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MADRAS RECORD OFFICE

GOVERNMENT OF MADRAS

Revenue. DEPARTMENT

G.O. No.
~~B.P. No.~~

27

~~Press~~
Mis.

Dated 5-3-1874

196 .

Not to be folded or roughly handled

Read the following papers:—

No. 197. From H. G. PRICHARD, Esq., Government Solicitor, to the Hon. W. HUDLESTON, Chief Secretary to Government, Fort St. George, dated Madras, 20th February 1874, No. 94.

At the request of the Advocate-General, I have the honour to forward, herewith, a letter from him to you, dated 17th February instant, together with an outline of a Bill for the better regulation of Hindu religious endowments.

No. 197-A. From the Hon. H. S. CUNNINGHAM, Advocate-General, to the Hon. W. HUDLESTON, Chief Secretary to Government, Fort St. George, dated Madras, 17th February 1874.

In reply to memorandum, No. 35, of 20th January 1874, referring to the Bill drawn by the Hon. V. Ramiengar, for the better regulation of Hindu and Mahomedan religious endowments, I have the honour to submit the following observations:—

1. It appears to be universally admitted that the retirement of the Government from the supervision of religious trusts has given rise to a vast deal of malversation, and that the machinery provided by Act XX. of 1863 is wholly inadequate to meet the requirements of the case. I have taken occasion to consult several native gentlemen from various parts of the country on the subject, and they, one and all, expressed their strong sense of the grave scandals now existing and the urgent necessity either for direct Government interference (which is, I believe, what they would really like), or, failing that, for a change in the law with a view of rendering it more easy to check abuses. Their belief is that enormous sums, devoted by the founders to the mixed purposes of charity and religion, are now, annually, made away with. As an example of this I may mention that in one of the principal Pagodas in the Presidency, the present Mohunt was, I am informed, proved in the course of legal proceedings to have made away with upwards of two lakhs of trust property, and that the discovery of this crime, so far from involving its due punishment, did not even lead to the removal of the offender. I think it right to bring to the notice of His Excellency the urgent necessity which exists for legislation, and the general readiness which there is on the part of the people to welcome any reform of what they naturally feel to be so scandalous an abuse.

2. Mr. Ramiengar's scheme is to leave trusts, of which the management is vested hereditarily or otherwise in particular families or classes, on their present footing as to appointments; to provide in all other cases for the appointment of trustees by election of resident landholders; and to appoint in every district an Auditing Committee, whose duty it should be to audit the accounts of all religious trusts within the district, to determine on the correctness and honesty of the accounts, and, when necessary, to prosecute dishonest trustees. Members of the Auditing Committee are made liable to be sued in the Civil Court by any elector or resident inhabitant for misfeasance or neglect of duty, and specific performance of such duty may be directed by the Court.

3. This Bill would, no doubt, be a great improvement on the existing law, under which a large number of highly lucrative and important trusts are, as pointed out by Mr. Ramiengar, practically exempt from all supervision whatever.

27th February 1874.

But it may be questioned whether there ought not to be a more systematic control, exercised from a single centre, over all religious trusts, so that their superintendence may depend as little as possible on the zeal or fidelity of particular individuals; provision should also be made for an easy, quick, and cheap remedy in case of failure on the part of trustees and others to perform their duties.

4. I have sketched the outline of a Bill, which would, I think, secure their two objects. According to this scheme the general supervision of all Hindu religious endowments would be vested in a central body of six members, sitting at Madras, each member receiving a salary so as to secure continuous and active service, and supplied with the necessary Establishment, Secretary, Auditor, &c., to enable it to do its work effectively. This body, I propose, should be appointed, in the first instance, by Government; subsequently occurring vacancies might be filled up by the continuing members. For the purposes of the Act, I would divide endowments into private and public; "private" endowments being those in which the management is vested either in certain families hereditarily, or in classes by express direction of the founder; all other endowments would be "public." In the case of public endowments the trustees would be elected by resident landholders to be registered as electors beforehand. The elections might be regulated as in Mr. Ramiengar's Bill, Sections 9 to 14. The Managers of private and public endowments alike would be bound to submit annual accounts of receipt and expenditure to the Central Board, and to afford all requisite information to a local Commission, if appointed. In default of such accounts being rendered the Central Board would have summary powers to attach the property, receive the income, and draw up the accounts. This would make the audit a reality. In the case of the trustees being refractory, the Central Board would, with the sanction of Government, have the right of removing them.

5. When the accounts of each trust had been audited and passed by the Central Board, they would be published in the local Gazette and a general summarized statement would afterwards be published in the Presidency Gazette.

6. The expenses of the Central Board, salaries of members, establishment, &c., would be defrayed by a contribution levied proportionately on all the trusts supervised.

7. Some such scheme as this, and nothing short of this, would, I believe, provide effectually against the enormous scandals now prevalent. Should the Government approve of its general principles, its details might, of course, be speedily elaborated; but as matters now stand I have thought it best merely to indicate the general line which, in my opinion, legislation on this subject might most advantageously pursue.

I have purposely excluded Mahomedan trusts; they cannot, I think, be dealt with by the same body as regulates Hindoo trusts, and it will probably be better to provide a distinct organization, though, of course, the principles might be identical.

Outline of a Bill for the better regulation of Hindu Religious Endowments.

Title, Extent, &c.

territories, &c., and it shall come into force, &c.

This Act may be called the Hindu Religious Endowments Act, 1874. It extends to the

27th February 1874.

2. For the purposes of this Act religious endowments are divided into two classes, "Public" and "Private."

"Private Endowment" means an endowment founded by some individual, of which the right of management is vested hereditarily in some family, or has been by the express direction of the founder, vested in some class of persons.

"Public Endowment" includes every endowment which is not private.

Constitution of the Board.—The general superintendence of all religious endowments shall be vested in a body of persons, to be styled the Hindu Religious Endowment Board; such body of persons may be referred to as "the Board."

The Board shall consist of six members, Hindus, who shall be in the first instance appointed by the Governor in Council.

All vacancies to be filled up by the continuing members, but every appointment to require the sanction of the Governor in Council.

The Board if possible to contain—

Two Sivites,
Two Tungalay Vishnuvites,
Two Vadagalay Vishnuvites,

but the Governor in Council to have power to dispense with this rule on good cause shown.

On default of the Board to fill up vacancy within a month, Governor in Council to have right to do so.

The Board to choose a Chairman.—In default of Chairman, next senior in order of appointment, to act as Chairman. To proceed by votes, Chairman to have casting vote.

Minutes of Proceedings to be kept.—Board to have Secretary, Auditor, and Establishment. To receive salary of Rupees 250 per month each.

Management of Private Endowments.—Private endowments to continue to be managed as at present, but Board to have right of inspecting premises, books, title-deeds, in order to satisfy themselves of due performance of purposes of the endowment. Board may appoint local Commission to examine which may take evidence like a Civil Court. In case of refusal, Board, with sanction of the Governor in Council, may attach premises, receive profits, examine accounts, and in case of continued contumacy, substitute a Manager till orders complied with. In case of failure of heirs in hereditary trust, or when in case of appointment has vested in a class of persons, such persons do not fill up a vacancy within three months, Board may, with sanction, fill up in such manner as may, as far as possible, carry out wishes of founder.

The Managers of private endowments to be bound to furnish accounts in like manner as public endowments.

Management of Public Endowments.—Every public endowment shall be managed by a Committee of not less than three nor more than six persons, to be styled Trustees. All existing Trustees to be Trustees under the Act.

Vacancies from time to time to be filled up by election by resident proprietors of immoveable property within the limits of the city, town, village or hamlet in which the institution is situate, professing the same religion—to be styled electors.

Every elector to get his name registered at a list to be kept at the institution.

No one to vote who has not been registered for at least three months previous.

Disputes as to right to be registered to be settled by Board, whose decision shall be final.

If vacancy occur in a deserted locality, Board to fill up.

Regulation of Elections 9 to 14 of Hon. V. Ramiengar's Bill.—If vacancy not filled up in three months, Governor in Council may order election or may appoint Trustee.

Trustees to be for life, unless removed by order of Board, with sanction of Governor in Council, on good cause, incompetence, immorality, &c.

Trustees to be remunerated, four per cent. of income to be devoted to this purpose.

Trustees may sue and defend, and may defray law charges of proceedings sanctioned by Board.

*Proceedings of the Madras Government, Judicial Department,
27th February 1874.*

Trustees at all times to give information to Board, show books, accounts, &c., and allow inspection. To furnish annual and other accounts as directed by Board with vouchers, &c.
To contribute proportional quota to expenses of the Board.

In case of neglect or refusal on the part of Trustees to furnish accounts, &c., as required by Board, Board with sanction of Governor in Council may suspend Trustees, attach property, and appoint other Trustees either permanently or temporarily as it thinks fit.

Trustees to send in within first three months of every year a statement showing—

Total assets.

Total debts, all mortgages, &c.

Year's income and expenditure.

Alienations, leases, &c.

Improvements, &c., with all necessary vouchers.

These when audited to be submitted to Government, and when passed by Government to be published in Gazette.

Trustees to have powers to lease, mortgage, &c., subject to Board.
To engage and dismiss servants.

The Board may of its own motion, and shall at the request of six electors of any endowment appoint local Commission to inquire into alleged irregularities.

The Board may, with sanction of Government, sue any Trustee or other person, who may appear to have misapplied, or to be improperly in possession of Trust funds, and the expenses of such suit shall be defrayed out of Central Fund.

17th February 1874.

(Signed) H. S. CUNNINGHAM,
Advocate-General.

No. 193.

ORDER THEREON, 27th February 1874, No. 343.

The Advocate-General's opinion, together with the draft of a Bill accompanying it, will be referred to the Board of Revenue for early report, with reference to the Proceedings of Government, 31st January 1872, No. 118.

(True Extract.)

H. S. Cunningham

Acting Chief Secretary.

To the Board of Revenue.
,, Revenue Department.
,, Government Solicitor.

Ed. J. Wright.

W. H. C. H. S.

Recd 1874 Sept

GOBL. OF 1874 JUNE
Re 723

ORIGINAL.

To

THE HON. CHIEF JUSTICE,

U.S.

DC.

to

Dated February 27th.

Recd. *Feb 27*

and

G.O., 27th February 1874, No. 343.

RECEIVED.
FEB. 27-1874.

Hint: Religious Endowments Bill — A draft of Bill for the better regulation of religious endowments, together with the Advocate-General's opinion thereon, forwarded to the Secy of Revenue for early report with reference to G.O., 31 January 1873, No. 118.

Re 27.

Sadg

S. Brantley