

Public (1897) Department.

ORDINARY MS.

G.O., No. 501

DATED 3. 5. 97



114
1777
manuscript

[Despatch Abstract.]

*For P. Ananda Charis and Religious Endowment
Bill. Encl. to contain spec. public notice and
for an early expression of opinion - and for
rectifying publication of the bill with statement
of objects & reasons in the Fort St George Gazette
in English and in all the vernaculars.*

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	D.

Public (1897) Department.

CURRENT No. 1461

From *Prof I Legislative St.*

No. 769.

Dated 8
Received 13
Registered 13 } - 497.

Enclosures 3 (39 p.c of each in metres)

Spare copies

SUBJECT.

Requesting the opinion of H.E. the Law, nor in the Honble the judges of High Court and other officers on the provisions of the Hon Rai Bahadur Das Ahluwalia Bill and that the Bill & statement of objects & passing was published in the Gazette English & other languages.

File now with U.S.
Submitted to the U.S.
with as many as possible
13/4/97.

BACK PAPERS.

G.O.	No.	Department.	Date.

Extract from the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., cap. 67, and 55 & 56 Vict., cap. 14).

The Council met at Government House on Friday, the 26th March, 1897.

* * * * *

RELIGIOUS ENDOWMENTS ACT, AMENDMENT BILL.

The Hon'ble RAI BAHADUR P. ANANDA CHARLU moved for leave to introduce a Bill to amend Act XX of 1863 (*to enable the Government to divest itself of the management of Religious Endowments*). He said:—"I ask for the forbearance of the Hon'ble Members when I make a few remarks, with which I mean to supplement what I had to set forth—necessarily very briefly—in the Statement of Objects and Reasons. I wish you, in the first place, to note how I have been at pains to proceed along the line of least resistance. The first paragraph in my Statement of Objects and Reasons makes this abundantly clear, as I venture to think. The control I have provided is at the minimum standard of interference consistently with its proving effective. Agreeably to my first ideas, I would place even the dismissal of trustees for proved misconduct in the hands of the *Central Committees*. In my view this appeared, and still appears, to be an adequate enough guarantee in the interests of the trustees, and my reasons are as follow:—

"The control by the Committees that have been appointed for the purpose under Act XX of 1863 has been *nominal* at best, and the responsibility for it is universally traced to the *defective* law, which at present drives either the dissatisfied Committee-men or dissatisfied worshippers to Courts to displace trustees guilty of misconduct. The most palpable fact to be noticed is this, that while the Committee-men or the worshippers have to find their own funds to bring the culprit to book in these circumstances, the trustees—in safe and unrestrained possession of the endowment funds—draw upon these latter to the full bent of their most extravagant inclinations. In such an unequal fight it is too often the case that the complainants get worsted. But it is worthy of note that, even in cases where they are *successful*, the trustees removed take prior care to show the possession of very little tangible property to recoup the victors as to the costs incurred; and the consequence is that these costs had often to come out of the very endowment-funds which the litigation was started to *protect*. Therefore, in either case, the endowment is a *distinct, heavy and unjust loser*. Any system that will obviate this most undesirable result must, for that single reason alone, be a decided improvement upon the present state of things. In view to gain this paramount object, I eliminated all necessity to go to law. This I did by making the District Committee primarily and the Central Committee ultimately to be the final arbitrator on the question.

"Another stumbling-block in the way is section 18 of the present Act, which provides for a preliminary enquiry before a suit is filed. It is, so to speak, twice-cursed, *i.e.*, (1) it harms the one who seeks to condemn, and (2) harms

FURTHER PAPERS.

G.O.	No.	Department.	Date.

no less the person whose condemnation is *bonâ fide* sought. By the way, one cannot but note that all the most useful provisions of the law in relation to discovery and the like are not available to the parties. Firstly, it has always been impossible, in the nature of things, for any plaintiff to begin with all his evidence cut and dry. Nor would it be possible for him to anticipate all possible defences. In such circumstances the materials with which one would ordinarily go before the Court as plaintiff would be necessarily meagre, and an immense risk is thus run. This cannot but act as a frightful deterrent even in the face of very strong *primâ facie* grounds for suspicion. So much for the operation of the section as against the would-be plaintiff. Its effect, as against the trustee, is no less serious. To begin with, he must find that, at the end of the preliminary enquiry, if the suit were allowed, he would in a sense stand condemned before ever the suit has actually been launched. *The judge, who would have to try him, had already made up his mind against him so far, that he could not bring to the trial a mind without a bias.* He could not, as matters now stand, help becoming, so to speak, a grand jury, a policeman and a judge *rolled into one*. This state of things is utterly inconsistent with justice, either to the would-be plaintiff or to the trustee, and its only effect has been vexatious harassment of the trustee or a needless embarrassment to the public-spirited men who, in an unlucky hour of righteous wrath, go, so to speak, to the hazard of the die.

"One plausible objection to this part of my scheme is that persons who have 'vested interests', as the trustees are too often called, would thereby be irremediably at the mercy of five or six men. My obvious answer to this is that, even in matters of life and death in the Provincial towns and in other matters involving serious loss of liberty, reputation or property in the districts, five or six men as jurymen *do* at present give a final verdict. I ask if the forfeiture of an honorary office is, comparatively speaking, of much graver importance? I think not; and let me point out that the present Act itself contains, in the provision to refer disputes to arbitration (section 16), an exactly similar mode of giving finality, such as belongs to the verdict of a jury. I may add that there can be no 'vested interest' to do wrong. At best here is a choice between two evils, and prudence counsels the choice of the lesser one. My view is that of the two evils—the evil now existing and the evil of possible injury to a trustee—the latter is by far the lesser one. *As for the endowment itself*, the balance of advantage is overwhelmingly in its favour, among other reasons, by placing law Courts beyond temptation to all the parties concerned. This is the conclusion I have come to after considering all the bearings of the case. In this conclusion I have a vast following.

"But I have since had reason to believe that such a provision might be viewed as rather a drastic or violent provision to start with, and that the existing safeguard of a suit and of the decree of a District Court would most probably be insisted upon as an indispensable provision. I have altered my scheme in deference to such a view; but, after all, if the rest of the Bill is acceptable, this change, I think, will make little appreciable difference. Perhaps it is, on the whole, expedient that the intercession of District Courts is not altogether eliminated on the single point of the dismissal of the trustees. This will reassure, rather than alarm, the trustees and their friends, and I see no practical advantage in staking my proposal on insisting on placing the power of dismissal in the hands of the Central Committees of each religion or sect.

"As regards the principle of constructing the district electorate, I have departed as little as possible from the provisions of the Act (XX of 1863) now in force. That Act provides, indeed, that the Local Government shall name the members of the first committee, but it lays down at the same time that the nomination shall be in accordance with the wishes of the respectable followers of each religion. In my Presidency, *i.e.*, in the Presidency of Madras, committees contemplated under Act XX of 1863 were mostly, if not in all cases, formed. To them, rather than to the Local Government, I have assigned the duty of working the Act, if my Bill will be so fortunate as to ripen into an Act. In taking this course I am only carrying out the principle of the existing Act, XX of 1863; for what that Act insists upon is that some system of election should be devised to fill up vacancies after the first members have been named by the Local Government. I have taken care to avoid the principle of "one man, one vote," as I found it to work no small mischief where, in my innocence, I counselled it to be tried in regard to one temple, and I have therefore restricted myself to the opinion being taken of the better classes of worshippers—classes by no means difficult to spot. The classes excluded by such a provision may be set up by designing men to protest, from a selfish motive, but these will soon see fit to acquiesce in what my Bill provides for. Having regard to the limited purpose for which the electorate must come into being, we need not aim at any broad fundamental principle or strive after a council of perfection. It would be quite enough to seek for some system which might fairly serve as an analogy and adopt it or adapt it as the case may be. The system upon which the list of jurors is drawn up offers a fairly good analogy to go upon. A little more care and trouble in reaching the proper men must result in a list good enough in all conscience. A list constructed with very much less care is good enough to supply persons fit to pronounce a *final* and indefeasible verdict on no less than a question of life and death in the Presidency-towns, and in respect of liberty, reputation and property in the districts. I venture to think that there can be no ill-adaptation of means to the end, if the district electorate is built up as are our jury lists with the further safeguards I have provided. What I should like to point out here is that no other workable and acceptable system has been possible for nearly a quarter of a century now, or seems to be possible in any near future, and 'not to decide' in favour of my scheme is, so to speak, to decide in favour of the anarchy of the present. If there have been disinterested and self-denying founders of grand charities in the past, the communities which produced them will surely produce men who, in the present day, would safeguard them by doing, after all, very much less, namely, by seeing to their preservation only. It is a well-known Aryan dictum, universally believed in by every true Hindu, that he who *preserves* a Dharma renders as good service as its *founder* himself. What is now needed is a *real* opportunity to do so. Once there is a *reality* of controlling agency in lieu of the present moribund or checkmated committees, *and the trustees see it, they will themselves* initiate desirable reforms *of their own accord* or do so under mere persuasive pressure, so as to utilise the funds at their disposal in broader senses of charity than they recognise or can or will realise at present and thus give effect to the spirit of the intentions of the donors. To speak an unvarnished truth, there has been of late so little inter-action between them and the educated classes that each set has misjudged the other. Brought into closer relations, as the two sets would be under my scheme, and they understand the altered conditions, I am honestly hopeful that, after a brief period of transition,

during which temporary mutual jealousies would give place for a final and better mutual understanding, all friction, worth the name, would disappear and a harmonious action would follow.

"I hope and trust that the general intelligence of my countrymen, in whose shrewdness I have great faith, would realise the soundness of my position.

"I have made an important departure from the *status quo*, namely, that the members of the committees would hold office *for a term of years* and *not for life* as now. From this I expect a vast amount of good. Whatever the conditions in 1863 or soon after that date, they have materially changed since. Men, ready to render honorary service to the public, have come to the front in larger numbers in recent years, and the system of imposing public duty for a term of years rather than for a life-time has not only come into considerable favour, but has been found, on the whole, to work excellently well. This by itself, without more, is reason enough for the departure. Apart from that consideration, there is, I think, solid reason for holding that the system which I propound is by far the best, as it offers opportunities to correct initial errors, without having to wait till death brings relief—a species of relief which does not come conveniently or for the wishing. Short of gross misconduct, which entails the prescribed pains and penalties, we can well conceive of forms of dereliction of duty which would tell prejudicially on the well-being of the trust, but without drawing on the culprit those pains and penalties. Such cases are bound to be not a few. To afford, at short intervals, opportunities for reaffirmance in case of fitness or for supersession in case of incompetency is a decided advantage which cannot be overrated, not to speak of the invariable good that must come of letting fresh blood in, even with the risk of replacing one set of good men by another set of good men. A widespread ambition, in the adherents of a religion, to emulate one another and to displace one another for no other tangible reason than to serve the public is, on the whole, sufficiently beneficial to be favoured, fostered and given the freest scope to. To block its way is, to my mind, an attempt to thwart the course of a natural law. These constitute my justification for standing up for a term of years in preference to a tenure for life.

"Another point in which my scheme differs from the present law is that I abolish the distinction which the present law makes between the endowments which had been under the direct control of the Government at one time and those that had not been so. I see no sound reason for maintaining that distinction. One class is as much trust-property as the other. Malversation of the one class is as culpable as of the other. If only some of the trusts came originally under the Government supervision and not the rest, it was, I think, purely an accident. There could be nothing inherent in the trusts which had remained outside Government control, necessitating that they should so remain outside that control or any control for that matter. Even the actual initial founder of an endowment could not, after he had once dedicated the endowment to the public, touch it or claim to divert it from the purpose declared at the time of dedication. A mere successor of his is *a fortiori* absolutely debarred from frittering or whittling it away. I have not the least doubt that, had such cases been brought to the notice of the Government as they occurred, the Government, as then disposed, would have taken the trusts to which they related as fully into their hands as they had done as regards the others. I therefore maintain that the distinction under reference is utterly untenable and unnecessary.

"In submitting my Bill to His Excellency for sanction, I inserted in it a section, exempting the Central Committees from payment of all Court fees, and I did so as a hope was held out to that effect by His Excellency in 1894, when dealing with a Bill sent up from Madras. But the terms of the sanction accorded to me did not cover that section. I have therefore omitted it. But I take it that the objection to having such a section at the present initial stage may not preclude hope that it may yet receive consideration at later stages of the Bill.

"I have made no secret of my Bill. It has been published far and wide. It has elicited a great many personal opinions in its favour. Most of the organs conducted by my countrymen in English have decidedly pronounced in its favour. Others, I feel confident, will follow suit. With the intelligence of the country on my side—with the strength of the *Amrita Bazar Patrika*, the *Indian Mirror*, the *Hindu Patriot* and the *Bengalee* of Calcutta and of the *Hindu* and the *Standard* of Madras, of the organs conducted in English, and the *Hitabadi*, fast developing into a powerful and leading vernacular paper, explicitly behind my back already, and above all with the Government standing neutral and aloof, I cherish a strong hope that the Bill will successfully pass through the ordeal."

The Hon'ble SIR JOHN WOODBURN said:—"The Government consents to the introduction of the Bill which the Hon'ble Member has from laudable motives prepared. But it must be distinctly understood that the Government is not a party to it. The Government has laid down the principles of its relations to religious endowments in the Act of 1863, and to those principles it adheres. The Bill of the Hon'ble Member is in the main an endeavour to secure through the existing non-official committees a closer control of the management of these endowments. That is an aim which can only be successfully prosecuted, should it appear that it has the general support of those interested; and the Government reserves to itself an absolute right to oppose the Bill, if that appears expedient, in its later stages."

The motion was put and agreed to.

The Hon'ble RAI BAHADUR P. ANANDA CHARLU introduced the Bill.

The Hon'ble RAI BAHADUR P. ANANDA CHARLU moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The motion was put and agreed to.

STATEMENT OF OBJECTS AND REASONS.

1. The object of the Bill is to remove certain defects in the management of Religious and Charitable Endowments under the law as it stands at present.
2. The Bill proposes to leave the existing trustees where they are. It allows their successors to come in, in accordance with the usage in vogue in each institution in that behalf. It leaves untouched all the trust property and income in the very hands which now hold them. It leaves them to carry on the customary expenses as hitherto, but only subject to budgeting previously and subject also to providing for possible contingencies which might arise for revision of such budget—a revision which no Committee would be found to make repeatedly or largely in the face of long-standing usage.
3. As regards the cost of the controlling agency, advantage is taken of the wide-spread ambition and readiness to render *unpaid* service in public interests, and each endowment is laid under a contribution, which is the veriest minimum that can be imagined as needed for maintaining a fairly efficient subordinate official staff.
4. As to the *constitution* of the controlling machinery, the Bill provides for two sets of Committees for each religion or sect. It makes the District Committees exercise *direct* supervision over the trustees, and the higher or Central Committees, as they are called, to exercise *general* supervision and act as an appellate tribunal to correct mistakes and remedy the effects of likes and dislikes on the part of the District Committees.
5. The Committees are formed on the basis of election by the better class of worshippers of each religion or sect. An electorate formed by such classes should, it is thought, suffice for all practical purposes.
6. The members of the Committees would hold office *for a term of years and not for life* as now.
7. The Bill proposes to abolish the distinction which the present law makes between the endowments which had been under the direct control of the Government at one time and those that had not been so, malversation of the one class being as culpable as of the other.
8. It is proposed to enlarge the powers of the Central Committees relative to holding enquiries into the conduct of trustees, and dispense with the necessity on their part to obtain prior sanction to sue which the present law enjoins; while the trustees will continue to enjoy the present safety against harassment by any action of Committees by being liable to dismissal only by means of the decree of a Civil Court.

P. ANANDA CHARLU.

The 22nd March, 1897.

GOVERNMENT OF INDIA
LEGISLATIVE DEPARTMENT

ANNEXURE

Bill to amend Act XX of 1863
to enable the Government to divest
of the management of public institutions

(Statement of Objects and Reasons.)

G. I. C. P. O.—No. 723 L. D.—29-3-97.—350.—R. B.

A
BILL
TO

Amend Act XX of 1863 (an Act to enable the Government to divest itself of the management of Religious Endowments).

WHEREAS it is expedient to amend Act XX of 1863, relating to the administration of Religious and Charitable Institutions and Endowments of a public character in British India; It is hereby enacted as follows :—

1. (1) This Act may be called the Religious Short title, extent, Endowments Amendment application and com- Act, 1898. mencement.

(2) It extends to the whole of British India and applies to all non-Christian Religions and Charitable Institutions and Endowments of a public character the annual income of which does not fall below two hundred and fifty rupees; and

(3) It shall come into force on the first day of January, 1898.

2. In this Act, unless there is anything repugnant in the subject or context,—

(1) "Religious and Charitable Institutions" include all temples, mosques, pagodas, shrines and charitable institutions by whatever local designation known, and all property endowed or purchased, and all offerings of pilgrims connected therewith, whether applied to religious or charitable or other purposes, which are not the personal property of, and offerings to, any individual;

(2) "trustee" includes all persons, by whatever local designation such persons may be known, who have charge or management of any institution, or the property of any institution, in trust; and

(3) "Civil Court" means the Court of the District Judge in the district in which the institution is situated.

3. (A) In every District where a Committee such as is contemplated by Act XX of 1863 has been constituted, such Committee shall, within a month of the passing of this Act, prepare a register, and publish in all public offices and institutions a list of the leading persons of each religion or sect which has any institution in the district, including the principal landholders, pandits, moulvies and priests, and all such men of respectability and position as in the opinion of the Committee ought to be included in this list. (B) Provided that, where no such committee has been constituted, the Civil Court of every District shall, within a month of the passing of this Act, nominate three persons of each religion or sect to form a Committee to prepare and publish the aforesaid list.

The persons of each religion or sect included in this list shall be "the district electorate" of that religion or sect in that District for the purposes of this Act. But the said Committee shall include or eliminate the name of any person who, in the opinion of two-thirds of the persons in the lists so prepared, may be recommended or objected to.

4. The said Committee shall call upon each electorate to meet at a time and place to be fixed by it, and duly notified in all public offices and institutions, and elect by a majority of votes, not less than three, and not more than five, members to form "the District Committee" for the control of the endowments of that religion or sect in that District.

5. Each District Committee of any Province within a month of its election shall elect a voting Delegate. Such voting Delegates shall meet at a time and place jointly agreed upon and shall elect by a majority of votes not more than five members, and the members so elected shall form "the Central Committee" of that religion or sect with head-quarters at any place that the said Committee by a majority of votes may elect for the purpose.

6. In case the district electorate or the District Committee fail to make the elections required by sections 4 and 5, the Civil Court of each defaulting district and the High Court of the Province shall nominate the members of the District and Central Committees respectively.

7. The District Committee and the Central Committee shall hold office for three years, but will continue in office until relieved by their respective successors, and their members will be eligible for re-election. The said Committees shall elect their own chairman and decide all matters by a majority of votes, each member having one vote and the chairman having a casting vote.

8. As soon as the first Central Committee shall have been formed, the powers hereby conferred on the Committees referred to in clauses A and B of section 3 shall thenceforward vest in such Committee and its successors.

9. Any member of the District or Central Committee, who shall be found guilty of misconduct or any conduct which make him unfit for his place, shall be liable to be removed by the unanimous vote of the remaining members.

10. Any vacancy caused by death, resignation or removal of any member shall be filled up according to the provisions of the aforesaid sections 4 and 5. The member

or members so elected shall hold office only for the unexpired portion of the Committee's tenure of office. The District and Central Committee, on the expiration of the tenure of their office, shall also be elected in the same manner.

11. Each Central Committee shall, in the first quarter of the last year of its tenure of office, either confirm or reverse the lists of District electorate, and shall in the last quarter of the same year cause the District Committees and District electorates to make their respective elections under sections 4 and 5: Provided that, in case such District Committees or District electorates fail to act, the High Court of the Province and the Civil Court of the District shall respectively exercise powers conferred under this section.

12. The District Committee of each religion or sect shall have absolute control, not inconsistent with their maintenance, over the institutions belonging to that religion or sect, including the appointment of the trustees, according to the custom prevailing in each institution, as vacancies shall occur after the passing of this Act, but shall not have the power of dismissal of trustees for misconduct, disobedience of orders issued by the District or Central Committee or dereliction of duty assigned to them except as hereinafter provided.

13. The District Committee shall keep a register of the institutions in its charge, with properties appertaining to them, and the trustee shall submit, within a time to be fixed by the District Committee, a list of all such properties. The trustees shall prepare a budget of receipts and disbursements including their rateable share of costs of necessary establishment of the District and Central Committees in March every year for each shrine, and shall likewise submit monthly or quarterly accounts. All these shall be kept and submitted in the forms prescribed by the Central Committee in consultation with the District Committee.

14. The District Committee may, by a majority of votes, revise the budget as they see fit, subject to confirmation or revision by the Central Committee.

15. The property and the proceeds of every institution shall remain in such custody as at the commencement of this Act, subject to such provisions as the District Committee shall, with the sanction of the Central Committee, prescribe for their safety.

16. The orders of the District Committee shall be appealable to the Central Committee, whose decision shall be final.

17. In addition to the powers conferred by Power of Central section 13 of Act XX Committee to make of 1863, the Central Com- mittees of each religion or sect shall have power to call for explanation from the trustees subject to their control and to hold enquiries into the management and the conduct of such trustees. The Civil Court with- in whose jurisdiction such enquiries are held shall, on the application of the Chairmen of such Central Committees, issue the necessary pro- cesses for production of documents and the appearance of witnesses at such enquiries.

The District and Central Committee shall have power to take evidence on oath in any inquiry before them, and their members, indivi- dually and collectively, as well as the trustees, of any institution or property aforesaid shall be public servants within the meaning of the Indian Penal Code.

18. The Central Committee of each religion Rules and bye-laws. or sect in consultation mittee of that religion or sect shall have power to frame necessary bye-laws and rules for the election of the members of the said Central and District Committees, and for the proper management of the institutions and properties within their respective jurisdiction, and for the due discharge of their duties by the aforesaid trustees. These bye-laws and rules and the annual report of the administration of the in- stitutions and properties in their respective jurisdiction shall be published in each provincial Gazette not later than the middle of June of every year. XLV of 1860.

19. The District Committee shall be entitled Expenses of Com- to maintain an office and mittees. an establishment ordinarily costing not more than fifty rupees per mensem, and the Central Committee not more than one hundred rupees per mensem, exclusive of other incidental charges, such as the cost of auditing of accounts, or the travelling expenses of any member deputed to inspect any institution, or make local enquiry whenever necessary. These items of expenditure shall, as far as practicable, be rateably apportioned among the several shrines of the districts or recovered from the particular shrine to which they relate, and shall be included in the budgets and the accounts of the shrines or shrine in question, respectively.

20. In section 18 of Act XX of 1863, after Amendment of sec- the words "no suit" and tion 18, Act XX, 1863. before the words "shall be entertained" the following words shall be in- serted, *viz.*, "except when such suit is brought by any Central Committee of any religion or sect constituted under this Act."

1461/1897

No. 769.

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

FROM

H. W. C. Carnuff, Esq.
Deputy Secretary to the Government of India,
Legislative Department,

TO

THE CHIEF SECRETARY TO THE GOVERNMENT OF Madras.

CHIEF SECRETARY
GOVERNMENT OF MADRAS
13 APR. 1897
April 1897.

A
BILL
TO

Amend Act XX of 1863 (an Act to enable
the Government to divest itself of the
management of Religious Endowment)

SIR,

I AM directed to forward herewith *four* copies of the
papers noted on the margin, and to request
that the Governor in Council will favour
the Government of India in this Depart-

ment with an expression of his opinion on
the provisions of the Bill, and with the opinions of the Hon'ble the Judges of the
High Court and of such selected officers and other persons as the Governor in
Council may think fit to consult on the subject.

2. I am also to request that the Bill and Statement may be published in
the *For St. George* Gazette in English, and in such other
languages as the Governor in Council may deem proper, and that the dates of
publication of both may be communicated in your reply.

3. The reply to this letter should be sent in by the

I have the honour to be,

SIR,

Your obedient Servant,

H. W. C. Carnuff
Deputy - Secretary to the Government of India.

G. I. C. P. O.—No. 720 L. D.—29-3-97—350.

[C. G. DE S.]

G. C. Press, Simla.—No. 503 L. D.—16-3-92.—100.

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Public Department.

G. No. 1461.

H. E. THE GOVERNOR.

THE HON'BLE MR. BLISS, C.I.E.

THE HON'BLE MR. GROSE, C.I.E.

SUBJECT.

Hon. P. Ananda Charlu Religious
Endowments Bill on the Supreme
Legislative Council.

FOR ORDERS.

The Govt. of India forwards the
above Bill, with spare copies, for the
opinion of this Govt. as well as for
that of the High Court and of select-
ed officers and other persons.

The Bill has to be published
in the vernaculars. It is submitted
that it should be translated into all
the vernaculars, viz:-

Tamil
Telugu
Malayalam
Canarese
Hindustani

It is submitted that it will be suffi-
cient if, besides the High Court, the
opinions are asked of

Members of the Committee
which has recently re-
ported on the subject

- (1) Hon. K. Kalyanasuncaram Aiyar.
- (2) Hon. S. Subramanya Iyer
- (3) Hon. V. Bhaskyan Aiyangar
- (4) Hon. C. Sankaran Nair
- (5) M. R. R. P. Chentlal Rao
- (6) Hon. P. Rajarathnam Mudaliar.

The Bill is intended to apply
to all non-Christian religious endow-
ments. It seems necessary therefore to

C. 26/4/97

ask for some Muhammadan views. It is submitted that

(1) The Anjuman

(2) The Central Muhammadan Association may be consulted.

2. There are now either under consideration or in contemplation ^{four} ~~from~~ different measures dealing with this subject, viz.

(1) The draft Bill of the Committee

(2) The draft now under preparation in accordance with orders *in linked file*.

(3) Kalyanasundaram Aiyar's Bill (standing over for the present)

(4) The present Bill

The linked file contains the orders on the Bill prepared by the Hindu Committee. It was decided that the Bill did not altogether meet the views of this Govt., but that it should nevertheless be forwarded to the Govt. of India, with remarks; at the same time a Bill, on a more modest scale, is to be drafted from the note of H.E. the Governor, and forwarded with the other Bill.

^{draft} The Bill and ~~the draft~~ letter were in course of preparation when the present current was received: orders are solicited whether they should still be submitted or whether Govt. wishes to postpone its communication to the Govt. of India on this subject until the enquiries regarding the present bill are complete. The Govt. of India is hardly likely to pass any orders on this Govt's letter and draft Bill while Anandacharlu's bill is still under report: no time to

in linked file

in linked file

Agree that we had better postpone

5th 23rd 4

E.R.

Memorandum No 501 & 3-

*Communicated
Humble the Judge
High Court, the
Judge, and to the
finally noted for
and public body
for favour of
Expression of opinion
thereon.*

The Bill with statement of objects and reasons will be published in the Fort George Gazette in English and in all the vernaculars. The Supd. of Press, should have the dates of

therefore, it is submitted, saved by addressing the Govt. of India now, ^{while} ~~whether~~ it will probably lead to more satisfactory results if the whole question can be discussed in one communication.

3. The present bill is almost altogether in accordance with the note of H.E. the Governor from which a draft bill is to be prepared, as the following particulars show:-

H.E. the Governor's note states (i) that which is required is not a repealing but an amending Act.

The Bill merely amends Act III of 1865.

(ii) that trustees should be appointed for a limited term (five years) and not for life.

The Bill, section 7, provides a term of three years.

(iii) that the trustees of all temples should keep and publish accounts.

The Bill applies to all temples

(iv) that Committee should have power to sue trustees for misfeasance

This is not required in the present bill which provides a central Committee to take the place of the Civil Court for most purposes

(v) that power should be given to levy a cess ^{to meet} ~~for~~ the expenses of the Committees. The Bill gives such power (section 12).

bodies should be subject to one act. The Bill applies to all non-Christian religions or charitable institutions. [See 1. (2)]

(vii) that institutions with a small income may perhaps be excluded. The bill does not apply to institutions with an income of less than Rs. 250 per annum. [See 1. (2)]

(viii) that the Committees should not have the power to dismiss trustees. The Bill expressly provides that Committees should not do so. (See 12)

4. The Bill itself is a single one. After defining a religious and charitable institution [sec. 2. (1)] in a way which leaves it doubtful whether a "mutt" is included or not, it goes on to lay down rules for the election and tenure of office of District and Central Committees. Secs. 3-5 provide for the formation of ^{a district} ~~an~~ electorate of each section which shall elect a District Committee. The District Committees, by means of delegates, choose central Committees. Section 9 provides that a member of a committee may be removed by the ^{major} ~~majority~~ vote of his colleagues (In case of a District Committee there ^{is} ~~is~~ apparently be an appeal to the District Committee under section 16) Under sec. 9 of Act ^{of 1863} ~~of 1863~~ a member of a committee could only be removed by an order of the Civil Court

Section

Sections 10 and 11 contain rules for revising lists of electors and for filling up vacancies on the Committees. Section 12 defines the powers, and section 13 the duties, of the District Committee which is given absolute control, not inconsistent with their maintenance, over all the institutions of the religion or sect to which it belongs, including the appointment of trustees, according to the custom prevailing in each institution. The act thus provides that hereditary successions ^{to management}

should not be upset - ~~but possibly some modification of this section will be required~~ Section 12 further lays down that the Committee ~~may~~ ^{shall} not dismiss a trustee; for this purpose recourse must be had under section 14 of Act of 1863 to the Civil Court. ~~the~~

Secs 13-16 provide that the District Committee ~~should~~ ^{shall} keep registers of institutions and property, that the trustees shall submit accounts and prepare budgets, and that the District and the Central Committees shall revise them.

Under section 16 all orders of the District Committee ~~shall~~ ^{are to} be appealable to the Central Committee which, under section 17, shall also have power to call trustees for explanations and to hold investigations.

investigations. For this purpose the Civil Court is to issue processes for the appearance of witnesses and for the production of documents. The same section gives power to both Committees to take evidence on oath.

Section 18 provides for the framing of bye-laws. Section 19 allows Rs.50 per mensem for the office of a District Committee and Rs.100 for that of the Central Committee, and provides for recovering the sums spent proportionately for the different institutions. Section 20 provides that when a Central Committee files a suit it need not first obtain leave to do so as other parties must under section 18 of Act III of 1863.

A distinctive feature of this Bill is the Central Committee. Such an institution was ~~provided for in the Bill~~ approved by the Govt. of India in 1876. It was again included in the Bill sent in 1887. That Bill was found by the Govt. of India to be too wide and it was ~~therefore refused~~ ^{rejected}, but, as pointed out by the Hon: Mr. Bliss in his note at N, it does not appear that the Govt. of India objected to a Central Committee. The omission of such a Committee in the Bill reduces the interference from outside ~~almost~~ to a minimum. The Civil Courts will have less power than under Act III of 1863: they will only act as a trustee is to be dismissed or in cases when the electorate or the electors fail to fill up vacancies.



PROCEEDINGS OF THE MADRAS GOVERNMENT.

Read the following paper:—

From the Government of India, Civil
and Criminal Departments, 27th April 1887, for
the opinion of the Hon. the Judges of the
High Court and selected officers and
Act XX of 1863 with Statement of Objects and
Reasons in relation to the Bill for the
Central Committee. The Hon. the Judges
and officers are requested to submit their
opinions in writing to the Secretary to the
Government.

Order of the Government of India.
The Bill with Statement of Objects and
Reasons is referred to the Hon. the Judges of the
High Court and selected officers and
Act XX of 1863 with Statement of Objects and
Reasons in relation to the Bill for the
Central Committee. The Hon. the Judges
and officers are requested to submit their
opinions in writing to the Secretary to the
Government.

4/4/97.

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investigations. For this
Civil Court is to issue
appearance of witness
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Governmental Belongings.

That a new Constitution is now in force

and that the Court is now

in session at the Court House

PROCEEDINGS OF
MADRAS GOVERNMENT.

Read the following paper:—

From the Government of India
Relative Departments. 8th Dec 1877
in the opinion of the Honorable the Judges of the
High Court and selected officers to be
Act XX of 1863 with 21st March 1877
The Honorable the Judges of the High Court
General the Honorable the Secretary to
the Government of India
The Honorable the Secretary to the Government of India

Order of the Honorable the

Communicated to the Honorable the
the Honorable the Judges of the High Court
and the Honorable the Secretary to the Government of India
in favour of an order of the Honorable the
of a new Constitution.

The Bill with statement of the
and will be tabled in the House of
the Honorable the Secretary to the Government of India

Communicated