

Ecclesiastical (1898) Department.

ORDINARY MS.

G.O., No. 130

DATED 8-11-98

INDEXED.

10-10

[Despatch Abstract.]

Recording letter from the
chaplain to the Rt. Rev the Bishop of Madras
forwarding copy of a letter addressed by His
Lordship to the Secy regarding the revised
rules to regulate the use of Churches con-
secrated for the services of the Church of
England for the services of other deno-
minations.

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BACK PAPERS.

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FURTHER PAPERS.

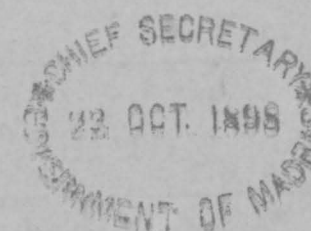
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Ecclesiastical (1898) Department.

CURRENT No. 357



H no
H.E. the Governor

Order
No 130 of 8-11-98
17-11-98

From
Reverend C. H. Pelly
Bishop's Chaplain

Recorded

No. 1852

On
26.10.98
ab
27.11.98

17/11/98

Dated 21 October 1898.

Received 22nd

Registered 22nd

Enclosures 5

Spare copies

SUBJECT.

Forwards for the information
of H.E. the Governor in Council copy
of a letter addressed to the Govern-
ment of India regarding the
revised rules to regulate the use
of Churches consecrated for the
Services of the Ch. of England
for the Services of other denom-
inations.

BACK PAPERS.

G.O.	No.	Department.	Date.
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FURTHER PAPERS.

G.O.	No.	Department.	Date.

PRIVATE.

*This Memorial was adopted
by Clergy and Laity of the
Dioceses of Calcutta & Bombay.*

To

*The Right Reverend Frederick, by Divine
permission Lord Bishop of Madras, and
in Episcopal Charge sede vacante of the
Diocese of Calcutta and Acting Metropolitan
of India, and the Island of Ceylon.*

MY LORD,

We the undersigned Clergy and Laity of the Diocese of Madras desire respectfully to approach your Lordship on the subject of the recent Resolution of the Government of India, in the Home Department (Ecclesiastical,) under date, Simla, 17th June 1898, and of the Rules thereon based: the Rules are described in the Resolution as Rules to regulate the use of the Churches consecrated for the use of the Church of England, for the services of other denominations.

We desire to draw the special attention of your Lordship to the fact that the Government of India are now dealing with the question of the use of Churches by Presbyterians and Wesleyans in a totally different spirit to that in which they dealt with the request for the use of consecrated buildings of the Church of England for the service of the Established Church of Scotland in 1860. The concession then made by Bishop Cotton the Government of India are now claiming as a precedent for the new Rules under reference. But on that occasion the Government fully acknowledged the authority of the Bishop with regard to the use of all consecrated buildings, and regarded the concession then made as a matter of favour which could not of right be demanded.

In the Resolution of 17th June 1898, on the other hand, it is assumed that the use of Churches in India for the services of the Established Church of Scotland under the existing Regulations of 1860, is a matter of right and not of favour. The Government of India refer to instances in which the use of a consecrated building has been refused as "cases of substantial complaint," and it is added that

"the Governor-General in Council trusts that such instances will not be allowed to recur." This implies, as we cannot but perceive, that the request for the use of consecrated buildings for the services of the Established Church of Scotland is one which the Government of India consider must in all cases be complied with, and which they will not in future permit to be refused.

The Government in all cases have sanctioned, and in practice have requested the Consecration of all Churches of the Church of England in which they are in any way interested. It is necessary before Consecration that a Memorial be presented to the Bishop praying him to separate the Church and ground from all profane uses and to consecrate the same to the honour and worship of Almighty God according to the custom of the Church of England, and assign it to be perpetually the Church of , at to the aforesaid worship and use. This Memorial is signed by the principal Civil or Military Government Officer of the district or station and other principal residents. In the Deed or Decree of Consecration the words are "We do now separate and set apart the said Church from all profane or common uses and do hereby consecrate the same as the Church of at to the honour and worship of Almighty God and for the celebration of the Divine Service therein according to the Rites and Ceremonies of the Church of England, and we do publicly declare that it shall so continue for ever hereafter separated and consecrated by this our decree."

In the Deeds of Consecration in use in the days of the East India Company also, the trusts were clearly stated; and the act of Consecration has been performed from the time of the first Establishment of the Episcopate in India, with the full knowledge and consent, and in many cases at the direct request of, the Supreme Government of India, or the Local Government of the Province in which the Church was situated. Thus for eighty years past the Government of India have sanctioned and encouraged the Consecration of Churches, which they have built for the use of the Church of England in India. And the act of Consecration has been performed for the past eighty years by Bishops of the Church of England, in full reliance that the Government would duly observe the trusts so declared, and in faith of their protection.

In many cases, members of the Church of England have contributed towards the building, and in other cases, they have spent large sums of money upon the fabric of Churches originally built by the Government; and in most cases they have contributed largely towards the furniture and fittings and sacred vessels of the Church; and almost everywhere they have put up monuments to their relatives and friends. All this has been done in the full faith that the trusts of the Deed of Consecration would be duly observed.

Under these circumstances, we respectfully maintain that Churches consecrated for the use of the Church of England are subject to the trusts declared by the Deed of Consecration, and that the Government are not only morally but legally bound to observe those trusts, more particularly where the Churches are vested in them and they are themselves in the position of Trustees. We cannot think it right to speak of such Churches as Government Churches as they are termed in the Resolution. It is a matter of common knowledge that Courts of Equity in England have constantly enforced strict observance of the intentions, however proved, of the founders of Presbyterian, Wesleyan, Baptist or other Chapels; and we cannot think that the Church of England in British India is upon a lower level or less entitled to protection than the various Non-conformist bodies in England.

We beg leave also to draw your Lordship's attention to the following points in the Regulation and Rules above referred to:—

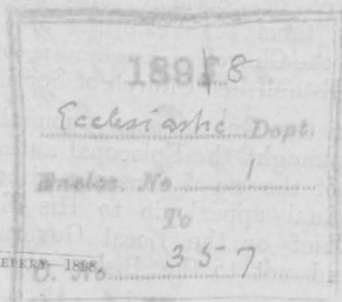
First, that the Government of India assume that the Rules of 1860 were intended for the benefit of Presbyterian bodies in general, and not exclusively for the benefit of the Established Church of Scotland; and they accordingly proceed to apply them to Wesleyans and other bodies, ~~whose relation to the Church of England is totally different from that of the Established Church of Scotland.~~

Secondly, that the Rules based upon the Resolution practically set at naught the Episcopal authority as to the ultimate control of the use of consecrated buildings, since they make the final appeal lie to His Excellency the Commander-in-Chief or the Local Government, as the case may be, and not to the Bishop of the Diocese or

to the Metropolitan. It is true that there is a provision in the introductory paragraphs of the Resolution to the effect that "in case any doubt or uncertainty may arise (and such is sure to arise and in fact already exists) in the interpretation or application of the Rules, a reference will lie in the case of Churches situate in Cantonments provided solely for the use of soldiers to His Excellency the Commander-in-Chief in consultation with the Metropolitan, and in the case of other Churches to the Local Government in consultation with the Metropolitan." But even if this provision be read into the Rules, the disregard of the Ecclesiastical authority is no less, because the Supreme Civil and Military authorities named as having the ultimate decision would only thus be required to consult the Metropolitan, not to obtain his consent to what they may do.

We venture to think that this has introduced an entirely new and disastrous principle into the relations between the Government and the Church of England in India; and that the enforcement of these Rules will not be consistent with equitable principles; and in conclusion we respectfully request your Lordship to take such measures as may seem necessary to ensure the due observance of the trusts upon which the Churches of the Church of England are held in British India, and to uphold the rightful authority of the Episcopate in British India.

We are, my Lord, Your Lordship's humble and obedient Servants.



Home Dept: }
Ecclesiastical }

* No 194 of 18th April 1889.

+ Home Dept Notification
No 1031 of 20th June 1885.

No 314.

From
C. J. Lyall Esq, C.I.E.
Offg. Secretary to the Government of India.

To
The Chief Commissioner of the
Central Provinces.

Sir the 28th August 1889.

Sir,
With reference to the correspondence ending with your letter No 4399, 398, dated the 20th December last, regarding the Mundla Church I am directed to forward the a/c m. - pending copy of a Communication from the Lord Bishop of Calcutta, and to say that as the Mundla Church was consecrated on the formal assurance given by the Deputy Commissioner that the land was the property of Government, and as the land was actually granted for the Church by the Chief Commissioner, the Government of India regards the Church as vested in the Bishop and considers it unnecessary that any Trust Deed, not devised by the Bishop himself, should be executed in respect of it. - I am to add that the rules issued in 1885 could, under any circumstances, be only made applicable to Churches erected after they were issued.

I have &c
(Signed) C. J. Lyall
Offg. Secy to the Govt of India.

No 318.

Copy forwarded to the Bishop's Chaplain, Calcutta, for information, with reference to the correspondence ending with his letter No 194, dated the 18th April 1889.

(Signed) J. P. Hewitt
Under Secy to the Govt of India.
(True Copy)

C. H. Kelly.
Bishop's Chaplain.

N^o 362 B.
Government of Bengal
Public Works Department

Calcutta the 22nd January 1894.

The undermentioned document is forwarded to the
Bishop's Chaplain, Calcutta, for information with refer-
ence to his letter N^o 728 dated the 6th December 1893.

(Signed) J. L. Johnston
Secretary.

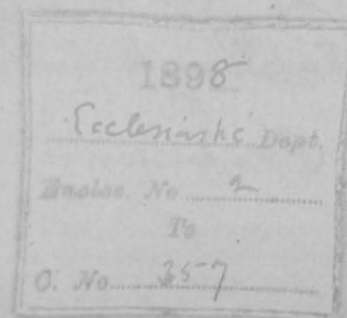
Copy of a letter N^o 360 B. dated the 22nd January 1894
from the Secretary to the Government of Bengal P.W.D.
to the Commissioner Orissa Division.

In continuation of this Office letter N^o 6472 B. dated
the 20th November 1893, I am directed to inform you that the
Lieutenant Governor is pleased to communicate formal
sanction for the appropriation of the site selected for
the Church at Balasore on condition that the Church
when built should be consecrated by the Bishop of the
Diocese at the earliest opportunity, a copy of the Con-
secration Deed when executed being deposited in the
Diocesan Registry and a copy furnished to the Magistrate
of Balasore for record. This will obviate the necessity
for a separate Trust Deed to be executed and registered.

2. A copy of the site plan which was returned
to you with this Office letter N^o 6473 B. dated the 20th
November 1893, should be furnished to this Office
for transmission to the Bishop of the Diocese, and
should be accompanied by a description of the
land to be made over for the Church.

(True Copy)

C. H. Pelly
Bishop's Chaplain.



Archbishop of Canterbury to Secretary of State
January 1860.

"I have the pleasure of enclosing to you a copy of Dr. Lushington's opinion on the case reported to him, and I am glad to find that it is in accordance with our wishes, as concerns the question in hand."

"In England when a Church has once been consecrated, it cannot be lawfully used for any divine service save that of the Church of England."

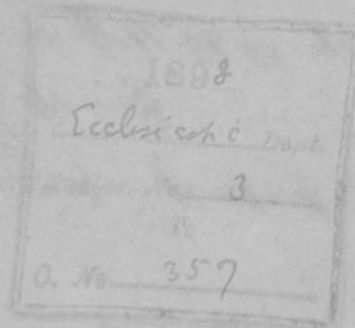
It is then expedient to consider how far the law as to Churches in India is the same as that in England.

The Ecclesiastical Law of England, save particular portions thereof by Act of Parliament, has not been introduced into India.

I think that if the Bishop of Madras should, with the sanction of His Grace the Archbishop of Canterbury, direct that this Church might be used for Presbyterian services, as proposed, such act could not be impugned by any Ecclesiastical Authority.

But there may be another difficulty. Before this Church was consecrated, the freehold must, as I necessarily presume, have been conveyed to some one. Now this is, I have no distinct information. I use the term freehold, because by whatever name such a title is called in India it must be equivalent to freehold and because Sir W. Grant in effect decided that land held in perpetuity by Europeans in India was deemed to be freehold.

Now if this Church and the land on which it was built was conveyed to Trustees, upon trust for divine services according to the rules of the Church of England only, I



apprehend that if the Church should be used as proposed, a breach of trust would be committed, and that the Supreme Court in India might take cognizance thereof. It may be very improbable that any such proceedings would take place, but I feel bound to point out the possibility thereof. Should it be ultimately determined to grant the permission, I think it should be granted during pleasure only, with a clause giving the Bishop a right to revoke whenever he thought fit.

It should be further stated that this permission is granted for the performance of divine worship according to the rules of the Established Church of Scotland. Such is the proposition of the Madras Government, and it is not expedient to go further.

(Signed) J. Lushington.

(True Copy)

C. H. Pelly

Bishop's Chaplain.

No. 1848.

Ecclesiastical Department
Coonoor 13th October 1898.

From

The Reverend C. H. Pelly, M. A.
Bishop's Chaplain.

To

The Secretary to the
Government of India
Home Department
Simla.

Sir,
With reference to the Extract from the Proceedings of the Government of India, Home Department, (Ecclesiastical) dated 14th June 1898, No. 241-86, published in the Gazette of India, dated July 2nd 1898 - prescribing for general adoption Revised rules to regulate the use of Churches consecrated for the services of the Church of England for the services of other denominations. I have the honor, by desire of the Right Reverend the Bishop of Madras, Acting Metropolitan of India and Ceylon, to submit for the consideration of His Excellency the Governor General in Council the following remarks:-

1. His Lordship would wish of all assure the Government that he has every desire to meet their wishes, and to exercise a spirit of Christian fellowship towards members of other denominations. But he thinks the respective responsibilities of the Government and of the Bishops in the matter have not been clearly kept in view.

2. In the Preamble to the rules now promulgated it appears to be assumed that the right of declaring for what purposes consecrated Churches are to be used rests finally with the Government

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of India - His Lordship would respectfully submit that this is not the case. This is clearly stated in a Memorial which His Lordship has received largely signed by Clergy and Laity of the Dioceses of Calcutta, Madras and Bombay, a copy of which is herewith forwarded.

4. Prior to the consecration of any Church in India, not only must the consent of Government be obtained, but also the freehold of the Church and land on which it is built must be secured. By the Act of Consecration the Church is separated and set apart for the services of the Church of England; and further by the same Act the Church is vested in the Bishop as Trustee, no other Trust Deed being necessary.

This is expressly acknowledged by Government in a correspondence which took place between the late Metropolitan and the Government regarding the Church at Mandla in the Central Provinces, November 1884. August 1889. and the Church at Balasore January 1894. Copies of the final letters in each case are herewith forwarded. His Lordship therefore respectfully maintains that the authority to decide for what purposes the Churches may be used rests with the Bishops of each Diocese.

5. To what extent Bishops may be justified in permitting the use of Churches for the services of other denominations is a serious question. When great difficulty was experienced nearly forty years ago, in providing for the services of Scotch Presbyterians, the views of the Archbishop of Canterbury and of the Secretary of State were sought, and these were not given without consulting the most eminent ecclesiastical lawyer of those days. A

From Secy to Govt of India
Home Dept. to the Chief
Commissioner Central
Provinces No. 314 of
28th August 1889.
From Secy to Govt of
Bengal to the Commissioner
Orissa Division No. 360
B. of 20th Jan'y 1894.

Copy of Dr. Lushington's opinion is herewith enclosed. It will be observed with how great caution he handles the subject, and is careful to state that, if permission is granted for the performance of Divine worship according to the rules of the Established Church of Scotland, it was not expedient to go further.

6. But the recent action of the Government of India goes much further, and this without consulting the Archbishop of Canterbury or the Secretary of State. The Ecclesiastical Establishment of the Established Church of Scotland in India holds a position similar to that of the Church of England and widely different from that of any of the Non-Conformist bodies. The proposal to concede the use of our Churches to the latter needed separate consideration than that which was given to the concession granted in 1860.

7. The Acting Metropolitan is aware that a draft of the proposed rules was sent to the late Metropolitan for an expression of his opinion, and that the modifications which he proposed were adopted. Owing probably to the fact that he was on the eve of his resignation, and was therefore hurried, the other Bishops of the Province were not consulted. Several of them have since expressed their disapproval.

8. His Lordship however observes, that in paragraph 6 of the late Metropolitan's letter to Government, No. 312 dated 24th April 1890, it is requested that "if His Excellency in Council thinks it necessary that the whole question of the position of Churches duly consecrated for the services of the Church of England should be reopened. . . . the matter may be referred to the Secretary of State and the Archbishop of Canterbury by whom the present arrangement was originally arrived at and that His Lordship might have the opportunity of

representing his view of the case."

9. As the Acting Metropolitan considers that by the publication of the revised rules the whole question has been reopened, His Lordship requests that the Proceedings of the Government of India may be recalled for further consideration.

Should the Government then decide to issue its Resolution and Rules in a revised form, His Lordship requests that (a) such form may not contain the appearance of a direction addressed by Government to the Bishops to abstain from ever refusing the use of a Church; and (b) it may be made clear that every application shall be determined by the Bishop alone, an appeal lying to the Metropolitan alone, whose decision shall be final.

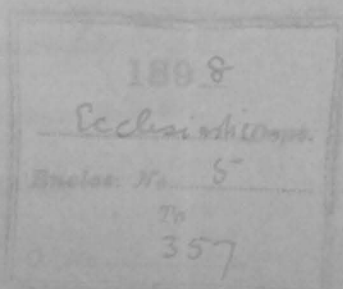
10. If however this proposal should not commend itself to His Excellency the Governor General in Council, His Lordship requests that the whole matter, together with this letter and enclosures may be referred to the Right Honorable the Secretary of State and His Grace the Archbishop of Canterbury as requested by the late Metropolitan.

I have &c
(Signed) C. H. Pelly
Bishop's Chaplain

(True Copy)

C. H. Pelly

Bishop's Chaplain



CURRENT No. 357

ECCLIASTICAL DEPARTMENT,

No. 1852

Madras 21 October 1898.

From

THE REV. C. H. PELLY, M.A.,

BISHOP'S CHAPLAIN,

To

THE HONOURABLE THE CHIEF SECRETARY TO GOVERNMENT,

Fort Saint George
Madras

SIR,

B
With reference to Government Order No. 92, Ecclesiastical, dated 16th July 1898, I have the honor, by desire of the Right Reverend the Bishop to forward for the information of His Excellency the Governor in Council, copy of a letter addressed by His Lordship, as Acting Metropolitan, to the Government of India, Home Department, regarding the revised rules to regulate the use of Churches consecrated for the services of the Church of England for the services of other denominations.

I have the honor to be

Sir,

Your most obedient servant,

C. H. Pelly

Bishop's Chaplain

Open for copying _____
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G.O., No. _____, DATED _____
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N.B.—

- A = Copy in full.
- B = Not to be copied.
- P = Copy abstract only.
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