

E.
lic (1897) Department.

ORDINARY MS.

G.O., No. 216-7

Dated 21-2 *ff*

INDEXED.

[Despatch Abstract.]

*Directing that certain Memorials
addressed to H.E. the Viceroy of India
in connection with the Bill
to amend Act XX of 1863 be forwarded
to the Sd.*

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

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
Cus 732/29, (G of India)							

Legislative (1896) Department.

From The Secretary to the
Cuddapah District Association,
Cuddapah.

Transferred to The Public
Department
done & paid
up

8705e

No.

Dated 130th Sept
Received 2nd Oct
Registered 3^d Oct
Enclosures "
Spare copies. 3 of the 1st

SUBJECT.

Submitting a memorial of Association addressed to the Govt of India, praying for reconsideration of the orders passed on the legislation proposed by the Govt of Madras in its letter No 73, Legue, dated 25th May 1894, to amend Act XX of 1863.

BACK PAPERS.

G.O.	No.	Department.	Date.
	114	Lepre	23 Oct 1894
	72-73	"	26 May 1894

FURTHER PAPERS.

G.O.	No.	Department.	Date.

[G. 73]
300-30-7-06.

NOTE FOR THE *Chief Secretary.*

This current no 8316
has been lying over under
his instructions since
Oct. 1891. It is a memorial
addressed to the Govt of
India.

Now are requested whether
(1) it should be forwarded
(2) it may be kept over
till India is addressed
on the whole question of
Religious Endowments, including
Munshi Chaitin bill.
Leave having been given to
the Supreme Leg Council
to inform that bill the
draft of the memorial is
already obtained.

*It has been his own fault
the delay in the matter
of Munshi Chaitin bill
has been in and out
of the hands of the
Chief Secretary since
21/7/97*

CHIEF SECRETARY
17 MAY 1897
GOVERNMENT OF MADRAS

*Please see separate with
no 8316
26/7/97
The bill is now in the
hands of the Council
and will be forwarded
to the Government of India
as soon as possible
The delay is due to the
fact that the Council
have not yet decided
on the bill
The bill is now in the
hands of the Council
and will be forwarded
to the Government of India
as soon as possible*

* One may Legislative
The other Public

Public (1898) Department.

CURRENT No. 123

Order

From

*C. Srinivasa Rangachari
Tirupati*

No.

Dated 16 May 98

Received }
Registered } 21. 4

Enclosures 2

Spare copies 19 Enclosure.

SUBJECT.

*Forwarding a memorial from
the residents of Tirupati in
support of the Religious Endowment
Bill for transmission to
the Viceroy.*

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

Asst. Secy. to Govt. 21.5.98
His Excellency the Right Honorable
the Governor of Madras

To

His Excellency the Viceroy
and Governor General of
India in Council.



The humble petition of the undersigned
Hindu residents of Tirupati, otherwise known
as Seshachalam or Balaji, in the Presidency
of Madras.

MOST RESPECTFULLY SHEWETH.

That Tirupati (or Balaji) being regarded as one of the holiest places in India by all sections of the Hindu population of the country, and its shrine being second to none in point of sanctity and resources in the whole of this holy land, it is but meet that the residents of this place should communicate to your Excellency with what feelings the present attempt to provide better control over religious and other public charitable endowments is viewed here, and the memorialists beg to state that they have received the news that permission has been granted to the Honorable Mr. P. Ananda Charlu, to introduce a Bill to amend Act XX of 1863, with feelings of thankfulness and satisfaction.

2. That the Bill is not perfect in its present form may be readily granted, and such defects as may be found to exist in it capable of being improved upon, may be rectified as opportunities arise, and as more experience gathers. It is not possible for any human being to produce any piece of legislation which cannot be criticised as being defective in one place or another, and the mere fact of there being certain provisions of details, that do not meet with universal approval, will not, the petitioners humbly hope, be regarded as a sufficient ground for throwing out the Bill altogether. That of all the sections in the proposed Bill it is the first section that calls for special notice, as it defines what sort of institutions shall come within the purview of the Bill. It is intended to apply "to all non-Christian religious and charitable institutions and endowments of a public character." From these words it is clear that the proposed legislative measure is calculated to affect only institutions of a public character, and not in any way to meddle with private institutions which are for the personal benefit of the owners thereof as explicitly laid down in section 2. With institutions of a public character it is a duty as well as a matter of right that the public should interfere, whenever there is necessity, in the interests of such institutions.

3. That the second objection and of "religion in danger" has no foundation, as far as the present Bill is concerned, as the Bill does not propose any sort of interference with the modes of worship or devotion or religious services of whatever sort, nor with any other matter connected with the religious beliefs or practices of the community. If there should appear any the least trace of an attempt at any sort of interference with the religion of the community the petitioners themselves would be the foremost to resent such an attempt. All that is contemplated by the Bill is the proper administration of the funds of these public institutions, and as yet nobody has shown by direct or indirect reference to any expressions in the Bill, which can by any stretch of interpretation, be construed as inculcating interference with religion.

4. That since the Bengal Memorialists against the Bill speak of their ignorance of the state of the temples of Southern India, and since they also speak of the Mahants as being so many saints, the petitioners crave your Excellency's permission to narrate in brief, the history of the largest and the most popular temple in South India. The temple of Tirupati which has an annual income of three lacs of rupees was handed over to one Seva Doss, a Gauda Brahmin of Bengal, Mahant of Hatti Ramji Mutt in 1843. At the time of this transfer, the Honorable Mr. J. Bird, Member of Council, said "It may eventually be necessary to make separate Acts for the management of some of the large and most important pagodas such as Tirupati, Conjevaram, and Srirangam; in like manner provision has been made in Act X of 1840 for the management of the affairs of the temple of Jagannath." The Honorable Mr. D. Elliot, the Madras Legislative Member at Calcutta said. "It is to be observed that a strong and general reclamation was made against the withdrawal of the control of Government over this Pagoda especially on account of the great value of the property belonging to it, and the large amount of its revenue, and (as remarked by the Board of Revenue) the apparent distrust generally felt at committing so great a responsibility to the charge of a set of individuals, a feeling naturally stronger against the appointment of a single person to such a trust. In future this revenue will be at the disposal of an individual. Less than a third part will suffice for all customary expenses; in the disposal of the surplus he will be left as it appears to his own discretion without any rules or precedents to guide him or by reference to which he can be made responsible." After the demise of the said Seva Doss, his senior disciple came in possession of not only the Hathiramji Matt, but also of the temple, ~~also~~. This second trustee was sued in the year 1867 for the recovery of various sums of money, being misappropriations first made by the said Seva Doss, the very first trustee, and subsequently made by the second trustee himself. In disposing of the final Appeals in 1869, the then Judges of the Madras High Court said, "That he has committed fraud there is no doubt, that fraud is very gross there can be no doubt, that his predecessors defrauded before him, and that his successors, if we should nominate them would commit fraud also, there is as little doubt." The third Mahant who succeeded the second in 1880, was prosecuted in 1889 for Criminal breach of trust and was sentenced to undergo 18 months imprisonment. In 1890 the fourth Mahant succeeded him, and in 1892 a suit was filed in the District Court of North Arcot against him, for the recovery of certain sums misappropriated by him and his next immediate predecessor. This fourth Mahant came to a sudden end in 1894, while the suits were still pending. The fifth Mahant assumed charge of the temple in 1895, and discretion forbids the petitioners from making any definite statement concerning him, but before long even that will be made available to the public.

5. That the judges above referred to in the course of the same judgment said, "To talk of the preservation of the funds of any institution of this character would be idle. They have always been funds for embezzlement, and what embezzlement has left will speedily be swallowed up in litigation." At to *embezzlement*, the temple accounts disclose that the first Mahant has misappropriated sums to the extent of Rs. 92,402—15—11. Against the second Mahant the court found that he had defrauded the temple to the extent of Rs. 228,457—14—0. In the Criminal breach of trust case of 1889 alone, the third Mahant was convicted for having misappropriated over Rs. 227,000. The Schedule attached to the Civil Suit of 1892 showed that the same third Mahant had misappropriated or misapplied not less than *twelve lacs* of rupees of the temple funds, besides the two lacs and odd referred to above. In 1892 the fourth Mahant was sued to restore to the temple Rs. 130,178—4—1, being the sum he had misappropriated or misapplied

during the first year of his regime. As stated above, he died during the pendency of the suit, and the fifth Mahant's story will be related on a future day. Next as to consumption by *litigation* the temple accounts again show, that the Second Mahant defended himself at a cost of Rs. 52,258 of the temple money, that the third Mahant put the temple to an expense of 93,000 Rupees to defend himself in the one Criminal Case alone, and the litigation expenses incurred by the fifth Mahant amounts to over Rs. 30,000 up to 31st October last. The other litigation accounts have not been cast up as yet.

So far, the petitioners think, the history of this one temple is enough to convince even the most hardened sceptic of the enormous wastage of temple funds.

6. That it is also worth considering at the same time about the resources at the disposal of the prosecutors or plaintiffs in these cases. It may be mentioned here that it cost the complainants and their friends more than 36,000 Rs. to bring about the conviction of the third Mahant above spoken of; and the cost of the stamp paper alone was 3,000 Rs. in one of the Civil Suits instituted in 1892. It is unnecessary to tell here what the other expenses such as *pleading*, *fee*, witness *batta*, and other charges, would amount to especially in Civil suits, in addition to the time and labour that they entail. The Government has told the public that granted the requisite public spirit in a community, the existing law is quite sufficient to bring the delinquents to book. The petitioners most humbly trust that thereby the Government did not mean that those persons who possessed any degree of public spirit in them should pay a penalty commensurate with that degree of public spirit, and also in direct proportion to the resources of these swindlers of public funds, while the same Government has unreservedly placed in the hands of the same swindlers immense hoards of public money enabling them first to role and then to defend themselves. Unfortunately the possession of public spirit does not enable one to earn and lay by a surplus sum of money to enable one to carry on litigation of the sort under consideration; nor has the Government shown any leniency in the matter of Court costs to help the public in such disinterested labours. In this connection the petitioners beg to remind the Government of the hope it held out in 1894, to consider favourably the question of Court fees in suits relating to religious endowments.

7. That the chances there are of recovering missing funds may be next considered. It must be mentioned here that these Mahants have no property of their own as they have renounced the world altogether. On the one hand they are the trustees of temples, which are public property, on the other hand they are heads of *Mutts*, which are of the nature of monastic institutions, and which therefore are public property, now it will be plain that when any sums of money are misappropriated by them, there is no means of recovering them, since these trustees have absolutely no property of their own. When they are required by a Court of law to restore the sums that they have squandered or swindled, the only way left for them is to role one institution to pay another. When even that is not possible the only recompense for all the sacrifices in this behalf is only a paper decree.

8. That the existing law is defective in another important respect, ~~also, namely,~~ in that, it does not provide means to prevent a thief from *stealing*. No doubt the law can be set in motion after the theft has been committed, but only with the result that some more of public money is wasted in litigation, which is incapable of bringing back the *lost money*. What is wanted is prevention. Retribution is only secondary. This want the law now in force does not supply.

So a potent law is prayed for, which can restrain a thieving hand from removing public property, like the one now proposed.

9. That the Government, in repealing the section 4 of Act XX of 1863, will be doing an act, which is both legal and Just. Before the transfers of 1842-43, these institutions were being managed by the Government guided by Regulation VII of 1817. But in 1842-43, without any enactment to cancel that of 1817, the Government handed over the various institutions to whom-so-ever the then collectors recommended, without taking even proper securities from them. Subsequently certain difficulties arose so that in the year 1848, the Government was compelled to admit that the regulation VII of 1817 was still in force as it had not been repealed by another enactment; and there is also ample documentary evidence to show that the Government continued to interfere with religious institutions even so recently as in 1861. Then came section 4 of Act XX of 1863, which exempted temples under the management of hereditary trustees from the operation of the Act. These so called hereditary trustees came into existence only in 1843, by the action of the Government. But, as has been stated above, the said transfers were neither legal nor equitable as they were made under no law then in existence authorising the Government to do so, and while Regulation VII of 1817 was still in force, which alone defined the relation existing between the Government and the temples, and which did not leave the hand of the Government free in divesting itself of any of the institutions under its control, and as the transfers were made without proper safeguards for the security of the funds of these institutions, and consequently, since there were no hereditary trustees, in charge of any public institutions, in existence at the time of the transfers of 1843, or at the time of the passing of Act XX of 1863 whose appointment as such was valid by law. Therefore the Government must be considered to be within its rights, if it declares at the present moment that those institutions which were once under public control should again come back under public control.

10. That the transfers of 1843 cannot always remain undisturbed, and they are capable of being nullified. In the same Judgment of the High Court referred to previously, the Judges say of the second Mahant "that he deserves removal is clear". So any misbehaving Mahant can be removed from his trusteeship. But this removal does not entail the loss of his position as the Mahant of his own monastic order. His disciples are not bound to depose him from his throne of the *Mutt*, simply because a Court of law has deprived him of another institution with which they have nothing to do. In this case it is clear that the transfers made by the Government in 1843, absolute as they might have often been called, can no longer be respected. Also section 539 of the Civil Procedure Code empowers a Court of law to devise a scheme for the management of religious institutions. The conclusion is that these hereditary trusteeships of temples are only nominally co-existent with the headship of the *Mutts*, while in reality they are separable accidents.

11. That, if it should be considered that the arguments set forth in the previous paragraphs are not sufficient to justify the inclusion of the institutions described above within the proposed enactment, there is yet another consideration, which must set the question at rest. Since the means now proposed to ensure more satisfactory control over religious endowments, is an Act of legislature which can create or extinguish rights, and not an Act of administration which must be limited by Acts of legislature, the proposed measure can be extended to apply

to all religious institutions of a public character. And the petitioners most humbly pray, that the Government will be pleased to bestow a portion of its paternal care on the funds of the religious institutions of the country by declaring public property as public property subject to public control, as section I of the draft Bill of the Honorable Mr. P. Ananda Charlu now proposes.

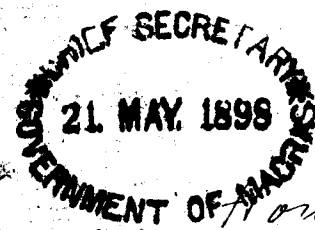
For which act of Justice the petitioners shall every pray.

Trinipath
16th May 1898

*followed over 125 Signatures of the important
Residents of Temples. Consisting of
Landholders, Pleaders, Traders and others.*

Signd *C. Srinivasan Ramachandra*
on behalf of

To



The Chief Secretary
to the Government of Madras

Honoured Sir

On behalf of the residents of Tirupur who have signed the accompanying Memorial Addressed to His Excellency the Viceroy & Governor-General of India, in support of the Religious Endowments Bill introduced by the Honorable P. Anandachari, in the Supreme Legislative Council, I beg to submit to the Government of Madras one original memorial, to which is attached their signatures, and two spare copies; and most humbly request that the Government of Madras will be pleased to forward the original and one spare copy to the Viceroy, keeping the other spare copy to the Government of Madras.

I beg to remain
Honoured Sir,

Your most obedient servant

B. S. Srinivasan

Encls 1. 2 to Secy

(Signature) C. Srinivasan Ranga

Memorial

Public (189^A) Department.

CURRENT No. 1819

From

Kerala Varma Valia Raja
Avergal of Chirakkal Korilagom
Malabar District
No.

In Order 5

Submitted in continuation
of the file regarding Religion
Endowments.

Dated 25. May 98

If Govt. decides that legislation Received 31. " "

should be local, this can (1898) Registered 1. June 98.

may it be submitted to Enclosures 1

kept for consideration by Spare copies -

Select Committee. The memorial with

Ans no 1742 may be

submitted to the Govt. of

India with the letter

which will deal with the

whole subject.

SUBJECT.

Forwarding a memorial in
connection with the Religion &
Endowments Bill, for transmission
to the Govt. of India

MR
3/6/98

MR
4.6.98. I don't quite see how this can be
kept back. The 8.7.1. may just
allow legislation locally

Keep till I return the other
file with note.

MR

24/7/98

See p. 19 of the note in linked file
I think it will be better for the memorialists to
refer to this in the general letter to India
as an enclosure MR

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

164

25th MAY 1898.
Chirakal.

FROM,
KERALA VARMA VALIA RAJA AVERGAL OF CHIRAKAL KOVILAGOM
Chirakal Taluq,
MALABAR DISTRICT.

To,
THE CHEIF SECRETARY
TO THE GOVERNMENT OF MADRAS,
MADRAS.

SIR,
I have the honor to request you to be good enough to forward the accompanying Memorial in connection with the Religious Endowments Bill, now in the Supreme Legislative Council, to the Government of India.

I have the honor to be
Sir,
Your most obedient servant,

നരേന്ദ്രരാജാവിൽ



Public DEPARTMENT

21/12/99

21/12/99

21/12/99

21/12/99

C. No. *3316* From the *Secretary to the Association*, No. *1842*, dated *18/10/1898*
" 1842 " C. Srinivasan Rajagopal " 18/10/1898
" 1879 " K. S. Varma Valia, " 25/5/1898
" " Rajavel of Cherkal " 1898

12/12/99

Order No 216 of 21-2-98

The memorial will be forwarded to the Govt. of India.

21/12/99

Letter to the Secretary to the Govt. of India, 21/12/99

21/12/98

In continuation of my letter No. 184, Public, dt. 13.2.99 forwarding the opinion of this Govt. on the Bill to amend Act of 1863, I am directed to forward three memorials addressed

Done on 21/12/99

to H.E. the Secretary and
General of India

in Council
2. These ~~memoranda~~ ^{memoranda, which were retained}
by this Govt in order that they might
accompany the letter
referred to, were inadvertently
~~omitted when this letter was despatched~~
~~on 21/1/1905~~
~~by the Secretary~~

KML
21/1/1905
2/2/1905
S.P.
21/1/1905

When given for copying...
When copied...
When examined...
When signed...
189

READ AGAIN G.O., No. , DATED
189

CURRENT No.

ENCLOSURES TO C. No.

ORDER OF GOVERNMENT A A A A A A A

LETTER OF GOVERNMENT.

STATEMENT WITH DITTO.

PAPERS NOT FILED UP, BEING MEANT FOR DESPATCH
IN ORIGINAL.

N.B.—

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