakhs."

Rao Bahadur C. V. S. NARASIMHA RAJU :—"Sir, I move that the allotment of Rs. 8,00,000 for Loans and Advances by the Provincial Government be reduced by Rs. 100."

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"Sir, the object with which I gave notice of this motion for reduction is to have information from the Government as to how the various local authorities are being treated in the matter of their loan applications. I believe Government have not got any definite policy in the matter of giving loans to local bodies, and I believe the Madras Corporation is treated with greater leniency than the local bodies. If the hon. the Finance Member will place before us information as to the applications that have been received from the various local bodies, how they are being dealt with, what amounts are being lent to various local bodies, and what proportion of the whole amount that is being lent to local bodies is being given to the Madras Corporation, the House will be in a better position to accept or reject this motion."

The hon. Sir CHARLES TODHUNTER :—" Mr. President, the hon. Member has moved a reduction of Rs. 100 out of two specific loans, and I have given information relating to them. But if he is going to ask me for figures which would involve a very considerable amount of preparation and calculation, I am sorry I cannot reel out on the spur of the moment all the figures he has asked for."

Diwan Bahadur T. N. SIVAGNANAM PILLAI :—" Sir, it is said that the scheme is pending final consideration. I wish to know whether it would be in order if we give a loan of 3 lakhs when the scheme itself is not finally settled. I want information on that point from the hon. the Finance Member, Sir."

The hon. Sir CHARLES TODHUNTER :—" May I explain, Sir, to the hon. Member that there is difference between a budget estimate and a specific sanction. This is only a proposal to put the amount in the budget estimate and to obtain the approval of the Council to our granting this loan if and when the time comes for giving a specific sanction after the completion of the necessary inquiry. The state of the matter is this. After a series of inquiries, a scheme has been arrived at, which has commended itself to the local Port authorities and the local Chamber of Commerce, whose meetings have just been held and a large volume of papers containing their conclusions and various suggestions is in circulation. As soon as the Government deal with that matter specific sanction will be given, if the Government approve of the scheme. If they do not approve the scheme, specific sanction will not be given and the loan will not be made."

Rao Bahadur T. NAMBERUMAL CHETTIYAR :—" Sir, I want just to say a few words in support of this demand. The harbour question was engaging the attention of the Government for a number of years and a special committee was appointed to go into the question of harbours. Leaving Vizagapatam alone which was considered as a separate scheme, Tuticorin was recommended as one of the best places to be adopted on the East Coast, and another place the name of which I just now forget on the West Coast. The harbour at Tuticorin has also been recommended by the Chamber of Commerce and the proposed further grant is necessary for this purpose.

"The second thing is the Mambalam scheme, and for the last two or three years this matter has been engaging the attention of the Town Planning Trust, but nothing has been done so far in order to give facilities for house-builders. The Corporation has come forward to take 600 acres of the land in the Mambalam scheme, and in order to enable it to finance the scheme,

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it has applied for this loan. Under these circumstances, I trust the House will not raise any objection against this grant."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—" Sir, with reference to the remark made by the hon. the Finance Member I should like to say that it is certainly not the object of my hon. friend who brought forward this motion to ask for exact figures as to the applications made by local bodies for loans. But the fact remains that there are very large numbers of applications, and I myself as also other hon. Members have received communications from the local bodies with which we are connected and in which we are interested for the purpose of financing many schemes of water-supply, drainage, etc. But the hon. the Finance Member says that he cannot give that information. Certainly, he is aware of the fact that these large numbers of applications are pending, and I think they have been turned down for some reason or another. I expect the hon. Minister in charge of Local Self-Government to give us some information whether it is so or not. As a matter of fact, I understand that a large number of applications have come to the Secretariat for loan. We are certainly entitled to know what has become of these applications, in what stage they are, how they have been dealt with, and so on. We see that the Madras Corporation and the Port Trust are picked out for being preferentially treated. We have been continuously protesting and urging in this House that though expenditure may undoubtedly be necessary for the metropolis, there are limitations even to this expenditure. We have a scheme connected with the improvement of the Cooum for about Rs. 14,00,000, and we do not know where we will be in making all these commitments. In Madras we have a University which is going to take up a considerable amount of money from this province, and considerable amounts are spent for Madras and its suburbs. I do not know what the conception of my hon. friend is as to what the Government should do for the rest of the province. I think it is for my hon. friend to say whether our complaint is justified or not."

The hon. the RAJA OF PANAGAL :—" Sir, my hon. friends seem to be jealous of the treatment that is accorded to the Corporation of Madras. The application for a loan by the Madras Corporation is in connexion with a scheme which is at once useful and profitable. It is expected that the Corporation will be able to repay the loan in the course of a couple of years.

"I know, Sir, that there are some applications from some mufassal municipalities and district boards for loans. But in most of these cases the difficulty is that the local bodies are not in a position to finance the schemes for which loans are required. If local bodies are in a position to place before the House schemes which they can finance, the Government will be glad to help them by advancing loans."

Rao Bahadur C. V. S. NARASIMHA RAJU :—" I must confess that I am not satisfied with what the hon. the Chief Minister has said. He says that the scheme for the Madras Town Extension is ready and it will be paid for. He also says that the mufassal local bodies are not able to finance their schemes. I am at a loss to understand why he should say that the local bodies could not finance their schemes. We all know that the Government have adopted a loan policy. The important question to be considered is whether any local body which has made an application for loan is not in a

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position to repay or has not got the financial stability to justify the Government to advance loans. I do not think that the hon. Minister asserts that none of the local bodies which have made applications for loans have the financial stability necessary to justify the Government to advance moneys to them. If that be the case it is an extraordinary proposition, and it requires a very careful examination at the hands of the hon. the Minister and the hon. the Finance Member. If such a statement were allowed to come forward from the Government without being challenged, it will create a very great consternation in the country."

Rao Bahadur O. TANIKACHALA CHETTIYAR :—" Sir, my hon. friends, Mr. Narasimha Raju and Mr. Ramachandra Rao, have raised the question why the Madras Corporation should get a loan. May I remind them that both of them were members of the Council which enacted the Madras Town-Planning Act? If the Act for the passing of which both the hon. Members were instrumental has to be worked out, the Madras Corporation needs the help of the Government. In pursuance of the provisions of the Act, a committee has been appointed by the Government to work out the details and their labours have proceeded far and long. They have devised some schemes for the expansion of the city of Madras which will add to the convenience and comforts of both the hon. Members among others whose presence in this House has added to the requirements of the city. The object of this loan is to enable the Corporation to provide by acquiring the adjacent lands sufficient accommodation and comfortable quarters for the residents of the city and thus increase the amenities not merely of its citizens but of other gentlemen who come here occasionally to contribute to its congestion. The Corporation offers to repay the loan not within a period of thirty years as some other local bodies do, but within a period of two years. From a business point of view, it is better to advance a loan to a person who offers to pay it back within two years rather than to one who offers to repay it within thirty years. Under these circumstances, I hope my hon. friends will not be unduly severe upon the Madras Corporation which is after all trying to provide for the convenience of the residents of the city."

The hon. Sir CHARLES TODHUNTER :—" Sir, with reference to what my hon. friend, Mr. Narasimha Raju, said about the consternation that will be created by reason of the hon. the Minister's announcement, I wish to explain a little further the policy of the Government in respect to loans to local bodies. Roughly speaking, we have two classes of loans. The first consists of loans for water-supply and drainage works which have already been referred to. The usual policy with these loans is what is generally known as the half loan and half grant policy. The local body comes up and asks the Government to assist in a scheme and the Government gives a grant of half and offers to lend the other half of the sum that is required to carry out the scheme. It is necessary that the local body should show that it can find the service of a loan of its own half. I do not know whether there are any schemes on their way through the office in which the local bodies have shown that they can find their own half of the amount required. I have seen several schemes lately in which the difficulty was that the local bodies could not find the service of the loan for their half of the cost of the work.

"The other case is where a local body wishes to embark upon capital expenditure. In the case of this sort we examine the normal revenue and

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the normal expenditure of the local body and see whether there is sufficient balance of normal revenue over normal expenditure to supply the service of the loan. Recently we have had one or two cases in which we have not had that normal balance. I do not know whether there are other cases on their way in which a normal balance can be found; but I am not aware of any large number of cases pending or awaiting disposal in the Government office."

The motion was by leave withdrawn.

The demand was put and passed and the grant was made.

IV

THE MADRAS HINDU RELIGIOUS ENDOWMENTS BILL, 1922—cont.

Clause 22.

Sub-clause (1).

(Amendment No. 116.)

Rai Bahadur T. M. NABASIMHACHARLU :—" Sir, I beg to move—

In item (b) (iv) between the words 'trustee' and 'of' insert the words 'or servant'.

"Sir, this clause relates to the disqualification of candidates and members of the committee. One of the disqualifications mentioned in item (iv) of this sub-clause (b) is being a trustee of a temple over which the committee has jurisdiction.

"What I wish to add is that the servant of a temple over which the committee has jurisdiction should not also be qualified to become a committee member. It is obvious that being a servant of the temple, he should be in a subordinate position and should not assume the role of a *committeedar* who has got the right of general superintendence over the temple and who has also got some control over the trustee under whom as a servant he is expected to serve. Under these circumstances, I think that a servant of the temple ought also to be disqualified from being a *committeedar*."

The hon. the RAJA OF PANAGAL :—" Sir, I am in entire sympathy with the object of my hon. friend's amendment. But the difficulty is that a servant may be either a salaried servant or a mirasi servant. I do not know whether my hon. friend wants the exclusion of merely salaried servants or mirasi servants also. If he makes his position clear, I will be able to tell him what the Government proposes to do in this connexion."

Rai Bahadur T. M. NABASIMHACHARLU :—" I am glad that the hon. the Minister has somewhat cleared the position. I mean only a salaried servant and not a mirasi servant."

The hon. the RAJA OF PANAGAL :—" If that is his object, I think the hon. Member might withdraw his amendment and allow me to move an amendment in less ambiguous language."

The amendment was by leave withdrawn.

(Amendment No. 117.)

The hon. the RAJA OF PANAGAL :—" Sir, I beg to move—

In item (b) (iv) between the words 'trustee' and 'of' insert the words 'or salaried servant'.

The amendment was put and carried.

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Clause 22—cont.

Sub-clause (2).

(Amendment No. 118.)

Mr. C. V. VENKATARAMANA AYYANGAR :—" Sir, I beg to move—

For the word 'reversed' substitute the words 'cancelled or reduced to a period of not more than six months.'

"I do not wish to say much on this amendment seeing how things are going on in this House. Though one is apt to be desperate with regard to these amendments, for my part, I am a little optimistic so far as this amendment is concerned and I hope that it will be accepted. My amendment is merely a formal one. It may happen that the lower court has sentenced a man to a very long term of imprisonment. On appeal the appellate court might consider the sentence to be too severe and might reduce it to a period of six months or a shorter period. To be consistent it is necessary that the decision of the higher court should be respected as much as the decision of the lower court. It is with the intention of giving effect to this that I move this amendment."

The hon. the RAJA OF PANAGAL :—" I do not quite see the difference which my hon. friend wants to make out. Anyhow there is no objection to accept the amendment of my hon. friend."

The amendment was put and carried.

(Amendment No. 119.)

Mr. R. SRINIVASA AYYANGAR :—" Sir, I beg to move—

After the words 'undergoing the sentence' insert the words 'or during the pendency of appeal or revision therefrom'.

"My amendment is intended to cover a particular class of cases which are likely to arise often. But as it is, sub-clause (2) of clause 22 limits the disqualification only to one class of cases. It does not seek to place any restriction upon a person who has been sentenced to transportation or to imprisonment for a period of more than six months and who is not actually undergoing the sentence. There are instances of a person sentenced to imprisonment but not actually undergoing the imprisonment by virtue of the appellate court or the court of revision suspending the operation of the sentence by enlarging the accused on bail. It is only to bring in such a class of cases within the scope of disqualifications that I move this amendment. I will illustrate the point to make my position clear."

The hon. the RAJA OF PANAGAL :—" Sir, the hon. Member need not trouble himself with illustrating his position. The Government are prepared to accept the amendment in a modified form. If the hon. Member would withdraw his amendment, the hon. Mr. Gopalaswami Ayyangar, will move the amendment."

The amendment was by leave withdrawn.

(Amendment No. 120.)

Rai Bahadur N. GOPALASWAMI AYYANGAR :—" Sir, I beg to move—

After the words 'undergoing the sentence' insert the words 'or during the period for which such sentence may have been suspended'.

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Clause 22—cont.

"Sir, what is apparently at the back of the mind of the hon. Member, Mr. Srinivasa Ayyangar, is that when a person who is sentenced to imprisonment appeals to the higher court, and, pending disposal of the appeal, he is enlarged on bail, he should not be allowed to stand for membership even during the period of the suspension of the sentence. That object will be better achieved by the language I have suggested."

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—" In the case of rigorous imprisonments, for instance, suspension of sentence generally means that even though the sentence is suspended, the man would still be in jail, but it will not cover the case of a person being on bail."

Rai Bahadur N. GOPALASWAMI AYYANGAR :—" May I explain that, Sir? I think it is my experience as a magistrate that where a person has been sentenced to rigorous imprisonment and, as an appellate Court, I suspend the sentence, I suspend not merely the rigorous nature of it, but the whole sentence. It may be that in particular cases an application may be made for suspending only the rigorous portion of the sentence in which case the man may continue to be in jail."

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—" Since my hon. friend appeals to his experience as a magistrate, I do not want to directly contradict him. But, unfortunately, if what the hon. Member said happens to be wrong and what I said to be right, then there is room for some mischief resulting. I therefore suggest for consideration the addition of the words 'or in abeyance' after the words 'may have been suspended'."

Rai Bahadur T. M. NARASIMHACHARLU :—" Sir, I wish to oppose the amendment moved by the Government. For, if that amendment were to find a place here, suppose a man is convicted and he is given a sentence of imprisonment for more than six months; after that he is released on bail and the election comes in; according to this sub-clause he will be disqualified for election when he is on bail. That is the nature of that amendment."

Rai Bahadur N. GOPALASWAMI AYYANGAR :—" That is the nature of Mr. Srinivasa Ayyangar's proposal, Sir."

Rai Bahadur T. M. NARASIMHACHARLU :—" When he is on bail and by the time the appeal is taken up and the sentence reversed and he is acquitted, the election would have gone off, and he would have lost the chance of being elected. Therefore, Sir, why should a disqualification be imposed here imaginarily which will have the effect of depriving him of his right to be elected to the office in case his sentence is reversed on appeal. Therefore, what the Government have originally drafted, viz., 'while undergoing the sentence', etc., will do and let us not also extend his disqualification to the time when he is on bail after which he may be acquitted altogether. Therefore, Sir, I oppose this amendment whether it proceeds from Mr. Srinivasa Ayyangar or from Mr. Gopalaswami Ayyangar."

Mr. R. SRINIVASA AYYANGAR :—" I should like to support this amendment. Disqualification is not limited only to election, but to appointment as well."

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Clause 22—cont.

Rai Bahadur T. M. NARASIMHACHARLU :—" The question of appointment no longer exists, because we have resolved that all the *committeedurs* shall be elected."

Mr. R. SRINIVASA AYYANGAR :—" There is still the question of appointment, Sir. If only my hon. friend had turned his attention to clause 2C, he would have found that the Board had still the power of appointment, though under exceptional circumstances, which we shall have to tackle later on. Therefore, it is not as if the question of appointment has altogether automatically gone out of the field."

The following amendment was then put and carried :—

After the words 'undergoing the sentence' insert the words 'or during the period for which such sentence may have been suspended or in abeyance'.

(Amendment No. 121.)

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—" Sir, the amendment of which I have given notice runs as follows :—

For the proviso substitute the following :—

'Provided the Local Government shall in every case where in its opinion the conviction is not for an offence involving moral turpitude and may in every other case direct that such sentence shall not operate as a disqualification and provided also that the Local Government may reduce the said period of five years.'

"The two points on which the proviso which I suggest differs from the proviso as hon. Members will find in the sub-clause as it is, are these, that the Local Government should have no discretion by way of saying that a sentence shall operate as a disqualification when the offence of which a person has been convicted does not in its opinion involve moral turpitude; and the discretion is allowed only in cases wherein the offence involves moral turpitude and in that case it is for the Local Government to say that the offence that has been committed is of such a serious or heinous character as to justify the man not being chosen as a member of the committee.

"The second point on which my proviso differs from the proviso as found in the original Bill is that the Local Government is given the discretion in appropriate cases to reduce the period during which a person may not be eligible for committee membership to below five years. As it is, the Bill makes it necessary that this period of disability should run to five years. I simply give the Local Government, according to my proviso, the discretion to reduce that period in appropriate cases. It is easily intelligible that cases may arise wherein for a technical offence . . ."

Mr. C. V. VENKATARAMANA AYYANGAR :—" There is no quorum in the House, Sir."

The hon. the DEPUTY PRESIDENT :—" Is the hon. Member anxious to prolong the sitting?"

Mr. C. V. VENKATARAMANA AYYANGAR :—" I am only anxious to mention the absence of a quorum, Sir."

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Clause 22—cont.

The hon. the DEPUTY PRESIDENT :—" In the House of Commons they are used to go on discussing even when there is no quorum."

Mr. C. V. VENKATARAMANA AYYANGAR :—" I simply wanted to say, Sir, that the subject being important, hon. Members should be here rather than in the Committee room."

At this stage the number required for the quorum having been made up, the discussion was proceeded with.

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—" I was mentioning, Sir, that my proviso would give some discretion to the Local Government by way of reducing the period of disability referred to in sub-clause (2). As I was saying, it is easy to conceive of a case wherein a person due to the impulse of the moment might have committed an offence which satisfied the particulars referred to in sub-clause (2) but still in respect of which the Local Government may be under the impression on account of the circumstances surrounding the case that the period of disability should not extend to five years.

"With these few words, I beg to commend this amendment to the acceptance of the House."

The hon. the RAJA OF PANAGAL :—" I am afraid, Sir, I cannot accept the amendment which my hon. friend opposite has moved. It involves a principle. The concession must be discretionary and not obligatory. The provision as drafted is in consonance with similar provisions in the Local Boards and District Municipalities Acts and the Government are not prepared to go further in the matter."

The amendment was put and lost.

Sub-clause (3).

(Amendment No. 122.)

Rai Bahadur T. M. NARASIMHACHARLU :—" The amendment that stands in my name runs as follows :—

In item (d) between the words 'trustee' and 'of' insert the words 'or servant.'

"I move it formally, Sir."

The hon. the RAJA OF PANAGAL :—" I accept it formally, Sir, but with the same proviso that it should apply only to salaried servants. If the hon. Member withdraws his amendment, I shall move another, Sir."

Rai Bahadur T. M. NARASIMHACHARLU :—" I withdraw my amendment formally, Sir."

The amendment was by leave withdrawn.

(Amendment No. 123.)

The hon. the RAJA OF PANAGAL :—" My amendment is as follows :—

In item (d) between the words 'trustee' and 'of' insert the words 'or salaried servant'."

Rao Bahadur A. S. KRISHNA RAO PANTULU :—" Sir, in this case and in other cases we are handicapped by not having before us the alternative amendments proposed by the Government. May I suggest that in such

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Clause 22—cont.

cases at least typed copies may be furnished to us? I hope that at least in future, whenever alternative amendments are suggested by Government, they will give us notice so that we may be in a position to see what the exact nature of the amendment is."

The hon. the RAJA OF PANAGAL :—"Sir, that question does not arise in this case, because it is only a mere verbal amendment, adding the word 'salaried' before 'servant'."

The amendment was put and carried.

(Amendment No. 124.)

1-15 p.m.

Mr. R. SRINIVASA AYYANGAR :—"I beg to move—

Add at the end of item (f) the following :—

'The President shall report this fact to the committee at its next meeting and also intimate the same in writing to the said member.'

"This is purely of a formal character."

The hon. the RAJA OF PANAGAL :—"In order to cut short the discussion, I wish to say that Government are prepared to accept it."

Mr. R. SRINIVASA AYYANGAR :—"I am very glad that the hon. Minister has accepted it."

The amendment was put to the House and carried.

(Amendment No. 125.)

Mr. R. SRINIVASA AYYANGAR :—"I beg to move—

In the first proviso for the words 'his so ceasing to be a member' substitute the words 'the receipt of notice by him from the President that he has ceased to be a member.'

Sir, this is an amendment consequential to that which has been accepted by the hon. Minister. This is to give effect to that amendment, and I trust that the Government will see its way to accept it. This will bring it into line with the spirit of the amendment that has just been accepted by the hon. Minister."

The hon. the RAJA OF PANAGAL :—"I accept this too."

The amendment was put to the House and carried.

(Amendment No. 126.)

Mr. R. SRINIVASA AYYANGAR :—"I beg to move—

In the second proviso for 'thrice' substitute 'twice'.

I move this for the reason that it will be offering a premium to the defaulting trustees if the power of restoring them is carried on more than twice. The proviso says

that a member of a committee shall not be so restored more than thrice during his term of office.

"Why on earth should three chances be given to this defaulting member, I am unable to conceive. Once a gentleman commits default he is

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Clause 22—cont.

restored, and when again he commits a default he is also restored. Instead of stopping there, why should one more chance be given to that gentleman? Therefore I submit that it is necessary to substitute 'twice' for 'thrice'."

The hon. the RAJA OF PANAGAL :—"I am not prepared to accept this because more elections mean more money to be spent. The shorter the time allowed, the more the elections. In these circumstances, I am not accepting the amendment."

The amendment was by leave withdrawn.

Clause 22, as amended, was put to the House, carried and added to the Bill.

Clause 23.

(Amendment No. 127.)

Rao Bahadur T. NAMBERUMAL CHETTIYAR :—"I beg to move, Sir—

For the word 'five' substitute the word 'three'.

"In doing so, I wish to say that five years is too long a period, and if a member of a Committee does not do his work satisfactorily, or if it is found that another member should be introduced, it is better that the time is limited to three years so that fresh blood may be introduced into the Committee. That is my object. I hope the hon. the Minister will accept the alteration of the figure."

Rao Bahadur A. S. KRISHNA RAO PANTULU :—"I also suggest that the term of office of a member of a Committee should be limited to three years instead of five years as provided for in clause 23. While I brought a similar motion for reducing the period of a Commissioner from five years to three years, two of the main objections of the hon. the Minister in charge of the Bill were that he was a salaried officer and that he was also to be appointed by the Government and that therefore it would be of some difficulty if the period should be limited to three years. But I may point out that in this case these difficulties do not occur at all. We resolved yesterday that all the members should be elected and no pay had been prescribed for the members. Therefore, the two main objections which were urged by the hon. the Minister in charge of the Bill for reducing the period of a Commissioner do not exist in the case of a member of Committee."

"Then, if you consider the qualifications which have been prescribed for membership in the Committee you will find that they are practically the same as those provided for for the various councils which have elective franchise such as the municipal councils, etc. And we know as a matter of fact the period of membership for all these offices is three years. I do not know why in the case of these elections which are conducted practically on the same principle, where the membership is practically honorary and is also subject to the same restrictions, the period should be so long as five years. In view of the fact that the complaint is that these Committee members have been exercising their functions for unduly long periods, it is necessary that the period should be reduced to three years."

The hon. the RAJA OF PANAGAL :—"Mr. President, my reasons for the rejection of the previous amendment apply to rejecting this amendment with greater force. In the case of the previous amendment the election

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Clause 23—cont.

referred to is an individual election; here it is the election of the whole body. The expenditure involved will necessarily be much greater. Therefore, I cannot accept this amendment."

The motion was by leave withdrawn.

(Amendment No. 128.)

Rai Bahadur T. M. NARASIMHACHARLU:—"Sir, I beg to move—

For the words 'takes effect' substitute the words 'is published in the prescribed manner'.

"The words 'takes effect' are very vague. I do not know when the appointment or the election will take effect. Therefore, I submit that . . ."

The hon. the RAJA OF PANAGAL:—"May I say, Sir, that I have no objection to accept the amendment?"

The motion was put and carried.

Clause 23 as amended was put and carried, and added to the Bill

Clause 24.

Sub-clause (3).

(Amendment No. 129.)

Mr. C. V. VENKATARAMANA AYYANGAR:—"Sir, I formally move the amendment standing against my name, viz.—

After the word 'Vice-President' insert the words 'if any'.

"I do not make any speech."

The hon. the RAJA OF PANAGAL:—"I formally oppose it."

Mr. C. V. VENKATARAMANA AYYANGAR:—"I formally withdraw it."

The motion was by leave withdrawn.

Clause 24 was put and carried and added to the Bill.

Clause 25.

Clause 25 was put, passed and added to the Bill.

Clause 26.

Sub-clause (3).

(Amendment No. 130.)

Mr. R. SRINIVASA AYYANGAR:—"Mr. President, my amendment is—

To substitute the word 'Court' for the word 'Board'.

"Clause 26 deals with cases of elections in the first instance and provides if no member is elected at an election held under sub-section (1) a fresh election shall be held.

"It goes on further to provide that—

if no member is elected at such fresh election, the Board may appoint a person to fill the vacancy.

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[Mr. R. Srinivasa Ayyangar]

Clause 26—cont.

"Such being the case, for the word 'Board' I should like to substitute the word 'Court' which will ordinarily be a District Court or, as it has been amended, courts of other jurisdictions which the Local Government, by notification, might have empowered.

"The reason why I should like to have this power of nomination vested in a court instead of the Board is this. There may be a number of committees in respect of temples or classes of temples to be constituted by virtue of the operation of clause 16 of the Bill. There may be ever so many committees and instead of vesting this power in the Board which will be located at Madras and whose jurisdiction will extend throughout the province, it is much better that this power is transferred to the court which will be a local authority having jurisdiction over the local area and which, as such, can reasonably be expected to have intimate knowledge of the local needs and surroundings. Suppose, for example, a vacancy in the district committee takes place in South Kanara. Under ordinary circumstances, it will be more than human to expect of a central authority functioning in Madras to get hold of a proper person, to apply its mind to the various facts and circumstances and proceed to select a proper person. In the present Act XX of 1863, there is a provision which vests this power not on any statutory body but on the court, and the observations made by the Privy Council in one of the leading cases, reported in XI, Madras, viz., *Minakshi v. Subrahmanya Ayyar*, are exactly apposite. I would like to read it for the benefit of the Members—

The officer who constitutes the civil court is sure to be one of weight and authority and with the best means of knowing the movements of local opinion and feeling and one can hardly imagine a case in which it would be more desirable that the discretion should be exercised by a person acquainted with the district and with all the surroundings.

"Their Lordships in that case insisted upon the necessity and the desirability of the appointing officer possessing an intimate knowledge of the district and of the surroundings. The advantages postulated by their Lordships in the Privy Council case will not be possessed by this central authority whose jurisdiction is almost of an unlimited character and, in the very nature of things, it is much better if the local committees are expected to function properly, to transfer or otherwise vest, this power in the court. Those observations, I submit, still hold good."

Diwan Bahadur L. A. GOVINDARAGHAYA AYYAR:—"Sir, in addition to the fact that the courts will be in a better position to select a suitable person for the committee, there is a point which Members of this House might consider by way of accepting the amendment that is before them. That is, even as a question of principle, I consider that we should give the power of appointment to the court. Because, these committees are, according to the Bill, to exercise certain judicial powers and it is better that the power of appointing members to the committee is not vested in the Board to which appeals lie from the decisions of the Committee, but in an independent body, namely, the court of the particular district or the particular place in which these committees might function."

The hon. the RAJA OF PANAGAL:—"I am unable to accept the substitution asked for. My learned friend has referred to one of the Privy Council decisions. No doubt the decision is an erudite decision,

1-30 p.m.

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Clause 26—cont.

but from the point of view of pure common-sense I cannot understand why the Board should not be entrusted with powers to deal with election cases and why we should in these cases have resort to a court of law. One of the objects of this Bill is to minimize litigation and resorts to courts of law. Again, experience has shown, and I believe hon. Members who have anything to do with the management of the local boards also know, that there have been repeated complaints regarding trials of election cases by civil courts. Under these circumstances, I do not think it is desirable to accept the amendment."

Mr. R. SRINIVASA AYYANGAR :—"I am rather surprised at the attitude taken up by the Minister in charge of the Bill. He has told us that he has heard a number of complaints to the effect that the local bodies are very anxious that election courts should be abolished. I demur to that view, and I am of opinion that in the interests of proper administration these courts should continue to exercise their power of inquiring into election cases."

"Then the hon. the Minister has referred to the question of common sense. 'Common sense' is a very deceptive term. What may appear to be common sense to one may be uncommon sense to another. There is no fixed relationship between common sense on the one side and propriety on the other. The hon. the Minister has stated that Boards have been particularly constituted for the purpose of inquiring into all cases bearing on all legal questions or otherwise and there is absolutely no reason why they should not be entrusted with that power. I may answer this by saying that the Board is now on its trial; it has to pass through the experiment satisfactorily. The Board, as I have submitted, will not have the advantage of possessing the local knowledge which is indispensable, in deciding cases that come before them. In the absence of that possession of knowledge they will not be competent to decide them satisfactorily, and there is the danger of the Act being used improperly. Therefore, before pressing my motion to a division, I may say that in matters affecting the fundamental interests of the parties concerned, it is the civil court that must have the jurisdiction."

The motion was put to vote and lost.

At this stage 1-36 p.m. the House adjourned for lunch.

The House re-assembled after lunch at 2-30 p.m.

(Amendment No. 131.)

2-30 p.m. Rai Bahadur T. M. NARASIMHACHARLU :—"Sir, I beg to move—

For the words 'the Board' substitute the words 'the Local Government'.

"The reason why I suggest this amendment is this: if a member of a committee is not elected twice, then there must be something radically wrong with that constituency. It may perhaps be due to some acts of the Board against the wishes of that constituency. This is possible because the Board is given the power of superintendence over all religious endowments and it will be found in clause 31:

Subject to the provisions of section 14, a committee shall be entitled to exercise general superintendence over the temples for which it is constituted."

The hon. the RAJA OF PANAGAL :—"I accept the amendment."

The amendment was put to vote and carried.

Clause 26 as amended was put and carried and added to the Bill.

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Clause 27.

Clause 27 was put and carried and added to the Bill.

Clause 28.

Clause 28 was put and carried and added to the Bill.

Clause 29.

Sub-clause (2).

(Amendment No. 132.)

Rai Bahadur T. M. NARASIMHACHARLU :—"Sir, I move—

Insert the word 'may' between the words 'appoint and' and 'transfer'."

The hon. the RAJA OF PANAGAL :—"This is an amendment similar to amendment No. 155 on the agenda. The question of amending the sub-clause in the manner suggested by the hon. Member will be considered in the final re-drafting of the Bill. I hope with this assurance the hon. Member will withdraw his amendment."

The amendment was by leave withdrawn.

(Amendment No. 133.)

Mr. R. SRINIVASA AYYANGAR :—"Sir, I beg to move—

Add at the end the following :—

'An appeal shall lie to the Committee from the President's order of suspension, removal or dismissal provided it is filed within one month from the date of the said order and the President shall carry out the order passed on appeal by the Committee.'

"I hope the hon. the Minister in charge will see his way to accept this motion. I am of opinion that, instead of relegating a provision of this nature to the rules, it is much better to put it as part of the Bill itself."

The hon. the RAJA OF PANAGAL :—"The by-laws made by the Board will be part of the Bill."

Mr. R. SRINIVASA AYYANGAR :—"I should like to know whether it is possible, when making the by-laws, to make such a provision. The provision

Subject to such control as the Board may impose, the President of the Committee, etc., . . . is couched in very vague terms and we do not know what the Government are going to do. As this provision is intended to confer a right of appeal, I think it is much better if it is found in the body of the Bill. In these circumstances, I cannot understand why there should be such opposition."

Rao Bahadur A. S. KRISHNA RAO PANTULU :—"I wish to point out that the suggestion made by the hon. the Minister in charge would have been correct if clause 15 gave power to the Board to make by-laws specifically referring to appeals from the decisions of the President of the Committee or from any other Committees. Clause 15 (1) deals with various other matters, but it does not specifically provide for appeals being preferred against the orders of the President to any other authority. Therefore, if the hon. the Minister in charge is prepared to accept the proposition that it is not

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Clause 29—cont.

desirable for the President to remain unchallenged or unappealed, it is very necessary to find some provision for it in the Bill itself. In the absence of such a provision, my hon. friend, the Minister in charge, must accept the amendment, or when re-drafting the Bill, he must make provision in clause 15 (1) providing for appeals from the action of the President. Without a specific provision, I think we shall have to experience much difficulty in the working of the Act."

The hon. the RAJA OF PANAGAL:—"Sir, I shall consider the latter part of the request while re-drafting the clauses. However, I still adhere to my opinion that clause 15 provides for general control, and that any rules that will be made in accordance with the provisions of this Bill will form part of the legislation to guide the administration of religious endowments."

Mr. R. SRINIVASA AYYANGAR:—"I press my motion."

The motion was put to vote and lost.

Clause 29 was put and carried and added to the Bill.

Clause 30.

Clause 30 was put and carried and added to the Bill.

Clause 31.

(Amendment No. 134.)

Diwan Bahadur M. RAMACHANDRA RAO PANTULU:—"Sir, I beg to move—

Omit this clause.

Hon. Members will remember that the right of general superintendence over all religious endowments is vested in the Board under clause 14. We had a discussion on the inadvisability of conferring on the Board the right of general superintendence over all religious endowments. Now, we have the power of general superintendence vested in the Committee also. So, we have two bodies having the right of general superintendence: one the Board, and the other the Committee. The reasons that I have urged already for not granting the right of general superintendence to the Board apply also to the Committees.

"Further, we are now creating two bodies for general superintendence; first, the Board, and, secondly, local committees which are to superintend subject to the control of the Board. It seems to me, Sir, that between these two bodies the lot of the religious endowments and temples would really be a most difficult one. As I explained yesterday, I have absolutely no objection if certain specific powers are given to these Committees. But to place religious institutions under large powers of general superintendence of the Committees as well as of another superior body, the Board is certainly, Sir, carrying control to a most undesirable length. As my hon. friend, Mr. Govindaraghava Ayyar, puts it, it is certainly placing them between two fires. The Committees may issue one set of orders and the Board may issue another. Therefore, Sir, I think, that this general power of superintendence vested in these two bodies is certainly unnecessary. The Board's general superintendence has already

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Clause 31—cont.

been agreed to. It seems to me that to vest the very same powers on the temple committees also is quite unnecessary. I am quite aware that this provision found a place in the Act of 1863. That is entirely a different matter. If we are now creating a control by the Board, it will be certainly showing very little consideration to the unfortunate trustees who will have to be supervised by these two bodies. On these two broad and general grounds, I object to clause 31."

The hon. the RAJA OF PANAGAL:—"Mr. President, the case of the general superintendence by the Board is different from that of the Committee. The general superintendence by the Board referred to in clause 15 is in the case of *maths* and excepted temples. The trustees of these institutions have a status higher than that of the trustees of the other temples. Besides, Sir, in the case of the Committees they are elected bodies, and according to democratic conceptions elected bodies can exercise greater powers. Sir, I do not follow my hon. friend's argument so far as it relates to the concurrent superintendence of the two bodies. There are many cases where powers of supervision are given to more than one body. I do not think such concurrent jurisdiction would involve these temples in difficulties."

Diwan Bahadur Sir T. DESIKA ACHARIYAR:—"I think the power that is given in sub-clause 31 is a very necessary power. Having been a member of a Committee for a long time, I could realize the difficulty in the existing Act with reference to the control and the superintendence which are defined there vaguely. My only objection is that the same vagueness appears again in clause 31. It is necessary for any Committee to exercise its jurisdiction over trustees properly, that it must have plenary powers of control and superintendence over the trustees. I think the clause may remain with the powers defined, if possible, more clearly."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU:—"I wish to say one word, Sir. My hon. friend, Sir T. Desikachari, who is a member of a Committee, thinks that we should retain this power over the trustees. I wish that he is also a member of the new Board which has to be constituted under this Bill."

Diwan Bahadur Sir T. DESIKA ACHARIYAR:—"Mr. President, Sir, I am no longer a member of the Committee, and I never hope to be a member of any Board. I attempted to give the benefit of my experience, and I merely wanted to point out that the existing Committees were impotent and that if the Committees under the new Bill had some sort of power, it would be most welcome."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU:—"I was indulging in a piece of humour with my hon. friend when I said that he should also be a member of the Board."

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR:—"He is not going to get it."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU:—"We need not discuss that. I certainly would not object to clause 31 being revised as my

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Clause 31—cont.

hon. friend wishes, if the same general superintendence were vested in no other body. The whole trouble is due to two authorities doing the same work."

The hon. the RAJA OF PANAGAL:—"May I rise to a point of order, Sir? My hon. friend has had his opportunity to reply."

The hon. the DEPUTY PRESIDENT:—"He has not finished his speech. Mr. Desika Achariyar only interrupted him."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU:—"Thank you very much, Sir, for the ruling. With the creation of these two bodies with powers of general superintendence, the trustees are likely to be put in conflict with each other."

Rai Bahadur N. GOPALASWAMI AYYANGAR:—"May I draw the attention of the hon. Member to the wording subject to the provision under section 14?"

Diwan Bahadur M. RAMACHANDRA RAO PANTULU:—"Sir, I am aware of these words. The Board and the Committees will come to blows in spite of them. Of course, my friend thinks that this is necessary. But I do not think so."

The motion was put and lost.

[(Amendment No. 135.)

Rai Bahadur T. M. NARASIMHACHARLU:—"Sir, I move—

Omit the words 'subject to the provisions of section 14.'

One servant, Sir, cannot serve two masters, nor can two swords be in one sheath. If this clause is retained, it comes to this: The Committee will issue a particular order in exercise of their powers of general superintendence at a time when there is no order of the Board. But the Board will afterwards come in and say, 'I do not care for the Committee's order. You had better do in this other way.' Supposing when the former order is being carried out the Board comes in and says, 'No, no; stop work. My will is otherwise', what will be the state of the administration? There are bound to be conflicts like that, if the Committee's power of general superintendence is made subject to the order of the Board under clause 14. Another thing is that the Committee's power exists over ordinary temples. They must have more specific powers because they are immediately concerned with the temples. The Board is an authority constituted and situated in the cool sea breeze of Madras. They should have only general superintendence just as the Government has over all officers of the Government; and the Committee must have special powers in the same way as the Collector has specific powers over his subordinates. What we actually have in the Bill cannot be called a clever piece of legislation. It has given large powers to the Board under clause 14, and clause 31 emphasizes those powers by saying:

Subject to the provisions of section 14.

"The Board therefore is given more powers than the Committee. I submit, Sir, it is bad legislation to give no power at all to the Committees and give all powers to the Board which is miles away from a temple situated in a

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Clause 31—cont.

corner of a taluk. If in addition to the order of the Committee there is to be the order of the Central Board, the administration will not at all work well. The best thing is to give the Committees special powers and the Board general powers of control. That would be proper legislation. Now the immediate authority is given nothing and its powers are left vague, as my hon. friend, Mr. Desikachariar, put it. He has got the widest experience possible not only in temples but outside temples also. As he said, the powers of the Committees are delightfully vague. You should give them specific powers instead of saying vaguely that they have all powers of superintendence subject to the provisions of clause 14. I therefore submit, Sir, that the words 'subject to the provisions of section 14' be omitted."

The hon. the RAJA OF PANAGAL:—"Mr. President, I am afraid that my hon. friend's remark that 'what we have in the Bill is not a clever piece of legislation' is not warranted. On the other hand, I am sorry to say that my hon. friend has not followed the rationale of the provisions of the sub-clause. In the first place, Sir, the powers given by clause 31 are more general than the powers given under clause 14. The powers given under clause 14 are restricted as amended by Mr. Govindaraghava Ayyar's amendment. The Board has powers only to the extent to which the Bill provides; whereas the residuary powers are also included in clause 31. Sir, the difficulty my friend seems to anticipate is not a real difficulty. In the second place he says that there will be a conflict. On the other hand, there is nothing in the provision which will give room for conflict. For these reasons I am unable to accept my hon. friend's amendment."

3 p.m.

Rai Bahadur T. M. NARASIMHACHARLU:—"I have exhausted my arguments, Sir."

The amendment was put and lost.

(Amendment No. 136.)

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR:—"Mr. President, Sir, I beg to move—

For the words 'section 14' substitute the words 'this Act'.

"Sir, the clause with the amendment will stand thus—

Subject to the provisions of *this Act*, a committee shall be entitled to exercise general superintendence over the temples for which it is constituted.

The reasons why I propose this amendment are very few and simple. It is, of course, a rule of interpretation that every section in a Code must be construed consistently with every other section in it; so that, if the whole of the expression

subject to the provisions of section 14

goes, there would be no hardship worked, for the provisions of clause 31 would still be interpreted in such a way as not to conflict with the provisions of clause 14. But if you particularize a certain clause and say that the general superintendence shall vest subject to its provisions, there seems to be an implication in that very statement that the general superintendence need not be necessarily subject to the provisions of the other clauses in the Bill. Therefore, if the Government chooses to retain this expression

subject to the provision of

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Clause 31—cont.

it must necessarily be 'subject to the provisions of this Act' and not subject to the provisions of section 14

or any other particular clause. I therefore propose this amendment."

The hon. the RAJA OF PANAGAL :—"If I may say so, Sir, it is indeed clever advocacy."

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—"But not, on that account, an incorrect one."

The hon. the RAJA OF PANAGAL :—"If I accept my hon. friend's amendment, I am afraid I will be landed in difficulties. He wants me to believe that if I accept the proviso 'subject to the provisions of the Act', there will be no conflict. As a matter of fact, if I were to do so, it would amount to the Committees having no residual powers over the temples. This provision is intended to give the Committees the residual powers which have not been given to the Board because of the special status of the heads of the excepted temples and *maths*. My hon. friend, Sir Desika Achariyar, has explained to the House how it is that a provision such as this is absolutely necessary and warranted by the experience of those who have been in touch with the working of the temples. For these reasons, I feel constrained to say that I have to reject the amendment."

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—"Sir, the hon. the Minister for Local Self-Government has altogether misapprehended the position. The object of my amendment is not at all to restrict the residual powers. Both of us agree that it is only the residual powers that can be exercised by the Committees. Now there are certain specific provisions governing the control exercised by the Committees over institutions under their jurisdiction. All that I say is that under this clause, it ought not to be competent to a Committee to override any of the other provisions by taking advantage of the fact that the Committee is to work subject only to clause 14 and not to the other clauses of the Bill."

The hon. the RAJA OF PANAGAL :—"Sir, I want to know definitely what my hon. friend means. So, with your permission, Sir, I should like to put him this question, whether it is his idea that the Committees should have all residual powers or powers which are conceded in favour of the Boards. If his amendment allows the Committees to have all residual powers, whether they are referred to in the provisions of the Act or not, I shall be in a position to accept the amendment. So I very much like to be enlightened on this point."

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—"Sir, my amendment means this. Ordinary powers are given to other bodies created by this Bill. If those powers will in any way affect the use of the powers by the Committee, then the Committee might use its powers only subject to those other powers. In the very instance to which my hon. friend referred, namely, with reference to the powers given to the Board, it is obvious that when powers given to the Board and the powers given to the Committee, itself a subordinate institution, come into conflict, it is the authority of the Board that should prevail. When I say 'subject to the provisions of this Act'—clause 14 also is a provision of this Act—the powers of the Committee will be subject to the provisions of clause 14 also, so that all my hon. friend

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Clause 31—cont.

requires is retained. I also say it must be subject to the provisions of the other clauses in the Bill, because the mention of one clause as the provision subject to which the control of the Committee has to be exercised might, by some courts, be taken to mean that when the powers of the Committee under clause 31 come into conflict with any other clause of the Code, it will be perfectly competent to them to say that because that particular clause is not mentioned and only clause 14 is mentioned, the Committee can exercise some power which is inconsistent with the other provisions of the Bill. I do not think that that is the intention of those who are responsible for this Bill, so much care, as stated by the hon. the Minister, having been taken in drafting it. Therefore, I suggest that the expression

subject to the provisions of this Act

instead of

subject to the provisions of section 14

may be adopted. I think I have made myself as clear as possible."

The amendment was put and lost.

Clause 31 was put and passed and added to the Bill.

Clause 32.

(Amendment No. 137.)

Rao Bahadur T. NAMBERUMAL CHETTIYAR :—"Sir, I beg to move—

(a) Insert the following as item (a) :—

'(a) the appointment of a paid Secretary to the Committee.'

(b) Re-letter the existing items.

Sir, the Committee is expected to do a lot of work and I think that without a paid Secretary, the Committee cannot do its work satisfactorily."

The hon. the RAJA OF PANAGAL :—"I have very great pleasure, Sir, in accepting the amendment of my hon. friend. But this provision has already been made under clause 29 (1). So it will be redundant here. When redrafting the Bill, we shall see that this provision is inserted either here or there, wherever it would be better."

The amendment was by leave withdrawn.

(Amendment No. 138.)

Mr. C. V. VENKATARAMANA AYYANGAR :—"Sir, I beg to move—

(a) Insert the following as item (j) :—

'(j) the procedure to be adopted for circulating papers and arriving at decisions in emergent cases.'

(b) Re-letter the existing item (j).

I formally move this amendment and leave it to the other side to accept or reject it."

The hon. the RAJA OF PANAGAL :—"Sir, I am quite in sympathy with the spirit of my hon. friend's amendment. But there is some difficulty in accepting it as it is. It requires some change. The wording in clause 15 (1) (b) has to be adopted here also."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—"Sir, clause 15 refers to the Board, consisting of paid gentlemen. I think the decisions of

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Clause 32—cont.

the Committee should be arrived at at a meeting of the Committee. I do not know why my hon. friend is anxious to provide for the circulation of papers."

The hon. the RAJA OF PANAGAL:—"Am I to take it that the hon. Member is opposing the amendment?"

Diwan Bahadur M. RAMACHANDRA RAO PANTULU:—"May I know why he is proposing his amendment?"

The hon. the RAJA OF PANAGAL:—"Sir, I have already replied my hon. friend, the mover, by saying that I have no objection to accept the spirit of the amendment though not the language. I therefore propose to move another amendment, a copy of which has been shown to him, and if he has no objection to it he may withdraw his amendment."

The amendment was by leave withdrawn.

(Amendment No. 139.)

Rai Bahadur N. GOPALASWAMI AYYANGAR:—"With your leave, Sir, and the leave of the House, I beg to move an alternative amendment. The amendment that has been withdrawn now is somewhat more restricted in scope than the amendment I propose to move on behalf of the Government. The amendment of the hon. Member, Mr. Venkataramana Ayyangar, really confines itself to the circulation of papers and arriving at decisions in emergent cases, whereas what is proposed to be moved is somewhat wider. This wider language is used in order to bring it into line with the language used in connexion with the Board of Commissioners in clause 15. I therefore move my amendment which runs as follows:—

Insert the following as item (j):—

'(j) the manner in which their decision shall be ascertained otherwise than at meetings.'

The amendment was put and passed.

Clause 32 as amended was put and carried and added to the Bill.

Clause 33.

(Amendment No. 140.)

Rai Bahadur T. M. NARASIMHACHARLU:—"I beg to move—

3-15 p.m. *Omit the words 'or excepted temples.'*

"Sir, as amended the clause would read thus:

No committee constituted under the provisions of this chapter shall be entitled to exercise any jurisdiction over maths . . . or the trustees thereof.

What I mean by this is to place the excepted temples along with other temples under the jurisdiction of Committees. I submit that if the Tirupati or Conjeeveram or any other temple for which schemes have been prepared by the Privy Council can be brought on a line with ordinary temples and placed within the jurisdiction of Committees, I fail to see why owing to the mere fact that a particular temple is under a particular trustee who is a zamindar or other notable it should not be brought within the jurisdiction of the ordinary Committee. I want to avoid all invidious distinctions between one kind of temple and another whoever may be the trustee. We all serve

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Clause 33—cont.

God and when we serve God, all trustees are the same before God, and consequently we shall not make any distinction between one trustee and another. (A voice: what do you say to maths.) The Committee cannot have any power over maths. I accept that. But I do not accept the other phrase 'or excepted temples'. I wish to place all temples under the jurisdiction of the Committee."

The hon. the RAJA OF PANAGAL:—"Mr. President, I thank my hon. friend from Cuddapah for the dictum 'Forsake not God for the sake of man'. It seems to me, Sir, he is confusing issues. He says that because we have not imposed restrictions in the case of certain temples, we should not also impose restrictions in the case of others. I cannot for a moment follow his line of argument. Suppose for special reasons some consideration is shown to some temples, does it follow that the same consideration should be shown to others too? Is there any harm in imposing a greater restriction in the case of others? But that is as a mere argument. Coming to the point, I have closely followed his argument and there seems to be nothing new in it; it is a mere repetition of the old, old story. Mr. Narasimhacharlu may have his own views about zamindars, but I do not stand here to defend the zamindars."

Rai Bahadur T. M. NARASIMHACHARLU:—"I say nothing against the zamindars; I have the highest respect for them. But my respect for God is greater than my respect for them."

The hon. the RAJA OF PANAGAL:—"I am glad to be assured of that. It is not with a view to distinguish zamindars from other classes of people that this legislation has been introduced and this distinction has been drawn between one class of temples and another. The criterion for the distinction is not whether it is managed by a zamindar or another man, but whether it is not whether it is managed by an ancestor of the present trustee. So, in general was originally endowed by an ancestor of the present trustee. In the form in which the Bill has words, that criterion has been introduced in the form in which the Bill has been framed. I cannot follow Mr. Narasimhacharlu's argument why he takes objection to the word 'excepted temples' being retained in the clause."

Rao Bahadur C. V. S. NARASIMHA RAJU:—"Mr. President, if I understand the framework of the Bill correctly, I think the principle on which the excepted temples are placed under the control of the Board of Commissioners and the non-excepted or committee temples under the control of committees is that at one time, between the years 1801 and 1842, the temples that are now placed under committee control were under the direct control of Government. On account of some agitation by the missionaries, State control gave way to popular control by means of elected committees. That is the main principle upon which the whole framework is based, and my hon. friend, Mr. Narasimhacharlu, should not complain of any favouritism shown to zamindars or any class or individual. But we must examine and see whether the principle is correct, and I do not think that any Member will have any objection to it."

Rai Bahadur T. M. NARASIMHACHARLU:—"Sir, with reference to the hon. the Minister's remarks that we show some concession to excepted temples, I do not object to it. I do not object to any concession being shown to any one."

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Clause 33—cont.

The hon. the RAJA OF PANAGAL :—"The hon. Member is mis-stating a portion of my speech. I did not ask why he should take objection to concession shown to certain temples. What I asked was why he should take objection to greater restriction being placed upon other temples—the very reverse of the case."

Rai Bahadur T. M. NARASIMHACHARLU :—"All I say is let all temples be placed on the same footing. As regards the arguments of our Raju, my namesake, he says that because Government were once controlling some of these temples we place them under the committees, and because the Government were not controlling certain other temples we call them excepted temples. I will show to him the injustice done to one other kind of temples, that is, temples like those at Tirupati, Conjeeveram and Tiruvallur where the presiding deities are all-India deities, not small deities like those in the temples of the zamindars. These temples were never subjected to committees, but now they are brought under the committees. Therefore, to be uniformly just I want all temples to be placed under the committees."

The motion was put and lost.

Clause 33 was put and passed and added to the Bill.

Clause 34.

New sub-clause after sub-clause (4).

(Amendment No. 141.)

3-30 p.m.

Mr. M. SURYANARAYANA :—"Sir, I beg to move—

Add the following as sub-clause (5) :—

'(5) Every such register shall be open for inspection by any voter at the office of the Board or committee at any time during office hours free of cost.'

"I take this provision from the District Municipalities Act which says that the property tax register shall be open for inspection to any voter at the Municipal office. This all-important register which concerns the temples and other persons interested in their administration should be open for inspection. If the hon. the Minister objects to the word 'voter', I shall have no objection to substitute the words 'any person interested' or any such words."

The hon. the RAJA OF PANAGAL :—"There is a shade of difference between the voter to a temple trust and a voter to a local body. The latter may be a worshipper; he may have devotion to the deity in the temple, but he is not a taxpayer. Another question which the hon. mover has raised is: If it is so 'when should the register be kept in the office.' If any one is really anxious to have a register he can purchase a copy of it. The test of his sincerity in obtaining information will lie in the fact of his payment. On the other hand, if for the sake of this or that voter the Board or the committee have to be sitting all the day, it means so much of money of the trust is wasted. Therefore, I cannot accept the amendment."

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Clause 34—cont.

Mr. M. SURYANARAYANA :—"There is no provision in the Bill for the purchase of the register."

The hon. the RAJA OF PANAGAL :—"I have only to refer my hon. friend to clause 35 (4) of the Bill."

Mr. M. SURYANARAYANA :—"Yes, Sir. I find the provision. It is open to any voter to take a copy of the property tax register from the Municipal office if he is really very keen about knowing whether a particular house is properly taxed. Even so, in the case of these religious institutions, you cannot test the zeal of a person by the fact that he is willing to pay for a particular thing. Besides, the register that we talk of here must necessarily be such a voluminous register that it will be probably impossible for any person to take a copy of it. Any person interested must necessarily be entitled to refer to it in the office of the Board or of the committee and take such notes as he thinks proper. With regard to the question that the voter pays tax, in the case of religious institutions also the person makes offerings to the gods and they are as much payments as the payment of taxes by the voters of a municipal corporation."

The hon. the RAJA OF PANAGAL :—"I have already drawn the attention of my hon. friend to the difference between the case of a voter to a municipal corporation and that of a voter for the election of a temple trustee or a committee member."

Mr. M. SURYANARAYANA :—"If necessary, the hon. the Minister may insert the words 'any person interested' instead of the word 'voter' in the amendment."

The hon. the RAJA OF PANAGAL :—"We have defined a person interested to mean any person who will get some *prasadam*s in a temple. Instead of his paying he will be receiving something from the temple. I cannot understand why the temple should be maintaining a staff to oblige a man of that sort."

Diwan Bahadur Sir T. DESIKA ACHARIYAR :—"Sir, the existing temple committees and their successors, the committees under the new Act, do not have much of an establishment. I think the life of a committee member or the manager of the committee's office will not be worth living at all if he is asked to give to any person going in the street a copy made in the office of the registers. I think it is not at all a practical proposal, nor is it likely to conduce to the benefit of the administration of religious endowments."

The amendment was put and lost.

Clause 34 was put and carried and added to the Bill.

Clause 35.

Sub-clause (1)

(Amendment No. 142.)

Mr. C. V. VENKATARAMANA AYYANGAR :—"Sir, I formally move—

Add the following as a proviso at the end :—

'Provided, however, that the trustee shall not be bound to file such a statement if he does not want any alterations, omissions or additions to be made in the register.'

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Clause 35—cont.

The hon. the RAJA OF PANAGAL :—"I formally oppose it, Sir."

Mr. C. V. VENKATARAMANA AYYANGAR :—"Then, I formally withdraw it."

Sub-clause (2).

(Amendment No. 143.)

Rai Bahadur T. M. NARASIMHACHARLU :—"Sir, I move to—
Omit the words 'if any'."

I do not understand the necessity for these words. There is the Board and there will be the committee appointed for a temple or temples or classes of temples. Why should the existence of the committee be doubted and why should we say the Board and the committee, *if any*? The words seem to be thoroughly unnecessary."

Rai Bahadur N. GOPALASWAMI AYYANGAR :—"Mr. President, Sir, these words seem to be necessary for the reason that we have not accepted the hon. Mr. Narasimhacharlu's suggestion as regards bringing excepted temples also under committees. According to the clauses that have been accepted there are excepted temples and temples which are not excepted. The latter class will come under committees and the former will not. In the case of temples which do come under the jurisdiction of committees, the committees also may make inquiries. In the case of excepted temples, which do not come under committees, it is unnecessary that any committee should make any inquiry. Only the Board need do it. I hope my hon. friend will now see the necessity for the words."

Diwan Bahadur J. A. GOVINDARAGHAVA AYYAR :—"Am I to understand that there are two bodies which will make inquiries, the Board and the committee in the case of committee temples?"

Rai Bahadur N. GOPALASWAMI AYYANGAR :—"Yes, Sir, that is the scheme."

Rai Bahadur T. M. NARASIMHACHARLU :—"I wish only to say that the purpose of the Government is not served by the retention of the words."

The amendment was put and lost.

New sub-clause after sub-clause (4).

(Amendment No. 144.)

Rai Bahadur T. M. NARASIMHACHARLU :—"Sir, I move to—
Add the following as sub-clause (5) :—

"(5) The trustee in the case of maths includes his duly constituted agent in this and the preceding sections."

"In the last words, I include clauses 34 and 35. I wish to make the point clear by making the duly constituted agent of the trustee as the person to do things enjoined by these two clauses. My point is this. It is generally the practice of the people, Sir, not to address personally the *matadhipatis*. They are considered too sacred for any man to think of addressing them personally. They are generally honoured by being addressed through the constituted agents. There are agents in the math who are called *Sri taryams* and who do several kinds of businesses. Whenever anything is to

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Clause 35—cont.

be addressed to the head of a math, I say let it not be addressed necessarily to the name of the head, but let it be addressed through the constituted agent just to preserve the integrity and dignity of the head of the math. It is only with this object that I move my amendment. Please show some respect to these people. The amendment does not alter the substance of the clause. I only pray that you may show that respect to the head of the math which the people are showing all along."

Mr. R. SRINIVASA AYYANGAR :—"I should like to give my support to this amendment. If the Government have no objection I think it is much better that we have the words 'authorised by a general power of attorney' in place of the words 'duly constituted' which expression we are not quite familiar with."

Mr. C. MADHAVAN NAYAR :—"Mr. President, from the concluding words of the hon. mover it is fairly clear that he is not very particular in asking the House to accept the amendment. There is a good deal of difficulty which will be opened up if the House accepts this. In the first place, the trustee is one who is entrusted with onerous functions of a very serious nature. It is even one of the most contested points that arise in courts of law whether he can delegate his functions to anybody at all. In these circumstances, apart from other considerations, it is not proper that the House should be called upon to accept the amendment. Another additional reason which I may suggest to this. The concluding portion of the amendment, the words 'and the preceding sections' open a vista of difficulties which it will be difficult to overcome. Therefore, I submit, that the wise course for the House to take is to reject the amendment."

Rai Bahadur T. M. NARASIMHACHARLU :—"Well, Sir, that reply has made the position of the *matadhipati* more desperate than ever. The hon. the Advocate-General says that it is very undesirable, where the trustees have such onerous duties to perform, to allow them to delegate their powers to others. It is that very fear that actuated me to frame this amendment. You will see in clause 34 that

for every math and temple a register shall be maintained by the Board showing
the names of past and present trustees, . . . particulars of all endowments parti-
culars of the scheme of administration . . . the names of all offices . . . the jewels,
gold, silver, precious stones . . . such other particulars

and that

the register shall be prepared, verified and signed by the trustee of the math or temple . . .
and so on and so forth. Well, Sir, if a trustee who is the head of a math is engaged in preparing this register and in signing and verifying everything, and if there is anything wrong in it, he can be prosecuted for giving false evidence or for making a false statement. What I submit is this: in that way he will have to spend all his time in secular matters, and no time will be left to him to think of God or of his disciples. Then, again, look at clause 35, and there you find:

The trustee shall annually scrutinise the entries in the register and shall submit to the Board for its approval a verified statement showing the alterations, omissions or additions which should be made in the register.

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Clause 35—cont.

"Well, Sir, the trustee has to sit and put on his spectacles (laughter)—as generally old people are appointed as heads of maths to verify the statements; only, you have failed to add that the meaning of the word 'verify' is within the meaning of the Criminal Procedure Code. Then, Sir,

The Board may by order direct the alterations, omissions or additions which should be made in the register.

So you see, Sir, that an order is to be given to the Head of the *math* by these Boards. All I can say is, why not you respect the sentiment of the people towards these heads of *maths*. I am not asking that these duties should be allowed to be delegated to any one else. The Government is under a misapprehension. I say that anything that is addressed to the trustee may be addressed to his so-called private secretary. We do not address His Excellency personally, but we only address him through the secretaries that are in existence. Similarly, we have so much respect for our *matadhipatis* that we expect others to show some respect to them owing to the exalted position they occupy. I do not at all say that the powers and duties shall be delegated to the agent. He will be only a duly constituted agent to receive everything and to communicate the same to the head of the *math* and to do things under his direction. That is why I very much like to press this amendment."

Rao Bahadur T. NAMBERUMAL CHETTIYAR:—"Sir, I rise to say a few words in support of this amendment. I know of the case of a *matadhipati* who holds an exemption from attending courts, and he was forced to attend a particular court, because the judge of that court refused to recognize the order of exemption he possessed. He had to run away 300 miles to avoid attendance at the court to give evidence: a commission had to be issued to examine him. Hence, what I wish to say is that such a provision as this is essential, because if the *matadhipati* is called upon to be present at any enquiry it is better that he is allowed sometimes to be represented by his agent."

The hon. the RAJA OF PANAGAL:—"It is not the intention of the Government to show any disrespect or disregard to the *matadhipatis*. Far from it, the Government have the greatest respect for all those *matadhipatis*. The real difficulty is one of more or less of a technical nature. There will be no objection to ordinary administrative matters being transacted by the duly authorized agents. There may be cases where they have themselves to make statements. In such cases the difficulty comes in. All the same, Sir, the Government have taken power to exempt any of these heads of *maths* or trustees of excepted temples from any or all of the provisions of this Bill. So, if in experience any such difficulty is felt, it will be considered."

The amendment was put to the House and lost.

Clause 35 was then put, passed and added to the Bill.

Clause 36.

Clause 36 was put, passed and added to the Bill.

Clause 37.

Clause 37 was put, passed and added to the Bill.

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Clause 38.

Sub-clause (1).

(Amendment No. 145.)

Mr. C. V. VENKATARAMANA AYYANGAR:—"Sir, I move—

For the words 'office, or when' substitute the words 'office and.'

The purpose of this amendment is this: As it is, the first portion of sub-clause (1) of this clause says, if

there is a dispute respecting the right of succession to such office, or when such vacancy cannot be filled up immediately.

"I think, Sir, these two conditions when taken separately will be very dangerous; because, the mere fact that there is some dispute respecting the right of succession which should be enough for the Board or the committee to fill up the vacancy themselves will be a very dangerous power. What I say is that there are two different conditions here under which, even if they exist separately or alone, the appointment ought not to be made by the Board or committee when there is a vacancy. Supposing the first stands alone, and there is only a dispute respecting the right of succession by somebody objecting to the appointment of a successor who is chosen and who is to take charge, saying that he is the claimant or somebody else is the proper man simply because he does not like that successor, the Board will have to interfere. If a claim is found to be absurd and the Board sees that it is absurd, then it need not wait. Therefore, these two conditions, namely, a dispute respecting the right of succession and the vacancy not being filled up immediately, should be coupled together. Otherwise, a frivolous objection may be raised as to the succession, and then this sub-clause will give power to the Board or the committee to appoint somebody temporarily to the office. Whereas, if the two conditions are taken together before the Board or committee appoints anybody, there will be some time taken to see if there are any reasonable objections with regard to the succession and if the vacancy is not otherwise filled up. Especially in the case of the hereditary trusteeship which involves a good deal of responsible work, such a dispute may arise when one becomes a trustee by succession, and any one may rise up and say 'he is not the fit man, there is some one else,' or 'I am the fit man to succeed.' Therefore, to guard against the possibility of frivolous objections being raised to heirship or to the right of succession, I would suggest some such limitation as is contained in my amendment."

The hon. the RAJA OF PANAGAL:—"Mr. President, the contingencies contemplated in the first two paragraphs of sub-clause (1) of clause 38 are two independent contingencies and not one contingency dependent on another. Hence, Sir, the disjunctive conjunction is used and not the conjunctive conjunction. If I adopt the amendment of my hon. friend, the object of the clause will be frustrated. Instead of two contingencies being separate, one will have to depend on the other, and only when there is the latter contingency arising, effect can be given to this provision. Under these circumstances, it will not be possible to accept this amendment."

Mr. C. V. VENKATARAMANA AYYANGAR:—"So far as the language is concerned, I understand it quite correctly. The word 'or' is there, and therefore I want the word 'and' in its place. The two conditions taken together will be sufficient for the Board to take steps. Only when there is a

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Clause 38—cont.

dispute regarding succession, there are possibilities of the vacancy not being filled up immediately. Again, as I said, as a safeguard I have put the word 'and' instead of 'or.' For, as it is, any person in the street raising an objection to the qualifications of a successor may be able to put off his coming into office, for a long time. Therefore, it is to take away the possibility of such a contingency that I want the word 'and' there in place of 'or.' I have therefore to press this amendment."

The amendment was put and lost.

(Amendment No. 146.)

Rai Bahadur T. M. NARASIMHACHARLU :—"Sir, I beg to move—

Omit the words 'the Board in the case of maths and excepted temples and.'

"This clause, Sir, applies to all hereditary trustees of the *maths* and other kinds of religious endowments. As I have already submitted, this will land us in a great deal of difficulties, to borrow the language of the hon. the Minister. When, as is contemplated in this clause a vacancy occurs, the head of a *math* must be a *sanyasi*, and power is given here to the Board in the case of the *maths* and excepted temples and to the committees in the case of other endowment. I ask, Sir, is it the idea of this Government or of this Bill to make a *sanyasi*, instal him as head of a *math* and constitute him a trustee. Well, Sir, if the Government has contemplated such a power, I think it is a very unwise step. In fact, it is impracticable.

What I would submit is that this is a very knotty question and the Government is really taking upon itself a power which it does not possess, and has not possessed at any time, namely that of appointing spiritual heads of the *maths*, calling them trustees and then asking them to account for the administration. Even though it may be a temporary vacancy, as mentioned in this clause, they have no power to do these things, and I submit, it will be usurping a power which the Government never possessed—the power of appointing a trustee even temporarily in the case of *maths*. I hope that the zamindars and those who have control over the excepted temples will join with me, because I plead not only for the *maths* but also for the excepted temples. In this case it will not be possible for the Government to appoint a temporary zamindar who will be in management till the disputes between the various contending parties are settled finally in the Privy Council. Therefore, I submit that this is a provision whose consequences have not been properly foreseen by the Government and I press my motion for the consideration of the House."

Sri Meka V. APPARAO Bahadur :—"Am I to understand, Sir, that under this clause a temporary trustee is to be appointed as a receiver is appointed in the courts?"

The hon. the RAJA OF PANAGAL :—"Yes, Sir."

Sri Meka V. APPARAO Bahadur :—"Then I have no objection, Sir, to the clause."

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Clause 38—cont.

Mr. R. SRINIVASA AYYANGAR :—"Sir, with your permission I should like to say just a word about this motion. The power taken by this clause appears to be very dangerous and would be beset with serious difficulties and complications. If an interim trustee is to be appointed to discharge the secular duties appertaining to a *math*, I can understand it because his functions will be akin to those of a receiver or manager appointed for the time being to be in charge of the secular side of the institution. But as the clause stands, to confer on the Board the power of getting hold of a *sanyasi* in the case of Vaishnava *maths*, getting hold of a bachelor in the case of the Sankaracharya *maths*, or getting hold of a virgin Smartha widow in the case of the Balayya *math* in Tiruvallur, to confer on the Board this extraordinary responsibility for the purpose of safeguarding the interests of these institutions, is, I venture to submit, highly objectionable and improper. A vacancy may occur, or a dispute may arise in the wake of the death of trustee, but so far as the Ahobilam *math* is concerned, we have certain established usages to go upon; either the successor is nominated by the predecessor and *kashayam* is given to him, and in the event of His Holiness dying all of a sudden, without nominating a successor, right is given to the disciples of the *math* to meet in a particular place, and it is within the competence and discretion of a large number of disciples to nominate his successor. Thirty years ago, when such a contingency arose, as a matter of fact, most of the disciples met in a village near Villupuram and appointed and installed the successor. But now that power is sought to be taken away, and the Board wants or is anxious to retain in its hands the power of appointing a *matadhipati* for the time being and so far as this clause is concerned, he will be a *matadhipati* for ever for when we turn to another portion of the section, it says that he shall discharge the functions of the trustee of such endowment until another trustee succeeds to the office or the disability of the trustee ceases to exist, as the case may be. So far as the Government's position is concerned, he will be a permanent fixture, a tool in the hands of these people, and I am not quite sure whether it will be desirable on the part of the Board to claim this power or to arrogate to itself this power. By doing so, it will have the effect of empowering the Board to force a particular individual as *matadhipati* on these *maths*."

The hon. the RAJA OF PANAGAL :—"Sir, I am afraid that either my hon. friends are confused or are trying to confuse us."

Mr. R. SRINIVASA AYYANGAR :—"There is absolutely no confusion, Sir, so far as we are concerned."

The hon. the RAJA OF PANAGAL :—"What is contemplated under this clause is not a trustee of the spiritual administration, but it is a trustee of the endowments, that is the trusteeship of the properties belonging to the *math* or excepted temple. My hon. friend, the Zamindar of Vuyyur (Sri M. V. Appa Rao Bahadur), correctly estimated the value of the arguments and he was just in time to defend the Government against an attack which is gratuitous. As a matter of fact there cannot be any objection to the sub-clause as it is, because it does not contemplate any interference with the spiritual administration. I ask my hon. friend a question. Suppose, there is a disputed succession. There are two *matadhipatis* claiming the management of a *math*. Certainly it follows that one of them is putting

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Clause 38—cont.

forward a wrongful claim. Now, it may happen that the management is taken over by the wrongful *matadhipati*. Then, what about the sacrilege which my friends have in the course of their arguments made so much of? Again, Sir, there may be cases which go to courts when two *matadhipatis* dispute their claims before a court of law, and the court has the power to appoint a receiver. How would they avoid such a contingency? Now, a similar power is given to the Board, and I cannot see any objection to the Board being given this power of taking over the management of the property during the pendency of a suit."

Rai Bahadur T. M. NARASIMHACHARLU:—"Sir, I quite appreciate the object of the Government from the kind expressions uttered by the hon. the Minister, that object being simply to appoint a person as receiver pending the settlement of disputes and pending the accession to office of the proper person. I quite understand that; but the language employed here is wide. For, a little consideration will show that my fears are not entirely ungrounded, because the clause says:

May appoint a fit person to discharge the functions of the trustee of such endowment.

But the trustee of an endowment has both secular as well as spiritual functions."

Rai Bahadur N. GOPALASWAMI AYYANGAR:—"May I draw the hon. Member's attention to the definitions of the words 'trustee' and 'endowment,' Sir?"

Rai Bahadur T. M. NARASIMHACHARLU:—"I have already seen those definitions, Sir, and we have had much discussion about them."

The hon. the RAJA OF PANAGAL:—"May I ask my hon. friend another question, Sir? If a trustee mismanages property, he is answerable for it. The trustee may have private property. If he mismanages that property, is he answerable as the trustee? Similarly, here the trustee may have other functions. If he fails to discharge those other functions, nobody will interfere with him. It is only with reference to the particular trust property that he will be made answerable."

Rai Bahadur T. M. NARASIMHACHARLU:—"Sir, with reference to the interposition of the hon. Mr. Ayyangar (laughter). We used to honour the late Sir V. Bhashyam Ayyangar by calling him 'Ayyangar' on account of his greatness. Anyhow, let us turn to the definition of the word 'trustee.' 'Trustee' means a person, by whatever designation known, in whom the administration of the affairs of a religious endowment is vested and includes any person who is liable as if he were a trustee. Now, administration of the affairs of a religious endowment is vested in a trustee. What is the administration of the affairs of a math? It is both spiritual as well as secular. There also the same doubt arises. Therefore, referring me to another doubt will not have the effect of clearing my doubt."

Rai Bahadur N. GOPALASWAMI AYYANGAR:—"I think, Sir, matters will be cleared up if I refer the hon. Member to another definition, namely, that of 'religious endowment' which includes the premises of maths or temples and only the properties belonging to the math. Where there is a disputed succession, each of the disputing *matadhipatis* may receive personal gifts and offerings, but these do not come under the term 'religious endowment.'"

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Rai Bahadur T. M. NARASIMHACHARLU:—"Very well, Sir, I suppose my time is very short now."

The hon. the DEPUTY PRESIDENT:—"Yes, your time is up" (laughter).

Rai Bahadur T. M. NARASIMHACHARLU:—"I shall only refer to sub-clause (2) which says: 'In making an appointment under sub-clause (1), the Board or committee shall have due regard to the claims of disciples, if any, in the case of maths, and of members of the family, if any, entitled to the succession in the case of temples.' If it is only a receiver, they may appoint a first-grade pleader of some years' standing and be done with it. Why should they have reference to the claims of the disciples and so forth in the case of maths? Therefore, if the Government, instead of replying to me and silencing me (laughter), would make the matter clear, we shall all be very grateful to them."

Diwan Bahadur Sir T. DESIKA ACHARIYAR:—"Mr. President, Sir, I want to say just a word with your permission. I beg to point out that the difficulty is one which is real and if the hon. the Minister will introduce some expression in the clause to show that the functions of the interim trustee will be only secular, that would satisfy the requirements of the case. Sub-clause (3) says that the person so appointed shall be entitled to exercise all the powers which a trustee can exercise in relation to such endowment. What are the powers of a trustee in a math? The *matadhipati* being its trustee, the powers which he can exercise with reference to an endowment will be co-extensive with the powers of the religious head of the institution. I think the matter is not made quite clear. I quite see the object of this clause is to introduce a sort of *ad interim* receiver, and in order to make it clear, some expression should be used which will not impose upon a math any person who may claim to discharge the religious functions thereof."

The motion was put to the House and negatived.

(Amendment No. 147.)

Rao Bahadur A. S. KRISHNA RAO PANTULU:—"Sir, I beg to move—
4-15 p.m. For the words 'Board in the case of maths and excepted temples and the committee in the case of other temples' substitute the word 'court'.

"Sir, my hon. friend, Mr. Narasimhacharlu, has laboured hard to satisfy the hon. the Raja of Panagal and make him accept his suggestion that in the case of maths and excepted temples, reference to the Board should be removed. He pointed out the various difficulties which would arise if such wide powers were conferred upon the Board. It will be remembered that the powers conferred on the Board under this clause are very wide notwithstanding the interpretation put upon it by the hon. the Minister in charge of the Bill and the hon. Member, Mr. Gopalaswami Ayyangar. It will be found that this does not refer expressly to the appointment of one who will stand in the position of an interim receiver. We, Sir, are acquainted with the language in the various statutes regarding the appointment of officers temporarily as receivers to take charge of estates. If the object of the framers of the Bill and of the Select Committee was only to bring into existence such officers nothing was easier than to have stated in explicit terms

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Clause 38—cont.

that during the pendency of the decision of the question an interim receiver should be appointed to take charge of the properties. In this case that is not at all done. The words used in sub-clause (d) are—

The Board in the case of maths and excepted temples and the committee in the case of other temples may appoint a fit person to discharge the functions of the trustee of such endowment . . .

“As it has been pointed out by my hon. friend, Sir Desika Achariyar, it is also stated that the person so appointed shall be entitled to exercise the powers which would be exercised by a trustee in relation to the endowments. In addition to these difficulties, I wish to point out that if we have regard to the consideration specified in sub-clause (2) of this clause 38, namely, that

The Board or committee shall have due regard to the claims of disciples, if any, in the case of maths, and of members of the family, if any, entitled to succession in the case of temples,

it is clear that the members of the Board have very grave responsibilities to discharge in deciding this question. If, as I have suggested, the position of the Government is that an interim receiver should be appointed, then no difficulty will arise in regard to this question. If it is suggested that these words should be retained and that the Board should be empowered to appoint trustees though temporarily, then I am afraid it is a very dangerous power in the hands of the Board. It is for this reason I move an amendment suggesting that this power should be vested in the court as heretofore. It will be remembered that the constitution of the Board of Commissioners which this House has approved provides for one President and two or four other Commissioners. Let us assume that there is a Board of five Commissioners. The rules provide that the President should possess some special qualification, namely, that he should be a man with judicial experience. In the case of the other four Commissioners no qualifications are prescribed. The Government are at perfect liberty to appoint whomsoever they choose. It may be that the President alone is a man with judicial experience and the others are laymen, not possessing the necessary qualifications. What is the result? They will be entrusted with the task of deciding questions relating to claims of disciples in the case of maths or the claims to succession of members of families in the case of temples. Is it desirable in the present state of development of institutions to entrust this wide and far-reaching power to persons most of whom may be persons without the requisite judicial experience? Let us also realize that hitherto such important powers have been exercised only by courts. There are cases wherein schemes have already been sanctioned by courts. Such cases are likely to come up again before this Board of Commissioners. In view of all these facts, is it not desirable that these wide powers, which are to be exercised not merely in the case of unexcepted temples but also in the case of excepted temples and maths, should be conferred on courts? I hope, Sir, that even if my hon. friend, Mr. Narasimbachari, was, as we all anticipated, not successful in inducing the hon. Minister to exclude the Board, my suggestion will be acceptable to the Government in the present state of development of these institutions. It may be that the Government may appoint as Commissioners only persons having judicial experience. But we cannot be sure of the present Minister ever continuing so that he may select only persons with judicial experience for the office of Commissioners. When we are legislating, we should not

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Clause 38—cont.

be guided by such sentiments. We must take the possibility of the appointment of a person absolutely ignorant of law and we must provide for such a contingency. The Government is bound to appoint a person with judicial experience only in the case of President of the Board of Commissioners. In the case of others they may appoint mere laymen. Is it not dangerous to entrust to the Board the power of appointing a trustee though temporarily? I therefore think that this amendment deserves to be accepted by the House; but from our previous experience of the fate of all amendments, I am not quite sure of the success of my motion.”

The hon. the RAJA OF PANAGAL:—“Sir, this is the old story again, namely, ‘Board’ versus ‘Court’, and I am afraid I cannot accept this amendment. We have repeated over and over again the reasons against the substitution of the Court for the Board. My hon. friend stated that members of the Board might not be competent to discharge satisfactorily the duties entrusted to them. In the course of his argument he himself admitted that the President at least had the requisite qualifications. So there is at least one man on the Board who has knowledge of law and if others are associated with him I cannot see how the matter will be worsened. For instance, in the case of trial by jury the jurors are not expected to be persons with the same qualifications as the Judge. At the same time they are expected to exercise their common sense and come to a decision on the guilt or otherwise of the accused. Besides I cannot understand why hon. Members should be suspicious about the appointment of these Commissioners. I fail to see what really is at the bottom of these apprehensions. As no new case has been made out, I am not able to accept the amendment.”

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR:—“Sir, there were some matters on which my hon. friend, the Raja of Panagal, appeared to be somewhat in the dark. He wanted to know what was at the back of all these amendments. I shall try to throw some light on them.

“The position seems to be this. We have not got sufficient confidence in the capacity of the Board that is sought to be constituted because we have not had any experience of their work so as to vest them with the full powers that this Bill contemplates they should be vested with. If we go into the history of the Charity Commissioners in England, whose capacity to manage things can in no way be compared with our own, we shall find that the extension of their powers has been gradual. It is only this that has prompted us in the first instance to take care that the Board is not vested with all kinds of powers so that if they misuse them, the mischief to the country will be of enormous magnitude. With reference to this particular question I should say that the courts are the best fitted to fulfil the functions that are prescribed by clause 38. Experience has shown us that even in the matter of the appointment of receivers, the courts are the best constituted for the purpose of deciding who may be a receiver.”

The hon. the DEPUTY PRESIDENT:—“May I ask the hon. Member how the amendment under discussion is different from amendment No. 237, on the agenda which has been discussed and disposed of already?”

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR:—“I submit, Sir, that the amendment No. 237 was with reference to clause 26 which deals with the occurrence of a vacancy in the office of an elected member of the committee. The present amendment relates to clause 38.

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Clause 38—cont.

"Well, Sir, I was mentioning that the courts, as suggested by our experience, were the best constituted for the purpose of appointing even receivers. Since there seems to be some doubt as to the exact position that the person that is to be appointed under this clause is to fill—whether he will be merely a receiver or whether he will be something more—it is much better that we entrust to the courts the power to appoint persons who may continue to hold office for a length of time in some cases.

"Then again it is also to be remembered that if we give the power to the court, there will be means of setting right any error or mistake that it may commit which means shall not be open in the case of the Board. For these reasons I beg to submit that my hon. friend need not assume the usual attitude with regard to the present amendment and I think he may gladly accept it."

MR. R. SRINIVASA AYYANGAR :—"Sir, I give my support to the amendment that is now under discussion. The Board that is to be constituted has yet to justify its existence, and to overload it with lot of heavy work at the very beginning of its career is undesirable and unwarranted. As my hon. friend, Mr. Govindaraghava Ayyar, put it, it is much better that the authority that discharges this heavy responsibility is an authority that will command the respect and also inspire the confidence of the people at large. I may say that while the action of a court will be subject to check by a superior court, no such guarantee is afforded and no such safeguards are provided in the case of the Board whose authority will be almost final until and unless somebody else as a result of litigation establishes his right. Therefore there is very great danger in over-weighting this body with a lot of burden, and if it is insisted that it should carry such a heavy burden, I fear the machinery may break down."

Diwan Bahadur Sir P. TYAGARAYA CHETTIYAR :—"Mr. President, there seems to be an impression in the minds of some people that lawyers and persons trained in the judicial side are the only persons capable of carrying out the duties of the members of this Board. When the Board consists of a President who is a lawyer and also of men who may not be lawyers, is it to be understood, Sir, that they will be unfit to carry out and conduct the duties of the Board? May I ask this question for being answered? Whether the hon. the Raja of Panagal is a lawyer, or whether he is one who has been trained in the judicial branch; and if not, is he fit to do the duty of a Minister and to pilot this Bill now before us through the House; and is he capable of answering all the questions connected with the various amendments which are like bomb-shells thrown at him? If he is fit, don't you think that gentlemen outside the lawyer class may also have a judicial frame of mind and may have such qualifications as will enable them to carry out the duties of members of the Board? I am afraid, Sir, it is too much to say that we cannot get persons outside the lawyer class fit to undertake such duties."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—"Mr. President, I think my hon. friend, Sir P. Tyagaraya Chettiyar, has put us a very embarrassing question. I regret that he has done so, for, I think, that it is a question which we in this House and in connexion with this Bill cannot satisfactorily

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Clause 38—cont.

answer. The question that he has asked is whether my hon. friend, who sits opposite to us and who is in charge of this measure, is competent, though he is not a lawyer, to pilot this Bill through this Council."

Diwan Bahadur Sir P. TYAGARAYA CHETTIYAR :—"What I asked was whether he was not capable of answering all the questions put to him."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—"It is not possible to answer such a question, Sir; for it is too personal. So far as I am concerned and so far as my hon. friends on this side of the House are concerned, we shall not take up an invitation to express an opinion on the competence or otherwise of a Minister for the time being in charge of a Bill, and especially an invitation from my hon. friend, Sir P. Tyagaraya Chettiyar, who is the leader of the party to which the Minister belongs."

The hon. the DEPUTY PRESIDENT :—"I think we need not labour the point much. The point raised by Sir P. Tyagaraya Chettiyar, I think, is that there are people outside the legal profession, as well as in the circle of Judges, who are capable of dealing with these questions."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—"I think my hon. friend spoke in language which I really understood. Therefore, when he raised such a question and charged us with ignorance and, as he put it, too much of presumption of legal knowledge, it seems to me that it is time that a word of protest is entered. My hon. friend knows that the Minister in charge of the Bill had a Select Committee behind him to assist him, and he has the Advocate-General besides a gentleman who has been specially deputed to assist him in regard to this Bill."

Diwan Bahadur Sir P. TYAGARAYA CHETTIYAR :—"I said that in connexion with this Bill he was answering every question put to him here."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—"That is true, but I do not know whether my hon. friend is aware of the promptings which the Minister receives now and then from gentlemen who sit behind him. I want my hon. friend to understand that he ought not to have raised a personal question such as that."

Diwan Bahadur Sir P. TYAGARAYA CHETTIYAR :—"I apologise to you, Sir, if I said anything personal. What I meant to say was that there was a presumption that it was only the lawyer class who could deal with such matters and that others could not. I said that such a presumption could not be maintained."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—"I must say that everybody knows history, and if my hon. friend says that the lawyers do not know their duty and that other persons without any legal training know as much as a lawyer does of what his trade is, I must only express my surprise at it."

"As I said, Sir, the whole question about this particular clause is as to whether the court should exercise these functions, or whether the Board should exercise. So far as the merits of this question are concerned, my hon. friends have already answered all the arguments that have been urged against this proposal. The whole point is, when you have to deal with questions of claims such as those that might arise under this clause, whether a court would be more competent to deal with this matter, or whether the

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Clause 38—cont.

Board or the committee who are not particularly trained in the judicial investigation of the respective claims of parties that might arise in these cases would be more competent. In regard to that point I submit that the more competent authority to put right such claims would be—if I may say so without any disparagement to the Board—certainly the court.”

Rao Bahadur A. S. KRISHNA RAO PANTULU :—“ Sir, I only wish to point out that the hon. Sir P. Tyagaraya Chettiar has not correctly understood the position of those who made this motion. He started by saying that there was an unfounded impression on the part of those who made the motion that the Commissioners of the Board must be recruited only from among those who had judicial or legal training, and that otherwise they could deal with the questions that would arise. The particular motion, Sir, does not deal with all the varied functions which the Commissioners have to discharge. I am prepared to concede that there are various matters of administration, various matters of checking of accounts, various matters of a routine character, various matters of even religious observances and usages in regard to which there are other persons than lawyers who are in a position to give very good opinion or advice. When it comes to a matter of checking of accounts, there are businessmen and accountants, and when we consider the duties of the court, there are persons in that line who are better fitted for the work. But here we are only dealing with the point as to the decision of certain questions wherein questions of law may be raised; we are only dealing with questions of more or less judicial administration. If in matters of this description we suggest that it is desirable to have persons with judicial training and that for that reason the court should be substituted for the Board, it is, I think, Sir, a very reasonable position to take. I would only leave it to the House to consider whether a statement made by us, that in matters which have to be decided after weighing the evidence and after considering the rival claims of parties courts would do better than probably laymen, is acceptable or not. As regards the other questions and the challenges thrown at us, my hon. friend, Mr. Ramachandra Rao, has already answered them, and I am not expected to say anything in a personal matter like that.”

The hon. the RAJA OF PANAGAL :—“ Mr. President, I do not wish to join in the dispute between the Leader on the opposite side and the Leader on this side of the House. But, Sir, I was somewhat surprised at the attitude taken up by some of the members on the opposite side. They said that the Board was a body to be newly created and so advised: ‘let us proceed slow; let us wait and see how it is worked and then let us entrust them with more powers’. I wish, Sir, my friends were as halting in their demands for full responsible government. They say: ‘Why not we have at once full responsible government? Why should we have it by dribblets?’ ”

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—“ I rise on a point of personal explanation, Sir.”

The hon. the DEPUTY PRESIDENT :—“ The hon. Member has not been personally referred to.”

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—“ The hon. the Minister said, Sir, ‘opposite side’.”

The hon. the DEPUTY PRESIDENT :—“ The hon. the Raja of Panagal may proceed.”

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Clause 38—cont.

The hon. the RAJA OF PANAGAL :—“ They say: ‘We do not care to have reforms by dribblets; let us have full Self-Government at once; even if we mismanage it, it does not matter; that very mismanagement is to the advantage of the country’. In other words, they say ‘Good Government is no substitute for Self-Government’. Cannot we adopt the same theory here also in regard to this? We thought that instead of one Judge sitting and disposing of all these matters, it would be much better that the Board with one President having full judicial qualifications and others sitting with him should dispose of them. Where is the harm in trying this as an experimental measure? They say ‘let us proceed slowly.’ Where is the necessity for this extra caution? This attitude appears to me to be somewhat unreasonable.

“ Sir, as to the relative merits of the Board and of the court to dispose of these matters, the House has already decided that it is much better that the Board should be entrusted with these matters instead of the courts. So, Sir, following the decision already arrived at in this House, I think it is unnecessary to pursue the matter any further. I am not prepared to accept the amendment.”

The motion was put and lost.

(Amendment No. 148.)

Rai Bahadur T. M. NARASIMHACHARLU :—“ Sir, the amendment standing in my name runs thus—

Insert the word ‘secular’ before the words ‘functions of the trustee of such endowment’.

“ My object in moving this amendment is to remove the misapprehension that may exist in the minds of some as regards the powers of the person who is temporarily appointed to discharge the functions of a trustee. I suggest this, Sir, to make matters clear.”

The hon. the RAJA OF PANAGAL :—“ Mr. President, it looks as though it is unnecessary. In the first place, the trusteeship, as I have already stated in replying to the arguments of my hon. friends opposite in dealing with a previous amendment, relates only to the property of the math. It does not interfere with the spiritual activities of the heads of maths. However, I would have no objection to accept this amendment had it not been for the fact that this word ‘secular,’ when it relates to the trustees of excepted temples, would mean nothing. I oppose this amendment.”

The amendment was put and lost.

(Amendment No. 149.)

Mr. M. SURYANARAYANA :—“ Sir, I beg to move—

For the words ‘until another trustee succeeds to the office’ substitute the words ‘until another person establishes in a court of law his right to succeed to the office.’

4-45 p.m. I do not think any speech is required. I only want it to be made clear from the manner in which the other trustees succeed to the office by saying ‘until another person establishes in a court of law his right to succeed to the office.’

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Clause 38—cont.

Rai Bahadur N. GOPALASWAMI AYYANGAR :—" Mr. President, there is really no difficulty in accepting this amendment provided the hon. Member who has moved it is willing to accept a small change in the wording he has adopted. I propose to put it like this: 'until another person establishes his right to succeed and succeeds to the office'."

Mr. M. SURYANARAYANA :—" Sir, I accept the amendment proposed to be moved by Mr. Gopalaswami Ayyangar and withdraw mine."

The amendment was by leave withdrawn.

(Amendment No. 150.)

Rai Bahadur N. GOPALASWAMI AYYANGAR :—" Sir, I move—

For the words 'until another trustee succeeds to the office' substitute the following words 'until another person establishes his right to succeed and succeeds to the office'."

Rai Bahadur T. M. NARASIMHACHARLU :—" Sir, I object to this amendment, because, as it is, it is all right. 'Until another trustee succeeds' might mean that he might either succeed by the right inherent in him, by succession or by private arbitration or otherwise. The amendment proposed is very comprehensive, viz., 'until another person establishes his right to succeed and succeeds to the office'. Suppose a predecessor dies all on a sudden in a railway accident. If this amendment is adopted, there will be a lot of difficulty for the successor to succeed to the office. I really think that this so-called amendment is worse than the original clause itself."

Rai Bahadur N. GOPALASWAMI AYYANGAR :—" I do not press my amendment, Sir. I beg leave to withdraw it."

The amendment was by leave withdrawn.

(Amendment No. 151.)

Mr. C. MADHAVAN NAYAR (Advocate-General) :—" Mr. President, the amendment that stands against my name runs in these terms—

Add at the end the following :—

'Nothing in this sub-section shall be deemed to affect anything contained in the Madras Court of Wards Act, 1902.'

Sir, I have moved this amendment with a view to avoid a possible inconsistency with some of the provisions of the Court of Wards Act. You will perceive that under clause 38 when a vacancy occurs in the office of a hereditary trustee or when a hereditary trustee is a minor, the Board may appoint a fit person. Now, when a vacancy occurs in the office of a hereditary trustee who is a ward under the Court of Wards, according to the Court of Wards Act, the court has got certain functions to discharge. It is with a view to avoid a possible clash between its powers and the powers of the Board under this Act that I propose this amendment."

The hon. the RAJA OF PANAGAL :—" Sir, I accept the amendment."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—" May I ask the hon. the Advocate-General whether the amendment is only in regard to succession, or in regard to the contribution to the fund of the Board?"

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Clause 38—cont.

Mr. C. MADHAVAN NAYAR (Advocate-General) :—" What is stated is—

Nothing in this sub-section shall be deemed to affect anything contained in the Madras Court of Wards Act, 1902.

It is only in regard to sub-section (1)."

Rao Bahadur C. V. S. NARASIMHA RAJU :—" In clause 38, sub-clause (1), paragraph 3, the words are—

No legally constituted guardian fit and willing to act.

There, the case of Court of Wards being guardian to a minor is contemplated and that is the reason why the wording is—

No legally constituted guardian.

When the Court of Wards assumes the control of an estate as guardian of the minor, it becomes the legally constituted guardian. That is provided for. Therefore, I do not see any reason why this amendment is proposed. If I remember right, the original Bill contained a general wording, but at the suggestion of one of the members of the Select Committee, that wording was changed to cover the case of a guardian under the Court of Wards Act coming as a guardian of a minor. I do not think there is any special necessity to provide a saving clause of this sort."

Mr. C. MADHAVAN NAYAR (Advocate-General) :—" I purposely stated at the beginning that this motion was proposed in order to avoid a possible inconsistency that may arise if the Court of Wards came in under section 63. There is no harm done if there is a provision like this. It seems my hon. friend wants the House to leave matters as they are. But I want to avoid the possible inconsistency I have referred to above."

The motion was put and carried.

Sub-clause (2).

(Amendment No. 152.)

Mr. T. SOMASUNDARA MUDALIYAR :—" Sir, I beg to move—

For the words 'shall have due regard to the claims of disciples, if any, in the case of maths, and of members of the family, if any, entitled to the succession, in the case of temples', substitute the words 'shall choose the person from the disciples in case of maths, and from the members of or related to the family entitled to succession in case of temples. In the case of temple, if such a person be not available, any person who is interested in the temple may be appointed'.

Sir, in this connexion I wish to bring to the notice of the House the fact that there is a good deal of apprehension in the minds of hundreds of disciples of the various maths that their claims for succession will not be fully recognized. It is only to set their minds and those of the people interested in the temple affairs at rest that I have proposed this amendment."

The hon. the RAJA OF PANAGAL :—" Sir, the clause as it is does recognize the claims of the shishyas, disciples and others for succession. My friend probably requires the clause to be somewhat more specific. I do sympathize with him. If he is prepared to withdraw his amendment, I shall ask the

[The Raja of Panagal]

[29th March 1923]

Clause 38—cont.

hon. Mr. Gopalaswami Ayyangar to move an amendment in a more acceptable form. Copies of this amendment have been already distributed to hon. Members."

The motion was by leave withdrawn.

(Amendment No. 153.)

Rai Bahadur N. GOPALASWAMI AYYANGAR :—" Sir, I beg to move that for sub-clause (2) the following may be substituted :—

'The person to be appointed under sub-section (1) shall be a disciple in the case of a math, and the member of the family, if any, entitled to the succession in the case of a temple. Where a disciple or a member of the family as the case may be is not available, the person appointed shall be a person having interest in the math or the temple concerned.'

Rai Bahadur T. M. NARASIMHACHARLU :—" I object to the amendment. The present sub-clause allows the discretion to choose a disciple or not, because it says that the Board shall have due regard to the claims of disciples. The object of the clause, as was mentioned by the hon. the Minister, is to appoint a receiver. If that is so, why is it proposed to encroach upon the realms of the successors? The present amendment moved by the Government makes the matter worse. In the case of a math, the successor shall be a disciple. What I contend is, let it be purely an interim trustee as the hon. the Minister puts it or an interim receiver as I would put it. Do not try to take into your own hands the question of succession. That is the thin end of the wedge to give power to the Board to try and decide cases of succession. I submit if you want to guard the trust property, appoint a person who is fit to manage the property. Please do not go into the question of disciple."

The hon. the RAJA OF PANAGAL :—" Sir, to put the matter to test, I ask my hon. friend one question, and my attitude would depend upon how he answers that question. I ask him in a case like this what his feelings would be if I were to appoint a Muhammadan or a Christian gentleman as the manager. Is he prepared to accept such an appointment? Well then, if there is a distinction drawn between a Muhammadan and a Hindu, is it not fair that the distinction is drawn between those who are disciples and those who are not disciples? If among disciples there are competent men, why not we accept them as trustees in charge? That is the real test, and I ask my hon. friend whether he would have no objection to appoint a non-Hindu as a trustee."

Rao Bahadur C. V. S. NARASIMHA RAJU :—" The wording as it stands in the clause really shows that it is left to the discretion of the Board or the Committee to appoint a trustee. It means that no person has got a right to question it in a court of law whether it is rightly exercised or not. But if the amendment which is now proposed by the hon. the Expert Member is accepted, any member of the family can bring a suit in the case of this particular appointment whether it is legally right or not. Therefore in order to avoid all complications—suit against suit or multiplicity of suits—it is better and desirable to reject the new amendment and retain the original wording, which means this. Discretion is given to the Board to select one from among the

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[Mr. C. V. S. Narasimha Raju]

Clause 38—cont.

disciples. That does not mean 'that regard being had' only means it is left to the discretion of the appointing authority and it cannot be questioned in a court of law."

The hon. the RAJA OF PANAGAL :—" I want to make the position of the Government clear. In this matter the sense of the House is to be taken. The attitude of the Government is neutral. Mr. Gopalaswami Ayyangar has moved his amendment. If the House is for it, it will be accepted and if it is not, it will be rejected."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—" There is no difference of opinion between my hon. friend and ourselves. The whole object is to appoint an interim trustee, but if he says that the interim trustee should belong to the family of a previous trustee it may be that the question whether he belongs to that family or not may be brought under consideration. If my hon. friend also sees the other position as regards maths, viz., that somebody who is selected by the Board claims to be a disciple, it may be that when he claims to be a disciple there will be another person who says he is not a disciple of a particular math. The question whether he is a disciple or not has again to come before the court as an issue. Therefore if you say that the field of selection should be limited, you will be giving room for the contention whether he is a disciple or not. In the case of temples, if you say that a member of a family entitled to succession is a fit person to be appointed as trustee, it is perfectly certain that the Board would naturally pick out a person who belongs to the community which has administered that trust. Therefore it seems to me that it is certainly much more desirable to use the word 'fit person' and to leave this word 'fit' entirely to the Board. It is with that intention my hon. friend has pointed out that the original wording is to be preferred to the wording proposed by my hon. friend, Mr. Gopalaswami Ayyangar. We have no quarrel with the Minister or the Government, and the reason for our asking to retain the original wording should not be understood as any sort of obstructive tactics for Government's proposals. We are simply pointing out that the very objects which this clause is intended to achieve will be defeated by putting these limitations."

The hon. the RAJA OF PANAGAL :—" I cannot understand what my hon. friend is driving at. I have already stated that the attitude of the Government is neutral, and I would like that this amendment may be put to vote so that the fate of this amendment may be known."

The hon. the PRESIDENT :—" The hon. Member is trying to convince the Government that they should not be neutral."

The hon. the RAJA OF PANAGAL :—" I am not convinced by the arguments advanced by the hon. Member. I think there is no harm in the Government assuming a neutral attitude."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—" Of course the hon. the Minister will not only remain unconvinced by this argument, but also by several other arguments. As I have already indicated in one case, the question of conviction is not easy at all."

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Clause 38—cont.

The hon. the RAJA OF PANAGAL :—" I suppose that remark applies to the side my friend represents."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—" Undoubtedly it does. As I have said already, in democratic institutions like this the majority and the minority parties have to be convinced by each other's arguments. It is only for that purpose that we are advancing our arguments but unfortunately the majority party does not seem to realize."

The hon. the PRESIDENT :—" Let us go to the maths."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—" Well, coming to the maths, as my hon. friend says if he will be neutral, all the difficulties that have been mentioned above will arise."

The hon. the PRESIDENT :—" As the Government is neutral, I suppose the hon. Member, Mr. Gopalaswami Ayyangar, would wish to reply on behalf of his motion."

Rai Bahadur N. GOPALASWAMI AYYANGAR :—" I have nothing to say, Sir."

The amendment of Mr. Gopalaswami Ayyangar was put to vote and lost.

Clause 38 as amended was put, carried and added to the Bill.

Clause 39.

Sub-clause (1).

(Amendment No. 154.)

Rao Bahadur T. NAMBERUMAL CHETTIYAR :—" I beg to move—

Add at the end the following :—

'In such forms as may be prescribed by the auditor, and the latter should submit every month to the committee concerned an abstract of their receipts and disbursements for the preceding month.'

"Sir, if monthly returns are enforced it will facilitate the work. The tendency is to put off the work that is intended to be done to-day to to-morrow. At the end of the year the work will not be finished if the accounts are allowed to accumulate. I therefore move for the insertion of my amendment in the Bill, but if the Minister is of opinion that such a provision is made elsewhere I have no objection to withdraw the motion."

Rai Bahadur N. GOPALASWAMI AYYANGAR :—" Under the clause relating to rule-making powers, Government have powers to prescribe the forms and accounts to be kept. In any case, the auditor will be consulted before the Government issue rules on a subject like that, and I think the powers to prescribe those forms should be in the hands of the Government instead of the auditor himself."

The motion was by leave withdrawn.

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Clause 39—cont.

Sub-clause (2).

(Amendment No. 155.)

Mr. C. V. VENKATARAMANA AYYANGAR :—" I beg to move—

After the word 'intervals' insert the words 'of not less than one year'.

"Sir, it is only with the object of saying that the audit should not be made at periods within one year that I have moved this amendment. We know that maths and temples have been put to all sorts of difficulties when they are asked to produce accounts. If the period is less than one year the difficulties in producing their accounts will be much greater. I therefore move that my amendment may be accepted."

The hon. the RAJA OF PANAGAL :—" It is a matter that should be prescribed by the rules. I do not see any reason why we should accept this amendment."

Mr. C. V. VENKATARAMANA AYYANGAR :—" 'Prescribed' means prescribed by the Government and also by rules. If maths are told beforehand that their accounts will be audited, they will know their position clearly. If at any time less than a year they are asked to submit their accounts, they will find it very difficult."

The hon. the RAJA OF PANAGAL :—" The hon. Member may offer his suggestion when the rules are made."

The motion was put to vote and lost.

Clause 39 was put and carried and added to the Bill.

Clause 40.

Clause 40 was put and carried and added to the Bill.

Clause 41.

Clause 41 was put and carried and added to the Bill.

Clause 42.

Clause 42 was put and carried and added to the Bill.

Clause 43.

(Amendment No. 156.)

Mr. T. SOMASUNDARA MUDALIYAR :—" I beg to move—

After the words 'this chapter' insert the words 'except section 54'.

"Sir, I formally move this amendment."

The hon. the RAJA OF PANAGAL :—" I accept the amendment."

The amendment was put to vote and carried.

Clause 43, as amended, was put to vote, carried and added to the Bill.

The House then adjourned at 5-15 p.m. to meet again on Monday, the 2nd April 1923, at 11 a.m.

L. D. SWAMIKANNU,
Secretary to the Legislative Council.

[29th March 1923]

APPENDIX.

[Vide page 3019 supra.]

Summary of the proceedings of the fourth meeting of the Public Accounts Committee of the Madras Legislative Council for 1922-1923 held at 5 p.m. on Thursday the 22nd March 1923 at the Cabinet Chamber, Fort St. George.

P R E S E N T :

The Hon'ble Sir CHARLES TODHUNTER, K.O.S.I., I.C.S. (Chairman).

M.R.Ry. Rao Bahadur C. V. S. NARASIMHA RAJU Garu.

„ Rao Bahadur P. C. ETHIRAJULU NAYUDU Garu.

„ S. ARPUDASWAMI UDAIYAR Avargal.

„ P. T. RAJAN Avargal.

„ M. R. SETURATNAM AYYAR Avargal.

„ B. MUNISWAMI NAYUDU Garu.

(The Accountant-General and Mr. E. S. LLOYD were also present.

The Superintendent of Stationery, Mr. A. R. Cox, and the Assistant Superintendent of Stationery were present during the discussion on excess expenditure under 'Stationery and Printing'.

The Committee examined the Appropriation Report and the Auditor-General's comments thereon on the accounts of the Madras Presidency, Provincial Subjects, for 1921-22, and drafted the appended report.

2. The Committee then considered the procedure to be adopted for moving Supplementary Demands in the Council. They accepted the method adopted this year as satisfactory, but considered that more effective steps should be taken to ensure that heads of departments watch the progress of expenditure from month to month.

3. The Committee then adjourned to meet again at 5 p.m., on Wednesday the 28th instant.

FORT ST. GEORGE.
22nd March 1923.

C. G. TODHUNTER.

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Appendix.

Report of the Committee on Public Accounts on the appropriation report on the accounts of the Madras Presidency, Provincial subjects, for 1921-22.

The Committee has examined the Appropriation report for the year 1921-22.

2. The total excess expenditure under voted items amounts to Rs. 6,52,454 which is more than covered by savings under other heads.

3. The excesses occurring under the different heads are shown below with the reasons for the excess. One of the items under each head is "Loss by Exchange". A lump sum of Rs. 12.60 lakhs was sanctioned by the Council under Grant No. XXXIII-A to meet the loss by exchange in respect of English transactions, which, under the rules then in force, was debitable to a separate major head "40. Exchange". Under the later orders of the Government of India to which retrospective effect was given by them, the expenditure on account of loss by exchange has been shown under the various major heads concerned, with the result that the grant of 12.60 lakhs under "40. Exchange" has not been utilized, but additional expenditure has been incurred under the various major heads. This additional expenditure has, wherever possible, been met from savings under the grants concerned.

EXCESSES UNDER THE GRANTS.

GRANT No. VII—GENERAL ADMINISTRATION.

Excess Rs. 1,35,931.

<i>Excess—</i>						<i>RS.</i>
Civil Secretariats	..	..	..	..	..	18,571
Loss by Exchange	..	..	..	..	..	1,17,360
Total ..						<u>1,35,931</u>

The excess under "Civil Secretariats" is due to the fact that a sum of Rs. 30,000 provisionally fixed as due from the Central Government on account of the work done on their behalf in the Madras Secretariat on the administration of Central subjects was not adjusted by the Government of India during the year. A sum

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of Rs. 36,000 on this account has since been adjusted in the accounts for 1922-23.

GRANT No. XIII—POLICE.

Excess Rs. 92,292.

				Rs.
This is composed of excess under—				
District Executive Force amounting to	..	..	..	4,586
Loss by Exchange	..	..	..	87,706
Total	..	..	..	92,292

The excess under District Executive Force is due mainly to increased expenditure under arms and accoutrements and to anticipated savings consequent on the abolition of the 15 per cent vacancy reserve of the district force for which credit was taken in the budget not having been fully realized.

GRANT XVII—MEDICAL.

Excess Rs. 53,275.

This excess is under loss by exchange.

GRANT XXIX—PENSIONS.

Excess Rs. 81,774.

The excess is detailed as under:—

				Rs.
(1) Superannuation and retired allowances	..	..	..	57,729
(2) Commuted value of pensions	..	..	..	9,550
(3) Compassionate allowances	..	..	..	128
(4) Loss by exchange	..	..	..	14,367
Total	..	..	..	81,774

The question of the way in which pensions partly due by one Government and partly by another were to be adjusted was under discussion during the year, and it was decided that in the case of pensions shared between the Central and Provincial Governments, the Central Government should pay the commuted value of its share in lump, the Provincial Government undertaking the entire pension. Though this decision was not come to until 1922-23, effect was given to it in the accounts in 1921-22. There was consequently a large adjustment on the receipt side on account of the commuted value of the Government of India's share of pensions shared between

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this Government and the Central Government. Meanwhile the whole amount of the pensions is debited to the Provincial Government. This transaction explains a large excess under "Superannuation allowances and pensions." The excess under "commuted value of pensions" is due to certain commutations having been drawn in the year which were not expected to be drawn till after the year expired.

GRANT XXX—STATIONERY AND PRINTING.

Excess Rs. 1,49,145.

				Rs.
Stationery supplied from Central Stores	..	..	..	1,06,781
Loss by Exchange	..	..	..	42,364
Total	..	..	..	1,49,145

The Committee have examined the Superintendent of Stationery. They find that the chief causes of the excess were the following:— (1) Increase in the issues of printing paper, (2) rise in prices, (3) the creation of new offices, (4) the fact that in the case of certain offices two indents were complied with within the year.

The accounts are very involved and are unsuited to the present conditions. The Committee would recommend a thorough inquiry into the whole system of accounts by an officer with commercial accounts experience.

GRANT—XXXIII-B—MISCELLANEOUS.

Excess Rs. 1,40,037.

This amount is made up of three items—(1) Rs. 57,000 due to the Government of India on account of an excess amount adjusted in 1920-21 in connexion with exemptions from income-tax of incomes less than Rs. 2,000 per annum. The Government of India adjusted in 1920-21 in favour of the Provincial revenues an extra sum of Rs. 1,57,000, but a demand for supplementary grant which was obtained from the Council in the course of the year 1921-22 was for Rs. 1 lakh only. As the actual excess has now been ascertained to be Rs. 1.57 lakhs a sum of Rs. 57,000 had subsequently to be adjusted in favour of Central revenues; (2) Rs. 9,766 being two-thirds of Rs. 14,649 expenditure incurred on account of an indent of the Salt and Abkari department which was debited in the first instance in full to the Central Government—the Provincial Government's share was subsequently readjusted to its debit; (3) Rs. 73,271 representing the cost of training of forest probationers which was adjusted under the orders of the Government of India during the year.

[2nd April 1923]

Clause 44—cont.

(Amendment No. 158.)

Rao Bahadur T. NAMBERUMAL CHETTIYAR :—“ Mr. President, Sir, I beg leave to move—

Add at the end the following :—

‘ and by social usage has access to Hindu temples.’

“ Sir, I am aware that a similar amendment was disallowed in connexion with a sub-clause to clause 8. Though this condition was never considered necessary in the case of a Commissioner who is a controlling officer, I suggest it is absolutely necessary in the case of a person who is defined as a trustee and who is an executive officer.

(At this stage the hon. the President took the Chair.)

He is an executive officer who has personally to see to the performance of the various rites and rituals inside the temple. He has also to supervise the work of servants of different castes inside the temple. I also wish to draw the attention of the Chief Minister to the fact that both the orthodox and the unorthodox Hindus visit the temple for worship, and if one who has no privilege of access into the temple is appointed a trustee it will wound the feelings of the orthodox Hindus who go into the temple for daily worship. I am sure, Sir, such an offence is far from the heart of our Minister who is a Hindu and who possesses respect for orthodox feeling. I therefore trust that in the interests of the peaceful management of the temple my amendment will be accepted.”

The hon. the RAJA OF PANAGAL :—“ For reasons similar to those advanced in regard to the previous amendment I cannot accept this amendment. The difficulty is in deciding what amounts to having access to the temple. Is it access to *garbhagraham*, is it to *dwa-jastambam* or is it some other stage? So, when we say access, it is so vague and so indefinite that it is not possible to accept the amendment.”

Rao Bahadur T. NAMBERUMAL CHETTIYAR :—“ I will take one instance to point out the difficulty. If an Adi-Dravida is appointed a trustee, and if he insists upon going into the temple, there will be considerable difficulty in the peaceful management of the temple.”

The RAJA OF RAMNAD :—“ I think the difficulty pointed out by the Minister can be easily overcome. There are already social usages regarding the entry into the temples. Some caste people are admitted up to the *mahamantapam*; some are admitted up to the *dwa-jastambam* and some are admitted into the *garbhagraham*. I am not quite certain whether there is anything in the Bill which goes to affect the local usage or custom. If the hon. the Raja of Panagal thinks that there is sufficient safeguard in the Bill, this amendment is unnecessary. Otherwise the amendment should be carefully considered.”

Diwan Bahadur Sir T. DESIKA ACHARIYAR :—“ I think clause 75 provides sufficient safeguards. It runs as follows :

Save as otherwise expressly provided in or under this Act nothing herein contained shall affect any established usage of a temple or the rights, honours, emoluments and perquisites to which any person may by custom or otherwise be entitled in such temple.

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[Sir T. Desika Achariyar]

Clause 44—cont.

“ In ordinary practice the non-Brahman trustees in the Srirangam temple do not go to the *madapulli* and certain other castes do not go to the *dwa-jastambam* and certain others do not go to the *garbhagraham*. These are adjusted by social usage.”

The amendment was put and lost.

Clause 44 was put and carried and added to the Bill.

Clause 45.

Sub-clause (2).

(Amendment No. 159.)

Rai Bahadur T. M. NARASIMHACHARLU :—“ I beg to move—

For the words ‘ and in making such appointments the Committee shall have due regard to the claims of ’ substitute the words ‘ from among ’.

I would like that the sub-clause should read as follows :

Non-hereditary trustees shall be appointed by the Committee *from among* the persons belonging to the religious denomination for whose benefit the temple concerned is chiefly maintained.

As it is, the clause says that in making such appointments the Committee shall have

due regard to the claims of such persons.

I submit that this is not enough. They may have due regard, but they are not bound to choose persons from among those belonging to the religious denomination. I therefore submit, Sir, that in the interests of the temple and in the interests of the community and the peaceful working of the religious institutions the non-hereditary trustees should be appointed by the Committee from among persons belonging to the religious denomination. Otherwise, Sir, there is likely to be any amount of trouble in the actual management of these institutions.”

The hon. the RAJA OF PANAGAL :—“ The clause, as it is, is elastic enough. The words ‘ due regard to claims of such persons ’ does connote the idea that, as far as possible, members should be from the same community. In these circumstances, I do not find it necessary to accept this amendment.”

Rai Bahadur T. M. NARASIMHACHARLU :—“ I only submit that the wording, although it includes the persons of the same denomination, does not place any objection to choose them. In order to avoid that difficulty at any time I propose this amendment.”

The amendment was put and lost.

(Amendment No. 160.)

Mr. R. SRINIVASA AYYANGAR :—“ I move—

After the words ‘ the Committee shall ’ insert the words ‘ as far as possible make the selection from among the persons belonging to the religious denomination predominant in the temple concerned and whose benefit it is chiefly maintained and ’.

“ My object is to avoid injustice to the people concerned. My amendment provides sufficient safeguard as it contains the words ‘ as far as possible ’.”

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Clause 45—cont.

The hon. the RAJA OF PANAGAL :—" Sir, this amendment, if accepted, will be the same in effect as the provision already in the Bill. Therefore, I cannot accept it."

The amendment was put and lost.

Clause 45 was put and passed and added to the Bill.

Clause 46.

(Amendment No. 161.)

MR. M. SURYANARAYANA :—" Sir, I beg to move—

Omit the word 'lawful'.

No purpose will be served by having this word 'lawful' in this clause. For, when an order is not lawful, the trustee of the temple is not allowed to contest its legality. I know that there is clause 47 which says that an appeal is allowed to the Board in certain cases. But that appeal relates to an appeal against an order of dismissal, removal or suspension consequent on the wilful disobedience of the lawful orders issued under the provisions of the Bill. So the whole question turns upon this: Supposing an order is communicated to the trustee by the committee, and the trustee feels that the order is wrong. Still he dare not disobey the order; for, if he disobeys it, under clause 47 (b), he may be dismissed, removed or suspended. If he is dismissed, removed or suspended, no doubt, he can appeal; but supposing in appeal, the committee thinks the order is right, where is the go? Therefore, the trustee is bound in the first instance to obey orders and there is no appeal against that order. We find that in Schedule II appended to the Bill, clause 46 is not included in those clauses in respect of which an appeal is allowed either to the committee or to the Board or to the court. I should, therefore, think that practically the effect of the order will be a lawful order and there is no meaning in saying 'lawful orders'."

Rao Bahadur C. VENKATARAMA REDDI :—" Sir, I too think that all orders issued under this Bill are presumed to be lawful. That being so, I do not see any reason why this word 'lawful' should be introduced here. It is out of place."

The hon. the RAJA OF PANAGAL :—" Sir, I accept the amendment."

The amendment was put and carried.

Clause 46 as amended was put and passed and added to the Bill.

Clause 47.

Sub-clause (1).

(Amendment No. 162.)

Rai Bahadur T. M. NARASIMHACHARLU :—" Sir, I beg to move—

In item (d) between 'or' and 'improper' insert the words 'wanton and'.

" Sir, my submission is that unless a thing is done wilfully, there is no necessity for punishment. Any incidental slip or error in dealing with the properties of the temple cannot be punished with dismissal. I, therefore, submit that it is only *wanton and improper* dealing with the properties that

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[Mr. T. M. Narasimhacharlu]

Clause 47—cont.

should make the trustee liable for removal or dismissal or suspension. It is not every slip or error in dealing with the properties that should be contemplated in this provision. Some margin must be left to the trustee, and if, in discharging his work, he errs, that should not be made a ground for dismissal or removal."

The hon. the RAJA OF PANAGAL :—" Sir, I understand that the adjective 'wanton' connotes the idea of mischief. I do not know what really my hon. friend means by 'wanton and'. If it means 'mischievous,' it is covered by the word 'improper' and as such there is no necessity for this addition."

Rai Bahadur T. M. NARASIMHACHARLU :—" I meant deliberately and intentionally dealing with the properties improperly."

The amendment was put and lost.

Sub-clause (3).

(Amendment No. 163.)

MR. R. SRINIVASA AYYANGAR :—" Mr. President, Sir, I beg to move—

For the word 'Board' substitute the word 'court'.

Sub-clause (3) in the Bill runs as follows :—

A trustee suspended, removed or dismissed under this section may, within three months of the date of the order of suspension, removal or dismissal, appeal to the Board against such order.

" Hon. Members may be aware of the fact that these are all extraordinary orders which subject a man to certain disabilities. Ordinarily speaking, dismissal and suspension carry with them a certain amount of social odium. In cases like these, it is much better that the existing state of things is allowed to continue and the parties are allowed to take the matter to the courts. There is absolutely no reason why the jurisdiction of the ordinary courts should be sought to be taken away. For departing from the normal state of things and for taking away the jurisdiction of the courts, either there should be something wrong somewhere or the people should have lost confidence in courts. Regarding the confidence in courts, I think, people have not lost their confidence in the courts and the judiciary is functioning properly with its qualified men. It is not correct to say that we have lost confidence in courts. I therefore don't see any reason why the courts should be usurped of their power and some other bodies vested with it."

Rai Bahadur T. M. NARASIMHACHARLU :—" Mr. President, after the omission of the word 'lawful' in section 46, which my hon. friend, Mr. Suryanarayana, moved and the hon. the Minister accepted, this amendment becomes all the more necessary. Any orders may be passed and the trustee is bound to obey them without questioning whether they are lawful or not. I thank my hon. friend, Mr. Suryanarayana, for not attempting to delete the word 'lawful' in clause 47 (1) (b), which says :

For wilful disobedience of *lawful* orders issued by the Board or committee, or its president.

" Thus, under clause 46, he is bound to obey all orders, whether lawful or unlawful, and he is liable to dismissal or suspension only when he disobeys lawful orders. Therefore, the difficulty comes in determining whether an order issued is lawful or unlawful and whether if it is unlawful, it can be disobeyed,

[Mr. T. M. Narasimhacharlu]

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Clause 47—cont.

Very knotty and difficult questions will arise, which, I think, the Board will not be competent to dispose of or will not possess the necessary experience which a court will possess. I also submit, with due deference to the Board, that it will not command the same amount of confidence as a court in this country does. I therefore submit that in important matters connected with the status of the trustee and the punishments of a trustee, the power must be given to the court and not to the Board."

The hon. the RAJA OF PANAGAL:—"Sir, these are more or less administrative matters. In the case of hereditary trustees, we have given the option to appeal either to the Board or to the court. In the case of non-hereditary trustees, punished by the committees when they fail to discharge their duties properly according to their idea, it is open to the committees to dismiss them and there is an appeal provided for to the Board. In these circumstances, I do not think it necessary to accept the amendment.

"In the course of the debate, the hon. Member, Mr. Srinivasa Ayyangar, asked 'is it that the people have begun to lose their confidence in courts?' Far from that. People *have* their faith in courts and it is simply to bring about administrative convenience that the Board has been provided for to look after such things."

Mr. R. SRINIVASA AYYANGAR:—"Sir, I am glad to hear from the lips of the hon. the Minister that people have still faith in courts. That is the additional reason why we should try to maintain that confidence in courts by not taking away the existing jurisdiction. The hon. the Minister has stated that it is purely an administrative matter. Even viewing it from the administrative point of view, it is a very serious step that is attempted to be taken and I think that, all things considered, the appeal should be made to the court and not to the Board."

The amendment was put and lost.

(Amendment No. 164.)

Mr. M. SURYANARAYANA:—"Mr. President, Sir, I beg to move—

Omit the proviso.

It does not appear to me necessary that a hereditary trustee should be in a more advantageous position than the ordinary trustee. For, after all, the House will observe that under clause 43—

the provisions of this chapter shall not apply to excepted temples or the trustees thereof.

It applies only to trustees of ordinary temples. It does not matter whether they are hereditary trustees or ordinary trustees. There is absolutely no reason why in the case of the hereditary trustee the appeal should lie to the court instead of to the Board. I therefore submit that this proviso should be deleted."

Rai Bahadur T. M. NARASIMHACHARLU:—"Sir, I oppose this amendment.

11-30 a.m. I gave notice of a similar amendment when in the previous clause I proposed 'court' for 'Board', my object being to invest the court with jurisdiction over all kinds of trustees, both hereditary and non-hereditary, and I do not now, after my amendment is lost, like to take away this privilege which is given to the hereditary trustee."

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Clause 47—cont.

The hon. the RAJA OF PANAGAL:—"I am glad, Sir, that my hon. friend from Cuddapah has opposed this motion. I am going to oppose it too. My reason is that the case of a hereditary trustee is different from that of an ordinary trustee. In the case of a hereditary trustee the right is more valuable than personal appointment. Hence a further safeguard is provided for."

The motion was by leave withdrawn.

Clause 47 was put and passed and added to the Bill.

Clause 48.

Clause 48 was put and passed and added to the Bill.

Clause 49

Sub-clause (1)

(Amendment No. 165.)

Rao Bahadur T. NAMBERUMAL CHETTIYAR:—"Sir, I beg to move—

Add the following as a proviso:—

'Provided the proposed *dittams*, allotments or proportions are not less than those already existing and in actual usage and practice.'

"Sir, here is an amendment to be moved by Mr. Gopalaswami Ayyangar, and that is the very same thing as the one I have tabled. As that is going to be passed I withdraw mine."

The motion was not made and was therefore deemed to have been withdrawn.

Sub-clause (3)

(Amendment No. 166.)

Rai Bahadur T. M. NARASIMHACHARLU:—"I beg to move—

Add at the end the following:—

'In accordance with the usage of the temple.'

Sir, it will be seen that this clause deals with the fixing of a standard scale of expenditure in places of religious worship. Sub-clause (3) says:

After the expiry of the period fixed under sub-section 2, the committee shall consider the objections or suggestions that may have been received and may pass such orders as it thinks fit on the proposals.

"I submit, Sir, that instead of leaving to the committee the absolute discretion to pass such orders as it thinks fit, its powers must be limited by the usage of the particular temple. I realize that clause 75 may be quoted against me. I submit that instead of leaving the matter to a general section, which is somewhat vague in my opinion, it is better that on this important question of *dittams* and other scales of expenditure, the discretion of the committee shall not be absolute but shall be limited by the usage of the particular temple."

The hon. the RAJA OF PANAGAL:—"Mr. President, I am glad that my hon. friend from Cuddapah was himself conscious of the probable argument that would be raised against his amendment. It is a fact that clause 75 of the Bill provides for usages being respected. Hence it is unnecessary to make a further provision at this stage."

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Clause 49—cont.

Rai Bahadur T. M. NARASIMHACHARLU :—"As there is no substantial difference between me and my hon. friend the Minister, I do not press this amendment."

The motion was by leave withdrawn.

New sub-clause after sub-clause (5).

(Amendment No. 167.)

Rao Bahadur T. BALAJI RAO NAYUDU :—"Sir, I beg to move—

Add the following as sub-clause (6) :—

'(6) The committee shall on payment of prescribed fees furnish to any person having interest certified copies of the *dittams* etc., as finally settled under this section.'

Sir, I do not think there will be any objection to this new clause, and I trust that it will be accepted by the hon. the Minister."

The hon. the RAJA OF PANAGAL :—"Sir, the amendment as it is worded is vague and indefinite. Nobody can say what '*et cetera*' is going to include. We do not know where it will land us. So, I do not think, Sir, I can accept this."

The motion was by leave withdrawn.

(Amendment No. 168.)

Rai Bahadur N. GOPALASWAMI AYYANGAR :—"Mr. President, Sir, in order to give effect to the idea underlying the amendment moved by my hon. friend, the Raja of Ramnad, and also to give effect to the idea of Mr. Namburumal Chettiyar, I move the following amendment :—

Insert the following as sub-clause (6) of clause 49 :—

'(6) The *dittam* or scale of expenditure for the time being in force in a temple shall not be altered by the trustee except in accordance with the procedure laid down in this section.'

Rao Bahadur C. V. S. NARASIMHA RAJU :—"Sir, I feel some doubt as to the words 'for the time being.' I think the provisions should not be altered except in accordance with the procedure laid down. If that is the intention, I am sure the words 'for the time being' will give a lot of trouble, as we go on. It is not provided according to the registered *dittam* or scale of expenditure. Therefore, in course of time, if these words are allowed to be there, they will give rise to a lot of trouble on the question of fact whether the *dittam* then in force was in force at the commencement of the Act or was introduced subsequently; and even then I believe the trustee will be entitled to contest any dispute on the ground that it was in force at a certain time."

Rai Bahadur N. GOPALASWAMI AYYANGAR :—"Mr. President, the amendment that I have just moved covers both the alternatives which were referred to by my hon. friend, Mr. Raju. It applies not merely to the *dittam* in force at the commencement of the Act, but also to the *dittam* that might be in force on a future occasion. Sub-clause (1) of clause 49 provides for a change of *dittam* from time to time. The trustee is required to submit proposals, and he should not by himself alter the *dittam* without conforming to the procedure laid down in this section."

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Clause 49—cont.

The motion was put to the House and carried and the insertion was made. Clause 49 as amended was put and passed and added to the Bill.

Clause 50.

Sub-clause (1).

(Amendment No. 169.)

Rai Bahadur T. M. NARASIMHACHARLU :—"Sir, I beg to move—

For the words 'as the board may require' substitute the words 'as may be prescribed.'

Sir, it will be seen that sub-clause (1) deals with the form and subject matter of the budgets of temples. I submit this is a very important matter, and there must be uniformity and impartiality in the form and subject matter of these budgets. My proposal is that rules may be prescribed by Government which may aim not only at uniformity but also at impartiality, and therefore I submit that instead of leaving the matter to the discretion of the Board which may prescribe one form here and another form there, the words 'as may be prescribed' may be substituted for the words 'as the Board may require.'"

The hon. the RAJA OF PANAGAL :—"Mr. President, I am afraid the amendment, if accepted, will impose upon the Government the task of framing rules to prescribe the procedure. This is a routine matter and it is expected that the Boards will exercise their discretion properly in a matter like this. They have jurisdiction not over one temple but over all temples, and the uniformity and regularity that is required may be expected from the Board. Under the circumstances, I cannot accept this motion."

Rai Bahadur T. M. NARASIMHACHARLU :—"Sir, I have to differ from the hon. the Minister who has said that it is a small matter. It is a very important matter and I think the forms must be prescribed by the Government and not by the Board."

The motion was put and lost.

New Sub-clause after Sub-clause (4).

(Amendment No. 170.)

11-45 a.m. Rao Bahadur T. BALAJI RAO NAYUDU :—"Sir, I beg to move—

Insert the following as sub-clause (5) of clause 50 :—

'(5) The committee shall, on payment of prescribed fees, furnish to any interested person certified copies of the budget of receipts and disbursements approved under this section.'

I am sure, Sir, there is no harm in accepting this amendment."

The hon. the RAJA OF PANAGAL :—"I think it is a harmless amendment and I have no hesitation in accepting it."

The amendment was put and carried.

Clause 50 as amended was then put and passed and added to the Bill.

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Clause 51.

Sub-clause (1).

(Amendment No. 171.)

Rai Bahadur T. M. NARASIMHACHARLU :—" Sir, I beg to move—

Omit the words 'the Board is satisfied that'.

If the words are omitted the sub-clause will read :

When, . . . in the interests of the proper administration of the endowments of a temple over which a committee has jurisdiction, a scheme of administration should be settled, the Board may, after consulting in the prescribed manner, the trustee, the committee and the persons having interest, by order settle a scheme of administration for the endowments of such temple.

I submit, Sir, that if the interests of proper administration require it, the Board must take action. I do not see any necessity why the sub-clause should have :

If the Board is satisfied that
and again

the Board may after consulting in the prescribed manner the trustee, etc., settle a scheme.

It seems to be therefore not only redundant but it is giving unnecessary power to the Board. The true position is that the interests of the administration require the scheme and not that the Board is satisfied that a scheme is necessary. The Board may be satisfied when the interests of the administration do not require it. The Board may be satisfied with flimsy reasons. I submit, Sir, that it is the paramount interests of the institution that should be taken into consideration and not the satisfaction of the Board. I therefore move that the words may be omitted. If the interests of the administration require it, the Board may after consulting in the prescribed manner settle the scheme of administration. So, I submit that these words will work a great hardship and are quite unnecessary."

The hon. the RAJA OF PANAGAL :—" Sir, in a case like this the Board is practically the final authority. That being the case, when the matter if at all it goes to the court, the court will question whether the Board was satisfied or not. It is in order to avoid such a contingency that the words are used."

Rai Bahadur T. M. NARASIMHACHARLU :—" I submit, Sir, the court will require to see whether the Board was satisfied or not. By the fact that the Board after consulting in the prescribed manner orders the settlement of a scheme, the court will see that the Board was satisfied about it. I do not see why there should be these words at the beginning of the clause."

The amendment was put and lost.

(Amendment No. 172.)

Mr. B. MUNISWAMI NAYUDU :—" Sir, I move the amendment that reads :

Omit the words 'over which a committee has jurisdiction'.

My reasons are that the Board as the clauses now stand can only frame schemes in cases where a committee exists over a temple. The Bill provides that the Local Government shall appoint committees for any temple or temples or [classes of temples. If the Local Government does not appoint any committee then the Board cannot interfere according to the provision as it

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[Mr. B. Muniswami Nayudu]

Clause 51—cont.

now stands. Under clause 14, the Board is given powers of general superintendence over all religious endowments and clause 31 gives the committee similar powers over temples. So that, even if no committee has been appointed for a particular temple it may be competent to the Board to interfere when it is satisfied that a scheme is necessary. Hence it is that I move for the omission of the words so that the Board may have power to frame schemes not only with regard to temples over which there are committees but also over other temples."

The hon. the RAJA OF PANAGAL :—" I quite see the force of the point raised by my hon. friend from Chittoor. There is a great deal of force in the argument and I have no hesitation in accepting the amendment."

The amendment was put and carried.

(Amendment No. 173.)

Mr. B. MUNISWAMI NAYUDU :—" Sir, I move the following amendment :—

Insert the words 'if any' after the words, 'the trustee, the committee'. This is only a consequential amendment, Sir, and I hope it will be accepted."

The hon. the RAJA OF PANAGAL :—" Yes, Sir, it is a consequential amendment and I accept it."

The amendment was put and carried.

Sub-clause (2).

(Amendment No. 174.)

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—" Sir, my amendment is that so much of the proviso to sub-clause (2) of clause 51 as gives finality to the orders of the court shall be deleted. The amendment is in the following words :

In the proviso omit the words 'and the scheme altered in accordance with the order of the court on such application shall be final and binding on the parties concerned'.

My reason for moving this amendment is this. Sometimes hon. Members will notice the scheme as settled, whether it is by the Board or the court on appeal from the Board's decision, may involve important questions of law. And it is desirable that an appeal from the decision of the court to the higher court should not be taken away specifically by any legislation that we may be responsible for. Of course, where there is a decision by the Board and there is an appeal to the court from the decision of the Board it is only in important cases that there will be another appeal from the decision of the court to a higher court. The importance of these cases does certainly justify the advisability of an appeal being allowed. My original idea was that so far as the settlement of schemes went, it must be a matter entirely left to the court for, I was of opinion that it was the courts that were best constituted to settle schemes and not the Board as we constitute it at present. But I did not propose any amendment to that effect because I knew that the feeling of this House, particularly of the party in power, could not be expected to be on my side after the treatment we had

[Mr. L. A. Govindaraghava Ayyar] [2nd April 1923]

Clause 51—cont.

so far received regarding those clauses of the Bill which related to the substitution of the court for the functions of the Board. So, I did not want to press that. But because I saw that in this case, the taking away of the powers of appeal to a higher court from the court to which an appeal might lie from the decision of the Board was one which was likely to be fraught with considerable mischief and great disadvantage to parties and the institution concerned, I felt myself constrained to move this amendment and I hope the House will accept it."

Rai Bahadur N. GOPALASWAMI AYYANGAR :—" Mr. President, the policy of this Bill is that there should be a distinction between the procedure that should be followed in the case of schemes which are framed for non-excepted temples and the procedure that should be followed in the framing of schemes for excepted temples and *maths*. This policy has been given effect to in clauses 51 and 61 respectively. The non-excepted temples are practically under the complete domination of the committees concerned. It was thought that it would in their case suffice to give the power of framing a scheme fairly finally to the Board only allowing persons interested to move the court for an alteration or modification of such a scheme. The question as to whether the procedure for both the classes of institutions should not be the same was discussed in the Select Committee and this is the conclusion that was arrived at. The fact that the Bill does make a distinction as regards the kind of control that should be exercised over these two classes of temples—and the distinction is certainly founded on some justification—stands in the way of accepting the amendment."

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—" Sir, I am glad that the hon. Member Mr. Gopalaswami Ayyangar, has opposed this amendment, because by the speech in which he supported his position he has shown how feeble the position that he has chosen to take up is. I say this with confidence, Sir, for reasons which I shall presently mention. According to my hon. friend, the reason why no appeal is to be provided in this case is that there is something very peculiar about the temples under the jurisdiction of committees which puts them into a separate category from what are called the excepted temples. Let us examine that provision for a single minute. Where do the excepted temples differ from the temples coming under the jurisdiction of the committee? In the case of the excepted temples, they are temples whose trustees were hereditary before 1801 and in or after 1863; except in that particular there is no difference between the excepted temples and non-excepted temples such as will come under the jurisdiction of the committee. A scheme, we may take it, except in very important cases of a most flagrant and repeated mismanagement on the part of the trustees will certainly not interfere with the succession to the trusteeship whether in the case of the excepted or non-excepted temples. The scheme will generally concern itself with the method of management and the way in which the funds of the institution have to be utilized and with the general administration of the endowment. There is absolutely no difference between the cases of excepted and non-excepted temples in these matters. If excepted temples are good enough to allow of an appeal being taken from the decision of one court to a higher court the very same considerations will justify—not merely justify but necessitate—the powers of appeal being given in the case of the non-excepted

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Clause 51—cont.

temples also. If these are the only reasons that the Government have to oppose the amendment, I think the House will show that it is wise if it accepts the amendment."

The hon. the RAJA OF PANAGAL :—"The main reason why we have not given the right of appeal in all cases is to minimize litigation as far as possible. There has been a great deal of waste by way of litigation in the management of these temples and the distinction that my hon. friend opposite wants or seeks to make out does not really exist at all. In these circumstances, I do not think the acceptance of the amendment will serve any good purpose."

The amendment was put and lost.

12 noon. Diwan Bahadur L. A. Govindaraghava Ayyar then demanded a poll, which was accordingly taken with the following result :—

Ayes.

- | | |
|--|---|
| 1. Diwan Bahadur M. Ramachandra Rao Pantulu. | 4. Mr. M. Suryanarayana. |
| 2. " L. A. Govindaraghava Ayyar. | 5. Rai Bahadur T. M. Narasimhaachari. |
| 3. Rao Bahadur A. S. Krishna Rao Pantulu. | 6. Mr. R. Srinivasa Ayyangar. |
| | 7. " A. Ranganatha Mudaliyar. |
| | 8. Rao Bahadur T. Namburumal Chettiyar. |

Noes.

- | | |
|---|---|
| 1. The hon. the Raja of Panagal. | 15. Mr. B. Manuswami Nayudu. |
| 2. " Mr. C. P. Ramaswami Ayyar. | 16. " A. T. Muthukumaraswami Chettiyar. |
| 3. Mr. E. S. Lloyd. | 17. Rao Bahadur C. Natesa Mudaliyar. |
| 4. " A. Y. G. Campbell. | 18. Mr. V. P. Pakkiriswami Pillai. |
| 5. Rai Bahadur N. Gopalaswami Ayyangar. | 19. " P. T. Rajan. |
| 6. Mr. C. Madhavan Nayar. | 20. " K. Sarabha Reddi. |
| 7. Diwan Bahadur T. N. Sivagnanam Pillai. | 21. " W. P. A. Sundarapantliya Nadar. |
| 8. Mr. E. Periyannayagam. | 22. " R. K. Shanmukham Chettiyar. |
| 9. Rao Sahib T. C. Tangavelu Pillai. | 23. " S. Somasundaram Pillai. |
| 10. Mr. A. Ramaswami Mudaliyar. | 24. Rao Bahadur C. Venkataranga Reddi. |
| 11. Rao Bahadur P. C. Ethirajula Nayudu. | 25. Mr. S. Muthumanikkachari. |
| 12. " T. Balaji Rao Nayudu. | 26. " A. T. Palmer. |
| 13. Mr. W. Vijayaraghava Mudaliyar. | 27. Rao Sahib P. Venkatarangayya. |
| 14. " J. Kuppuswami. | |

Eight voted for and 27 voted against. The motion was lost.

(Amendment No. 175.)

Mr. C. MADHAVAN NAYAR (Advocate-General) :—" Sir, before we go on with sub-clause (3), may I move two amendments to sub-clause (2), which stand in my name?—

In sub-clause (2), between the words 'sub-section (1) shall' and 'be final,' insert the words 'subject to the provisions of sub-section (3)'.

Mr. President, the object of my moving this amendment is to avoid a possible misapprehension. You will see, Sir, that according to clause 51 (1), the Board has got the power to settle a scheme, and the proviso to sub-clause (2) says that the order of the court settling a scheme shall be final. If my amendment is accepted, sub-clause (2) will read :

The order of the Board settling a scheme under sub-section (1) shall, subject to the provisions of sub-section (3), be final . . . etc.

[Mr. C. Madhavan Nayar]

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Clause 51—cont.

Now, according to sub-section (3) the Board has got the power to modify or cancel a scheme made according to sub-clause (1). So, I want to insert this and the succeeding amendments to show that the Board still retains in its hands the power to modify or cancel the schemes settled according to sub-clause (1).

"I also move the following amendment in the proviso:

175. *In the proviso, between the words 'application shall' and 'be final,' insert the words 'subject to the provisions of sub-section (3).'*

This amendment also is for the purpose of making it clear that the Board may modify or cancel an arrangement which has been altered by the court according to the proviso."

Mr. C. V. VENKATARAMANA AYYANGAR:—"Sir, I have given notice of an amendment, which may modify the amendment now moved by the hon. the Advocate-General. May I go on with it?"

The hon. the PRESIDENT:—"The hon. Member cannot do it. The House can deal only with one amendment at a time."

Mr. C. V. VENKATARAMANA AYYANGAR:—"It would modify the amendment that has been moved, as my amendment to sub-clause (3) also comes under this."

The hon. the PRESIDENT:—"Order, order. The House is now dealing with sub-clause (2), and the motion given notice of by the Advocate-General is to insert between the words 'sub-section (1) shall' and 'be final' the words 'subject to the provisions of sub-section (3)'; and also in the proviso to insert between the words 'application shall' and 'be final' the words 'subject to the provisions of sub-section (3)'. The hon. Member can either oppose that motion or support it, or move an amendment to that motion. But he cannot do anything else."

Mr. C. V. VENKATARAMANA AYYANGAR:—"For the present I shall oppose it, Sir. But I may say that my object is this. If a scheme is first settled by the Board and then taken to the court, and the court modifies that scheme, I submit that the Board should not have the right of changing it again. I think it is desirable that when a scheme is modified by the court, the Board should not have the power of modifying or cancelling that decision. Anyhow, I think the better thing will be to suggest, as mentioned in my amendment No. 390, that the word 'settled' be substituted for the word 'altered'. It is only a formal amendment, intended to provide for the contingency of a court not altering a scheme at all. It may be that a scheme goes to the court and the court may not alter it at all but only confirm what was settled by the Board. Therefore, the word should be 'settled', because the existing word 'altered' would imply an alteration only, which may or may not occur. The word 'settled' would apply in all cases, whether there is alteration or confirmation."

Mr. C. MADHAVAN NAYAR (Advocate-General):—"Sir, the scheme of the section is that the Board shall settle a scheme and that the court may alter it. It is therefore difficult to accept the amendment proposed."

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Clause 51—cont.

The hon. the PRESIDENT:—"He has not moved the amendment. He has only thrown out a suggestion for the consideration of the Government."

The motion of the Advocate-General was then put to the House and carried.

Sub-clause (3).

(Amendment No. 176.)

Mr. C. V. VENKATARAMANA AYYANGAR:—"Sir, I beg to move—
After the words 'settled under' insert the words 'sub-section (1) of'.
Amendments No. 391 and No. 395 on the agenda go together."

The hon. the PRESIDENT:—"What does the hon. Member mean by saying that they go together?"

Mr. C. V. VENKATARAMANA AYYANGAR:—"What I meant was that it would be better if both the amendments were taken together because —"

The hon. the PRESIDENT:—"It cannot be done."

Mr. C. V. VENKATARAMANA AYYANGAR:—"Well, Sir, No. 395 will come after amendment No. 391 is passed. What I say is this. Supposing that a Board frames a scheme, and between the trustee and the Board there is a dispute, sub-clause 2 says that the matter may be taken to the court, and the court shall then go into the whole question and modify or alter that scheme. Then, after the matter has been taken to the court and after the court modifies or alters a scheme and the scheme becomes final, sub-clause 3 gives power to the Board to alter it the next moment. I want that at least so far as the Board is concerned, there should be finality to the decisions of the court. It may be asked 'what becomes of the schemes provided for by the court?' It is therefore that I suggest that such schemes may afterwards be changed by the court itself. To make it clear, all that I say is that when there is a dispute between a trustee and the Board and the matter goes to the court and the court disposes of it, the Board should not have the power to change the court's order the next moment. The sub-clause reads:

A scheme settled under this section may at any time be modified or cancelled by the Board in the manner provided in sub-section (1) for the settlement of the original scheme.

Scheme settled means settled by the court or by the Board. After the matter goes to the court, the Board may cancel or modify the court's order at any time. Therefore, what the Board would do is to fight out the matter in the court, honestly believe that the court is wrong in its decision and that it is right, and it can at any time, even the next moment, say that the court's scheme has been altered and that its original scheme has been reinstated. That will be the effect of the sub-clause as it is. It gives power to the Board to change the scheme even after it has been disposed of by the court without any notice or anything. I won't attribute motives to the Board. The members of the Board may honestly believe that the court was wrong and that they themselves are correct, and they will honestly think 'We have power under sub-section 3 to change the scheme even after so much struggle and arguments. Therefore we shall alter it.' And then we shall have again to go to the court, and the Board may again change the scheme. Therefore I suggest that when once the matter is fought out in the court, the Board should not have the right to change the scheme, but only the court."

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Clause 51—cont.

The hon. the RAJA OF PANAGAL :—“ Sir, the difficulty which my hon. friend wishes to point out does not really exist, unless the Board happens to be a very cantankerous one intent upon defeating the object of the court in revising the scheme. Apart from this, under sub-clause (2) and the proviso, it would be impossible for the Board to maintain their own position if they acted perversely. The Board will have again to go before the court and hence it would not dare to take up that attitude. Therefore, I think the difficulty that my hon. friend is contemplating is not likely to arise at all. The real object of this sub-clause (3) is to give power to the Board to modify a scheme which has been framed by the court if the Board considers that, in the altered circumstances, such a modification is necessary. Unless the Board is given such power, schemes once framed will have to remain for ever. In these circumstances, I think that sub-clause (3) is quite necessary.”

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—“ Sir, I have given notice of an amendment with a similar import and as I am afraid that you, Sir, might rule me out when my turn comes for moving my amendment, I beg to intervene at this stage in the debate and say a few words on the amendment before the House. In the first place, Sir, let us understand the facts before we make up our minds as to whether the amendment in question should be accepted or not. We have found that in the case of temples, which are under the jurisdiction of Committees, certain schemes are framed by the court. Under the provisions of the present Bill, power is given to the Board to modify the schemes settled by courts in respect of particular temples under the jurisdiction of Committees. Then the question arises whether this modification should be made with the consent of the court which framed the original scheme or without its consent. As the language of clause 51 stands at present, the court can come in only by way of being asked to exercise appellate jurisdiction over any order that the Board may make. Until then its jurisdiction does not at all come in; so that the position is that although a scheme has been settled by the court, if the Board wants to modify the scheme, it can do so independently and without any reference to the court.

“ It was stated by the hon. Minister that no Board would be cantankerous enough to lightly interfere with the schemes settled by courts. But I may assure the hon. Minister that the test that has to be applied in legislating is not merely to see whether the Board will be cantankerous or not but also to assume. . . .”

The hon. the RAJA OF PANAGAL :—“ Sir, my statement was not an absolute statement; it was conditional. I said that seeing that there was again a reference to the court, no Board would interfere lightly in the schemes settled by the court.”

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—“ Sir, I quite realize the modification that the hon. Minister wants to propose. But even with the modification the position I take stands and it is this. In legislating we have to take it that there may be some bodies which may not apply the powers in the spirit in which these powers have been given to them, but that they may look to the letter and even go against the spirit if the letter enables them to do so. That is the point of view which legislators have to keep in view

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Clause 51—cont.

before they enact particular provisions of law. Applying that to the present case, it is a well-understood principle that it is not the reasonably interpreting man that you have to keep in view, but a man who is perverse.”

The hon. the RAJA OF PANAGAL :—“ I do not expect the commissioners to be perverse.”

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—“ Our expectations are often unfounded or they are not fulfilled. I do not think that even as regards the best institutions, provided that they are human, we can predicate that the best will happen.”

The hon. the RAJA OF PANAGAL :—“ Even if the commissioners are perverse, there is the safeguard in the proviso which requires the scheme as modified to go before the court once again for confirmation.”

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—“ Even with my hon. friend's Board it is permissible to suppose that there may be persons who perfectly honestly may still take perverse views. We have to keep in mind not so much the possibility of what a man may or may not do as what exactly the powers are that he is to be invested with.

“ The other argument that has been advanced is this. The matter will again go before the court either because there is a person interested who chooses to go to the court or because the trustee feels aggrieved and wants to go to the court. It is only in either of the above two cases that the matter will be taken up before the court. What will happen if the trustee thinks that the particular modification of the scheme will benefit him rather than be prejudicial to him or again if no person is forthcoming to spend the necessary money and take the matter to the court? So that my object is that whenever a Board wants to interfere with a scheme which has already been settled by the court, it must be made obligatory upon the Board to go to the court and explain the circumstances under which they think a modification is necessary and have the modification ratified by the court. By making such a provision the Board does not really lose anything.

“ Even according to the hon. the Minister the matter is liable to go to the court in the first instance. If the court exercises this power and settles a scheme, the presumption is that the scheme is *prima facie* good. If in the altered circumstances due to time or on account of the imperfections of the original scheme it is considered that modification is necessary, I think it is ordinary courtesy even to the court to get the Board apply to the court so that the court may be in a position to realize what exactly the mistake is that it has committed or what exactly the modifications are that are needed in the light of the further development of the particular institution that is affected by the scheme. Even according to my hon. friend's own statement nothing is lost by the acceptance of this amendment, but something may be lost by its rejection.”

Mr. C. V. VENKATARAMANA AYYANGAR :—“ Sir, I am always an optimist, but I am surprised at the optimism of the hon. the Minister that the commissioners will ever be perfect. I suppose the hon. the Minister meant by ‘my commissioners’, the commissioners that would be appointed by his successors also. We have to make provisions in the Bill not to safeguard the interests that may arise to-day or to-morrow but also to anticipate the

[Mr. C. V. Venkataramana Ayyangar] [2nd April 1923]

Clause 51—cont.

difficulties that may crop up at a future date. We have often heard that even High Court Judges commit errors, and in certain cases we have seen that they give a sentence of hanging to a man who ought not to have been so sentenced. The Privy Council had held in a large number of cases that the sentences of the High Court Judges were wrong and that they had acted perversely in coming to particular decisions. Many of my hon. friends are also aware of the provision in the Criminal Procedure Code which requires that even if the highest officer of the police conducts a search in anybody's house, he should have by his side two neighbours in whose presence he should conduct his search. Do not all these safeguards go to show that human nature is imperfect always? It may be that the members of the Board may or may not be perfect, but all that I wish to say is that there must be some safeguard against the contingency of their acting perversely. The commissioners may be presumptuous as many of us are. They may think that the decision they have arrived at is the correct one and that the court's decision is wrong. If the power to modify the scheme without reference to the court is retained for the Board, the commissioners may take it into their head to modify the scheme the moment it is settled by the court. There is absolutely no safeguard provided in the Bill against such a contingency. It has been proclaimed over and over again that the object of the Bill is to put an end to litigation. Is this the way of putting an end to litigation? We must make the Board take the sanction of the court before the scheme is modified by them. We must not leave it to the chance of a private party or the trustee going to the court for the purpose of contesting the modifications introduced by the Board. The trustee may have become a pauper and he may not care to go to the court, or there may be a change in the court. All that I wish to say is that the Board should take the consent of the court before it modifies the scheme. Otherwise, the Board may modify the scheme the next moment after it is settled by the court. It is only to guard against such a contingency that I have given notice of my amendment. I have no objection to my hon. friend Mr. Govindaraghava Ayyar's amendment being accepted, nor have I any objection to another amendment being proposed by the Government. All that I want is that the court should have the final word in the matter of settling schemes without the party again going to it. This provision will avoid unnecessary litigation. I do not see any harm in the court being made the final authority in this matter. We know in law of what is known as *res judicata*. Let not this rule of *res judicata* be made to apply with regard to the schemes settled by the courts. If the Board thinks that after the scheme is once settled by the court, it requires some modification, let provision be made for the Board applying to the court and for having the modifications ratified by the court. I thought that my amendment was so simple that the hon. Minister would readily accept it. The difficulty raised by the hon. Minister may be overcome by accepting amendment No. 394. I hope that the hon. Minister will reconsider the matter and make some adequate provision to avoid the contingency of the Board making some modifications in the scheme the next moment after it is settled by the court."

The hon. the RAJA OF PANAGAL :—"Sir, I have taken some pains to follow the arguments of my hon. friends opposite. My hon. friend, Mr. Govindaraghava Ayyar, in trying to make out a case for the acceptance of his amendment has premised the case of reasonable men being perverse.

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[The Raja of Panagal]

Clause 51—cont.

Sir, I have yet to come across a case of that sort. In legislating, we cannot anticipate such cases and make adequate provision for them."

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—"I do not think I said that a reasonable man when he was reasonable would be perverse."

The hon. the RAJA OF PANAGAL :—"He will be perverse at the time when he is perverse: so that the argument loses its force. My hon. friend, Mr. Venkataramana Ayyangar, said that even High Court Judges sometimes erred in their judgment. After all human nature being what it is any legislation cannot be perfect. We must only try to make it as perfect as possible. Neither of my hon. friends have answered my criticism, that if in case the Board cannot interfere in schemes already settled by the court, the difficulty would arise when a change is found necessary in the interests of the institution."

Mr. C. V. VENKATARAMANA AYYANGAR :—"Sir, I have already pointed out that the difficulty mentioned by the hon. Minister can be overcome by the acceptance of amendment No. 394 which empowers the Board to go to the court and seek its sanction before giving effect to the modifications."

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—"I may mention that my amendment provides for the overcoming of this difficulty also."

The hon. the RAJA OF PANAGAL :—"Under the proposed proviso to sub-clause 2 the Board has to go to court once for permission to interfere with a scheme. Then there is the necessity for going to court again to have the modifications ratified by it. This means a multiplication of resort to courts which is obviously against the object of this Bill."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—"I want to say just 12-30 p.m. a word, Sir. I would like to ask my hon. friend the Advocate-General what the scheme of the present clause is. I understood my hon. friend to say with reference to a previous amendment that the scheme of the clause was that the Board should frame the scheme and that the final settlement of it, whether at the instance of the trustee or of some other party, should be left in the hands of the court."

Mr. C. MADHAVAN NAYAR (Advocate-General) :—"I did not say that, Mr. President."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—"Yes, the hon. Member said so. The present contention is that if there is to be any amendment at a later stage by the Board, it must certainly receive the assent of the court as in the case of the original scheme. Many arguments have been advanced as regards persons being perverse or reasonable, but I think what my hon. friend has to consider is what is the scheme of the Bill in regard to the functions of the Board and in regard to the functions of the court in relation to the Board. Judging it by that test, I should think, Sir, that the court should have the power such as that suggested by both of my hon. friends who have preceded me."

The hon. the RAJA OF PANAGAL :—"The scheme of the clause, Sir, is that in ordinary circumstances it is for the Board to frame a scheme, and if the party concerned is not satisfied with that scheme, it is open to him to go to court against that scheme. If the Board frames a scheme a second time, that alternative is still open to the party concerned."

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Clause 51—cont.

The amendment was then put and declared lost. On the motion of Mr. C. V. Venkataramana Ayyangar a poll was taken and the House divided as follows:—

Ayes.

- | | |
|--------------------------------------|---|
| 1. Diwan Bahadur M. Ramachandra Rao. | 6. Mr. M. Suryanarayana. |
| 2. " L. A. Govindaraghava Ayyar. | 7. Rai Bahadur T. M. Narasimhaacharlu. |
| 3. Rao Bahadur A. S. Krishna Rao. | 8. Mr. R. Srinivasa Ayyangar. |
| 4. C. V. S. Narasimha Raju. | 9. " M. R. Seturathnam Ayyar. |
| 5. Mr. C. V. Venkataramana Ayyangar. | 10. " T. Sivasankaram Pillai. |
| | 11. Rao Bahadur T. Namburuma Chettiyar. |

Noes.

- | | |
|--|--|
| 1. The hon. Khan Bahadur Sir Muhammad Habib-ullah Sahib. | 18. Mr. B. Muniswami Nayudu. |
| 2. The hon. the Raja of Panagal. | 19. " A. T. Muttukumaraaswami Chettiyar. |
| 3. " Rai Bahadur K. Venkata Reddi Nayudu. | 20. Rao Bahadur C. Natesa Mudaliyar. |
| 4. " Rao Bahadur A. P. Patro. | 21. Mr. V. P. Pakkiriswami Pillai. |
| 5. Mr. E. S. Lloyd. | 22. " P. T. Rajan. |
| 6. " A. Y. G. Campbell. | 23. " K. Sarabha Reddi. |
| 7. Rai Bahadur N. Gopalaswami Ayyangar. | 24. " W. P. A. Saundara Pandiya Nadar. |
| 8. Mr. C. Madhavan Nayar. | 25. " R. K. Shanmukham Chettiyar. |
| 9. Diwan Bahadur T. N. Sivagnanam Pillai. | 26. " T. Somasundara Mudaliyar. |
| 10. Mr. E. Periyannayagam. | 27. " S. Somasundaram Pillai. |
| 11. Rao Sahib T. C. Tangavelu Pillai. | 28. " P. Subbarayan. |
| 12. Mr. A. Ramaaswami Mudaliyar. | 29. " C. Venkataranga Reddi. |
| 13. Rao Bahadur P. C. Ethirajulu Nayudu. | 30. " S. Muttumanikkaachari. |
| 14. " T. Balaji Rao Nayudu. | 31. Diwan Bahadur Sir T. Desika Achariyar. |
| 15. " O. Tanikachala Chettiyar. | 32. The Raja of Ramnad. |
| 16. Mr. W. Vijayaraghava Mudaliyar. | 33. Khan Bahadur Muhammad Usman Sahib Bahadur. |
| 17. " J. Kuppuswami. | 34. Rao Sahib P. Venkatarangayya. |

Eleven voted for and 34 against. The motion was lost.

(Amendment No. 177.)

Mr. C. MADHAVAN NAYAR (Advocate-General):—"Mr. President, in sub-clause (3) I suggest the following two alterations:—

(a) Between the words 'settled' and 'under this section' insert the words 'or altered'.

(b) After the words 'under this section' insert the words 'or a scheme which, under section 71, is deemed to be a scheme settled under this Act'.

Sir, this amendment is only intended to make the meaning of the various clauses clear, and in order to show that the Board has power to deal with all these three cases of schemes: schemes settled, schemes altered, or schemes which are deemed to be settled under this Bill."

Mr. C. V. VENKATARAMANA AYYANGAR:—"Sir, I oppose this motion which comes to this: that even in the case of a scheme which has gone up to the Privy Council—as in the case of the scheme regarding the Tirupati temple—and which has been finally decided by the Privy Council after the various questions of interpretation and other things had been adjudicated upon, the Board by one stroke of the pen, or by a majority of three against two, or even by the casting vote of the President, can cancel it. If that is the object of this provision, Sir, I would simply oppose it and leave it to the party in power to raise their hands and vote for it."

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Clause 51—cont.

The RAJA OF RAMNAD:—"Sir, I beg to support the amendment moved by the Advocate-General. If, as my hon. friend from Coimbatore said, a scheme has gone up over and over again to the Privy Council, I think for that very reason it ought to be modified, altered, or cancelled by the Board. There is also sufficient safeguard by way of appeal. I am afraid my hon. friend from Coimbatore has really advanced arguments against his own opposition."

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR:—"Sir, I beg to adopt the argument of Mr. Venkataramana Ayyangar in opposing this amendment, and I beg to supplement it by a few words of mine. Let us take a case where the Privy Council has finally settled a scheme. Now it comes to the notice of the Board that there has been such a scheme settled. The Board for reasons of its own, with no facts before it additional to what the Privy Council had when they settled the scheme, is competent, if this amendment is adopted, to frame a scheme which is opposed to the one which the Privy Council has settled. Then, after the Board has settled that scheme which is inconsistent with the Privy Council scheme, the only way that is open to have this new scheme as settled by the Board changed is by an appeal to the court. The definition of 'court' that we have ultimately adopted is in the mufassal either the district court or any other court which is empowered by the Local Government to try such suits, and it is perfectly conceivable, and even probable, that a munsif's court, or a sub-court, may be given the power to frame schemes, or to exercise the powers given under this Bill when it becomes an Act. So that, the position is this. You have got a scheme of the Privy Council. It is altered by the Board; of course, it might have been done perfectly, honestly, and I have nothing to say about the catankerousness or anything of that sort of the Board; they might honestly think that a modification is necessary and alter it. When it is altered, an appeal is allowed either to the munsif, or to the sub-judge, who is an infinitely lower authority than the Privy Council, and the decision of this gentleman becomes final under another sub-clause of the same clause. Now, we find, Sir, what exactly the logical conclusions are which are capable of being derived from the provisions of this clause, and particularly by the amendment as suggested by the hon. the Advocate-General. I think this ought to convince the House that it will not be proper to accept the amendment as suggested."

Diwan Bahadur Sir T. DESIKA ACHARIYAR:—"Mr. President, I support the hon. the Advocate-General's amendment. One reason why the Select Committee thought that schemes that have been framed by courts should also be subjected to the jurisdiction of any board or agency appointed under this Bill was that most of these schemes were found in practice to be not working properly; either in the management or in control the schemes were found to be defective. If once it is conceded that 'schemed institutions' should also be brought under the control of the agency created by this Bill, those schemes must be altered, or modified, or cancelled from time to time under the present clause, and there are sufficient safeguards in the clause itself, viz., the proviso to sub-clause (2). Any alteration that is made by the Board goes before a court again, and there is therefore nothing improper or unjust in having a provision like this provided we accept the

[Sir T. Desika Achariyar] [2nd April 1923]

Clause 51—cont.

principle of bringing schemed institutions also within the scope of this Bill. Once we concede that clause 71 is a clause which has been properly engrafted into the schemes of this Bill, we have to amend sub-clause (8) of the present clause as suggested by the hon. the Advocate-General."

Diwan Bahadur P. KESAVA PILLAI:—"Let me have the liberty of speaking a word, Sir, on this Religious Endowments Bill. I am very much moved by the touching reference made to the Privy Council which is composed of no Hindus at all but English gentlemen absolutely ignorant of Hindu usages and Hindu religion. My hon. friends were very anxious to get their judgments and their schemes adopted in regard to the management of our temples. It was rather very touching coming as it did from gentlemen, especially from this side of the House (pointing to the Opposition Benches), who have been very anxious to see that the Hindus who practise Hinduism should have a voice in the matter."

Mr. C. V. VENKATARAMANA AYYANGAR:—"May I say a word of personal explanation, Sir? The hon. the Deputy President has misunderstood what we were saying. We never said anything about schemes being framed by the Privy Council. All that we said was that schemes that had gone up to the Privy Council should be final and the Board should not be given the power of unsettling such schemes which under the clause, as it stands, may be done even by a casting vote of the President. What we said was that the court should have the power in such cases and not the Board."

Diwan Bahadur P. KESAVA PILLAI:—"We should have the approval of gentlemen who are Hindus and not of a court composed of Englishmen in England. That is the point. I support the amendment and oppose Mr. Venkataramana Ayyangar."

Rai Bahadur T. M. NARASIMHACHARLU:—"Mr. President, the hon. the Minister has told us many times that the object of this Bill is to minimize litigation. But what is the hon. the Minister doing now? With reference to schemes that have been framed by district judges after great deliberation, after having the help of . . ."

The hon. the RAJA OF PANAGAL:—"Those schemes, Sir, in 99 out of 100 cases, make provisions for amplifications and for applications for changes."

Rai Bahadur T. M. NARASIMHACHARLU:—"I know that scheme was framed by the district judge or subordinate judge with the evidence and with the aid of the law officers; aid of the afterwards the High Court went through it and lastly the Privy Council settled it finally. Now I ask if finality and prevention of litigation are the aims of this Bill? I wish to know on what principles the schemes that have been settled by the Privy Council are sought to be re-opened by the members of the Board who do not constitute a court. They are administrative officers. Their inquiries are not judicial and, as my hon. friend, Mr. Venkataramana Ayyangar, has put it, those three or four persons may decide, and, by the casting vote of one, may alter it and that in a hasty and in a most unjudicial manner. I submit, Sir, the very object of this Bill being to prevent litigation and not to multiply litigation, that object

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Clause 51—cont.

will be frustrated by bringing into this body schemes which have been once for all settled by the Privy Council.

"The hon. the Minister says that power is reserved to the Board for further direction. I submit that it is quite enough. Instead of seeking to enforce the power when any difficulty arises and thereby removing the doubts or the difficulties when they arise, I do not know why we should make the members of this Board sit in judgment over the schemes settled by the Privy Council and then try to create a sort of circle over and over again. I submit, Sir, for these reasons the amendment of the hon. the Advocate-General cannot at all be accepted."

The hon. the RAJA OF PANAGAL:—"Mr. President, the hon. Members who opposed the amendment of the Advocate-General, tried to appeal to the sentiments of the Members of this House."

Mr. C. V. VENKATARAMANA AYYANGAR:—"Sir, I appealed to reason only."

The hon. the RAJA OF PANAGAL:—"Sir, they did so, particularly by laying stress on the decisions of the Privy Council. Well, Sir, as lawyers they ought to be aware that whenever a new legislation is undertaken, the legislature need not care whether a particular principle has been decided by the Privy Council one way or other. I may quote the instance of 10, Allahabad. There, according to that decision, the holder of an impartible estate can will away, or, make a gift *inter vivos* of, the whole or a part of that estate. Sir, under the recent Impartible and Inalienable Estates Act, the holder of an estate cannot give a couple of *canies* of land as a gift to anybody; and if he does it, even the lowest of courts, if it is a case of small cause, can set aside the gift against the principle laid down by the Privy Council—."

Rai Bahadur T. M. NARASIMHACHARLU:—"There, the legislature intervenes to restore the existing state of things which was revolutionised by the decision of the Privy Council."

The hon. the RAJA OF PANAGAL:—"Here also the attempt is the same. Most of the temples and endowments were at one time State-managed and they had the discretion to manage these institutions as they pleased. Now, according to this scheme, only the State cannot interfere, while according to the scheme settled by the Privy Council nobody can interfere. Therefore, there is every necessity for the amendment being accepted."

The motion was put to the House and carried.

Clause 51 as amended, was put and carried and added to the Bill.

Clause 52.

Sub-clause (1).

(Amendment No. 178.)

Mr. C. V. VENKATARAMANA AYYANGAR:—"Sir, I formally move that—

The words 'office-holders and' be omitted

so that we may know whether the Government is going to move its amendment to sub-clause (1) or not. It may be that that amendment may not be moved and if I withdraw my amendment there will be difficulty."

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Clause 52—cont.

Rai Bahadur N. GOPALASWAMI AYYANGAR:—"Mr. President, it is intended that the amendment standing against my name should be moved on behalf of the Government."

Mr. C. V. VENKATARAMANA AYYANGAR:—"In view of that fact I only express the hope that the House will accept it and withdraw my amendment."

The amendment was by leave withdrawn.

(Amendment No. 179.)

Rao Bahadur T. NAMBERUMAL CHETTIYAR:—"I beg to move—

Add at the end the following:—

'The power of patronage in regard to these subordinates shall also be exercised by the trustee.'

It seems to me Sir, that a trustee should have this power of patronage if he is expected to enforce discipline among the subordinates. If he is asked to enforce discipline without a corresponding power of patronage it will be impossible for him to do so. I therefore ask for the addition of these words at the end of sub-clause (1)."

The hon. the RAJA OF PANAGAL:—"I am afraid I cannot quite catch what my hon. friend means by power of patronage. If by power of patronage he means the power to make appointment it is a different matter. But if he goes further, I am afraid I cannot accept the amendment."

Rao Bahadur T. NAMBERUMAL CHETTIYAR:—"If a trustee is given the power to appoint he must also be given power in the case of meritorious service to increase the pay or reward otherwise."

The hon. the RAJA OF PANAGAL:—"That he can do under the existing clause."

The amendment was by leave withdrawn.

(Amendment No. 180.)

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR:—"I beg to move the amendment that stands against my name, viz.—

'Provided that the trustee shall not impose on any office-holder or servant of the temple any form of punishment which according to the existing usages or rules of the institution of which he is trustee he is not entitled to impose.'

"I hope, Sir, that the House will accept this amendment; because, the effect of this amendment is merely to give once again prominence to the principle that underlies this Bill, viz., the principle of not interfering with existing usages. Without this proviso it may be that the provisions of clause 52 may be so interpreted as to vest in the trustee absolute powers of fining, suspending, removing or dismissing the office-holders of the temple even though the exercise of such powers might be inconsistent with the usages of the institutions of which he may be the trustee. It is for the purpose of providing against the possibility of the exercise of powers inconsistent with the usages that govern particular institutions that this has been suggested. It is not, Sir, that my fears are altogether imaginary; because we do find

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Clause 52—cont.

that in some institutions there are instances where there are powers which even the trustee cannot exercise. Only as an illustration and as nothing more than an illustration I would refer to the case of the Pedda-Jiagar who has got very onerous duties in respect of the temples of Tirupathi and Tirumalai. We know the decision of the Court that the Mahant or the trustee who is the Vicarakanakatha has not got the power to fine him though he has certain duties to discharge in virtue of his office as Pedda-Jiagar. If only we make an investigation into the history and usages of other institutions, similar usages might come to light. It is for the purpose of seeing that this Bill is more in the nature of consolidating the existing law in regard to the trustees in office and not by way of amending the relations between the trustees and the office-holders of temples or making their positions more difficult than they would otherwise be under the trustees, that I have proposed this amendment. Of course, as I said, the particular case that I referred to is merely an illustration. There will be other cases where you will find that the powers given to the trustee under the clause in question are likely to be somewhat inconsistent with the particular usages of the temples or institutions under the management of the trustee.

"I might be permitted to refer at this stage to the amendment sought to be moved on behalf of the Government by my hon. friend, Mr. N. Gopalaswami Ayyangar. The difference between his proviso and the one I have suggested consists in this: that whereas mine strictly limits itself to the usages that obtain in particular institutions, the amendment which Mr. Gopalaswami Ayyangar proposes to move will have a somewhat wider effect. It gives the power to the Local Government even in cases where admittedly the trustee might have particular powers now in consequence of considerations which might appeal to the Local Government to restrict the powers in appropriate cases. That, Sir, would apply to a different class of cases, at any rate that does not exactly apply to the class of cases which I have in view. With reference to the case which I have in view, all that I ask is that the existing usages need not be interfered with. The amendment of Mr. Gopalaswami Ayyangar has the effect of even interfering with the usages by the exercise of the discretion that is vested in the Local Government. The House will therefore see that the acceptance of Mr. Gopalaswami Ayyangar's amendment does not in any way obviate the need for accepting mine. That is my only reason, at this stage, to refer to Mr. Gopalaswami Ayyangar's amendment."

The hon. the RAJA OF PANAGAL:—"Mr. President, I am to some extent in sympathy with the object of the hon. Member's amendment."

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR:—"Thanks."

The hon. the RAJA OF PANAGAL:—"But at the same time I must admit that his amendment is vaguely worded. If what he wants is that usages and customs should be respected, we have got provision for that already under clause 75 of the Bill which does respect the usages and customs, and if he wants that particular individuals—"

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR:—"I have not proposed this amendment in favour of particular individuals. I have only instanced a case."

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Clause 52—cont.

The hon. the RAJA OF PANAGAL :—"Such cases would come under that clause. But in any case, as I have already stated, I have sympathy to some extent with the object of this amendment, and hence it is that I have asked Mr. Gopalaswami Ayyangar to move an amendment. Mr. Gopalaswami Ayyangar will move his amendment if the hon. Member withdraws his amendment."

Mr. C. V. VENKATARAMANA AYYANGAR :—"Sir, the hon. the Minister in charge has referred to clause 75. That clause clearly
1 p.m. says :

Save as otherwise expressly provided in or under this Act nothing herein contained shall affect any established usage of a temple or the rights, honours, emoluments, and perquisites to which any person may by custom or otherwise be entitled to in such temple.

Whereas clause 52 (1) says :

All office holders and servants attached to a temple or in receipt of emoluments shall be under the orders and control of the trustee; and the trustee may fine, suspend, remove or dismiss any of them for breach of trust, incapacity, disobedience of lawful orders, neglect of duty, misconduct or other sufficient cause.

Therefore it will be seen that clause 52 (1) does not refer to clause 75 at all, and in the absence of anything to the contrary, clause 75 is absolutely useless. So far as clause 52 (1) is concerned, all office holders and servants can be dismissed by the trustee. Of course the amendment proposed by Mr. N. Gopalaswami Ayyangar gives power to the Local Government in particular cases to exempt an office holder or servant or a class of hereditary office holders or servants. I would ask the hon. the Minister in charge if exemption has already been declared in certain cases by usage or by decisions of courts, why the Government should take the trouble of exempting them—"

The hon. the RAJA OF PANAGAL :—"If exemptions are already ascertainable by usage where is the necessity for an amendment like the one of Mr. Govindaraghava Ayyar's?"

Mr. C. V. VENKATARAMANA AYYANGAR :—"My hon. friend, the Minister in charge seems still to think that clause 75 covers clause 52, and I am sorry that he should think so. As I have already said, clause 75 merely says 'Save as otherwise expressly provided in or under this Act nothing herein contained shall affect any established usages, etc.' Therefore, if there is an express provision under this Bill, clause 75 cannot come into operation so far as our object is concerned. Clause 52 is there and it can be applied even in cases where there are decisions of the courts that particular persons should not be molested, and those decisions can be cancelled. Therefore, if the hon. the Minister puts in a proviso under clause 52 to the effect that 'this section will apply to cases, except as otherwise provided already by decisions of courts', or some such thing we shall be satisfied. Clause 75 and the proviso are so vague that it will be found difficult and useless in working them out. Therefore, I think the amendment of Mr. Govindaraghava Ayyar should be accepted or some such modification as the Government may think fit should be introduced. To say that the whole amendment of Mr. Govindaraghava Ayyar should not be accepted but that the amendment of Mr. Gopalaswami Ayyangar should be accepted seems to me to be unfair."

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Clause 52—cont.

Diwan Bahadur Sir T. DESIKA ACHARIYAR :—"There is no doubt that there will be difficulty experienced in the working of clause 52 as it stands. But I do not believe that we should be any nearer the solution of difficulties by accepting the amendment proposed by Mr. Govindaraghava Ayyar which is very vague. For instance, Kattalai Mirasidars are persons not amenable to the control of committees but at the same time who are to perform some sort of services and it is difficult to ascertain by usage or rules of the institutions whether they should be kept amenable to the disciplinary control of trustees or not. It is, therefore, necessary to have some such amendment as that proposed by Mr. Gopalaswami Ayyangar. There is no doubt there will be a considerable amount of difficulty if clause 52 stands as it is together with the amendment of Mr. Govindaraghava Ayyar. There must be some provision which should definitely say what office holders should be under the control, and in what respects they should be controlled."

Rao Bahadur A. S. KRISHNA RAO PANTULU :—"It is admitted on all hands that clause 52 should be modified, and if allowed to be modified, the only point for consideration is in what manner it should be modified, whether it should be on the lines indicated by Mr. Govindaraghava Ayyar or those indicated by Mr. Gopalaswami Ayyangar. The hon. the Minister, while expressing his sympathy for the amendment of Mr. Govindaraghava Ayyar, has stated that it is very vague and indefinite and therefore cannot be accepted. So far as I am able to gather, I think the amendment has been said to be vague because it contains the words 'according to existing usages', and if the insertion of the words 'according to existing usages' would contribute to the vagueness of it, I would point out that what has already been provided for in clause 75 of the Bill and the alternative amendment proposed by Mr. Gopalaswami Ayyangar are vaguer still. The alternative amendment states :

Provided that the Local Government may, in respect of any specified hereditary office holder or servant or class of hereditary office holders or servants, by order restrict and place under such control as they may think fit, the exercise by the trustee of his powers of punishment under this sub-section.

"I may point out in the first instance that this amendment does not indicate any lines in pursuance of which the powers of exemption should be exercised by the Government. It does not indicate any principle which the Government ought to follow in exempting an office holder or a servant from the operation of this Bill. It practically leaves it to the sweet will and pleasure of the Local Government or the person who is in authority for the time being. Again, Sir, the amendment states 'may by order restrict and place under such control'. It does not say 'they would not exercise the power', nor does it say they would exercise it 'under such and such conditions'. It only says 'the Local Government may in respect of any specified hereditary office holder or servant or class of hereditary office holders or servants by order restrict and place under such control, etc., etc.' Now, I would ask the hon. the Minister in charge to consider whether there can be anything more indefinite and vague than the powers proposed to be conferred according to the amended clause. It is our duty on this occasion to provide for all possible contingencies and see that there is not the least scope for litigation. I do not think the hon. the Minister in charge claims any infallibility in this matter and I therefore trust he will provide for all possible contingencies. So

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Clause 52—cont.

long as it is not possible for him to indicate the principles which ought to guide the Government in arriving at a conclusion as to which office holders should come within the purview of the clause under discussion and which not, I think it is better for him to accept the amendment of my hon. friend Mr. Govindaraghava Ayyar. His amendment states :

The trustee shall not impose on any office holder or servant of the temple any form of punishment which according to the existing usages or rules, etc., etc.

“The amendment particularly refers to a certain form of punishment. That is one specific circumstance in this amendment to which I would draw the attention of the House. On the other hand, the alternative amendment does not point out any circumstance at all. I would therefore ask the hon. the Minister in charge to consider whether it is not worth his while—he has already expressed his sympathy in favour of this amendment and I would not have taken the trouble of speaking upon it if he had not done so—to take this obvious difference into consideration and to accept this amendment. If any other circumstance occurs to him, it may also be embodied in the clause so that we may have a more specific idea than what it is at present of the office holders who may be exempted.”

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR:—“The hon. the Raja of Panagal asked me to withdraw the amendment of which I have given notice and I should have done so, Sir, with pleasure, at least to oblige my hon. friend, if I had found that I could do so consistently with the purpose I had in view when I framed this amendment. The assurance that is given—”

The hon. the RAJA OF PANAGAL:—“It was only a suggestion to the effect that if he did it, the next amendment would be accepted.”

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR:—“I was just considering that when my hon. friend interrupted me.

“I had the assurance that the amendment of Mr. Gopalaswami Ayyangar would be moved and possibly accepted, so that if my purpose was exactly the same as the amendment to be moved on behalf of Government is intended to give effect to, I might have withdrawn my amendment. I am sorry that the scopes of the two amendments are different. Whatever one may say on both these amendments, my suggestion is that each of them should be examined on its own merits. For instance, the amendment proposed on behalf of Government omits the existing usages, which should be respected. Mine proceeds on the basis that the powers vested in the trustee are far too high, which, taking into consideration the respectability of the particular office-holders or classes of office-holders, should be reduced. It may be that in particular cases the Government may think that a punishment shall have to be invented for meeting the exigencies of the case. But my point, a point which my proviso distinctly expresses, is this: that in awarding punishments, existing usages ought not be departed from. Sir, some of my hon. friends complained that my amendment was vague. It is not vague in the sense that you cannot understand what exactly is meant. The vagueness consists in this: that you do not know what exactly the usages are. That is what you find in clause 75. The ascertainment of the usages with reference to particular institutions is a work of investigation and decision. To the extent

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Clause 52—cont.

that we have not ascertained what those usages are, the expression ‘usages’ must remain indefinite. Of course, this is not going to prevent us from accepting the word ‘usages’ either in clause 52 or 75. If the House has no idea at present of the usages governing particular institutions, it is all the more reasonable that my amendment should be accepted, more especially in view of the fact that the hon. the Raja of Panagal has expressed his sympathy in favour of my amendment, notwithstanding the amendment proposed by my hon. friend Mr. Gopalaswami Ayyangar. If my hon. friend, the Minister in charge, looks into both these amendments, he will see that the purpose of my amendment is merely to respect the existing usages. The effect of the amendment proposed on behalf of Government is that, even when there is no usage, the local Government may, for reasons of their own, restrict the form of punishments, and it may be open to them to put these forms of punishments under particular forms of control. Now the House will recognize that these two amendments cover two independent fields. Therefore my submission is that it need not be made obligatory on me that I should withdraw my amendment. As a matter of fact, it seems to me that it is not desirable that the local Government should interfere with the exercise of the powers of the trustee with reference to the punishments which they are entitled to mete out. The power of interference by the local Government with trustees who are managing the religious endowments should be limited and should be exercised in a proper manner. Of course we know it will be said that there are rules which will guide the Government in exercising their powers and they will decide whether particular individuals should be exempted or not. But unless the local Government show sufficient evidence to the effect that there is a general desire that such powers of exemption should be in the hands of Government, one may well consider the possession of these powers by the Government to be altogether invidious. In these circumstances, I submit that the acceptance of the amendment of Mr. Gopalaswami Ayyangar may not be quite self-evident. Whether I am right or wrong in this view does not affect the propriety of accepting my amendment which is merely to see that the usages which now govern particular institutions are not in any way departed from so far as the question of awarding punishment goes. If, as I understand, the hon. the Raja of Panagal and his party are in sympathy with this view, I submit that this amendment ought to be accepted.”

1-15 p.m.

The hon. the RAJA OF PANAGAL:—“Mr. President, after the very effective reply which my hon. friend, Sir Desika Achariyar, has given, it may not be necessary for me to detain the House with any lengthy reply. But there are one or two points which I wish to refer to. My hon. friend, Mr. Govindaraghava Ayyar contended that his amendment was not vague. Well, Sir, what I should like to ask my hon. friend is: What are the usages? What are the rules? And by whom were these rules prescribed? Is it by the committee, the Board or the Local Government? Then, Sir, as to the usages I will place before the House one case. For instance, there is an *archaka* in a temple who has been doing his duties very well during the last thirty years or so and also his predecessors who were doing their duties ever since the starting of the institution. Within the knowledge of the present generation there might not have been one instance of his or his predecessors having been fined. Does it constitute a usage? Again, I have already stated

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Clause 52—cont.

the difficulty of understanding what he means by rules. Whose rules are they? In any case, he has stated that the amendment of Mr. Gopalaswami Ayyangar is desirable. When it is desirable and when it is accepted, all cases of exemptions can be brought under that and each case will be decided on its merits. In these circumstances, I think it is not desirable to accept any other amendment."

The amendment was put and lost.

(Amendment No. 181.)

Rai Bahadur N. GOPALASWAMI AYYANGAR:—"In moving the amendment which stands in my name I wish to offer a few remarks. Before doing so, I will read the amendment:

Add the following as a proviso:—

'Provided that the Local Government may, in respect of any specified hereditary office-holder or servant or class of hereditary office-holders or servants, by order restrict and place under such control as they may think fit, the exercise by the trustee of his powers of punishment under this sub-section.'

"The idea of this amendment, I may at once say, was suggested by the amendment of Mr. Govindaraghava Ayyar which has just been lost. The only reason for Government taking up this amendment was to give definiteness to what was at the back of Mr. Govindaraghava Ayyar's mind so that the trustee may follow it. As Mr. Govindaraghava Ayyar pointed out, our difficulty has really been how we are to ascertain the usages or rules of the institutions governing the forms of punishment which might be inflicted on a particular class of office-holders and servants. He referred us to clause 75 where the Bill refers to usages and he seems to imply that the usages which can be ascertained under clause 75 can equally well be ascertained under this particular clause. But there is one essential distinction and that is the fact that clause 52 refers to the enforcement of discipline in a particular temple. I ask, Sir, if it would be conducive to the enforcement of discipline if every time a trustee wants to punish a particular servant he has to make sure whether according to the usage of the temple he could inflict a particular punishment on him. The usage may be alleged or not and there must be somebody to decide what the usage is. It is much better that every trustee should know exactly whether a particular class of office-holders cannot be punished in a particular way. On the other hand, if every time he proposes to punish a particular office-holder he has to satisfy himself whether the usage allows punishment and if so, what form of punishment, and then punish him, it will lead to practical difficulties. Even in cases where after such consideration he comes to a particular decision, there may be a court, perhaps, which will sit in judgment over whether such a usage exists or not. It is therefore to enable a trustee to enforce discipline and not really to harass a particular individual who may be obnoxious to him that power is given to the Local Government to make an inquiry in the case of particular institutions, in the case of particular offices or in the case of particular class of offices and then issue an order saying that a particular class shall not be fined, or shall not be suspended or shall not be fined and suspended without the sanction of the Board. It is really for the purpose of

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Clause 52—cont.

giving some definiteness to Mr. Govindaraghava Ayyar's amendment that I suggest this amendment and I commend it for the acceptance of the House."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU:—"I must say that I do not possess the enthusiasm which my hon. friend has for the regulating of punishments of hereditary trustees by the Government. I should only like to point out that the position of the unfortunate trustee which has been gradually rendered worse and worse by each clause is now going to be completed by this amendment which my hon. friend has framed. He wishes that the trustee should exercise these functions in regard to the punishment of hereditary officers under certain conditions or special rules which Government will after inquiries frame in regard to these hereditary offices. Sir, the power which he proposes to take is certainly a general power to prescribe a class of punishments in the case of these hereditary officers and I am certain that these general orders of Government giving the trustees wide powers will considerably shake them. Assuming for the sake of argument that the trustee, notwithstanding these orders, punishes these hereditary officers, may I ask my hon. friend whether he proposes to give power to the Government to revise such orders and also power to enforce such orders made on appeal?"

The hon. the RAJA OF PANAGAL:—"May not the same contingency arise when these punishments are inflicted under usage and rules?"

Diwan Bahadur M. RAMACHANDRA RAO PANTULU:—"The amendment of Mr. Govindaraghava Ayyar was intended entirely for a different purpose and that is: whatever punishment is imposed by the trustee he is not to be fettered by any rules of the Government but should only see that it is in accordance with the usages of the temple. In other respects there is absolutely no attempt to interfere with the powers of the trustee; whereas under this amendment Government propose to issue orders controlling the authority of the trustee in regard to the powers of punishment which he has over these hereditary officers. It is a much larger order which empowers Government to issue general orders for controlling the powers of the trustee."

The hon. the RAJA OF PANAGAL:—"Am I to understand that the hon. Member is contending against the very object of the amendment because it restricts the powers of trustees in matters of punishment?"

Diwan Bahadur M. RAMACHANDRA RAO PANTULU:—"I am opposing this amendment. I say that the Local Government, by framing rules and issuing general orders, are restricting the control exercised by the trustees. This is a substantial interference with the powers of the trustee and is likely to break up temple organization. If this becomes law, it seems to me that it would really be a thin end of the wedge, and the local Government will have a series of appeals for not obeying their orders. If you accept the other amendment of Mr. Govindaraghava Ayyar it does not interfere with the powers of the trustee."

The hon. the RAJA OF PANAGAL:—"Does this amendment interfere with the powers of the trustee? As it is, the trustee need not even respect the usages but can go on fining."

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Clause 52—cont.

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—"That is exactly the reason why my friend Mr. Govindaraghava Ayyar wanted to restrain the power of the trustees by saying that the punishments should be according to usages. Except to that extent there is no interference. Now the Local Government will be empowered to frame rules for the conduct of trustees in regard to the punishments which may be inflicted upon these hereditary office-holders and servants. Therefore, I say, Sir, that this is a much larger power which the Local Government wishes to take over the trustees than Mr. Govindaraghava Ayyar's amendment and substantially interferes with the powers that the trustees can command. If these orders are to be modified, the Local Government should have powers of enforcing their own orders on trustees. Under these circumstances, it is better that some other form is introduced than the one suggested in this amendment. As already pointed out, one of such forms is Mr. Govindaraghava Ayyar's amendment."

Rao Bahadur A. S. KRISHNA RAO PANTULU :—"There is one amendment to this amendment which I have just handed over and 1-30 p.m. which may be acceptable to all in this House. I believe Government also have no objection to this amendment. With your permission, I move the amendment—

After the word 'servants' insert the words 'and subject to the provisions of section 75'.

The amendment was put and carried.

The amendment of Mr. N. Gopalaswami Ayyangar as amended was put and carried.

At this stage the Council rose for lunch.

The Council re-assembled after lunch at 2-30 p.m. with the hon. the Deputy President in the Chair.

Sub-clause (2).

(Amendment No. 182.)

Rao Bahadur A. S. KRISHNA RAO PANTULU :—"Sir, I move—

For the words 'such time as the Board may fix' substitute the words 'one month'.

"Sir, the reason why I move this amendment is obvious, and for the same reason I have given notice of an amendment similar to this with regard to sub-clause (3) also. A definite time must be fixed within which appeals should be preferred. I think it is better to make a definite provision about this. Apart from this, there is some technical difficulty. I understand that the Board is required to make by-laws for the purpose of fixing the time. If at least clause 15 of the Bill dealing with the powers of the Board to make by-laws specifically referred to appeals being presented and the fixing of the time for the purpose, I can understand this. We do not find any provision of the sort in clause 15 as it stands at present. In the absence of a provision such as this, it may be that the Board in each individual case or cases may fix time for the purpose of filing appeals as provided for in the sub-clause. I think the provision, as it stands, is very vague and indefinite and I therefore move this amendment."

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Clause 52—cont.

The hon. the RAJA OF PANAGAL :—"Sir, I agree there is some force in the hon. Member's argument. But, unfortunately, if I accept the amendment moved by him, the point of time from which this one month is to be calculated is not specified. He does not say from what date the period of one month should be given. He merely says 'one month' should be substituted for the words 'such time as the Board may fix'."

Rao Bahadur A. S. KRISHNA RAO PANTULU :—"One month from the date of communication of the order. It is always understood so."

The hon. the RAJA OF PANAGAL :—"So, I think I had better accept amendment No. 403 on the agenda which says—

For the words 'the Board may fix' substitute the words 'may be prescribed'."

The amendment was by leave withdrawn.

(Amendment No. 183.)

Mr. R. SRINIVASA AYYANGAR :—"Mr. President, Sir, I move—

For the words 'such time as the Board may fix' substitute the words 'one month from the date of punishment'.

I do not think there will be any difficulty in accepting this amendment as it is very definite and says 'one month from the date of punishment'. This brings out the idea clearly."

The hon. the RAJA OF PANAGAL :—"Here, again, there is another difficulty. He says 'from the date of punishment'. Is it from the date on which the order was communicated to the party or from the date on which it was passed? I think that if I accept the amendment of my hon. friend Mr. T. Narasimhaacharlu (No. 403 on the agenda) the object will be achieved."

The amendment was by leave withdrawn.

(Amendment No. 184.)

Rai Bahadur T. M. NARASIMHACHARLU :—"Mr. President, Sir, I beg to move—

For the words 'the Board may fix' substitute the words 'may be prescribed'."

The hon. the RAJA OF PANAGAL :—"I accept the amendment."

The amendment was put and carried.

(Amendment No. 185.)

Rao Bahadur A. S. KRISHNA RAO PANTULU :—"Sir, I beg to move—

Omit the words 'whose decision shall in the case of a non-hereditary office-holder or servant be final.'

"Sir, my object in moving this amendment is that, in matters of punishment, we need not make any distinction in providing for appeals in the case of non-hereditary office-holders, servants or others. It will be known that non-hereditary office-holders and servants ought not to be viewed from a standpoint different from any other paid servant appointed by any other officer from time to time. They stand on the same footing

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Clause 52—cont.

as others. It must also be realized that there are a large number of cases in which these persons have been provided with second appeals against orders of punishment inflicted on them. While we realize that we must safeguard the interests of either trustees or members of the Committees appointed from time to time, still, in the matter of punishment, I think it is certainly dangerous to restrict the right of appeals in the case of these persons owing to the misfortune of their being non-hereditary office-holders or servants. A second appeal has been provided in the case of hereditary office-holders and servants and it must be provided also in the case of non-hereditary office-holders and servants."

The hon. the RAJA OF PANAGAL:—"Sir, my hon. friend himself admits that elsewhere we have provided for a second appeal in the case of non-hereditary persons. That shows how Government themselves are anxious to see that the vested interests are reasonably safeguarded."

Rao Bahadur A. S. KRISHNA RAO PANTULU:—"I think the hon. Minister has misunderstood me. I only said that in the case of certain other officials second appeals had been provided and I requested that the same privilege might be extended to these people also. That is why I moved the amendment."

The hon. the RAJA OF PANAGAL:—"He admits, I suppose, that there is a difference between hereditary and non-hereditary servants. In the case of hereditary servants, these punishments may amount to an extinction of their hereditary right but in no case of non-hereditary servants will it amount to that. That is why this distinction is observed. Further, the Select Committee, after very careful consideration, came to the conclusion that it was not desirable in the case of non-hereditary servants that there should be a second appeal in all matters. For these reasons, I am unable to accept the amendment."

Rao Bahadur A. S. KRISHNA RAO PANTULU:—"Sir, I have nothing further to state. If I have not been able to convince the hon. the Minister and to induce him to accept the amendment, he has not also succeeded in inducing me to change my attitude. I therefore press my amendment."

The motion was put and lost.

Sub-clause (3).

(Amendment No. 186.)

Rai Bahadur T. M. NARASIMHACHARLU:—"Sir, I move—

For the words 'as the Board may fix' substitute the words 'as may be prescribed'."

The hon. the RAJA OF PANAGAL:—"I accept the amendment."

The amendment was put and carried.

Rai Bahadur T. M. NARASIMHACHARLU:—"Sir, before clause 52 is put to the vote, I wish to say one word. In clause 52, remedy for one class of servants is forgotten, viz., those servants who belong to temples to which committees have not been appointed."

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Clause 52—cont.

The hon. the RAJA OF PANAGAL:—"May I rise to a point of order, Sir? There is no amendment to that effect and he is therefore not entitled to speak."

The hon. the DEPUTY PRESIDENT:—"Is the hon. Member moving an amendment?"

Rai Bahadur T. M. NARASIMHACHARLU:—"I am opposing the passing of clause 52 and I give my reasons for the same."

"Sir, it will be seen from amendment No. 172, which was moved by Mr. Munuswami Nayudu and accepted by Government, that the words:

2-45 p.m. over which a committee has jurisdiction

have been omitted, which means that there will be some temples over which there will be no committee. There will be trustees for these temples, and these trustees will punish their servants. Now, clause 52 provides only for appeals against the punishments inflicted by trustees over whom there is a committee and over which there is the Board. Suppose there is a temple in which there is a trustee and over which there is no committee and the trustee dismisses one of the servants, to whom is the servant to appeal? So, I oppose this whole clause."

The hon. the RAJA OF PANAGAL:—"May I say a word, Sir? If there are no committees in the case of some temples or endowments there will be schemes framed and under such schemes it is likely to make arrangements for contingencies of the sort."

Clause 52 as amended was put and passed and added to the Bill.

Clause 53.

Clause 53 was put and passed and added to the Bill.

Clause 54.

(Amendment No. 187.)

Mr. C. MADHAVAN NAYAR (Advocate-General):—"I beg to move—

Add the following as a proviso:—

'Provided that where the person in possession of the property on which the endowment is a charge is not the person responsible in law for the performance of the charity or service, and the amount referred to in this section is recovered from the person in possession, the court shall, on the application of such person, pass an order for the recovery of the amount from the person responsible in law and such order may also be enforced as if it were a decree of such court.'

"Mr. President, the object of moving this amendment is this. A person in possession of the property who is not responsible for the performance of the charity or service, may be compelled to make payment by the court under clause 54 as it stands at present, and afterwards he may have to file a suit for the recovery. You will see that a person in possession who is not interested in the charge will have to pay, and in order to entitle him to get that money which he has so paid without resorting to a formal suit, this

[Mr. C. Madhavan Nayar] [2nd April 1923]

Clause 54—cont.

proviso is intended. He may like to get an order and that order may be executed as if it were a decree of such court. This is intended simply to safeguard the position of that person."

The hon. the RAJA OF PANAGAL:—"I accept the amendment."

The amendment was put and passed.

Clause 54 as amended was put and passed and added to the Bill.

Clause 55.

(Amendment No. 188.)

Mr. M. SURYANARAYANA:—"Sir, I move—

After the words 'the committee' insert the words 'or Board'.

"Sir, the object of moving this amendment is that the board may have the right of ascertaining what accounts, returns, reports or other information relating to the administration in its charge the committee requires, so that the board may check if any unnecessary reports or returns or accounts are required by the committee. The Board must be apprised of what the committee is doing so that they might exercise some check over the committee whenever it is necessary."

The hon. the RAJA OF PANAGAL:—"Sir, I have no objection to the amendment too."

The motion was put and passed.

Clause 55 as amended was put and passed and added to the Bill.

Clause 56.

Clause 56 was put and passed and added to the Bill.

Chapter VI, clauses 57 to 61.

(Amendment No. 189.)

Diwan Bahadur S. Rm. M. Ct. PETHACHI CHETTIYAR:—

"(a) For this chapter substitute the following:—

'57. (1) *Maths and Disciples Committee.*—A committee of five members with the Matadhipathi or the head of a math as President shall be constituted for the proper control, maintenance and administration of every Saiva Siddhanta Math.

(2) The members of such committee other than the President shall be nominated by the court from among the disciples of the maths concerned.

(3) The provisions of this Act relating to a temple committee and its president shall apply *mutatis mutandis* to the disciples committee formed under this section and the Matadhipathi.

(b) *Re-number the clauses in the subsequent chapters.*

"Sir, the control proposed to be had over the excepted temples is a matter that pains the public very much. That there is no necessity for introducing an innovation in the case of excepted temples, which is contradictory to the

2nd April 1923] [Mr. S. Rm. M. Ct. Pethachi Chettiyar]

Chapter VI, clauses 57 to 61—cont.

term itself, I for one, supported by the opinion of my constituents as well as the persons interested, have to place for the consideration of the House. The term 'excepted' is in itself enough to indicate that all such excepted temples should not be brought under the purview of this Bill. Most of them are private temples belonging to particular communities and particular individuals of one class of people. That such ancient temples had never known any kind of control by any Government till now existing is a matter of history and fact. By introducing control over such excepted temples, we shall only be introducing some kind of disagreement and offending the sentiments of the adherents, devotees and votaries of such temples.

"For instance, the Sri Nataraja's temple at Chidambaram, which, I believe, comes under the category of 'excepted temples' as defined in the Bill, is almost a personal property of the joint family of Dikshathars and the Lord Nataraja himself. To make any disruption therein would only be a sin. The Dikshathars of this temple are not mere trustees, but they are the makers and doers of what constitutes the holiness and sanctity of the temple itself. My hon. friend, the Raja of Ramnad, has already very well explained the position of this temple the other day. They do not appropriate or misappropriate the so-called funds of the temple, but they merely participate, as their due for the services rendered, holy and sacred in this instance, in the offerings of the devotees such as *pavadai*, *katalai*, etc. The only cash offering is the money put into the hundi, which is, as a matter of fact, spent for the purposes of the temple alone, and it is never participated in by them. If any of my hon. brethren in this House think of participating in the participated offerings, by way of demanding 1½ per-cent thereof for the Government, it would be nothing but claiming a morsel of food for the Government out of the food eaten by the Dikshathars. There is an old saying in the Tamil country, as 'பிகைஷ எடுக்குமாம் பெருமார், அதைப் பிடுக்குமாம் அனுமார்.' This Bill in this respect is only a practical illustration of the said proverb.

"There are many other temples which come under the category of 'excepted temples' and which are nothing but private properties of certain communities or of particular individuals or of some class of people, though they are all open to public worship. The private temples of the zamindars, the Kannikaparameswari temples of the Komutti Vaisyas, the nine temples of the Nattukottai Nagarathars and many others are all coming under this category. I may here admit that many of the said temples have enormous valuable properties. The other day when the question of exempting the Chidambaram temple was considered, the hon. the Raja of Panagal said that that temple deserved the preservation of its valuable properties and further raised the question how we were going to guarantee the preservation of those properties. I cannot understand why the hon. the Minister should be so very anxious about preserving the private properties of the excepted or private temples.

"In these circumstances, there is no justification whatsoever to bring them under the operation of a Hindu Religious Endowments Act. If this House should think of having any check over them so as not to allow the owners or managers abuse any of the funds of any such temple, an annual Government audit of accounts will, I think, serve the purpose adequately.

[Mr. S. Rm. M. Ct. Pethachi Chettiya] [2nd April 1923]

Chapter VI, clauses 57 to 61—cont.

"In moving this amendment, Sir, I have to further observe that as the mismanagement of some of the trustees and heads of *maths* is considered to be one of the main reasons for the introduction of the Bill, the mere submission of the annual budgets by the heads of *maths* to the central controlling authority cannot be considered as an effective check over the management. At least the approval of the same by the central authority might be something.

"Further, a disciples' committee for looking into the details of the working of the *maths* at least as far as the Saiva Siddhanta *maths* are concerned, is found to be quite indispensable. I particularize the Saiva Siddhanta *maths* here, because I am asked by many of the members of my constituency to speak of these *maths* in particular, as it is very well known to them that much money from these very rich *maths* is being wasted on purposes other than those for which they were intended.

"Regarding the desirability of forming this disciples' committee, my hon. friend, Mr. Ramalingam Chettiya, has expressed his 3 p.m. views in his dissenting minute. My hon. colleagues, Messrs. Somasundaram Mudaliya and Arunachala Mudaliya, have also expressed in their joint dissenting minute that the formation of a disciples' committee is necessary. In this connexion, Sir, I am sorry to tell you that some one or two of the hon. Members of this House, who also belong to the same non-Brahman community to which I belong, seem to think that it will not be wise to expose the follies of our own *maths* in the course of a legislation while some of the members of the Brahman community have no necessity to do so. They say that since one or two of the *maths* like the Sri Kanchi Kamakoti Peetham of Kumbakonam do not give room for such a step, our Saiva Siddhanta *maths*, like the Thiruvaduthurai Atheenam, which could have been most probably the cause of such a contemplation and even the introduction of this Bill, should not be subjected to a strict control. But, Sir, I do not understand how far I should respect their feelings in this matter.

"However, let me be plain, Sir, even at the risk of losing the sympathy of such persons, and tell you briefly a little about my visit to the said Thiruvaduthurai *math* in the year 1912. I, in my capacity as the President of the அறநிலைப் பொருட் பாதுகாப்புக் குழகம் which means a committee for protecting the charitable trust properties—"

The hon. the RAJA OF PANAGAL:—"Sir, I rise to a point of order. Is the hon. Member in order in referring to these details which have already been disposed of?"

Diwan Bahadur S. Rm. M. Ct. PETHACHI CHETTIYA:—"What? the disciples' committee, Sir?"

The hon. the DEPUTY PRESIDENT:—"The best thing for the hon. Member is to give a summary of the whole thing without going into details."

Diwan Bahadur S. Rm. M. Ct. PETHACHI CHETTIYA:—"I am not narrating a big story. I shall be brief, Sir. In my capacity as the President of the அறநிலைப் பொருட் பாதுகாப்புக் குழகம், which means a committee for protecting the charitable trust properties along with five other

2nd April 1923] [Mr. S. Rm. M. Ct. Pethachi Chettiya]

Chapter VI, clauses 57 to 61—cont.

members of the same committee, I was appointed to wait on a deputation before His Holiness the then Pandarasannidhi by the Saiva Conference held in 1912 at Palamecottah."

[Here, the time limit expired and the speaker resumed his seat.]

The hon. the RAJA OF PANAGAL:—"My hon. friend from Trichinopoly has argued the case at great length taking the instance of Chidambaram as his basis. I cannot understand, Sir, how he can introduce that instance at this stage. The question was discussed in this House and a decision was arrived at. Sir, as a matter of course, all the three sub-clauses contained in the amendment now moved have been disposed of by this House. The question does not arise at this stage. In opposing the amendment, I have only to say that the question has been carefully considered by the Select Committee and also by the House."

The motion was put and lost.

Clause 57.

(Amendment No. 19C.)

Mr. R. SRINIVASA AYYANGAR:—"Sir, I move to—

Omit this clause.

Under this clause, the trustee of every *math* and excepted temple has in each year to submit to the board a budget showing the probable receipts and disbursements of the following year and a statement of the actual receipts and disbursements of the previous year; and the board has been invested by the Bill with powers to vary or alter the various items in the budget. So far as this clause is concerned, the duty imposed on the *matadhipatis* will throw upon them a burden which in the very nature of things is too much to expect them to bear. This is likely to interfere with the spiritual side of their administration, and to that extent it is likely to detract from the duties appertaining to the office and the position which they are expected to fill. The preparation of the budget showing the probable receipts and disbursements of the following year and a statement of the receipts and disbursements of the previous year will take a lot of time, and if the *matadhipatis* are to escape a criminal prosecution and apply their minds to every matter of detail, I am sure they will find it very difficult, and a large portion of their time, which the disciples will expect them to utilize for the purpose of religious discourses like *muthrathanam*, *bharanyasama*, etc., will be taken up and consumed by this purely wordly affair which they are required to do for the satisfaction of this board which is not going to contribute a pie towards the *maths*. There is not even the mutuality that one would expect and in these circumstances I move for the omission of the clause."

Rai Bahadur T. M. NARASIMHACHARLU:—"I have given notice of a similar amendment, Sir, for the omission of item (a) of the clause."

The hon. the DEPUTY PRESIDENT:—"Order, order. We shall come to that later on."

Rai Bahadur T. M. NARASIMHACHARLU:—"I am afraid, Sir, I shall be ruled out of order then. I wish to speak a few words now."

[Mr. S. Rm. M. Ct. Pethachi Chettiyar] [2nd April 1922]

Chapter VI, clauses 57 to 61—cont.

"In moving this amendment, Sir, I have to further observe that as the mismanagement of some of the trustees and heads of *maths* is considered to be one of the main reasons for the introduction of the Bill, the mere submission of the annual budgets by the heads of *maths* to the central controlling authority cannot be considered as an effective check over the management. At least the approval of the same by the central authority might be something.

"Further, a disciples' committee for looking into the details of the working of the *maths* at least as far as the Saiva Siddhanta *maths* are concerned, is found to be quite indispensable. I particularize the Saiva Siddhanta *maths* here, because I am asked by many of the members of my constituency to speak of these *maths* in particular, as it is very well known to them that much money from these very rich *maths* is being wasted on purposes other than those for which they were intended.

"Regarding the desirability of forming this disciples' committee, my hon. friend, Mr. Ramalingam Chettiyar, has expressed his views in his dissenting minute. My hon. colleagues, Messrs. Somasundaram Mudaliyar and Arunachala Mudaliyar, have also expressed in their joint dissenting minute that the formation of a disciples' committee is necessary. In this connexion, Sir, I am sorry to tell you that some one or two of the hon. Members of this House, who also belong to the same non-Brahman community to which I belong, seem to think that it will not be wise to expose the follies of our own *maths* in the course of a legislation while some of the members of the Brahman community have no necessity to do so. They say that since one or two of the *maths* like the Sri Kanchi Kamakoti Peetham of Kumbakonam do not give room for such a step, our Saiva Siddhanta *maths*, like the Thiruvaduthurai Atheenam, which could have been most probably the cause of such a contemplation and even the introduction of this Bill, should not be subjected to a strict control. But, Sir, I do not understand how far I should respect their feelings in this matter.

"However, let me be plain, Sir, even at the risk of losing the sympathy of such persons, and tell you briefly a little about my visit to the said Thiruvaduthurai *math* in the year 1912. I, in my capacity as the President of the அறநிலைப் பொருட் பாதுகாப்புக் கழகம் which means a committee for protecting the charitable trust properties—"

The hon. the RAJA OF PANAGAL:—"Sir, I rise to a point of order. Is the hon. Member in order in referring to these details which have already been disposed of?"

Diwan Bahadur S. Rm. M. Ct. PETHACHI CHETTIYAR:—"What? the disciples' committee, Sir?"

The hon. the DEPUTY PRESIDENT:—"The best thing for the hon. Member is to give a summary of the whole thing without going into details."

Diwan Bahadur S. Rm. M. Ct. PETHACHI CHETTIYAR:—"I am not narrating a big story. I shall be brief, Sir. In my capacity as the President of the அறநிலைப் பொருட் பாதுகாப்புக் கழகம், which means a committee for protecting the charitable trust properties along with five other

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Chapter VI, clauses 57 to 61—cont.

members of the same committee, I was appointed to wait on a deputation before His Holiness the then Pandarasannidhi by the Saiva Conference held in 1912 at Palamcottah."

[Here, the time limit expired and the speaker resumed his seat.]

The hon. the RAJA OF PANAGAL:—"My hon. friend from Trichinopoly has argued the case at great length taking the instance of Chidambaram as his basis. I cannot understand, Sir, how he can introduce that instance at this stage. The question was discussed in this House and a decision was arrived at. Sir, as a matter of course, all the three sub-clauses contained in the amendment now moved have been disposed of by this House. The question does not arise at this stage. In opposing the amendment, I have only to say that the question has been carefully considered by the Select Committee and also by the House."

The motion was put and lost.

Clause 57.

(Amendment No. 190.)

Mr. R. SRINIVASA AYYANGAR:—"Sir, I move to—

Omit this clause.

Under this clause, the trustee of every *math* and excepted temple has in each year to submit to the board a budget showing the probable receipts and disbursements of the following year and a statement of the actual receipts and disbursements of the previous year; and the board has been invested by the Bill with powers to vary or alter the various items in the budget. So far as this clause is concerned, the duty imposed on the *matadhipatis* will throw upon them a burden which in the very nature of things is too much to expect them to bear. This is likely to interfere with the spiritual side of their administration, and to that extent it is likely to detract from the duties appertaining to the office and the position which they are expected to fill. The preparation of the budget showing the probable receipts and disbursements of the following year and a statement of the receipts and disbursements of the previous year will take a lot of time, and if the *matadhipatis* are to escape a criminal prosecution and apply their minds to every matter of detail, I am sure they will find it very difficult, and a large portion of their time, which the disciples will expect them to utilize for the purpose of religious discourses like *muthrathanam*, *bharanyasama*, etc., will be taken up and consumed by this purely wordly affair which they are required to do for the satisfaction of this board which is not going to contribute a pie towards the *maths*. There is not even the mutuality that one would expect and in these circumstances I move for the omission of the clause."

Rai Bahadur T. M. NARASIMHACHARLU:—"I have given notice of a similar amendment, Sir, for the omission of item (a) of the clause."

The hon. the DEPUTY PRESIDENT:—"Order, order. We shall come to that later on."

Rai Bahadur T. M. NARASIMHACHARLU:—"I am afraid, Sir, I shall be ruled out of order then. I wish to speak a few words now."

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Clause 57—cont.

The hon. the DEPUTY PRESIDENT :—"The hon. Member will please wait."

The hon. the RAJA OF PANAGAL :—"Sir, my hon. friend, Mr. Srinivasa Ayyangar, wishes to make out a case that this particular clause of the Bill would interfere with the spiritual activities of the *matadhipatis*. Sir, this question has been discussed at great length before and the House has arrived at a decision."

Mr. R. SRINIVASA AYYANGAR :—"That discussion was with reference to some other provision which did not impose on the *matadhipatis* a burden of this character."

The hon. the DEPUTY PRESIDENT :—"But substantially the point discussed was the same."

The hon. the RAJA OF PANAGAL :—"The same point was discussed, Sir, as to the unfortunate position of the *matadhipatis* having to do something with temporal properties. It is none of the making of this Bill. They have been in possession of temporal properties and to that extent responsible to law. They cannot evade their liability to be dealt with under sections 92 and 93 of the Civil Procedure Code. So, Sir, this does not introduce any new principle and objection cannot be taken on that account. In these circumstances, I cannot accept the amendment."

Mr. R. SRINIVASA AYYANGAR :—"Sir, reference was made to sections 92 and 93 of the Civil Procedure Code. These provisions do not require the submission of any budget."

The amendment was put and lost.

(Amendment No. 191.)

Mr. S. T. SHANMUKHAM PILLAI :—"I move the amendment standing in my name for the formation of a committee of disciples."

The hon. the RAJA OF PANAGAL :—"I rise to a point of order. The question was raised by Mr. Pethachi Chettiyar, and it was decided by the House."

The hon. the DEPUTY PRESIDENT :—"I think the hon. Member is out of order in moving his amendment."

Mr. S. T. SHANMUKHAM PILLAI :—"Anyhow, I wish to give expression to the feelings and sentiments of my electorate on this question."

The hon. the DEPUTY PRESIDENT :—"You have said it and the electorate must know. Any further speech is out of order."

(Amendment No. 192.)

Rai Bahadur T. M. NARASIMHACHARLU :—"I wish to move my amendment—

To omit item (a) of this clause."

The hon. the DEPUTY PRESIDENT :—"The question has been decided already and the hon. Member will not be in order."

Clause 57 was then put and passed and added to the Bill.

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Clause 58.

(Amendment No. 193.)

Mr. R. SRINIVASA AYYANGAR :—"Sir, I move to—

Omit this clause.

Sir, if this clause is allowed to stand part of the Bill, it will make the position of the *matadhipatis* intolerable. The clause enables twenty persons having any interest to make an application to the Board. Properly speaking, if there is gross mismanagement or if the *matadhipati* lays himself open to a charge of questionable waste, there is absolutely no reason why persons aggrieved should not be permitted to have their grievances ventilated in the courts in the first instance instead of enabling them to resort to the Board in the first instance, conferring upon the Board powers of enquiry in the second instance and then vesting the Board with jurisdiction for framing a scheme in the third instance. The intermediate agency, the Board, may go, and it may be perfectly open to persons to proceed straightway in the first instance to courts. It is with this object in view that I propose this amendment. If this clause is retained, the *matadhipatis* will be at the mercy of the twenty persons, scrupulously or otherwise I do not trouble myself about, and to that extent the clause will be a mischievous provision."

The hon. the RAJA OF PANAGAL :—"At present, Sir, one or two men posing themselves as persons interested can interfere."

Mr. R. SRINIVASA AYYANGAR :—"But he or they can go straightway to the court after getting the sanction of the Advocate-General."

The hon. the RAJA OF PANAGAL :—"What difference does it make whether they go to court or to the Board, I cannot understand. Whatever it is, we have discussed this question at great length and we have decided that we should have a Board. Having regard to the constitution of the Board and having conferred some powers on them, I do not think the question can arise at this stage. I cannot accept the amendment."

Mr. R. SRINIVASA AYYANGAR :—"The amendment is perfectly in order, Sir. Our efforts to have the Board turned upside down proved ineffectual, but by no means it follows that the Board should be vested with all the powers claimed for it by the other side."

The amendment was put and lost.

(Amendment No. 194.)

Rai Bahadur T. M. NARASIMHACHARLU :—"Sir, the amendment that I now move is a very small amendment, and it runs—

For the word 'or' occurring after the words 'for improper purposes' substitute the word 'and'.

I wish to substitute 'and' for 'or'. My point is there may be mismanagement and any 20 persons may come forward and say 'Here is a grand opportunity for scheming or rather for preparing a scheme'. In this way people will be coming forward too often to apply to the Board. I therefore submit, Sir, that 'and' should be substituted for 'or'."

[2nd April 1923]

Clause 58—cont.

The hon. the RAJA OF PANAGAL:—"Sir, the amendment is not so insignificant as my hon. friend would wish me to understand it. It makes a great deal of difference if the substitution is made of 'and' for 'or'. In fact, even where this misappropriation and mismanagement may exist, 20 persons may not be forthcoming. Is it the contention of my hon. friend that in such cases no action should be taken? If that is the case, I do not think it deserves any consideration by this House."

The amendment was put and lost.

(Amendment No. 195.)

Rai Bahadur T. M. NARASIMHACHARLU:—"Sir, I beg to move the following amendment and hope that the Government will see its reasonableness and accept it:

Between the words 'Board may' and 'hold' insert the words 'after setting forth the grounds of such belief in writing and intimating them to the trustee and other persons interested, itself.'

I want only to say this, Sir. Let nothing be done without its being intimated to the parties concerned. It may be that the charge is that the *matadhipati* may be misappropriating money. It may be that 20 persons may come and complain. But what I do want is that when the Board wishes to take action it should be satisfied that there is ground for proceeding with the matter. Also, let the grounds for such satisfaction be set forth before the parties concerned, so that they may know what is being done at their back."

The hon. the RAJA OF PANAGAL:—"Sir, I am afraid I cannot accept this amendment too. I do not think that, if accepted, it would serve any good purpose, because all these matters will come in their right time when the Board takes the case into cognizance for holding an inquiry, and they will consider whether there shall be notice to the trustee before the matter is inquired into by the Board. For this reason, I regret I cannot accept the amendment."

The motion was put and negatived.

(Amendment No. 196.)

Mr. T. SIVASANKARAM PILLAI:—"Sir, the amendment which stands in my name and which I beg to move runs thus:—

Add the following as a proviso:—

'Provided that the Board in its discretion may call upon any applicant or applicants to deposit a sum not exceeding Rs. 1,000 as a guarantee of good faith in making the application before admitting the same for inquiry.'

Sir, it is a matter of common experience that these temple affairs, as many other village and communal affairs, are a fruitful source of vexatious litigation especially when factions are engaged in them. This trouble has been anticipated in the clause itself, for it reads—

When the Board has reason to believe that the trustee of a math or excepted temple has been mismanaging the endowments of such math or temple or has been spending or alienating them for improper purposes.

2nd April 1923] [Mr. T. Sivasankaram Pillai]

Clause 58—cont.

That is, it is to be informed of the conditions and it has to take action *suo motu*. The clause continues—

or when not less than 20 persons having interest make an application to the Board stating that in the interests of the proper administration of such endowments a scheme of administration should be framed, etc.

The framers of the Bill have increased the number of persons that have to apply under this clause to 20, so as to guarantee the good faith of the circumstances under which the application is made. Now, I am afraid this limitation is not enough. We can see from our own experience how easy it is to obtain as many persons as possible for purposes like this. If you write something and go to some of your friends and ask them to affix their signatures thereto, they will do so readily. Therefore, I think it does not afford sufficient guarantee. What I suggest is that the Board should be given discretion to ask for a deposit ranging from Rs. 1,000 downwards. Discretion may be vested in the Board to fix the amount of the deposit having regard to the status of the temple or *math* to which the application relates. So, I think my proviso will be a very wholesome thing to restrain vexatious proceedings. This is the reason, Sir, why I propose this amendment and I hope it will be accepted by the hon. the Minister."

The hon. the RAJA OF PANAGAL:—"Sir, I see that there is some force in the hon. Member's argument for the acceptance of his amendment. But there seems to be difference of opinion about the amount of the proposed deposit. The Hon'ble Member fixes the maximum at Rs. 1,000. If the hon. Member is agreeable to having it at such sum as may be fixed by the Board, I would have no objection to accept it."

Mr. T. SIVASANKARAM PILLAI:—"I have no objection to accept the proposal, and I withdraw my amendment."

The amendment was by leave withdrawn.

(Amendment No. 197.)

The hon. the RAJA OF PANAGAL:—"Sir, the amendment I move is as follows:—

Add the following as a proviso:—

'Provided that the Board in its discretion may call upon any applicant or applicants to deposit such sum as the Board may fix, as a guarantee of good faith in making the application before admitting the same for inquiry.'

Mr. R. SRINIVASA AYYANGAR:—"I should like to know, Sir, whether any maximum is proposed to be prescribed."

The hon. the RAJA OF PANAGAL:—"That is left to the discretion of the Board."

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR:—"Sir, I beg to oppose this amended amendment. Let us understand what exactly it means. It does not contemplate that the Board should make any rules in respect of it, because, according to the proviso, it is only in particular cases when there is an application to make an inquiry that the Board is going to call upon the applicant to deposit a certain sum. So, it comes to this: that the Board

[Mr. L. A. Govindaraghava Ayyar] [2nd April 1923]

Clause 58—cont.

in every case which it is called upon to consider must first think of the application and then settle in its mind what exactly the amount is that the applicant is to be asked to deposit. That amount may be even a lakh of rupees because there is no limitation to the maximum amount that the Board can fix. It will be to use a phrase which is very easily understood amongst lawyers, like the foot of the members of the Board. They may fix any figure they please, as there is no prescribed maximum. If, on the other hand, the amendment fixes a maximum limit, leaving it to the Board as to what exactly the amount is to be that they may call upon the applicant to deposit, one can understand the meaning of it. As it is, it will all mean this: the Board, merely on an application, without entering into the merits of the case,—because at that stage it cannot enter into the inquiry—is asked to fix a certain sum without limit. I think, Sir, that the effect of the second amendment would be much worse than the original amendment itself."

The hon. the RAJA OF PANAGAL :—"Sir, even the original amendment moved by Mr. Sivasankaram Pillai gave the discretion to the Board provided that the amount was not over Rs. 1,000. In this amendment, I have removed the maximum limit of Rs. 1,000 for the reason that there may be some cases where the interests involved are very large. In order to meet such cases I have removed the maximum limit of Rs. 1,000. Now, it is rather strange that the Board cannot be credited with the discretion to demand a sum which it really thinks necessary in particular cases for a guarantee. Sir, I do not see any objection to the amendment as moved by me being accepted by the House."

Rao Bahadur A. S. KRISHNA RAO PANTULU :—"Sir, I want to oppose this amendment moved by the hon. the Minister. I believe that if we only bear in mind the discussion which has taken place about the principles of the Bill, I think we shall recognize that we are doing something by means of this amendment to violate these principles. We have all along proceeded on the footing that in order to meet cases of misappropriation and malversation of trust property there must be some machinery by which these properties must be brought under control. If by means of this provision suggested in the amendment we are going to impose conditions whereby we make it difficult for the persons concerned to go before the proper authorities and state their objections, we shall be doing something derogatory to the main principle of the Bill itself. In the original amendment no doubt discretion was left to the authorities to fix the amount, but a maximum was prescribed. But, according to this amendment, that maximum is sought to be removed, and it is practically left to the discretion of the Board to fix the sum."

"Secondly, under the provision in the clause as it stands, there are to be 20 applicants. If the amendment is carried, it will not be clear what each applicant is to deposit. Suppose the Board asks each person to deposit Rs. 1,000. Then it is practically making it impossible for the aggrieved persons to make representations. I want to know if that is the object of the Bill. My submission is this. If we bear in mind the provisions already in force under the existing law, persons interested in the matter can move the Collector or the Advocate-General, and if they obtain their sanction or permission, they can file suits in the courts. But they are not called upon to deposit any amount at all. The Collector or Advocate-General makes some

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Clause 58—cont.

sort of informal enquiry to satisfy himself as to the *bona fides* of the applicants, and if he is satisfied he gives the necessary sanction or permission. Why in this particular case we should take away the privilege now enjoyed by interested persons making proper representations before the authorities and satisfying them that there is a case for interference, I cannot understand. I for one cannot approve of the principle of asking for a deposit of money as in the case of election disputes. There is a world of difference between the case under discussion and election disputes. This Bill is an attempt at the better administration of charities and why should we penalize persons who are not in a position to deposit money? I therefore object to the principle itself in the first instance. Again, the amendment will introduce a provision whereby the Board may, notwithstanding the faith of my hon. friend the Raja of Panagal, fix the amount as they like, for there is no knowing what they will do if we do not limit the maximum of the deposit. Therefore, Sir, for the reason that the fixing of any amount of deposit is derogatory to the principle of giving facility for the persons interested in making representations about the temple affairs, and secondly owing to the further objection that this particular proposal is likely to result in serious harm to parties, I feel it my duty to oppose the amendment."

Mr. T. SIVASANKARAM PILLAI :—"Sir, my hon. friend, Mr. Krishna Rao, seems to take exception to the principle of the amendment. But I may explain it in this way. This Board is not to levy this deposit indiscriminately in each and every case; the matter is proposed to be left to its discretion. There may be cases and cases. There may be certain cases wherein owing to the factious spirit various applicants come in. It is proposed to meet such a contingency by means of the amendment, and there is no idea of restraint or prohibition. On second thoughts I am afraid that even the taking away of the maximum of Rs. 1,000 would not be beneficial but injurious to the people, because then the Board may become arbitrary and it may perhaps use this provision so as to prevent applicants from coming forward by asking for a deposit of Rs. 10,000 even. The deposit is only intended as a guarantee of good faith and also to meet the incidental expenses, and it is not likely to be more than Rs. 1,000 and that is why I fixed it at that amount. Now, I would have no objection if the hon. Minister wants to raise that limit to Rs. 2,000 or so."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—"Sir, I am afraid 3-30 p.m. I cannot concur with all that my hon. friend, Mr.

Sivasankaram Pillai, has said. It seems to me that cases arising out of the religious endowments are not akin to election disputes where private interests are involved. This is a question of proper management of public charities, and it seems to me that now that we are legislating for the first time on this subject, we must leave matters as they stand at present. We must see whether as a matter of fact frivolous applications are put in, and then take action on them. We are now assuming that all kinds of undesirable people will come forward with applications to the Board and that in order to prevent them from doing so, we must ask them to deposit a certain sum of money. It seems to me that it will be far wiser not to make any rules at present. The matter was discussed at great length in the Select Committee and it was decided that if twenty applicants were forthcoming

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Clause 58—cont.

it was a sufficient guarantee of their *bona fides* and that was the only consideration which induced the Select Committee to require twenty persons to come forward with applications. Once twenty persons do come forward, it is unnecessary to assume bad faith on their part and again call upon them to deposit a sum before enquiry is started. In the present state, it is unnecessary to make such a provision and when twenty applicants join together and make a frivolous application it will be time enough to impose such a restriction. Again, I wish to ask what will become of the money that is deposited. If the court ultimately decides against the applicants, is it to be assumed that the money should be forfeited and that it should go to the coffers of the Board? The amendment of my hon. friend, Mr. Sivasankaram Pillai, does not say anything about this. It seems to me that the best course will be not to accept either of the amendments and leave things as they are in clause 58, namely, the requirement of twenty applicants to come forward with application before an enquiry is started. Nothing more need be done at present."

The hon. the RAJA OF PANAGAL:—"I am not very keen about the amendment. Because my hon. friend, Mr. Sivasankaram Pillai, moved an amendment, I thought I had better not limit the amount to Rs. 1,000, but leave the discretion to the Board. Now that the feeling of the House seems to be against the imposition of any restriction, I am not particular to press the amendment and therefore beg leave to withdraw the same."

The amendment was by leave withdrawn.

Clause 58 was put, passed and added to the Bill.

Clause 59.

Clause 59 was put, passed and added to the Bill.

Clause 60.

Sub-clause (2).

(Amendment No. 198.)

Mr. M. SURYANARAYANA:—"Sir, I beg to move—

For the words 'thirty days' substitute the words 'sixty days'.

Sir, this is a new Bill and it may take some time before the public get themselves accustomed to the procedure, the period of limitation, etc., prescribed therein. I, therefore, think that some time should be allowed."

The hon. the RAJA OF PANAGAL:—"I am prepared to accept the amendment that follows the one just now moved by my hon. friend, Mr. Suryanarayana."

The amendment was by leave withdrawn.

(Amendment No. 199.)

Rai Bahadur T. M. NARASIMHACHARLU:—"Sir, I beg to move—

For the words 'thirty days' substitute the words 'three months.'"

The hon. the RAJA OF PANAGAL:—"Sir, I accept the amendment."

The amendment was put and carried.

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Clause 60—cont.

Sub-clause (3)

(Amendment No. 200.)

Mr. C. VENKATARANGA REDDI:—"Sir, I beg to move—

After the words 'and may' insert the word 'cancel.'

"Sir, my object in moving this amendment is this. If the clause is allowed to stand as it is, the court will have no power to cancel the scheme filed by the Board if the court is of opinion that there is no mismanagement in the particular institution for which the scheme is framed. It is only to give the power of cancelling the scheme to the court that I have tabled this amendment. The court, at present, has got power only to confirm, modify or to correct the scheme framed by the Board. I think my amendment is a very reasonable one and I hope it will be accepted by the hon. the Minister."

RAO BAHADUR C. V. S. NARASIMHA RAJU:—"Sir, according to the clause as it stands, power is given to the court to confirm, modify or correct the scheme framed by the Board. If the court is satisfied on the facts of the case that there is no necessity at all to frame a scheme, the court is not empowered to cancel the scheme. If this amendment is accepted, such power will be given to the court. The whole thing rests on the question of fact, namely, whether there is mismanagement or not in an institution. Even in cases where the management has been going on thoroughly well, the Board may commit an error and possibly frame a scheme, and when that question comes before the court, why should the court be debarred from entering into the question whether the management is going on satisfactorily and whether any interference by means of a scheme is necessary or not? It is only in cases where the court finds gross mismanagement, it can order the framing of a scheme. In cases where the court finds the work going on satisfactorily, why should it not be competent to say that no interference is necessary? Therefore, I think to hold the scales even between the Board and the trustees who take opposite views, the court should be empowered to cancel the scheme framed by the Board in cases where it finds the management is conducted satisfactorily."

Mr. M. SURYANARAYANA:—"If this amendment is not accepted, it would come to this. The Board will say to the court: 'Here, we have prepared a scheme. It is not your business to enter into the question whether a scheme is or is not necessary. You should take our *ipse dixit* on the matter and say that the scheme is necessary. Your business is simply to see whether the scheme framed by us is right; if not, you can modify or correct the same.' I wish to ask: is that the attitude which a Board should take towards a court? The proper course is to ask the court to see whether there is any necessity for the scheme at all and if so to modify or correct the scheme framed by the Board and if there is no necessity for the scheme at all, to cancel it altogether."

The hon. the RAJA OF PANAGAL:—"Sir, this question has been discussed at great length in the Select Committee, and that committee, if I remember right, was almost unanimously of opinion in favour of the clause as it is. I do not think that at this late stage of the Bill, we can enter into that discussion once again. One thing is evident. My hon. friend, Mr. Narasimha

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Clause 60—cont.

Raja, admits that it is more or less a question of fact; and so far as the question whether there should be a scheme or not is concerned, I think the most competent persons will be the commissioners of the Board. In these circumstances, I cannot accept the amendment."

The amendment was put and lost.

(Amendment No. 201.)

Mr. C. V. VENKATARAMANA AYYANGAR:—"Sir, I beg to move—

After the words 'and may' insert the word 'confirm'."

The hon. the RAJA OF PANAGAL:—"Sir, I accept the amendment."

The amendment was put and carried.

[At this stage the hon. the Deputy President vacated the Chair and Diwan Bahadur Sir T. Desika Achariyar occupied it]

(Amendment No. 202.)

Mr. C. V. VENKATARAMANA AYYANGAR:—"Sir, I beg to move—

After the words 'of the scheme as' insert the word 'confirmed'.

"Sir, this is an amendment consequential on the previous amendment and I hope the hon. Minister will accept it."

The hon. the RAJA OF PANAGAL:—"Sir, I accept the amendment."

The amendment was put and carried.

Sub-clause (4).

(Amendment No. 203.)

Rai Bahadur T. M. NARASIMHACHARLU:—"Sir, I beg to move—

For the word 'No' substitute the word 'An'.

"Sir, the next amendment that stands in my name will complete the one just now moved by me, and I do not know why it has been split up into two.

"Under this Chapter, the Board is authorized to frame a scheme and submit it to the court which may confirm, or modify or correct the same. Now, the modification may be so big as to leave one minor portion intact and all other portions may have been modified. The modification may come to 99 per cent leaving one per cent unmodified. This also amounts to modification in logic; so that the modified decree may affect much larger interests than was contemplated by the Board in their scheme. Again, what is the kind of court that will go into all these questions? According to the amendment in this House, the court may be that of a District Munsif, or a Subordinate Judge or a District Judge whichever the Local Government may authorize in this behalf. If a scheme is brought before a court and if that court is a District Munsif's Court, or a Subordinate Judge's Court or a District Court and if the scheme is modified or corrected or confirmed and if the decision of the court of the first instance is deemed final, then I submit that no greater calamity can ever befall this country. If no appeal is provided to the High

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[Mr. T. M. Narasimhacharlu]

Clause 60—cont.

Court, I submit it will be the greatest of misfortunes to our country. I therefore submit that the decision of the lower court should be made appealable to the High Court."

The hon. the RAJA OF PANAGAL:—"Mr. President, my hon. friend,

3.45 p.m. Mr. Narasimhacharlu, has given notice of two amendments,

Nos. 479 and 480 on the agenda. Of these two, I shall begin with the second. So far as the second amendment is concerned, this House—"

Diwan Bahadur Sir T. DESIKA ACHARIYAR (*from the Chair*):—"The second amendment is not before the House now."

The hon. the RAJA OF PANAGAL:—"Sir, my hon. friend, Mr. Narasimhacharlu introduced it in his speech."

Rai Bahadur T. M. NARASIMHACHARLU:—"I introduced it, Sir, for the purpose of a better understanding of the clause."

Diwan Bahadur Sir T. DESIKA ACHARIYAR (*from the Chair*):—"The hon. the Minister will confine himself to the first amendment."

The hon. the RAJA OF PANAGAL:—"Then, so far as the first amendment is concerned, Sir, without the second amendment, it is a negation of the whole sub-clause. As such, it is not an amendment at all, and I do not know how it was allowed to be discussed. At the same time, Sir, I feel constrained not to accept it."

Rao Bahadur A. S. KRISHNA RAO PANTULU:—"Mr. President, so far as the present amendment is concerned, there is no inconsistency or defect in it, even if it merely provides that an appeal shall lie from a decree. An appeal shall ordinarily lie from decisions of courts unless there be some other provisions to the contrary in particular cases. The only question for consideration is whether in important matters concerning settlement of schemes, it is desirable that we should deprive the persons concerned of their right of appeal. I think we shall be taking a very narrow view of this Bill and of its operations if we hesitate to give the parties concerned a right of appeal in important matters like these. Let us also realize that in disposing of amendments relating to this clause, there has been some sort of hesitation to give power to the court to cancel a scheme framed by the Board; and if there was no hesitation to insert the word 'confirmed' at the instance of my hon. friend Mr. Venkataramana Ayyangar, there was hesitation to introduce the word 'cancel' so far as the settlement of schemes was concerned. That by itself shows that in the decisions we have been arriving at, we have been taking a narrow view of the whole affair. If, as a matter of fact, we want that the Board should be in a position to file the scheme in court and to see that the whole matter is settled once for all, we must not hesitate to give all possible facilities to persons concerned for the purpose of testing the validity of these decisions in any manner possible. While we have agreed to give power to courts only for confirming or modifying schemes, I think it would be very unreasonable if we go further and say that no appeal shall lie from such decisions of the courts. If we look at the next clause, clause 61, we find that

Any scheme of administration which has been decreed under section 60 may at any time be modified or cancelled by the court at the instance of the Board.

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Clause 60—cont.

"I only request hon. Members of this House to consider that clause while they appreciate the amendment now under discussion. If we not only decide that there should be no appeal as suggested by the hon. the Minister in charge, but go further and say that any scheme of administration which has been decreed under section 60 may at any time be modified or cancelled then we will be introducing the word 'cancelled' in clause 61 which was objected to so far as clause 60 was concerned. That is, so far as the Board is concerned, power to modify or cancel a scheme has been provided for under clause 61. Having given that power, to say that the persons affected should be deprived of the opportunity of even having a right of appeal is even more unreasonable. I think it is quite desirable that the hon. the Raja of Panagal should reconsider his position as to whether by taking away this power, he is furthering the cause of parties affected by such decisions."

The hon. the RAJA OF PANAGAL:—"Sir, I have already given reasons, as to why I am not prepared to accept the amendment. There is one other reason, against my accepting it, and it is this. As it is, an appeal from the District Court would mean an appeal to the High Court, under the ordinary revision powers of the High Court. This House however is not competent to add jurisdiction to the High Court."

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR:—"Sir, it might be that I have not been quite attentive to what the hon. the Raja of Panagal was saying, but I did not hear any ground given by him as to why he did not accept the amendment except that he said that he would not accept it. In the second speech that the hon. the Minister delivered in connexion with this motion, he gave a reason which I shall presently deal with. Now, Sir, let us first realize what exactly the position will be supposing the amendment that has been moved by my hon. friend is not accepted. For the time being, I shall not trouble myself with the question whether the appeal would lie to the High Court or to any other inferior court. I shall, therefore, mainly confine myself to the question of the desirability of an appeal lying against the decision of the court. Now, the House will observe that the Board has it in its power to take the initiative step, as it were, of framing a scheme, not of completely pronouncing upon it, because its decision would not be capable of being put into execution, and to give it any kind of operation it is necessary that the matter shall have to be taken up to the court. The court may be, as has been already pointed out, any court which is authorized by the Local Government to make such inquiries as this clause contemplates: it might be a Munsif, it might be a Subordinate Judge, or it might be a District Judge. But in these matters, as I have already submitted, you must take the clause in whatever construction it lends itself to. Then, this court to which the scheme is taken has the power not merely of confirming the scheme as suggested by the Board, but also the power of modifying and correcting that scheme according to its own lights. Now, what does this mean? It means that a Board composed of three gentlemen, and possibly of five, use their talents and elaborate a scheme. The matter goes up before a District Munsif, or a Subordinate Judge, or a District Judge and that gentleman thinks that there is some flaw in the view that has been taken and in the scheme that has been suggested by this Board, and says: 'I am not going to allow this scheme to pass unchallenged; I shall therefore make certain modifications.' Those modifications might be in very important

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Clause 60—cont.

particulars, and the result would be this, that the considered view of five persons, or of three persons, is to be upset by the view of another gentleman who knows that in doing it there is no higher authority that will set him right. Hon. Members who have good experience of litigation will know how exactly small-cause suits are in the majority of instances disposed of as compared with original suits. The result will be this, that a sense of irresponsibility will be necessarily engendered and possibly be encouraged amongst these judicial authorities who are to sit in judgment over the schemes suggested by the Board. That, I think, Sir, is sufficient to justify an appeal being allowed. Of course the appellate court will have the necessary power to mulct any party which is in the wrong in costs, so that there is not much chance of the powers of the court being abused. On the other hand, the respect that we ought to show to the Board itself requires that in such a case as the one that I suggest, there must be an appeal to a higher authority than the first court before which schemes come up for consideration.

"Another point was raised by my hon. friend the Minister and that is that it may be that an appeal lies to the High Court and we have no power to legislate for that court. I do not really understand, Sir, that argument and I do not know who is responsible for that. If we provide for an appeal, then an appeal will lie to the court to which appeals will lie from the decisions of the court against whose decisions this provides that an appeal should lie and the ordinary Code of Civil Procedure will apply. If it be to the District Judge, in the first instance it will go to him. If it is, on the other hand, to the High Court, the appeal will lie to the High Court; so that my submission, Sir, is that the second difficulty to which the hon. the Raja of Panagal has referred is one which really does not exist. After all, Sir, that is not an objection which ought to weigh with us so far as negating the amendment goes; and if that objection is really valid, then there is no need at all for this provision, because if it is going to be an appeal to the High Court—and that is what it contemplates—then I submit that if no appeal can lie to the High Court at the instance of a local Legislature, there is no need for the sub-clause (4) at all."

Mr. R. SRINIVASA AYYANGAR:—"Mr. President, I would ask the hon. the Minister to accept the amendment moved by my hon. friend, Mr. Narasimha-charlu, more in the interest of the Board itself than in the interest of *matadhipatis*. For, it is quite possible to conceive of cases where a scheme taken before courts by the Board may undergo radical changes—changes of a root and branch character—that may not be quite acceptable to the Board; or, in other words, the Board may submit very many conditions and leave such a scheme before the court for its acceptance, but the court taking just the opposite view might turn it upside down and restrict it as much as possible and thereby create a grievance so far as the Board is concerned. What is the Board to do in such circumstances? Is the Board to sit tied down, as it were, seeing its helplessness in the matter? For, that will be the logical effect of it if sub-clause (4) were allowed to stand as it is. Therefore I think it is much better that this right of appeal is given to each party, and I should like to ask the hon. the Minister to accept the amendment more in the interest of the Board itself, though he may not be prepared to accept it from the standpoint of the *matadhipatis*."

The hon. the RAJA OF PANAGAL:—"Mr. President, I have already stated that this question was discussed at great length in the Select

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Clause 60—cont.

Committee and the decision of the Select Committee was that there should be no appeal. My hon. friend, Mr. Govindaraghava Ayyar, raised one point, viz., that the courts would get an assurance thereby that their action would not be criticized by any higher authority. If the court takes a particular view under sub-clause (3) of clause 51, the Board itself may change it, and again it may go up to the court. So far as these courts are concerned, they are not so free and cannot have their own way. If in a moment of carelessness the court gives a wrong decision, it would be open to the Board again to move in the matter. It will not be just as in the case of small causes, but it will be different and it will be open to the Board to re-open the matter and go before the court once again."

Rai Bahadur T. M. NARASIMHACHARLU:—"Sir, this is rather an important question and the Government in their attempt to minimize litigation seem to be a little overshooting the mark. By not allowing an appeal, they will be simply stifling justice. In a case like this where large interests are involved, so far as the position of matadhipatis in the excepted temples is concerned, I submit that an appeal must be allowed to lie as a matter of ordinary mundane justice, and I fail to see on what principle sub-clause (4) has been brought in here unless it be to make the Board all-powerful. I would even suggest that an appeal may be allowed to lie to the Board itself against the order of the court. If they want the Board to be an all-powerful body, let there be an appeal to the Board itself from the decision of the court, but anyhow let there be an appeal. That is what I submit."

"The hon. the Minister said that we could not create a jurisdiction so that the appeal might lie to the High Court. But it must be remembered that when I framed the amendment, the court had not yet been modified in this House as it was done subsequently. I say, Sir, that in sub-clause (3) the words used are:

and thereupon a decree shall follow in terms of the scheme as modified or corrected.

We know what decree means as defined in the Civil Procedure Code, and against all decrees as understood under the Civil Procedure Code there will be an appeal unless it is prohibited. It is with that object that sub-clause (4) has been introduced. We are not creating any new jurisdiction to the High Court. Even if this saving clause is omitted altogether, there will be an appeal against this decree. The word 'decree' is used in the sense in which it is understood in the Civil Procedure Code and against every decree there will be an appeal. Therefore, I submit that in the interests of justice let us not be overpowered in our anxiety to protect this Board as much as possible."

The hon. the RAJA OF PANAGAL:—"It is not the intention of this clause to take any special steps to protect the Board against any legal action taken against them. But, Sir, my difficulty is, as I have mentioned, that if a negative clause like 'no appeal shall lie' were to be accepted, then we would be practically legislating for the creation of a new jurisdiction. But in order to meet the wishes of the Opposition Members, I have no objection to delete sub-clause (4) of clause 60."

Rai Bahadur T. M. NARASIMHACHARLU:—"Certainly, I withdraw provided the other amendment is moved and accepted."

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Clause 60—cont.

The amendment was by leave withdrawn.

(Amendment No. 204.)

The hon. the RAJA OF PANAGAL:—"I now move—

That sub-clause (4) of clause 60 be deleted."

The motion was put to the House and carried.

Clause 60, as amended, was put to the House, carried and added to the Bill.

Clause 61.

(Amendment No. 205.)

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR:—"Sir, I beg to move—

(a) *Omit this clause.*(b) *Re-number the subsequent clauses.*

Sir, this clause suggests that after a scheme is modified or cancelled by the court at the instance of the Board under clause 60 there can be a modification or cancellation of it by the court at the instance of the Board. It is somewhat difficult to understand what exactly the significance of this clause is. As a matter of fact, in any well-ordered scheme you will always find liberty to apply as a portion of the scheme so that when there is a change of circumstances which calls for any modification in the terms of the scheme, that will be provided for in the scheme itself. As it is, what would happen is this. When the Board is not satisfied with the decision of the court, as my hon. friend has pointed out, it will apply to the same court to have its decision modified then there might be further litigation on the matter. I fail to see, therefore, what useful effect this clause is likely to serve. But there may be this. It will give rise to unnecessary irritation as between the Board on the one hand and the court on the other. I can well understand cases arising where a Board finds in the light of circumstances that have come into existence subsequent to the framing of the scheme a modification of the scheme necessary. Now, the proper way for the Board to move in that matter will be to take advantage of a provision which the Board can well have introduced in the scheme itself by which, when there is any alteration in the circumstances, a modification of the scheme can be applied for or directions may be asked for from the court as to what has to be done in the light of the circumstances that have freshly arisen. That will be the proper course; but not to allow the Board to interfere with the scheme by making fresh applications to the court which has already brought its judicial mind to bear upon it. The ludicrousness becomes clearer when you find that after an appellate decision has been taken, the court which gave the original decree is asked to sit in judgment over the appellate decision or modify or cancel a scheme as settled by the appellate court which will be permissible under clause 61 if it is allowed to stand."

Rai Bahadur N. GOPALASWAMI AYYANGAR:—"Mr. President, in the first place, I do not know that every scheme provides for alteration of the provisions of such scheme. I quite recognize Mr. Govindaraghava Ayyar used the words 'any well-ordered scheme.' The provision as regards schemes in this Bill has been based on the assumption—rightly or wrongly is a matter

[Mr. N. Gopalaswami Ayyangar] [2nd April 1923]

Clause 61—cont.

of opinion—that the schemes that have so far been framed are hardly well-ordered, that the administration of temples has not been conducted very efficiently . . .”

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—“ May I remind the hon. Member that the schemes provided for here are the schemes for which the Board, which is going to bring about a very high order of things, is responsible ? ”

Rai Bahadur N. GOPALASWAMI AYYANGAR :—“ I was really referring to the provisions which were usually to be found in schemes and I was therefore referring to the experience of schemes which had already been framed. As regards the question whether schemes which are to be newly framed will be well-ordered or will be in an inefficient fashion, that is a question on which there may be difference of opinion.

“ As regards the point taken last by the hon. Member, Mr. Govindaraghava Ayyar, this clause 61 is intended to apply not merely to schemes which will be framed after this Bill comes into force, but the provisions of this clause are sought to be applied to schemes which have already been framed under section 92 of the Civil Procedure Code.”

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—“ Sir, you will find that the language of the clause is ‘ any scheme of administration which has been decreed under section 60 . . . ’ ”

Rai Bahadur N. GOPALASWAMI AYYANGAR :—“ I refer my hon. friend to clause 71—

and such scheme may be modified or cancelled in the manner provided by this Act.

“ So, the language of clause 61 is intended to apply to schemes which are already in existence framed by courts under section 92 of the Civil Procedure Code, and in order to remove any doubt that may exist as to whether this clause does apply to such schemes, my hon. friend, the Advocate-General has given notice of an amendment which will make things perfectly clear.

“ The question whether it is correct policy for the originating court to try and modify schemes which may have been settled by the highest appellate court in the land is really one of policy. This clause will apply to schemes which do not really provide for modification in changed circumstances. If the scheme provides for that, I dare say these provisions will apply.”

The hon. the DEPUTY PRESIDENT :—“ Does the hon. Member (Mr. Govindaraghava Ayyar) wish to reply ? ”

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—“ In obedience to your call I will reply.”

The hon. the DEPUTY PRESIDENT :—“ The hon. Member being the mover of the amendment, I called on him to reply and if he is not willing to reply . . . ”

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—“ Sir I am perfectly willing to reply. Now, in the first place, my hon. friend, Mr. Gopalaswami Ayyangar, said that schemes were not well ordered and that therefore I made too large an assumption. I would point out to him that if previous

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Clause 61—cont.

schemes are sought to be set right by means of this Bill, the future alone will show with what result. If these schemes were not well ordered, it is not because they did not contain a clause providing for liberty to apply. As a matter of fact, so far as I remember, there was only one scheme within my experience wherein there was not that provision. It may be that there are other similar schemes. In any well ordered scheme you will find this provision and if those schemes were not well ordered it is not because they failed to contain this provision, but it is owing to other circumstances, into which the Board is supposed to be very much better able to look than the courts have been. My submission is that when it is the Board, which under clause 60 is to settle schemes, and which under the statute is a creature under the immediate control of the Local Government—I have no doubt that the Board will be instructed in every scheme that it suggests for the consideration of the court—that there should not be this liberty. Therefore, it will appear that so far as that argument goes there is nothing in support of clause 61.

“ Sir, it was stated that a certain amendment would be proposed which would go to show that some other schemes might be taken, by a rational view. . . ”

Rai Bahadur N. GOPALASWAMI AYYANGAR :—“ Sir, I did not say that. I only said that the amendment which would be proposed would make the intention of the Bill perfectly clear.”

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—“ I find, Sir, that there is an amendment standing in the name of the hon. the Advocate-General by which it is sought to include under clause 61 not merely schemes which have been decreed under clause 60 but also schemes which are within the purview of clause 71. Now, Sir, it seems to be a novel method of legislation that you should find the need for this provision in connexion with the schemes under clause 71, and then say that not only those schemes but certain other schemes in respect of which the same considerations may not apply must also be such as might be asked to be cancelled by the Board. Then, Sir, if really that is all that is meant, the proper course will be to tack on the provisions of clause 61 to clause 71 and make it clear that if the Board found that the schemes already settled required modification in any respect, then it may be competent for them to go to the court.

“ This clause says that the Board is competent not merely to say that the schemes decreed by the court should be considered by the court in the light of added knowledge and the information that the Board can give, also but that the Board which was responsible for the schemes may place them before the court and that these are liable to modification or cancellation. This seems to be a novel piece of legislation. If as my hon. friend says, the schemes which have been already framed in respect of certain temples require modification, the proper course for the Advocate-General would be to make an amendment in clause 71, and allow clause 61 to be omitted.”

The hon. the RAJA OF PANAGAL :—“ No further reply is needed.”

The amendment was by leave withdrawn.

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Clause 61—cont.

(Amendment No. 206.)

Mr. C. MADHAVAN NAYAR (Advocate-General):—"The amendment which stands in my name runs as follows:—

After the words 'section 60' insert 'or which under section 71, is deemed to be a scheme decreed under this Act.'

I do not want to waste many words in explaining the reasons for my introducing this amendment. Hon. Members who have seated themselves behind me have already expressed sufficiently well the principles on which this amendment is introduced. It is impossible to bring within the scope of this clause schemes settled under clause 71, without an amendment of this kind. Therefore I beg to move this amendment."

The amendment was put and carried.

Clause 61 as amended was put, carried and added to the Bill.

Clause 62.

(Amendment No. 207.)

Rai Bahadur T. M. NARASIMHACHARLU:—"I beg to move—

In the proviso between the words 'may' and 'strict' insert the words 'for reasons to be set forth in writing.'

I submit, Sir, that the Board should not simply issue orders, but that they should also state the reasons for their orders. They should not arbitrarily issue orders. I therefore move this amendment."

The hon. the RAJA of PANAGAL:—"I accept this amendment."

Clause 62 as amended was put, carried and added to the Bill.

Clause 63.

(Amendment No. 208.)

Mr. R. SRINIVASA AYYANGAR:—"I beg to move—

Omit this clause.

Sir, there was provision of a similar nature in the original Bill in clause 33, which evoked a storm of opposition, and I take it that out of deference to that opposition, which increased day by day, to that clause as constituted in the original Bill, the Minister appeared to have made some slight change. But now that clause comes in a new form dressed in a new suit which is not at all acceptable. We are aware of the fact that Government wronged the religious institutions in olden days by depriving them of the large sources of income which would have expanded in these days owing to rise in prices and increased land revenue assessment and substituting in its stead a fixed income. This was an extraordinary step which practically denuded all these religious institutions of their legitimate income. That process was adopted 60 years ago. But now having regard to the conditions of prices of food-stuffs at present, and having regard to the fact that the Government have had the benefit of successive enhancement of land tax, the Government themselves should, if really solicitous about these institutions, surrender them the extra benefit which legitimately belongs to them and which by some process of statesmanship had been taken away some years before. Now so far as the question of taking away of the surplus funds of the religious

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Clause 63—cont.

institutions is concerned, I submit it is a sacrilege to divert these funds for other purposes. In this connexion I may refer the House to some observations made in the 'Madras Law Journal':

Whatever the notions of the minority steeped in utilitarian ideas of life may be, the majority of Hindus will be shocked to find that instead of endowing their cherished temples in greater abundance as their Sovereigns of old were wont to do, it is seriously proposed to divert their funds for objects of material utility which are expected to be promoted by the expenditure of public funds. To the unsophisticated mind the proposal differs from confiscation pure and straight only in the procedure adopted and it pains us to think that this should be the first fruit of the change of circumstances which, in the opinion of the Minister in charge of the Bill, has made a departure from the principle of religious neutrality possible.

"I do concede that so far as the present Bill is concerned it has come out in a much better form from the Select Committee. But all the same I may say that it has not got rid of some of the obnoxious features.

"Now so far as the Bill seeks to resort to what is called *cypres* doctrine, it is open to criticism. This doctrine is always intended to be applied in the case of charitable trusts and not to religious endowments, and therefore it is that the following observations are applicable to the present case:

Apart from this political objection it must also be mentioned that the *cypres* doctrine belongs more to the law of charities than to that governing religious trusts. The course of English law has been rather peculiar in that on account of historical accidents it has encouraged charitable endowments more than religious endowments and we cannot in the present instance derive much help from the institutions of England.

"Now turning to the clause under discussion we find:

The trustees of the math or temple concerned or the board may apply to the court for sanction to devote the amount of the endowment, or such surplus as may be available, as the case may be, to religious, educational or other charitable purposes not inconsistent with the objects of such math or temple.

"Now a claim may be made by those who support the Bill that sufficient safeguards do find a place in the Bill and that the alarm raised by me is without foundation. But then, when we consider the various provisions of the Bill, and the agency to be operated upon for finding out ways and means just to satisfy the powers that be, we are afraid that the trustees and others will attempt to bring more funds from the religious institutions so that they may get into the good graces of those in authority. My submission is that for educational and other objects money must come from the general revenues, and not from the revenues of religious institutions which should continue to be exempted from this indirect taxation altogether."

The hon. the RAJA OF PANAGAL:—"This is a question that has been carefully considered in the Select Committee. The clause as introduced in the original Bill was considerably modified to meet the criticisms of the several parties. My hon. friend has quoted from the 'Madras Law Journal'. I dare say that that criticism does not apply to the Bill as it emerges from the Select Committee stage but to the original Bill. There is a great deal of difference between the original clause and present clause. Now referring to the question of the diversion of surplus funds for purposes other than those for which the temple or the endowment stands, this is what Sir T. Muttuswami Ayyar says:

One other matter of importance deserves to be mentioned in this connexion. There is a strong feeling, as evinced by the replies to our circular, that it is desirable to make a provision for enabling trustees and members of committee to appropriate any surplus of income permanently in excess of the requirements of the temple to educational or other charitable purposes not inconsistent with the objects of the institution. In several richly endowed temples there is a

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Clause 63—cont.

considerable surplus even after due allowance is made for keeping the temple in repair and for making such improvements as may appear necessary or desirable, and in such cases it may appear that the appropriation of a part if not the whole of such surplus to educational or other charitable purposes is not at variance with the traditional usages of the country.

“While the feeling is strong in favour of such diversion under legal sanction, there is also in some quarters a feeling against the surplus being applied to charitable purposes other than the object of the endowment. After all the provision is only permissive. In the case of temples managed by hereditary trustees, the proposal to appropriate surplus funds in this manner should emanate from the trustees themselves, and not from committees. In the case of other temples, application may be made either by the trustees or by the committees. In every case, the previous sanction of the District Judge is necessary, as such appropriation of surplus funds is, in effect, an extension of the original object of the endowment and must, therefore, be safeguarded by judicial sanction. Sir, this opinion of Sir Muttuswami Ayyar who both for orthodoxy and knowledge of law is one of our most eminent men finds expression in clause 85 of his Bill. He has made a similar provision and the present clause now sought to be amended by the hon. mover is only a copy of the clause of Sir Muttuswami Ayyar's Bill. The other Bills too had similar clauses and as recently as 1914 this Legislative Council passed an Act validating the use of surplus funds for the maintenance of English schools one at Vellore and another at Tirupati. I cannot understand why objection should be taken to this clause. For these reasons, I cannot accept the amendment.”

The RAJA OF RAMNAD:—“I fail to see, Sir, why there should be any objection for a permissive provision like this. I will illustrate a case from my own experience which I hope will carry conviction to the hon. Member. Some one of my forefathers, Sir, had arranged for carrying pilgrims from the mainland to the island of Rameswaram in boats free of charges. After the railway was opened the plying of boats ceased. The question arose as to what to do with the funds realized from the endowed properties. The taluk board which has the control decided to spend the money on hospitals and dispensaries in one of the pilgrim centres where pilgrims gather throughout the year. If provision is not made in that way what is to become of the money? Who is to swallow it? Is the trustee to swallow it? Or is it to be thrown into the sea?” (laughter).

Rai Bahadur T. M. NARASIMHACHARLU:—“Give it to the Brahmans.” (laughter).

The RAJA OF RAMNAD:—“If my lawyer friend from Cuddapah thinks that it would be permissible according to the *cypres* doctrine that can be done. I think, Sir, this illustration will carry conviction to the hon. mover.”

Mr. R. SRINIVASA AYYANGAR:—“My friend, the Raja of Ramnad, wanted to know what is to become of the surplus money. All I wish to say is that there are so many temples whose walls and mantapams are falling. There are so many vehicles needing repair. Is the Raja of Ramnad going to pay for all of them? The intrinsic value of the math bears some relation to the property it holds. The hon. the Minister drew the attention of the House to the weighty opinion expressed by the late Sir T. Muttuswami Ayyar and stated that this clause had been prepared on the same lines. But as against

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Clause 63—cont.

that I have stated the opinion of another distinguished countryman of ours, Sir Sankaran Nayar. In 33 *Madras*, he distinctly says that the matadhipati is not bound to utilize the surplus funds but he may allow it to accumulate. This view found favour in the Privy Council and is reported in 44 *Madras*.”

The hon. the RAJA OF PANAGAL:—“May I rise to a point of order? The opinion I quoted as that of Mr. Muttuswami Ayyar is subscribed by Sir Sankaran Nayar also.”

Mr. R. SRINIVASA AYYANGAR:—“But that has been considered later by the Privy Council in the recent case known as the *Vyasaraaya Math case* in 44 *Madras*, 831, where the entire position has been reviewed. The learned Judges of the Madras High Court have been found fault with for confounding the matadhipatis with trustees.”

The hon. the RAJA OF PANAGAL:—“The opinion expressed there is the opinion of a judge who has to apply the existing law. There he had to interpret the law as it stood then.”

Mr. R. SRINIVASA AYYANGAR:—“Whether he expressed his opinion as a jurist, a legislator or a judge, anyhow there is the opinion. It does not lose its value because he assumed a different role. The effect of passing this clause will be that we will with one stroke of the pen set at naught the well-considered opinion of the Judicial Committee of the Privy Council. That is the logical effect.”

The motion was put and lost.

Sub-clause (1).

(Amendment No. 209.)

Rao Bahadur A. S. KRISHNA RAO PANTULU:—“I move—

After the words 'no longer exists' insert the words 'and it is impossible to re-establish such machinery'.

I believe, Sir, that probably this is an omission when the Bill was drafted or when the Bill was amended by the Select Committee. The present clause reads as follows:—

Where the purpose of a religious endowment has from the beginning been, or has subsequently become, impossible of realization, or where the machinery for effectuating the original purposes of the endowment has failed or no longer exists ... etc.

I think, Sir, when you once provide for the contingency where the machinery for effectuating the original purposes of the endowment has failed or no longer exists as a criterion for the application of this doctrine, you must also provide for cases where it is impossible to re-establish such machinery. Because take for example the case of one person who having been entrusted with the task of performing certain charities does not do the same, it may be possible to continue the charities by appointing another in his stead. It is only in cases where it is not possible to re-establish the machinery for effectuating the original purpose when you can reasonably ask for an application of this *cypres* doctrine. Therefore, Sir, I think that this is an omission in the provisions of this Act which it is absolutely necessary to rectify by the insertion of the words I have already stated.”

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Clause 63—cont.

The hon. the RAJA OF PANAGAL :—" Sir, the addition of the words my hon. friend wants to have would certainly effect a great change in the object for which the clause is intended. In fact if any such consideration is to be given to the question it is open to the board to do that. I cannot understand why we should have these details here and besides by adding this clause to the existing clause we would make it almost impossible for any court to come to a conclusion that in a particular case the funds can be availed of for purposes not inconsistent with the original objects of the endowment. It would be very difficult to decide whether it is actually impossible to achieve the object originally intended. As in the case pointed out by the Raja of Ramnad it may be possible for a person to have some boats for purposes of show. But they will serve no useful purpose. In these circumstances I cannot accept the amendment."

The amendment was put and lost.

(Amendment No. 210.)

Rai Bahadur T. M. NARASIMHACHARLU :—" I move—

Omit the words beginning with 'or where' and ending with 'such purposes'.

"What I say is this. I have no objection to the contingency of the object becoming impossible or the machinery for effectuating the original purpose having failed. But I do object to this clause, where after satisfying adequately the purposes of the endowment there is a surplus which is not required for such purposes. I object to the surplus being utilised for educational and other charitable purposes. My reasons are these. If you only give this loophole here the board and the committee who are not religiously inclined will at every step in the budget and in the accounts take exception to this item or that item and bring about a big surplus for the purpose of being utilised on an educational institution. Therefore, Sir, this is a very dangerous thing. Another thing is where can there be a surplus? Every temple requires so much repairs. Every math requires the feeding of so many disciples. Recently the Madras High Court gave a ruling to the effect that the debts incurred by the head of a math on account of feeding the disciples are not binding on the successors. No doubt an objection has been raised. With due deference I submit that that decision is wrong. I am confident that it will be very soon revised. I have no doubt about that (laughte). What I do say is that our charitable and religious institutions have not got sufficient funds. You can only fill up your purse by retrenchment here and there. The axe of retrenchment is sought to be brought in even religious institutions also."

The hon. the RAJA OF PANAGAL :—" I oppose the amendment. My friend, the hon. mover, says that in any case the surplus should not be utilised for purposes other than those for which the endowment was made. I cannot accept that view. The question has been discussed at great length in the Select Committee."

The amendment was put and lost.

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Clause 63—cont.

(Amendment No. 211.)

Mr. T. SOMASUNDARA MUDALIYAR :—" I move—

After the words 'the purposes of the endowment' insert the words 'and setting apart a sufficient sum for renovation or repair of the temple or math or other buildings of the endowment'."

The hon. the RAJA OF PANAGAL :—" I accept it."

The amendment was put and carried.

(Amendment No. 212.)

Diwan Bahadur T. N. SIVAGNANAM PILLAI :—" Sir, I beg to move—

Between the words 'concerned' and 'or' insert the words 'or the committee'.

The Bill contemplates four authorities, two inferior and two superior, viz., the trustee of the temple and the trustee of the math, the committee and the Board. These have been recognized in the Bill. But in this clause only three authorities have been put in and not the fourth. I do not know if it is omitted for any good reason. If not, I suggest that the words 'or the committee' be put in as mentioned in the amendment. If these words are inserted, the clause will read like this: 'the trustee of the math or temple concerned or the committee or the Board'."

Rai Bahadur N. GOPALASWAMI AYYANGAR :—" Sir, I am to say that the Government accept the amendment."

Rao Bahadur C. V. S. NARASIMHA RAJU :—" Sir, the scheme is that either the Board or the trustee is to move the court as regards the utilization of surplus funds. The committee occupies a very subordinate position. The whole object is that the initiative may be taken by the committee and it may submit proposals to the Board and if the Board approves of the proposals, it will move the court. There is no meaning in saying that the Board, which is inaugurated for the first time, should be deprived of the power; nor there any meaning in giving it to the subordinate body. If this amendment is accepted, the position will be this. The proposal will not be examined by the Board. The committee itself may move the court and get the necessary sanction. If so, what is the purpose of the Board? Is it not necessary that there should be co-ordination and examination of such details by the Board? I submit that such wide powers should not be given to the committee."

Rai Bahadur N. GOPALASWAMI AYYANGAR :—" Sir, if the argument of my hon. friend, Mr. Narasimha Raju, is to be pushed to its logical conclusion, we ought to omit the words 'the trustee of the math or temple concerned' from the clause as it stands. The clause gives the power either to the trustee or the Board to make the application. The scheme of the Bill contemplates in regard to the non-excepted temples that the immediate controlling authority should be the local committee and it is certainly not without justification that my hon. friend, Mr. Sivagnanam Pillai, has proposed to insert the words 'or the committee'. In the case of these temples, the committee certainly is in a much better position to judge the circumstances of the particular case than the Board. After all, when the principle of alternative application is accepted in this Council, I do not see the reason why we should not accept this amendment giving the power to the committee also."

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Clause 63—cont.

The amendment was put and carried.

(Amendment No. 213.)

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—" Sir, I beg to move—

'For the words 'or the Board' substitute the words 'on obtaining the sanction of the Advocate-General or the Collector of the district in which the math or temple to which the endowment is attached may be situate, any two or more persons interested in such math or temple.'

"I may at once state, Sir, that I am not keen on the words 'the Board' going out. What I am keen on is that the words I have asked to be substituted, might be allowed also to become part of the clause. My hon. friend, Mr. Sivagnanam Pillai, referred to four authorities as having the capacity or power to apply to the court for the diversion of surplus funds. But I find the Bill refers only to two, and with the addition that has been made by the acceptance of the previous amendment three, namely, the trustee of the temple or the math concerned, the committee and the Board. I want the fourth authority to come in and that is two or more persons who are interested in the math or temple. Now, Sir, it is not any two or more persons that I would like to be given the power to apply. I say they must obtain the sanction of the Advocate-General or the Collector of the district in which the math or temple to which the endowment is attached may be situate. The effect of accepting my amendment will be this: that persons who are in intimate touch and knowledge of the circumstances may, in addition to the trustees of the particular endowments and the Board and the committees concerned, have the power to apply to the court for the purpose of effecting the beneficent purposes to which clause 63 refers. Now, Sir, I must confess that although the purposes to which clause 63 refers cannot be justified on the doctrine of *cypres*, taking into consideration the circumstances of our institutions, the enormous funds that some of them could command, the continued waste, if nothing worse, that has characterized the application of those funds in the past and the necessity that there is for a useful devotion of the funds of these institutions, I venture to think, Sir, that the purposes that are mentioned in this clause are purposes which ought to be met with the acceptance of this House; and it is only by way of widening the beneficent provisions of this clause, with which, I take it, the Government are perfectly in sympathy, that I propose this amendment, namely, of giving the power to two or more persons interested in the temple or math of obtaining the previous sanction of the Advocate-General or the Collector as the case may be to apply to the court for the utilization of the surplus funds for purposes indicated in this clause, and I hope the Government will accept this amendment."

The hon. the RAJA OF PANAGAL :—" Sir, I am indeed glad that my hon. friend, Mr. Govindaraghava Ayyar, has certified that this is a very, very desirable clause. But at the same time, so far as the amendment is concerned, I think it is not necessary. For, if any persons who are interested in the institution do want to move the court, it is quite open for him to move the Board and the Board may then take action. It can take action either by itself or on the information of any persons interested in the institutions. The

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Clause 63—cont.

introduction of the sanction of the Advocate-General or the Collector will only complicate matters. In these circumstances, I am not prepared to accept the amendment."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—" Sir, I should at once say that my hon. friend's sympathy has really"

The hon. the RAJA OF PANAGAL :—" I did not say that I had any sympathy either with this or with that. I only said that I felt glad."

The hon. the DEPUTY PRESIDENT (*from the Chair*) :—" It implies sympathy" (laughter).

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—" Well, Sir, my hon. friend's appreciation of my hon. friend, Mr. Govindaraghava Ayyar's statement in regard to this matter has really ended in his opposing the amendment of Mr. Govindaraghava Ayyar. The real object of the amendment is to provide for a continuance of the existing remedies in addition to the remedies provided in the Bill. The existing remedies are the permission of the Collector or the permission of the Advocate-General. My hon. friend, the Minister, may contemplate the contingency of neither of these parties mentioned in this clause taking action under the provisions of this Act. In such a case, two persons may be permitted to apply to the Advocate-General or the Collector who can hold an enquiry before they give the necessary permission. After all, it is for the diversion of funds and with the permission of two independent authorities, the very same remedies can be had. My friend, the hon. the Minister, may contemplate a case of a trustee not moving the court, the committee being absolutely obstructive and the Board being indifferent, for the diversion of these funds. In such a case, two persons may apply to the Advocate-General or the Collector for permission to move the court. This is an independent remedy and an existing one. It is in that light that this amendment has been put forward. After all, my hon. friend, the Minister, is interested in having a proper diversion of surplus funds, and I do not see any reason why a fourth party also should not have this power of moving the court. I am surprised that the hon. the Minister has not taken advantage of the suggestion that has been made by my hon. friend, Mr. Govindaraghava Ayyar."

The hon. the RAJA OF PANAGAL :—" One word, Sir. My hon. friend has at least conceded that in the case of the Board, it is nothing but indifference that will stand in the way. I think those interested in the matter may beg the Board to take the necessary action. There is no difficulty whatsoever. Therefore, since there are four authorities constituted who are interested in the matter and who, even if they themselves are not prepared to move, can be made to move by others who are interested, there is no necessity for this amendment."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—" An application may be made to the Board, but the Board may not move."

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—" Sir, if I understand the hon. the Raja of Panagal correctly, the only argument that he advanced is that there is no necessity for this amendment and not that he thought that this amendment was in any way harmful. If it is merely a matter of no necessity, I think he might defer to the opinion of those who think it is

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Clause 63—cont.

necessary and allow it to go in, because even of his own saying, the amendment is not in any way going to defeat the purpose intended by this Bill and some of us think that it might further that purpose."

The amendment was put and lost.

(Amendment No. 214.)

Rai Bahadur T. M. NARASIMHACHARLU :—" Sir, I beg to move—

Omit the words 'educational or other charitable'.

Even if the surplus funds are to be utilized, my point is, let them be utilized on religious purposes only and not divert the funds to educational or other charitable purposes. The object of my amendment is obvious. We cannot rob Peter to pay Paul. That is my object and I therefore say, please omit the words 'education or other charitable'."

The hon. the RAJA OF PANAGAL :—" Sir, there is no fear of robbing Peter and paying Paul, because we are concerned only with the surplus funds. If there are surplus funds, the question is, how best are we to utilize those surplus funds? We say they may be utilized for religious, educational or other purposes. Education, as my hon. friend will admit, is necessary to improve even spirituality. General enlightenment is a condition precedent to the development of spirituality. I, therefore, do not see any reason why these funds should not be utilized for educational and other charitable purposes also."

Rai Bahadur T. M. NARASIMHACHARLU :—" I want religious education, Sir, so that people may have something of religion in them."

The amendment was put and lost.

(Amendment No. 215.)

Rao Bahadur T. NAMBERUMAL CHETTIYAR :—" I beg leave to move—

For the words 'educational or other charitable purposes not inconsistent with the object of such math or temple' substitute the words
 5 p.m. *'education of the same persuasion as that of the temple or math concerned, after duly reserving not less than 50 per cent of the surplus for unforeseen emergencies'.*

Sir, the Bill as originally issued, raised a storm of opposition, not to mention some resentment, among the Matathipatis, trustees and managers of temples, as the provisions of this section were meant for the diversion of the surplus funds for secular purposes. But that feeling has considerably mellowed down after the Bill has emerged from the Select Committee. There is still some discontent and heart burning as a large portion of this section sanctions the diversion of surplus funds to purposes other than the promotion of religious institutions.

"I beg to point out that this clause, as it stands, is unsuitable from the orthodox point of view. Educational purposes not inconsistent with the objects of the temple may mean, for example, such things as secular education, sanitation, athletic sports and the like. These are not inconsistent with but are certainly alien to, and not in furtherance of, the objects of the math or temple. Educational purposes must therefore be limited to mean education

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Clause 63—cont.

of the same religious persuasion as that of the temple or math concerned. To make it so general as in the provision will provoke criticism and give room to differences of opinion. I therefore confine myself to a particular course, namely, religious education of the same persuasion as that of the temple or math concerned.

"In the previous Bill issued by such an eminent person as Rama Ayyangar, section 37 advocated the diversion of surplus funds to the maintenance or endowment of any Sanskrit schools or colleges or the promotion of the study of Sanskrit literature. In Robinson's Bill, litigation for recovery of temple property is provided for. Ragnatha Rao's Bill recommends diversion of surplus funds for secular purposes. Sullivan's Bill provides surplus funds to be devoted in such manner as would be conducive to the interest of the institution concerned. Muttuswami Ayyar's Bill requires diverting of the surplus funds for charitable purposes not inconsistent with the objects of the institution. Our present Bill goes on the same lines as its illustrious predecessors but the reason why these Bills have not become law is not far to seek. This surplus fund, if diverted for purposes other than religious institutions, will mean breaking of religious neutrality which was all along conceded. This provision of surplus funds for other purposes was the stumbling block for the passing of the previous Bills into law. I wish that this Bill may be saved from the fate of its predecessors. So, let us be as clear as possible and say that these surplus funds shall be devoted to religious and religious purposes alone and not for any other purpose. Unless this is done, I do not think the Bill will be passed into law."

The hon. the RAJA OF PANAGAL :—" Sir, the closing words of my hon. friend are that by the introduction of this clause into the Bill, the Government will be breaking religious neutrality. I am afraid, Sir, it is not for the first time that it is being done nor can it be objected to at all. In 1848, when the temple of Tirupati was handed over to a trustee, they had, I understand, Rs. 40 lakhs to the credit of the management and that amount was utilized for the purpose of education and not one of us had any objection to it."

Rao Bahadur A. S. KRISHNA RAO PANTULU :—" I may point out, Sir, that objection was raised in this Council several times though it did not succeed."

The hon. the RAJA OF PANAGAL :—" But later on, for a long time, there have been two English schools, one at Vellore and another at Tirupati, maintained from the funds of the Tirupati temple, and not one of us objected to it. On the other hand, when the Privy Council took objection to this diversion, some hon. Members came forward with a Bill and had it passed into law. I cannot understand why the hon. Member should accuse the present Government for any attempt in that direction."

"Sir, as to the question of utilizing those funds for educational purposes, I do fail to see any reason in my hon. friend's argument. General education is absolutely necessary even before training in religion can be had. So any amount of money spent on that will be spent for religious purposes. So is the case with other charitable purposes. Charity and religion are two things almost identical so far as the Hindus are concerned. So when the diversion is made in these directions, it cannot be objected to."

[The Raja of Panagal]

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Clause 63—cont.

"Then, there was one point raised, that is, there might be unforeseen requirements. After accepting the hon. Mr. Somasundara Mudaliyar's amendment, that question does not arise. I have accepted his amendment which requires a portion of the surplus funds to be set apart for repairs and other unforeseen circumstances."

Rao Bahadur T. NAMBERMAL CHETTIYAR:—"Sir, the latter portion of my amendment is, properly speaking, covered by Mr. Somasundara Mudaliyar's amendment, which has been passed. But the fixing of the maximum of 50 per cent is what is provided for now. If this 50 per cent is introduced I shall be satisfied. The other portion is about this surplus fund being diverted only to educational purposes. If the hon. the Minister would only alter the clause as suggested in my amendment, he would be earning the gratitude of every one of the temple-going people."

The amendment was put and lost.

(Amendment No. 216.)

Rao Bahadur A. S. KRISHNA RAO PANTULU:—"I beg to move—

After the words 'charitable purposes' insert the words 'in or near the locality where the endowment exists'.

Sir, it will be remembered that even at the time of the discussion of the principles of the Bill when it was introduced in this House, the opinion was expressed in various quarters that even after sanctioning the diversion of funds as contemplated in this Bill, there should be a provision for expenditure of that money in or near the locality where the endowment exists. The absence of a provision to this effect is likely to lead to dangerous consequences. In passing any legislative enactment, let us not do anything as relying upon the commonsense of the persons who will be called upon to go into the issues involved. We must as far as possible try to carry out the objects of the endowment and fulfil the trust reposed in the managers of those trusts. In this particular case, if you do not limit the incurring of expenditure in or near the locality where the endowment exists, cases might arise of surplus funds realized in the far-off Tinnevely being utilized for Berhampur or *vice versa*. I do not think that those who are interested in the maintenance of these institutions in a satisfactory manner ever contemplated such a contingency. The only possible objection that may be raised is: why don't you expect the court to consider those questions in a satisfactory manner? Why don't you expect the court to take a commonsense view of the whole situation? Unless the hon. the Minister in charge of the Bill can point out reasons as to why we should not limit it in the form I have proposed, I cannot accept his suggestion. All I say is you must be in a position to incur expenditure in or near the locality. Is it to be supposed that you cannot imagine any scheme of educational progress or any one of a charitable character in or near the place where you find a religious institution getting a large surplus? I find it difficult to believe that it would be impossible to devise a scheme of educational progress or works of public utility in or near the place where you realize a large surplus revenue. I ask this House to consider whether those who are interested in the welfare of these institutions would appreciate the idea of a large order being given to the court in this respect. For these reasons, I think it is necessary to limit the expenditure to the place where the endowments exist."

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Clause 63—cont.

The hon. the RAJA OF PANAGAL:—"The discretion is left to the court. I do not think it is desirable to limit or fetter that discretion. In these circumstances, Sir, I cannot accept the amendment."

The amendment was put and lost.

(Amendment No. 217.)

Diwan Bahadur M. RAMACHANDRA RAO PANTULU:—"I beg to move—

For the words 'not inconsistent' substitute the word 'consistent'.

"Sir, my hon. friends will realize the difference between the one and the other. Certainly 'consistent' is much more positive than 'not inconsistent.' That is quite plain to everybody including my hon. friend the Minister. If you are really enacting a law for the diversion of these funds, the original purpose cannot be fulfilled in a negative way. There are many things which are not inconsistent and it is much more definite to say that the diversion is consistent with the original objects of the endowments."

Rai Bahadur T. M. NARASIMHACHARLU:—"I have also given notice of an identical amendment and I wish to add a few words to what

5-15 p.m.

Mr. Ramachandra Rao has said. In this sub-clause the words used are 'to religious, educational or other charitable purposes'. The educational need not necessarily be religious or consistent with the object of the institution and the only condition that would justify the diversion is that the purpose should not be inconsistent with the objects of the endowment. For instance, if the math is not prohibited from the spending of money previously on objects other than those for which the math was established, it will suffice. What I would say is that the maths, as we all know, are intended for the propagation of a particular persuasion of Vedantic philosophy. My contention is that educational or other charitable purposes must be consistent with the development and progress of that persuasion of Vedantic philosophy and nothing else. Therefore I submit, Sir, by having the words 'not inconsistent' the sum may be utilized for educational institutions which are not at all Hindu, which may be Christian, Muhammadan or Jewish, and similar is the case of charitable purposes. I submit therefore that the words 'not inconsistent' afford a loophole which will enable persons who are entrusted with this money to spend it on purposes other than those for which the math or temple was founded. This kind of diversion will be opposed to all principles of justice."

The hon. the RAJA OF PANAGAL:—"Sir, the adjectival clause, 'not inconsistent with, etc.', is altogether different from 'consistent with'. The words 'consistent with' limit the scope of the objects for which the diversion can be made. It may not be easy to find out what is really consistent with the object of the endowment. On the other hand, it will be less difficult to show what particular object is not inconsistent with the object of the endowment. Sir, in any case this question has been engaging the attention of this part of the country not during two or three years past but for the last 30 or 40 years and I find, Sir, in Sir T. Mattuswami Ayyar's Bill a clause in which the words 'not inconsistent with' are used. So, Sir, I do not think I can accept the amendment."

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Clause 63—cont.

Rao Bahadur A. S. KRISHNA RAO PANTULU:—"Sir, to avoid further discussion I propose to speak on this amendment as it relates to the next one standing in my name. The next motion of which I have given notice is to substitute the words 'in strict conformity with' for the words 'not inconsistent with'. I am really surprised that the amendment of my hon. friend Mr. Ramachandra Rao, which is unduly modest, should have been opposed. The grounds urged in opposing it are exactly the grounds which will induce the House to accept it. It is suggested that though it might not be possible to prove that the objects for which the funds are to be diverted are consistent with the objects of the math or the temple but that it might be possible to find out that they are not inconsistent with the objects. Sir, that is a process of circumvention which the House should not accept. Let us plainly make up our minds as to whether we will deliberately allow the diversion of funds for objects which are allied to the objects of the math or which are in conformity with those objects or consistent with them, or whether we should deliberately go the length of somehow or other managing as to make objects trying to take shelter under the negative. There is no use of our trying to create such subtle difference between objects consistent with and objects not inconsistent with those of the math or temple."

The hon. the RAJA OF PANAGAL:—"It is not a subtle distinction, Sir, but it is a broad one."

Rao Bahadur A. S. KRISHNA RAO PANTULU:—"Well, Sir, that is how the hon. the Raja of Panagal describes it, that it is a broad distinction. There is a stronger reason for this House to accept the amendment. The distinction is so broad as to induce the hon. Minister to accept the amendment and it only shows that the fears which several people have had about the diversion of funds for improper purposes are not unfounded. We have given our assent to a scheme whereby provision is made for diversion of surplus funds, a scheme whereby, after exhausting all the necessities so far as the temples are concerned, there will be expenditure incurred for useful objects like education. When all that has been done that we should be called upon to assent to the diversion for objects not necessarily consistent with the objects of the endowment is not at all justifiable."

The hon. the RAJA OF PANAGAL:—"I do not mean that the diversion for objects not consistent will be justified."

Rao Bahadur A. S. KRISHNA RAO PANTULU:—"The hon. Minister may say that he did not mean it. But so long as he says that there is a substantial difference—a broad difference—I will try to use his exact words—I think we ought to accept the amendment."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU:—"The only remark that I wish to make is that the courts will find it extremely difficult to find out what are consistent and that it will be easier for the court to find out some object which is not inconsistent with the original object. That seems to be the opinion of the hon. Minister."

The motion was put and lost.

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Clause 63—cont.

A poll was demanded and the House divided thus—

Ayes.

- | | |
|--|--|
| 1. Diwan Bahadur M. Ramachandra Rao Pantulu. | 6. Mr. M. Suryanarayana. |
| 2. " L. A. Govindaraghava Ayyar. | 7. Rai Bahadur T. M. Narasimhachari. |
| 3. Rao Bahadur A. S. Krishna Rao Pantulu. | 8. Mr. R. Srinivasa Ayyangar. |
| 4. C. V. S. Narasimha Raju. | 9. " M. R. Seturatnam Ayyar. |
| 5. Mr. C. V. Venkataramana Ayyangar. | 10. Sir M. Ct. Muttayya Chettiyar. |
| | 11. Rao Bahadur T. Namburumal Chettiyar. |

Noes.

- | | |
|--|--|
| 1. The hon. Sir Charles Todhunter. | 18. Mr. J. Kuppuswami. |
| 2. " Sir Muhammad Habib-ul-lah Sahib. | 19. " B. Muniswami Nayudu. |
| 3. " the Raja of Panagal. | 20. " A. Muttukumaraaswami Chettiyar. |
| 4. " Rao Bahadur A. P. Patro. | 21. Rao Bahadur C. Natesa Mudaliyar. |
| 5. " Mr. C. P. Ramaswami Ayyar. | 22. Mr. P. T. Rajan. |
| 6. Mr. E. S. Lloyd. | 23. " W. P. A. Saundarapandiya Nadar. |
| 7. Rai Bahadur N. Gopalaswami Ayyangar. | 24. " R. K. Sannamukhani Chettiyar. |
| 8. Mr. C. Madhavan Nayar. | 25. " T. Somasundara Mudaliyar. |
| 9. Diwan Bahadur T. N. Sivagnanam Pillai. | 26. " S. Somasundaram Pillai. |
| 10. Mr. E. Periyannayagam. | 27. " P. Subbarayan. |
| 11. " A. Ramaswami Mudaliyar. | 28. Rao Bahadur C. Venkataranga Reddi. |
| 12. Diwan Bahadur C. Arunachala Mudaliyar. | 29. Mr. S. Muttumamikkachari. |
| 13. Rao Bahadur P. C. Ethirajulu Nayudu. | 30. The Raja of Ramnad. |
| 14. Sir P. Tyagaraya Chettiyar. | 31. Muhammad Abdur Rahim Khan Sahib. |
| 15. Rao Bahadur T. Balaji Rao Nayudu. | 32. Khan Bahadur Muhammad Usman Sahib Bahadur. |
| 16. O. Tanikachala Chettiyar. | |
| 17. Mr. W. Vijayaraghava Mudaliyar. | |

Eleven voted for and thirty-two against. The motion was lost.

Sub-clause (3)

(Amendment No. 218.)

Diwan Bahadur T. N. SIVAGNANAM PILLAI:—"Sir, I move the following amendment:—

After the word 'concerned' insert the words 'or the committee or the Board'.

"It is only a consequential amendment the principle of which has been accepted in amendment No. 212."

Rai Bahadur N. GOPALASWAMI AYYANGAR:—"Mr. President, I am to say that the amendment is accepted by Government."

The amendment was put and carried.

New sub-clause after sub-clause (3).

(Amendment No. 219.)

Rai Bahadur T. M. NARASIMHACHARLU:—"Sir, I beg to move the following amendment:—

5-30 p.m.

Add the following as sub-clause (4):—

'(4) An appeal shall lie to the High Court against the order of the court under sub-section (2) or (3).'

[2nd April 1923]

Clause 63—cont.

The hon. the RAJA OF PANAGAL :—" Sir, I am not prepared to accept the amendment. The reasons I gave for not having accepted a similar amendment that had been moved by Mr. Narasimhachari also apply to this amendment."

Rai Bahadur T. M. NARASIMHACHARLU :—" Sir, I take it that even in its absence an appeal will lie."

The motion was by leave withdrawn.

Clause 63 as amended was then put to the House, passed and added to the Bill.

Clause 64.

(Amendment No. 220.)

Rai Bahadur T. M. NARASIMHACHARLU :—" Sir, I beg to move—
That this clause be omitted.

My point is this. The clause as it stands reads :

All costs and expenses incurred in connexion with legal proceedings in respect of any religious endowment to which a Board or committee is a party shall notwithstanding anything contained in section 70 be payable out of the funds of such endowment.

" My point is whether all costs include the costs of those who have been defeated and who are other than the Board or committee. Suppose there is a litigation between some persons who are not members of the Board or committee on the one side and those bodies (Board or committee) on the other, and if the former party is defeated, are their expenses to be payable out of the funds of such endowment? If that is the meaning of it, Sir, then, I say that this is not a fit provision to be retained in the Bill."

The hon. the RAJA OF PANAGAL :—" That is the meaning, Sir. The reason why that clause is retained is that even persons who are not connected with the management of a temple are allowed costs, and I cannot understand why persons connected with the management of these endowments should not be allowed costs when they go to court *bona fide* and with the intention of bettering these trusts."

The motion was by leave withdrawn.

Clause 64 was then put, passed and added to the Bill.

Clause 65.

Sub-clause (1)

(Amendment No. 221.)

Diwan Bahadur T. N. SIVAGNANAM PILLAI :—" Sir, I beg to move the following amendment :—

Insert the word 'excepted' between the words 'math and' and 'temple'.

Sir, there are three classes of institutions for which the present Bill makes provisions. They are maths, excepted temples and ordinary temples. In the original Bill it was proposed to collect not less than three per cent for supervision charges. As the Bill is now redrafted, it would appear that, so far as the ordinary temples are concerned, $1\frac{1}{2}$ per cent is to be paid to the Board and $1\frac{1}{2}$ per cent to the committee. But as regards maths and excepted temples, they are let off with $1\frac{1}{2}$ per cent to the Board and nothing to the committee. There is no committee existing to supervise over them and

2nd April 1923] [Mr. T. N. Sivagnanam Pillai]

Clause 65—cont.

I wish to know whether it was really the intention to allow a smaller percentage to maths and excepted temples for whose sake alone the Board has come into existence. The supervision which the Board exercises over ordinary temples is very slight, and for that they are made to pay $1\frac{1}{2}$ per cent. But for maths and excepted temples for which the Board of commissioners has been instituted, they go scot free with a small contribution of $1\frac{1}{2}$ per cent. If that is the deliberate intention of the framers of the Bill, I have nothing to object."

The hon. the RAJA OF PANAGAL :—" That is the intention, Sir. The Boards have considerable appellate work in connexion with the committee managed temples, and it is therefore reasonable that they should contribute towards the expenses for the constitution of the Board. In the case of excepted temples and maths, the committees have absolutely nothing to do with them, and that is the reason why no provision is made for contribution of those endowments to the committees."

The motion was by leave withdrawn.

(Amendment No. 222.)

Rao Bahadur T. NAMBERUMAL CHETTIYAR :—" Sir, I move the following amendment :—

For the words 'one and a half' substitute the words 'two and a half'.

" In support of this motion, I only wish to mention to the House that in the previous Bills the percentages proposed were higher. In Mr. Rama Ayyangar's Bill so much as 6 per cent was advocated, that is, 4 per cent for trusts and 2 per cent for auditors. In Mr. Robinson's Bill 5 per cent for Boards and 8 per cent for trustees was recommended. In Mr. Sullivan's Bill so much as 5 per cent was advocated. But here in this Bill, the figure $1\frac{1}{2}$ per cent appears to be too low. Whatever the opinion as to the above percentages may be, I think it is better to fix a larger percentage than $1\frac{1}{2}$."

The RAJA OF RAMNAD :—" Sir, I oppose this amendment. The hon. the Minister has given some reasons. But the most important reason why the contribution should be as low as $1\frac{1}{2}$ per cent is that these maths and excepted temples have very large endowments and therefore the contribution calculated at $1\frac{1}{2}$ per cent on their incomes will be much higher than what it would be from ordinary temples calculated at three per cent. I therefore think that it is not desirable to raise the percentage."

The hon. the RAJA OF PANAGAL :—" Sir, I cannot accept this amendment. Already there have been complaints that the boards and committees are going to become very costly institutions. As such, I think any further raising of the contribution would be resented."

The motion was put to the House and negatived.

(Amendment No. 223.)

Rai Bahadur T. M. NARASIMHACHARLU :—" Sir, I move the following amendment :—

Between the words 'income' and 'as the Board', insert the words 'from immovable property within the Madras Presidency'.

[Mr. T. M. Narasimhacharlu]

[2nd April 1923]

Clause 65—cont.

"Sir, the word 'income' here is very vague and very general. When we considered the amendments to sub-clause (11) of clause 5 which we have already passed with reference to the definition of the term 'religious endowment' we excluded all gifts and personal offerings made to the heads of maths. Therefore religious endowments should not include the personal gifts or personal offerings to the heads of maths. That is why I say that this word 'income' is a very dangerous word here. It may mean not only the income from the immovable property, but it may also include the offerings and gifts given to the heads of maths. I therefore submit that this word 'income' may suitably be amended so as to exclude at least gifts and offerings which we have already excluded from the definition of 'religious endowment'. To retain this word will be very dangerous and will encroach upon the offerings and gifts which we deliberately excluded. Another point is this. The reason for my putting in the words 'within the Madras Presidency' is this. The maths have got properties not only in the Madras Presidency but in other Presidencies. Are we entitled to enact a piece of legislation which will include properties which are not within this Presidency and which are subject to the laws and regulations made in other Presidencies? Therefore I submit that we will be treading on very dangerous ground if we include immovable properties which are not situate within the Presidency of Madras. Anyhow, the gifts and offerings must not be included in the word 'income'. I earnestly request that the hon. the Minister may also concede now what he has previously conceded."

The hon. the RAJA OF PANAGAL :—"I am extremely sorry, Sir, not to be able to comply with the very earnest request of my hon. friend, Mr. Narasimhacharlu. My reason is this. If we say that income means income from immovable property, it would mean that if a particular endowment has invested its funds in Government paper or debentures or shares, then, whatever income the endowment may derive from those investments cannot be taken in calculating the income of that temple. Hence, it is impossible to accept that amendment. As to the distinction between income and gifts and offerings, it is obvious, and I need not dwell upon that question at this stage."

Rai Bahadur T. M. NARASIMHACHARLU :—"What seems to be obvious to him is not obvious to me, Sir. I want to know if he includes or excludes gifts and offerings."

The hon. the RAJA OF PANAGAL :—"That question has already been decided and it does not arise."

Rai Bahadur T. M. NARASIMHACHARLU :—"It must be specifically mentioned whether it includes or excludes, Sir, as otherwise difficulties may arise afterwards. What is discussed here will not be considered by the courts, who go only by the wording of the Act."

The motion was put to the House and negatived.

Sub-clause (3).

(Amendment No. 224.)

MR. R. SRINIVASA AYYANGAR :—"Sir, I beg to move the following amendment :

That sub-clause (3) be omitted.

2nd April 1923]

[Mr. R. Srinivasa Ayyangar]

Clause 65—cont.

The sub-clause reads :

Religious endowments the administration of which is at the commencement of this Act governed by a scheme settled under section 92 of the Code of Civil Procedure, 1908, shall, notwithstanding anything to the contrary contained in such scheme, be liable to pay the contribution under this section.

There are certain schemes governing some of these religious institutions, schemes which provide for the submission of accounts and for the settling of various other matters of detail. It is rather difficult to understand why such institutions which are within the range or the ambit of a particular scheme should be called upon to make contributions to the Central Board which appears to be a greedy body and whose appetite also appears to be voracious, and I fail to understand why these institutions should be called upon to make any contributions to the Board."

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR :—"Sir, this provision is altogether a confiscatory one and no reason has been assigned why this should be included in the Bill. This provision contemplates that by the mere passing of this Bill into law, the institutions in respect of which schemes have been already framed by the courts and which schemes are in operation and which do not require any interference on the part of the Board should, because of this provision, be compelled to pay large sums of money for the purpose of carrying on the work of the Board. I fail to see what justification there is in such a case. If of course the position is that the Board has something to do with respect to those temples or institutions, there may be some meaning. But the sub-clause contemplates that immediately on this Bill coming into operation as law, these institutions which are already the subject of schemes should make contributions.

"The hon. Minister was about to say when you, Sir, asked me to speak, that clause 71 will treat the schemes which have already been settled by the courts as schemes which are within the purview of this Bill. The introduction of that kind of fiction—it may be a fiction in law—does not justify any contributions being levied from the temples. All that it means is that for the purpose of interference by the Board in these schemes, we may take it that these schemes are settled by the Board itself. That is to say, the Board may give such institutions the same treatment as it would give to institutions in respect of which schemes have been settled by itself. That does not justify the levying of any contribution by the Board. Only if the Board chooses to meddle with the scheme, can it take any contribution. Mine, Sir, is not an imaginary grievance. Take for instance the temple at Tirupati. I believe the Government have an eye upon it and, if I am not mistaken, this clause is specially intended to hit the Tirupati temple. The latest income of the Tirupati temple is something like 14 lakhs. The Board may take a good deal of time before it makes up its mind whether the scheme governing that institution is one which calls for any interference or not. If the Board is going to act judicially—it is the contention of the Government that it is going to be composed of persons who are prepared to act judicially—then it will take a long time before it makes up its mind to decide whether the scheme requires modification or not. But even before coming to any decision, the Board may call upon the Tirupati temple authorities to contribute 1½ per cent of the revenue so that the income to the Board from that source will come to about Rs. 21,000 a year. However estimable may be the purpose that this

[Mr. L. A. Govindaraghava Ayyar] [2nd April 1928]

Clause 65—cont.

Board is asked to serve, I do not at all see any justification for your going and despoiling the revenues of the temple at Tirupati for the purpose of maintaining the Board. Apart from the need for funds on the part of the Board, it seems to me that this is altogether an unjust provision. I am not sure if there are not other temples which stand in the same category as the Tirupati temple. For instance there is the Rameswaram temple. It has got an excellent scheme and I do not think any Board would come to the conclusion that interference is necessary in regard to that scheme. Yet according to the provisions of this Bill, that temple has to contribute 1½ per cent to the coffers of the Board. There is no reason, no principle, no justice and no necessity why these temples should be called upon to make any contribution until and unless the Board finds that there is something which requires to be set right with respect to them. But if the Board does exercise its functions in respect of these temples also, then they will be governed by the other provisions of the Bill."

The hon. the RAJA OF PANAGAL:—"Sir, I do not wish to detain this House for any length of time. I am glad that at least on this occasion, my hon. friend Mr. Govindaraghava Ayyar certifies that from one temple alone, that is from the Tirupati temple, we will be able to collect something like Rs. 21,000 for the maintenance of the Board. At one time he said that he was very diffident as to the wherewithal to maintain the Board."

Diwan Bahadur L. A. GOVINDARAGHAVA AYYAR:—"My fears are not in any way less now. Only the hon. Minister is trying to find out means by which he can confiscate the funds of particular temples with a view to carry on the work of the Board."

The hon. the RAJA OF PANAGAL:—"With regard to the justice or otherwise of this exaction, I have only to say that the Board has after all got the general power of supervision over all the temples subject to the provisions of this Bill. The Board has something to do with each and every temple and it is not as my hon. friend contends that it has nothing to do with the management of the Tirupati temple. Another thing is if the Board is not satisfied with the management of a particular institution it can at any moment jump in and frame a scheme for its proper management. All these things really justify the levy of contributions from these temples."

"The next point urged was that this particular clause was intended to make exactions from the temples. It is not so. Under clause 71 all the schemes that have already been settled are deemed to be schemes settled under this Bill. So there is already provision in the Bill to connect the endowments already having schemes with the present Act."

The amendment was put and lost.

(Amendment No. 225.)

Mr. C. MADHAVAN NAYAR (Advocate-General):—"Sir, I beg to move—

Omit the words 'at the commencement of this Act.'

Sir, the object of this amendment is to bring within the scope of this sub-clause, religious endowments in which schemes may be settled by means of suits instituted before the passing of this Act."

The amendment was put and passed.

2nd April 1928]

Clause 65—cont.

(Amendment No. 226.)

Mr. C. V. VENKATARAMANA AYYANGAR:—"Sir, I beg to move—

For the words 'Notwithstanding anything to the contrary contained in such scheme' substitute the word 'not'.

Sir, so far as the scheme temples are concerned, the Board is not expected to do any work at present though under clause 71 these schemes are deemed to be schemes settled under this Bill. But at present these scheme temples have nothing to do with the Board. These temples have got their own trustees, their own budgets and so on. So far as the Rameswaram and the Tirupati temples are concerned they are being very well conducted and we also see now and then the accounts relating to these temples are published in the newspapers. I do not see any reason why the Rameswaram temple should be asked to contribute anything at all. It is getting only an income of about three lakhs."

The RAJA OF RAMNAD:—"Does my hon. friend mean to say that the income from the Rameswaram temple is three lakhs?"

Mr. C. V. VENKATARAMANA AYYANGAR:—"My information is that the income from the Rameswaram temple is something like three to four lakhs. If I am wrong the hon. the Raja of Ramnad may correct me as he happens to be a member of that temple committee."

"So far as the temples which are already governed by schemes are concerned, they have to incur a heavy expenditure in the preparation of budget, in auditing and other expenditure and it is not necessary to call upon these temples to contribute anything to the exchequer of the Board at present. If my amendment is accepted, it will mean that these temples need not contribute anything at present, but if the Board finds it necessary later on to levy any contribution from these temples, ample power is given to the Board to give effect to their decisions. I submit, Sir, that to begin with the Board may not require any contribution from these temples which are already governed by schemes. These temples have already spent a good lot in litigation which has resulted in the framing of schemes and hence it is unjust to call upon them to contribute anything now. But if the Government later on finds adequate reasons, then the temples may be asked to contribute the requisite percentage to the Board."

The hon. the RAJA OF PANAGAL:—"Sir, I have already stated that the Board has something to do with the general supervision of all the institutions under the provisions of this Act. I have already given reasons in declining to accept the amendment of my hon. friend, Mr. R. Srinivasa Ayyangar, and for the same reasons I oppose the present amendment."

The amendment was put and lost.

Clause 65 as amended was put, passed and added to the Bill.

The House then adjourned at 5-56 p.m. to meet at 11 a.m. the next day.

L. D. SWAMIKANNU,
Secretary to the Legislative Council.

APPENDIX.
[Vide page 3087 supra.]

[2nd April 1923]

LIST OF APPOINTMENTS ON Rs. 500 AND ABOVE CREATED
BETWEEN 1st DECEMBER 1922 AND 28th FEBRUARY
1923.

Designation of appointment.	Period of employment.	Pay per mensem.
I. TEMPORARY.		
		RS.
1. Special officer to investigate the position in Malabar and suggest measures for reconstruction.	9 weeks ...	3,000
2. Joint Retrenchment Secretary.	3 weeks ...	Pay under superior time-scale plus special pay of Rs. 250.
3. Special duty officer, Nilgiri and Malabar-Wynaad settlement.	1 month and 14 days.	Pay under superior time-scale.
4. Additional Sessions Judge, Agency Division.	2 years ...	Pay under superior time-scale plus Judicial pay.
5. Secretary to the Committee for the Separation of Judicial and Executive functions (officer of the grade of a Deputy Collector).	3 months ...	Pay in the regular line.
6. Printing and photographic expert.	5 years ...	650—25—750
II. PERMANENT.		
Professor of Natural Science in the Queen Mary's College for Women (a post in the Madras Educational Service, Women's Branch).	...	200—20—400—25—500

24th March 1923. E. S. LLOYD,
Secretary to Government, Finance Department.

The Council re-assembled at the Council Chamber, Fort St. George, at 11 a.m. on Tuesday, the 3rd day of April 1923, M.R.Ry. Diwan Bahadur P. KESAVA PILLAI Avargal, Deputy President, presiding.

I

QUESTIONS AND ANSWERS.

[Order made by the President of the Madras Legislative Council under Standing Order No. 15—

(1) Printed copies of the questions and answers to be put and given at a meeting of the Council shall be placed on the Council table an hour before the President takes his seat.

(2) The questions shall be put and answered in the following manner:—

The Secretary shall call the name of each interpellator in alphabetical order, specify the serial number of his questions and make a sufficient pause to allow him or any other member a reasonable opportunity of rising in his place if he is desirous of asking a supplementary question. Supplementary questions must be put immediately after the principal questions to which they relate.]

Muhammadans in the Subordinate Educational Service.

926 Q.—MR. A. D. M. BAVOTTI SAHIB: Will the hon. the Minister for Education be pleased to state—

(a) whether it is a fact that the Muhammadan population of Malabar is almost equivalent to the total Muhammadan population of the other districts of the Presidency; and

(b) whether it is a fact that no higher appointment in the Educational Department has ever been given to Muhammadans of Malabar?

A.—(a) Muhammadans in Malabar form about 35 per cent of the total Muhammadan population of the Presidency.

(b) No.

Swimming competition among boy scouts.

927 Q.—MR. L. C. GURUSWAMI: Will the hon. the Law Member be pleased to state whether it is a fact—

(1) that the Boys' Scout Association in Madras is arranging for a swimming competition among the boy scouts;

(2) that a member of this competition committee suggested to the committee that only boy scouts who have passed the swimming test should be allowed to compete;

(3) that the above suggestion was not accepted by the committee on the plea that a sufficient number of scouts who have passed the test are not available for this competition;

(4) that some of the boy scouts were trained for this competition in the Government Museum tank under the supervision of Dr. Gravely; and if so, how many were trained; and

(5) that one of the scouts of the Muthialpet High School while undergoing this training in the Government Museum tank got drowned and died?

A.—(1) to (4) The Government have no information.

(5) A boy was accidentally drowned in the Museum tank on the 3rd February 1923, but it does not appear from the evidence given at the inquest that he was being trained for or was expected to take part in any competition.

[3rd April 1923]

Maintenance of the Ecclesiastical Department.

928 Q.—Khan Sahib Munshi MUHAMMAD ABDUR RAHMAN SAHIB: Will the hon. the Home Member be pleased to state—

- (a) the amount spent by Government towards the maintenance of the Ecclesiastical Department in the Madras Presidency in 1920, 1921 and 1922;
- (b) whether this amount was spent from the taxes paid by the ryots;
- (c) whether any subscriptions or donations are received from other countries than India; and
- (d) whether any other religious institutions are also maintained by Government on the same lines as the Ecclesiastical Department?

A.—The Ecclesiastical Department is a Central subject and the Government have no further information than is contained in the budget of the Government of India.

Macmichael committee.

929 Q.—Mr. K. PRABHAKARAN TAMPAN: Will the hon. the Home Member be pleased to state the names of the members of the Macmichael committee appointed to consider the question of giving compensation to the sufferers in the Mappila outbreak and the terms of its reference?

A.—No committee was appointed by Government. Mr. Macmichael, with the approval of Government, proposed to constitute a committee to advise him as to the payment of compensation to those sufferers who had not received loans. But the committee was only to operate after it was known what sum would be available for distribution as compensation, and as no money has been made available for that purpose, the committee has never been formally constituted.

Rebuilding of Hindu houses in Malabar.

930 Q.—Mr. K. PRABHAKARAN TAMPAN: Will the hon. the Home Member be pleased to state—

- (a) the number of Hindu houses destroyed by the rebels in the outbreak and the amount required for rebuilding them;
- (b) the number of people who applied for loans for rebuilding such houses and the total amount asked for;
- (c) the number of people to whom loans for such purposes were given and the amount so disbursed; and
- (d) whether it is now proposed to give compensation for such losses?

A.—(a) The Government have no information.

(b) & (c) The attention of the hon. Member is invited to paragraph 5 of the report of the Collector of Malabar published in G.O. No. 176, Public, dated 6th March 1923. The Government have no further information.

(d) The matter is under consideration.

3rd April 1923]

Rebuilding houses of Government servants in Malabar.

931 Q.—Mr. K. PRABHAKARAN TAMPAN: Will the hon. the Home Member be pleased to state—

- (a) the number of houses belonging to Government servants, such as village officers and policemen, etc., that were burnt or otherwise destroyed by the rebels and the cost of rebuilding such houses;
- (b) the number of Government servants who applied for loans to rebuild their houses and the amount asked for;
- (c) the number of Government servants to whom such loans were given and the amount so advanced; and
- (d) whether it is now proposed to give full compensation for such losses?

A.—(a) to (c) The Government have no information.

(d) Each case will be dealt with on its merits.

Remission of land revenue to sufferers in the Mappilla outbreak.

932 Q.—Mr. K. PRABHAKARAN TAMPAN: Will the hon. the Home Member be pleased to state—

- (a) whether the Government were not aware that during the recent Mappilla outbreak in Malabar, hundreds of ryots abandoned their homes and fled away from their villages to safer places and consequently were unable either to harvest their first crop or to attend to cultivation of the second crop in their fields;
- (b) whether the Government had been pleased to give any remission either part or whole, of land revenue in such cases; if so, what was the amount so remitted;
- (c) the number of applications received by Government from jammis and tenants for
 - (1) remission of assessment;
 - (2) extension of time for paying the kists on account of the Mappilla rebellion and the number of cases in which reliefs were granted;
 - (d) the number of cases in which coercive process was resorted to in the rebel area for the recovery of assessment and the amount recovered by such steps; and
 - (e) whether petitions were received by the Collector and the Special Commissioner for Malabar affairs from Mr. P. K. Manavethan, Raja of Puthiyakovilagam, praying that his cooking vessels and other utensils which were attached for arrears of land revenue might be released from attachment and that for the reasons shown in the petition he might be given at least some time to pay up the kists; whether any relief was given him; if so, what?

A.—(a) Yes.

(b) It was not found necessary to grant any material remissions of revenue, but the collection of kists amounting to Rupees 1,34,673-9-4 was postponed to the current fasli;

(c) the Government have no information as to the number of applications received;

(d) nor as to the number of cases in which coercive processes were resorted to. They believe the number to be small;

(e) the Government have no information.

[3rd April 1923]

Hindus prosecuted during the Mappilla outbreak.

933 Q.—Mr. K. PRABHAKARAN TAMPAN: Will the hon. the Home Member be pleased to state—

(a) the number of Hindus who were prosecuted by the Circle Inspector of Walavanad (Mr. P. K. Madhava Menon) for participation in the rebellion and charged with grave crimes such as dacoity, pulling down the bridges and waging war against His Majesty, etc.;

(b) the number of such who were (1) discharged or acquitted and (2) convicted by the special tribunal and special magistrates;

(c) the reasons for releasing by order of His Excellency the Governor one Parambot Achukutti Menon whose sentence of transportation was commuted by the High Court to one of six years' imprisonment; the number of people so released during the rebellion by the prerogative of the Crown; and

(d) the cost of conducting the prosecution (including Pleader's fee and subsistence allowance to witnesses) against (1) Elaya Nayar of Mannarghat, (2) Aripura Tampuran of Walavanad and (3) Edachola Kutta Panikkar?

A.—(a) & (b) The Government have no information.

(c) Parambot Achukutti Menon was released because from information which reached the Government after his conviction there were adequate grounds for believing that such a step would be in the interests of justice.

There were no other precisely similar cases arising out of the rebellion.

(d) The Government have no information.

Travelling allowance drawn by members of select committees.

934 Q.—RAO SAHIB U. RAMA RAO: Will the hon. the Law Member, the hon. the Minister for Development, the Minister for Education and the Minister for Local Self-Government be pleased to lay on the table a statement showing the names of the members who sat on the select committees to examine the following Bills and the amount of travelling allowance and batta, etc., drawn by them up-to-date:—

(1) the State Aid to Industries Bill;

(2) the University Bill; and

(3) the Religious Endowments Bill?

A.—The information asked for is furnished in the statement appended.*

Travelling allowance drawn by members of select committees.

935 Q.—Khan Sahib A. P. I. SAIYID IBRAHIM RAVUTTAR: Will the hon. the Member for Revenue and the hon. the Law Member be pleased to state the travelling allowances drawn by each member of the select committee formed for—

(a) the University Bill,

(b) the State Aid to Industries Bill,

(c) the Hindu Religious Endowments, Bill, and

(d) the Survey and Boundaries Act?

* Vide Appendix I on page 8171 infra.

3rd April 1923]

A.—(a), (b) & (c) The hon. Member is referred to the answer given to question No. 934.

(d) The information is not readily available.

Travelling allowance drawn by members of committees

936 Q.—Khan Sahib A. P. I. SAIYID IBRAHIM RAVUTTAR: Will the hon. the Minister for Education be pleased to state the total amount of travelling allowance drawn by each member of—

(a) the Finance Committee,

(b) the Public Accounts Committee,

(c) Advisory Committee,

(d) the Committee to reorganize the Secondary Education, and

(e) the Committee regarding the Andhra University?

A.—The particulars required are furnished in the subjoined statement:—

Statement.		Amount of travelling allowance drawn.		
Name of the Member.		RS.	A.	P.
<i>Finance Committee.</i>				
M.R.Ry. A. Ranganatha Mudaliyar Avargal, M.L.C.		1,161	12	0
" Rao Bahadur T. A. Ramalinga Chettiyar Avargal, M.L.C.		1,161	0	0
<i>Public Accounts Committee.</i>				
M.R.Ry. Rao Bahadur C. V. S. Narasimha Raju Garu, M.L.C.		30	0	0
" Rao Bahadur P. C. Ethirajulu Nayudu Garu, M.L.C.		221	8	0
" P. T. Rajan Avargal, M.L.C.		90	0	0
" S. Arpudaswami Udayar Avargal, M.L.C.		202	8	0
" M. R. Seturatnam Ayyar Avargal, M.L.C.		181	4	0
Saiyid Muhammad Padsha Sahib Bahadur, M.L.C.		407	8	0
<i>Advisory Committee on Education and Registration.</i>				
M.R.Ry. M. C. Raja Avargal, M.L.C.		13	14	0
<i>Committee for the reorganization of Secondary Education.</i>				
R. G. Grieve, Esq.		52	8	0
C. L. Cartwright, Esq.		37	8	0
M.R.Ry. C. D. Subrahmanya Chettiyar Avargal		1,603	8	0
The Rev. X. Miller		1,244	12	0
M.R.Ry. Rao Bahadur N. Subba Rao Pantulu Garu		1,284	0	0
" A. Ramachandra Rao Pantulu Garu		1,567	8	0
" The Rev. W. M. Zumbro		1,030	8	0
M.R.Ry. S. Arpudaswami Udayar Avargal, M.L.C.		587	12	0
" P. Siva Rao Avargal, M.L.C.		149	12	0
" R. K. Shanmukham Chettiyar Avargal, M.L.C.		284	4	0
" Abbas Ali Khan Bahadur, M.L.C.		356	0	0

[3rd April 1928]

Name of the Member.	Amount of travelling allowance drawn.		
	RS.	A.	P.
M.R.Ry. Rao Bahadur P. Ethirajulu Nayudu Garu, M.L.C.	164	0	0
" C. Ramalinga Reddi Garu, M.L.C.	228	12	0
" K. Ramanuja Achariyar Avargal	481	4	0
The Rev. P. Verdure	372	0	0
M.R.Ry. Diwan Bahadur R. Venkataratnam Nayudu Garu, M.L.C.	397	8	0
<i>Committee regarding the Andhra University.</i>			
The Rev. W. C. Penn	335	8	0
M.R.Ry. Rao Bahadur C. V. S. Narasimba Raju Garu, M.L.C.	272	12	0
" C. V. Venkataramana Ayyangar Avargal, M.L.C.	37	8	0
" P. T. Srinivasa Ayyangar Avargal	209	4	0
" Rao Bahadur T. Balaji Rao Nayudu Garu, M.L.C.	116	2	0
" M. Suryanarayana Pantulu Garu, M.L.C.	15	0	0
" A. V. Subba Rao Avargal	310	4	0
" A. Ranganatha Mudaliyar Avargal, M.L.C.	22	8	0
" G. Vandanam Avargal, M.L.C.	7	8	0

Return of cases regarding encroachments on non-detailed pathways, etc.

937 Q.—Mr. T. SOMASUNDARA MUDALIYAR: With reference to the answer to my question No. 834 (885), will the hon. the Member for Revenue be pleased to call for a return of the number of cases in Tanjore district in which action under Act III of 1905 was taken and penalty levied as regards encroachments on non-detailed pathways and channels, contrary to the order of the Government and the Revenue Board?

A.—The Government are not aware of any general failure to observe the rules. The hon. Member may bring to the notice of Government any cases which he may be aware of.

Certain Government Orders to be placed on the table.

938 Q.—Mr. T. SOMASUNDARA MUDALIYAR: Will the hon. the Member for Revenue be pleased to lay on the table all the Government Orders mentioned in Board's Standing Order No. 18 in Volume I, page 46, especially G.O. No. 2867, dated 19th October 1909, and the correspondence connected therewith?

A.—The hon. Member will be furnished with copies of the following:—

G.O. No. 4188,	dated 22nd December 1917.
" " 291	" 2nd February 1917.
" " 2166	" 24th September 1915.
" " 2784	" 25th " 1914.
" " 2867	" 19th October 1909.
" " 712	" 25th July 1906

was placed on the Editors' Table.

[3rd April 1928]

Horse and Travelling allowances to Assistant Inspectors of Salt, Abkari and Customs Department.

939 Q.—Mr. B. MUNISWAMI NAYUDU: Will the hon. the Member for Finance be pleased to state—

(a) whether it is a fact that Assistant Inspectors of the Salt, Abkari and Customs Department, in charge of circles are not drawing the horse allowance of Rs. 25 while other Assistant Inspectors of the department are drawing the same allowance; and

(b) whether it is a fact that Assistant Inspectors in charge of circles are gazetted officers, and if so, why they are not allowed to draw the travelling allowance of a gazetted officer?

A.—(a) Assistant Inspectors who are required to keep horses for use in the course of their duties are granted an allowance of Rs. 25 a month. An account question has been raised within the last few days as to whether, for purposes of this order, an Assistant Inspector in charge of a circle is to be reckoned as an Assistant Inspector or as an Inspector, and is under disposal.

(b) Under the new Travelling Allowance Rules the grade of an officer for purposes of the travelling allowance is regulated by his pay and not by his status, whether gazetted or otherwise.

Communal representation in Ganjam and Vizagapatam.

940 Q.—Khan Sahib Munshi MUHAMMAD ABDUR RAHMAN SAHIB: Will the hon. the Member for Finance be pleased to state—

(a) the number of Muhammadans employed in Ganjam and Vizagapatam districts and in the following departments with their rank and pay:—

- (1) Revenue Department,
- (2) Civil Judicial Department,
- (3) Registration Department,
- (4) Salt, Abkari and Customs Department, and
- (5) Co-operative Department; and

(b) the steps taken to give adequate communal representation to Muhammadans in the above said departments?

A.—As regards gazetted officers the hon. Member is referred to the Annual Civil List. The number of Non-Gazetted officers drawing Rs. 35 and above will be shown in the return ordered in G.O. No. 658, dated 15th August 1922.

The effect of the time-scale of pay to clerks in the Secretariat.

941 Q.—Rao Sahib U. RAMA RAO: Will the hon. the Member for Finance be pleased to state—

(1) whether it is a fact that an assurance was given by the Member for Finance in the Legislative Council at the time of the introduction of the time-scale of pay that individual cases of hardship under the new scale of pay would be sympathetically considered;

[3rd April 1928]

(2) whether it is a fact that a large number of clerks in the Secretariat with a permanent or acting service of over two years in the upper division, prior to 1st March 1921, have been required to remain on the minimum pay in the time-scale for two years without the chance of an increment, as if they were new entrants to service after 1st March 1921;

(3) whether memorials have been received from these men praying to be exempted from the necessity of being on the maximum pay for two years and to be permitted to earn their increment after one year's service on the minimum pay; whether these memorials were brought to the notice of the Member for Finance; and

(4) whether in the case of the Board's office, clerks promoted from the lower division to the upper division have been exempted from the necessity of staying on the minimum pay of the upper division for two years?

- A.—(1) The hon. Member is referred to the answer to question No. 896.
 (2) The hon. Member is referred to the answer to question No. 297.
 (3) Eight petitions have been received and disposed of.
 (4) The scale of pay in the Board's office is not the same as in the Secretariat.

Supplementary grants.

942 Q.—Mr. M. RATNASWAMI: Will the hon. the Member for Finance be pleased to state—

- (1) The total amount of supplementary grants asked for and voted during the current session; and
 (2) The total amount of supplementary grants so voted under each of the following heads:

Education, Law and Justice, Revenue, Agriculture and Industries?

A.—The information is available in the proceedings of the Council.

Estimated expenditure for the three years from 1921 to 1924.

943 Q.—Khan Bahadur MUHAMMAD SADULLA BADSHA SAHIB: Will the hon. the Member for Finance be pleased to lay on the table a statement showing in one view—

- (1) the total of estimated expenditure under each major head of account during each of the three years from 1921–22 to 1923–24;
 (2) the amounts allotted for expenditure under “voted” and “non-voted” both in the reserved and transferred subjects;
 (3) the percentage of each of such allotments to total estimated expenditure under each major head of account; and
 (4) the percentages of the total allotments under “voted” and “non-voted” both in the reserved and the transferred departments under all major heads to the total estimated expenditure in the budget of these three years?

A.—The hon. Member has already the materials for the statement he desires in the Civil Budget estimates which are available to him.

APPENDIX

3rd April 1928]

APPENDIX I.

[Vide answer to question No. 934 asked by Rao Sahib U. Rama Rao at the meeting of the Legislative Council held on the 3rd April 1928, page 3166 supra.]

Names of members of Select Committee.

Amount of travelling allowance, etc., drawn up to date.

RS. A. P.

State Aid to Industries Bill.

1. The hon. Sir Charles Todhunter ...	...	...	...
2. Sir K. Srinivasa Ayyangar ...	...	...	...
3. Mr. A. Y. G. Campbell ...	...	...	...
4. Mr. John Mathai ...	...	...	416 4 0
5. Mr. C. V. Venkataramana Ayyangar ...	...	...	...
6. Khan Bahadur Muhammad Sadulla Badsha Sahib Bahadur ...	...	...	...
7. Mr. A. M. MacDougall ...	...	...	...
8. Mr. W. Alexander ...	...	...	...
9. Rao Bahadur O. Tanikachala Chettiayar ...	...	...	...
10. Mr. C. P. Ramaswami Ayyar (Advocate-General) ...	...	...	...
11. Sir P. Tyagaraya Chettiayar ...	...	...	328 0 0
12. Rao Bahadur V. Appaswami Vandayar ...	...	...	148 0 0
13. Mr. B. Maniswami Nayudu ...	...	...	232 4 0
14. Diwan Bahadur M. Krishnan Nayar ...	...	...	...
15. Govindoss Chathurbujadoss ...	...	...	...
16. K. Suryanarayanamurti Nayudu ...	...	...	285 4 0
17. Mr. V. Pakkiriswami Pillai ...	...	...	...
18. The hon. Rai Bahadur K. Venkatarreddi Nayudu Garu ...	...	...	1,409 12 0

Madras University Bill.

1. Rev. E. M. Maophail ...	...	...	...
2. Mr. K. Ramasami Menon ...	...	...	500 0 0
3. Diwan Bahadur R. Venkataratnam Nayudu ...	...	...	...
4. Mr. R. G. Grieve ...	...	...	172 8 0
5. Mr. C. Ramalinga Reddi ...	...	...	...
6. Khan Bahadur Muhammad Usman Sahib Bahadur ...	...	...	385 0 0
7. Mr. S. Arpudaswami Udayar ...	...	...	...
8. Rao Bahadur O. Tanikachala Chettiayar ...	...	...	243 8 0
9. Rao Bahadur T. A. Ramalinga Chettiayar ...	...	...	81 12 0
10. A. S. Krishna Rao Pantulu ...	...	...	555 8 0
11. C. V. S. Narasimha Raju ...	...	...	...
12. Mr. M. Ratnaswami ...	...	...	...
13. Mr. C. P. Ramaswami Ayyar (Advocate-General) ...	...	...	252 4 0
14. Diwan Bahadur M. Krishnan Nayar ...	...	...	318 6 0
15. Mr. A. Ranganatha Mudaliyar ...	...	...	261 4 0
16. Mr. G. Vandanaam ...	...	...	...
17. Dr. P. Subbarayan ...	...	...	419 0 0
18. Diwan Bahadur M. Ramachandra Rao Pantulu Garu ...	...	...	...

[3rd April 1923]

Names of members of Select Committee.

Amount of
travelling allow-
ance, etc., drawn
up to date.*Madras University Bill—cont.*

	RS.	A.	P.
19. Mr. A. T. Palmer	501	8	0
20. Rev. W. Meston	...	...	...
21. Mr. A. Ramaswami Mudaliyar	...	...	...
22. Mr. S. R. Y. Ankineedu Prasad Bahadur	20	0	0
23. The hon. Rao Bahadur A. P. Patro Garu	...	...	...
	3,690	10	0

Hindu Religious Endowments Bill.

1. M.R.Ry. Rai Bahadur N. Gopalaswami Ayyangar	...	...	...
2. " C. P. Ramaswami Ayyar (Advocate-General).	...	...	...
3. " Diwan Bahadur Sir T. Desika Achariyar, Kt.	20	0	0
4. " " M. Ramachandra Rao Pantulu Garu	638	8	0
5. " Rao Bahadur C. Natesa Mudaliyar	...	...	...
6. " " T. A. Ramalinga Chettiyyar	455	4	0
7. " B. Muniswami Nayudu Garu	198	0	0
8. " T. Somasundara Mudaliyar	360	0	0
9. Rao Sahib Sir M. C. T. Muttayya Chettiyyar Avargal	...	...	...
10. M.R.Ry. A. Ramaswami Mudaliyar Avargal	...	...	...
11. Mr. E. Periyannayakam	...	...	...
12. M.R.Ry. Rao Bahadur P. C. Ethirajulu Nayudu Garu	624	8	0
13. " Diwan Bahadur M. Krishnan Nayar	252	4	0
14. The Raja of Ramnad	30	0	0
15. M.R. Ry. Rao Bahadur O. Tanikachala Chettiyyar	...	...	...
16. " S. R. Y. Ankineedu Prasad Bahadur	30	0	0
17. " Rao Bahadur C. V. S. Narasimha Raju Garu	852	4	0
18. " C. Ponnuswami Nayudu Avargal	429	8	0
19. " S. Mutumanikkachariyar Avargal	567	12	0
20. " Rao Sahib M. C. Madurai Pillai Avargal	...	...	...
21. " Diwan Bahadur T. N. Sivagnanam Pillai Avargal	243	2	0
22. " Rao Bahadur T. Namberumal Chettiyyar Avargal (resigned)	...	...	...
23. " Diwan Bahadur L. A. Govindaraghava Ayyar Avargal	...	...	...
24. " Diwan Bahadur C. Arunachala Mudaliyar Avargal	...	...	...
25. " Rao Bahadur K. Gopalakrishnayya Garu	199	0	0
26. " C. Ramalinga Reddi Garu	62	0	0
27. The hon. the Raja of Panagal	...	...	...
	4,962	2	0

3rd April 1923]

II

COMMUNICATIONS TO THE COUNCIL.

The SECRETARY laid on the table* the proceedings of the 30th meeting for 1922-23 of the Standing Finance Committee of the Madras Legislative Council held on the 23rd March 1923.

The hon. Sir CHARLES TODHUNTER :—" Mr. President, in accordance with Standing Order No. 67, I beg to lay on the table a statement showing the action taken by the Local Government in the case of certain demands which have been refused or reduced by the Council, together with copies of certificates granted by His Excellency the Governor under section 72-D (2) (a) of the Government of India Act."

Action taken by the Government of Madras in the case of certain demands which have been refused or reduced by the Council.

DEMAND No. XXV—LABOUR INCLUDING FACTORIES.

Under section 72-D (2) (a) of the Government of India Act, I certify that the provision of Rs. 9.59 lakhs made in Demand No. XXV in the Schedule of Demands for the year 1923-24 under the head 'Labour including Factories' is essential to the discharge of my responsibility for the administration of the Factories Department.

WILLINGTON,
Governor of Madras.

His Excellency the Governor having certified, under proviso (a) to section 72-D (2) of the Government of India Act, in relation to the provision of Rs. 9.59 lakhs made in Demand No. XXV in the Schedule of Demands for the year 1923-24 under the head 'Labour including Factories,' that this expenditure is essential to the discharge of his responsibility for the administration of the Labour Department, the said demand relating to a Reserved subject, the Government of Madras direct that the above provision be shown in the civil estimates under the above head as if it had been assented to by the Legislative Council.

E. S. LLOYD,

3rd April 1923. Secy. to the Govt. of Madras, Finance Dept.

DEMAND No. XXXIV—AGENCY.

Under section 72-D (2) (a) of the Government of India Act, I certify that the provision of Rs. 33.60 lakhs made in Demand No. XXXIV in the Schedule of Demands for the year 1923-24 under the head 'Agency' is essential to the discharge of my responsibility for the administration of the Agency tracts.

WILLINGTON,
Governor of Madras.

[3rd April 1923]

His Excellency the Governor having certified, under proviso (a) to section 72-D (2) of the Government of India Act, in relation to the provision of Rs. 33.60 lakhs made in Demand No. XXXIV in the Schedule of Demands for the year 1923-24 under the head 'Agency,' that this expenditure is essential to the discharge of his responsibility for the administration of the Agency tracts, the said demand relating to a Reserved subject, the Government of Madras direct that the above provision be shown in the civil estimates under the above head as if it had been assented to by the Legislative Council.

3rd April 1923. E. S. LLOYD,
Secy. to the Govt. of Madras, Finance Dept.

III

THE MADRAS HINDU RELIGIOUS ENDOWMENTS BILL, 1922—cont.

The Council resumed the consideration of the Madras Hindu Religious Endowments Bill, 1922.

Clause 66.

Sub-clause (2).

(Amendment No. 227.)

Mr. M. SURYANARAYANA :—" Mr. President, the amendment that stands in my name reads as follows :—

After the words 'such notice' insert the words 'or such further time, as may be granted'.

" My object in moving this amendment, Sir, is to enable the Board to extend the time for payment of the money which the trustee is directed to pay under sub-clause (2) of clause 66. The sub-clause says :

Such trustee shall within three months of his receipt of such notice pay out of the funds of the math or temple concerned the amount so demanded to the President of the Board or Committee

I know that in the subsequent portion of the same clause it is said that when the matter goes up before a court, it is open to the court to grant further time for such payment. But instead of the matter being placed before a court of justice and then the court granting further time, I think the Board may well be invested with jurisdiction to extend the time for payment of the money which a math or temple is called upon to pay."

Rai Bahadur N. GOPALASWAMI AYYANGAR :—" I have no objection to accept the amendment, Sir, on behalf of the Government."

The amendment was put and carried.

Clause 66, as amended, was put, passed and added to the Bill.

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Clause 67.

New sub-clause after sub-clause (2).

(Amendment No. 228.)

Rai Bahadur N. GOPALASWAMI AYYANGAR :—" Sir, I have given notice of an amendment which runs as follows :—

Add the following as sub-clause (3) :—

' (3) The power to make rules under this section shall be subject to the condition of previous publication.'

It was intended, Sir, that the rules to be framed under this clause should be published for criticism before being adopted, and I move this amendment merely to supply that omission."

The amendment was put and carried.

Clause 67, as amended, was put, passed and added to the Bill.

Clause 68.

Clause 68 was put, passed and added to the Bill.

Clause 69.

Sub-clause (1).

(Amendment No. 229.)

Mr. R. SRINIVASA AYYANGAR :—" Sir, I should like to formally move the following amendment standing in my name :—

(a) *Insert the following as item (a) :—*

' (a) removing a member of any Committee.'

(b) *Re-letter the existing items.*

" The Bill contains no provision enabling the Board or the committee to get a member of the committee removed in suitable cases, and it is with a view to fill up this omission that I move this amendment."

Rai Bahadur N. GOPALASWAMI AYYANGAR :—" Mr. President, Act XX of 1863 did contain such a provision, while the present clause does not contain it. That is why, I take it, the hon. Member Mr. Srinivasa Ayyangar has thought it fit to move this amendment. But the conditions are dissimilar. Under Act XX of 1863 the committee members were appointed for life, whereas under the present Bill they have to be appointed only for five years. I may also point out to the hon. Member the analogy of members of local bodies. There is really no provision either in the District Municipalities Act, or in the Local Boards Act, for the removal by suit of a member of a municipal council or of a local board. The term being short, it was considered unnecessary to incorporate in the Bill any provision for removing a member of the committee by suit."

Mr. R. SRINIVASA AYYANGAR :—" I am inclined to think, Sir, that a period of five years is rather too long. If, in the meanwhile, a member misconducts himself, I should like to know if the committee and the Board are to be actually powerless in getting rid of that undesirable element. I

[Mr. R. Srinivasa Ayyangar]

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Clause 69—cont.

was merely anxious to strengthen the hands of the Board or the Government, as the case may be, by seeing that such a power was actually vested in the Board for getting rid of the undesirable members."

Rai Bahadur N. GOPALASWAMI AYYANGAR:—"Mr. President, if a member of the committee becomes really obnoxious or becomes subject to disqualifications which would disentitle him to continue as member, then he will cease to be a member under another clause of the Bill. That seems sufficient."

Mr. R. SRINIVASA AYYANGAR:—"That argument, Sir, will only apply where a member of the committee brings himself within the disqualifications prescribed elsewhere; but it is possible to conceive of cases where a member may misconduct himself in such a manner as not to bring himself within the purview of that clause. It was with a view to guard against such cases also that I moved my amendment."

The amendment was put and lost.

Sub-clause (2).

(Amendment No. 230.)

11-16 a.m. Rai Bahadur T. M. NARASIMHACHARLU:—"Sir, I beg to move—
Between the words 'relief' and 'in respect of the administration' insert the words 'specified in sub-section (1) of this section'.

"My object in moving this amendment is to keep the remedy open, under sections 92 and 93 of the Civil Procedure Code and under rule 8 of order I of the First Schedule of the same Code, in respect of all matters which are not covered by the previous sub-clause. The previous sub-clause refers to certain kinds of relief, for instance, appointing or removing the trustee of a math or excepted temple, vesting any property in a trustee, declaring what proportion of the endowed property or of the interest thereon shall be allocated to any particular object of the endowment and granting such further or other relief as the nature of the case may require. There are cases under section 92 which are not covered by the previous sub-clause. There are cases under rule 8 of order I under which certain persons may join together, obtain the leave of the court and institute a suit for certain remedies. They are not all covered by the previous sub-clause. Sub-clause (2) is very wide and very general, so as to exclude the operation of sections 92 and 93 and rule 8 of order I in all cases although the previous sub-clause is limited in scope. My point is that in those cases which are not covered by the previous sub-clause let the operation of the Civil Procedure Code and sections 92 and 93 and rule 8 of order I be in force so that they may have other remedies open to them if they choose to avail themselves of the provisions under those sections."

Rao Bahadur C. V. S. NARASIMHA RAJU:—"The real difficulty of this clause lies in sub-clause (2). Clause 3 of the Bill preserves the rights of the Advocate-General, and as sub-clause (2) stands, I do not think we have any quarrel. According to clause 2, the order is limited only to cases covered by clause 1, and when the Advocate-General wants to move a court regarding the management of an institution which right is reserved under clause 3, I believe he has no right to sue under sections 92 and 93 and rule 8 of order I. I believe this is a real difficulty."

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Clause 69—cont.

Rai Bahadur N. GOPALASWAMI AYYANGAR:—"Mr. President, Sir, referring first to the arguments advanced by my hon. friend, Mr. Narasimhacharlu, in favour of his amendment, I only wish to point out that the object which he aims at is diametrically opposed to that which the Government have aimed at in drafting this particular sub-clause. His object, as he explained to us, is where the relief claimed does not fall under any one of the items of sub-clause 1, sections 92 and 93 of the Civil Procedure Code should be operative. The policy that the Government have kept in view in framing this particular clause is that sub-clause 1 has been limited to such of the reliefs mentioned in section 92 of the Civil Procedure Code which are not already covered by the provisions contained in the rest of the Bill. The whole range of reliefs mentioned in section 92 of the Civil Procedure Code has been examined and such of them as can be compassed by applying the other provisions of the Bill, disciplinary or otherwise, have been left out and only those are retained which have not been covered by the provisions at the previous Act. Suits are therefore allowed only in cases of disciplinary jurisdiction of Committees and Boards and settlement of the various questions arising out of the administration of religious endowments which are in the jurisdiction of Boards and Committees under this Bill. It is only cases which are not covered by these provisions that will come under sub-clause 1. As my hon. friend, Mr. Narasimhacharlu, has not failed to point out whenever occasion has arisen that the Government have been repeatedly saying that their object in connexion with this Bill is to minimise litigation, this sub-clause (1) has really been framed so as to conform to that policy. Sub-clause 2 also has been framed in consonance with that policy. If we accept his amendment it would really mean that though we mention a certain number of reliefs as claimable under this sub-clause other reliefs can be pursued in a court of law under section 92 of the Civil Procedure Code. The only thing I wish to say is that this is the policy of this clause."

"As regards the point which the hon. Mr. Narasimha Raju has raised, I confess it is certainly a matter of considerable difficulty. Again, the policy is that, as far as possible, suits relating to religious endowments should lie under this particular clause of the Bill. We no doubt have no provision to say that we do not propose to interfere with such powers as the Advocate-General may possess under section 114 (2) of the Government of India Act. If in pursuing those reliefs he finds that he has not got a forum to apply to, I do not know whether that contingency will be considered as inconsistent with the policy of this Bill. What powers he may possess under section 114 (2) of the Government of India Act and how he will be able to pursue or exercise his own powers are matters which really depend upon the interpretation of this Bill and the interpretation of the powers he may have under section 114 (2) of the Government of India Act."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU:—"Sir, I am really puzzled by the answers which Mr. Gopalaswami Ayyangar has given. Apparently, the object of this Bill is to create as many puzzles as possible for the interpretation of the court. Here, we are undertaking a legislation, and if it is the object of my hon. friend to preserve the jurisdiction which the Advocate-General has under the Government of India Act and to empower him to act in conformity with the right which he has to interfere in the

[Mr. M. Ramachandra Rao Pantulu]

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Clause 69—cont.

administration of public charities that right ought to be preserved. What my hon. friend has really done is to enable him under the Civil Procedure Code to file scheme suits and to otherwise interfere with the administration of public charities. My hon. friend, as he cannot touch the Government of India Act section 114, ought to have repealed the really operating clauses of the Civil Procedure Code. What he has done is certainly not at all a desirable method of legislation. If it is the object of this Bill to shut out entirely the Advocate-General in regard to his jurisdiction over public charities, my hon. friend should realise that he cannot do so in virtue of section 114. Therefore, the best course is not at all to put in a clause like sub-clause (2) but to leave that matter alone entirely. I am afraid this method of legislation is likely to lead to considerable difficulty; and I should like to know what the Advocate-General thinks about these two provisions which are proposed to be included in this Bill.

"It is all very nice to say that litigation should be put an end to. When the Advocate-General has got specific powers under the Civil Procedure Code in respect of public charities, it seems to me that it is not at all wise to interfere with the jurisdiction which is conferred upon him and much less with the particular forum to which he can drive himself. I do not know where we are in this matter. I should like to know the Advocate-General's view as regards his exact powers under this legislation if it becomes law."

Mr. C. MADHAVAN NAYAR (Advocate-General):—"My hon. friend has drawn my attention to the discussion that is going on over this clause and asked me to state my views. Mr. President, I really am not concerned with the policy of the Bill or with what its framers had in view when they drew up this particular sub-clause. So far as the powers of the Advocate-General are concerned, it is really difficult for me now to expound to this House the onerous duties which are laid upon the Advocate-General under section 114 of the Government of India Act. The policy has been explained to the House by my hon. friend, Mr. Gopalaswami Ayyangar. With regard to how the Advocate-General will in future exercise his powers under section 114 of the Government of India Act, of course, I shall have to consider that when any particular case comes before me for consideration; and if I find that there is any difficulty I shall certainly bring it to the notice of the Government and bring forward an amendment to this sub-clause if necessary, in order to exercise my legitimate powers."

Rai Bahadur T. M. NARASIMHACHARLU:—"Good legislation is not to think about a difficulty when one actually arises, but rather to anticipate all probable difficulties and provide for them. Hence, in this sub-clause we ought to see whether it may in any way conflict with the powers of the Advocate-General under section 114 of the Government of India Act. I think, Sir, the learned Advocate-General should have thought about this, foreseen the difficulties and forewarned himself."

"As regards the policy enunciated by Mr. Gopalaswami Ayyangar, I submit, Sir, that it is a very retrograde policy. In respect of the management of religious endowments only certain reliefs are given in the previous sub-clause. You admit that there may be other reliefs necessary for the proper management of the religious institutions; and yet you say 'we deprive you people of that remedy; no such suit shall be filed and sections 92 and 93

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[Mr. T. M. Narasimhacharlu]

Clause 69—cont.

of the Civil Procedure Code shall not apply.' I ask, Sir: is this a fair piece of legislation? Your policy may be to minimise litigation. As I already said, this is not minimising litigation; this is stifling justice and thus putting an end to the rights of parties and people to go before the courts to obtain redress in respect of matters not covered by the reliefs specified in the previous sub-clause. It is with that object, as I said, I have moved this amendment to insert the words 'specified in sub-section (1) of this section.' This means: for suits claiming any relief specified in sub-clause (1) this sub-clause shall not apply. In other matters there are other remedies open.

"It will be certainly overriding the provisions of the Government of India Act framed by Parliament to say that we have not at all interfered with the rights conferred by section 114 of the Government of India Act, and yet enact that no remedy is open in any court in the Madras Presidency to receive complaints and give such reliefs as may be necessary. To say at one breath that we have not interfered with the Act—that is the only way of escaping—and that we shall not entertain such suits is, I think, very unfair. Therefore, once more I say that unless this amendment is accepted, the Bill will be a retrograde piece of legislation."

The hon. the RAJA OF PANAGAL:—"I cannot understand what my hon. friend means by saying that unless his amendment is accepted the Bill will not be a satisfactory piece of legislation. I may say, Sir, that what is possible to do in this House has been done and nothing more can be done. We cannot interfere with section 114 of the Government of India Act. Under that section, it is possible for any party to obtain the consent of the Advocate-General to file a suit."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU:—"What can the Advocate-General do in regard to public charities?"

The hon. the RAJA OF PANAGAL:—"So far as suits under sections 92 and 93 are concerned, the Advocate-General cannot exercise his powers. It is only to the extent that this House is able to interfere it has interfered. To one observation made by my hon. friend from Cuddapah, namely, that the object of this legislation is to stifle legal remedies I must take serious objection. There is nothing of the sort. The real object of the Bill is, not to stifle all legal remedies, but to minimise litigation."

The amendment was put to vote and lost.

Clause 69 was put, carried and added to the Bill.

Clause 70.

(Amendment No. 231.)

Mr. C. V. VENKATARAMANA AYYANGAR:—"Sir, I move—

After the words 'which may' insert the words 'subject to the provisions of section 64'.

"Clause 64 refers to clause 70. I think that it is desirable that clause 70 should also refer to clause 64. I formally move this amendment."

Rai Bahadur N. GOPALASWAMI AYYANGAR:—"Though clause 64 refers to clause 70, in clause 70 it was thought unnecessary to refer to clause 60. Anyhow, there is no harm in accepting this amendment."

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Clause 70—cont.

The amendment was put and carried.

Clause 70, as amended, was put, carried and added to the Bill.

Clause 71.

Rai Bahadur T. M. NARASIMHACHARLU :—" Sir, I shall move my amendment subject to your ruling whether it is permissible to do so; because this amendment would hold good only if clause 70 was not passed."

The hon. the RAJA OF PANAGAL :—" I rise to a point of order. We have passed clause 70 and the amendment of my hon. friend can be moved only if clause 70 has not been passed."

The hon. the DEPUTY PRESIDENT :—" I am indebted to you for your honestly enquiring whether you would be in order in moving your amendment."

Rai Bahadur T. M. NARASIMHACHARLU :—" I am always honest, Sir" (laughter).

The amendment was ruled out of order.

(Amendment No. 232.)

Mr. C. MADHAVAN NAYAR (Advocate-General) :—" I move—

Omit the words 'at the commencement of this Act.'

"As already explained by me in moving some amendments in connexion with clause 65, the obvious reason for moving this amendment is to bring under the purview of this Bill schemes framed in suits instituted before the commencement of this Bill. I formally move the amendment."

The amendment was put and carried.

(Amendment No. 233.)

Rao Bahadur T. NAMBERUMAL CHETTIYAR :—" Sir, I beg to move—

That the following proviso be added to clause 71 :—

'Provided, however, that nothing contained in this Act shall apply to a religious endowment which, at the commencement of this Act, is governed by a scheme settled by the Judicial Committee of the Privy Council.'

"Sir, I submit that religious institutions in respect of which the Judicial Committee of the Privy Council has framed schemes should in their very nature be of great importance in respect of the value of the endowments and in the cases which went up to the Privy Council, as otherwise the decision of that body would not have been ordinarily invited. His Majesty in Council being the ultimate appellate authority for the Empire, any scheme framed by that body should command the greatest respect. The Courts in India, including the High Court, which are subordinate to the Privy Council, would have given various directions and passed various orders in order to give effect to their decision. Sir, the trustees whose position was assured under such a scheme would have launched costly and important schemes of improvement in pursuance of the powers vested in them and in the belief that a decree of His Majesty in Council would not be interfered with. To give powers, Sir,

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[Mr. T. Namberumal Chettiyar]

Clause 71—cont.

to quasi-judicial and quasi-executive bodies like the Board to abrogate even such schemes, and to subject trustees in such cases to Temple Committees is a violent and revolutionary change in the law governing the status of trustees.

"Sir, the question which the House should consider is whether the interests of the religious endowments governed by such schemes demand the application of this Bill. To take only one instance, Sir, the Tirumalai Tirupati and other *devasthanams* are now working under a scheme settled by their Lordships of the Judicial Committee of the Privy Council and under rules framed in pursuance thereof. I shall refer to a few rules for the information of the House :—

(1) The accounts of the *devasthanams* are audited by an auditor appointed not by the *visharanakartha*, but by the District Court of Chittoor, and the remuneration of the auditor is fixed by the district court and paid out of the *devasthanam* funds.

(2) The surplus income is invested only for the benefit of the temple and in the manner provided in the scheme.

(3) No jewels or other property of value can be sold without the sanction of the district court.

(4) Any person interested may apply to the district court with reference to the carrying out of the directions of the Privy Council scheme.

(5) Any person interested may from time to time apply to the High Court for any modification of the scheme that may appear to be necessary or convenient.

"These are the safeguards, Sir, and it will be noticed that the scheme and the rules governing the said institution are of such a character and so comprehensive that it is unnecessary to substitute for the existing machinery any other alternative mode of control such as is sought to be brought into operation by this Bill. A number of conflicting interests were reconciled and various divergent contentions set at rest by the judgment of their Lordships of the Judicial Committee and by virtue of the rules made in pursuance thereof. Not only would no advantage accrue from re-opening the questions so thoroughly thrashed out and so solemnly adjudicated upon, but any endeavour to do so would leave a loophole for a great deal of interference.

"Sir, if the rules framed by the district court are not stringent enough to prevent misappropriation, interested persons may get them altered by a petition to the High Court. And if, on the other hand, the scheme has to be modified, the High Court has the power to do so. Sir, when the scheme came into force, the income of the Tirupati temple was only about four lakhs, and it has steadily increased to about 14 to 15 lakhs in *faslis* 1330 and 1331. If all the safeguards cannot certainly be said that the scheme has failed. If all the safeguards provided for in the scheme are sufficient, what is the necessity for including these temples within the purview of this Bill? If the Bill is applied to this institution, Sir, it will have to pay about Rs. 40,000 or more per annum. The recurring payment of about Rs. 40,000 per annum from out of the funds of this institution is an uncalled-for burden and is one which is undoubtedly highly detrimental to the institution. I, therefore, submit that all the religious endowments governed by schemes settled by the highest judicial tribunal should be excluded from the operation of the Bill.

"One word more from a business point of view, and that is according to this Bill, something like 40 to 42 thousand rupees will have to be paid by the Tirupati temple. In the scheme of expenditure forecast by Mr. Chentsoal Rao, we find that the Board and its establishment will cost annually Rs. 92,000. As explained above, the contribution from the Tirupati temple

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Clause 71—cont.

is 40 to 42 thousand rupees, which means that the Tirupati temple alone has to contribute something like 50 per cent of the cost of the whole establishment—that is, the Board and its establishment which are to be constituted to control all the religious endowments and temples and maths of the whole Presidency, are to be maintained principally from the income of one temple. Now, I ask, Sir, is it fair to take so much as 50 per cent of the income of that temple for the benefit of the whole Presidency? In view of these facts, I trust that the House will agree to exclude this temple from the operation of this Bill."

The hon. the RAJA OF PANAGAL :—" Mr. President, Sir, the amendment of my hon. friend, Mr. Namburumal Chettiyar, goes to the very root of the question. The amendment is diametrically opposed to the policy of the Government. In fact, the idea underlying the Bill is to confer on boards power to interfere with schemes already framed. The fact that the scheme was framed by the Judicial Committee of the Privy Council does not make any difference. If once the principle that the Legislature can interfere with schemes already framed by Courts of Law is conceded, it does not matter by what court these schemes were framed. It is not only in this instance, but wherever a new legislation is passed that legislation can override the principles laid down by the Judicial Committee of the Privy Council. My hon. friend has referred to the case of Tirupati temple and stated that in its case the scheme framed is perfect, and that it is the result of a solemn adjudication. My only reply is that I do not believe in that statement. The scheme was framed in a case in which the respondent was not represented. We do not know what the scheme would have been if the other side had been represented at the final stage of the case. Sir, the question has been discussed at

11-45 a.m. great length in the Select Committee, which came to the conclusion that the schemes already framed should not escape the attention of the Board. Wherever any interference is found necessary power is given to the Board to either cancel the scheme or modify it to that extent to which the Board thinks it is necessary. An appeal to a civil court is provided against any interference by the Board with any existing scheme. In these circumstances, Sir, I cannot accept the amendment."

Rao Bahadur T. NAMBERUMAL CHETTIYAR :—" The hon. the Minister made two observations. One was that even though the Judicial Committee decision. On this point I am sorry I am not competent to say whether this local legislature can override the decision of the highest judicial authority in the Empire."

The hon. the RAJA OF PANAGAL :—" May I know, Sir, from my hon. friend whether the principle laid down in the well-known 10 Allahabad Council?"

Rao Bahadur T. NAMBERUMAL CHETTIYAR :—" Regarding the other point that was raised that this was an ex parte decree, allow me to say that in the course of their judgment the Judicial Committee of the Privy Council observe that the matter was fully discussed and that they had the benefit of Sir Robert Findlay's official experience."

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Clause 71—cont.

The hon. the RAJA OF PANAGAL :—" May I say that Sir Robert Findlay appeared for the appellant, that is the Mahant of Tirupati?"

Rao Bahadur T. NAMBERUMAL CHETTIYAR :—" It must also be noted that subsequent to the framing of the scheme."

The hon. the DEPUTY PRESIDENT :—" I do not know if all that is relevant."

Rao Bahadur T. NAMBERUMAL CHETTIYAR :—" The result of the case at the Madras High Court for modification of the scheme settled by the Privy Council, was that no modification was necessary as held by Justices Ayling and Sankara Nair, after six days' trial."

The amendment was put and lost.

Clause 71 was put and carried and added to the Bill.

Clause 72.

Sub-clause (1).

(Amendment No. 234.)

Rai Bahadur T. M. NARASIMHACHARLU :—" Sir, I beg to move—

For the word 'five' substitute the word 'ten'.

" My object is to enable the lease being granted by the trustee for a term not exceeding ten years instead of for five years as mentioned in the sub-clause. In some cases to get a good rent it will be necessary to give a lease for a term not exceeding ten years. If you limit the time to five years no man will come forward to take it up on a fair rent. But if you extend the term to ten years, he may give you a decent rent. The reason is he will have the property for ten years, so that if he gets nothing in a bad year he will be able to make it up in a good year. A period of ten years is allowed in several enactments and we have also noticed that this period is a very reasonable one. Besides, there is the further safeguard in sub-clause 2 which says :

The trustee of the math or temple or any person having interest may within such time as may be prescribed apply to the court for modifying or cancelling any order of a Board or committee sanctioning an exchange, sale, mortgage or lease under sub-section (1) and the order passed by the court on such application shall be final.

All that I say is, it is better to have an enabling provision which will meet the particular circumstance of a case and therefore I commend this amendment for the acceptance of the House."

The hon. the RAJA OF PANAGAL :—" Sir, I cannot accept the amendment. The period of five years has been arrived at after long consideration. In most cases the trustees appointed are elected trustees; and they do not continue to hold the appointment for more than five years. The subsequent trustee may think that the consideration is not adequate or that the lease itself is bad. In the case of maths, it is generally the elderly people that succeed and as such if we give a longer lease we shall be hampering the rights of the successor to the math. So it is with the trustees. In order that the hands of the successor may not be tied down, it was considered that a period of five years was quite sufficient. In these circumstances I do not think it will be wise to lengthen the period prescribed."

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Clause 72—cont.

Rai Bahadur T. M. NARASIMHACHARLU :—" I think otherwise, Sir."
The amendment was put and lost.

Sub-clause (2) and new sub-clause after it
(Amendment No. 235.)

Rai Bahadur N. GOPALASWAMI AYYANGAR :—" The amendments that stand in my name are as follows :—

(a) *Substitute the following for sub-clause (2) :—*

'The trustee of the math or temple or any person having interest may, within one year of the date of the order of the Board or Committee under sub-section (1), apply to the court for modifying or cancelling such order.'

(b) *Insert the following as sub-clause (3) :—*

'The order of the Board or Committee under sub-section (1) when no application is made under sub-section (2) and the order of the court when such application is made shall be final.'

"It has been suggested to us, Sir, in connexion with this clause that we have not made sufficient provision for protecting the interests of the transferee who obtains an exchange, sale or mortgage of trust property under the sanction of the Board or the Committee. It was desired that we should fix a definite period within which such a transfer can be set aside by a court. In that case he would have clear notice and would not be prejudiced as he would be by an indefinite provision like the one that we find in sub-clause 2. Sub-clause 2 is a little indefinite in the sense that the time can be prescribed by the local Government and the transferee does not know what time may be prescribed and when the application may be made for setting aside the transfer. In order to make the position of the trustee one which would not be vague and indefinite this amendment has been suggested."

The amendments were put and carried.

(Amendment No. 236.)

Mr. K. PRABHAKARAN TAMPAN :—" I should like to move the amendment of Diwan Bahadur M. Krishnan Nayar, with the permission of the House."

The permission of the House having been granted, Mr. PRABHAKARAN TAMPAN moved :—

"Add the following as sub-clause (4) :—

'(4) Nothing in this section shall apply to renewals of kanam and other tenures in the district of Malabar which are for terms exceeding five years and liable to be renewed.'

"Sir, I am very much obliged to you and the House for having permitted me to move this amendment. It refers to the kanam and other tenures of Malabar. The law and the custom allow them. By their nature these tenures are renewable after 12 years. There are two or three kinds of tenures like that. Most of the land in Malabar is leased on a basis which endures for 12 years and is subject to renewal after this period. It is in the interests of the Uralans of temples and the thousands of tenants under them that I move this amendment. I hope it will be accepted."

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Clause 72—cont.

The hon. the RAJA OF PANAGAL :—" Well, Sir, that is a matter which I am not prepared to decide at a moment's notice. If a question of that sort arises and if an amendment is found necessary, such an amendment may be brought forward later on."

The amendment was put and lost.

Clause 72 as amended was put and carried and added to the Bill.

Clause 73.

12 noon. Clause 73 was put and passed and added to the Bill.

Clause 74.

Clause 74 was put and passed and added to the Bill.

Clause 75.

(Amendment No. 237.)

Rai Bahadur T. M. NARASIMHACHARLU :—" Mr. President, Sir, I beg to move—

Between the words 'usage of a' and 'temple' insert the words 'math or'."

The hon. the RAJA OF PANAGAL :—" I accept the amendment."

The amendment was put and carried.

(Amendment No. 238.)

Rai Bahadur T. M. NARASIMHACHARLU :—" Sir, I move—

Between the words 'such' and 'temple' insert the words 'math or'."

The hon. the RAJA OF PANAGAL :—" I accept the amendment."

The amendment was put and carried.

Clause 75 as amended was put and passed and added to the Bill.

New clause after clause 75.

(Amendment No. 239.)

Diwan Bahadur T. N. SIVAGNANAM PILLAI :—" Sir, I beg to move—

Add the following after clause 75 :—

'If any dispute arises in connexion with a temple regarding any usage or any right to receive honours, emoluments or perquisites or to perform any service in such temples the Board may and on the application of the trustee or of any of the parties to the dispute shall take cognizance of such dispute.'

(2) The Board shall then serve a notice on the parties concerned that unless an application is made to it within such time not being less than one month as may be fixed in such notice the Board will proceed to hold an inquiry and give a decision.

[Mr. T. N. Sivagnanam Pillai]

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New clause after clause 75—cont.

- (3) The trustee of the temple or any person interested in the matter in dispute may within the time prescribed in the notice issued under sub-section 2, apply to the Board to refer the dispute to Commissioners specially appointed for the purpose.
- (4) The number of Commissioners shall be such as the Board may deem necessary.
- (5) If the parties agree, the persons nominated by them shall be appointed Commissioners. If they do not agree as to the nominations, the Board shall appoint such persons as Commissioners as it thinks fit.
- (6) The Commissioners shall submit their decision within such time as the Board may fix and the Board shall pass such a decision in terms of the award and such decision shall be final.

"Sir, the object of this amendment is to remove a difficulty that frequently arises in the present working of our *maths* and temples. I can give a concrete instance. The Jeerswami of a certain *matam* went to a certain temple and there instead of receiving the customary honours was denied that privilege. Then there was a criminal case. It went up to the District Magistrate and he referred the parties to the civil court. When they went to the civil courts, it was decided that the right of tying *parivattam* was a right to which no emoluments were attached and therefore the civil courts refused to interfere. The matter went up to the High Court also and there also the same objection was taken. A decree was given with regard to some other matters but not to the tying up of *parivattam*. To meet such cases and to provide a speedy remedy for them, I suggest this addition to the Bill."

Rai Bahadur N. GOPALASWAMI AYYANGAR :—"Mr. President, Sir, there is no doubt that this amendment moved by my hon. friend, Mr. Sivagnanam Pillai, seeks to provide for a contingency which very often arises in connexion with temples. A good deal of litigation connected with the temples is over questions of the sort which are referred to in this amendment. The matter was discussed in the Select Committee, but they were unable to arrive at any unanimous or satisfactory decision. Now that my hon. friend, Mr. Sivagnanam Pillai, has brought forward this amendment, the Government would rather leave the decision on a question of this great importance to the House."

Rao Bahadur A. S. KRISHNA RAO PANTULU :—"Sir, I learn that the Government have decided to leave this matter to the decision of the House. My hon. friend, Mr. Gopalaswami Ayyangar, told us that this matter was discussed in the Select Committee and that it was found difficult to come to a unanimous decision. I only request this House to consider whether in the matter of providing a machinery like the one suggested in the amendment, we shall be justified in coming to a decision at once, when we have not sufficient time even to consider this amendment. The Select Committee sat from day to day for several days and examined a number of witnesses. It found it difficult to come to a decision with regard to this important question, and now even when the prescribed notice of the amendment is not given to us, we are asked to accept to the creation of a special machinery to dispose of

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[Mr. A. S. Krishna Rao Pantulu]

New clause after clause 75—cont.

questions regarding usages or rights to receive honours, emoluments, perquisites and so on. I think we shall not be doing our duty properly if we allow this amendment to go forward, especially in the light of the information given by the hon. Member, Mr. Gopalaswami Ayyangar, that this matter was considered by the Select Committee who did not come to any satisfactory conclusion.

"Another feature of this amendment is that we are giving powers to the Board to bring into existence another set of commissioners. The House is aware of the objections urged against the Board itself. We thought, and even now some of us think, that it is a machinery which probably will introduce complications which we cannot now foresee. This being so, we are now asked to give our assent to the creation of another set of commissioners for the purpose of deciding certain special questions. By doing so, I think we shall be creating more complications. I therefore think it is my duty to oppose this amendment."

Mr. C. V. VENKATARAMANA AYYANGAR :—"Sir, I have very great pleasure in supporting the amendment. My hon. friend, Mr. Krishna Rao, has not given any reason why we should not accept this amendment beyond complaining of want of time. The matter was considered by the Select Committee as stated on behalf of the Government, and probably it did not find it necessary to bring forward this matter. Mr. Sivagnanam Pillai, living in a district in which such disputes occur very often, has very rightly said that this amendment is necessary. Notice of this amendment was given on the 31st March. I do not know whether all of us are going through these amendments very carefully because, knowing beforehand the fate of most of them, most of us do not care to study them. Surely, if my hon. friend, Mr. Krishna Rao, wanted to go over these things, he would have been able to come to a decision. We know that in most of the Sri Vaishnava temples, difficulties of this sort often arise. The difficulty is not only of *dossas* or *vadais*, but even about the first *theertham*. In certain Saivite temples the question of *vibhuthi* also often crops up. So far as Vishnu temples are concerned, they give rise to many litigations which even take us to the Privy Council. Often the question to be decided will be whether a certain dispute is cognizable by the civil court or not. When several lakhs of rupees are spent and the matter goes up to the Privy Council, they say 'it is not a matter cognizable by the civil court'. Thus so much money is wasted. I therefore support the amendment."

Rao Bahadur A. S. KRISHNA RAO PANTULU :—"Sir, I wish to say that I oppose the amendment not only on the ground of want of time but also on its merits. I only pointed out the special circumstances under which it was brought forward."

Rai Bahadur T. M. NARASIMHACHARLU :—"Sir, we did not think much about this amendment, because we knew the fate of several amendments. We thought that this might be one more failure. However, there is one difficulty about this amendment. I am in entire agreement with the views put forward by the hon. mover so far as such contentions as he referred to are concerned. But the method that is adopted here is somewhat open to question. Commissioners under our Board of Commissioners are sought to be appointed here. I do not know why they are called commissioners instead of arbitrators. My point is: what is the procedure that will be followed by these

[Mr. T. M. Narasimhacharlu]

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New clause after clause 75—cont.

commissioners—whether they will hold judicial inquiry, whether they will have power to take evidence and so on? Some say that arbitration means a decision arrived at arbitrarily. Are these commissioners to be judges, and are they to give their decision? There is a separate chapter in the Civil Procedure Code dealing with arbitration. Are these commissioners to arrive at decisions arbitrarily as they like? When we make a provision, it must be as perfect as possible. That is the only difficulty that I have in accepting this amendment. If only these commissioners are to be appointed with power to hold judicial inquiry, I submit the amendment may be accepted."

Rao Bahadur V. APPASWAMI VANDAYAR:—"Mr. President, Sir, I rise to support this amendment. A similar case has occurred recently in Mannargudi, that is, about the tying of *parivattam*. The Ekadasi festival was stopped and the Brahmotechavam was about to be stopped, though it is now going on. I think it is better to have a provision like this."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU:—"Sir, it looks as if hon. Members are vying with each other to insert in this Bill provisions for solving all imaginary difficulties, all difficulties that have arisen hitherto and all difficulties that will arise in future. Looking at the provisions of this clause, which my hon. friend, Mr. Sivagnanam Pillai, has given notice of, I think that this is one of those clauses which must be characterized as leading to more difficulties than those which they were intended to solve. First of all, no procedure is prescribed as to how the commissioners are to act. Are they to take evidence? Are they to record their decision, or are they to be mere parties? Are they to do all these things as if it were a judicial trial? The number of commissioners is left entirely to the sweet will of the Board. It will really be a kind of subsidiary Board created for the purpose of deciding this matter. The number is left to the Board, and the persons nominated by them are to be appointed as commissioners; but if the parties do not agree, the Board will appoint such persons as commissioners as it thinks fit. The whole thing is left entirely to the Board; and the Board is to pass another decision in accordance with the decision of the commissioners. It seems to me, Sir, that it is far better to leave this matter to be settled in the ordinary way, and if after some experience we find that these things cannot be solved by the new machinery to be set up, it will be time enough then to undertake an amending legislation."

Diwan Bahadur T. N. SIVAGNAM PILLAI:—"I am sorry the proper aspect of the question has not been placed before the House. It is not my intention nor the intention of any person to oust the jurisdiction of civil courts. We see that the civil court has expressed its inability to decide such disputes on the ground that no emoluments have been attached to the *parivattam*. It is as a remedy to this defect that this amendment has been brought forward. I think the first clause may be amended slightly so as to make the matter plain. I will read it as amended:

If any dispute arises in connexion with a temple regarding any right to receive honours not enforceable in a civil court, the Board may and, on the application of the trustee or of any of the parties to the dispute, shall take cognizance of such dispute.

The other clauses remain as they are, except clause (6) where for the words—

shall pass such a decision in terms of the award

I wish to substitute the words—
shall pass their decision thereon.

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[Mr. T. N. Sivagnanam Pillai]

New clause after clause 75—cont.

So, I think, the clauses as subsequently amended will meet all the difficulties that have been pointed out in connexion with the working of commissioners under commissioners."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU:—"May I point out, Sir, that these matters are not matters of a civil nature and in deciding them considerable difficulty will be felt by the commissioners that may be appointed by other commissioners."

The hon. the Deputy President read to the House the amendment as amended.

Rao Bahadur C. V. S. NARASEMHA RAJU:—"May I rise to a point of order? The hon. Mr. Sivagnanam Pillai has moved one amendment and now you, Sir, read another amendment. I do not know if any other gentleman has got any other amendment. The point of order is whether even the President has got the right to read an amendment which has not been formally moved."

The hon. the DEPUTY PRESIDENT:—"Mr. Sivagnanam Pillai has moved it, and subsequently he said, perhaps at the suggestion of the hon. the Law Member, that he would make these alterations. So, I am reading the amended amendment as moved by him again. There is nothing irregular in it. The House is fully aware of the amended amendment which was read out, and I am reading it for the final decision of the House. If you have any comments to make on that, you can make them."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU:—"Sir, I should like to point out to the House that it is now quite clear that the right to receive honours referred to in clause (1) is according to the hon. mover a right not enforceable in a civil court. According to the amended draft, it is quite clear that we should be getting into a serious difficulty. It might refer to religious usages and practices which it is not obviously the object of this Bill to control or alter. Therefore, on that ground, I would suggest that this question should not be subjected to legislation in this House. I thought, Sir, that the Bill was intended to control the secular affairs of religious institutions, and now we are getting into deep water by this amendment providing for the constitution of a Board of Commissioners for the purpose of deciding matters such as those relating to emoluments and honours not enforceable in a civil court. I should therefore think that it is certainly going beyond the objects of this legislation, and on that one ground alone I would suggest to my hon. friend not to press it. I can only point out that it is certainly going beyond the attempted scope of this legislation."

Diwan Bahadur Sir T. DESIKA ACHARIYAR:—"Sir, as far as I can conceive it, the amendments suggested by the hon. Mr. Sivagnanam Pillai do not appear to be amendments which can be accepted by this House. There is the Board of Commissioners; there is the committee; there are trustees; and there are persons who are entitled according to the powers vested in them by this Bill to decide all questions which arise from time to time. There is the Board of Commissioners constituted under a particular chapter in this Bill, and they have their powers and duties defined. They are also vested with powers of hearing appeals and settling matters finally. They have also under one of the clauses powers of general supervision and control and

[Sir T. Desika Achariyar]

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New clause after clause 75—cont.

under clause 15 they have powers to make by-laws. So, my hon. friend will leave things alone without insisting on special provisions for the appointment of commissioners, for the holding of enquiries and for the settlement of disputes relating to honours and usages. The amendment would create endless troubles, and these are not legitimate matters for detailed legislation in a Bill like this."

The motion as amended was put and lost.

12-30 p.m. A poll was demanded and the House divided thus:—

Ayes.

1. Diwan Bahadur T. Sivagnanam Pillai.
2. Mr. A. Ramaswami Mudaliyar.
3. Rao Bahadur V. Appaswami Vaidayar.
4. " T. Balaji Rao Nayudu.

5. Mr. S. Somasundaram Pillai.
6. " A. Tangavelu Nayagar.
7. " C. V. Venkataramana Ayyangar.
8. Rao Bahadur T. Namburumal Chettiyar.

Noes.

1. Rao Sahib T. C. Tangavelu Pillai.
2. Rao Bahadur T. A. Ramalinga Chettiyar.
3. Mr. W. Vijayaraghava Mudaliyar.
4. " J. Kuppuswami.
5. " B. Muniswami Nayudu.
6. " M. Narayanaswami Reddi.
7. Rao Bahadur C. Natesa Mudaliyar.
8. Mr. V. P. Pakkiriswami Pillai.
9. " P. T. Rajan.
10. " W. P. A. Sannadarapandiya Nadar.
11. " R. K. Channukham Chettiyar.
12. " K. Sitarama Reddi.

13. Mr. T. Somasundara Mudaliyar.
14. Dr. P. Subbarayan.
15. Rao Bahadur C. Venkataranga Reddi.
16. Diwan Bahadur M. Ramachandra Rao Pantulu.
17. Rao Bahadur A. S. Krishna Rao Pantulu.
18. " C. V. S. Narasimha Raju.
19. Mr. S. Nattumanikkachari.
20. Rai Bahadur T. M. Narasimbachari.
21. Diwan Bahadur Sir T. Desika Achariyar.
22. Mr. R. Srinivasa Ayyangar.
23. " T. Sivasankaram Pillai.

Eight voted for and 23 against. The amendment was lost.

Clause 76.

Clause 76 was put and passed and added to the Bill.

Clause 77.

(Amendment No. 240.)

Rai Bahadur T. M. NARASIMBACHARLU:—"Sir, I beg to move to—
Omit this clause and re-number the subsequent clauses.

" Clause 77 reads—

(1) Notwithstanding anything contained in the first or second schedule to the Madras Court Fees Amendment Act, 1922, the proper fees for the documents described in columns 1 and 2 of Schedule II shall be the fees indicated in column 3 thereof.

(2) The provisions of the Madras Court Fees Amendment Act, 1922, shall otherwise, so far as may be, apply to the documents mentioned in Schedule II.

"I submit, Sir, that this clause is quite unnecessary, and it lays a burden on the people who have some religious disputes to settle. In the original Bill which was introduced in this House, there was no such provision. In the Select Committee this was introduced and no cogent or satisfactory reasons

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[Mr. T. M. Narasimbacharlu]

Clause 77—cont.

are assigned for introducing this provision. It will be seen from the previous provisions that all temples have to give 3 per cent and all excepted temples and maths have to contribute $1\frac{1}{2}$ per cent for the maintenance of the commissioners and other officers and servants created under this Act. The object of the Government by this measure is to minimize litigation. No doubt it is a good and legitimate object. But if this is the object, I cannot see why this section is introduced for the benefit of the Government to levy special court fees. We have very recently raised the court fees under the Act we passed last year, and I fail to see why in this Act we should try to get some more profit for the Government. What is the Government to do in this case? The commissioners are maintained out of the funds which are collected from the maths and temples. The commissioners and the officers are maintained out of the funds, and, as it was pointed out by my hon. friend, Mr. Namburumal Chettiyar, from one temple, the Tirupati temple alone, they will get Rs. 42,000 a year and there are many other temples in this Presidency which will be obliged to contribute. Why should we at all benefit the Government, I ask? What do the Government do in return? The commissioners decide everything; the powers of the court have been taken away mostly, and I ask with what object are we, the maths and temples, to contribute this extraordinarily heavy amount which is mentioned in the schedule. Under Schedule II, appeal to the Board or application to court against an order of suspension, dismissal or removal by the committee of a trustee must be accompanied by a fee of Rs. 10. Have we ever seen an application paying such a heavy sum as Rs. 10? Then, an application to court by a trustee of any person having interest to modify or correct a scheme settled by a Board should pay a fee of Rs. 50, while appeal by any office-holder or servant against an order of punishment by a trustee should pay Rs. 2. When a man who is aggrieved by any order of suspension wants to appeal—the right of appeal is his birthright—he has to pay Rs. 2. Again, Sir, the fee leviable on applications to court by the trustee to recover the amount from the person in possession who has failed to perform the charity or service, etc., is the *ad valorem* fee which will be enormous. It will be observed, Sir, that in no case the fee is below Rs. 2. I ask, Sir, what does the Government give in return? Does the Government contribute a pie towards the cost of maintaining the commissioners and the host of officers? I want to know for what reasons we should benefit the Government. The commissioners appoint, dismiss or otherwise deal with the trustees and for that they are paid out of the temple funds. I submit that this is a heart-rending provision which has been introduced by the Select Committee, and they deserve none of our thanks for it. I move therefore for the deletion of this clause."

Mr. M. SURYANARAYANA:—"I have given notice of a similar amendment, Sir. In addition to what has been submitted by my hon. friend, Mr. Narasimbacharlu, in favour of the deletion of the clause and of Schedule II attached to the Bill, I submit that the whole schedule resolves itself into two portions: that which relates to appeal to the Board or to the committees, and that which relates to application or suit before a court of justice. In regard to the first class, I cannot understand why there should be any court fee at all. It has been submitted by Mr. Narasimbacharlu already that from one temple alone, the Tirupati temple, you will get a sum of Rs. 42,000, and it has

[Mr. M. Suryanarayana]

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Clause 77—cont.

been worked out in 1876 or 1877 that the expenditure for the Board of Commissioners will be something like Rs. 50,000. Therefore all the expenditure that the temples will have to meet is that for the salaries of the members of the Board and their establishment and that will be almost met from the contributions received from one temple alone, and there are hundreds of other temples and maths over which also the levy of 3 or $1\frac{1}{2}$ per cent is imposed."

The hon. the RAJA OF PANAGAL :—" May I know how the hon. Member from Vizagapatam arrives at the conclusion that the expenditure of the Board and its establishment might be met from the contributions of one math or from one temple alone ? "

Mr. M. SURYANARAYANA :—" It has been mentioned that what we will realize from the Tirupati temple alone will amount to Rs. 42,000."

The hon. the RAJA OF PANAGAL :—" Is the amount of Rs. 42,000 payable to the Board or partly to the Board and partly to the various committees ? "

Mr. M. SURYANARAYANA :—" The Boards and committees will no doubt have to share the amount. But the committees are not paid."

The hon. the RAJA OF PANAGAL :—" But the estimate of the expenditure of the Board was given at Rs. 50,000 and if Rs. 21,000 out of Rs. 42,000 goes to the Board, where is the rest of the amount to come from ? "

Mr. M. SURYANARAYANA :—" What I would say is that in addition to the Tirupati temple we have many other temples, rich pagodas and maths, which also have to contribute."

The hon. the RAJA OF PANAGAL :—" I think I heard the hon. Member to say that the income from one temple alone will be sufficient to meet the expenditure on account of the maintenance of the Board."

Mr. M. SURYANARAYANA :—" I said that from one temple alone a sum of Rs. 42,000 would be got and as estimated some years ago the probable expenditure of the Board would be Rs. 50,000. If that is so, almost all the amount required may be realized from the income from one temple."

The hon. the RAJA OF PANAGAL :—" I have pointed out, Sir, that the amount of Rs. 42,000 does not go entirely to the Board."

Mr. M. SURYANARAYANA :—" I know it is so. When so much money is got by way of contributions, I cannot understand why there should be any court fee fixed in respect of any application to the Board. I can quite understand if the Bill had stated that a certain amount of money should go in cash to the Board or to the committee for the purpose of defraying the ordinary expenditure like the sending of notices to the parties concerned, the publication of notices in the gazette, the beat of tom-tom and other initial expenditure that has to be incurred. It is quite possible that the Chief Minister may consider that all these ought not to be given out of the temple funds but should be paid by the parties. If that is so, why not provision be made for payment in cash ? "

" The next point that I would mention is the court fees in so far as applications to the courts of justice are concerned. Take, for instance, the court fees prescribed under clause 51 (2). The fee leviable on applications to court by a trustee or any person having interest to modify or correct a scheme settled by a Board, is Rs. 50. Under the Bill as it is, maths

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Clause 77—cont.

whose gross value is Rs. 500 come under the management of the Board. Supposing in respect of a math or a temple whose gross value is Rs. 600 a scheme is prepared and the party wants to get it modified, is it just to say in such a case that he should pay Rs. 50 ? Then take the case of a suit under clause 69, suit by a committee having jurisdiction over a math or a temple for the purpose of appointing or removing a trustee or vesting any property in a trustee. In respect of this suit also a fee of Rs. 50 is laid down. Supposing there is a temple whose gross annual income is Rs. 500, is it right to ask the payment of Rs. 50 by way of court fees ? It seems to me to be inequitable, and therefore I submit the whole provision with regard to the court fees ought to be deleted. If, for instance, under the Court Fees Act itself we do not find sufficient provisions in respect of applications such as are contemplated by the Bill, and in case a Bill to amend the Court Fees Act is brought forward, the attention of the House will be specially directed to that particular matter, and we can say whether a particular court fee that is fixed in respect of a particular application is legitimate or not and whether it will or will not fall heavily upon the people."

Mr. C. V. VENKATARAMANA AYYANGAR :—" I wish to say only one word, Sir, as to why the Chief Minister should be anxious to fill the coffers of the Government. I have always been saying, with due deference to the Ministers, that they seem to be a little weak as against the Executive Councillors. Of the Ministers, two have got liberally from the Government, one for the University and the other for the promotion of industrial companies, etc. I do not see why the Chief Minister, without getting any money from the Government for the administration of the endowments—the Government are paying money for the Christian churches—wants to pay the Government by way of increased court fees."

The hon. the RAJA OF PANAGAL :—" Sir, my hon. friend from Coimbatore has, I am afraid, ill-judged the Minister. The Minister is not without hopes of getting some contribution from the Government. He is on the move for that end."

Mr. C. V. VENKATARAMANA AYYANGAR :—" Then I will well-judge him, Sir. If I ill-judged him in his past action, in his future action, as suggested, I shall well-judge him."

The hon. the RAJA OF PANAGAL :—" As to the question raised by my hon. friends from Vizagapatam and Cuddapah, they seem to forget that the object of levying stamp duty is two-fold, one to obtain revenue, and the other to place a check upon reckless litigation. Secondly, they seem to forget that the Government have after all, to devote some of their valuable time in looking after the constitution of the Board and the committees, and also deciding several questions which will go before them. So, their time is spent and, as such, a proportion of this amount goes to the Government, and there is nothing iniquitous about it. Thirdly, my friend has calculated on the basis of $1\frac{1}{2}$ per cent being levied in every case. One and a half per cent is the maximum, and it does not mean that in every case $1\frac{1}{2}$ per cent would be levied. If we get the contribution I have referred to, I am not without hopes that the amount leviable from the endowments can be reduced. In these circumstances, I do not think any good purpose will be served by accepting my hon. friend's amendment."

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Clause 77—cont.

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—" Sir, will you allow me to say a word on this subject? I have also given notice of a similar amendment, and I want to speak on this amendment, as I cannot make another speech again."

The hon. the DEPUTY PRESIDENT :—" First the hon. mover will reply, and then it may be considered."

Rai Bahadur T. M. NARASIMHACHARLU :—" Sir, I am not at all hopeful of the Government giving any money by way of contribution; and even if the Government give any such contribution, I would certainly advise the temples and maths not to accept it. That means that the Government will put its finger in every little thing and will say 'We give the money and therefore we shall have control.' That is why I say that we neither want their money nor their control. That is my attitude. And then, where is any guarantee for such contribution? There is no such provision here in this Bill to the effect that the Government must or will contribute anything. I think these are all pious wishes and pious hopes which may make our mouths water but will never yield any substantial fruit. Again, Sir, the hon. the Minister has asked, 'Does not the Government spend sometime over these matters? Why should they do it gratis?' I never thought that in these matters the Government were doing the work with hopes of getting some consideration in return for the time they took over it. It is the duty of the Government. If the Government think that it is their duty to protect these temples from malversation and mismanagement, and if on account of that duty which is imposed upon them they step in and enact this legislation, I submit I cannot understand how it can be said that the Government do it with the hope of getting some return for the labour and time that they bestow upon it. Thirdly, I submit, the whole object of the Bill is to minimize the trouble of the court and to vest all the duties in the Board and the committees, which duties they perform and are paid for by means of the contributions from the temples and maths. In such a case, I fail to see why the Government should get anything at all. I am not at all convinced that the hon. the Minister has taken a wise step in putting in this clause."

Mr. T. SIVASANKARAM PILLAI :—" Sir, may I rise to a point of order? There is another amendment, amendment No. 642, which goes with the present one."

The hon. the DEPUTY PRESIDENT :—" We are at present discussing amendment No. 635, and when that other amendment is reached, the matter may be considered."

The motion was then put to the House and declared lost.

Diwan Bahadur M. Ramachandra Rao Pantulu demanded a poll, which was taken with the following result :—

Ayes.

- | | |
|--|---------------------------------------|
| 1. Mr. A. Tangavelu Nayagar. | 6. Mr. M. Suryanarayana. |
| 2. " V. C. Vellingiri Gounder. | 7. Rai Bahadur T. M. Narasimhacharlu. |
| 3. Diwan Bahadur M. Ramachandra Rao Pantulu. | 8. Mr. R. Srinivasa Ayyangar. |
| 4. Rao Bahadur A. S. Krishna Rao Pantulu. | 9. " A. Ranganatha Mudaliyar. |
| 5. Mr. C. V. Venkataramana Ayyangar. | 10. " T. Sivasankaram Pillai. |

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Clause 77—cont.

Noes.

- | | |
|---|---|
| 1. The hon. Khan Bahadur Sir Muhammad Habib-ul-lah Sahib Bahadur. | 18. Mr. J. Kuppuswami. |
| 2. " the Raja of Panagal. | 19. " B. Nunniswami Nayudu. |
| 3. " Rai Bahadur K. Venkatarreddi Nayudu. | 20. " M. Narayanaswami Reddi. |
| 4. " Rao Bahadur A. P. Patro. | 21. Rao Bahadur C. Natesa Mudaliyar. |
| 5. " Mr. C. P. Ramaswami Ayyar. | 22. Mr. V. P. Pakkiriswami Pillai. |
| 6. Mr. E. S. Lloyd. | 23. " K. Sarabha Reddi. |
| 7. " A. Y. G. Campbell. | 24. " W. P. A. Saundarapandiya Nadar. |
| 8. Rai Bahadur N. Gopalaswami Ayyangar. | 25. " K. K. Shanmukham Chettiyar. |
| 9. Mr. C. Madhavan Nayar. | 26. " K. Sitarama Reddi. |
| 10. Diwan Bahadur T. N. Sivagnanam Pillai. | 27. " T. Somasundaram Mudaliyar. |
| 11. Mr. E. Periyasayagam. | 28. " S. Somasundaram Pillai. |
| 12. Rao Sahib T. C. Tangavelu Pillai. | 29. " S. Muttumanikkachari. |
| 13. Mr. A. Ramaswami Mudaliyar. | 30. Muhammad Abdur-Kahim Khan Sahib Bahadur. |
| 14. Rao Bahadur P. C. Ethirajulu Nayudu. | 31. Khan Bahadur Muhammad Sadulla Badahe Sahib Bahadur. |
| 15. Sir P. Tyagaraya Chettiyar. | 32. Muhammad Usman Sahib Bahadur. |
| 16. Rao Bahadur T. Balaji Rao Nayudu. | 33. Rao Sahib M. C. Madurai Pillai. |
| 17. Mr. W. Vijayaraghava Mudaliyar. | 34. Rao Sahib P. Venkatarangayya. |

Ten voted for the motion and 34 against; the motion was lost.
Clause 77 was then put to the House, passed and added to the Bill.

Clause 78.

Clause 78 was put to the House, passed and added to the Bill.

New clause after clause 78.

(Amendment No. 241.)

The hon. the RAJA OF PANAGAL :—" Before the House proceeds to consider the next clause, I beg to move, with your permission Sir, the following amendment :—

(a) Insert the following as clause 79 :—

'79 (1) If any dispute arises as to whether a math or temple is one to which this Act applies or as to whether a temple is an excepted temple, such dispute shall be decided by the Board.

(2) A trustee affected by a decision under sub-section (1) may within one year apply to the court to modify or set aside such decision, but, subject to the result of such application, the order of the Board shall be final.'

(b) Re-number the existing clause 79 as 80.

" Sir, there may be any number of cases where disputes of the sort referred to in this amendment may arise. In such cases there must be some authority to decide the disputes. We have in the first instance invested the Board with the power of deciding the disputes, but if in any case the party affected is not satisfied with the decision of the Board, it would be open to such party, within the prescribed time, to appeal to a court of law."

The new clause after clause 78 was put, passed and added to the Bill.

Clause 79.

Clause 79 was then put to the House, passed and added to the Bill.

[3rd April 1923]

New clause after clause 79.

(Amendment No. 242.)

1 p.m. Rai Bahadur T. M. NARASIMHACHARLU :—" Sir, I beg to move—

Add the following as clause 80 :—

' 80. Nothing in this Act contained shall prevent any person interested in a religious endowment who feels aggrieved by any act done or order passed by the Presidents and Commissioners of the Board or any of them, or by the President, Vice-President and members of the committee or any or some of them, or by the trustee of a religious endowment, in respect of that endowment for which act or order no appeal or other remedy is provided in this Act, from applying to the court for redress, and the court shall, on such application being made, have full power to grant such redress as the justice and the circumstances of the case may require. The order of the court in such a case shall be final.'

" Sir, it will be seen that the Board of Commissioners, the Committees and the Trustees have got a number of functions to perform and duties to discharge in the course of the administration of the several temples and maths entrusted to their charge. The Board of Commissioners have got ample powers of superintendence under clause 14. They can ask any math or temple to give accounts they can make any order as regards the budget and they can enter into details of expenditure connected with them. No doubt, in certain cases the Bill provides hundreds of administrative orders and acts which are generally done and ought to be done by the commissioners, the committee or the trustee which will interfere with the rights and privileges of certain persons interested in a temple or math. My point is this: when we are giving so much power to these bodies, is it not proper that they should not be left to do things arbitrarily? If any person feels aggrieved by any act or order passed by them, he should have some remedy, and such a remedy ought to be provided in the Bill itself. The remedy that I suggest is an application to the court. To co-operate with the Government I say that there shall be no appeal against the order of the court. I minimize litigation by making the order of the court final. I wish to submit to the House that a similar provision is found in the Insolvency Act enabling a person aggrieved to apply to the court for getting redress against the acts or orders of the Official Receiver in the mufassal. No appeals are provided against the acts or orders of the Official Receiver, but a special provision exists and that is that for any act done or any order passed by the Official Receiver an application shall lie to the court for redress. This is my precedent for suggesting a similar provision in this Bill. The hon. Minister himself said that this was an experiment, and my submission is that in this experiment let us not leave everything to chance. My submission is that my amendment is not going against the current or the policy of the Bill. I move this amendment simply to smoothen the working of the Bill, and I wish that no man should feel that his right has been unnecessarily curtailed without any remedy whatsoever "

[3rd April 1923]

New clause after clause 79—cont.

The hon. the RAJA OF PANAGAL :—" Sir, I am afraid the acceptance of my hon. friend's amendment will frustrate the very object of this Bill. As I have already stated one of the chief objects of the Bill is to minimize litigation in the ordinary courts. The question as to in what cases an appeal should be provided to the courts has been discussed at length in the Select Committee and they have arrived at certain conclusions which have been given effect to in the several clauses. If we accept this amendment, it would mean that we should have to provide for an appeal to the court against each and every act of the Board of Commissioners or the Committees or the Trustees. In these circumstances it will be very unwise on the part of the Government to accept this amendment."

Diwan Bahadur Sir P. TYAGARAYA CHETTIYAR :—" Sir, I am very glad to see that my hon. friend, Mr. Narasimbacharlu, has been telling us that he wants to minimize litigation. At the same time he wants that a provision should be made enabling a person aggrieved to apply to the court against any act done or order passed by the Board of Commissioners, or the Committee or the Trustee. If we make a provision as contemplated in the amendment, I am afraid that all the good that is intended to be achieved by this Bill will be completely frustrated. The main object of this Bill is to see that litigation is minimized and that the charity funds are utilized for proper purposes. But if this amendment is accepted the entire object of the Bill will be frustrated and there will be no end to litigation. For these reasons I beg to oppose the amendment."

Rai Bahadur T. M. NARASIMHACHARLU :—" The old theme of minimizing litigation has been brought up again as an excuse for not accepting my amendment. The hon. Minister is very fond of minimizing litigation, but I am very anxious to preserve the rights and privileges of parties who feel that they are aggrieved. So, if any compromise is arrived at between these two, that is, if too much litigation is avoided without at the same time sacrificing the rights and privileges of parties, I shall be very glad to consent to it. I submit that the parties whose rights are curtailed should be enabled to apply to the court to get their wrongs redressed. As it is, we have provided for appeals only in very few cases, cases of punishments and so on. In their every day transaction, the Board of Commissioners, the Committee or the Trustee will do hundreds of acts, and if no check is provided in the Bill, they will be tempted to exercise their power arbitrarily and also partially. Therefore I say that this check should be provided in the Bill. My hon. friend, the Minister for Local Self-Government, says that by incorporating this provision in the Bill litigation will increase. I have already given a precedent for enacting such a provision in the Insolvency Act, the Imperial Legislature has introduced a similar provision and I wish to ask the hon. Minister whether litigation has increased thereby. The Official Receivers manage large estates—though estates of insolvents, they are sometimes very big—and any person who feels aggrieved by the acts done or orders passed by the Official Receivers may apply to the court for redress. I wish to know whether that provision has been abused by the public. Has not that section on the other hand provided a safeguard against the Official Receiver arbitrarily exercising his powers? Let the Government make inquiries about that section in the Insolvency Act and

[Mr. T. M. Narasimhacharlu]

[3rd April 1923]

New clause after clause 79—cont.

find out whether it has been abused or whether it has on the other hand proved beneficial to the parties concerned. That provision has undoubtedly proved to be very beneficial and I therefore submit that a similar provision should find place in the present Bill also. In the absence of any such provision the Board of Commissioners, the Committee and the Trustee, in whom are vested very wide powers, are apt to exercise them most arbitrarily."

The hon. the RAJA OF PANAGAL :—" I am glad that my hon. friend, Mr. Narasimhacharlu, has conceded that too much litigation should be avoided, but his theory of avoidance of too much litigation is altogether inconsistent with the amendment that he proposes. My hon. friend says that anybody who feels aggrieved by the acts done or orders passed by the Board of Commissioners, or the Committee, or the Trustee should apply to the court to have his wrong redressed. I submit, Sir, that in all human affairs anything done by one man will directly or indirectly have something to do with others. In such a case they may feel aggrieved and they will according to this amendment have the opportunity of going to courts. That, Sir, is not quite consistent with the principle of avoiding too much litigation. I submit, Sir, that it will afford ample opportunity for litigation."

The amendment was put and lost.

SCHEDULE I.

Part I.

(Amendment No. 243.)

Diwan Bahadur T. N. SIVAGNANAM PILLAI :—" Sir, I beg to move—
Add the following as item (h) :—

'(h) is trustee of an endowment for a service or kattalai of an annual value of fifty rupees either founded by him or by the ancestors of his family.'

"The qualifications of electors are already given in the Bill and I submit, Sir, that it would be better if what I propose is added to the list."

The hon. the RAJA OF PANAGAL :—" It will indeed be very difficult to find out who is a kattalaidar and who is not. If we accept this amendment, it will land us in great difficulties. Under these circumstances, I cannot accept the amendment."

Diwan Bahadur T. N. SIVAGNANAM PILLAI :—" I can assure the hon. Minister, Sir, that it is quite possible to find out who is a kattalaidar and who is not."

The amendment was put and lost.

(Amendment No. 244.)

2-15 p.m. Mr. R. SRINIVASA AYYANGAR :—" Mr. President, the amendment standing in my name reads as follows :—
Add at the end of item (g) the word 'or' and insert the following as item (h) :—

'(h) is a graduate of any Indian University or a person getting a salary or a pension of not less than Rs. 30 per mensem'.

3rd April 1923]

[Mr. R. Srinivasa Ayyangar]

Schedule I—cont.

" Sir, Part I of Schedule I sets out a list of persons entitled or qualified to be registered as electors. I am anxious to extend that list in order to bring within its compass the kind of persons mentioned in my amendment."

The hon. the RAJA OF PANAGAL :—" Sir, my hon. friend does not state what he means by a salary of Rs. 30. Is it from the Government, or is it from private individuals? As it is, it might be that a person might at one time have been a shop assistant and might be getting a pension of Rs. 30 per mensem. It is very difficult in such cases to give them a franchise. I cannot accept the amendment."

Mr. R. SRINIVASA AYYANGAR :—" Sir, a person getting a salary of Rs. 30 per mensem is liable to pay a municipal tax, no matter whether he gets his pay from the Government or from any private individual. The greater part of the reply of the hon. the Minister was directed to the latter portion of my amendment, and the hon. the Minister never said a word about the graduates of an Indian University."

The hon. the RAJA OF PANAGAL :—" I do not know, Sir, if, according to my hon. friend, the graduates will be more spiritually inclined than others, and I really wonder why he should insist on graduates being given special franchise. As a matter of fact, even the local boards do not enfranchise graduates, and in the case of religious institutions why graduates should be preferred is a wonder to me."

The amendment was put and lost.

Schedule I, Part I, was then put, passed and added to the Bill.

Part II.

(Amendment No. 245.)

Mr. E. PERIVANAYAGAM :—" I may be permitted, Sir, to move the following amendment standing in the name of the Raja of Ramnad :—

For item (b) substitute the following :—

'(b) has been adjudged to be of unsound mind by a competent court, or'.

" It is merely a verbal amendment, Sir."

The hon. the RAJA OF PANAGAL :—" I accept the amendment."

The amendment was put and carried.

Schedule I, Part II, as amended, was then put, passed and added to the Bill.

SCHEDULE II.

Entry against 47 (3).

(Amendment No. 246)

Mr. C. MAIHAVAN NAYAR (Advocate-General) :—" I beg to move, Sir, that—

As against section 47 (3) Rs. 25 may be substituted for Rs. 10.

" Government consider that the fee mentioned there, viz., Rs. 10, is too low and so they suggest that Rs. 25 may be substituted for it. I may say

[Mr. O. Madhavan Nayar] [3rd April 1923]
Schedule II—cont.

this in support of my amendment that under the Court Fees Act, really speaking, a fee of Rs. 50 might be levied; a *via media* is suggested by putting Rs. 25 here."

Mr. R. SRINIVASA AYYANGAR :—" Mr. President, I have given notice of an amendment, viz., that the figure '5' may be substituted for the figure '10'. The hon. the Advocate-General presented the case from the Government point of view and stated that the Government were inclined to think that the fee of Rs. 10 was too low and that, therefore, it was that he was anxious to raise it to Rs. 25. From the people's point of view, or from the point of view of those who feel themselves aggrieved, I am led to think, Sir, that Rs. 10 is too much and therefore I am for having only Rs. 5. I oppose the amendment."

The amendment was put and carried.

Entry against 51 (2).
(Amendment No. 247.)

Mr. R. SRINIVASA AYYANGAR :—" I do not move the first portion of the amendment, Sir, but move only the latter part of it, viz.—

For the figure '50' substitute the figure '25'.

I just move it, Sir, without any speech."

The hon. the RAJA OF PANAGAL :—" I oppose it without any speech, Sir."

The amendment was put and lost.

Entry against 69.
(Amendment No. 248.)

Mr. R. SRINIVASA AYYANGAR :—" I formally move the following amendment, Sir :—

For the figure '50' substitute the figure '25'."

The hon. the RAJA OF PANAGAL :—" Then I must formally oppose it, Sir."

The amendment was put and lost.

Schedule II, as amended, was put and carried.

SCHEDULE III.
(Amendment No. 249.)

Rao Bahadur T. A. RAMALINGA CHETTIYAR :—" In the absence of Mr. P. T. Rajan, I beg to move the following amendment, Sir, with your permission :—

For the words 'not bring less than two years nor more than three years' substitute the words 'not being later than three years'.

"My only object in moving this amendment, Sir, is this. As drafted in the Bill, the Government are allowed to have from two to three years, whereas, according to the amendment, a maximum of three years is fixed while the minimum of two years is taken away. It is really more in the interest of bringing the Act into force earlier than what is intended in the Bill that I move this amendment."

3rd April 1923]

Schedule III—cont.

The hon. the RAJA OF PANAGAL :—" Sir, I have no objection to accept the amendment."

The amendment was put and carried.

Schedule III as amended was put and passed and added to the Bill.

The House adjourned at 1-30 p.m. for lunch to meet again at 3 p.m.

The House re-assembled after lunch at 3 p.m.

Mr. M. SURYANARAYANA :—" Sir, before the business of the House is commenced, I beg to bring to your notice and the notice of the House a small omission. You will remember that when the consideration of clause 10 was taken up, I wanted to move amendment No. 116 on the agenda in regard to which, with the permission of the House, the consideration was deferred until amendment No. 122 was disposed of. That was duly seconded and the motion was put and carried. Consideration of amendment No. 122 was then taken up and in due course was disposed of. But consideration of amendment No. 116 was not placed before the House at all."

The hon. the DEPUTY PRESIDENT :—" I am so sorry that the hon. Member had slept over it. Evidently, it was the amendment of the hon. Member, and he ought to have been alert. We have passed a long long way off from amendment No. 116. But, if there is anything important in it—I mean if there is anything which would affect the Bill—I hope Government will bring in a consequential amendment."

Mr. M. SURYANARAYANA :—" It is not a question of my sleeping over it, Sir. I very much desire that there should be something on record with regard to that. There is difference between something appearing on record and not appearing."

CONSEQUENTIAL AMENDMENTS.

Clause 13.

Sub-clause (b).

(Amendment No. 1.)

Rai Bahadur N. GOPALASWAMI AYYANGAR :—" Mr. President, the first consequential amendment that I have to move relates to clause 13 (b). I beg to move—

Between the words 'such' and 'servants' insert the words 'officers and'.

"Sir, in clause 13 (a) an amendment was carried to insert the words 'officers and' after the words 'of its'. My amendment is consequential on the above amendment."

The amendment was put and carried.

(Amendment No. 2.)

Rai Bahadur N. GOPALASWAMI AYYANGAR :—" Sir, there is another amendment to sub-clause (b) of clause 13 and it is this :

Between the words 'shall' and 'appoint' insert the words 'have the power to'.

[Mr. N. Gopalaswami Ayyangar] [3rd April 1923]

"Sir, in the course of the discussion of this clause the point was raised whether the word 'shall' should be permitted to govern the two words 'appoint' and 'transfer,' and Government gave an undertaking that the point would be considered in moving the consequential amendments. It has been decided that the difficulty that has been felt by some of the hon. Members could be got over by inserting the words 'have the power to' before the word 'appoint'. If this amendment is carried, the sub-clause will read as follows:

(b) The President of the Board shall *have the power to* appoint and transfer such officers and servants and may fine, reduce, suspend, remove or dismiss them, etc."

The motion was put and carried.

Clause 13 as amended was next put and carried and added to the Bill.

Mr. M. SURYANARAYANA:—"Mr. President, may I submit that these consequential amendments have not been circulated to us? We do not know what they are."

Clause 22.

Sub-clause (3).

(Amendment No. 3.)

Rai Bahadur N. GOPALASWAMI AYYANGAR:—"Mr. President, I next move an amendment to sub-clause (3) of clause 22. It runs as follows:

Omit the sentences which appear after the words 'from three consecutive meetings' and insert the following as sub-clause (4):—

"When a person ceases to be a member under clause (f) of sub-section (3), the President of the Committee shall report the fact to the committee at its next meeting and also intimate the same in writing to such person. If such person applies for restoration within one month of the receipt by him of such intimation from the President, the committee may, at the meeting next after the receipt of such application, restore him to his office of member of the committee;

Provided that a member of a committee shall not be so restored more than thrice during his term of office."

"I believe it was my hon. friend, Mr. Srinivasa Ayyangar, of Cuddalore that was responsible for the addition of the sentence:

The President shall report this fact to the committee at its next meeting and also intimate the same in writing to the said member.

That sentence is, I think, inconveniently placed at the end of item (f) in sub-clause (3) and the provisos which follow are really provisos to that particular item (f) and this sentence comes in between the two. It has been thought better to take out the sentences which follow the present item (f) including the proviso and insert them in a new sub-clause (4) as moved by me."

The amendment was put and carried.

Clause 22 as amended was then put and carried and added to the Bill.

[3rd April 1923]

Clause 26.

Sub-clause (1).

(Amendment No. 4.)

Rai Bahadur N. GOPALASWAMI AYYANGAR:—"Sir, I beg to move—
Substitute the following for clause 26, sub-clause (1):—

'On the occurrence of a vacancy in the office of a member of a Committee, a new member shall, subject to the provisions of section 18, be elected in the same manner as his predecessor was elected.'

"The above amendment is consequential on the decision of the House to make all the members of the Committee elected. The present sub-clause implies that there is a nominated element also on the Committee. That implication is proposed to be removed by the substitution of the above words. Section 18 relates to the appointment by Government of all the members of a Committee on its first constitution."

The amendment was put to the House and carried.

Clause 26 as amended was then put and carried and added to the Bill.

Clause 29.

Sub-clause (1).

(Amendment No. 5.)

Rai Bahadur N. GOPALASWAMI AYYANGAR:—"Sir, I move—
That in sub-clause (1) of clause 29, between the words 'its' and 'servants' the words 'officers and' be inserted.

"It is merely to bring the language of clause 29 into line with the language of clause 13 that I move this amendment."

The amendment was put and carried.

Sub-clause (2).

(Amendment No. 6.)

Rai Bahadur N. GOPALASWAMI AYYANGAR:—"Sir, I beg to move—
That between the words 'shall' and 'appoint' the words 'have the power to' be inserted.

The amendment was put and carried.

(Amendment No. 7.)

Rai Bahadur N. GOPALASWAMI AYYANGAR:—"Sir, I beg to move—
That between the words 'such' and 'servants' the words 'officers and' be inserted.

The amendment was put and carried.

(Amendment No. 8.)

Rai Bahadur N. GOPALASWAMI AYYANGAR:—"Sir, I beg to move—
Add at the end of sub-clause (2) the words 'or other sufficient cause'.

"The Council carried an amendment to insert the words 'or other sufficient cause' at the end of clause 13 (b) the language of which is practically the same as the language of sub-clause (2) of clause 29. Therefore it is desirable to insert the same words here."

[3rd April 1923]

Rao Bahadur A. S. KRISHNA RAO PANTULU :—"Sir, I wish to oppose this amendment. So far as this amendment is concerned it is not possible by any stretch of imagination to contend that it is a consequential amendment. Sir, you very properly ruled on the suggestion of Mr. M. Surayanarayana that it was not possible to reopen a clause once passed even though the amendment was not formally placed before the House. In this case, it will be found that the words proposed to be added are for giving power to the committee to punish its servants. As the clause stands at present, it reads :

Subject to such control as the Board may impose, the president of the committee shall have the power to appoint and transfer such servants and may fine, reduce, suspend, remove or dismiss them for breach of rules or discipline, for carelessness, unfitness, neglect of duty or misconduct.

"The cases where the committee can punish have been specified: the powers of the committee are defined and restricted. But it is now proposed by this amendment to make their power wider and more vague. All that is stated by the mover, Mr. Gopalaswami Ayyangar, is that while dealing with the powers of the Board in clause 13, similar words have been used. I think that this is not by itself sufficient justification for the addition of the words 'or other sufficient cause' in the case of the committee; because it will be remembered that in the case of the Board—though introduced by the Select Committee where there was any amount of discussion—you appoint very highly paid officers and the president is to be a barrister, pleader or a man of judicial experience. Moreover many restrictions have been provided in the Bill in the exercise of this power even in case of other sufficient cause. There is no meaning in saying, simply because you gave this power to the Board, you should also give it to the committee. It is not a consequential amendment and it is not fair that it should be brought forward as a consequential amendment."

Rai Bahadur N. GOPALASWAMI AYYANGAR :—"Government are really restricted to move only verbal alterations in the Bill. I take it, Sir, that the expression 'consequential alterations' means changes which are really needed, alterations of the language and even of the substance, in order to bring matters into conformity with the amendments which have been passed by the Council. Where the liability to punishment in respect of one set of servants is made to depend upon a particular set of circumstances, and when those circumstances are those about which the Council is very particular they have necessarily to be repeated in similar sections of the Bill. The latter part of this section has been brought into conformity with the wishes of the Council."

The amendment was put and carried.

Clause 23, as amended, was put, carried and added to the Bill.

Clauses 39 to 51 and 53.

(Amendment No. 9.)

Rai Bahadur N. GOPALASWAMI AYYANGAR :—"I beg to move—

Re-number these as follows :—

39 as 41	44 as 46	49 as 51
40 as 42	45 as 47	50 as 52
41 as 43	46 as 48	51 as 53
42 as 44	47 as 49	53 as 54
43 as 45	48 as 50	

[3rd April 1923]

[Mr. N. Gopalaswami Ayyangar]

"Sir, this is purely a mechanical amendment. It, however, depends upon the passing of an amendment which is more substantial. It is proposed, Sir, to transfer the present clauses 52 and 54 which occur in the chapter headed 'Temples' to the chapter headed 'Religious endowments in general'. Clause 52 relates to the appointment and punishment of office-holders and servants in temples, and the House will remember that my hon. friend, Mr. Narasimhachari, drew our attention to the fact that there was no provision relating to the appointment and punishment of office-holders and servants in 'excepted temples'. That is proposed to be set right by the amendment which will be moved later on. When it is set right it will apply to both the 'excepted temples' and 'non-excepted temples'."

"Clause 54 refers to cases of endowments which are charges upon property and that is a matter which is found in both the 'excepted' and 'non-excepted temples'. An amendment has already been carried by the Council on the motion of Mr. Somasundara Madaliyar which reads thus :—

The provisions of this chapter except section 54 shall not apply to excepted temples or the trustees thereof.

By transferring clause 54 to the chapter headed 'Religious Endowments in general', the retention of the words 'except section 54' would become unnecessary. I shall move later on that the words 'except section 54' be deleted from the new clause 45 (old clause 43). As a result of the re-numbering of clause 52 as clause 39 and clause 54 as clause 40, it will become necessary to re-number the other clauses as indicated in this particular amendment."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—"I think the proper course for my hon. friend would be to move those substantial amendments which he referred to, namely, that the two clauses 52 and 54 should be transferred to other chapters. Unless they have been moved and carried, there is no good of moving this amendment."

Clause 52.

(Amendment No. 10.)

Rai Bahadur N. GOPALASWAMI AYYANGAR :—"I beg to move—

In the present clause 52, sub-clause (2) between the words 'servant' and 'punished' insert the words 'of a temple other than an excepted temple'."

The amendment was put to vote and carried.

(Amendment No. 11.)

Rai Bahadur N. GOPALASWAMI AYYANGAR :—"I beg to move—

In new clause 39 (old clause 52), sub-clause (3), between the words 'servant' and 'may' insert the words 'of a temple other than an excepted temple'."

The amendment was put and carried.

(Amendment No. 12.)

Rai Bahadur N. GOPALASWAMI AYYANGAR :—"I beg to move—

Insert the following as sub-clause (4) of clause 52 :—

(4) Any office-holder or servant of an excepted temple punished by a trustee under sub-section (1) may within such time as may be prescribed appeal to the Board whose decision shall be final."

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Rai Bahadur T. M. NARASIMHACHARLU :—"Sir, under sub-clause (4) which it is now proposed to be introduced, no doubt 'excepted' temples are brought in; but there are certain temples which are not 'excepted' temples and for which there are no committees. In these temples if trustees punish their servants, which is the appellate authority? Therefore, it will be seen that there are temples for which there are no committees; but they are not at the same time 'excepted' temples. If a trustee of a temple punishes or dismisses his servant, what is the remedy open to him to file an appeal?"

Rai Bahadur N. GOPALASWAMI AYYANGAR :—"If there is such a temple after the coming into force of this Act, any right he may have under the existing law will not be taken away by this Act."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—"I beg to oppose this amendment. This really introduces a new matter with reference to 'excepted' temples. Hon. Members will notice that according to Chapter VI of the Bill the jurisdiction of the Board regarding maths and 'excepted' temples should be exercised as lightly as possible. My hon. friend is introducing a new system of appeal in reference to the trustees and the servants of those trustees. That is entirely a new matter and it cannot be accepted."

The motion was put and carried.

(Amendment No. 13.)

Rai Bahadur N. GOPALASWAMI AYYANGAR :—"I beg to move—

That the present clause 52 be re-numbered as clause 39."

The motion was put and carried.

The clause as re-numbered was put, carried and added to the Bill.

Clause 54.

(Amendment No. 14.)

Rai Bahadur N. GOPALASWAMI AYYANGAR :—"I beg to move—

That the present clause 54 be re-numbered as clause 40."

The motion was put and carried.

The clause as re-numbered was put, carried, and added to the Bill.

Clauses 39 to 51 and 53.

(Amendment No. 9.)

Rai Bahadur N. GOPALASWAMI AYYANGAR :—"I beg to move—

Re-number these as follows :—

39 as 41	44 as 46	49 as 51
40 as 42	45 as 47	50 as 52
41 as 43	46 as 48	51 as 53
42 as 44	47 as 49	53 as 54 "
43 as 45	48 as 50	

The amendment was put to vote and carried.

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The clauses were, as re-numbered, put, carried and added to the Bill.

New clause 45 (old clause 43).

(Amendment No. 15.)

Rai Bahadur N. GOPALASWAMI AYYANGAR :—"I beg to move—

Omit the words and figure 'except section 54'."

The amendment was put and carried.

New clause 47 (old clause 45).

(Amendment No. 16.)

Rai Bahadur N. GOPALASWAMI AYYANGAR :—"I beg to move—

Insert the following words at the beginning of sub-clause (1) :—

'subject to the provisions of sub-section (4)'.

"This is to remove the apparent inconsistency between the sub-clauses."

The motion was put and carried.

Clause 46.

(Amendment No. 17.)

Rai Bahadur N. GOPALASWAMI AYYANGAR :—"I beg to move—

For the words 'or its President' substitute the words 'or the President of such Board or Committee.'

"This amendment is really to make the meaning clear."

The motion was put and carried.

Clause 47.

(Amendment No. 18.)

Rai Bahadur N. GOPALASWAMI AYYANGAR :—"I beg to move—

For the words 'or its President' in sub-clause (1), substitute the words 'or the President of such Board or Committee'."

The amendment was put and carried.

Clause 59.

(Amendment No. 19.)

Rai Bahadur N. GOPALASWAMI AYYANGAR :—"I beg to move—

In sub-clause (2) after the words 'such endowments' insert the words 'such person shall be a person having interest and'.

"This is an amendment of which notice has been given by an hon. Member, but it was not moved. In order to make the meaning clear I think it is necessary to move it."

The amendment was put and carried.

Clause 59, as amended, was put, carried and added to the Bill.

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Clause 63.

(Amendment No. 20.)

Rai Bahadur N. GOPALASWAMI AYYANGAR:—"I beg to move—

In sub-clause (1) for the words 'and setting apart . . . endowment' substitute the words 'and after setting apart a sufficient sum for the repair and renovation of the buildings connected with the math or temple or the endowments attached thereto'.

"This amendment is intended to make the clause a little more definite than what it is."

The amendment was put and carried.

Clause 63, as amended, was put, carried and added to the Bill.

Clause 66.

(Amendment No. 21.)

3-20 p.m. Rai Bahadur N. GOPALASWAMI AYYANGAR:—"I beg to move the following amendment:—

In sub-clause (2) for the words 'or such further time as may be granted' substitute the words 'or within such further time as may be granted by the Board or Committee.'

"This is a consequential amendment on the amendment carried at the instance of Mr. Suryanarayana."

The amendment was put and carried, and the clause as amended was put and added to the Bill.

New clause after clause 77.

(Amendment No. 22.)

Rai Bahadur N. GOPALASWAMI AYYANGAR:—"I move for the insertion of the following new clause as clause 78:—

'78. The President of a Board or Committee may grant copies of the proceedings and records of the Board or Committee, as the case may be, on payment of such fees and subject to such conditions as the Board may, by general or special order, determine. Copies shall be certified by the President of the Board or Committee concerned in the manner provided in section 76 of the Indian Evidence Act, 1872.'

"We have in clause 35 a provision for the grant of copies of the register of endowments. On the motion of Mr. Balaji Rao Nayudu a similar sub-clause was inserted as sub-clause 5 to the new clause 52. There are proceedings and records of all kinds connected with the Board and committees and it will be necessary for people to apply for copies of such proceedings and records. Government consider that it would be best to insert in the miscellaneous chapter a separate section giving power to the Board or the Committee to grant such copies."

The amendment was put and carried, and the new clause was added to the Bill.

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(Amendment No. 23.)

Rai Bahadur N. GOPALASWAMI AYYANGAR:—"Next, Sir, as a consequence of the passing of this clause 78, I move—

To omit sub-clause (4) of clause 35, and sub-clause (5) of new clause 52 (old clause 50)."

The motion was put and carried, and the omissions were made.

(Amendment No. 24.)

Rai Bahadur N. GOPALASWAMI AYYANGAR:—"I move—

Re-number clauses 78, 79 and 80 as passed by the Council as 79, 80 and 81 respectively."

The motion was put and carried.

Schedule II.

(Amendment No. 25.)

Rai Bahadur N. GOPALASWAMI AYYANGAR:—"I move—

- (1) *For the figures '47 (3)' in column 1 substitute the figures '49 (3)'.*
- (2) *For the figures '51 (2)' in column 1 substitute the figures '53 (2)'.*
- (3) *For the figures '52 (2)' in column 1 substitute the figures '39 (2)'.*
- (4) *For the figures '52 (3)' in column 1 substitute the figures '39 (3)'.*
- (5) *For the figures '54' in column 1 substitute the figure '40'.*
- (6) *Insert the following as new items:—*

RS.

- (a) '59 (4)—appeal to the Board by an office holder or servant of an excepted temple . . .

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- (b) Section 80—application to modify or set aside the decision of the Board under sub-section (1) . . .

The fee leviable on a plaint under article 17, schedule 2 of the Madras Court Fees Amendment Act, 1922.

- (7) *In column 2 of this schedule make the following alterations:—*

- (a) *Against new section 40 (old section 53) for the words 'who has failed . . . service, etc.' substitute the words 'or by the persons in possession from the person responsible in law'.*
- (b) *Against section 63 (1) between the words 'trustee' and 'or' insert the word 'committee'.*
- (c) *Against section 63 (3) between the words 'trustee' and 'or' insert the word 'committee'."*

The motion was put and carried.

Schedule II, as amended, was put, carried and added to the Bill.

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Schedule III.

(Amendment No. 23.)

Rai Bahadur N. GOPALASWAMI AYYANGAR:—"I move—
For 'section 78' substitute 'section 79.'"

The motion was put and carried.

Schedule III, as amended, was put and carried and added to the Bill.

Preamble.

The preamble was then put and carried, and added to the Bill.

The hon. the RAJA OF PANAGAL:—"Mr. President, Sir, it is a matter of no small gratification to me to be able to stand before this House this afternoon to present the Hindu Religious Endowments Bill for its final reading. Sir, the law which it is the object of this Bill to lay down has been for a long time a desideratum. During the last nearly half a century, many of our eminent men—men of enlightenment: men, some of whom, at all events, belonged to the school of orthodoxy—were making strenuous attempts to place on the Statute Book a piece of legislation which would secure better management of the religious endowments. Unfortunately, Sir, they, one and all, failed in their attempts. They failed not because of any shortcomings on their part, but because of the circumstances under which they had to introduce the various Bills. Sir, they had to work under a different constitution. At present the constitution has been changed, and if the present Legislative Council did not legislate on this subject, I am afraid, Sir, it would be charged with remissness. In one of his early speeches, Lord Willingdon, our Governor, announced that one of the Bills that would be introduced in the first Reformed Council would be the Hindu Religious Endowments Bill of Madras. In accordance with that announcement, I constituted a committee last year and after the committee deliberated and made proposals, a draft Bill was introduced towards the end of last year. Many of the vested interests began to feel anxious about the Bill. They raised a great deal of agitation and the poisonous gases that were raised by this agitation would have asphyxiated the judgment of this Council had it not been for the antidote of discrimination on the part of hon. Members (hear, hear). Sir, in spite of this agitation, we persevered. Many of the clauses were objected to both in the Select Committee stage and in the later stage of the Second Reading, and the criticisms were all carefully considered and met as far as possible. Sir, now that the Bill has been introduced and presented in an agreeable form to the House, I am sure the House will pass the Final Reading unanimously.

"Sir, in this connexion I cannot help making a reference to the help that I have received from the hon. the Law Member, my hon. Colleague, Mr. C. P. Ramaswami Ayyar, both in his capacity as Advocate-General and later on as Law Member. His help to me, Sir, has been very valuable. Nor can I omit to refer to the valuable service of the new Advocate-General. Ever since he was appointed Advocate-General, he has considerably helped me in piloting this Bill. One more gentleman to whom I cannot avoid making reference is my hon. friend behind me, Rai Bahadur N. Gopalaswami Ayyangar (hear, hear and cheers). A heart less stout than his would have collapsed in the struggle (hear, hear). He did not care for the curses

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hurled against him (hear, hear). He did not mind the language that was used against him. The press, at all events one section of it, was against him. The maths, were helped by those who were interested in allowing the management of the temples to continue as at present. With all that, Mr. Gopalaswami Ayyangar was dutiful; he discharged his duties admirably well. Nor can I omit referring to my hon. friends opposite (hear, hear and cheers). No doubt, they had offered criticisms—I must say in some cases very valuable criticisms. But, Sir, in offering those criticisms they had been uniformly dignified and generous (hear, hear). I am sure, Sir, that with an opposition like this it is a pleasure to deal (loud cheers). One more party, that is my own party, I cannot help thanking, I cannot help thanking them for the solid support they have been giving me since I began to deal with this question (hear, hear) without being in the least affected by the frowns or favours of the interested, they have been throughout uniformly kind and considerate and helped me with all the help they could (hear, hear).

"Sir, when the Bill was placed before the House, no doubt some of the clauses were objected to both in the Select Committee stage and later on; and mostly these criticisms were levelled against the constitution of the Board, the control of the Board over the maths, the contribution to be paid towards the cost of the establishment and lastly to the diversion of surplus funds. Sir, so far as the first point is concerned, it is not a new idea: the formation of Boards is not for the first time conceived. The idea is borrowed from the English Charity Commissioners. Nor have the previous Bills on the subject omitted to allow a place to these Boards. Most of them did provide for Boards.

"Then, Sir, as to the second of the objections, viz., the control over the maths; that control is indeed little; little, but, at the same time, effective to safeguard the future of these maths. I cannot understand, Sir, why that control should be objected to; it is intended in the interests of the maths themselves. Why should objection be taken to it? It is not the idea that the Board should control the heads of the maths in their spiritual activities. The control is in regard to the management of property attached to maths. If the property is not taken care of, where will the maths be? Math after math will begin to disappear and it is to avoid such a catastrophe that this control is contemplated.

"Then, Sir, as to the third of the objections, that is, regarding the contribution by the maths and excepted temples, I do say there is some force in the argument particularly in view of the fact that the levy of the stamp duty is insisted on. The Government ought to contribute towards the cost of the organization. That is a question for the consideration of the Government and I am not without hope that the Government will give their best attention to it. At the same time, Sir, it must be remembered by hon. Members that after all the Government, as Government, have to spend their time on the management of these maths. This means money, and therefore, it is no wonder if the stamp duty is insisted on and is levied by the Government. However, I do not plead that as an excuse to evade contribution. That question, as I have already stated, will be considered separately.

"As to the last of the objections, that is, the objection to the diversion of funds, it is not new. It was provided for in Sir Muttuswami Ayyar's

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Bill and in other Bills also. I cannot understand why the diversion should be objected to. In most of the temples this diversion has been allowed and in spite of it people have been making offerings to these temples. For instance, take the case of the Tirupati temple. In 1843 when the management of the temple was handed over to the trustee, there was a surplus, if my information is correct, of about 40 lakhs of rupees. That money was used for general education in the Presidency. Is not that a case of diversion? And in spite of it, do not people make their offerings to the temple? Why then take this objection now? That is a thing which I cannot understand, Sir. Until the Privy Council took objection, there have been two English schools maintained by the temple of Tirupati."

The DEPUTY PRESIDENT (in the Chair):—"May I respectfully point out that the time at the disposal of the hon. Member is very short? There may be other hon. Members who may wish to speak and we propose to close the proceedings at a quarter after four."

The hon. the RAJA OF PANAGAL:—"I have only one word to say, Sir; and it is to offer my most heartfelt thanks to you and our esteemed permanent President for the uniform courtesy shown to me in piloting this Bill. With these words I move that the Bill as amended be passed into law" (cheers).

The hon. Rai Bahadur K. VENKATAREDDI NAYUDU:—"I second the motion, Sir."

Mr. R. SRINIVASA AYYANGAR:—"Mr. President, Sir, the hon. the Minister, in the course of his speech in winding up the debate, expressed a hope and asked this House to give its assent to the passing of this Bill. If I rise now, I only rise with a view to sound a dissenting or discordant note. It seems to me, Sir, that the object of the Bill is not likely to be achieved or advanced. The object set out in the Preamble of the Bill, is to provide for the better governance and administration of certain religious endowments. Within the short time at my disposal, I do not propose to enter into a detailed criticism of some of the provisions which appear to me to be really of an obnoxious character. The constitution of the Board, investing it with enormous and extensive powers, clothing it with an amount of finality, taking away the jurisdiction of civil courts, levying of court fees and placing the *matadhipatis* under secular control—all this, if I may say so, do really constitute the storm centres of this Bill, and we were anxious to steer this Bill off these storm centres. All these six days we have been putting up a fight very strenuously and very insistently. But excuse me, Sir, for saying that the steel frame not of the civil service but of the ministerial party withstood all the onslaught, with the result that ours was practically a cry in the wilderness. The hon. the Minister paid us a compliment for some of our criticisms and he also stated that some of them were generous and charitable; but he was only paying us a left-handed compliment. If our criticisms were of a really useful and helpful character, I should have expected the hon. the Minister to evince that sympathy and consideration for us by accepting the remarks and the criticisms that we offered instead of refusing them with all his might and with all the forces at his disposal and coming at the fag end and telling us that our remarks were very generous and helpful."

"There is one other matter which I would like to emphasize. Hitherto we have been trying for the transference of power from the old bureaucracy.

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Now, after getting the power transferred from the old bureaucracy, there is a tendency on the part of some of us not only to retain that power and use it but also to trench on the domains of others. I refer to the creation of the Board and the ousting of the jurisdiction of the civil courts. When I go through the Bill, I notice a strong under-current of irritation and suspicion against the judiciary running through the Bill. Time and again, the hon. the Minister stated that he was anxious to minimize litigation. Much as I am inclined to agree with him in his laudable object to minimize litigation, at what cost does he attempt to achieve it? At the cost of depriving the rights and liberties of a large number of persons! No doubt they have been very busy all these days; but busy with what? Busy with forging a fresh and massive weapon which will in the fulness of time be placed on these *maths* and *matadhipatis*. It seems to me, Sir, that orthodox Hinduism is likely to suffer and that in the place of spiritualism which we regard as one of our valuable assets, materialism will step in and I, therefore, find myself unable to give my support to the passing of this Bill."

Diwan Bahadur Sir T. DESIKA ACHARIYAR:—"Mr. President, Sir, having been connected with this Bill from the time when the hon. the Raja of Panagal constituted an informal committee to consider the provisions of a Bill to amend Act XX of 1863 and having been a member of a Devasthanam Committee for a number of years, I have, disagreeing with the former speaker, to say with all the emphasis at my command that this is a Bill which is intended for the better governance of religious endowments in this Presidency. Though I do not claim for myself and other people who are responsible for this measure that it is a perfect piece of legislation, I do think that we have made a good and magnificent start. I have no doubt that in the long run the religious endowments of this Presidency are sure to benefit by the legislation which we are ushering into existence to-day (hear, hear.). I may point out in this connexion that for more than half a century, ever since the Act of 1863 was passed, endeavours had been made for putting our religious endowments on a better footing, for making impotent committees exercise some real power and for checking mal-administration of every kind with some sort of rule and discipline. But every time when an attempt was made to have such legislation introduced, it was unfortunate that either sentiment or reason or both in the country prevented the fulfilment of the desires of those who wanted to legislate on this matter. I must congratulate the hon. the Raja of Panagal on the courage and persistence with which he has piloted this Bill. He has made us realize in this first Reformed Council that we can set right a crying evil, an evil which was crying for redress for more than half a century. I do not for a moment say that there are not in this Bill, provisions, raising controversial points which are likely to be objected to by vested interests. In the first place this is the first piece of Indian legislation in which the *maths* and *matadhipatis* are made to realize that the properties vested in them are trust properties and that they must be regulated by all rules relating to the administration of trusts. It is also the first piece of legislation in which temples which were never before controlled by any committee are brought now under control of some sort. *Maths* and *matadhipatis* and excepted temples, as they are termed in this Bill, have, however, been accorded privileged treatment and it is because they had to be accorded a privileged treatment that the Select Committee thought of introducing an agency called the Board of Commissioners. This agency

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again is likely to be objected to as a costly and unnecessary one. But the alternative that we had to face was that of having suits instituted by all and sundry supposed to be interested in the endowment or claiming to be disciples of *maths*. That is how, between the two alternatives, the Select Committee chose the Board of Commissioners as a body of individuals who could supervise these endowments with the minimum amount of interference. I do not want to proceed to discuss all the various points connected with the reforms introduced by this Bill. Suffice it to say that on a fair and dispassionate consideration of the past, the present, and the future, this Bill is likely to be of very great use in the administration of the religious endowments of this Presidency."

Rao Sahib U. RAMA RAO:—"Sir, I feel I owe it to myself, to my constituency and to the public at large, who are watching with deep concern the hurry and haste with which this legislation is rushed through in this House even without obtaining the formal sanction of the Government of India to the alterations made in the Select Committee stage, to oppose the Third and Final Reading of this Bill. No legislation in recent times has evoked such universal disapproval, and yet, no Bill has been rushed through in such hot haste, in the teeth of such opposition, save the Rowlatt Bill. The Rowlatt Bill at least was intended to stifle the civic liberty of the citizen, but this Bill affects the very fundamentals of the Hindu religion. It is a direct negation of the solemn pledges given by Her Majesty Queen Victoria of revered memory, assuring full liberty in all matters pertaining to religion. What the white bureaucracy dared not do during all these years of British rule in this country, a ministry which was not elected on this issue—a ministry that has by its actions and words since its advent into power and by force of circumstances forfeited its right to represent a not inconsiderable and important section of the community—has dared to legislate upon in the teeth of the universal protest of that community both inside and outside of this House. There is, I admit, need for some reform in the matter of the administration of the religious endowments in this province; but, where angels feared to tread, any ministry should have thought it fit to proceed only with considerable care and caution. But in spite of the incontrovertible fact that the provisions contained in this Bill are of a far reaching character, and despite the fact that protests had been raised by all sections of Hindus, including a very large section of the non-Brahman community itself, whom the ministry professes to represent this Bill, has been rushed through with the aid of a pliable non-Brahman majority in this House who were not at all elected on this issue, and with the aid of Muhammadans and Europeans whose position was not in the least affected by the provisions of this Bill. It would have been far more graceful on the part of the Muhammadans and the Europeans if they had remained neutral on this matter and allowed the non-Brahman majority in this House to take on its own shoulders the full responsibility for this obnoxious piece of legislation. Did they for a moment contemplate what would have been their own feelings if, in any matter vitally affecting their religious sentiments, any other community, numerically strong in this House had dared to legislate in spite of their vehement opposition? Even the attempts made by some Members of the Council, including my humble self, as representing a particular section of the people, to postpone the consideration of the Bill, to a time three months hence, so as to give an opportunity to the large section of the public outside

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the House to consider deeply and express their views on the Bill in the form in which it has emerged from the Select Committee, have been frustrated. Every amendment moved on this side of the House to make the Bill less obnoxious met with a similar fate, not because of its inherent weakness but because of the numerical pride on the ministerial side whose Members had already made up their minds on this question. What further proofs are needed to substantiate this statement than the very fact of the indifference displayed by the Members on the other side of the House to this important and far-reaching legislation of a highly controversial character, and the thin House in which this legislation was rushed through? That both the halves of the Government were not unanimous on some of the provisions of this Bill, is well borne out by the fact that the hon. the Law Member chose to remain neutral when the question of the Chidambaram temple was decided, and there has been another instance also when even a Government Member chose to keep away from the Council when the important question of the creation of a Board was finally decided upon. Even the motion for the exclusion of Brahman *maths*—about which there had absolutely been no complaint of mal-administration all these years—which was strongly pressed on the attention of the House, was defeated; and we are going to have a Central Board or Boards to have sway over the religious endowments of whatever denomination they may be. Of course, this creates a new field of pasture for some people influential with the ministry to get billets; but how far the Board or the Boards are going to serve the purpose for which they are constituted is in the laps of the gods."

Rao Bahadur O. TANIKACHALA CHETTIYAR:—"Sir, Mr. President, I beg to associate myself with the remarks of my hon. friend, Sir T. Desika Achariyar, and beg to offer my congratulations to the hon. the Raja of Panagal for the courage and persistence with which he brought forward this Bill which has been in the making for over 50 years. Not merely high-souled Englishmen like H. E. Sullivan, P. O'Sullivan, W. Robinson and D. F. Carmichael, distinguished names in the administration of this Presidency, but also great administrators belonging to the section on the opposite side, namely, men of the type of V. Rama Ayyangar, P. Srinivasa Rao, P. Chentsal Rao, V. Krishnamachariyar, T. Rama Rao, Sir T. Mutuswami Ayyar, R. Ragunatha Rao, Sir Subramanya Ayyar, Sir V. Bashyam Ayyangar, and last but not least R. Srinivasa Raghava Ayyangar, and men of the type to which we on this side of the House have the honour to belong, men like P. Somasundaram Chetti, P. T. Ramanjulu Nayudu, T. V. Ponnuswami Pillai, Sir C. Sankaran Nayar, P. Ranganatham and P. Rajaratna Mudaliyar had all attempted to bring Bills from time to time on the basis of which the present Bill has been built. Sir, all glory and honour to the Minister who has had the courage to bring to completion and fruition the labours of distinguished men of our country, including foreign administrators like those whose names I have mentioned. Sir, this Bill, or rather the idea of this Bill, which is contained in the several schemes or drafts which have been published and which have been considered by Government had been shelved solely on the cry raised by men of the type of my hon. friend, Rao Sahib Rama Rao, that religion was in danger. The Central Government would not give authority to the Local Government to place this measure before the public on account of cries of this kind. It has been reserved for the Reformed Government, the first Reformed Government,

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and the first Minister of the Reformed Government in the Presidency of Madras, and the first Minister of the first Ministry to have the courage to frame this Bill and bring it before the House for its acceptance. No doubt, Sir, many are the curses which have been imprecated upon his head. But soon will arise a generation which will bless him for the good that he has wrought for the many millions of this Presidency; for, in our superstitious belief we contribute large sums for religious purposes. But those who receive, some of them at any rate, quite forgetful of the purposes for which they were given, have been misappropriating them so that all administrators thought it fit in the schemes they proposed to have this Board of Commissioners. It is not new to the present Minister. It is as old as fifty years. They proposed even in those days of cheap living a chairman of the Board of Commissioners on a salary of Rs. 1,250, Rs. 50 in excess of what you propose in these dear days, and three Commissioners on Rs. 1,000 each as against Rs. 800 proposed in this Bill. They had proposed, besides these Commissioners and Chairman, a Secretary on Rs. 600, two Inspectors on Rs. 250, two Inspectors on Rs. 400 and one Inspector on Rs. 500. So, the scheme for completely organizing the scrutiny of accounts of these religious institutions is as old as fifty years. Then, in one of their minutes forwarding the resolution to the Government they say that if more funds are required for running such an agency, the end justifies the means. Sir, it has been said in the course of the opposition to this Bill, and particularly to this chapter on the Board of Commissioners, that Mr. Raghunatha Rao was against it."

Mr. C. V. VENKATARAMANA AYYANGAR:—"He was against payment."

Rao Bahadur O. TANIKACHALA CHETTIYAR:—"I shall now show by reference to a passage here that he was in favour of it. He had the idea like some of our conservative Members that all persuasions and shades of religious belief ought to be represented in the Board of Commissioners, and he suggested that as many as sixteen might be appointed. Then he says:

If my scheme is approved, it is neither desirable nor justifiable to pay a chairman and the commissioners a salary of Rs. 1,250 and Rs. 1,000 each respectively."

He was in perfect agreement to pay, and he was one of those who made the statement that

the end of bringing all this under proper accounting justified the means of levying a toll on their collections; but in the scheme of sixteen commissioners it is unthinkable to pay for them.

He made the statement only with this reservation, and I think I ought not to allow the remark which has been very freely made that Raghunatha Rao was against payment to go unchallenged.

"One other thing I wish to point out. It is very often said that we are trying to create all this organization to put religious institutions and maths under restraint. From my experience as a lawyer I am aware that, when suits are instituted for schemes, at the beginning people are very much averse to such suits; they think that temple funds are being wasted on litigation. The same people who have said it have, after seeing the working of the temples under the schemes and the correct accounts that are kept which in no small measure contribute to the success of the management, proclaimed that it is a blessing in disguise. Sir, with these words I close. The hon. the Raja of Panagal has earned the gratitude of posterity by the way in which he has introduced the Bill and the courage with which he has piloted it through."

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Rai Bahadur T. M. NARASIMHACHARLU:—"Mr. President, Sir, I am very sorry that I cannot agree to the passing of this Bill. Nobody ever suggested at any time that no improvement was necessary to the Act of 1863; but the present achievement, Sir, is very disappointing indeed. Anyhow, the struggle is over. Those on the other side are no doubt heaving a sigh of relief. But we on this side are also heaving a sigh; but it is a sigh of despair and helplessness. If the other side claims the glory of success we have no less a glory in our defeat. For, did we flinch at any time? Did we withdraw our important amendments? Did we yield or surrender against the overwhelming odds? They fought with the weight of numbers on their side; but we, Sir, I claim, fought with the weapons of reason and conscience (hear, hear). Against the weight of numbers reason and conscience could not be successful. Anyhow, Sir, our defeat was no less glorious than the defeat of those three hundred Spartans at the pass of Thermopylae. We never surrendered nor retreated, like some of our police about whom we have heard, against overwhelming numbers. Anyhow, as I said, the struggle is over. The net achievement of this legislation was undue haste.

"Secondly, Sir, there was the policy of divide and rule evident in the career of this Bill. For, what reason was there for excluding the Muhammadan religious endowments from this Bill? It was because, as I apprehend, if they were also included, the Muhammadans would have formed part of ourselves here to oppose the Bill tooth and nail.

"Thirdly, Sir, as regards the maths and temples which were under the management of hereditary trustees from the year 1842, the maths are now sought to be controlled by the Boards, and the temples by Committees. Well, what shall I say to this? The hon. the Minister says 'what if some little control is placed over them? Why are you sorry? In your interests we have done it.' That, Sir, is the very thing that Europeans are saying to us: 'We are necessary for you; you cannot get on without our protection; you cannot progress.' But to all those who are accustomed to independence, liberty and freedom, I say, Sir, the smallest control is the heaviest burden that can be placed on them. Similarly, the maths were enjoying the greatest freedom till now. They were never controlled by any outside body. But they and the temples are now sought to be brought under the Board. In doing this you are aiming at the liberty and democracy of those bodies. On the whole, Sir, there is the question of religious neutrality which has been brought into this.

"Lastly, Sir, there is this question of the taking away of the powers from the courts and vesting them in the executive which is opposed to all constitutional laws."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU:—"I should like to make one or two observations at this stage of our discussion. I regret to say that I am not in a position to assent to this motion. My hon. friend, the hon. the Raja of Panagal, said that the poisonous gases raised by our agitation had asphyxiated the judgment of this House, and he congratulated himself—and, I take it, his friends in this House—for having escaped from the effects of those gases. So far as we are concerned we kept our heads cool and offered such criticisms as we thought necessary and right to discharge our function as the Opposition in this Council; and I am glad to note that my hon. friend the Minister has made a graceful reference to our position

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as the Opposition and to the value of our suggestions regarding this Bill. Sir, we are glad that they have realized the value of an Opposition and I trust that in this Council, whatever may be the present state of our party discipline and party feeling, it is true that a powerful and parliamentary Opposition can be developed in course of time.

“Having said this, I regret to say that the difference between ourselves and the other party is fundamental. We differ from the Minister; and the differences are to be seen not only to-day but throughout all the drafts which were framed from 1878 up to this day. We have differed from him in four or five fundamental respects and these differences are still there in the Bill, and when the differences are fundamental, I regret to say that we cannot assent to the Bill. The differences have been enumerated by my hon. friend, and no good purpose will be served at this late stage of our discussion in our re-examining the position and trying to again convince my hon. friend, the Minister, who will not be convinced, on all the points on which he differs from us. As I say, no purpose will be served by a re-examination of the fundamental principles on which the Bill is based. We have differed and we continue to do so. We tried our best to get the modifications that we desired made in the Bill; and if the hon. the Minister has not seen eye to eye with us, the working of this measure will show whether we are right or they.

“Therefore, all that I can say is this. My hon. friend referred to the fact that the Board of Commissioners was modelled on the English Charity Commissioners. If we examine the question more closely, there is absolutely no doubt that the constitution of the English Charity Commissioners is entirely different in several fundamental respects from the constitution of the Board under the present Bill. I do not wish to dilate on this matter at length. As I said, the differences are so fundamental that I cannot assent to the motion which my hon. friend the Minister has made for the final passing of this measure. It may be that some of the provisions have been relaxed. But as I have pointed out in my dissenting minute there are yet many provisions that are quite unacceptable. No doubt, as to the provisions relating to the furnishing of accounts, registration of properties of the various religious endowments and various other matters in which control has been provided, there is no difference between us. But the fundamental features of the Bill have not been altered either in the Select Committee stage or now. I want to say finally that the Bill as it was originally introduced was entirely different from that which has emerged from the Select Committee, and in some very serious respects I think that the Bill, as it is now being passed, is much worse than the Bill which has passed the Select Committee. I regret very much that I am not at all in a position to give my assent to the motion that the Bill be passed into law.”

Mr. C. V. VENKATARAMANA AYYANGAR :—“Sir, I was one of those that congratulated the hon. the Minister for having introduced the Bill, though I was on this side of this House. I am one of those again who will be glad to congratulate him on the fact that he has passed it through. I should specially congratulate him for the sporting words with which he concluded his last speech that after having fought over the question we have all come to a stage where we can shake hands with each other. I would be glad if he had been sporting enough equally as regards the objections raised by the outside public. So far as the objections from the public are concerned,

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I think that many of them have come from sincere people who think that the Bill is obnoxious. As I said, Sir, we have fought over the Bill; I was one of those that agreed with the Government on some points though I strongly contested some others. But we have come to a certain stage when we must say that the Bill is an accepted fact. There is no use in quarrelling over what might have been and must have been. The Bill has been passed clause by clause and I should congratulate not only the Minister but the House also for having brought to this stage a Bill which has been contested for several years. I venture to think, Sir, that if only sufficient time had been given to the House and to the public for considering the questions involved in the measure, the very same provisions might have been probably deemed to be satisfactory.

“One or two words, Sir, as to what might be done even now. The Government have carried the Bill through. They have got some powers now whereby they can please the public so far as some objections are concerned, and the hon. the Minister has to-day given us some hope that he will be able to get some money from the Government for this department. If he gets, the burden of paying the Board of Commissioners will go and the objection will be considerably lessened. One objection against the Board of Commissioners is chiefly based on the fact that the maths are taxed for the purpose. If there is no such provision for payment the objection on that score will disappear. It lies in the hands of the hon. the Minister to reduce the force of the objection by trying to see that the money required for paying them comes out of the general exchequer. With these words I once more congratulate the hon. the Minister for the measure that he has successfully introduced.”

Rao Bahadur C. NATESA MUDALIYAR :—“Sir, Mr. President, I thank you very much for having allowed me to speak. I will only say: ‘Bravo! Raja of Panagal!’ (loud cheers). The whole Presidency was seething with rage; our religion was thought to be interfered with; our maths were supposed to be insulted; our temples were imagined to be plundered; and the wrath of the gods of Heaven was invoked upon the hon. Minister’s head. Questions intricate and puzzling were put to him; but they were replied with learned ease. Over six hundred amendments were gone through in this House successfully, thanks to our party whips; and the solidarity of our party has been proved beyond doubt. Our religion is established, established firmly, more firmly and more soundly than before on account of this Bill. I hope the Government will use the power vested in them to satisfy the various sects of Hindu religion and ease the misgivings if there are any. I hope the heads of maths and trustees of temples will use at least a portion of their surplus amount to elevate and enlighten the depressed classes in general. Sir, it is there that the democracy of religion lies, it is there that we should seek to strengthen our community.

“Sir, coming to the Board of Commissioners, I request the Government to bear in mind that there are three great religious orders, Vaishnavism, Saivism, and Smarthaism and I request the Government to give representation to all these.

“Before I sit down, Sir, I wish to express my hearty congratulations to the hon. the Minister.”

The hon. the RAJA OF PANAGAL :—“Sir, I wish to bring only one matter to the notice of the House. That is, in piloting this Bill, I had but one

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motto before me. I wanted not to forsake God for the sake of man. If in that attempt I have offended any, I crave their pardon; and those who have accepted the Bill in its present form, I thank" (applause).

Mr. A. RAMASWAMI MUDALIYAR:—"I move that the question be now put."

The closure was put and carried.

The motion that the Bill be passed into law was then put and carried.

IV

HIS EXCELLENCY THE GOVERNOR'S ADDRESS TO THE COUNCIL BEFORE PROROGATION.

HIS EXCELLENCY THE GOVERNOR:—"Mr. Deputy President, and hon. Members of the Legislative Council, as this is the last day of the third ordinary session of the Council, I think it is fitting that, before declaring the session at an end, I should invite the Council to make with me a brief review of the road we set ourselves to travel during the past two years and the extent of the progress we have made thereon.

"When opening the first session of this Council on the 14th of February 1921, I gave a brief sketch of the legislation we had then in contemplation. In the first place, I referred to the great legislative output of the year 1920, especially in matters relating to local self-government, and mentioned that it was probable that some time would be taken in ensuring the satisfactory working of the new Acts which had just been brought into force. I was a truer prophet than I thought, for I fear that the introduction of the satisfactory working of these Acts has imposed a far greater burden than most of us realize upon my hon. colleague, the First Minister, who has already carried through the Council in the course of two years no less than seven amending measures, and has two more awaiting introduction. Of the further measures contemplated in his Department the proposed Housing Bill has never taken shape, but we have introduced in its place the Madras City Tenants' Protection Act passed in 1921.

"We have also passed into law the Madras Cattle Diseases Amendment Act, the Survey Act, the Port Trust Amendment Act and ten miscellaneous Acts of minor importance, and the very important Bill dealing with Hindu Religious Endowments has now been added to the list. In addition to these, my hon. colleagues, the Second and Third Ministers, have devised and carried the very important Acts dealing with State Aid to Industries and the University.

"So much for what we have done, and I think I may say in passing that it is no mean list of legislative achievement for a new Council in the first two years of its existence. Now, as regards what we have left undone. We have been unable, for reasons of which the Council are well aware, to make any progress with the Madras Revenue Settlement Bill. We have prepared and have ready a Bill to deal with the vexed question of landlord and tenant but the experience of other provinces in this matter and the very large amount of legislation that we have had in hand during the last session have deterred us from introducing it until we have tested it from every point of view and have time for a thorough discussion of it in the Council.

"Further we have failed, through the action of the Council, to make any progress with another Bill of equal importance, namely, that relating to the

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rights of landlords and tenants in the matter of irrigation. As to this, hon. Members will remember that I told them in February 1921 that the Bill had already been prepared and that the hon. Member in charge was hoping then soon to be able to take action upon it. The measure was prepared with great care and elaboration, embodying in it certain operative provisions of longstanding existing law, others that had stood the test of experience in other provinces, others that formed part of a private member's Bill and others again that were necessary to clarify the law in view of conflicting decisions of the courts. The Bill was examined and accepted by the Government of India. We had hoped to have it ready for introduction in August of last year, but owing to unexpected delay, had to postpone publication till December. I feel that, in fairness to my Ministers, I should inform hon. Members that they then made it quite clear to myself and other members of my Government that they felt considerable doubt as to whether we should get a majority for the Bill on its introduction, and I take the fullest responsibility for going forward with the measure, for I hoped and trusted that hon. Members would pass the Bill at this first stage, amend it in Select Committee and refrain from taking the unusual course in regard to an important Government measure of throwing it out on introduction.

"But my hopes were not fulfilled and the Bill was rejected by an overwhelming majority, consisting not only of the Leader of the Opposition and those who generally act with him, but also of non-official members representing the various communities and interests who sit in all parts of this Chamber, including most of the Ministerial majority. It then became my duty to consider what action, if any, I should take under the powers given me in the Reforms Act in reference to this adverse vote of the Council. I might have applied my certificate to the Bill, but I decided against this course of action for I have always endeavoured in my relations with the Legislative Council, to refrain from using such residuary powers if I could possibly avoid it (applause), and I do not believe for a moment that those who voted against the introduction of the Bill intended to vote that no Irrigation Bill was necessary. All that I believe they meant was that they disliked certain provisions of the particular Bill which was placed before them. The Members of my Government and I are absolutely convinced of the necessity of legislation for the regulation of the waters of our Presidency in the interests of the huge projects we have in hand, in the interests of the improvement of the agricultural prospects of the ryot population and for the purpose of securing a very necessary increase in the food supply of the country, and this feeling is, I am certain, shared by a large majority of hon. Members of this Council. I have therefore to inform the Council that, after full discussion with the whole of my Cabinet, we have unanimously resolved to take an early opportunity of introducing a fresh Irrigation Bill for the approval of hon. Members. Every care will be taken by my hon. colleague Mr. Ramaswami Ayyar, who will be in charge of the measure, to give all the interests concerned the fullest opportunity of giving their views and opinions before the Bill is introduced, and every endeavour will be made to meet as far as possible all criticisms without surrendering what cannot but be regarded as the essential principles necessary for any Irrigation Bill. The passing of such a measure has for many years been considered most urgently necessary for the promotion of the interests of our agricultural population, and I am sure I shall be able to rely on the general support of hon. Members for the introduction of legislation on this important matter.

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"Another matter in respect of which our conditions are not so satisfactory as I could wish is that of the work to improve the condition of the labouring and the elevation of the poorer classes. At the time when I opened the first session of the Council, labour disputes were much in evidence and we were considering whether we should introduce legislation relating to strikes and unions, for the better organization of maternity aid and for the housing of industrial labour. Since then, however, the scene has shifted. Labour disputes are, I am glad to see, for the time being at an end; the general question of legislation has been taken in hand at the instance of the League of Nations by the Government of India, and they have passed two Acts dealing with factories, one dealing with compensation of workmen for injuries and another with Indian emigration, while they have legislation relating to trades unions in hand.

"At the same time, a great deal of interest has been concentrated on the condition of Indian labour abroad and I am sure hon. Members must have read with interest and satisfaction the speeches made during the discussions which have recently taken place in the Legislative Assembly in connexion with the final settlement of the rules under the new Emigration Act which govern the emigration of our workmen to Ceylon and the Malay States. I would add that I am sure we were all delighted to see the active part which our members from Madras took in influencing the decisions that were arrived at.

"But I want in all seriousness to ask two questions of hon. Members in order to put the position as I see it clearly before their minds. Is it altogether honest on our part to insist on these regulations for our labourers from other Governments unless we are determined to secure equally favourable conditions for all workers in our own Province? Can we with any justice demand that fair and equal treatment which we all agree should be given to Indians in other parts of the British Empire, if we do not put our own house in order and insist on securing similar treatment for all our citizens within our own borders? I am speaking very frankly, for I feel very strongly that conditions of labour in parts of our Province are so bad that they demand urgent and drastic remedy. Government have endeavoured in the past, and will continue their efforts to improve the prospects in life for these poor people, but to ensure complete success we require the whole force of public opinion behind us. I therefore appeal to every hon. Member of this Council for the credit of our Presidency, I go further and say for the sake of humanity, to rouse that public opinion in order that we may all ensure that every employer of labour shall be forced to undertake his full responsibility for the fair treatment and well-being of his workmen, and that the labourer shall secure all those advantages at home which we have been so eagerly working to secure for him when he leaves his country to work for employers in countries overseas. I am specially impelled to make this appeal at this time, because I have lately received certain information from officers of the Health Department, who have been actively engaged in combating the effects of the relapsing fever epidemic which is widespread in certain parts of the Presidency, that makes it clear to me that the relations between employers and their labourers are, to say the least of it, most unsatisfactory in certain areas and I wish to make, as Head of the Government, a very special appeal to every hon. Member of the Council on this matter.

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"Let me remind hon. Members in concluding this reference to labour conditions of the momentous words used by His Royal Highness the Duke of Connaught when he opened this Council over

4-45 p.m.

two years ago:

In India, as elsewhere, political development is only a vehicle for human life and human progress. Its function is to provide a nation with means for increasing the happiness of the people. The form has an importance of its own; but the spirit is vital; for liberty, unless human brotherhood follows in its steps, may easily become a greater tyranny.

No truer words were ever spoken, and I trust they will never be forgotten (applause).

"I much regret that we have failed in another and very important matter, namely, that of balancing our Budget. It is some excuse for us in this connexion that we failed in the first instance in common with almost all the rest of the world. For figures compiled by the League of Nations of the Budgets for 1921 show that only four nations out of 26 for which they had statistics had succeeded in making revenue cover expenditure. We have the further excuse that but for the failure of another Government our Budget would have balanced with something to spare. But might not England also say that she would have had a fine balance to credit if her debtors had paid their debts? We have looked for payment, but so far in vain, and I feel that I must put it to the Council that the time has now come for a long pull and a strong pull and a final pull, to make the two ends meet. In saying this I am not unaware in what an exasperating position such a state of affairs must place hon. Members and very especially my hon. colleagues who are aching to get ahead with their various schemes of reforms, when they see the money that should go to pay for them going out of the Presidency. All I can say is that I much hope from the figures that have been placed before the Council recently that we shall be able to reach equilibrium without the remission of the contributions in 1924-25, and from the statements made in the Imperial Assembly that we shall from the same date be able to claim a remission of our contributions which will enable our next Government to go forward with the many urgently necessary developments in their various departments. And in saying this I am sure hon. Members would wish me to thank our Finance Member for the absolutely untiring manner in which he has worked in the preparation of the Budget, and the tact and patience he has shown in piloting it through the Council (applause). May I also express a sense of gratitude on behalf of my Government and myself to hon. Members for the good judgment and at the same time restraint with which they have dealt with the numerous demands that have been placed before them during these protracted Budget discussions?

"I wish very particularly to emphasize this expression of opinion, for it is now my duty to explain to hon. Members why I have felt bound to take action under section 72 (D) (2) (a) of the Government of India Act, with regard to two particular Budget demands and adopt the procedure of certification. I think that this situation would probably never have arisen if, after studying the explanatory memorandum containing further facts placed before them by my hon. colleague, the Finance Member, hon. Members had been able to discuss these demands on their merits and had not been precluded from that discussion by reason of the operation of Standing Order 30. Hon. Members are aware that the Act allows the Governor to certify nothing but the original demand and the Standing Orders give the Council no opportunity of reviewing a vote previously taken. I can assure hon. Members that it is

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only after much anxious consideration I have felt myself bound to certify the expenditure provided by these demands which is to my mind essential to the discharge of my responsibility for these particular subjects.

"With regard to my certification of the amount required for the Agency, a perusal of the discussion of the motion by which the demand for the Agency was reduced by five lakhs of rupees leads me to believe that the object of hon. Members who voted for this reduction was to bring about the abolition of the separate Agency division and the restoration of the system of administration in force before 1920. But this change, if carried out, would not by itself result in any such saving as is represented by a reduction of five lakhs of rupees, and from information I have received I am clear that the effect of accepting the reduction could only be to reduce the general expenditure in the Agency to a standard even below that which prevailed before the Agency division was constituted.

"To effect a saving of five lakhs of rupees it would be necessary not only to stop all progress but even to abandon the maintenance of existing communications, to reduce dispensaries and medical services, to close down the activities of the Veterinary and Co-operative Departments and to make a heavy reduction in the scanty educational facilities which now exist. The standards of expenditure per head of the population in the Agency under Education, Medical Relief and Public Health are already far below those of the rest of the Presidency.

"His Imperial Majesty's Instrument of Instructions issued to me as the Governor of this Presidency specially imposes upon me the duty of making due provision for the advancement and social welfare of those among the people who whether on account of the smallness of their number or their lack of educational or material advantages or from any other cause need special protection, and I should be failing to carry out this command if I permitted such a reduction in the provision for the Agency as would involve not merely the abandonment of all advancement but even a withdrawal of such provision as has hitherto been found necessary to meet the medical, educational and economic needs of the area.

"The question of abolishing the Agency division and restoring the previous system of administration will come up for consideration on the report of the Retrenchment Committee which has already been submitted to Government. Should that step be decided upon by Government a saving in expenditure will result, but until the reorganization if approved of is actually effected, I have no alternative but to certify that the demand as originally asked for is essential to the discharge of my responsibility.

"Let me turn to the second item, namely, my certification of the amount required to meet the pay of the Chief Inspector of Factories. I have given very careful consideration to the matter and am convinced that apart from the fact that the abolition of the office would during the coming year entail in compensation to the displaced officer and in other ways an amount actually larger than that saved by dispensing with the Chief Inspector's services, the abolition of the office at this juncture would seriously prejudice and endanger the proper working of the department.

"The new Factories Act which has recently been passed is intended to provide for the better protection of the interests of labourers in factories, including their health and their comfort. It provides for the exercise of supervision over many factories which have hitherto been

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uncontrolled and owing to these provisions has more than doubled the number of factories to be inspected by our staff. On this ground alone the time is most inopportune for any reduction in the inspectors who are already called upon to undertake a larger number of inspections than before.

"As regards the Chief Inspector, the abolition of his office must necessarily result in a deterioration of the work done by the department. The increased stringency of the provisions of the Act and Rules makes it more than ever essential that the work of the inspectors should be subject to expert supervision and check such as would be absent if, as has been suggested, they were placed directly under the Commissioner of Labour, while the latter officer would equally be unable satisfactorily to perform the statutory duties now laid upon the Chief Inspector.

"The improvement of labour conditions in factories is a matter which is demanding attention all over the world and the first item in the Agenda of the next International Labour Conference at Geneva, under the auspices of the League of Nations, relates to the question of the improvement of factory inspection. Under these circumstances, I cannot accept this reduction for I consider that it would be altogether wrong that the Factory Department under the Government should now relax its efforts for the benefit of the labourer by introducing a lower standard both in the extent and quality of its inspections.

"It is in these circumstances that I have felt compelled to certify that the continuance of a supervising officer in the person of a Chief Inspector and the retention of the provision made for his pay is essential to the discharge of my responsibility for the administration of the department of Labour and Factories.

"There is one other demand which came under the operation of Standing Order 30 as to which I wish to say a few words. I refer to the demand for money to meet the cost of certain allowances in the Settlement and Survey Departments. I considered the question whether here, as in the two other cases, it was necessary for me to use my power of certification. I am aware that these particular allowances have been approved by the Finance Committee in the first instance and recommended also by the Retrenchment Committee; at the same time, I know that the whole question of allowances is one on which hon. Members of the Council feel very strongly. The conclusion I have therefore come to is that, as the whole question of allowances in all departments has now been examined and reported on by the Retrenchment Committee whose report will be considered by the Government in the course of the next few days, I should leave these allowances to be dealt with as part of the general question as to which I much hope that Government will be able to lay the conclusions they have arrived at before hon. Members when the Council meets for its next session and to place before the Council at its next meeting supplementary demands in respect of any allowances which are then considered by the Government to be necessary.

"And now for a few words on my impressions of the progress we have made in our work since the Reforms came into operation. Most sincerely I can say to hon. Members that I think they may well be satisfied with the very successful start they have made in Parliamentary life. This success is due, I am sure hon. Members would admit it, very largely to the really admirable manner in which our President (applause) has guided, controlled and conducted the business of our Council, and has, with the untiring help of his Secretary, Mr. Swamikannu Pillai (applause) and his staff, so organized

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the new Council Office that all matters connected with our Council work have run very smoothly indeed. It is due also, and I am sure the President, if he were here, would endorse every word that I say on this head, to the fact that all Members of this Council have earnestly striven to support the President in all matters connected with rules and order, and have, I gratefully acknowledge, done everything in their power to conduct our affairs here according to the best Parliamentary traditions. I can assure hon. Members that it has been a great satisfaction to me to feel that our debates and discussions have been conducted in such a friendly spirit hitherto that the President and I have never had even to consider the appointment of a Serjeant-at-Arms (laughter).

"I think I may claim too that much credit is due to my hon. colleagues, both Executive Councillors and Ministers, who are in charge of the various portfolios, for the spirit of co-operation they have shown with hon. Members by their desire to keep them fully informed on all matters connected with their several departments, realizing, as they all have done, that as far as possible the final decision on any question must be settled by the votes of non-official Members of the Council; to my colleagues too must be given a great part of the credit for almost entirely getting rid of the dyarchic system in our Cabinet discussions. Their loyal and hearty co-operation has made it an easy matter to do our work as a united Cabinet and not as two divided halves (applause).

"We have had our difficulties to contend with, but these difficulties have been overcome by a common impulse, a confidence amongst us all that we were working for a common purpose, a spirit of determination to make the Reform Scheme succeed. As Head of the Government, I would express my grateful thanks to the President, for the constant advice and counsel he has always been ready to give me whenever I required it, to all my hon. colleagues who have always given me the most loyal assistance in all matters connected with our administration, and to every Member of this Council for the sound judgment, steadiness and good sense with which they have exercised their great powers and responsibilities. We started our work on different principles to that of any other Province, principles which were much criticized at the time, principles as to which I was gravely warned of the troubles I was laying up for myself as head of the administration. Thanks to the good will and co-operation of all, those gloomy prophets have been confounded (applause). Our progress has been sound and sure, and I look forward with all confidence to the future.

"In conclusion, I have to inform hon. Members that Government propose as at present advised to hold a short session early in August.

5-15 p.m. After that session, the Council will be dissolved and the elections will be held in October. This arrangement will, we feel, be more satisfactory both for the general administration and for Members of the newly elected Council than to allow this Parliament to run its full course, for it will give two or three months in which to settle down to work before the Budget discussions come on next year.

"I declare this Council to be prorogued" (prolonged cheers).

His Excellency then left the Council Chamber.

L. D. SWAMIKANNU,
Secretary to the Legislative Council.

3rd April 1923]

APPENDIX II.

[Vide page 3173 supra.]

Proceedings of the thirteenth meeting for 1922-23 of the Standing Finance Committee of the Madras Legislative Council held at Fort St. George on Friday, the 23rd March 1923.

PRESENT:

- (1) The Hon'ble Sir CHARLES TODHUNTER, K.C.S.I. (Chairman).
 - (2) M.R.Ry. Rao Bahadur O. NATESA MUDALIYAR Avargal.
 - (3) " Rao Bahadur T. A. RAMALINGA CHETTIYAR Avargal.
 - (4) Khan Bahadur MUHAMMAD USMAN SAHIB.
 - (5) Dr. P. SUBBARAYAN.
 - (6) Mr. C. E. WOOD.
 - (7) M.R.Ry. Rao Bahadur O. TANIKACHALA CHETTIYAR Avargal.
- (Messrs. MACDOUGALL and RANGANATHA MUDALIYAR did not attend.)

Read scheme relating to the Medical College at Vizagapatam and Medical School, Guntūr.

[The ultimate cost of buildings required for the new college at Vizagapatam is about 5 lakhs and the annual recurring cost is about 3 lakhs. The immediate cost is 1.74 lakhs made up of .22 lakh for staff and 1.52 lakhs for buildings and equipment.

In regard to the Medical school at Guntūr it is proposed to acquire land at a cost of about Rs. 24,200 for the construction of buildings.]

The Committee, by a majority, recommended the acceptance of the proposal.

2. *Read draft order amending clause (i) in rule 10 in Annexure VII of the Madras Travelling Allowance Rules (page 34 of G.O. No. 739, Finance, dated 1st September 1922) relating to travelling allowances of the members of the Madras Legislative Council.*

The Committee recommended that for "one first-class and one third-class fare" as stated in the draft order, "1½ first-class fares" should be substituted.

3. The following paper was placed on the table:—

G.O. No. 474, P.H., dated 22nd March 1923, sanctioning the grant of Rs. 20,000 towards the cost of extension and improvements to the Union Mission Tuberculosis Sanatorium at Madanapalle.

[3rd April 1923]

FINANCIAL POSITION RESULTING FROM THE VOTING OF DEMANDS FOR GRANTS FOR 1923-24.

4. The Chairman explained the position as follows: The revenue for 1923-24 is expected to be improved by about 4 lakhs of rupees, the net result of an anticipated increase of about 6 lakhs under Excise and a decrease of 2 lakhs under Forest, the latter being the minimum reduction of revenue anticipated from the reduction made by the Legislative Council in charges for the extraction of timber on Government account by one lakh of rupees. In regard to expenditure the total amount entered in the preliminary budget for 1923-24, which was presented to the Council, has been reduced by the vote of the Council by 9.07 lakhs and the reductions which have already been made by the Government together with those they hope to make amount to 5.96 lakhs. The net result on the deficit will be a reduction from 40 lakhs to about 21 lakhs, while it is hoped that, if assignments from the Government of India which are expected materialise, this Government will secure credits of 15 lakhs in 1922-23 and of 6 lakhs in 1923-24.

ADDITIONAL DEMANDS FOR 1923-24.

5. The Committee recommended the acceptance of the proposal to move the following additional demands for 1923-24 at the meeting of the 27th March 1923:—

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| (1) <i>Special pay of Deputy Collectors employed on revision of adangals; special pay of Assistant Settlement Officers; special pay of Assistant Director of Survey, Controlling office; and charge allowance to Assistant Directors of Survey in charge of Survey Parties</i> | RS.
13,000 |
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The Council to be asked to vote expenditure for five months on account of the foregoing items; by that time the proposals of the Retrenchment Committee in regard to allowances will be fully considered and orders passed.

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| (2) <i>Director of Office Systems</i> | RS.
11,550 |
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(Against the provision of Rs. 23,100 previously entered which was negatived by the Council.)

The staff must be paid in April for work done in March. The Committee recommended that provision should be made for six months' charges to enable them, in the interests of economy, to wind up the inquiries that are now in hand.

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| (3) <i>Commercial Accountant</i> | RS.
20,000 |
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Required for putting the accounts of several commercial concerns in the various Government departments on a business footing.

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| (4) <i>Publicity Bureau</i> | RS.
3,400 |
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Additional provision required for continuing the officer for a short period to enable him to complete the issue of the Madras Year Book on which he is at present engaged.

[3rd April 1923]

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| (5) <i>Revision of pay of Stationary Sub-Magistrates.</i> —Orders revising the scale of pay of Stationary Sub-Magistrates were issued quite recently, and, as the current official year is about to close, it is not possible to utilize the provision made for this purpose in the current year's budget which will consequently lapse. The provision which will thus lapse has to be reallocated in next year's budget | RS.
21,600 |
| (6) <i>Police—Plague Police.</i> —To restore the provision that was cut out as a result of last year's voting | 25,000 |
| (7) <i>Medical—Vizagapatam Medical College and Guntur Medical School</i> [by a majority] .. | * 1,94,000 |
| (8) <i>Chief Inspector of Factories.</i> —The post of Chief Inspector of Factories has been abolished by the vote of the Legislative Council. The Chief Inspector is under the rules entitled to three months' notice of discharge and a gratuity of seven months' pay. | 10,220 |
| (9) <i>Acquisition of the building in which the Coonoor Veterinary Hospital is located</i> | 9,500 |
| (10) <i>Agency.</i> —A reduction of 5 lakhs was made by the Legislative Council. The reduced provision will be inadequate and an addition of 4.40 lakhs is necessary | 4,40,000 |
| (11) <i>Irrigation—Capital outlay not charged to Revenue</i> | 1,76,000 |
| <i>Demands under Loans and Advances by the Provincial Government</i> | 8,00,000 |
- (Loan to the Madras Corporation for Mambalam Town-Planning scheme—5 lakhs; and loan for the Tuticorin Harbour—3 lakhs.)

6. The question was considered whether a portion of the provision of Rs. 19,250 entered in the preliminary budget for 1922-23 for the pay of the Retrenchment Secretary (non-voted) for seven months should not be resumed, the committee's inquiry being completed so far as possible by May 1923. The committee were of opinion that the whole provision should be retained and that the proper course was to complete the inquiry now in progress.

FORT ST. GEORGE,
24th March 1923.

C. G. TODHUNTER.

* It was subsequently decided by the Government that demands for items (5) and (7) need not be moved at present and that a demand of 23 lakhs for 'Education—University' should be moved.

