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MADRAS GOVT.

THE MADRAS HINDU RELIGIOUS ENDOWMENTS ACT.

(ACT I OF 1925)

WITH

The Original Bill (12 of 1922), the Statement of Objects and Reasons, Notes on Clauses, Select Committee's Report, H. E. The Governor's Message returning the Bill for reconsideration by the Council, H. E. The Governor-General's Communique giving Assent to the Act, the Charitable and Religious Trusts Act (XIV of 1920, Govt. of India) and the Religious Endowments Act (XX of 1863, Govt. of India).

BY

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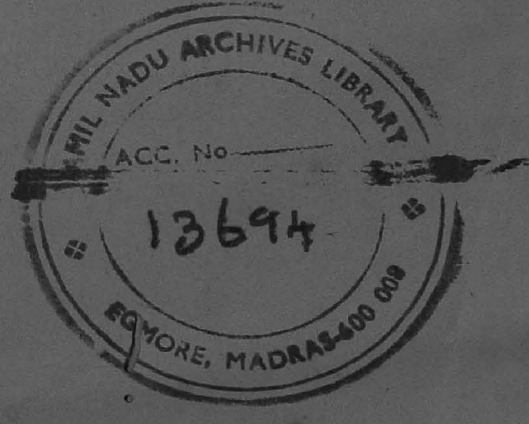

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PREFACE.

The publication of this edition of the bare text of the Madras Hindu Religious Endowments Act (I of 1925) requires but little justification. A copy of it should be in the hands of every public-spirited Hindu interested in the question of Religious Endowments, whether he is a supporter of the policy of the Act or a dissenter therefrom. It is with the object of placing within the easy reach of all concerned a handy copy of the Act that this book has at present been brought out.

In compiling the text, the Act, as finally amended, approved and passed, has first been given. Foot-notes have been added to the text, indicating the changes effected from time to time in the several provisions of the Act during its passage through the Legislature. Seven Appendices have been given at the end of the text. Appendix A gives the Statements of Objects and Reasons with the notes on clauses of the original Bill (12 of 1922) as introduced in the Legislative Council on the 18th December, 1922. At the end of such notes on each clause, the corresponding section of the Act, as finally passed, is given in thick black types for facility of reference. Appendix B gives the Report of the Select Committee with the minutes of dissent as recorded in February 1923 by the several dissentient members. Appendix C reproduces the original text of the Madras Hindu Religious Endowments Bill (12 of 1922) as first introduced in the Legislative Council. His Excellency the Governor's messages, dated the 9th December, 1923 and the 17th March, 1924, deciding, under section 81-A of the Government of India Act, to return the Endowments Bill to the Legislative Council for reconsideration with the annexure thereto, as well as the message to the Legislative Council from His Excellency the Governor, dated the 31st March, 1924, under Standing Order No. 69, have been printed as Appendix D. Appendix E gives the text of the statement of His Excellency the Governor-General containing the reasons which have moved him, in the exercise of the powers conferred upon him by section 81 (3) of the Government of India Act, to assent to the Madras Hindu Religious Endowments Act. The Charitable and Religious Trusts Act (14 of 1920) and the Religious Endowments Act (20 of 1863) of the Government of India have been reproduced in Appendices F and G. A subject-index has also been added. It is hoped that the public will find this edition timely and useful.

It is a matter of common knowledge that every thinking Hindu has been feeling that the management of Religious Endowments should be improved and made more efficient and pure. The need for legislation in this respect has been felt for a long time, at least in this Presidency, from the year 1866. The Religious Endowments Act (20 of 1863) was passed by the Imperial Legislature with the object of relieving the Government of all direct superintendence and control of Religious and Charitable institutions in the whole of India and transferring their functions to Managers or Managing Committees and merely making provisions for intervention by the Civil Courts on application made for that purpose by interested parties. In this Presidency, however, the necessity seems to have been more keenly and widely felt for resuming and assuming the effective control over, at least, Hindu Religious Endowments, than in any other part of India. Attempts to improve the Act of 1863 originated so early as 1870, and the subsequent course of such attempts has been succinctly re-capitulated by the Hon'ble Minister responsible for the introduction of the Act in these words:—

"As early as 1870, it was recognized that the Act of 1863 utterly failed to attain its object. Ever since, the people have been anxious to introduce amendments to the Bill. The first attempt at legislation to amend the Bill was made by the late Hon'ble Mr. Rama Aiyangar. He drafted a Bill in 1870 and the Bill was referred to the then Advocate-General, who, on examining the Bill, thought that the Bill was incomplete and did not remedy all the defects, though it would improve the existing law. Thereupon the Advocate-General was asked to prepare the outline of a fresh Bill and a Committee was appointed with Sir William Robinson as President. The Committee investigated the matter and drafted a Bill which was submitted in due course to this Government. This Government referred the Bill with the report and the connected papers to the Government of India, who thought that the Bill was rather untimely. Later on, another Committee was appointed whose President was the Hon. Mr. Sullivan. That committee too prepared a report which was submitted to the Government of India. On this occasion, the Government of India were not willing to sanction the introduction of the Bill. They said they would prefer a Bill which was more limited in scope and less in conflict with the Act of 1863. Sir Muttuswami Ayyar Committee's Bill too met with more or less the same fate. More recently in 1903, an attempt was made by a member of the local

Legislative Council, Mr. G. Srinivasa Rao of Madura, to introduce a Bill into the local Council with the object of making provision for the preparation of accounts by trustees as well as for the limitation of the tenure of office of the committee. That attempt too failed. Still later, my Hon. friends, Mr. Govindaraghava Ayyar and Mr. Seshagiri Ayyar, prepared a draft Bill, but that also was not allowed to be introduced in this Council on the ground that at that time the Government of India were contemplating to introduce legislation on the matter into their Council."

The inertia that was so long standing in the way of all the attempts to improve the management of our Religious Institutions being removed by the recent constitutional changes in the Government, under which Religious Endowments are a transferred subject, advantage has been taken of such changes to bring into existence a law for the better management of Hindu Religious Endowments.

The Act bears in its provisions ample evidence of a mind firmly convinced of the existence of, and determined at all costs to sweep away, corruption, abuse and delay in the management of the Religious Endowments of this Presidency; and while evincing great anxiety and desire not to lightly interfere with long-standing customs and usages and in a manner making provision for reference, under certain circumstances, to the regular tribunals and the Advocate-General, the Act vigorously works out the policy of keeping out all agencies that may have a tendency to allow matters to drift and delay.

The Act applies only to *Hindu public* religious Endowments and not to private ones, and it reserves power to extend its provisions to Jain Endowments also.

But the Act leaves out of its scope Mahomedan Religious Endowments. The reason assigned for this omission was stated to be that the time was not opportune for their inclusion. Another reason for such exclusion that weighed with the authors of the present Act was that, in most of the earlier Bills, Mahomedan Endowments had been excluded from their scope. The idea is also cherished that the working of the present Act might induce the taking of measures to bring Mahomedan Religious Endowments also under the operation of the Act, though it may be observed in passing that these reasons do not seem to have convinced the critics.

Again, the city of Madras has been omitted from the operation of the Act, and the reason alleged for such omission is

that the Government of India desire that the local Legislature should not interfere with the jurisdiction of the Chartered High Courts.

The Bill, as introduced into the Legislative Council on the 18th December, 1922, contained only forty-five sections, but, after its passage through the Select Committee and after the discussion of its principles in the Legislative Council, it has come out with nearly double the number of the original sections, and it is said that the Act in its final shape is almost entirely new.

The Act contains nine chapters. Chapter I deals with the usual preliminary matters, such as, the application of the Act, the saving of powers and general definitions. Chapter II gives power to the Local Government to constitute Boards of Commissioners for the whole Presidency, or, for any specified part thereof, having jurisdiction over a mutt, temple or endowment connected therewith, and provides for the working and constitution of such Boards, such as, the appointment of a President, the tenure of office of the Commissioners, the meetings of the Board and the power of the Boards to make by-laws. It is provided that the Commissioners of a Board shall be persons professing the Hindu religion, though it is not expressly provided that the President should also be a Hindu. Chapter III deals with temple committees, for the creation, variation and abolition of which the Local Government is given power. This chapter lays down the minimum and maximum strength of these Committees, their tenure, the manner in which they should be appointed, the election of its members, the qualifications of electors etc., etc., and it empowers these committees to make regulations, not inconsistent with the Act, to carry out the objects entrusted to such committees. But these committees are not given any jurisdiction over mutts or excepted temples or the trustees thereof. Chapter IV then goes on to deal with Religious Endowments in general. The Board is required to maintain a register of these endowments, containing full particulars relating to their management, and it lays down the duties of the trustees of such endowments as well as the manner in which services in these endowments should be enforced. Provision is also made for the maintenance of accounts by the Board, the committees and the trustees appointed under the Act and for audit. Chapter V deals with temples and non-hereditary trustees and does not apply to excepted temples or the trustees thereof. It is laid down that the trustee of every temple should be a Hindu. The qualifications of such trustees, their subordination to temple com-

mittees, the preparation of budgets by such trustees and their liability to furnish accounts are all provided for in this chapter.

Chapter VI goes on to deal with mutts or excepted temples and subjects the trustees of every such institution to certain conditions; for instance, every such trustee has to submit annual budgets and accounts. The Board is, under certain circumstances, authorised to hold an enquiry about the management of such endowments and settle schemes for them, though a trustee or any interested person may institute a suit in the Court of a District Judge for having the scheme modified or set aside. Chapter VII then deals with the most important matter of the application of the endowment funds. It applies the *cypres* doctrine to endowment funds. In consequence of the strong criticism that was evoked against this provision, the clause as originally framed has no doubt been considerably narrowed ; but, as a comparison of clause 33 of the Bill and section 63 of the Act will show, the decision as to the diversion of funds, given by the Bill to the Court in the first instance, has been given to the Board and the resort to the Court provided for has been made to follow the Board's decision. It is enacted that the Board, constituted under Chapter II, may hold an enquiry and decide whether and how far the funds of an endowment may be diverted for purposes of a religious, educational or charitable nature, not inconsistent with the objects of the particular mutt or temple. Chapter VIII deals with Finance. It makes provision for contribution from the endowments to the Board and Committee for their upkeep and for the recovery of such contributions from the concerned endowments, and makes arrangement for the funds necessary for carrying on the work entrusted to the Boards and the Committees. Chapter IX deals with miscellaneous matters ; for instance, the Local Government is empowered to make rules to carry out the purposes of the Act ; rights of suits are given to the Board, the Committee or to any interested persons to obtain decrees for securing the purposes mentioned in section 69 of the Act. Section 71 makes provision for re-opening and modifying schemes previously settled under section 92 of the Civil Proceedure Code. Alienation of the immoveable properties of the trusts concerned are prohibited under certain conditions. Provision is also made for the court-fees leviable on documents and for the grant of copies of proceedings etc. Provisions of a transitory nature in regard to existing committees are enacted. The Board has been invested with power to decide questions as to whether any mutt or temple falls under the operation of this Act and as to whether any temple is

an excepted one. Finally, power is reserved to the Local Government to interfere in case of difficulties that may airse in administering the Act and to do anything it may think necessary for the removal of such difficulties. There are three schedules also added. Schedule I lays down the qualifications and disqualifications of the electors of the members of temple committees referred to in section 21. Schedule II lays down the court-fees payable on the documents referred to in section 77. Schedule III contains the transitory provisions referred to in section 79.

The above is a very brief and imperfect summary of the important provisions of the Act. The thing that strikes one at the outset is that the machinery of the management of the endowments governed by the Act has been made costly. Perhaps, this is the inevitable and natural result of trying to democratise time-honoured and conservative institutions, over which oligarchies, however benevolent and well-intentioned, were formerly presiding. The natural result of setting up such a costly machinery is the enactment of the provisions contained in Chapter VIII relating to financial contribution. The second noteworthy feature of the Act is that the jurisdiction of the regular courts is much curtailed, a feature which has been severely criticised as not being a move in the right direction, on the ground that the tendency in these days must be more and more to bring everything under the superintendence and jurisdiction of the regularly constituted courts. But the justification for such a curtailment seems to be that there has been too much of litigation formerly and that it should be put down. It is to be supposed that the Act will be so interpreted as to give more and more jurisdiction to the Courts. The most important provisions of the Act relate to the power given to the bodies constituted under the new Act to interfere with the internal administration of the endowments and to the diversion of funds. The power of interference is stated to be really the crux of the whole Bill, and it was stated in justification of it that all the earlier draft Bills contained a similar provision.

As regards the provision relating to the diversion of funds, much has been said for and against it. It is stated that it is only an application of the doctrine of *cypres*, which is a doctrine of English Chancery. The doctrine only means that, when a definite function or duty is to be performed, and it cannot be done in exact conformity with the scheme of the person or persons who have provided for it, the duty may be performed with as close approximation to that scheme as reasonably practicable. It is generally applied where a testator or donor has only declared

some indefinite, illegal or ineffectual charitable purpose, in other words, it applies only where a literal compliance with the condition of a bequest becomes impossible from unavoidable circumstances. The doctrine may not be applied to justify the diversion of the original funds for purposes other than those for which such funds were endowed and on the strength of which the endowments came into existence. It is probably in recognition of this fact that, in the final shape given to the provisions relating to this matter, it is enacted that the diversion should be for purposes *not inconsistent with the object of the mutt or temple.* The application of the doctrine of *cy pres*, it is said, may be very proper in societies where the distinction between ethical, charitable and useful purposes on the one hand, and religious or spiritual purposes on the other is not maintained or realised or understood. But, in a country like India, where, among the Hindus, there is a clear, deep-seated distinction between ethical and spiritual purposes, it is really going out of the way to enact for the diversion of funds given for spiritual purposes to institutions and purposes of a charitable or ethical nature. It is pointed out by the critics that the Judicial Committee of the Privy Council have again and again recognised that the image of the deity of the Hindu pantheon is a juristic entity vested with the capacity of receiving gifts and holding property. Religious institutions known under different names are regarded as possessing the same juristic capacity, and gifts are made to them *eo nomine.* When the gift is directly to an idol or temple, the seisin to complete the gift is necessarily effected by human agency. In almost every endowment, called by whatever name, the temporal recipient is only a manager and custodian of the idol of the institution and the real recipient or donee is the deity. Therefore, the complaint is that to divert funds given away to a deity is a very serious matter, as it certainly interferes with the fundamental conceptions of the Hindu Religion. No temporal power, judicial or executive, say the objectors, can take away what has been given in perpetuity and eternity to such a deity, if this distinction between ethical and spiritual purposes is clearly kept in view. The scope of western ethics and the scope of religious or spiritual teaching do not coincide and are not, in the eyes of the Hindu, of the same kind. The orthodox Hindu, therefore, seems to feel that this diversion is the most objectionable feature of the Act. It is one thing to legislate for the efficient and proper management of an endowment and another thing to divert its funds to purposes other than those for which it was brought into existence.

Apart from the illegality of such a procedure, which was pointed out by one of the speakers, namely, the illegality of a local Legislature interfering with the rights of bequest and other rights created by the Imperial Legislature, it is believed that this diversion of funds to non-religious, though ethical, purposes, not intended by the original founders, offends the primordial religious intuitions of the Hindu, intuitions which are considered by philosophers to be evidence in themselves of the existence of a spiritual world. By all means, say these critics, see that the institution is properly managed and its funds conserved, but do not divert such funds for other purposes, however analogous and akin they may be, in the opinion of posterity, to such original purposes. We may arrange to increase the funds originally endowed and thus enable the endowment owning the funds to better carry out its original objects; but, if we divert the funds to other purposes, there is great danger of their not being available to the original endowment itself for any emergency. The divergent views on the question can only be stated in a general fashion within the present limits, but it is a matter, according to the critics, deserving the serious consideration of all true lovers of the ancient Hindu Religion.

Then, there is the vexed question of the disturbance of settled schemes. That is also a matter in which the local Legislature is considered to have gone far beyond its powers. There are also other provisions in the Act of minor importance which have been criticised and justified by the several speakers from their respective stand-points. In working out this Act, due consideration will have to be given to all the different shades of opinions and the bodies and persons invested with power and responsibility under the Act and interested in putting into operation its provisions should *hasten gently*, remembering that, in matters relating to the reform of long-standing customs and usages connected with an ancient religion, "*festina lente*" is the best motto for adoption. It may be safely predicted, however, that the zeal and wisdom, which have inspired the inauguration of the present measure of reform may well be trusted to arrange for its considerate and pious application.

MADRAS,
10th February, 1925.

P. HARI RAO.

THE MADRAS HINDU RELIGIOUS ENDOWMENTS ACT.

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The
Madras Hindu Religious Endowments Act, 1925.

(Act, I of 1925.)

[RECEIVED THE ASSENT OF THE GOVERNOR ON THE 7TH APRIL 1924 AND OF THE GOVERNOR-GENERAL ON THE 29TH DECEMBER 1924.]

Preamble

WHEREAS it is expedient to provide for the better governance and administration of certain religious endowments, and whereas the previous sanction of the Governor-General has been obtained to the passing of this Act; It is hereby enacted as follows:

CHAPTER I.
Preliminary.

Title.

1. This Act may be called "The Madras Hindu Religious Endowments Act, 1923."

Extent.

2. (1) This Act extends to the whole of the Presidency of Madras except the Presidency town [1] and applies, save as hereinafter provided, to all Hindu public religious endowments other than Jain religious endowments:

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

(2) The Local Government may, by notification, extend to Jain religious endowments the provisions of this Act and of any rules framed thereunder, and may declare such extension to be subject to such restrictions and modifications as they think fit:

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

(1) "Except the Presidency town" inserted by 1924 Council on reconsideration.

the issue of such notification and consider their objections, if any.

(3) Nothing in this Act shall apply to any math or temple whose average annual gross income, including income from endowments connected therewith, for a period of five years immediately preceding the commencement of this Act, was less than five hundred rupees in the case of maths or two hundred and fifty rupees in the case of temples :

Provided that the Local Government may, at any time, issue a notification declaring that all or any of the provisions of this Act shall apply to any such math or temple.

Saving of power of Advocate-General.

3. Nothing in this Act shall be construed to affect, or in any way derogate from, the powers in respect of religious endowments which the Advocate-General may exercise under sub-section (2) of Section 114 of the Government of India Act . . . . .[1].

Repeal of enactments.

4. The Religious Endowments Act, 1863, and the Madras Endowments and Escheats Regulation, 1817, in so far as they apply to Hindu religious endowments, are hereby repealed.

Definitions.

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

(1) "Board" means the Board as constituted under section 6.

(2) "Committee" means a committee as constituted under section 16.

(3) "Court" means the court of the District Judge . . . . .[2] within whose local limits a committee exercises jurisdiction or a math or temple is situated . . . . .[2].

(4) "Electoral area" means an area containing the electors of a committee.

(5) "Excepted temple" means—

(*a*) a temple which before 1801 was, and since 1863 has continued to be, under the sole management of a trustee whose nomination did not vest in, nor was

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(1) The words "or which the High Court in the exercise of its ordinary Civil Jurisdiction may posses" were ommitted by 1924 Council on reconsideration.

(2) The words "or the City Civil Court" and "and includes any Court inferior in grade to the Court of a District Judge which is specially empowered by the Local Government to exercise within such local limits as may be prescribed by the Local Government the whole or any part of the jurisdiction conferred on a Court by this Act" were omitted by on reconsideration.

exercised by, the Government nor was subject to the confirmation of the Government or of any public officer ; or

(*b*) a temple founded since 1842, the right of succession to the office of trustee whereof is hereditary or specially provided for by the founder.

(6) " Hereditary trustee " means the trustee of a religious endowment, succession to whose office devolves by hereditary right or by nomination by the trustee for the time being, or is otherwise regulated by usage or is specially provided for by the founder, so long as such scheme of succession is in force.

(7) " Math " means an institution for the promotion of the Hindu religion presided over by a person whose duty is to engage himself in spiritual service or who exercises or claims to exercise spiritual headship over a body of disciples and succession to whose office devolves in accordance with the directions of the founder of the institution or is regulated by usage ; and includes places of religious worship other than a temple or places of religious instruction which are appurtenant to such institution.

(8) " Non-hereditary trustee " means a trustee who is not a hereditary trustee.

(9) " Person having interest " means—

(*a*) in the case of a math, a disciple of the math or a person of the religious persuasion to which the math belongs ; and

(*b*) in the case of a temple, a person who is entitled to attend at the performance of worship or service in the temple or who is in the habit of attending such performance or of partaking in the benefit of the distribution of gifts thereat.

(10) " Prescribed " means prescribed by the Local Government by rules made under this Act.

(11) "Religious endowment" or "Endowment" means all property belonging to, or given, or endowed for the support of, maths or temples or for the performance of any service or charity connected therewith and includes the premises of maths or temples but does not include gifts of moveable property made as personal gifts or offerings to the head of a math or to the archaka or other employee of a temple.

(12) " Temple " means a place, by whatever designation known, used as a place of public religious worship and dedicated to, or for the benefit of, or used as of right by, the Hindu community, or any section thereof, as a place of religious worship.

(13) " Trustee " means a person, by whatever designation known, in whom the administration of the affairs of a religious endowment is vested and includes any person who is liable as if he were a trustee.

CHAPTER II.

Boards of Commissioners.

Constitution of Board.

6. (1) The Local Government may, by notification

(*a*) direct the constitution of a Board for the whole Presidency or for any specified part thereof ;

(*b*) vary the strength or territorial jurisdiction of any such Board ; or

(*c*) abolish any such Board :

Provided that not more than one Board shall have jurisdiction over the same math or temple or the endowments connected therewith :

Provided further that, when the Local Government propose to direct the constitution of more Boards than one under this subsection or to vary or abolish any Board, a draft of the notification proposed to be issued shall be published in the prescribed manner and laid on the table of the legislative Council and the notification shall not be issued unless the Legislative Council by resolution approves such draft.

(2) The Local Government may pass such orders as they may deem fit as to the transfer or other disposal of the assets and liabilities of a Board which is varied or abolished.

Strength of the Board and its incorporation

7. (1) A Board shall consist of a President and such number of other commissioners not being less than two nor more than four as the Local Government may fix.

(2) Every Board shall by such name as the Local Government may determine be a body corporate and shall have perpetual succession and a common seal and shall by the said name sue and be sued.

Qualifications of commissioners and their appointment.

8. (1) The commissioners of a Board shall be persons professing the Hindu religion.

(2) The President shall be—

(*a*) a barrister of England or Ireland or a member of the Faculty of Advocates in Scotland of not less than five years standing ; or

(*b*) a person having held judicial office not inferior to that

of a subordinate judge or of a judge of a small cause court; or

(c) a person having been a pleader for a period of not less than ten years.

(3) Subject to the provisions of sub-sections (1) and (2), the President and other commissioners of a Board shall be appointed by the Local Government and shall, during their term of office, be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Tenure of office of commissioners.

9. (1) Every commissioner of a Board other than the President shall be entitled to hold office for five years from the date of his appointment.

(2) The President shall be entitled to hold office for five years from the date of his appointment:

Provided that if on the date of his appointment as President he is a commissioner he shall be entitled to hold office as President only up to the expiry of his term as commissioner.

(3) An outgoing President or commissioner shall, if otherwise qualified, be eligible for reappointment.

Remuneration of commissioners.

10. (1) Every commissioner shall devote his whole time and attention to the duties of his office and shall not, without the sanction of the Local Government, engage in any other profession, trade, or business.

(2) The commissioners shall each receive, out of the funds of the Board, such salary as the Local Government may fix:

Provided that such salary shall not exceed one thousand and two hundred rupees per mensem for a President or eight hundred rupees per mensem for any other commissioner.

Power of Government to remove commissioners and their disqualification.

11. (1) The Local Government may suspend or remove any commissioner from his office—

(a) if he is convicted by a criminal court of any offence which in the opinion of the Local Government involves moral turpitude;

(b) if he becomes of unsound mind, or a deaf-mute or suffers from contagious leprosy;

(c) if he applies to be adjudicated or is adjudicated a bankrupt or insolvent; and

(d) for corruption, misconduct or other sufficient cause.

(2) A commissioner shall cease to hold his office if he ceases to profess the Hindu religion.

Office and meetings of the Board.

12. (1) Every Board shall have an office at such place as the Local Government may fix for the transaction of business.

(2) At meetings of the Board, the President of the Board and in his absence the senior commissioner in order of appointment shall preside.

(3) No business shall be transacted at any meeting unless at least two commissioners are present.

(4) In case of difference of opinion among the commissioners, the question before the Board shall be decided by a majority of votes; and where the votes are equally divided the President or senior member presiding shall have a second or casting vote.

Officers and servants of the Board, their appointment and punishment.

13. Subject to such control as may be prescribed—

(*a*) a Board may from time to time determine the number, designations, grades and scales of salary or other remuneration of its officers and servants; and

(*b*) the President of the Board shall have the power to appoint and transfer such officers and servants and may fine, reduce, suspend, remove or dismiss them for breach of rules or discipline, for carelessness, unfitness, neglect of duty or misconduct or other sufficient cause.

Powers and duties of the Board in general.

14. Subject to the provisions of this Act and of any scheme settled or deemed to be a scheme settled under this Act[1],

(1) the general superintendence of all religious endowments within the territorial jurisdiction of a Board shall vest in such Board; and

(2) the Board may do all things which are reasonable and necessary to ensure that maths and temples are properly maintained and that all religious endowments are properly administered and duly appropriated to the purposes for which they were founded or exist.

Board may make by-laws.

15. (1) A Board may make by-laws not inconsistent with this Act or the rules made thereunder or with any other law as to—

(*a*) the division of duties among the President and commissioners of the Board;

(1) After the words "of this Act" the words "and of any scheme under this Act," inserted by 1924 Council on reconsideration.

(*b*) the manner in which their decision shall be ascertained otherwise than at meetings;

(*c*) the procedure and conduct of business at meetings of the Board;

(*d*) the delegation of powers of the Board to individual commissioners or committees of commissioners;

(*e*) the security, if any, to be furnished by officers and servants of the Board;

(*f*) the books and accounts to be kept at the office of the Board;

(*g*) the custody and investment of the funds of the Board, committees and trustees;

(*h*) the form and manner of applications to the Board;

(*i*) the details which shall be included in or excluded from the budgets of committees and religious endowments; and

(*j*) generally the conduct of all proceedings and business under this Act.

(2) No by-law or cancellation or alteration of a by-law made by the Board shall have effect until the same shall have been published for public criticism and there after confirmed by the Local Government.

(3) All by-laws when they shall have been duly confirmed shall be published in the *Fort St. George Gazette* and shall thereafter have the force of law.

CHAPTER III.

Temple Committees.

Creation, variation and abolition of committees.

16. (1) The Local Government may, by notification

(*a*) direct the constitution of a committee for any temple or temples or for any class of temples;

(*b*) vary the strength or the jurisdiction of any such committee; or

(*c*) abolish any such committees:

Provided as follows:—

(i) Not more than one committee shall have jurisdiction over the same temple or the endowments connected therewith.

(ii) The Local Government shall, before issuing a notification under clause (*b*) or clause (*c*), com-

municate to the Board and the committee concerned the grounds on which they propose to do so, fix a reasonable period for the Board or committee to show cause against the proposal and consider its explanations and objections, if any.

(2) The Board may pass such orders as it may deem fit as to the transfer or other disposal of the assets and liabilities of a committee which is varied or abolished.

Strength of committee.

17. A committee shall consist of such number of elected members as may be fixed by the Local Government, such number to be not less than six and not more than twelve.

Members of new committees to be all appointed.

18. Notwithstanding anything contained in section 17, where the Local Government direct the constitution of a committee for the first time or in place of a committee which has been abolished the members of such new committee shall hold office for such period not exceeding one year as the Local Government may fix and during such period may be all appointed by the Local Government.

Electoral areas and circles.

19. (1) For the purpose of election of members, the Local Government shall, for each committee, notify an electoral area.

(2) A committee may with the approval of the Board divide its electoral area into circles and determine the number of members which each circle shall return.

Electoral roll.

20. (1) For every electoral area, an electoral roll showing the names of persons qualified to vote shall once in every three years be prepared and published by such authority and in such manner as may be prescribed.

(2) Where an electoral area has been divided into circles, the electoral roll shall be divided into parts and one part shall be allotted to each circle.

(3) Every person whose name appears on the electoral roll published under this section shall, so long as it remains in force, be entitled to vote at an election; and no person whose name does not appear on such roll shall vote at an election.

(4) Notwithstanding anything contained in sub-section (1) an electoral roll once published shall remain in force till the publication of a fresh electoral roll.

Qualifications and disqualifications of electors.

21. Every person shall be entitled to have his name included in the electoral roll of an electoral area if he professes the Hindu religion

and possesses the qualifications prescribed for an elector of such area in part I of schedule I and if he is not subject to any of the disqualifications described in part II of schedule I.

Disqualifications of candidates and members.

22. (1) A person shall be disqualified for election or appointment as a member of a committee—

(*a*) if his name does not appear on the roll of the electoral area concerned;

(*b*) if at the date of nomination, election or appointment he is

(i) of unsound mind, a deaf-mute or suffering from contagious leprosy; or

(ii) an undischarged insolvent; or

(iii) already a member of the committee whose term of office will not expire before his fresh election or appointment can take effect; or

(iv) a trustee or salaried servant of a temple over which the committee has jurisdiction.

(2) A person who has been sentenced by a criminal court to transportation or to imprisonment for a period of more than six months (such sentence not having been cancelled or reduced to a period of not more than six months or the offence not having been pardoned) shall be disqualified for election or appointment as a member of a committee while undergoing the sentence or during the period for which such sentence may have been suspended or in abeyance and for five years from the date of expiration of the sentence:

Provided that the Local Government may direct that such sentence shall not operate as a disqualification.

(3) A member of a committee shall cease to hold his office if he—

(*a*) is sentenced by a court to such punishment as is described in sub-section (2):

Provided that the Local Government may direct that such sentence shall not operate as a disqualification;

(*b*) becomes of unsound mind, a deaf-mute or suffers from contagious leprosy;

(*c*) applies to be adjudicated or is adjudicated a bankrupt or insolvent;

(*d*) becomes trustee or salaried servant of a temple over which the committee has jurisdiction;

(*e*) ceases to profess the Hindu religion; or

(*f*) absents himself from the meetings of the committee for three consecutive months, or if three consecutive meetings are not held within that period from three consecutive meetings.

(4) Where a person ceases to be a member under clause (*f*) of sub-section (3), the President of the committee shall report the fact to the committee at its next meeting and also intimate the same in writing to such person. If such person applies for restoration within one month of the receipt by him of such intimation from the President, the committee may, at the meeting next after the receipt of such application, restore him to his office of member of the committee:

Provided that a member of a committee shall not be so restored more than thrice during his term of office.

Term of office of members.

23. Save as otherwise expressly provided, every member of a committee shall be entitled to hold office for a term of five years from the date when his election or appointment is published in the prescribed manner.

President and Vice-President.

24. (1) Every committee shall elect a President and a Vice-President from among its members.

(2) A President or a Vice-President shall hold office for three years from the date of his election, unless in the meanwhile he resigns his office as President or Vice-President or ceases to be a member of the committee.

(3) When the office of President is vacant, the Vice-President shall exercise the functions of a President until a new President assumes office.

Resignation of President and members of committee.

25. (1) A member of a committee other than the President and a Vice-President may resign his office by giving notice to the President, and a President may resign his office by giving notice to the committee.

(2) The resignation shall take effect in the case of a member or Vice-President from the date of receipt of the notice by the President, and in the case of a President from the date on which it is placed before the committee.

Filling up of vacancies.

26. (1) On the occurrence of a vacancy in the office of a member of a committee, a new member shall, subject to the provisions of section 18, be elected in the same manner as his predecessor was elected.

(2) If no member is elected at an election held under sub-section (1), a fresh election shall be held.

(3) If no member is elected at such fresh election, the Local Government may appoint a person to fill the vacancy.

(4) If the office of President is vacant and there is no Vice-President, any three members of the committee may, after giving reasonable notice to the other members, convene a meeting for the election of the President.

(5) An outgoing member, President or Vice-President shall, if otherwise qualified, be eligible for re-election or re-appointment.

(6) The election or appointment of a member, President or Vice-President shall be notified in the prescribed manner.

Act of committee not to be invalidated by informality.

27. No act of a committee or of any person acting as President, Vice-President or member of such committee shall be deemed to be invalid by reason only of a defect in the establishment or constitution of such committee or on the ground that any member of such committee was disqualified for, or had ceased to hold, such office, or by reason of such act having been done during the period of any vacancy in the office of President, Vice-President or member of such committee.

Incorporation of committee.

28. Every committee shall, by such name as the local Government may determine, be a body corporate and shall have perpetual succession and a common seal and shall, by the said name, sue and be sued.

Officers and servants of committee their appointment and punishment.

29. (1) The committee may, from time to time, determine the number, designations, grades and scales of salary or other remuneration of its officers and servants.

(2) Subject to such control as the Board may impose, the President of the committee shall have the power to appoint and transfer such officers and servants, and may fine, reduce, suspend, remove or dismiss them for breach of rules or discipline, for carelessness, unfitness, neglect of duty or misconduct or other sufficient cause.

President to carry out resolutions.

30. The resolutions of a committee shall be carried into effect by its President in whom the entire executive power of the committee shall, save as hereinafter provided, be vested.

Committee to have general superintendence over temples.

31. (1) Subject to the powers possessed by the Board under section 14 and to the provisions of any scheme settled or deemed to be a scheme settled under this Act, (1) a committee shall be entitled to exercise general superintendence over the temples for which it is constituted.

Committee to make regulations.

32. Subject to such control as may be prescribed, a committee may make regulations not inconsistent with this Act or with any rules or by-laws made thereunder in regard to the following matters:—

(*a*) the time and place of its meetings;

(*b*) the manner in which notice thereof shall be given;

(*c*) the quorum for the transaction of business at meetings;

(*d*) the preservation of order and the conduct of proceedings at meetings and the powers which a President may exercise for the purpose of enforcing his decisions;

(*e*) the manner in which the proceedings of meetings shall be recorded and published;

(*f*) the division of duties among the President, Vice-President and members of the committee;

(*g*) the delegation of the powers, duties or functions of the committee or its President

(i) to the President or Vice-President or a member; or

(ii) to a sub-committee of members;

(*h*) the persons by whom receipts may be granted for money paid to the committee;

(*i*) the accounts, returns and reports to be submitted by trustees of religious endowments;

(*j*) the manner in which the decisions of the committee shall be ascertained otherwise than at meetings; and

(*k*) all other similar matters.

Committee not to exercise jurisdiction over maths or excepted temples.

33. No committee constituted under the provisions of this chapter shall be entitled to exercise any jurisdiction over maths or excepted temples or the trustees thereof.

CHAPTER IV.

Religious Endowments in General.

Preparation of register of endowments.

34. (1) For every math and temple a register shall be maintained by the Board showing—

(1) For the words "Subject to the provisions of section 14," the words "Subject to the powers . . . . . under this Act," were substituted by 1924 Council on reconsideration.

(*a*) the names of past and present trustees and particulars as to the custom, if any, regarding succession to the office of trustee;

(*b*) particulars of all endowments of the math or temple, and all title-deeds and other documents relating thereto;

(*c*) particulars of the scheme of administration and of the *dittam* or scale of expenditure;

(*d*) the names of all offices to which any salary, emolument or perquisite is attached and the nature, time and conditions of service in each case;

(*e*) the jewels, gold, silver, precious stones, all vessels and utensils and other movables belonging to the institution, with their estimated value; and

(*f*) such other particulars as the Board may fix.

(2) The register shall be prepared, verified and signed by the trustee of the math or temple and submitted by him to the Board within such period after the commencement of this Act as the Board may fix:

Provided that a register relating to a temple over which a committee has jurisdiction shall be submitted through the committee which may, after making such inquiry as it may consider necessary, recommend such alterations, omissions or additions in the register as it may think fit.

(3) The Board may, after receiving the register from a trustee, make such inquiry as it may consider necessary and direct that the register be approved with such alterations, omissions or additions as it thinks fit to order.

(4) A copy of the register as approved by the Board shall be furnished to the trustee and to the committee, if any, concerned.

Annual verification of the register.

35. (1) The trustee shall annually scrutinize the entries in the register and shall submit to the Board for its approval a verified statement showing the alterations, omissions or additions required therein.

(2) The Board and the committee, if any, may on receipt of the statement make such inquiry as they think necessary and the Board may by order direct the alterations, omissions or additions which should be made in the register.

(3) A copy of the order under sub-section (2) shall be communicated to the trustee and the President of the committee, if any, concerned and he shall carry out the alterations, omissions or additions ordered by the Board in the copy of the register kept by him.

Care required of trustee and his powers.

36. (1) The trustee of every religious endowment is bound to administer its affairs and to apply the funds and properties of such endowment in accordance with the terms of the trust, the usage of the institution and all lawful directions which a competent authority may issue in respect thereof, and as carefully as a man of ordinary prudence would deal with such affairs, funds or properties if they were his own.

(2) A trustee shall, subject to the provisions of this Act, be entitled to exercise all powers incident to the provident and beneficial management of the religious endowment and to do all things necessary for the due performance of the duties imposed on him.

Power of trustee of math or temple over trustees of specific endowments.

37. The trustee of specific endowments made for the performance of any service or charity connected with a math or temple shall perform such service or charity subject to the general superintendence of the trustee of the math or temple and shall obey all lawful orders issued by him.

Hereditary trustees.

38. (1) When a vacancy occurs in the office of hereditary trustee of a religious endowment and there is a dispute respecting the right of succession to such office; or

when such vacancy cannot be filled up immediately; or

when a hereditary trustee is a minor and has no legally constituted guardian fit and willing to act as such or there is a dispute respecting the person who is entitled to act as such guardian; or

when a hereditary trustee is by reason of unsoundness of mind or other physical infirmity unable to discharge the functions of the trustee;

the Board in the case of maths and excepted temples and the committee in the case of other temples may appoint a fit person to discharge the functions of the trustee of such endowment, until another trustee succeeds to the office or the disability of the trustee ceases to exist, as the case may be.

Nothing in this sub-section shall be deemed to affect anything contained in the Madras Court of Wards Act, 1902.

(2) In making an appointment under sub-section (1), the Board or committee shall have due regard to the claims of disciples, if any, in the case of maths, and of members of the family, if any, entitled to the succession, in the case of temples.

(3) The person so appointed shall be entitled to exercise all the powers which a trustee could exercise in relation to such endowment.

Appointment and punishment of servants of temples.

39. (1) All office-holders and servants attached to a temple or in receipt of any emolument or perquisite from the temple shall be under the orders and control of the trustee; and the trustee may fine, suspend, remove or dismiss any of them for breach of trust, incapacity, disobedience of lawful orders, neglect of duty, misconduct or other sufficient cause:

Provided that the Local Government may, in respect of any specified hereditary office-holder or servant or class of hereditary office-holders or servants and subject to the provisions of section 75, by order restrict and place under such control as they may think fit the exercise by the trustee of his powers of punishment under this sub-section.

(2) Any office-holder or servant of a temple other than an excepted temple punished by a trustee under sub-section (1) may, within such time as may be prescribed appeal to the committee whose decision shall in the case of a non-hereditary office-holder or servant be final.

(3) A hereditary office-holder or servant of a temple other than an excepted temple may, within such time as may be prescribed, prefer a further appeal to the Board against the order of a committee on an appeal under sub-section (2) and the decision of the Board shall be final.

(4) Any office-holder or servant of an excepted temple punished by a trustee under sub-section (1) may, within such time as may be prescribed, appeal to the Board whose decision shall be final.

How to enforce service when endowment is a charge on property.

40. Where an endowment for the performance of a charity or service connected with a temple consists merely of a charge on property and there is failure in the due performance of the charity or service by the person responsible, the trustee of the temple may require the person in possession of the property on which the endowment is a charge to pay to the trustee the expenses incurred or likely to be incurred in causing the charity or service to be performed otherwise. In default of such person making the payment as required by the trustee, the court shall, on the application of the trustee, pass an order for the recovery of the amount and such order may be enforced as if it were a decree of such court:

Provided that where the person in possession of the property on which the endowment is a charge is not the person responsible in law for the performance of the charity or service, and the amount referred to in this section is recovered from the person in possession, the court shall, on the application of such person, pass an order for the recovery of the amount from the person responsible in law and such order may also be enforced as if it were a decree of such court.

Maintenance of accounts and appointment of auditors.

41. (1) A Board, a committee and the trustee of a religious endowment shall keep regular accounts of receipts and disbursements.

(2) Such accounts shall be aduited annually, or at such other intervals as may be prescribed, by auditors appointed by the Local Government. Auditors so appointed shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

To whom audit reports shall be submitted

42. After completing the audit the auditor shall submit a report—

(*a*) to the Local Government in the case of the accounts of a Board ;

(*b*) to the Board in the case of the accounts of a committee, math or excepted temple ; and

(*c*) to the committee in the case of the accounts of temples over wich it has jurisdiction.

Contents of the audit report.

43. (1) The report of the auditor shall among other things specify all cases of irregular, illegal or improper expenditure, or of failure to recover moneys or other property due to the institution, or of loss or waste of money or other property of the institution caused by neglect or misconduct.

(2) The auditor shall also report on any other matter which the Board or committee may require in respect of any specified religious endowment.

Cost of audit to be recovered from religious endowments.

44. (1) The cost of auditing the accounts of maths and excepted temples shall be payable out of the funds of the Board and the cost of auditing the accounts of other temples out of the funds of the committee.

(2) If, within the time fixed by the Local Government, the amount is not paid, the Local Government may recover it as if it were an arrear of land revenue.

CHAPTER V.

Temples.

Chapter not to apply to excepted temples.

45. The provisions of this chapter shall not apply to excepted temples or the trustees thereof.

Trustee to be a Hindu.

46. No person may succeed, or be appointed, to the office of trustee of a temple unless he professes the Hindu religion.

Non-hereditary trustees, their number and appointment.

47. (1) Subject to the provisions of sub-section (4) the number of non-hereditary trustees for any temple shall be fixed by the committee, but shall not exceed three.

(2) Non-hereditary trustees shall be appointed by the committee and in making such appointments the committee shall have due regard to the claims of persons belonging to the religious denomination for whose benefit the temple concerned is chiefly maintained.

(3) A non-hereditary trustee shall hold office for five years from the date of the order appointing him, unless in the meanwhile he is removed or dismissed, or his resignation is accepted, by the committee, or he ceases otherwise to be a trustee.

(4) Every non-hereditary trustee lawfully holding office on the date of commencement of this Act, shall be deemed to have been duly appointed trustee under this Act on such date, but shall be entitled to hold office only for three years from such date.

Trustee to obey orders of committees

48. The trustee of a temple shall be bound to obey all orders issued under the provisions of this Act by the Board or committee or the President of such Board or committee.

Removal and dismissal of trustees.

49. (1) The committee may suspend, remove or dismiss the trustee of a temple—

(*a*) for persistent default in the submission of budgets, accounts, reports or returns ; or

(*b*) for wilful disobedience of lawful orders issued by the Board or committee, or the President of such Board or committee ; or

(*c*) for any malfeasance, misfeasance, breach of trust, or neglect of duty in respect of the trusts ; or

(*d*) for any misappropriation of, or improper dealing with, the properties of the temple of which he is trustee ; or

(*e*) for unsoundness of mind or other physical infirmity which unfits him for discharging the functions of a trustee.

(2) When the committee proposes to take action under sub-section (1) it shall frame charges against the trustee concerned and give him an opportunity of explanation, of testing the evidence against him and of adducing evidence in his favour and may place the trustee under suspension pending the disposal of the charges framed. The order of suspension, removal or dismissal shall state the charges framed against the trustee, his explanation and the finding of the committee on each charge with the reasons therefor.

(3) A trustee suspended, removed or dismissed under this section may, within three months of the date of the order of suspension, removal or dismissal, appeal to the Board against such order :

Provided that a hereditary trustee may, in lieu of appealing to the Board, apply within the same period to the court to modify or cancel the order of the committee.

(4) The order of the committee under this section shall, when no appeal is preferred or application made under sub-section (3), be final ; and when such appeal is preferred or application is made the order of the Board or the court, as the case may be, shall be final.

Disqualification of trustees.

50. (1) A non-hereditary trustee shall cease to hold his office if he—

(*a*) is sentenced by a court to such punishment as is described in sub-section (2) of section 22 and subject to the proviso contained therein ;

(*b*) applies to be adjudicated or is adjudicated a bankrupt or insolvent ; or

(*c*) ceases to profess the Hindu religion.

(2) A hereditary trustee shall cease to hold his office if he ceases to profess the Hindu religion.

(3) If a hereditary trustee becomes subject to any of the disqualifications described in clause (*a*) or clause (*b*) of sub-section (1), the committee may supersede him and appoint a fit person to administer the temple until the disability of the trustee ceases to exist or another trustee succeeds to the office.

(4) The Board shall, in cases of dispute or doubt, determine whether a trustee is disqualified under this section and its decision shall be final.

Sub-s of 50th

Fixing of standard scales of expenditure in temples.

51. Subject to the provisions of any scheme settled or deemed to be a scheme settled under this Act. (1)

(1) the trustee of a temple may from time to time submit to the committee proposals for fixing the *dittam* or scale of expenditure in the temple and the amounts which should be allotted to the various objects or ceremonies connected with such temple or the proportions in which the income or other property of the temple may be applied to such objects or ceremonies.

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

(3) After the expiry of the period fixed under sub-section (2), the committee shall consider the objections or suggestions that may have been received and may pass such orders as it thinks fit on the proposals.

(4) The trustee or any person having interest may within six months of the date of the order passed by the committee under sub-section (3), either appeal to the Board against such order or institute in the court a suit to modify or set aside the same.

If such an appeal is preferred or such a suit is instituted the Board or the Court shall give at the expense of the appellant or the plaintiff, as the case may be, notice of the appeal or of the institution of the suit to all persons having interest either by personal service or where from the number of persons or any other cause such service is not reasonably practicable by public advertisement as the Board or Court may in each case direct.

(5) Subject to the result of such appeal or suit as is referred to in sub-section (4) the order of the Committee shall be final. The order of the Board on appeal shall be final. (2)

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(1) The words "Subject to the provisions of . . . . . under this Act," were inserted by 1924 Council on reconsideration.

2. For sub-clauses—

"(4) The trustee or any person having interest may within such time as may be prescribed appeal to the Board against the order passed by the committee under sub-section (3).

(5) The order of the committee under sub-section (3) shall, when no appeal is preferred against it, be final, and, when an appeal is preferred, the order of the Board shall be final."

The present sub-clauses 4, Proviso C 5 were substituted by the 1924 Council on reconsideration.

(6) The *dittam* or scale of expenditure for the time being in force in a temple shall not be altered by the trustee except in accordance with the procedure laid down in this section.

Budgets of temples.

52. (1) The trustee of every temple shall in each year submit to the committee before such date and in such form as the Board may require, a budget showing the probable receipts and disbursements of the temple and the endowments connected therewith during the following year.

(2) Every such budget shall make adequate provision for the *dittam* or scale of expenditure for the time being in force and the due discharge of all liabilities in respect of loans.

(3) The committee may within such time after the receipt of the budget as the Board may fix, direct the trustee to make such alterations, omissions or additions in the budget as it may think fit.

(4) The trustee may, within such time as the Board may fix, appeal against the order of the committee under sub-section (3) to the Board whose decision shall be final.

Settling of schemes for non-excepted temples.

53. (1) When the Board is satisfied that, in the interests of the proper administration of the endowments of a temple, a scheme of administration should be settled, the Board may, after consulting in the prescribed manner the trustee, the committee, if any, and the persons having interest, by order settle a scheme of administration for the endowments of such temple.

(2) The Board may by order and in the manner provided in sub-section (1) modify or cancel a scheme settled under that sub-section. (1)

(3) Every order of the Board under this section shall be published in the prescribed manner.

The trustee or any person having interest may within six months of the date of such publication institute a suit in the

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1. For the sub-clauses—

"1) The order of the Board settling a scheme under sub-section (1) shall, subject to the provisions of sub-section (3) be final and the scheme so settled shall be binding on the committee, trustee and all persons having interest :

Provided that the trustee or any person having interest may within three months of the date of the order of the Board under sub section (1) apply to the court to modify or correct such scheme and the scheme altered in accordance with the order of the court on such application shall, subject to the provisions of sub-section (3), be final and binding on the parties concerned.

(2) A scheme settled or altered under this section, or a scheme which under section 71 is deemed to be a scheme settled under this Act may at any time be modified or cancelled by the Board in the manner provided in sub-section (1) for the settlement of the original scheme and subject to the proviso contained in sub-section (2)."

The present sub-clauses 2, 3 and 4, were substituted by 1924 Council on reconsideration.

court to modify or set aside such order. Subject to the result of such suit every order of the Board shall be final and binding on the Committee, the trustee and all persons having interest.

(4) Any scheme of administration which has been settled by a court under this section or which under section 71 is deemed to be a scheme settled under this Act may at any time for sufficient cause be modified or cancelled by the court on the application of the Board.

Filling up of vacancies among office-holders or servants.

54. (1) Vacancies amongst the office-holders or servants of a temple shall be filled up by the trustee in cases where the office or service is not hereditary.

(2) In cases where the office or service is hereditary, the next in the line of succession shall be entitled to succeed :

Provided that, if there is a dispute respecting the right of succession to such office or service, or in cases where such vacancy cannot be filled up immediately, or where the person entitled to succeed is a minor without a legally constituted guardian fit and willing to act as such, or where the hereiditary office-holder or servant is by reason of unsoundness of mind or other physical infirmity unable to discharge the functions of the office or perform the service, the trustee may appoint a fit person to discharge the duties of the office or perform the service, until another person succeeds to the office or service or the disability of the office-holder or servant ceases to exist, as the case may be.

(3) In making an appointment under the proviso to sub-section (2), the trustee shall have due regard to the claims of members of the family, if any, entitled to the succession.

Trustees to furnish accounts, etc., to committee or Board.

55. The trustee of every temple shall furnish such accounts, returns, reports or other information relating to the administration of the temple in his charge and at such time and in such form as the committee or Board may require.

Inspection by President or member of endowments.

56. The President or any member of the committee deputed by him in this behalf may inspect all movable and immovable property belonging to, and all records, correspondence, plans, accounts and other documents relating to any temple, and the trustee of such temple and all officers and servants working under him shall afford to the President or such member such assistance as may be necessary.

CHAPTER VI.

Maths and Excepted Temples.

Submission of budgets and annual accounts.

57. The trustee of every math and excepted temple shall in each year submit to the Board before such date and in such form as the Board may require—

(*a*) a budget showing the probable receipts and disbursements of the following year ; and

(*b*) a statement of the actual receipts and disbursements of the previous year.

Board may make inquiry into mismanagement of endowments.

58. When the Board has reason to believe that the trustee of a math or excepted temple has been mismanaging the endowments of such math or temple or has been spending or alienating them for improper purposes, or when not less than twenty persons having interest make an application to the Board stating that in the interests of the proper administration of such endowments a scheme of administration should be settled, (1) the Board may hold an inquiry which shall be conducted in such manner as may be prescribed.

Settling of schemes for maths and excepted temples.

59. (1) If after making the inquiry referred to in section 58 the Board is satisfied that the trustee concerned has mismanaged the endowments of such math or temple or has spent or alienated them for improper purposes, or that, in theinterest of the proper administration of such endowment, a scheme of administration should be settled, (1) the Board may, after consulting in the prescribed manner the trustee and the persons having interest, (2) by order settle a scheme of administration for the endowments connected with such math or temple . . . . . (3).

(2) If in settling (4) a scheme for the administration of the endowments connected with a math, the Board considers it necessary to associate any person with, or constitute any separate body for participating or assisting in the administration of such

(1) For the word "framed" the word "settled" was substituted by the 1924 Council on reconsideration.

(2) For the words "framed a scheme of administration" the words "by order settle a scheme of administration" were substituted by 1924 Council on reconsideration.

(3) The words "and cause the same to be filed in Court as hereinafter provided" was omitted by 1924 Council on reconsideration.

(4) For the word "framing" the word "settling" was substituted by 1924 Council on reconsideration.

endowments, such person shall be a person having interest and such body shall consist exclusively of persons having interest in such math.

(3) The Board may at any time by order and in the manner provided in sub-section (1) modify or cancel a scheme settled under that sub-section.

(4) Every order of the Board under this section shall be published in the prescribed manner.

The trustee or any person having interest may within six months of the date of such publication institute a suit in the court to modify or set aside such order. (1)

Finality of Board's order.

60. Every order of the Board under section 59 shall, subject to the result of any suit which may be instituted under sub-section (4) of that section, be final and binding on the trustee and all persons having interest.

Variation or cancellation of schemes.

61. Any scheme of administration which has been settled by a court under section 59 or which under section 71 is deemed to be a scheme settled under this Act may at any time for sufficient cause be modified or cancelled by the court on the application of the Board. (2)

CHAPTER VII.

Application of Endowment Funds.

Trustee authorized to incur expenditure on health, etc., of pilgrims and worshippers.

62. The trustee of a math or temple may out of the funds of the endowments in his charge incur expenditure on arrangements for securing the health, safety, or convenience of disciples, pilgrims or worshippers resorting to such math or temple :

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(1) The sub-clauses 3 and 4 were inserted by 1924 Council on reconsideration.

2. For clauses 60 & 61—

"60. (1) The scheme framed under section 59 duly signed by the President of the Board shall be filed in court together with the records of the inquiry held by the Board.

(2) The court shall give notice of the filing of such scheme to all persons having interest in such manner as it may think necessary. The notice shall state that if, within three months from the date of publication or service of such notice, any objection or suggestion is received in writing from any person having interest, the court will consider such objection or suggestion.

(3) After the expiry of the period fixed in the notice referred to in sub-section (2), the court shall consider the objections and suggestions that may have been received and may confirm, modify or correct the scheme framed by the Board ; and thereupon a decree shall follow in terms of the scheme as confirmed, modified or corrected.

61. Any scheme of administration which has been decreed under section 60 or which under section 71 is deemed to be a scheme decreed under this Act, may at any time be modified or cancelled by the court at the instance of the Board."

The present clauses 60 and 61 were substituted by 1924 Council on reconsideration.

Provided that the Board in the case of maths and excepted temples and the committee in the case of other temples may, for reasons to be set forth in writing, restrict and place under such control as they may think fit the exercise by the trustee of his discretion under this section.

Cypres application of endowment or surplus.

63. (1) The Board may, after holding an inquiry in such manner as may be prescribed, by order, declare that the purpose of a religious endowment has from the beginning been, or has subsequently become, impossible of realization or that the machinery for effectuating the original purposes of the endowment has failed or no longer exists, or that after satisfying adequately the purposes of the endowment and after setting apart a sufficient sum for the repair and renovation of the buildings connected with the math or temple or the endowments attached thereto there is a surplus which is not required for such purposes ; and may, by such order, direct that the amount of the endowment or such surplus as is declared to be available, as the case may be, be appropriated to religious, educational or charitable purposes not inconsistent with the objects of such math or temple.

(2) It shall be competent to the Board when giving a direction under sub-section (1) to determine what portion of such amount or surplus shall be retained as a reserve fund for the math or temple and to direct the remainder to be appropriated to the purposes specified in that sub-section.

(3) The Board may at any time by order and in the manner provided in sub-section (1) modify or cancel an order passed under that sub-section.

(4) The order of the Board under this section shall be published in the prescribed manner. The trustee or any other person having interest may within six months of the date of such publication institute a suit in the court to modify or set aside such order.

Subject to the result of such suit the order of the Board shall be final and binding on the committee, if any, the trustee and all persons having interest.

(5) Any decision of the court under this section may at any time for sufficient cause be modified or cancelled by the court on the application of the Board. (1)

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(1) For the clause—

63. (1) Where the purpose of a religious endowment has from the beginning been, or has subsequently become, impossible of realization, or where the machinery for effectuating the original purposes of the endowment has failed or no longer exists or where, after setting adequately the purposes of the endowment and after setting apart a sufficient sum fo.

CHAPTER VIII.

Finance.

Recovery from endowment of expenses incurred by the Board or committee on legal proceedings.

64. All costs and expenses incurred in connexion with legal proceedings in respect of any religious endowment to which a Board or committee is a party shall notwithstanding anything contained in section 70 be payable out of the funds of such endowment.

Annual contribution from endowments to Board and committee.

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

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

(3) Religious endowments the administration of which is governed by a scheme settled under section 92 of the Code of Civil Procedure, 1908, shall, notwithstanding anything to the contrary contained in such scheme, be liable to pay the contribution under this section.

Assessment and recovery of contributions, costs, etc.

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

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

Provided that the court may for reasonable cause postpone the recovery of the amount or order payment thereof in instalment.

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the repair and renovation of the bulidings connected with the math or temple or the endowments attached thereto, there is a surplus which is not required for such purposes, the trustee of the math or temple concerne, or the commitee, or the Board may apply to the court for sanction to devote the amount of the endowment, or such surplus as may be available, as the case may be, to religious, educational or other charitable purposes not inconsistent with the objects ef such math or temple.

(2) It shall be competent to the court, if it is satisfied that the application is reasonable, to determine what portion of such amount or surplus shall be retained as a reserve iund for the math or temple and to direct the remainder to be devoted to any religious, educational or other charitable purpose approved by the court.

(3) The court may, from time to time on the application of the trustee of the math or temple concerned or the committee or the Board or a person having interest, review, rescind or vary any order passed under this section." the present clause 63 was substituted by 1924 Council on reconsideration.

CHAPTER IX.

Miscellaneous.

Power of Local Government to make rules.

67. (1) The Local Government may make rules to carry out all or any of the purposes of this Act not inconsistent therewith.

(2) In particular, and without prejudice to the generality of the foregoing power, they shall have power to make rules with reference to the following matters:—

(*a*) all matters expressly required or allowed by this Act to be prescribed;

(*b*) the registration of electors;

(*c*) the nominations of candidates, the times of election, the mode of recording and counting votes and the declaration and publication of the results of elections;

(*d*) the conduct of inquiries and the decision of disputes relating to elections;

(*e*) the powers of the President and commissioners of a Board to hold inquiries, to summon and examine witnesses and to compel the production of documents;

(*f*) the grant of leave, leave allowances and travelling allowances to the President and commissioners of a Board and generally the conditions of service of such President and commissioners;

(*g*) the budgets, reports, accounts, returns or other information to be submitted by Boards;

(*h*) the qualifications for officers and servants of a Board, the grant of leave, leave allowances and travelling allowances to them, the establishment of provident funds for them and generally the conditions of their service;

(*i*) the organization of a staff of auditors, their salaries and allowances, the control of such staff, its relation with Boards, committees and trustees and generally the conditions of service of auditors;

(*j*) the calculation of the cost of audit and its apportionment among Boards and committees;

(*k*) the manner in which the accounts of Boards, committees or endowments shall be audited and published, the time and place of audit and the form and contents of the auditor's report; and

(*l*) the method of calculating the income of a religious endowment.

(3) The power to make rules under this section shall be subject to the condition of previous publication.

Altering schedules.

68. (1) The Local Government may make rules altering, adding to, or cancelling any of the schedules to this Act.

(2) All references made in this Act to any of the aforesaid schedules shall be construed as referring to such schedules as amended in exercise of the powers conferred by sub-section (1).

(3) A draft of the rules proposed to be made under this section shall be laid on the table of the Legislative Council and the rules shall not be made unless the Legislative Council by

resolution approves the draft either without modification or addition or with modifications or additions ; but upon such approval being given, the rules may be made in the form in which they have been approved, and such rules on being so made shall be notified and shall thereafter be of full force and effect.

Suits.

69. (1) The Board or committee having jurisdiction over any math or temple or any person having interest and having obtained the consent of the Board may institute a suit in the court to obtain a decree—

(*a*) appointing or removing the trustee of a math or excepted temple ;

(*b*) vesting any property in a trustee ;

(*c*) declaring what proportion of the endowed property or of the interest therein shall be allocated to any particular object of the endowment ; or

(*d*) granting such further or other relief as the nature of the case may require.

(2) Sections 92 and 93 and rule 8 of order I of the first schedule of the Code of Civil Procedure, 1908, shall have no application to any suit claiming any relief in respect of the administration or management of a religious endowment and no suit in respect of such administration or management shall be instituted except as provided by this Act. [1]

Court may order costs of suits or applications to be met out of endowment funds.

70. The costs, charges and expenses of and incidental to any suit or application under this Act or to any appeal from a decree or order passed in such suit or on such application shall be in the discretion of the court, which may, subject to the provisions of section 64, direct the whole or any part of such costs, charges and expenses to be met from the property or income of the endowment concerned or to be borne and paid in such manner and by such persons as it thinks fit.

Endowments governed by schemes settled under section 92 of the Civil Procedure Code.

71. Where the administration of a religious endowment is governed by any scheme settled under section 92 of the Code of Civil Procedure, 1908, such scheme shall, notwithstanding any provisions of this Act which may be inconsistent with the provisions of such scheme, be deemed to be a scheme settled under this Act; . . . . . [2] and such scheme may be modified or cancelled in the manner provided by this Act.

Alienation of immovable trust property.

72. (1) No exchange, sale or mortgage and no lease for a term exceeding five years of any immovable property belonging to any math or temple shall be valid or operative unless it is necessary or beneficial to the math or temple and is sanctioned by the Board in the case of maths and excepted temples and by the committee in the case of other temples.

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(1) For the words "Except in conformity with the provisions of this section" the words "except as provided by this Act." were substituted by 1924 Council on reconsideration.

(2) The words "or decreed" were omitted by 1924 Council on reconsideration.

(2) The trustee of the math or temple or any person having interest may, within one year of the date of the order of the Board or committee under sub-section (1), apply to the court for modifying or cancelling such order.

(3) The order of the Board or committee under sub-section (1 when no application is made under sub-section (2) and the order of the court when such application is made shall be final.

Application of the Act to endowments partly religious and partly secular.

73. (1) Where an endowment has been made or property given for the support of an institution which is partly of a religious and partly of a secular character or for the performance of any service or charity connected therewith; or

where an endowment made or property given is appropriated partly to religious and partly to secular uses;

the Board may notwithstanding anything contained in the Madras Endowments and Escheats Regulation, 1817, determine what portion of such endowment or property or of the income therefrom shall be allocated to religious uses. Such portion shall thereafter be deemed to be a religious endowment and its administration shall be governed by the provisions of this Act.

(2) Any party affected by an order under sub-section (1) may within such time as may be prescribed apply to the court to modifiy or set aside such order but, subject to the result of such application, the order of the Board shall be final.

Putting trustee in possession.

74. Where a committee has appointed a person as non-hereditary trustee of a temple or where a Board or committee has appointed a person to discharge the functions of a hereditary trustee and such person is resisted in, or prevented from, obtaining possession of the math or temple or of the endowments connected therewith, the court may, on application by the person so appointed and on production of the order of the Board or committee appointing him, order the delivery to any person the posssession of such property as may be specified therein.

Saving of established customs and usages.

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

Government not to interfere with religious endowments except as provided by this Act.

76. Save as provided in this or any other Act, it shall not be lawful for the Local Government or for any executive officer of the Local Government in his official capacity to undertake or assume the superintendence of any land or other property granted for the support of, or otherwise belonging to, any math or temple, to take any part in the management or appropriation of any endowment made for its maintenance, or to nominate or appoint the trustee of any religious endowment or to be concerned in any way with any religious endowment.

Court fees leviable on documents under this Act.

77. (1) Notwithstanding anything contained in the first or second schedule to the Madras Court Fees Amendment Act, 1922, the proper fees for the documents described in columns 1 and 2 of Schedule II shall be the fees indicated in column 3 thereof.

(2) The provisions of the Madras Court Fees Amendment Act, 1922, shall otherwise, so far as may be, apply to the documents mentioned in Schedule II.

Grant of copies of proceedings, etc.

78. The President of a Board or committee may grant copies of the proceedings and records of the Board or committee, as the case may be, on payment of such fees and subject to such conditions as the Board may, by general or special order, determine. Copies shall be certified by the President of the Board or committee concerned in the manner provided in section 76 of the Indian Evidence Act, 1872.

Transitory provisions to govern existing committees.

79. (1) Every committee established under the Religious Endowments Act, 1863, which is in existence at the commencement of this Act shall be deemed to have been duly constituted under the provisions of this Act.

(2) In their application to the members and Presidents of committees in office at the commencement of this Act and the first reconstitution of such committees in accordance with this Act, the provisions of this Act shall be read subject to the rules contained in Schedule III.

Settlement of certain disputes.

80. (1) If any dispute arise as to whether a math or temple is one to which this Act applies or as to whether a temple is an excepted temple, such dispute shall be decided by the Board.

(2) A trustee affected by a decision under sub-section (1) may within one year apply to the court to modify or set aside such decision but, subject to the result of such application, the order of the Board shall be final.

Removal of difficulties in working Act.

81. If any difficulty arise as to the first constitution or reconstitution of any committee after the commencement of this Act, or otherwise in first giving effect to the provisions of this Act, the Local Government, as occasion may require, may by order do anything which appears to them necessary for the purpose of removing the difficulty.

SCHEDUDE I.

[See section 21.]

Part I—Qualifications of electors.

A person shall be qualified as an elector for an electoral area who has resided in such area for not less than 120 days in the previous year and who—

(*a*) was in the previous year assessed by a municipal council or local board to an aggregate amount of not less than twenty rupees in respect of one or more of the following taxes, viz.—

property tax;

tax on companies; or

profession tax ; or

(*b*) was in the previous year assessed to income-tax ; or

(*c*) is registered as a ryotwari pattadar or as an inamdar of land of which the annual rent value is not less than fifty rupees ; or

(*d*) holds on a registered lease under a ryotwari pattadar or inamdar land the annual rent value of which is not less than fifty rupees ; or

(*e*) is registered jointly with the proprietor under section 14 of the Malabar Land Registration Act, 1895, as the occupant of land, the annual rent value of which is not less than fifty rupees ; or

(*f*) is a landholder holding an estate of which the annual rent value is not less than fifty rupees ; or

(*g*) holds, as a ryot or tenant under a landholder, land the annual rent value of which is not less than fifty rupees.

Part II—Disqualifications of electors.

No person shall be entitled to have his name registered on the electoral roll of an electoral area who is subject to any of the following disqualifications :—

(*a*) is not a British subject ;

(*b*) has been adjudged to be of unsound mind by a competent court ; or

(*c*) is under twenty-one years of age.

SCHEDULE II
[See Section 77.]

Section.	Description of the document.	Proper fee.
39 (2)	Appeal to the committee by any office-holder or servant against an order of punishment by a trustee under sub-section (1)	Rs. 2
39 (3)	Further appeal to the Board by a hereditary office-holder or servant against an order of the committee on appeal under sub-section (2) ...	2
39 (4)	Appeal to the Board by an office-holder or servant of an excepted temple	2
40	Application to court by the trustee to recover the amount from the person in possession or by the person in possession from the person responsible in law	*
49 (3)	Appeal to the Board or application to court against an order of suspension, dismissal or removal by the committee of a trustee ...	25
51 (4)	Appeal to the Board by a trustee or person having interest against the order of a committee under sub-section (3) fixing standard scales of expenditure	20
51 (4)	Suit under the sub-section	50(1)

* The fee leviable on a plaint for the amount claimed under the Madras Court Fees Amendment Act, 1922.

(1) The entry relating to section "51 (4) Appeal to the Board x x x Rs. 50" were inserted by 1924 Council on reconsideration.

Section.	Description of the document.	Proper fee.
53 (3)	Suit under the sub-section	50[1]
53 (4)	Application to the court by the Board to modify or cancel a scheme	2[2]
58	Application to the Board by not less than 20 persons having interest for framing a scheme of administration for a math or excepted temple ...	50
59 (4)	Suit under the sub-section [1]	50[3]
	. . . . . [4]	
61	Application to the court by the Board for modification or cancellation of a scheme of administration	2
	. . . . . [4]	
63 (4)	Suit under the sub-section [2]	50
63 (5)	Application to the court to modify or cancel the decision under the section	2[2]
66 (2)	Application to court to recover from the funds of the endowment the contribution leviable by the Board or committee	2
69	Suits under the section	50
72 (2)	Application to the court by the trustee of a math or temple or any person having interest for modifying or cancelling any order of the Board sanctioning alienation of immovable property under sub-section (1)	*
73 (2)	Application to a court to modify or set aside an order of the Board under sub-section (1) allocating any endowmeni, property or the income there from to religious and secular purposes [1] ...	Rs. 20[3]
74	Application to the court for delivery of possession of endowments to a trustee appointed by the committee	2
80 (2)	Application to modify or set aside the decision of the Board under sub-section (1)	

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* The fee leviable on a plaint under Article 17, Schedule II of the Madras Court Fees Amendment Act, 1922.

(2) The entry relating to section.

"53. (2) Application to court by a trustee or any person having interest to modify or correct a scheme settled by a Board under sub-section (1) Rs. 50".

"63. (3) Application to court by a trustee, committee or person having interest to review, rescind or vary an order passed under this section Rs. 20".

Were deleted and the present entry relating to sections, 53 (3) & (4), 63 (4) & (5) were substituted by 1924 Council on reconsideration.

(3) The entry relating to sections "59 (4) & 73 (2)" were inserted by 1924 Council on reconsideration.

(4) The entry relating to sections

"60. (1) Application for filing a copy of the scheme of administration in court, Rs. 10."

"63. (1) Application under the section to the court by a trustee, committee or the Board for sanction to devote amount or such surplus as may be available to relious, educational or other charitable purposes. Rs. 20".

Were omitted by 1924 Council on reconsideration.

SCHEDULE III.

[See section 79.]

Transitory Provisions.

1. The Local Government shall fix a date, not being later than three years from the commencement of this Act, on which the term of office of members of committees holding office at the commencement of this Act shall expire :

Provided that a member who is also the President of a committee shall continue to exercise the functions of a President until a new President is elected under rule 4.

2. Any vacancy in the office of President of a committee which is in existence at the commencement of this Act or which occurs before the date on which a new President is elected under rule 4 shall be filled up under the provisions of this Act ; and any vacancy in the office of member of a committee which is in existence at the commencement of this Act or which occurs before the date fixed under rule 1 shall be filled up by appointment by the Local Government :

Provided that any person elected or appointed as President or member under this rule shall hold office only up to the date referred to in rule 1.

3. The President of the committee shall cause arrangements to be made for election of members, so that the newly-elected members may come into office on the date fixed under rule 1 for the expiry of the terms of office of members holding office at the commencement of this Act.

4. On or as soon as may be after such date, a meeting shall be held on a day and at a time fixed by the President for the election of a new President.

Appendix A.

The Madras Hindu Religious Endowments Act, 1925.

STATEMENT OF OBJECTS AND REASONS.

There is widespread dissatisfaction with the management and control of religious institutions falling under sections 3 and 4 of the Government of India Act XX of 1863. In this Presidency opinion is unanimous that the inadequacy of the provisions of that Act to check the maladministration and misuse of the trust properties is largely responsible for the present condition of these institution. Various efforts have been made from time to time to introduce legislative measures for the removal of the many abuses that admittedly exist in the administration of these endowments. In 1874, 1876, 1884, 1888 and again in 1894, committees were appointed to report upon the state of the existing law and to make suggestions for its modification. Several private Bills on the subject were also introduced both in the local and in the supreme Legislative Councils. The recommendations of the above committees and the Bills above referred to however fell through as they were considered either too wide in their application or were too elaborate in their provisions or were inconsistent in certain respects with the principle and policy on which the Act of 1863 was based.

2. The principal defects in the working of the Act of 1863 are—

(1) there is no provision in it for the exercise of supervision over the large and important class of endowments referred to in section 4 of the Act;

(2) the system of suit by parties interested is costly and has proved inadequate to guard against dishonesty on the part of trustees and members of committees;

(3) the powers and functions of committees are not defined with sufficient precision;

(4) there is no provision enabling committees to raise funds for the purpose of carrying out their duties;

(5) committees cannot enforce their orders save by regular suit to compel obedience;

(6) members of committees hold office for life and cannot be ousted save by regular suit;

(7) the provisions contained in the Act for the due and regular performance of the duty entrusted to committees of preparing the registers of voters and conducting elections of committee members were utterly inadequate; and

(8) there are no provisions in the Act requiring periodical audit of accounts kept by trustees.

The amendments required in the Act of 1863 to remedy these and other defects are so many that it has been considered the preferable course to repeal it altogether and enact a self-contained piece of legislation dealing with the whole subject of Hindu religious endowments in this Presidency.

3. The main object of the present Bill is to ensure the efficient administration of Hindu religious endowments in this Presidency, and if the principal of strict religious neutrality of the executive Government embodied in the Act of 1863 has been departed from in some of the provisions of the present Bill, it has been done merely to secure this end. The change in the character of the executive Government and the fact that religious endowments are a transferred subject in charge of a Minister responsible to the legislature justify this departure. The Bill aims at efficient control over all classes of Hindu public religious endowments, though certain special privileges have had to be accorded to endowments falling under section 4 of the Act of 1863, especially in the matter of succession, liability to inspection, removal from office, etc. It has to be remembered that such endowments have since 1863 been left practically to themselves. Proprietors of ancient zamindaris are trustees of some of them. Others have, as trustees, members of the Nagarathar community, who are generally regarded in this Presidency as not merely liberal endowers of temples but efficient administrators of the endowments in their charge. Mutts have also been deliberately included within the scope of the Bill as they are endowed with large properties dedicated for public purposes and as complaint of mismanagement have in the case of several of them been pronounced. The Bill provides for regularly constituted committees to supervise and control the management of the religious endowments. The members of such committees will be partly elected and partly nominated. The term of their office has been limited to five years, as the life membership provided by section 9 of the Act of 1863 is, as already stated, acknowledged on all hands as one of the serious defects of that Act. Provision has been made for the maintenance by committees of proper registers of the endowments over which they exercise supervision and also for the preparation and maintenance of a record of the origin and history of the endowments committed to their care. Presidents of committees are also to be definitely invested with the power of inspecting the movable and immovable property belonging to, and all records, etc., connected with the management of, religious endowments and specific provision has been made for the levy of contributions from such endowments for meeting the expenses of the committees. The Bill also gives committees power to settle *dittams* and Government will have power to make rules enabling committees to control establishments and intervene in the internal administration of temples. Care has been taken to provide that the decisions of the committee, the Government, the Collector, or the court should be final in respect of several matters and this will, it is hoped, effectively put an end to the costly pastime—which has in recent years prevailed—of people engaging light-heartedly or for factious or sectarian reasons in litigation relating to religious endowments. In cases where a temple or other religious endowment attracts large crowds and local authorities, have to make special sanitary and other arrangements, the payment by trustees to such local authorities of contributions from the funds of endowments has been made obligatory. This is in consonance with the provisions of the Madras District Municipalities Act and the Madras Local Boards Act. Specific provision has also been made for the diversion of the surplus

funds of religious endowments for purposes of public utility other than those for which they were originally intended. The power to order such diversions is vested in the courts and the principles to be observed in ordering such diversion are those which courts ordinarily follow in applying the "cypres" doctrine. During recent years a considerable number of schemes have been settled by courts for the administration of specific religious endowments, many of which have proved unsatisfactory and it is felt in many quarters that administration under some of those schemes is even worse than administration under the Act of 1863. These schemes are however of varying complexity and have settled many matters which do not pertain to nere administration and some of which do not fall within the purview of the Act of 1863 or of this Bill. The Bill therefore contains only an enabling provision in this respect. An application may be made to a court by a committee or a person, whose rights as trustee have been affected, for the abrogation or modification of a scheme and for a declaration that the new legislation will apply to the endowment in question. The Bill exempts from its scope minor village religious institutions except in such matters as the maintenance of proper accounts. Long-established customs and usages in temples are sufficiently safeguarded and it is proposed to prevent the executive Government from interfering with Hindu public religious endowments except in the manner approved by this law. For the rest the notes on clauses sufficiently explained the provisions of the Bill.

NOTES ON CLAUSES OF THE ORIGINAL BILL, OF 1922.*

Preamble and Clause 1—Act XX of 1863 is so badly framed and the amendments required therein are so many that it has been considered the preferable course to repeal it altogether and enact a self-contained piece of legislation dealing with the whole subject of Hindu religious endowments in this Presidency. **S. 1.**

Clause 2, sub-clause (1).—The new law will apply to all Hindu religious endowments in the Presidency excluding the Presidency town. **S. 2** (1).

Sub-clause (2).—There are Jain mutts and shrines in this Presidency to which endowments of considerable value are attached. As the Jains in these matters do not materially differ from the Hindus it is proposed to take power to extend the Act by notification to such endowments. **S. 2** (2).

Clause 3—requires no explanation. **S. 4.**

Clause 4, sub-clause (1)—requires no explanation. **S. 5** (2).

Sub-clause (2).—The definition of "court" follows to some extent that in section 2 of the Religious and Charitable Trusts Act, XIV of 1920. **S. 5** (3).

Sub-clauses (3) to (6).—These are intended to make substantially the same distinction as that which existed under the Act of 1863 between endowments falling under section 3 and those falling under section 4 of that Act. Broadly speaking the endowments falling under section 3 of that Act would be *non-hereditary* and those falling under section 4 *hereditary*. **S. 5** (6) & (8).

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* At the end of the notes on each clause the corresponding section of the Act as finally passed is given.

Though the Bill aims at efficient control over the administration of all classes of Hindu religious endowments certain special privileges have had to be accorded to endowments falling under section 4 of the Act of 1863, especially in the matter of succession, liability to inspection, removal from office, etc. It has to be remembered that such endowments have since 1863 been left practically to themselves and several of them have, as trustees, proprietors of impartible estates and of members of the Nagarathar community who are generally regarded in this Presidency as not merely liberal endowers of temples but efficient administrators of the endowments in their charge.

Sub-clause (7)—requires no explanation. S. 5 (10).

Sub-clause (8).—The definition of the term "religious endowment" is comprehensive. Mutts have been deliberately included. They are endowed with large properties and complaints of mismanagement have in their case been very pronounced. The definition will also include *kattalais* which are endowments created by private individuals for the performance of any service or charity connected with a public temple. The definition covers not merely the properties that are endowed for a temple or mutt, but the temple and mutt themselves. S. 5 (11) & (12).

Sub-clause (9).—The term "trustee" has been so defined as to include a manager or superintendent referred to in sections 3 and 4 of the Act of 1863. The definition will include a matadhipathi to the extent that he is a trustee for the secular administration of the mutt and temples in his charge. It also covers the cases of guardians of minors and of persons who get into possession of trust properties without due authority for the time being. S. 5 (13).

Clause 5.—Section 7 of the Act of 1863 empowers the Government once for all to appoint committees in any division or district to take the place and exercise the powers of the Board of Revenue. It has been held that when once a committee has been appointed for a division or a district and the religious endowments there have been handed over to the committee, the Government cannot afterwards, on re-adjusting the boundaries of the divisions or districts, take any of the endowments away from the committee in charge of them and hand them over to a new committee. The proposed clause remedies this and other defects connected with this question. It invests the Local Government with the power of constituting committees for any local area or for any religious endowment or any class of religious endowments in such local area or of varying their constitution or of abolishing them. In constituting committees the Government will, however, keep in view the principle that committees should be on a territorial basis, the unit being ordinarily a district. S. 16.

Clause 6.—The Act of 1863 prescribes a minimum of three members for a committee and fixes no maximum. A minimum of six and a maximum of twelve are prescribed in this clause. As the election will be on a fairly broad franchise it is not unlikely that important minorities will be left unrepresented. Provision is therefore made for a nominated element not exceeding one-third of the sanctioned strength. The power of appointment is vested in the Local Government instead of in the court as in Act XX of 1863. S. 17.

Clause 7—provides for the appointment by the Local Government of all the members of committees newly constituted. This is necessary as when committees are constituted for the first time elections could not be held for want of electoral rolls, etc. **S. 18.**

Clause 8—provides for the division of the area over which a committee has jurisdiction into circles for electoral purposes. And the approval of the Local Government has been prescribed for this division with the object of securing some correlation between circles created for the purposes of this Act and circles created for the purposes of election under other Acts such as the Madras Local Boards Act. This will make the task of the preparation and publication of rolls easier than if each committee were left uncontrolled to determine its own circles. **S. 19.**

Clauses 9, 10, and 11—relating to the preparation of electoral rolls and qualifications and disqualifications of electors and candidates are largely based on similar provisions in other Acts, such as the District Municipalities Act, 1920 and Local Boards Act, 1920. It will be noticed that no non-Hindu can vote or be a candidate for a seat on the committee. **S. 20, 21 & 22.**

Clause 12—limits the term of office of members of committees to five years. The life membership provided by section 9 of the Act of 1863 is acknowledged on all hands to be among the most serious defects of that Act. **S. 23 & 25.**

Clause 13—definitely provides that the President of a committee shall be elected and hold office only for one year. **S. 24.**

Clause 14—provides for the filling up by nomination by Government of vacancies in the office of members or Presidents not filled up by election within a definite period after the occurrence of the vacancies. **S. 26.**

Clause 15—is intended to get over decisions such as the one in XX Madras Law Journal, page 814, viz., that where the number of members of a committee is reduced to two in consequence of vacancies the remaining members are not competent to act as a committee and any acts done by them as a committee are invalid. **S. 27.**

Clause 16—incorporates every committee with a view to give it the right to sue and be sued and to acquire, hold and transfer property. **S. 28.**

Clauses 17 and 18—require no explanation. The language followed in these two clauses is that of the Madras Local Boards Act, 1920 and the Madras District Municipalities Act, 1920. **S. 29 & 30.**

Clause 19—Sub-clause (1) describes the functions of a committee in general terms. It takes the place in fact of the first sub-paragraph of section 7 of the Act of 1863.

Sub-clause (2) is of some importance. Several committees do not maintain a proper register of the endowments over which they exercise jurisdiction and some of them are ignorant as to the properties comprising such endowments. It is also necessary that committees should be compelled to take interest in preparing and maintaining a record of the origin and history of the endowments committed to their care. Apart from the utility of such a record and register in facilitating the administrative work of committees and trustees, these endowments contain a lot of

history which is worth the while of the committees to unearth and, if need be, to publish in accessible form.

Clause 20—Sub-clause (1) confers power on a committee to make temporary appointments of trustees in cases where there is a dispute as to succession and pending the decision of such disputes by a competent authority. It has to be noted that under section 5 of the Act of 1863 the power to make such temporary appointments was vested in the court and could be exercised only on the application of a person interested in the religious institution. The proposed sub-clause empowers the committee to make such appointments whether an application is made or not.

Sub-clause (2) is calculated to enable the temporary trustee to obtain in cases of difficulty possession of trust properties by summary process of court.

Clause 21—Sub-clause (1) empowers the committee to fix the number of non-hereditary trustees for any religious endowment subject to a maximum of three. **S. 47** (1).

Sub-clause (2) empowers the committee to appoint non-hereditary trustees of religious endowments and limits their term of office to five years. **S. 47** (3).

Sub-clause (3) empowers committees to fix and vary salaries of non-hereditary trustees subject to such rules as the Local Government may prescribe.

Sub-clause (4) is necessary as the old Act of 1863 is to be repealed altogether and as provision has to be made for the continuance in office of such non-hereditary trustees of religious endowments as are in existence at the commencement of this Act. **S. 47** (4).

Clause 22—Sub-clause (1) gives the power of removal or dismissal of non-hereditary trustees to the Committee. Hereditary trustees can be removed only by regular suit and this has been provided for in clause 37 of the Bill. **S. 49.**

Sub-clause (2) requires no explanation. **S. 49.**

Sub-clause (3) provides for appeal to the Government from the orders of the committee under sub-clause (1). **S. 49.**

Clause 23—A trustee discharges very onerous functions and it is necessary that he should not be permitted to continue in office when he becomes subject to the disqualifications which would be sufficient to terminate membership on a committee, for example. **S. 50** (2).

Clause 24—It is notorious that trustees dismissed by committees under Act XX of 1863 have in several instances refused to hand over possession to the persons newly appointed and have defied the committees by remaining in possession pending the end of protracted litigation started by them. This clause is intended to end this scandal. Under it, trustees who have been removed or dismissed or have become disqualified to hold office may be dispossessed by summary process of court. **S. 74.**

Clause 25—repeats the first portion of section 13 of the Act of 1863. **S. 39** (1).

Clause 26—embodies in an elaborated form the substance of the second sub-paragraph of section 13 of the old Act but throws the obligation on the trustee. **S. 55.**

Clause 27—provides for the regular audit of trustees' accounts by a certified auditor. Compulsory audit is provided by statute in the case only of endowments with an income of not less than

Rs. 3,000 per annum. In other cases, the committee is given discretion to direct regular audit. S. 39 (2).

Clauses 25-27—apply to both hereditary and non-hereditary endowments.

Clause 28—provides for the right of inspection—a right which several trustees have questioned in the past. S. 56.

Clause 29—provides for the variation, without the intervention of a court, of standards of expenditure in temple, or other institution "*dittams*" as they are called. The court can intervene only if there is a difference of opinion between the trustee and the committee in this matter. S. 50 (4).

Clause 30—regularises the levy of contributions from endowments for meeting the expenses of the committee subject to a maximum of three per cent of the gross income. S. 65.

Sub-clause (3) imposes on every trustee the obligation of paying such a contribution, and in default of his doing so the amount is made recoverable by a process of the civil court.

Clause 31—reproduces in substance the last clause of section 13 of the Act of 1863. Provision has been made therein for audit of the committee's accounts and for their publication in the prescribed manner.

Clause 32—renders it obligatory on the part of trustees of religious endowments connected with mutts, temples, etc., attracting a large number of pilgrims or worshippers from outside to pay contributions to the funds of the local authorities for making the necessary sanitary and other arrangements in the localities concerned on the occasions of any fairs or festivals. This is in consonance with the provisions of section 156 of the Madras District Municipalities Act, 1920 and 128 of the Madras Local Boards Act, 1920.

Clause 33 -provides for the diversion of the surplus funds, if any, of religious endowments for other purposes such as education, medical relief, etc. The power to order such diversion is vested in the courts and the principles to be observed in ordering such diversions are those which courts ordinarily follow in applying the *cypres* doctrine. S. 63.

Clause 34—enumerates the rule-making powers of the Local Government. S. 67.

Clause 35—There will be two schedules to the new law, one dealing with electoral qualifications and the other making provision for the transition from the old committees to the new ones. These schedules are made alterable with the approval, by means of a resolution, of the Legislative Council--a procedure which follows the one prescribed in the Local Boards Act, section 201. S. 68 (2).

Clause 36—provides for the making of regulations by committees for facilitating the carrying out of their duties under the Act. S. 32.

Clause 37—relates to suits. The avoidance of unnecessary litigation has been kept in view in drafting this clause. The Advocate-General may, by virtue of his office and the rights attached thereto [see also section 114 (2) of the Government of India Act] file a suit. Any person having an interest may also sue but only with the leave of the Collector. The reliefs claimable in such a suit have also been largely restricted. Removal of non-hereditary trustees in charge of endowments having been separately provided for under clause 22, suits under clause 37 may lie only for removal of committee members or hereditary

trustees or trustees of endowments not subject to the jurisdiction of a committee. The Bill gives powers to settle *dittams* and rules may be made by Government under clause 34 empowering committees to control establishments and intervene in the internal administration of temples. In respect of such endowments as are within the jurisdiction of committees there will be no need hereafter for framing schemes of management. Suits for settlement of schemes under clause 37 will therefore be limited to endowments not subject to the jurisdiction of committees. The limited range of reliefs claimable under clause 37 (1) taken in conjunction with the barring [sub-clause (5)] of suits under sections 92 and 93 and rule 8 of order 1 of the first schedule of the Civil Procedure Code and with the other provisions in the Bill making the decisions of the committees or the court or the Government final in respect of several matters will, it is hoped, effectively put an end to unnecessary litigation. The same reason explains sub-clause (3) which prohibits any appeal from the Collector's order under sub-clause (2). **S. 3 & 69.**

Clause 38—mainly reproduces section 15 of the Act of 1863 and is intended to supersede the decision of the majority of the Full Bench in I.L.R., 42 Mad., p. 360, and is in accordance with the views expressed in that case by Kumaraswami Sastri, J. and Abdur Rahim, J. **S. 5** (9).

Clause 39—During recent years a considerable number of schemes have been settled by courts for the administration of specific religious endowments. Many of these schemes have proved unsatisfactory and it is felt in many quarters that administration under such schemes is even worse than administration under the Act as it stands. An ex-Advocate-General of Madras expressed himself as follows :—

"My experience both before and after I became Advocate-General is that schemes framed under section 92, Civil Procedure Code, by the courts have not in a majority of cases proved to be successful. They are not more workable or more efficient than the statutory scheme of committees and trustees under the Act of 1863 or the system of hereditary trusteeships."

It has, however, to be remembered that schemes which have come into force are of varying complexity and have settled many matters connected with temples which do not pertain to mere administration and some of which do not fall within the purview of Act XX of 1863 or of this Bill. While therefore clause 39 enables an application to be made to a court for the abrogation of a scheme and for a declaration that the new legislation will apply to the endowment in question, such applications may be made only by the committee, or by a person whose rights have been affected in the case of hereditary endowments by the scheme. Unless on such application the scheme is superseded in whole or in part, so much of the new law as is inconsistent with such scheme will not apply to the religious endowment in question.

Clause 40—There are large numbers of small village temples whose administration is really controlled by the villagers in common and which is not worth the while of a committee to acquire jurisdiction over. This clause exempts such temples from the operation of the new law except in such matters as the maintenance of proper accounts by the trustees, the right of persons having interest to file suits and so on. It may be mentioned here

that the exclusion of these temples from the purview of a measure of this kind was contemplated even more than thirty years ago by one of the committees which attempted to draft a comprehensive Bill of this description. S. **2** (3).

Clause 41—confers on the Local Government power to delegate their functions subject to certain restrictions and to authorize courts, subordinate to the district court, to entertain suits, applications, etc.

Clause 42—is intended to protect long-established customs and usages in the temple. S. **75**.

Clause 43—prevents the executive Government from interfering with public religious endowments except in the manner approved by the new law or any other Act for the time being in force. S. **76**.

Clause 44—contains transitory provisions which are necessitated by the repeal of the Act of 1863. S. **79** (1).

Clause 45—is a measure of abundant caution and corresponds to section 239 of the Local Boards Act. S. **81**.

Schedule I—deals with the qualifications of persons entitled to vote at elections of members of committees. The franchise is slightly higher than that fixed for election to local bodies.

Schedule II—contains transitory provisions consequent on the repeal of the Act of 1863.

MADRAS.
4th December, 1922.

P. RAMARAYANINGAR.

Appendix B.

The Madras Hindu Religious Endowments Bill, 1922.

REPORT OF THE SELECT COMMITTEE.

We, the undersigned members of the Select Committee appointed to consider the Madras Hindu Religious Endowments Bill (No. 12 of 1922), have the honour to submit the following report.

2. The Bill was published in the *Fort St. George Gazette* in English on the 5th December 1922 and in Tamil, Telugu, Malayalam and Kanarese on the 12th December 1922.

3. We have held thirteen sittings in all. At our first sitting, we decided to give all persons and interests, desirous of availing themselves of the opportunity, time till the 22nd January to submit written representations on the provisions of the Bill and requests for the examination of witnesses. A notice to this effect was immediately published in the *Fort St. George Gazette* and in the *Madras Mail*, *Justice*, *New India* and *Daily Express*. By the due date, we received 249 memorials and other communications and 26 sets of witnesses were offered for examination. Our sittings on the 27th, 28th 29th and 31st January and on 1st February were fully occupied with the examination of eleven of these witnesses. With reference to the representations we had received and the evidence that we had taken, we discussed the main issues raised therein at our sittings on the 3rd and 4th February and reached certain conclusions, which involved rather extensive changes in the Bill as introduced. At our sittings on the 11th, 12th, 13th and 14th instant, we considered in detail a redraft of that Bill prepared for us on the lines of our conclusions and on the 18th instant we met to consider the final draft and our report.

4. While retaining the main features of the original Bill we have elaborated them in some directions and added considerably to them in others. These elaborations and additions have necessitated a rearrangement of the chapters and a regrouping of the clauses of the Bill as originally introduced. We consider that no useful purpose will be served by trying to indicate by any difference in type in the framework of the Bill as introduced the changes that we have carried out.

5. It is admitted that in respect of temples and other religious charities handed over to mathadhipathis in specific trust they should be held strictly accountable as trustees and that there is no objection to their administration of such trusts being brought under control. With regard to properties belonging to the math proper, it is claimed that its head is not in the position of a trustee and that interference with his management of such property would be as little justified as interference with private property. The latter, we think, is an untenable position.

It is admitted that the head of a math is not at liberty to alienate the corpus of the math property except in circumstances which would almost justify alienation of ordinary trust property. As regards the income from such corpus and what the head of a math may himself earn by way of offerings and gifts, he is, according to the evidence that has been given before us, expected to use it only for purposes connected with the math and with himself as head thereof. Any other appropriation of such funds would be deemed to be improper. We cannot, therefore, subscribe to the somewhat extreme view that a math and its endowments and income constitute the absolute personal property of the mathadhipathi for the time being; and it is significant that exponents even of this extreme view have conceded before us that, where the circumstances require such a step, it would be desirable to associate the disciples in the administration of an ill-managed institution. The math as an institution exists for the spiritual welfare of its disciples. The mathadhipathi is an ascetic and could, *ex hypothesi*, have no interests other than those which are proper and which subserve the interests of his disciples. Large properties are in the hands of many of them and there is evidence that several of them have mismanaged and misused the properties in their charge. These facts and considerations are ample justification for our declining to drop maths out of the Bill altogether.

6. We recognize at the same time that the powers of the head of a math over math property, especially the income therefrom, are wider than those of an ordinary trustee and that the mathadhipathi, by virtue of the spiritual veneration in which he is held by his disciples, occupies a position which entitles him to privileged treatment. We have therefore provided that local committees shall have nothing to do with maths, that, ordinarily, the head of a math need send only a budget and an annual account, and that he should maintain proper accounts and get them audited. It is only in cases were mismanagement is proved or where a number of disciples desire such a course that arrangements for greater control may be devised.

7. We have decided to accord similar privileged treatment to certain temples which we have called " Excepted temples " and which are defined in clause 5 (5) of the Bill. We have omitted the term " hereditary temples " which was used in the original Bill to describe temples, all or any of the trustees of which are hereditary trustees. The term " excepted temple " will exclude cases where even one of the trustees of a temple is non-hereditary. Even among temples in sole charge of hereditary trustees it will exclude cases where the hereditary character of the trusteeship came into being for the first time after 1842. The year 1842 has been chosen as that was the year in which Government began abandoning their control over temples in pursuance of the orders of the Court of Directors directing severance of connexion with all idolatrous institutions. When handing over the institutions which had previously had no hereditary trustees the Government started in certain cases a new line of hereditary trustees after 1842, and we consider that institutions in the sole charge of such trustees are not entitled to any privileged treatment. The trustees of most of the

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

8. To the machinery of control provided in the original Bill we have by a majority decided to add a Central Board or Boards on the lines of the Charity Commissioners in England. A Board will essentially be an administrative body. The local committees formed under Act XX of 1863 have been left too much to themselves. Their work has suffered for want of guidance, control and co-ordination. The Board that is proposed is intended to supply this want. It will also deal directly with the maths and excepted temples which have been exempted from committee control. It will hear appeals from the decisions of committees and exercise, like the Board of Revenue under Madras Regulation VII of 1817, general superintendence over all religious endowments (clause 14). We think that one Board for the whole Presidency will suffice at the beginning, but it is not unlikely that the volume of work which it will be in charge of will so grow that in the interests of efficient administration more Boards than one will soon become necessary, each having jurisdiction over a group of districts. The Bill makes provision for such a contingency.

9. The original Bill provided that trustees should get their accounts audited by certified auditors. Where the auditors have to look for payment to the persons whose accounts they audit, it is not possible to expect thorough independence. We have therefore unanimously decided in favour of audit conducted by an agency appointed and controlled directly by the Government.

10. The important additions and amendments we have made in the Bill are referred to in the following paragraphs.

CHAPTER I.

Preliminary.

11. *Clause 2.*—In sub-clause (1) we have omitted the words which excluded Madras City from the operation of the Act. Sub-clause (3) repeats in a modified form the exemption in clause 40 of the original Bill but includes maths with incomes of less than Rs. 500.

12. *Clause 3.*—The portion of this clause relating to the Advocate-General is the same as clause 37 (6) of the original Bill and the portion referring to the High Court has been necessitated by our conferring jurisdiction under the Act on the City Civil Court so far as Madras City is concerned.

13. *Clause 4.*—Madras Regulation VII of 1817 also is included in the repeal.

14. *Clause 5.*—We have omitted the definitions of "hereditary endowment" and "non-hereditary endowment" and introduced definitions of "electoral area", "excepted temple", "math" and "temple". The definition of "court" has been altered so as to include the City Civil Court. The definition of "person having interest" is practically the same as clause 38 of the original Bill.

CHAPTER II.

Boards of Commissioners.

15. *Clause 7.*—The minimum strength of a Board is fixed at three and the maximum at five.

16. *Clause 8.*—It is essential that every commissioner should be a Hindu by religion. We decided by a large majority that the power of appointing the commissioners should be vested in the Government. We have prescribed for the President of the Board qualifications which should secure the services of a trained lawyer or judge for an appointment in which such training and experience are indispensable.

17. *Clause 10.*—We consider that, if the Board is to function efficiently, it should consist of paid commissioners and that their salaries should be attractive enough for competent men. We have accordingly fixed a maximum salary of Rs. 1,200 for the President and of Rs. 800 for other commissioners.

18. *Clause 15.*—The Board should, we think, have power to make by-laws not only for regulating its own work but the activities of committees and trustees as well.

CHAPTER III.

Temple Committees.

19. *Clause 16.*—We have provided that the Board also should be consulted when the strength or jurisdiction of committees is varied or when committees are abolished and that the Board instead of the Government should pass orders as to the disposal of assets and liabilities under sub-clause (2).

20. *Clause 17.*—We have reduced the maximum proportion of the appointed members of a committee to one-fourth and transferred the power of making appointments from the Government to the Board.

21. *Clause 19.*—Under the alterations we have made in clause 16 and in this clause, a committee may be constituted for any temple, any class of temples or all temples, and the Government has to notify an electoral area for each committee.

22. *Clause 21.*—All the qualifications and disqualifications for electors are relegated to Schedule I and they are practically the same as those for electors to the Indian Legislative Assembly.

23. *Clause 22.*—In sub-clause (3) we have added a new item (*f*) providing for disqualification on account of continued absence from meetings of the committees.

24. *Clause 24.*—We have provided for a Vice-President and the term of office of a President (as also a Vice-President) has been extended from one to three years.

25. *Clause 25.*—We have omitted the words requiring the acceptance of the resignations of members and President, and made clear the date from which the resignations will take effect.

26. *Clause 26.*—This clause has been redrafted. We think that in the case of members the electorate should have at least two chances of indicating its choice before its failure to do so is followed by filling up the vacancy by appointment. In the case of the President, we have taken away the power of filling up the vacancy by appointment in cases of default and enabled any three committee members in the absence of a Vice-President to convene a meeting for electing a President.

27. *Clause 31.*—We think that committees should have powers of general superintendence over the temples in their charge, subject only to the powers possessed by the Board in that behalf.

28. *Clause 33.*—We have definitely declared in this clause that committees shall have nothing to do with maths or excepted temples.

CHAPTER IV.

Religious Endowments in General.

29. *Clauses 34 and 35.*—Clause 19 of the original Bill cast the duty on the committee of preparing a correct record of endowments. Clauses 34 and 35 have considerably elaborated this provision. The trustee is responsible for supplying information as regards all existing endowments of maths or temples, and this should be done within such time after the commencement of the Act as the Board will fix. The information supplied by the trustee will be checked by the committee, if any, and the Board will settle finally the contents of the register for each endowment. We have provided further that the register should be verified and brought up to date from year to year. The want of sufficient or accurate information regarding religious endowments is now a serious handicap to efficient control. We, therefore, consider these two clauses to be of great importance.

30. *Clause 36.*—A general indication of the powers and duties of trustees of endowments is necessary. Sub-clause (1) contains the general principle enunciated in section 15 of the Indian Trusts Act.

31. *Clause 37.*—We have made it clear that the trustees of specific endowments for the performance of a charity or service in a math or temple occupy a subordinate position to that of the general trustee of the math or temple.

32. *Clause 38.*—Clause 20 (1) of the original Bill has been elaborated into sub-clause (1) of this clause which provides for the appointment of interim trustees during occasions when there is a dispute as to succession or there is a temporary break in such succession. Sub-clause (2) draws attention to the preferential claims to these interim appointments of persons belonging to the family or other group in which the succession has by heredity or usage devolved.

33. *Clauses 39 to 42.*—These concern audit. Clause 41 has been so worded as to make it clear that the audit should be more than a mechanical one.

CHAPTER V.

Temples.

34. We have confined the provisions of this chapter to temples other than excepted temples; in other words it relates really to the work of the committees constituted under clause 16 and the administration of the endowments over which they have jurisdiction.

35. *Clause 45.*—We have here drawn prominent attention to the desirability, in making appointments of non-hereditary trustees, of giving preferential consideration to the claims of the community specially interested in the temple concerned.

36. *Clause 47.*—Clause 22 of the original Bill which corresponds to this clause gave committees powers of punishment only over non-hereditary trustees. The present clause extends these powers to hereditary trustees of non-excepted temples. This extension is necessary in the interests of efficient administration. We have provided adequately for appeals against orders of punishment. A non-hereditary trustee may appeal to the Board while a hereditary trustee may appeal either to the Board or to the Court. We would, however, point out that while a committee may remove or dismiss a hereditary trustee it has no powers under the Bill to break the line of succession to the office. When a hereditary trustee is removed or dismissed by a committee, the next in the line of succession is entitled to succeed though, if the circumstances referred to in clause 38 exist, the committee may make an interim appointment.

37. *Clause 48.*—Clause 23 of the original Bill has been elaborated into this clause and the power of determining cases of doubt or dispute as regards disqualifications under the section has been given to the Board instead of the committee.

38. *Clause 49.*—We consider that in the matter of changing the *dittam* or established scale of expenditure in a temple, worshippers besides trustees and committees should have a voice. We have accordingly provided for an opportunity being given to them to submit objections or suggestions to the committee before it passes orders. They will also along with the trustee have the right to appeal to the Board against the committee's order.

39. *Clause 50.*—The submission of annual budgets by trustees to the committee is an important step in the direction of ensuring ordered expenditure in temples. While we hold that it is unnecessary to require the sanction of the committee before a trustee can proceed to act on a budget, we consider that the committee should have power to check extravagance, enforce economy, ensure compliance with the approved *dittam* and insist on repayment in due time of amounts borrowed. The right conferred on the trustee to appeal to the Board against the orders of committees is, in our opinion, a sufficient safeguard against the misuse by committees of the powers conferred on them under sub-clause (3).

40. *Clause 51.*—Even among non-excepted temples, there are institutions where the interests are so important or the funds handled by the *trustee* are so large that the settling of a special scheme of administration will be a more efficient form of control than the one exercised by a committee under the Act. We have provided for the contingency in this clause. The scheme should, we think, be settled by the Board in consultation with the committee, the trustees and other persons having interest in the temple. It is open, however, to the trustee or interested person to apply to the court to modify a scheme settled by the Board.

41. *Clauses 52 and 53.*—The indefiniteness of the existing law as regards the powers which trustees of temples may exercise over office-holders and servants therein, especially those possessing hereditary rights, has been a fruitful source of litigation hitherto. These clauses are an attempt to define these powers in a clear manner. The trustee is given full disciplinary powers over all classes of servants, both hereditary and non-hereditary. He cannot, however, make any, except interim, appointments to

hereditary offices and even this he can do only in the circumstances and under the conditions set forth in sub-clauses (2) and (3) of clause 53.

42. *Clause 54.*—The endowment for a service in a temple consists in some cases only of a mere charge on property which continues in the possession of the donor's family, the latter being at liberty to appropriate all the surplus income from the property to private purposes. We have made it clear that if default occurs in the performance of the service in such a case, the trustee should only try to recover the cost of performing the service from the person in possession of the property charged.

CHAPTER VI.

Maths and Excepted Temples.

43. *Clauses 57-61.*—Clause 57 provides for the submission to the Board of the budgets and annual accounts of maths and excepted temples. The submission of an inventory under clauses 34 and 35 and the getting of their accounts audited by auditors appointed by the Government complete, roughly speaking, the obligations which these institutions will under the Bill be subject to in normal times. And it has to be remembered that neither the Board nor anybody else can take any action in the nature of administrative discipline against the trustees except in pursuance of section 58. The latter section provides for the framing of a separate scheme of administration for a math or excepted temple in cases where inquiry establishes mismanagement on the part of the trustee or proves that in the interests of the endowment such a scheme is necessary. The Board will make the inquiry and frame the scheme in consultation with the disciples of a math and the persons interested in the case of a temple. If a controlling or advising authority is considered necessary in the case of a math, sub-clause (2) of clause 58 restricts its personnel to the disciples. Before a scheme framed by the Board can take effect, it has to be decreed by a court and before the decree is granted an opportunity has to be given to persons interested to submit objections and suggestions. While we have been unanimous in the view that no scheme should be framed for maths except after detailed enquiry and in the circumstances detailed in clause 58 some of the members of the committee have strongly urged that the Saiva Sidhanta maths should be brought under strict control immediately and that a scheme for the better administration of such maths should be elaborated and embodied in a schedule to the Bill. It was decided, however, by a majority that such scheduling of a few maths would be invidious, that we had not sufficient materials before us to justify what would amount to a violation of the principles contained in the Bill and that the proper course for the disciples of these maths, who want control over their administration, would be to apply for a scheme immediately the Bill was passed into law. The proposal to schedule a scheme for the Saiva Sidhanta maths was accordingly negatived.

CHAPTER VII.

Application of Endowments Funds.

44. *Clause 62.*—Clause 32 of the original Bill was mainly a repetition in substance of the corresponding provisions of the

District Municipalities Act and Local Boards Act. We consider that this repetition is unnecessary and that it is enough to authorize expenditure on arrangements made for the comfort of pilgrims and worshippers if in his discretion the trustee incurs such expenditure. The proviso is intended as a safeguard against an undue or extravagant diversion of trust funds for such purposes by a trustee.

45. *Clause 63.*—The corresponding clause in the original Bill (clause 33) has elicited the largest volume of criticism. We recognize that public opinion has expressed itself unmistakably in this connexion.

We have considerably narrowed the application of the doctrine of *Cypres* as embodied in the original Bill. The request for a *Cypres* application of endowment funds may, according to the clause as redrafted, be made only by the trustee or the Board. The court to which an application is made has first to determine whether there is a surplus; it has then to determine whether any portion of the surplus should be retained as a reserve fund for the religious institution. If it finally finds that after providing adequately for the original objects and a reserve fund for the institution, funds are available for application elsewhere, it may sanction such application but only to purposes within the meaning of the expression "religious, educational or other charitable purposes not inconsistent with the objects of the math or temple."

CHAPTER VIII.

Finance.

46. *Clause 65.*—The Board and the committees will be separate financial units. The Board is entitled to levy a maximum contribution of one and a half per cent. on the income of all institutions including maths and excepted temples. The committees are entitled to a similar percentage for their own purposes on the income of non-excepted temples, the total burden on which will thus amount to three per cent.—the maximum provided in the original Bill also. Under the original Bill, in addition to the three per cent. contribution, every temple had to pay the charges of a certified auditor. We consider that Government should recover the cost of audit out of the funds realized by Boards and committees in the shape of the percentage contribution. Institutions governed by schemes settled by courts are also liable to these contributions.

CHAPTER IX.

Miscellaneous.

47. *Clauses 69 and 70.*—We have redrafted the clause relating to suits in accordance with the changes we have carried out in the Bill. The clause relating to costs (70) has been modelled on section 8 of the Religious and Charitable Trusts Act of 1920.

48. *Clause 71.*—The question of the application of the Act to institutions governed by schemes already settled by courts under section 92 of the Civil Procedure Code has engaged our anxious consideration. The Bill is an attempt at a comprehensive enactment of the law that should govern the administration of religious endowments, and itself provides for the making and

alteration of schemes. Many of the schemes framed by courts already have failed to secure efficient management or control. We consider that it is necessary that power should be taken to cancel or modify schemes framed by courts which are either unworkable or have proved unsatisfactory. This clause declares such schemes to be schemes framed under the new law and provides for their modification or cancellation in accordance with the procedure prescribed therein.

49. *Clause 72.*—We consider that a trustee should obtain the Board's or committee's sanction for every substantial alienation of immovable trust property, and that an appeal to the court should be allowed against orders passed in this behalf by a Board or committee.

50. *Clause 73.*—This is an adaptation of the language of section 21 of Act XX of 1863 and is in our opinion necessary for extricating the religious from the charitable portion of a mixed endowment.

51. *Clause 74.*—This is in principle the same as sub-clause (2) of clause 24 of the original Bill, but is more comprehensively worded.

52. *Clause 77.*—We consider that there should be a separate tariff of rates of court fees for certain applications and other documents under the Bill.

53. The reconstruction of the original Bill on lines more elaborate than, and somewhat different from, the arrangement adopted therein has necessarily involved a large number of alterations and additions both in drafting and in substance. But the amendments we have carried out have been discussed on many occasions during the last half a century in connexion with the successive attempts made in this Presidency for remodelling Act XX of 1863. Few of them are therefore altogether unfamiliar to the public. In view, however, of the extensive character of the changes we have made, we recommend that the Bill as amended be republished in the *Fort St. George Gazette*.

P. Ramarayaningar.
C. P. Ramaswami Aiyar.
N. Gopalaswami.
T. Desika Chari.
B. Munisami Naidu.
A. Ramaswami Mudaliar.
E. Periyanayakam.
M. Krishnan Nair.
O. Tanikachala Chettiyar.
B. Rajarajeswaran.
C. V. S. Narasimha Raju.
C. Ponnuswamy Naidu.
S. Muttumanikkachariar.
M. C. Maduray Pillai.
K. Gopalakrishnayya.
C. R. Reddy.
P. C. N. Ethirajulu Naidu.
S. R. Y. Ankinedu Prasad.
C. Natesan.
* M. C. T. Muthiah Chetty.
* T. N. Sivagnanam.
* M. Ramachandra Rao.
* T. Somasundara Mudaliyar.
* C. Arunachala Mudaliyar.
* L. A. Govindaraghava Ayyar.
* T. A. Ramalingam.

* Subject to a minute of dissent.

N25.

MINUTES OF DISSENT.

(1)

I would only suggest another sub-clause (*h*) as follows:—

After sub-clause (*g*) in part I of schedule I: "(*h*) is trustee of endowment for a service or kattlai of an annual value of fifty rupees of his own founding or of ancestors of his family."

The "maths" are a peculiar conglomeration of letters and I would like that a phonetic spelling is adopted and that the term is printed as "matam" and recognized as such.

M. C. T. MUTHIAH CHETTY.

(2)

Paragraph 17.—I object entirely to the proposed system of payment of salary to the President or any members of the Board.

Persons possessing the necessary qualifications and willing to serve their country gratuitously are available in plenty as is evidenced by the presence of similar classes of persons in the Legislative Council. It will be quite sufficient if the members and the President of the Board are paid their travelling allowance when they go on tour.

Paragraph 45.—At present the contribution levied by the Tinnevelly Siva Devasthanam Committee from the temples under its control is 2 1/2 per cent. The amount thus collected is not quite sufficient to carry on efficiently the supervision over the temples. I therefore object to any reduction in the present rate of contribution.

22nd February 1923. T. N. SIVAGNANAM.

(3)

I have signed the report subject to an expression of my views on some of the provisions embodied in the Bill as revised by the Select Committee. As pointed out in paragraph 53 of the report, the Bill has been so materially altered and added to both in drafting and in substance that it is in my opinion almost entirely a new Bill. Some of the provisions now introduced in the Bill, it is no doubt true, were discussed in connexion with the proposals made by the Robinson Committee and the other committees that sat after it, but I believe that these proposals were not hitherto published much less discussed in public. I feel that these provisions in the Bill have not received in Committee that careful and deliberate consideration that they deserve. I do not wish to refer at length to the extensive character of the changes made in the Bill at the Select Committee stage but shall content myself by referring to some of the more important changes in regard to which I am not in agreement with my colleagues.

2. The Bill as originally introduced empowered the Local Government to direct the constitution of committees for any local area or for any religious endowment or classes of endowment and the committees so constituted were intended to control religious endowments within their jurisdiction. It was proposed to empower them to inspect religious endowments, to approve standard scales of expenditure and to appoint trustees in cases of disputed succession pending the establishment of their rights in a Court

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of Law, to call for accounts and so on. In fact, the committees under the Bill as introduced were to exercise certain specified functions of supervision and control. This machinery of control has now been very much enlarged by the constitution of a Central Board on the lines of the Charity Commissioners in England. This Board has been given the right of general superintendence of all religious endowments and of a general control for securing their proper administration. The provision for the establishment of a Board of Commissioners is a fundamental change and has altered the whole scope of the Bill. The object of the original Bill was to lay down the duties of the trustees and to provide for a certain amount of specified supervisory control over their actions through the committees. The Bill as now revised creates an entirely new body which is to exercise "general superintendence" of all religious endowments, and which is empowered "to do all things which are reasonable and necessary to ensure that mutts and temples are properly maintained and that all religious endowments are properly administered and duly appropriated to the purposes for which they were founded or exist." I am wholly opposed to the creation of a central authority such as that proposed by my colleagues. The Bill as originally introduced created a widespread alarm throughout the Presidency and its provisions have provoked a good deal of opposition and the provisions of the Bill as now amended will further actuate this feeling. The success of a legislative measure such as this very much depends upon the extent to which the community as a whole would accept its provisions as necessary and desirable. In the matter of the control of religious endowments it would be a sound legislative policy to feel one's way and go about cautiously at first and to gradually develop the machinery of control in the light of experience. It is therefore neither necessary nor desirable to put forward a comprehensive legislative measure and to attempt heroic remedies from the outset for bringing these institutions under control. From this point of view, I am in general agreement with those portions of the Bill that aim at securing a correct register of endowments, the maintenance of proper accounts, an independent audit and an efficient system of local control over religious endowments than has hitherto existed. The necessity at present for the establishment of a central authority such as that proposed in clause 6 of the Bill has not been established and such a Board with the extensive jurisdiction and powers proposed to be conferred on it is likely at the present stage to do more harm than good. The inevitable tendency of all central authorities like the Board of Commissioners is to develop their own control at the expense and to the detriment of local control and in a matter such as this it is far more important that efficient local control should be developed rather than that control should be exercised by a body of commissioners from Madras. Another equally important reason against the proposal is that a Board of Commissioners exercising their function from Madras would be a very costly undertaking. The President and the four commissioners and their office establishments are likely to cost at least a lakh of rupees per annum and if the Board has to exercise their duties efficiently they should have inspectors to go round the Presidency in exercise of the

general superintendence vested in them. In fact one of the enthusiastic exponents of this proposal who gave evidence before the committee was driven to admit that a Central Board such as that proposed in the Bill would cost two to three lakhs of rupees per annum. This amount has to be found from the mutts and temples.

3. In paragraph 8 of the report my colleagues justify the creation of a Central Board on the ground that the committees constituted under Act XX of 1863 have been left too much to themselves and that their work suffered for want of guidance, control and co-ordination and that the proposed Board is intended to supply this want. I do not agree at all with this view. I think the guidance, control and co-ordination that is required and that is likely to prove more efficient and less costly and more judicial in its character is that of the court in the district as defined in the Bill. Instead of having one central authority in Madras it is certainly more desirable to place these district committees under the guidance and control of the district court in each district. This will be much more effective control than that of a Central Board. The Bill prepared by the Muttuswami Ayyar Committee in 1894 made provision of this kind of control. It may perhaps be pointed out that some of the earlier drafts such as the Robinson Committee Bill and the Sullivan Bill made preserve for a Central Board, but these proposals were subsequently abandoned in favour of the control of the committees by the district judges as proposed by the Muttuswami Ayyar's Committee in 1893. The prohibitive cost of this new machinery of administration provided in the Bill is in my opinion such as to make it distinctly unpopular with the communities affected by the Bill. Under the provisions of Chapter VIII mutts and temples have to make annual contributions to the Board and the committees. They have to pay the charges for auditing their accounts and all costs and expenses incurred in connexion with the legal proceedings initiated by a Board or committee and the court fees leviable under Schedule II will have to be paid in most cases out of the funds of the endowments. It seems to me that the cumulative effect of all these provisions apart from all others is likely to make the administration of the endowments under this Bill unacceptable on the ground of cost. This measure aims for the first time at bringing the religious endowments in this Presidency under effective control and it would be wise to avoid as much as possible giving room to any criticism that the funds of the temples and mutts are to be used for the maintenance of a costly machinery, the necessity for which has not been fully established.

4. There is another difficulty in financing the scheme of control embodied in the Bill. The Scheme of the present Bill is that a contribution of not more than 3 per cent. should be levied from all the temples and mutts for financing the Central Board and committees. No accurate data are at present available for the purpose of forecasting what funds would become available if such a contribution is levied. It has been suggested that the aggregate income of all the temples and mutts is about a crore of rupees and that a levy of 3 per cent. on that income is likely to yield three lakhs of rupees. There is nothing reliable in

support of this estimate. Unless there is more accurate information on the subject it is not desirable to set up a costly machinery and then look about to find the funds. In fact, the proposals under clause 65 for levying contribution from temples for which schemes have been framed by the courts does not appear to be justifiable except for the reason that funds have to be found for the maintenance of the Central Board.

5. Another objection is that the exact scope and nature of the functions of the Central Board have not been carefully considered. The Central Board would not be merely an administrative body. The Board will have the power to frame schemes for mutts and excepted temples, to hold inquiries into the mismanagement of endowments, to frame schemes for non-excepted temples, to hear various appeals from the committees. I have no doubt that in the exercise of these different functions the Board will have to take evidence to call for records and to compel the attendance of witnesses and parties. If it is to discharge its functions efficiently it must have the same powers as a "court" under the Indian Evidence Act of 1872 and the Board should also have the power of administering an oath under the Indian Oaths Act, 1873. No such provision has been made in the Bill and I believe that the Board as constituted under the Bill would be an ineffective body. The Bill also seeks to invest the orders of the Board with finality in many matters.

This is not desirable. I believe that in at least the orders of the Board which affect vested rights the parties concerned should have the right to resort to the ordinary courts with appropriate safeguards against the frivolous use of the power as may be found necessary.

While on the one hand there is a desire on the part of my colleagues to shut out the jurisdiction of the ordinary courts in regard to many matters relating to the administration of religious endowments and to vest the same in the Central Board and the committees they do not see any objection to treat them practically as courts for the levy of heavy court-fees provided in Schedule II for the different applications and appeals that may be made to the Board or the committees.

6. I do not wish to refer at any length to the other proposals of the Bill with which I am not in agreement. I have a good deal of hesitation and doubt about the inclusion of mutts in the Bill. I do not minimise the serious allegations of mismanagement that have been made from time to time against some of the matadhipatis in Southern India and I sympathize with those of my colleagues who are anxious for a reform in their administration. I feel, however, that it would have been more satisfactory if legislation were undertaken separately for them after a thorough inquiry into the origin of these mutts and the directions in which control is desired by all those concerned in their administration.

In view of the long current of decisions in this Presidency defining the position of matadhipatis the fact that the heads of mutts have frequently abused their position is itself not a sufficient reason for bringing them under this Bill without a due deliberation of the questions involved and without having all the materials before us. The definition of "mutt" and "religious

endowment" read together makes it quite clear that even voluntary offerings of disciples like "gurupuja" or "pathapuja" given by disciples to the heads of the mutts will have to be accounted for by them. I think the Bill has gone too far in this respect and is likely to lower the position of the spiritual heads of these institutions. The problem is beset with the difficulties and the hasty inclusion of all mutts in the Bill so as to bring them under secular control and the inclusion of even voluntary offerings among properties for which matadhipatis are liable to account are the two features of the Bill to which objection would be legitimately taken.

7. In regard to the temple committees also I think the Bill has proceeded on wrong lines in giving them a general power of superintendence instead of specific powers of supervision and control. The differentiation made between the "excepted temples" and other temples will result in anomalies in temple administration which it is difficult to justify. The provisions of clause 71 relating to endowments governed by existing schemes are neither clear nor desirable. The requirements of the case will be sufficiently met if the Central Board is enabled to apply to the court for the modification or cancellation of the scheme.

I am not also in favour of repealing section 92, rule 8 and order 1 of the Code of Civil Procedure relating to the powers of the Advocate-General regarding public charities. The provisions in clauses 62 and 63 relating to the application of surplus funds of temples are an improvement over those contained in the Bill as originally introduced but they are capable of still further modification in the light of public criticism. There are various other matters of detail in regard to which a further examination and modification of the provisions of the Bill is necessary. Finally I feel that a measure such as this should not be brought into force wholesale throughout the Presidency all at once. There are districts in this Presidency where the maladministration of religious endowments has been a crying evil and there are others in which there have been a very few or no complaints at all. I am of opinion that the provisions of the Bill should be brought into force in areas where complaints have existed and that only in response to a demand from the people of the locality for the application of the Act to the institutions in their neighbourhood. A wholesale constitution of committees in all districts working under the supervision of a Central Board in Madras is neither necessary nor expedient. Suitable provisions in the Bill for the extension of the Bill on application by local authorities and in areas to be notified under the Bill is very desirable.

23rd February 1923. M. RAMACHANDRA RAO.

(4)

1. The definition of "excepted temple", clause 5 (5), is not accurate and clauses (*a*) and (*b*) may be put into one. Since the abandoning of the temples began only in 1842 and it cannot be positively said that all temples were handed over in 1842 itself and as it is well known that the properties of the temples were handed over long subsequently, it is necessary to fix another later date. Some other definitions also may require some alterations, but it is not necessary to refer to them now being matters of detail.

2. In paragraph 8 of the report the Board is said to be essentially an administrative body. Though under the Bill as now presented it may be said to be so, the functions of the Board ought to be varied and enlarged and at least in a number of the various instances in which resort to the Court is provided for in the Bill, the Board ought to adjudicate as a judicial body. One of the main considerations in forming the Central Board was cutting short litigation with regard to religious trusts and providing a speedy remedy, and, if this is not achieved, the Board will be of limited utility and it may be said whether the Board is worth having to discharge the limited functions assigned to it under the Bill as it is. Clause 6 is not quite clear. What is intended is that there shall be at least one Board and there may be more. So the word "may" in clause 6 is inappropriate unless it is said that "may" means "shall". This should be made clear and necessary alterations made. The limitation of the period of appointment of the Commissioners to five years is not desirable as it will not be possible to get efficient men for a short period only even though there may be a precarious chance of reappointment. The Commissioners should not, under any circumstances, engage in any trade or profession during appointment and the words "without the sanction of the Local Government" in clause 10 ought to be omitted. The qualifications for the President and other Commissioners should be the same.

3. The working of the committee under the Act of 1863 has been found to be very unsatisfactory and it is open to doubt whether it is advisable to continue them even with the alterations suggested in the Bill. When the Bill provides for more than one Central Board it is desirable to abolish the committee altogether so that the administration of all the religious institutions in the Presidency may be on uniform principles without leaving to the various district commitees so evolve their varying principles of administration. If the committees are to continue the provision in clause 19 (2) for division of the electoral area into circles is not desirable.

4. The mutts of each class must be placed under a separate committee composed of disciples of that class of mutts and to bring them under the immediate control of the Central Board which may be composed of gentlemen of diverse communities is not desirable and rather derogatory to the status of the religious heads and offensive to the feelings of the disciples of the mutts. The powers given to the Board under Chapter VI must be given in the first instance to the disciples committee subject to an appeal to the Board. The Saivite mutts at least may be treated as above.

5. In clause 38 (2) instead of saying that in the matter of appointment due regard shall be had to the claims of disciples and family, it should be stated that the appointment should be from among the disciples or members of the family or relations of the last trustee.

6. In clause 44 in prescribing the qualification for trustees, it should be said that the trustee should not be of any class or community the members of which are not by custom or usage entitled to enter the temple, as otherwise it may lead to great rioting and unwholesome struggle. If our suggestion of

abolishing the committee is adopted, the trustees of each temple may be elected by the voters in an electoral area to be formed for each temple.

7. In clause 59 (1) after the words "proper administration" and before "of such endowments" the words "or proper utilization of the funds" should be added. The provisions of Chapter VI are not adequate to deal with the defaulting trustees who have misappropriated trust funds and provision should be made for removing them and recovering the amounts misappropriated.

In clause 63 the application to utilize funds need not be to the Court. It should be to the Board and option to apply must be given to persons interested also.

8. Under clause 69 powers similar to those of the Advocate-General are given to the Board and the powers of the Advocate-General are also expressly saved by clause 3. The desirability of vesting the same powers in two concurrent authorities resort to one of which may be made, while the same relief has been refused by the other, is open to doubt.

9. From the Bill it is not clear what the effect of the Bill will be as regards the administration of institutions for which schemes have been framed by Courts in suits under section 92, though clause 71 refers to such cases. This should be freed from doubt.

10. The Bill has been redrafted so many times and important alterations made each time and in quick succession so that we hope we will be excused if we say that it is rather difficult to forget altogether the impression produced by the earlier drafts and comprehend fully the present draft alone though to one who reads the final draft for the first time without knowledge of the previous drafts it may be much easier. So, besides what we have stated above, there may be other particulars in which variations may be necessary, liberty to suggest which may be reserved to the members of the Select Committee also.

T. SOMASUNDARA MUDALIYAR.

23rd February 1923. C. ARUNACHALA MUDALIYAR.

(5)

Very soon after the passing of the Religious Endowments Act of 1863, its provisions were found unsuited to the needs and conditions of religious endowments in this Presidency and attempts were made from time to time to have the Act amended suitably so far at any rate as this Presidency is concerned. When the Religious Endowments Bill was first published in December last it naturally evoked considerable public interest in the Presidency and there was a wide demand that some appreciably long time should be given to the public to consider the provisions of the Bill in detail to submit their criticisms. Even as it was, the Bill met with widespread opposition and over two hundred representations were made to the Legislative Council and the Select Committee disapproving of the important provisions of the Bill. The Bill as revised by the Select Committee is very different from the Bill as referred to it and is even more drastic and sweeping in its amendment of the existing Act. There are limits to the scope and the implication of the fact that the subject of religious

endowments is a transferred subject and under the control of a Minister. In making the above observations I am not unmindful of the fact that in one important particular to which a large portion of public criticism was directed, viz., the application or the diversion of surplus funds of the religious endowments, there has been an amendment of the original provisions of the Bill in greater consonance with public feeling, though even here I must say that it is desirable to know what the public have to say on the amended provision before it is made a part of the Statute.

What in my opinion would have met the needs of the situation is a suitable modification of those provisions of Religious Endowments Act XX of 1853 which were found in practice to be unsatisfactory and the introduction into the Act of a provision for the application of surplus funds and not a root and branch reform of the Act such as necessitates its total repeal. The susceptibilities of a large portion of the population are likely to be touched by the present measure and it behoves the Council to pursue the line of least resistance.

One feature to which I am constrained to take special objection as distinguishing the Bill is the excessive dread that it displays of interference by the ordinary courts and the pains taken to keep out their jurisdiction.

The revised Bill makes provision for the institution of a Board of Commissioners. Their functions according to the Bill are largely of a judicial character rather than administrative—if not even more of a judicial character than administrative. Before the Board of Charity Commissioners were established in England, a long and protracted inquiry was undertaken by Commissions instituted for the purpose who made 32 reports on the strength of which a Select Committee of the House of Commons and later on, i.e., in 1849 a Royal Commission were appointed to make recommendations. It was these recommendations that were eventually embodied in the Charitable Trust Act of 1853. It has also to be noted that the powers of the Commissioners both under the original Act and the later amendments were not anything so wide or exclusive as under the Bill as revised by the Select Committee.

The Bill as introduced in the Council made no reference to such a Board and the public have had no opportunities of knowing of the proposal to create a Board of Charity Commissioners and of expressing their views on the desirability of having such Boards especially with the large powers proposed to be given to them. From the volume of work that will devolve upon the Board it may be, as is recognized in the report of the Select Committee that the institution of at least two Boards of five commissioners will be found necessary. Inclusive of the establishment and allowances they would cost between Rs. 125 to 150 thousand a year. The contribution that has to be made by the religious endowments is at a rate not exceeding 1 1-2 per cent. on the gross income of the endowments. One has to be assured that the institutions to contribute have incomes aggregating to Rs. 80 lakhs a year if not a crore. The Committee have been given no data to justify such an optimistic view. Under clause 65 (3) even religious endowments which at the commencement

of the new Act are governed by schemes previously settled by the courts have to contribute 1 1-2 per cent. on their income towards the expenses of the Board even if the Board has nothing to do in respect of those endowments. This seems to be an unjustifiable provision. Except where the Board has to frame a scheme for mutts or excepted temples, the orders of the Board whether of an administrative or a judicial character are final. I think that it is not desirable to invest the orders of the Board, with finality in the way contemplated by the the Bill and that at least where the orders affect vested rights, the parties affected should have the right to resort to the ordinary courts with such safeguards against the frivolous use of this power as may be found necessary.

In respect of the constitution of the committees the Bill provides for a proportion of the members not exceeding one-fourth of the total strength of the committee being nominated by the Board. I do not think that sufficient justification has been shown for departing in this instance from the provision of the Act of 1863 by which the members of the committee are in the first instance to come in by election. Even if power to nominate be considered necessary to be taken such power should in my opinion be exercised by the district court and not by the Board.

As regards the qualifications of the electors I see no sufficient reason to depart from the rules now in force and embodied in the Standing Order No. 77 of the Board of Revenue and in the Schedule 1 to the original Bill. It is no doubt true that the number of electors with the qualifications therein stated will be large but the inconvenience or difficulty if any of holding the elections will be considerably reduced if not altogether removed by constituting electoral circles as contemplated in clause 19, sub-clause 2.

According to the scheme of the Bill, maths which are for the first time brought under special legislation and excepted temples are put upon the same footing and those temples are taken to be excepted temples whose managers had a hereditary right to managership, without the intervention or control of Government in 1842 or before 1801 or in the case of temples founded after 1842 where the succession has been by hereditary right, thus leaving out of their purview those temples which were in existence before 1842, but the trustees of which succeed by hereditary right from or after 1842. I find no reason for putting into a category different from the excepted temples those temples which have hereditary managers from 1842. Eighty years is sufficiently long time to justify their being accorded the same treatment as excepted temples. As recognized in the majority report, the power of the heads of maths over the income of the institutions over which they preside are larger than those of dharmakarthas or managers of temples. Except on the question of succession there is no difference of rights and obligations between hereditary and non-hereditary trustee. It is essentially a wrong principle to adopt to club excepted temples and maths together and make the same provisions applicable to both. I should have preferred provisions relating to the non-hereditary trustees, hereditary trustees and maths to be separately given making the provisions applicable to one class applicable wherever suitable to another class or the other classes as well. The fact that the

head of a math has very large powers of disposition over the income of the math, such disposition not being inconsistent with the purposes of the math even though it may not be necessitated by the exigencies of the math, has not been given due recognition in the Bill. And this is largely due to the fact that maths and temples have been clubbed together. It is no doubt true that there are certain maths in the Presidency whose history reveals considerable mismanagement in the past but that fact does not justify the same treatment being accorded to all the maths. It is, I think, necessary that power should be taken to except particular institutions or classes of institutions from the scope of the Bill. The Select Committee have not been put in possession of sufficient materials to justify the same provisions being applicable to all the maths in the Presidency. In fact such materials as have been placed before the committee justify an opposite conclusion. In my opinion when any relief is found necessary to be given in the case of maths, the initiative should be exclusively taken by the disciples of the math concerned without the intervention of the Board and the courts whose functions are entirely judicial are much better situated and able to determine what schemes may be necessary for the administration of the maths than the Board and the Board need not have any function assigned to it in the matter of a settlement of schemes for maths. All that is necessary is to give power to courts to frame schemes in appropriate cases in regard to maths. It has to be remembered that maths are brought under the purview of special legislation for the first time now and prudence suggests the observance of considerable caution in deciding how far their present management should be interfered with and what machinery should be created for such interference.

As regards institutions for which schemes have already been framed by the courts I do not think that it should be in the power of the Board to get them scrapped. Under clause 71 when a scheme has been already settled for a religious endowment by the court it must be considered to have been settled or decreed under the new Act so that the other provisions of the Act will apply to it, i. e., leave it to the Board and to the committees in the case of temples under their control to modify or cancel the scheme. Most of the temples for which schemes have been already settled by the courts will be Committee Temples under the new Act so that the intervention of the courts is altogether removed. No justification was made out for this extraordinary provision. I think that the requirements of the case will be sufficiently met by enabling the Board or even the committee to apply to the Court that has settled the scheme to modify its provisions whenever in the opinion of the Board or the committee as the case may be a modification is found necessary. I do not also approve of the provisions of clause 69 (2) by which section 92 and rule 8, Order (1) of the Code of Civil Procedure, 1908, are repealed altogether in respect of religious endowments in general. I would retain the powers of the Advocate-General under section 92 of the Civil Procedure Code.

In my opinion the Bill has undergone alterations of a fundamental character in the select committee stage and needs wide publication in the different languages of the Presidency to elicit

public criticism respecting its details and sufficient time should be given for the purpose.

25th February 1923. L. A. GOVINDARAGHAVA AYYAR.

(6)

I am sorry I cannot agree with the majority in one important matter and in one or two minor matters. So far as the Saiva Siddhanta mutts are concerned there is a pretty general desire on the part of the people interested in them that the disciples should in some way or other be associated with the heads of the mutts in their administration. Even in the Select Committee this view was supported by nine members as against eleven who voted against it. The majority thought that the special treatment asked for would be invidious and that they had not sufficient materials for them to support action on the line proposed by the minority. In spite of the fact that the other view was also put forward, the majority was swayed by the feeling that the minority view was imposing a disability on the mutts for which special treatment was asked to be provided. There is much in the past history of several of these mutts that will justify greater and stricter control being imposed in the management of these mutts. But the minority marked the special provision to be made as a matter of additional privilege to the people interested. As is well known these mutts came into existence as centres of religious and educational advancement and religious propaganda was one of the guiding ideas of action with most of the early matadhipatis. The properties given to these mutts were given in most cases on account of the work done by these mutts and for the purposes of the objects they stood for. It cannot be said that the endowments were personal to the matadhipati. In at least one case, the mutt of Thirupanandal, the matadhipati has no disciples. He is himself a disciple of the Dharmapuram mutt and he continues as such even after he becomes the head of the Thirupanandal mutt. The majority did not agree with the view put forward by those who urged that the matadhipati for the time being is absolutely entitled to treat the income of the mutt properties as he liked and to the mutts being excluded from the Bill altogether. So they have tacitly accepted the principle of the matadhipati being a trustee. After having accepted the principle I think they are bound to go further and see what is the best arrangement for the benefit of the trust and what is the general decision of the beneficiaries. In the case of the Smartha mutts and Udipi mutts the persons interested did not want any special provisions. So the minority did not ask that the special provisions they wanted for the Saiva Siddhanta mutts should apply for all mutts. In the case of the Saiva Siddhanta mutts all the evidence given both orally and in writing was in favour of the disciples being associated in the management of them. Even M.R.Ry. Diwan Bahadur T. N. Sivagnanam Pillai who voted with the majority said that the general desire was in favour of the special provision but he was not sure whether the Saivites would ask for it if the special provision was to apply to the Saivite mutts alone and not to other mutts. A mahazar influentially signed and sent recently shows that even in Tinnevelly there is a large body of opinion in favour of the special provision.

The argument that the Board may be moved afterwards if necessary does not meet the case. The object of the Bill is to devise satisfactory provisions for the management of the endowments and to avoid costly litigation. In the absence of the provision asked for by the minority, it would not have attained either of the objects so far as these mutts are concerned.

I may state that we have got evidence that even in the Tirupati mutt, there is a panchayat of disciples and that it is consulted in important matters by the Mahant.

27th February 1923. T. A. RAMALINGAM.

Appendix C.

The Madras Hindu Religious Endowments Bill, 1922.

BILL NO. 12 OF 1922.

Whereas it is expedient to provide for the better governance and administration of certain religious endowments, and whereas the previous sanction of the Governor-General has been obtained for the passing of this Act; It is hereby enacted as follows:

CHAPTER I.

Title. 1. This Act may be called "The Madras Hindu Religious Endowments Act, 192".

Extent. 2. (1) It extends to the whole of the Presidency of Madras except the City of Madras and applies, save as hereinafter provided, to all Hindu religious endowments.

(2) The Local Government may, by notification, extend to Jain religious endowments the provisions of this Act and of any rules framed thereunder, and may declare such extension to be subject to such restrictions and modifications as they think fit.

Repeal of enactments. 3. Act XX of 1863, in so far as it applies to Hindu religious endowments, is hereby repealed.

Definitions. 4. In this Act, unless there is anything repugnant in the subject or context—

(1) 'Committee' means a committee as constituted under section 5.

(2) 'Court' means the court of the District Judge.

(3) 'Hereditary endowment' means a religious endowment all or any of the trustees of which are hereditary trustees.

(4) 'Hereditary trustee' means the trustee of a religious endowment, succession to whose office devolves by hereditary right or by nomination by the trustee for the time being, or is regulated by usage or is specially provided for by the founders, so long as the scheme of succession is in force.

(5) 'Non-hereditary endowment' means a religious endowment which is not a hereditary endowment.

(6) 'Non-hereditary trustee' means a trustee who is not a hereditary trustee.

(7) 'Prescribed' means prescribed by the Local Government by rules made under this Act.

(8) 'Beligious endowment' includes a temple, mutt or other place used as a place of public religious worship or religious instruction, by whatever designation known, and dedicated to, or for the benefit of, or used as of right by, the Hindu community or any section thereof, as a place of religious worship or religious instruction and all property endowed for the support of such place of worship or instruction or for the performance of any service or charity connected therewith.

(9) 'Trustee' means the person, by whatever designation known, in whom the administration of the affairs of a religious endowment is vested, or who holds any property therefor and includes any person who is liable as if he were a trustee.

CHAPTER II.

Committees and their constitution.

Creation, variation and abolition of committees.

5. (1) The Local Government may, by notification,

(*a*) direct the constitution of a committee for any local area, or for any religious endowment or any class of religious endowments in such local area;

(*b*) vary the constitution and the territorial or other limits of the jurisdiction of any such committee; or

(*c*) abolish any such committee:

Provided as follows:—

(i) Not more than one committee shall have jurisdiction over the same place of religious worship or religious instruction or the endowments and properties connected therewith.

(ii) The Local Government shall, before issuing a notification under clause (*b*) or clause (*c*), communicate to the committee concerned the grounds on which they propose to do so, fix a reasonable period for the committee to show cause against the proposal and consider its explanations and objections, if any.

(2) The Local Government may pass such orders as they may deem fit as to the transfer or other disposal of the assets and liabilities of a committee whose jurisdiction is varied on account of a notification issued under clause (*b*) of sub-section (1) or which ceases to exist on account of a notification issued under clause (*c*) of sub-section (1).

Strength of committees and the proportion of elected members.

6. (1) A committee shall consist of such number of members as may be fixed by the Local Government, such number to be not less than six and not more than twelve.

(2) The Local Government may notify what proportion of the total number of members shall be elected:

Provided that such proportion shall not be less than two-thirds.

(3) The remaining members shall be appointed by the Local Government.

Members of new committees to be all appointed.

7. Notwithstanding anything contained in section 6 where the Local Government direct the constitution of a committee for the first time or in place of any committee which has been abolished the members of such new committee shall hold office for such period not exceeding two years as the Local Government may fix and during such period shall be all appointed by the Local Government.

Electoral.

8. A committee may, with the approval of the Local Government, divide the local area over which it exercises jurisdiction into circles for the purpose of election of members and determine the number of members which each circle may return.

Electoral roll.

9. (1) An electoral roll for the local area over which the committee exercises jurisdiction showing the names of persons qualified to vote shall once in every two years be prepared and published by such authority and in such manner as may be prescribed.

(2) Where such local area has been divided into circles, the electoral roll shall be divided into parts and one part shall be allotted to each circle.

(3) Every person whose name appears in the electoral roll published under this section shall, so long as it remains in force, be entitled to vote at an election ; and no person whose name does not appear in such roll shall vote at an election.

(4) The electoral roll published in any year shall remain in force till the publication of a fresh electoral roll.

Disqualifications of electors.

10. (1) No person who is of unsound mind or a deaf-mute shall be qualified to vote.

(2) No person shall be included in the electoral roll as qualified to vote unless—

(*a*) he is a British subject or a subject of a State in India ;

Provided that the Local Government may exclude from the scope of this restriction any aliens or class of aliens ;

(*b*) he has attained the age of twenty-one years in the calendar year preceding that in which the electoral roll is published ;

(*c*) he professes the Hindu religion ; and

(*d*) he possesses one or more of the qualifications described in Schedule I.

Disqualifications of candidates and members.

11. (1) A person shall be disqualified for election or appointment as a member of a committee—

(*a*) if his name does not appear on the electoral roll of the area for which the committee is constituted ;

(*b*) if at the date of nomination, election or appointment he is

(i) of unsound mind, a deaf-mute or suffering from contagious leprosy, or

(ii) an uncertificated bankrupt or an undischarged insolvent, or

(iii) already a member of the committee whose term of office will not expire before his fresh election or appointment can take effect, or

(iv) a trustee of a religious endowment over which the committee has jurisdiction.

(2) A person who has been sentenced by a criminal court to transportation or to imprisonment for a period of more than six months (such sentence not having been reversed or the offence not having been pardoned) shall be disqualified for election or appointment as a member of a committee while undergoing the sentence and for five years from the date of expiration of the sentence :

Provided that the Local Government may direct that such sentence shall not operate as a disqualification.

(3) A member of a committee shall cease to hold his office if he—

(*a*) is sentenced by a court to such punishment as is described in sub-section (2).

Provided that the Local Government may direct that such sentence shall not operate as a disqualification ;

(*b*) becomes of unsound mind, a deaf-mute or suffers from contagious leprosy ;

(*c*) applies to be adjudicated or is adjudicated a bankrupt or insolvent ;

(*d*) becomes trustee of a religious endowment over which the committee has jurisdiction ; or

(*e*) ceases to profess the Hindu religion.

Term of office of members.

12. (1) Save as otherwise expressly provided, every member of a committee shall hold office for a term of five years from the date when his election or appointment takes effect.

(2) A member of a committee may resign his office by giving notice to the president, and until such resignation is accepted by the committee he shall be deemed to be in office.

President.

13. (1) Every committee shall elect one of its members to be its president.

(2) A president shall be entitled to hold office for one year from the date of his election, unless in the meanwhile he resigns his office as president or ceases to be a member of the committee.

(3) If the office of president is vacant, the member of the committee who has served as such for the longest period shall exercise the functions of a president until a new president is elected.

(4) If the longest period for which any member has served as such is the same for more than one member, the Local Government shall determine which of them should exercise the functions of president until a new president is elected.

Filling up of vacancies.

14. (1) On the occurrence of a vacancy in the office of an elected member a new member shall, in the absence of any direction to the contrary issued under the provisions of sub-section (2) of section 6 of this Act, be elected within three months after the occurrence of the vacancy.

(2) If such vacancy shall not be filled up within the time prescribed, the Local Government may appoint a person to the vacancy.

(3) The Local Government may also appoint a person to the office of president of committee if the committee fails to elect a president within three months of its constitution or within three months after the occurrence of a vacancy in the office.

(4) An outgoing member or president shall, if otherwise qualified, be eligible for re-election or re-appointment.

(5) The election or appointment of a member or president shall be notified in the prescribed manner.

Act of committee not to be invalidated by informality.

15. No act of a committee or of any person acting as president or member of such committee shall be deemed to be invalid by reason only of a defect in the establishment or constitution of such committee or on the ground that any member of such committee was disqualified for, or had ceased to hold, such office or by reason of such act having been done during the period of any vacancy in the office of president or member of such committee.

Incorporation of committee.

*16. Every committee shall, by the name of the local area or the religious endowment, or the class of religious endowments, for which it shall have been established, be a body corporate and shall have perpetual succession and a common seal and shall, by the said name, sue and be sued. Subject to any restrictions or qualifications imposed by this or any other enactment, it shall also have power to acquire, hold or transfer property, movable and immovable, to enter into contracts and to do all other things necessary for the purposes of this Act.

President to carry out resolutions.

†17. The resolutions of a committee shall be carried into effect by the president.

Servants of committee, their appointment and punishment.

18. (1) The committee may, from time to time, determine the number, designations, grades and scales of salaries or other remuneration of its servants.

(2) Subject to such control as the committee may impose, the president shall appoint and transfer such servants, and may fine, reduce, suspend, remove or dismiss them for breach of rules or discipline, for carelessness, unfitness, neglect of duty or misconduct.

Duties of committee in general.

19. (1) Subject to the provisions of this Act, a committee may do all acts which are reasonable and necessary to ensure that all religious endowments within its local limits or subject to its jurisdiction are properly administered and that the income therefrom is duly appropriated to the purposes for which they are founded or exist.

(2) Every committee shall, in such manner and with such details as may be prescribed, keep a register of such endowments and prepare and maintain as accurate a record as possible of the origin and history of each such endowment, and for the purpose of keeping such register and preparing and maintaining such record, shall have such powers for compelling the production or submission by trustees, managers, officers and servants of endowments of documents, returns, reports and other information as may be prescribed.

CHAPTER III.

Committees and Trustees.

Hereditary trustees.

20. (1) When a vacancy occurs in the office of a hereditary trustee, or there is a dispute respecting the right of succession to such office or, in the case of a trustee who is a minor or a lunatic, respecting the person entitled to discharge on behalf of such minor the functions of such office, the committee may appoint a fit person to discharge the functions of trustee of such endowment until some other person shall, by means of a suit or otherwise, have established his right to such office or to discharge such functions.

(2) The person so appointed shall be entitled to exercise all the powers which the lawful trustee could exercise in relation to such endowment, and for the purpose of dispossessing the person,

*[Section 6 (3) of the Madras Local Boards Act, 1920.]

†[Section 21 (1) of the Madras Local Boards Act, 1920.]

in any, who is in possession of the movable and immovable property belonging to, and the title-deeds, account books and other documents relating to, the religious endowment and of putting the person so appointed in possession thereof, the committee and court may act in the manner prescribed in section 24.

Non-hereditary trustees, their number and appointment.

21. (1) The number of non-hereditary trustees for any religious endowment shall be fixed by the committee, but shall not exceed three.

(2) Every non-hereditary trustee shall be appointed by the committee and shall be entitled to hold office for five years from the date of the order appointing him, unless in the meanwhile he is removed or dismissed, or his resignation is accepted, by the committee, or he ceases otherwise to be a trustee.

(3) Subject to such rules as may be prescribed, the committee may fix a salary for any non-hereditary trustee and vary the amount thereof. Any salary so fixed shall be payable out of the funds of the religious endowment concerned.

(4) Every non-hereditary trustee lawfully holding office on the date of commencement of this Act shall be deemed to have been duly appointed trustee under this Act on such date, but shall be entitled to hold office for three years from such date.

Removal and dismissal of non-hereditary trustees.

22. (1) The committee may remove or dismiss a non-hereditary trustee—

(*a*) for persistent default in the submission of budgets, accounts, reports or returns, or

(*b*) for wilful disobedience of lawful orders issued by the committee, or

(*c*) for any malfeasance, misfeasance, breach of trust, or neglect of duty in respect of the trusts vested in, or confided to, him, or

(*d*) for any misappropriation of, or improper dealing with, the properties of the religious endowment of which he is trustee.

(2) When the committee proposes to take action under sub-section (1) it shall frame charges against the trustee concerned and give him an opportunity of explanation and may place the trustee under suspension pending the disposal of the charges framed. The order of removal or dismissal shall state the charges framed against the trustee, his explanation and the finding of the committee on each charge with the reasons therefor.

(3) A non-hereditary trustee removed or dismissed under sub-section (1) may within three months of the date of the order of removal or dismissal appeal to the Local Government against such order.

(4) The order of the committee under sub-section (1) shall, when no appeal is preferred against it, be final; and when an appeal is preferred the order of the Local Government shall be final.

Disqualification of trustees.

23. (1) A trustee shall cease to hold his office, if he

(*a*) is sentenced by a court to such punishment as is described in sub-section (2) of section 11 and subject to the proviso contained therein;

(*b*) becomes of unsound mind, or a deaf-mute or suffers from contagious leprosy;

(*c*) applies to be adjudicated or is adjudicated a bankrupt or insolvent; or

(*d*) ceases to profess the Hindu religion.

(2) The committee shall, in cases of dispute or doubt, determine whether a trustee is disqualified under sub-section (1) and its decision shall be final.

Summary dispossession of removed or dismissed trustee.

24. (1) The committee may direct a trustee who has been removed or dismissed under sub-section (1) of section 22 or who has ceased to hold his office under section 23 to deliver possession of all movable and immovable property belonging to, and of all title-deeds, account books and other documents relating to, the religious endowment concerned to such person as the committee may have appointed under sub-section (1) of section 20 or under sub-section (2) of section 21.

(2) Where a trustee who has been removed or dismissed or has ceased to hold office fails or refuses to obey such a direction, the court may, on application by and on production of the order of the committee, order the issue of the requisite process for delivering to the person named in such order possession of movable and immovable property, title-deeds, account books and other documents in the same manner as if such property, title-deeds, account books and other documents had been decreed by such court to such person.

Trustees to keep regular accounts.

* **25.** The trustee of every religious endowment shall keep regular accounts of the receipts and disbursements connected therewith.

Trustees to furnish accounts, etc., to committee.

* **26.** The trustee of every religious endowment shall furnish such accounts, returns, reports or other information relating to the administration of the religious endowment in his charge and at such time and in such form as the committee may require.

Audit of trustee's accounts.

27. (1) The trustee of every religious endowment which has an income of not less than three thousand rupees per annum shall have the accounts of such endowment audited once a year by an auditor selected from among auditors certified by the Local Government; and shall publish the auditor's report in the prescribed manner.

(2) The committee may direct the trustee of any religious endowment which gets an annual income of less than three thousand rupees to have the accounts of such endowment for any particular period audited as aforesaid and to submit a copy of the auditor's report.

Inspection by president or member of endowments.

28. The president of the committee in the case of hereditary endowments and the president or any member of the committee specially deputed by him in this behalf in the case of non-hereditary endowments may inspect all movable and immovable property belonging to, and all records, correspondence, plans, accounts and other documents relating to, any religious endow-

*[Section 13 of Act, XX of 1863.]

ment and the trustee of such endowment, and all officers and servants working under him shall afford to such president or member such assistance as may be necessary.

Fixing of standard scales of expenditure in places of religious worship.

29. (1) The trustee of any religious endowment may, with the approval of the committee, fix the scale of expenditure in any place of religious worship or religious instruction and the amounts which should be allotted to the various objects of or events connected with such endowment or the proportions in which the income of such endowment should be applied to such objects or events.

(2) In case of difference of opinion between a trustee and the committee on any matter coming under sub-section (1), the committee or trustee may refer it to the court whose decision shall be final.

Committee may levy contributions from trustees.

30. (1) Subject to such rules as the Local Government may make in this behalf, every committee shall by resolution determine the rate not exceeding three per centum of the gross income of any religious endowment at which such religious endowment shall contribute annually for meeting the expenses of the committee under this Act.

(2) The contribution shall be assessed on and notified to the trustee of each such endowment in the prescribed manner.

(3) The trustee of every such endowment shall within three months of his receipt of such notice pay out of the funds of the endowment in his charge the amount of the contribution so demanded to the president of the committee or any person authorized by him; and, in default of his doing so, the court shall, on the application of the president of the committee, recover the amount as if a decree had been passed for the amount by the court against such endowment:

Provided that the court may for reasonable cause postpone the recovery.

Committee to keep regular accounts.

*31. Every committee shall keep regular accounts of its receipts and disbursements and such accounts hall be audited and published in the prescribed manner.

CHAPTER IV.

Application of Endowment Funds.

Contributions to local authorities for sanitary, etc., arrangements at fairs, festivals, etc.

32. Where a temple, mutt or other place of religious worship or instruction attracts, either throughout the year or on particular occasions, a large number of persons, and where in consequence special arrangements for public health, safety and convenience have to be made by the local authority concerned, the trustee of such religious endowment shall make such recurring or non-recurring contribution to the funds of the local authority as the local Government may determine. The trustee may, with the consent of the local authority concerned, himself make such arrangements and meet the cost out of the funds of such religious endowment.

*[Section 18 of Act, XX of 1863.]

Application of surplus.

33. (1) Any local authority or any committee may apply to the court for an order directing the trustee of a religious endowment to make out of the income of such endowment a contribution to a local authority or any private person or body of persons for expenditure on education, on medical relief, on water-supply, on poor relief or on any other object of public utility.

(2) The trustee of a religious endowment may himself apply to the court for an order permitting him to incur out of the income of such endowment expenditure on all or any of the objects mentioned in sub-section (1) or to make a contribution to a local authority or any private person or body of persons for expenditure on such objects.

(3) Where the purpose of a religious endowment has from the beginning been or has subsequently become impossible of realization, or

where the machinery for effectuating the original purpose of the endowment has failed or no longer exists, or

where after satisfying adequately the avowed purpose of the endowment there is a surplus which is not required for the purpose of the endowment,

the court may, on the application of any local authority or the Committee having jurisdiction, or the trustee of the endowment, order the diversion of the whole or a portion of such income or surplus for expenditure on education, on medical relief, on water-supply, on poor relief or on any other object of public utility.

(4) The court shall, before making such order, give notice of such application

(*a*) specifically to the trustee of the endowment or the committee where he or it is not the applicant, and

(*b*) generally to persons having an interest in the endowment by public advertisement or otherwise as the court may think fit

and hearing their objections, if any, to the grant of the application.

(5) When granting such an application, the court shall, as far as possible, select such purposes and places of expenditure as are not already adequately provided for and as approximate most nearly to the intentions of the founder or to the original purposes of the endowment.

CHAPTER V.

Miscellaneous.

Power of Local Government to make rules.

34. (1) The Local Government may make rules to carry out all or any of the purposes of this Act not inconsistent therewith.

(2) In particular, and without prejudice to the generality of the foregoing power, they shall have power to make rules

(*a*) with reference to all matters expressly required or allowed by this Act to be prescribed;

(*b*) with reference to the registration of electors;

(*c*) with reference to the nominations of candidates, the times of election, the mode of recording and count-

ing votes and the declaration and publication of the results of elections;

(*d*) with reference to the conduct of inquiries and the decision of disputes relating to elections;

(*e*) as to the qualifications and certification of auditors, the manner in which the accounts shall be audited and published, the time and place of audit and the form and contents of the auditor's report;

(*f*) as to the powers which committees may in the case of non-hereditary endowments, exercise for directing or controlling the creation, variation, or abolition by trustees of salaried offices under them and the appointment of persons to such offices;

(*g*) as to (i) the disputes relating to matters pertaining to the internal administration of all or any of the temples, mutts or other places of religious worship or religious instruction or of the endowments thereof which shall be referred by the trustee concerned to the committee for decision, (ii) how for such decisions shall be final, and (iii) generally the nature and extent of the control which the committee may exercise over all or any of such trustees in matters of internal administration;

(*h*) as to what shall be deemed to be mere rights to receive honours in temples, mutts or other places of religious worship or religious instruction, what disputes relating to such rights the committee shall have power to take cognizance of and decide, and how far such decisions shall be final; and

(*i*) as to the method of calculating the gross income of a religious endowment.

(3) The power to make rules under sub-sections (1) and (2) shall be subject to the condition of previous publication.

Altering schedules.

35.* (1) The Local Government may make rules altering, adding to, or cancelling any of the schedules to this Act.

(2) All references made in this Act to any of the aforesaid schedules shall be construed as referring to such schedules as amended in exercise of the powers conferred by sub-section (1).

(3) A draft of the rules proposed to be made under this section shall be laid on the table of the Legislative Council and the rules shall not be made unless the Legislative Council by resolution approves the draft either without modification or addition or with modifications or additions; but upon such approval being given, the rules may be made in the form in which they have been approved, and such rules on being so made shall be notified and shall thereafter be of full force and effect.

Committee to make regulations.

36. Subject to such control as may be prescribed, a committee may make regulations, not inconsistent with this Act or with any rules made by the Local Government in regard to the following matters:—

* [Section 201 of the Madras Local Boards Act, 1920.]

(*a*) the time and place of its meeting ;
(*b*) the manner in which notice thereof shall be given ;
(*c*) the quorum for the transaction of business at meetings ;
(*d*) the conduct of proceedings at meetings ;
(*e*) the division of duties among the president and members of the committee ;
(*f*) the delegation of the powers of the committee to the president or to individual members of the committee ;
(*g*) the persons by whom receipts may be granted for money paid to the committee ;
(*h*) the accounts, returns and reports to be submitted by trustees of religious endowments ;
(*i*) the security, if any, to be furnished by non-hereditary trustees ; and
(*j*) the manner in which contributions from religious endowments under section 30 shall be assessed and demanded from trustees.

Suits against trustees and committee.

37. (1) Any person having an interest in any religious endowment may institute a suit in the court to obtain a decree—

(*a*) removing a member of any committee,
(*b*) appointing or removing a hereditary trustee, or appointing or removing the trustee of an endowment falling under section 40,
(*c*) vesting any property in a trustee,
(*d*) directing accounts and inquiries,
(*e*) settling a scheme in respect of an endowment falling under section 40,
(*f*) granting such further or other relief as the nature of the case may require.

(2) No suit under sub-section (1) may be instituted by any person unless an application is first presented to the Collector for leave to institute such suit and leave is granted : provided that no such leave shall be required where the suit is for the removal of a heriditary trustee and is instituted by a committee.

(3) The order passed by the Collector under sub-section (2) shall be final.

(4) If the court trying the suit is of opinion that the suit has been for the benefit of the endowment and that no party to the suit is in fault, the court may order the costs, or such portion thereof as it may consider just, to be paid out of the funds of such endowment.

(5) Sections 92 and 93 and rule 8 of order 1 of the first schedule of the Code of Civil Procedure, 1908, shall have no application to any suit claiming any relief in respect of the administration or management of a religious endowment over which a committee has jurisdiction ; and no suit claiming any such reliefs may be instituted except in accordance with this section.

(6) Nothing in this section shall affect any rights or powers in respect of religious endowments which the Advocate-General may exercise under sub-section (2) of section 114 of the Government of India Act.

Who is a person having an interest?

38. Any person who has a right of attendance at the performance of worship or service in any temple, mutt or other place of religious worship or religious instruction, or who is in the habit of attending such performance or of partaking in the benefit of any distribution of alms thereat shall be deemed to be a person having an interest within the meaning of this Act.

Application of Act to endowments governed by schemes.

39. (1) Where the administration of any religious endowment is at the commencement of this Act, governed by any scheme settled by decree of a court under section 92 of the Code of Civil Procedure, 1908, or otherwise, nothing contained in this Act which is inconsistent with any of the provisions of such scheme shall apply to such religious endowment.

(2) Notwithstanding anything contained in sub-section (1), the committee having jurisdiction over the local area in which such religious endowment is situated or in the case of hereditary endowments any person whose rights as trustee threof have been affected by such scheme may apply to the court for an order superseding the scheme or such portion of it as is inconsistent with this Act and declaring that this Act shall thenceforward apply in full to such endowment.

(3) If the court is of opinion that it would be for the benifit of the endowment that the scheme should be superseded in whole or in part, it shall grant the application, and the provisions of this Act shall thereafter apply in full to such endowment.

Act not to be applied to endowments with income of less than Rs. 250.

40. Nothing contained in this Act, except section 25, clause (i) of sub-section (2) of section 34, section 37, section 38, section 42 and section 43, shall apply to any place of religious worship whose average gross income, including income from endowments connected therewith, for a period of five consecutive years immediately preceding the commencement of this Act was less than Rs. 250 per annum.

Provided that the Local Government may at any time issue a notification declaring that the provisions of this Act shall apply in full to any such endowment.

Delegation by Local Government.

41. The Local Government may by notification authorize (i) any person to exercise any one or more of the powers vested in them by this Act, except the power to determine the amounts of contributions under section 32 and the power to make rules under section 34, and (ii) any civil court inferior in grade to the court of the district judge to exercise within the local limits of the jurisdiction of such inferior court the whole or any part of the powers conferred on a court by this Act.

Saving of established customs and usages.

42. Save as otherwise provided in this Act, nothing herein contained shall affect any established usage of a place of religious worship, or religious instruction or the powers and duties

of the trustees thereof, or the rights, emoluments and perquisites to which such trustee or any servant employed in, or the holder of any office attached to the place of religious worship or religious instruction may by custom or otherwise be entitled.

Government not to interfere with religious endowments except as provided by this Act.

43. Save as provided in this or any other Act, it shall not be lawful for the Local Government or for any executive officer of the Local Government in his official capacity to undertake or assume the superintendence of any land or other property granted for the support of, or otherwise belonging to, any Hindu place of religious worship, to take any part in the management or appropriation of any endowment made for maintenance of any such place, or to nominate or appoint the trustee of any religious endowment or to be concerned in any way with any religious endowment.

Transitory provisions before existing committees are reconstituted.

44. (1) Every committee established under Act XX of 1863 which is in existence at the commencement of this Act shall be deemed to have been duly constituted under the provisions of this Act.

(2) In their application to the members and presidents of committees in office at the commencement of this Act and the first reconstitution of such committees in accordance with this Act, the provisions of this Act shall be read subject to the rules contained in Schedule II.

Removal of difficulties in working Act.

*45. If any difficulty arises as to the first constitution or reconstitution of any committee after the commencement of this Act, or otherwise in first giving effect to the provisions of this Act, the Local Government, as occasion may require, may by order do anything which appears to them necessary for the purpose of removing the difficulty.

SCHEDULE I.

[*See section* 10 (2) (*d*).]

Electoral qualifications.

A person shall be qualified to vote at elections of members of committees who

(*a*) is registered as a ryotwari pattadar, or as an inamdar, of land in the area over which the committee exercises jurisdiction, the annual rent value of which is not less than twenty rupees; or

(*b*) holds in such area on a registered lease under a ryotwari pattadar or an inamdar, land, the annual rent value of which is not less than twenty rupees; or

(*c*) is registered jointly with the proprietor under section 14 of the Malabar Land Registration Act, 1895, as the occupant of the land in such area the annual rent value of which is not less than twenty rupees; or

(*d*) holds in such area as a landholder as defined in the Madras Estates Land Act, 1908, an estate, the

* [Section 259 of the Madras Local Boards Act, 1920.]

annual rent value of which is not less than twenty rupees; or

(*e*) holds, as ryot or as tenant under a landholder as defined in the Madras Estates Land Act, 1908, land in such area, the annual rent value of which is not less than twenty rupees; or

(*f*) was assessed in the previous year to income-tax in such area; or

(*g*) was, in the previous year, assessed in a municipality or a union included in such area to an amount of not less than Rs. 3 in respect of the property tax under the Madras District Municipalities Act, 1920, or the house-tax under the Madras Local Boards Act, 1920; or

(*h*) was, in the previous year, assessed by any municipal council or local board in such area to the companies' tax or the profession tax; or

(*i*) is a retired pensioned or discharged officer, non-commissioned officer or soldier of His Majesty's regular forces and residing in such area; or

(*j*) is supporting any religious endowment under the control of the committee by annual payments of not less than Rs. 50 or has made to any such religious endowment a donation of not less than Rs. 500.

SCHEDULE II.

[*See section* 44 (2).]

Transitory Provisions.

1. The Local Government shall fix a date, not being less than two years nor more than three years from the commencement of this Act, on which the term of office of members of committees holding office at the commencement of this Act shall expire:

Provided that a member who is also the president of a committee shall continue to exercise the functions of president until a new president is elected under rule 4.

2. Any vacancy in the office of president of a committee which is in existence at the commencement of this Act or which occurs before the date on which a new president is elected under rule 4 shall be filled up under the provisions of this Act; and any vacancy in the office of member of a committee which is in existence at the commencement of this Act or which occurs before the date fixed under rule 1 shall be filled up by appointment by the Local Government:

Provided that any person elected or appointed as president or member under this rule shall hold office only up to the date referred to in rule 1.

3. The president of the committee shall cause arrangements to be made for election of members, so that the newly-elected or appointed members may come into office on the date fixed under rule 1 for the expiry of the terms of office of members holding office at the commencement of this Act.

4. On or as soon as may be after such date, a meeting shall be held on a day and at a time fixed by the president for the election of a new president.

Appendix D.

(1)

The Madras Hindu Religious Endowments Bill.

His Excellency the Governor's Message, dated 9th December 1923.

His Excellency the Gevernor has under Section 81-A of the Government of India Act decided to return the Hindu Religious Endowments Bill to the Council for reconsideration with reference to parts of the Bill which will be duly notified to Hon'ble Members.

(2)

The Madras Hindu Religious Endowments Bill.

Message from His Excellency the Governor under Section 81-A (1) of the Government of India Act.

His Excellency the Governor has given careful consideration to the representations that have been made to him on the Madras Hindu Religious Endowments Bill which was passed by the Legislative Council on 3rd April 1923 and has subjected the provisions of that Bill to a thorough examination with reference to those representations. As a result of such examination he has come to the conclusion that, in respect of the following points, changes were expedient and this decision was communicated to the Legislative Council by a message on 9th December 1923.

2. His Excellency has been advised that the conferment on the Madras City Civil Court of jurisdiction in matters which the High Court, in the exercise of its ordinary original civil jurisdiction, is competent to take cognizance of amounts, to *affecting* the jurisdiction of the High Court. It is not permissible in an Act of the Local Legislature to include any provision having this effect. His Excellency therefore suggests the exclusion from the Bill of the territory subject to the ordinary orginal civil jurisdiction of the High Court.

3. The Board set up under the Bill being a corporate body of considerable authority, it is essential that judicial proceedings outside Madras City should not start in any court lower than the District Court.

4. His Excellency considers that it should be placed beyond any doubt that the powers (1) of general superintendence conferred on the Board under clause 14 and on the Committee under clause 31 and (2) of fixing and altering *dittams* under clauses 51 should be subject to the provisions of any scheme framed or deemed to have been framed under the Act.

5. As it has been contended that the exercise of the powers conferred by clause 51 might in some cases affect indirectly rights and customs to which communities attach great importance, it is desirable that a provision should be inserted that the aggrieved trustee or person having interest should have the alternative to institute a suit for modifying or setting aside an order of the committee under sub-clause (3) of clause 51.

6. It is in His Excellency's opinion desirable that the procedure for the settlement, alteration and cancellation of schemes of administration should be substantially the same both for non-excepted temples and for excepted temples and maths. The Board may initially settle the scheme in both cases but there should in all cases be provision for a regular suit in the Civil Court to set aside or modify a scheme settled by the Board. Further there should be no restriction or doubt as to the right of appeal to higher courts against decrees in such suits.

7. In view of the fears expressed as to the possible abuse of the powers under clause 63 for authorizing the application of endowment funds in accordance with what is known as the cypres doctrine it is desirable that the procedure for settling schemes of administration should be followed in this case also, that the persons interested should be entitled to institute a suit for modifying or setting aside the orders passed by the Board and that their rights of appealing against the decrees in such suits should be unrestricted.

8. With reference to the points referred to in paragraphs 2 to 7 above and in continuation of the message communicated to the Council on 9th December 1923, His Excellency the Governor, under section 81-A (1) of the Government of India Act, hereby returns, for reconsideration by the Legislative Council, the clauses, sub-clauses and items in Schedule II of the Madras Hindu Religious Endowments Bill which are specified in the annexure to this mesage and recommends that the ammendments indicated in the annexure be made in those clauses sub-clauses, and items.

ANNEXURE.

Clause 2.—In sub-clause (1) of clause 2 the words 'except the Presidency town' shall be inserted after the words 'the Presidency of Madras'.

Clause 3.—The words 'or which the High Court . . . may possess' shall be omitted.

Clause 5.—In sub-clause (3) of clause 5 the words 'or the City Civil Court' and the words 'and includes . . . this Act' shall be omitted.

Clause 14.—After the words 'of this Act' in clause 14 the words 'and of any scheme settled or deemed to be a scheme settled under this Act' shall be inserted.

Clause 31.—In clause 31, for the words 'Subject to the provisions of section 14,' the words 'Subject to the powers possessed by the Board under section 14 and to the provisions of any scheme settled or deemed to be a scheme settled under this Act,' shall be substituted.

Clause 51.—(i) The following words shall be inserted at the beginning of sub-clause (1) of clause 51 :—

"Subject to the provisions of any scheme settled or deemed to be a scheme settled under this Act."

(ii) For sub-clause (4), the following shall be substituted, namely :—

"(4) The trustee or any person having interest may within six months of the date of the order passed by the Committee under sub-section (3) either appeal to the Board against such order or institute in the court a suit to modify or set aside the same.

If such an appeal is preferred on such a suit is instituted the Board or the Court shall give at the expense of the appellant or the plaintiff, as the case may be, notice of the appeal or of the institution of the suit to all persons having interest either by personal service or where from the number of persons or any other cause such service is not reasonably practicable by public advertisement as the Board or Court may in each case direct."

(iii) For sub-clause (5) the following shall be substituted, namely :—

"(5) Subject to the result of such appeal or suit as is referred to in sub-section (4) the order of the Committee shall be final. The order of the Board on appeal shall be final."

Clause 53.—(i) Present clauses (2) and (3) of clause 53 shall be omitted.

(ii) The following shall be inserted as sub-clauses (2), (3) and (4) of clause 53 :—

"(2) The Board may by order and in the manner provided in sub-section (1) modify or cancel a scheme settled under that sub-section.

"(3) Every order of the Board under this section shall be published in the prescribed manner.

"The trustee or any person having interest may within six months of the date of such publication institute a suit in the court to modify or set aside such order. Subject to the result of such suit every order of the Board shall be final and binding on the Committee, the trustee and all persons having interest.

"(4) Any scheme of administration which has been settled by a court under this section or which under section 71 is deemed to be a scheme settled under this Act may at any time for sufficient cause be modified or cancelled by the court on the application of the Board."

Clause 58.—In clause 58, for the word 'framed', the word 'settled' shall be substituted.

Clause 59.—(i) In sub-clause (1) of clause 59—

(*a*) for the word 'framed' the word 'settled' shall be substituted;

(*b*) for the words 'framed a scheme of administration' the words 'by order settle a scheme of administration' shall be substituted; and

(*c*) the words 'and cause the same to be filed in court as hereinafter provided' shall be omitted.

(ii) In sub-clause (2) of clause 59, for the word 'framing' the word 'settling' shall be substituted.

(iii) The following shall be inserted as sub-clauses (3) and (4) of clause 59 :—

(3) The Board may at any time by order and in the manner provided in sub-section (1) modify or cancel a scheme settled under that sub-section.

"(4) Every order of the Board under this section shall be published in the prescribed manner.

"The trustee or any person having interest may within six months of the date of such publication institute a suit in the court to modify or set aside such order."

Clause 60.—The following shall be substituted for clause 60:—

"60. Every order of the Board, under section 59 shall, subject to the result of any suit which may be instituted under sub-section (4) of that section, be final and binding on the trustee and all persons having interest."

Clause 61.—The following shall be substituted for clause 61:—

"61. Any scheme of administration which has been settled by a court under section 59 or which under section 71 is deemed to be a scheme settled under this Act may at any time for sufficient cause be modified or cancelled by the court on the application of the Board."

Clause 63.—The following shall be substituted for clause 63:—

"63. (1) The Board may, after holding an inquiry in such manner as may be prescribed by order, declare that the purpose of a religious endowment has from the beginning been or has subsequently become, impossible of realization or that the machinery for effectuating the original purposes of the endowment has failed or no longer exists, or that after satisfying adequately the purposes of the endowment and after setting apart a sufficient sum for the repair and renovation of the buildings connected with the math or temple or the endowments attached thereto there is a surplus which is not required for such purposes; and may, by such order direct that the amount of the endowment or such surplus as is declared to be available as the case may be, be appropriated to religious, educational or charitable purposes not inconsistent with the objects of such math or temple.

"(2) It shall be competent to the Board when giving a direction under sub-section (1) to determine what portion of such amount or surplus shall be retained as a reserve fund for the math or temple and to direct the remainder to be appropriated to the purposes specified in that sub-section.

"(3) The Board may at any time by order and in the manner provided in sub-section (1) modify or cancel an order passed under that sub-section.

"(4) The order of the Board under this section shall be published in the prescribed manner. The trustee or any other person having interest may within six months of the date of such publication institute a suit in the court to modify or set aside such order.

"Subject to the result of such suit the order of the Board shall be final and binding on the Committee, if any, the trustee and all persons having interest.

"(5) Any decision of the court under this section may at any time for sufficient cause be modified or cancelled by the court on the application of the Board."

Clause 69.—In sub-clause (2) of clause 69 for the words 'Except in conformity with the provisions of this section' the words 'except as provided by this Act' shall be substituted.

Clause 71.—In clause 71, the words 'or decreed' shall be omitted.

In Schedule II the following amendments shall be made, namely :—

(i) Between the entry relating to section 49 (3) and section 53 (2) the following shall be inserted :—

	RS.
" 51 (4). Appeal to the Board by a trustee or person having interest against the order of a committee under sub-section (3) fixing standard scales of expenditure.	20
51 (4). Suit under the sub-section	50 "

(ii) For the entry relating to section 53 (2) the following shall be substituted, namely :—

	RS.
" 53 (3). Suit under the sub-section	50
53 (4). Application to the court by the Board to modify or cancel a scheme.	2 "

(iii) After the entry relating to section 58 the following shall be inserted, namely :—

	RS.
" 59 (4). Suit under the sub-section	50 "

(iv) The entry relating to section 60 (1) shall be omitted.

(v) The entry relating to section 63 (1) shall be omitted.

(vi) For the entry relating to section 63 (3) the following shall be substituted, namely :—

	RS.
" 63 (4). Suit under the sub-section	50
63 (5). Application to the court to modify or cancel the decision under the section.	2 "

(vii) After the entry relating to section 72, the following shall be inserted, namely :—

	RS.
" 73 (2). Application to a court to modify or set aside an order of the Board under sub-section (1) allocating any endowment, property or the income therefrom to religious and secular purposes.	20 "

*11th March 1924.

(3)

The Madras Hindu Religious Endowments Bill.

Message from His Excellency the Governor of Madras to the Madras Legislative Council under Standing Order No. 69. Dated 31st March 1924.

His Excellency the Governor has perused the amendments, notice whereof has been given, in respect of the Madras Hindu

* Presented to the Council on the 17th March 1924.

Religious Endowments Bill. He considers that it is due to the Legislative Council to point out that after due deliberation and consideration of the various representations received from persons and Associations interested in Religious Endowments, he came to the conclusion that the Legislative Council should consider the amendments which are adverted to in his message, dated 17th March 1924.

2. In deciding upon such a course, His Excellency the Governor was influenced by two considerations:

(*a*) His extreme unwillingness to interfere with the will of Legislative Council, expressed by a large majority at the third reading of the Bill;

(*b*) His desire at the same time to give due weight to the representations which urged a reconsideration of the Bill in so far as it affected the jurisdiction of courts.

3. His Excellency desires to point out the inexpediency of going back on the decision of the Council excepting to the minimum extent. He trusts that the Council will realise this aspect of the matter, and regrets that he is unable to accept any amendments save those which are indicated in the message.

4. His Excellency feels that he cannot assent to any further modifications in the Bill except in the manner and to the extent suggested in that message and trusts that he will have the advantage of the Legislative Council's deliberations in regard to these points.

Appendix E.

A Statement showing the reasons which have moved His Excellency the Governor-General in exercise of the powers, conferred upon him by section 81 (3) of the Government of India Act to assent to the Madras Hindu Religious Endowments Act, 1924.

STATEMENT.

(1).[1] In view of the large number of memorials which have been addressed to the Governor-General in regard to the Madras Hindu Religious Endowments Act, the majority of which prayed His Excellency to withhold his assent and, in view of the difficulty of sending individual replies to the various memorialists, His Excellency considers that it is desirable that he should make a public announcement of the reasons why he has now assented to the Act.

(2). The large number of memorials received and the variety of arguments advanced therein, and by the deputations which waited upon His Excellency in support of the contention that the Madras Hindu Religious Endowments Act should not become law, have necessitated an anxious and careful consideration of the measure. In the first place, it has been urged that informalities occurred in the passage of the Bill through the Provincial Legislature. It has been rightly pointed out that during the passage of the original Bill amendments were introduced which required the previous sanction of the Governor-General under section 80-A (3) of the Government of India Act, and that such sanction was not obtained. The proviso to that sub-section, however, enables the defect to be cured by the giving of assent. The amendments in question were not such as would have justified the refusal of sanction, and there is, therefore, no reason why the defect should not be cured by assent. In this respect the Bill was in no way exceptional. In the earlier days of the Reformed Constitution the new law of sanction laid down in the Government of India Act was not well-known and was sometimes ignored. But in no case has the Governor-General found it necessary on this ground to withhold his assent from an Act passed by a local Legislature and assented to by the Governor.

(3). It is contended that, inasmuch as a dissolution of the Council took place after the Bill was first passed in April 1923, there was no power under Section 81-A of the Act to return the Bill for reconsideration by the new Council, and that, in any case, in the circumstances the whole Bill should have been thrown upon to consideration. It has been suggested that discussion in the Council was hampered by the terms of the Governor's message in which he brought to the notice of the Council the amendments recommended by him and by the

[1] No. 1. Government of India Gazette Part I, Page 1, 3-2-1925.

President's rulings as to the scope and admissibility of the amendments at the last stage of the discussions on the Bill. The Governor-General, after the careful consideration of these arguments, is satisfied that in themselves they afford no ground for withholding his assent. His Excellency has arrived at the same conclusion in regard to the assertion that the reservation of Bills rules required that the Governor instead of assenting to the Bill, should have reserved it for the consideration of the Governor-General. The rules referred to vest a discretion in the Governor as to whether a particular Bill is of such a nature as to require that it should be reserved.

(4). On the merits of the Bill, the objections raised by the memorialists and by the deputations have been numerous and varied. It is unnecessary to deals with these in detail. It must be recognised that no measure is free from imperfections or will satisfy all the sections of the community which it concerns. An Act must contain provisions vitally objectionable in principle before the Governor-General could consider himself justified in exercising his veto for the purpose of preventing the measure from becoming law. His Excellency has given most careful attention to the representations which have been made to him in regard to the provisions of the Act. He cannot shut his eyes to the fact that there is a large amount of dissatisfaction and apprehension in regard to some portions of the Act and he himself has doubts as to the suitability of some of its provisions. In particular, he is unable to regard as satisfactory the procedure laid down for the modification of schemes already settled or deemed to have been settled under the Act. The measure, however, is one which was passed by a majority of the Local Council of the presidency, which included, in fact, a majority of the members of the community primarily affected. It was not to be expected that a measure of this importance would be enacted in the first instance in an unimpeachable form, and there would be no reflection on the action either of the Minister who was responsible for the measure or of the Council, which passed it, if an amending Bill were to be introduced at an early date to remedy the defects which have been made apparent as the result of the exceptionally close examination which the measure has been subjected to. His Excellency, therefore, being satisfied that the measure as a whole is a fair piece of legislation and that there is an adequate remedy available in the local legislature whether on the motion of the local Government or of a non-official member of the Legislative Council, for the removal of defects in respect of which there is substantial agreement, has decided to signify his assent to the Madras Hindu Religious Endowments Act.

Appendix F.

ACT No. XIV of 1920.

[Passed by the Indian Legislative Council.]

(Received the assent of the Governor-General on the 20th March, 1920.)

An Act to Provide more effectual control over the administration of Charitable and Religious Trusts.

WHEREAS it is expedient to provide facilities for the obtaining of information regarding trusts created for public purposes of a charitable or religious nature, and to enable the trustees of such trusts to obtain the directions of a Court on certain matters, and to make special provision for the payment of the expenditure incurred in certain suits against the trustees of such trusts; It is hereby enacted as follows:—

Short title and extent.

1. (1) This Act may be called the Charitable and Religious Trusts Act, 1920.

(2) It extends to the whole of British India:

Provided that the Governor-General-in-Council may, by notification in the Gazette of India, direct that this Act, or any specified part thereof, shall not extend to any specified Province or area, or to any specified trust or class of trusts.

Interpretation.

2. In this Act, unless there is anything repugnant in the subject or context, "the Court" means the Court of the District Judge, and includes the High Court in the exercise of its ordinary original civil jurisdiction.

Power to apply to the Court in respect of trusts of a charitable or religious nature.

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

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

(2) directing that the accounts of the trust shall be examined and audited:

Provided that no person shall apply for any such direction in respect of accounts relating to a period more than three years prior to the date of the petition.

Contents and verification of petition.

4. (1) The petition shall show in what way the petitioner claims to be interested in the trust, and shall specify, as far as may be the particulars and the audit which he seeks to obtain.

(2) The petition shall be in writing and shall be signed and verified in the manner prescribed by the Code of Civil Procedure, 1908, for signing and verifying plaints.

Procedure on petition.

5. (1) If the Court on receipt of a petition under section 3, after taking such evidence and making such inquiry, if any, as it may consider necessary, is of opinion that the trust to which the petition relates is a trust to which this Act applies, and that the petitioner has an interest therein, it shall fix a date for the hearing of the petition, and shall cause a copy thereof, together with notice of the date so fixed, to be served on the trustee and upon any other person to whom in its opinion notice of the petition should be given.

(2) On the date fixed for the hearing of the petition, or on any subsequent date to which the hearing may be adjourned, the Court shall proceed to hear the petitioner and the trustee, if he appears, and any other person who has appeared in consequence of the notice, or who it considers ought to be heard, and shall make such further inquiries, if any, as it thinks fit. The trustee may and, if so required by the Court, shall at the time of the first hearing or within such time as the Court may permit present a written statement of his case. If he does present a written statement, the statement shall be signed and verified in the manner prescribed by the Code of Civil Procedure, 1908, for signing and verifying pleadings.

(3) If any person appears at the hearing of the petition and either denies the existence of the trust or denies that it is a trust to which this Act applies, and undertakes to institute within three months a suit for a declaration to that effect and for any other appropriate relief, the Court shall order a stay of the proceedings and, if such suit is so instituted, shall continue the stay until the suit is finally decided.

(4) If no such undertaking is given, or if after the expiry of the three months no such suit has been instituted, the Court shall itself decide the question.

(5) On completion of the inquiry provided for in sub-section (2), the Court shall either dismiss the petition or pass thereon such other order as it thinks fit:

Provided that, where a suit has been instituted in accordance with the provisions of sub-section (3), no order shall be passed by the Court which conflicts with the final decision therein.

(6) Save as provided in this section, the Court shall not try or determine any question of title between the petitioner and any person claiming title adversely to the trust.

Failure of trustee to comply with order under section 5.

6. If a trustee without reasonable excuse fails to comply with an order made under sub-section (5) of section 5, such trustee shall, without prejudice to any other penalty or liability which he may incur under any law for the time being in force, be deemed to have committed a breach of trust affording ground for a suit under the provisions of section 92 of the Code of Civil

Procedure, 1908; and any such suit may, so far as it is based on such failure, be instituted without the previous consent of the Advocate-General.

Powers of trustee to apply for directions.

7. (1) Save as hereinafter provided in this Act, any trustee of an express or constructive trust created or existing for a public purpose of a charitable or religious nature may apply by petition to the Court, within the local limits of whose jurisdiction any substantial part of the subject-matter of the trust is situate, for the opinion, advice or direction of the Court, on any question affecting the management or administration of the trust property, and the Court shall give its opinion, advice or direction, as the case may be, thereon:

Provided that the Court shall not be bound to give such opinion, advice or direction on any question which it considers to be a question not proper for summary disposal.

(2) The Court on a petition under sub-section (1), may either give its opinion, advice or direction thereon forthwith, or fix a date for the hearing of the petition, and may direct a copy thereof, together with notice of the date so fixed, to be served on such of the persons interested in the trust, or to be published for information in such manner, as it thinks fit.

(3) On any date fixed under sub-section (2) or on any subsequent date to which the hearing may be adjourned, the Court, before giving any opinion, advice or direction, shall afford a reasonable opportunity of being heard to all persons appearing in connection with the petition.

(4) A trustee stating in good faith the facts of any matter relating to the trust in a petition under sub-section (1), and acting upon the opinion, advice or direction of the Court given thereon, shall be deemed, as far as his own responsibility is concerned, to have discharged his duty as such trustee in the matter in respect of which the petition was made.

Costs of petition under this Act.

8. The costs, charges and expenses of and incidental to any petition, and all proceedings in connection therewith, under the foregoing provisions of this Act shall be in the discretion of the Court, which may direct the whole or any part of any such costs, charges and expenses to be met from property or income of the trust in respect of which the petition is made, or to be borne and paid in such manner and by such persons as it thinks fit:

Provided that no such order shall be made against any person (other than the petitioner) who has not received notice of the petition and had a reasonable opportunity of being heard thereon.

Savings.

9. No petition under the foregoing provisions of this Act in relation to any trust shall be entertained in any of the following circumstances, namely:—

(*a*) if a suit instituted in accordance with the provisions of section 92 of the Code of Civil Procedure, 1908, is pending in respect of the trust in question;

(*b*) if the trust property is vested in the Treasurer of Charitable Endowments, the Administrator-General, the Official Trustee, or any Society registered under the Societies Registration Act, 1860; or

(*c*) if a scheme for the administration of the trust property has been settled or approved by any Court of competent jurisdiction, or by any other authority acting under the provisions of any enactment.

Power of Courts as to costs in certain suits against trustees of charitable and religious trusts.

10. (1) In any suit instituted under section 14 of the Religious Endowments Act, 1863, or under section 92 of the Code of Civil Procedure, 1908, the Court trying such suit may, if, on application of the plaintiff and after hearing the defendant and making such inquiry as it thinks fit, it is satisfied that such an order is necessary in the public interest, direct the defendant either to furnish security for any expenditure incurred or likely to be incurred by the plaintiff in instituting and maintaining such suit, or to deposit from any money in his hands as trustee of the trust to which the suit relates such sum as such Court considers sufficient to meet such expenditure in whole or in part.

(2) When any money has been deposited in accordance with an order made under sub-section (1), the Court may make over to the plaintiff the whole or any part of such sum for the conduct of the suit. Before making over any sum to the plaintiff, the Court shall take security from the plaintiff for the refund of the same in the event of such refund being subsequently ordered by the Court.

Provisions of the Code of Civil Procedure to apply.

11. (1) The provisions of the Code of Civil Procedure, 1908, relating to—

(*a*) the proof of facts by affidavit,

(*b*) the enforcing of the attendance of any person and his examination on oath,

(*c*) the enforcing of the production of documents and

(*d*) the issuing of commissions, shall apply to all proceedings under this Act, and the provisions relating to the service of summonses shall apply to the service of notices thereunder.

(2) The provisions of the said Code relating to the execution of decrees shall, so far as they are applicable, apply to the execution of orders under this Act.

Barring of appeals.

12. No appeal shall lie from any order passed or against any opinion, advice or direction given under this Act.

Appendix G.

ACT No. XX of 1863.

[Passed by the Governor-General of India in Council.]

(*Received the assent of the Governor-General on the 10th March* 1863.)

An act to enable the Government to divest itself of the management of Religious Endowments.

Preamble.

Whereas it is expedient to relieve the Boards of Revenue, and the Local Agents, in the Presidency of Fort William in Bengal, and the Presidency of Fort Saint George, from the duties imposed on them by Regulation XIX, 1810 of the Bengal Code (*for the due appropriation of the rents and produce of lands granted for the support of Mosques, Hindoo Temples, Colleges, and other purposes; for the maintenance and repair of Bridges, Serays, Kuttras, and other public buildings; and for the custody and disposal of Nuzzool Property or Escheats*), and Regulation VII 1817 of the Madras Code (*for the due appropriation of the rents and produce of lands granted for the support of Mosques, Hindoo Temples, and Colleges or other public purposes; for the maintenance and repair of Bridges, Choultries, or Chuttrums, and other public buildings; and for the custody and disposal of Escheats*), so far as those duties embrace the superintendence of lands granted for the support of Mosques or Hindoo Temples, and for other religious uses; the appropriation of endowments made for the maintenance of such religious establishments; the repair and preservation of buildings connected therewith, and the appointment of Trustees or managers thereof; or involve any connexion with the management of such religious establishments: and whereas it is expedient for that purpose to repeal so much of Regulation XIX, 1810 of the Bengal Code, and Regulation VII 1817 of the Madras Code, as relate to endowments for the support of Mosques, Hindoo Temples, or other religious purposes; It is enacted as follows:—

Regulations repealed.

1. * *So much of Regulation XIX, 1810 of the Bengal Code and so much of Regulation VII, 1817 of the Madras Code, as relate to endowments for the support of Mosques, Hindoo Temples, or other religious purposes are repealed.*

Number.

2. In this Act † *words importing the singular number shall include the plural, and words importing the plural number shall include the singular.*

Gender.

Words importing the masculine genders shall include females.

"Civil Court," and "Court."

The words "Civil Court" and "Court" shall mean the Principal Court of Original Civil Jurisdiction in the District in which the Mosque, Temple, or religious establishment is situate, relating to which,

* Repealed by Act, XVI of 1874. † Repealed by Act, X of 1914.

or to the endowment whereof, any suit shall be instituted or application made under the provsioin of this Act.

Local Government to make special provision respecting Mosques, &c., in certain cases.

3. In the case of every Mosque, Temple, or other religious establishment to which the provisions of either of the Regulations specified in Section I are applicable, and the nomination of the Trustee, Manager, or Superintendent whereof, at the time of the passing of this Act, is vested in, or may be exercised by, the Government, or any public Officer; or in which the nomination of such Trustee, Manager, or Superintendent shall be subject to the confirmation of the Government, or any public Officer, the local Government shall, as soon as possible after the passing of this Act, make special provision as hereinafter provided.

Transfer to independent Trustees, &c., of all property belonging to their Trusts, &c, remaining in charge of Revenue Board or others.

4. In the case of every such Mosque, Temple, or other religious establishment which, at the time of the passing of this Act, shall be under the management of any Trustee, Manager, or Superintendent, whose nomination shall not vest in, nor be exercised by, nor be subject to the confirmation of, the Government, or any public Officer, the local Government shall, as soon as possible after the passing of this Act, transfer to such Trustee, Manager, or Superintendent, all the landed or other property which, at the time of the passing of this Act, shall be under the superintendence or in the possession of the Board of Revenue, or any local Agent, and belonging to such Mosque, Temple, or other religious establishment, except such property as is hereinafter provided; and the powers and responsibilities of the Board of Revenue, and the local Agents, in respect to such Mosque, Temple, or other religious establishment, and to all land and other property so transferred, except as regards acts done and liabilities incurred by the said Board of Revenue, or any local Agent, previous to such transfer, shall cease and determine.

Procedure in case of disputes as to right of succession to vacated Trusteeship, &c.

5. Whenever from any cause a vacancy shall occur in the office of any Trustee, Manager, or Superintendent, to whom any property shall have been transferred under the last preceding Section, and any dispute shall arise respecting the right of succession to such office, it shall be lawful for any person interested in the Mosque, Temple, or religious establishment, to which such property shall belong, or in the performance of the worship or of the service thereof, or the Trusts relating thereto, to apply to the Civil Court to appoint a Manager of such Mosque, Temple, or other religious establishment, and thereupon such Court may appoint such Manager, to act until some other person shall by suit have established his right of succession to such office. The Manager so appointed by the Civil Court shall have, and shall exercise, all the powers which, under this or any other Act, the former Trustee, Manager, or Superintendent, in whose place such Manager is appointed by the Court, had or could exercise, in relation to such Mosque, Temple, or religious establishment, or the property belonging thereto.

Rights, powers and responsibilities of Trustees, &c., to whom any charge shall be transferred.

6. The rights, powers, and responsibilities of every Trustee, Manager, or Superintendent, to whom the land and other property of any Mosque, Temple, or other religious establishment is transferred in the manner prescribed in Section IV of this Act, as well as the conditions of their appointment, election, and removal, shall be the same as if this Act had not been passed, except in respect of the liability to be sued under this Act, and except in respect of the authority of the Board of Revenue, and local Agents, given by the Regulations hereby repealed, over such Mosque, Temple, or religious establishment, and over such Trustee, Manager, or Superintendent, which authority is hereby determined and repealed. All the powers which might be exercised by any Board, or local Agent, for the recovery of the rent of land or other property transferred under the said Section IV of this Act may, from the date of such transfer, be exercised by any Trustee, Manager, or Superintendent to whom such transfer is made.

Appointment of Committees.

7. In all cases described in Section III of this Act, the local Government shall once for all appoint one or more Committees in every Division, or District, to take the place, and to exercise the powers, of the Board of Revenue and the local Agents under the Regulations hereby repealed. Such Committee shall consist of three or more persons, and shall perform all the duties imposed on such Board and local Agents, except in respect of any property which is specially provided for under Section XXI of this Act.

Provision as to qualifications for Member of such Committee.

8. The Members of the said Committee shall be appointed from among persons professing the religion for the purposes of which the Mosque, Temple, or other religious establishment, was founded, or is now maintained, and in accordance, so far as can be ascertained, with the general wishes of those who are interested in the maintenance of such Mosque, Temple, or other religious establishment. The appointment of the Committee shall be notified in the official Gazette. In order to ascertain the general wishes of such persons, in respect of such appointment, the Local Government may cause an election to be held, under such rules (not inconsistent with the provisions of this Act) as shall be framed by such local Government.

Every Member to be appointed for life, unless removed for misconduct, &c.

9. Every Member of a Committee appointed as above shall hold his office for life, unless removed for misconduct or unfitness, and no such Member shall be removed except by an order of the Civil Court as hereinafter provided.

Provision for filling up vacancies.

10. Whenever any vacancy shall occur among the Members of a Committee appointed as above, a new Member shall be elected to fill the vacancy, by the persons interested as above provided. The remaining Members of the Committee shall, so as soon as possible, give public notice of such vacancy, and shall fix a day, which shall not be later than three months from the date of such vacancy, for an election of a new Member by the persons interested as above provided, under rules for elections, which shall be framed by the local Government, and whoever shall be then elected, under the said rules, shall be a Member of the Committee

to fill such vacancy. If any vacancy as aforesaid shall not be filled up by such elections as aforesaid within three months after it has occurred, the Civil Court, on the application of any person whatever, may appoint a person to fill the vacancy, or may order that the vacancy be forthwith filled up by the remaining Members of the Committee, with which order it shall then be the duty of such remaining Members to comply, and if this order be not complied with, the Civil Court may appoint a Member to fill the said vacancy.

No Member of a Committee to be Trustee, &c., of the Mosque, &c., under charge of such Committee.

11. No Member of a Committee appointed under this Act shall be capable of being, or shall act, also as a Trustee, Manager, or Superintendent, of the Mosque, Temple, or other religious establishment, for the management of which such Committee shall have been appointed.

On appointment of Committee, Board and Local Agents to transfer property.

12. Immediately on the appointment of a Committee as above provided, for the superintendence of any such Mosque, Temple or religious establishment, and for the management of its affairs, the Board of Revenue, or the local Agents acting under the authority of the said Board, shall transfer to such Committee all landed or other property which at the time of appointment shall be under the superintendence, or in the possession, of the said Board or local Agents, and belonging to the said religious establishment, except as is hereinafter provided for, and thereupon the powers and responsibilities of the Board and the local Agents, in respect to such Mosque, Temple, or religious establishment, and to all land and other property so transferred, except as above, and except as regards acts done and liabilities incurred by the said Board or Agents previous to such tranfer, shall cease and determine. All the powers which might be exercised by any Board or local Agent, for the recovery of the rent of land or other property transferred under this Section, may from the date of such transfer be exercised by such Committee to whom such transfer is made.

Accounts of receipts and disbursements.

13. It shall be the duty of every Trustee, Manager, and Superintendent of a Mosque, Temple, or religious establishment to which the provisions of this Act shall apply, to keep regular accounts of his receipts and disbursements, in respect of the endowments and expenses of such Mosque, Temple or other religious establishment; and it shall be the duty of every Committee of management, appointed or acting under the authority of this Act, to require from every Trustee, Manager, and Superintendent of such Mosque, Temple, or other religious establishment, the production of such regular accounts of such receipts and disbursements at least once in every year, and every such Committee of Management shall themselves keep such accounts thereof.

Any person interested may sue in case of Breach of Trust, &c.

14. Any person or persons interested in any Mosque, Temple, or religious establishment, or in the performance of the worship or of the service thereof, or the Trusts relating thereto, may, without joining as plaintiff any of the other persons interested therein, sue before the Civil Court the Trustee, Manager, or Superintendent of such Mosque, Temple, or religious esta-

blishment, or the Member of any Committee appointed under this Act, for any misfeasance, Breach of Trust, or neglect of duty, committed by such Trustee, Manager, Superintendent, or Member of such Committee, in respect of the Trusts vested in, or confided to them respectively, and the Civil Court may direct the specific performance of any act by such Trustee, Manager, Superintendent, or Member of a Committee, and may decree damages and costs against such Trustee, Manager, Superintendent, or Member of a Committee, and may also direct the removal of such Trustee, Manager, Superintendent, for Member of a Committee.

Nature of interest entitling a person to sue.

15. The interest required in order to entitle a person to sue under the last preceding Section need not be a pecuniary, or a direct or immediate, interest, or such an interest as would entitle the person suing to take any part in the management or superintendence of the Trusts. Any person having a right of attendance, or having been in the habit of attending, at the performance of the worship or service of any Mosque, Temple, or religious establishment or of partaking in the benefit of any distribution of alms, shall be deemed to be a person interested within the meaning of the last preceding Section.

Reference to arbitrators.

16. In any suit or proceeding instituted under this Act, it shall be lawful for the Court before which such suit or proceeding is pending, to order any matter in difference in such suit to be referred for decision to one or more arbitrators. Whenever any such order shall be made, the provisions of Chapter VI of the Code of Civil Procedure shall in all respects apply to such order and arbitration, in the same manner as if such order had been made on the application of the parties under Section 312 of the said Code.

Reference under Section 312 of Civil Procedure Code.

17. Nothing in the last preceding Section shall prevent the parties from applying to the Court, or the Court from making the order of reference, under the said Section 312 of the said Code of Civil Procedure.

Preliminary application for leave to institute suit.

18. No suit shall be entertained under this Act without a preliminary application being first made to the Court for leave to institute such suit. * *The application may be made upon unstamped paper.* The Court, on the perusal of the application, shall determine whether there are sufficient *prima facie* grounds for the institution of a suit, and if in the judgment of the Court there are such grounds, leave shall be given for its institution. In calculating the costs at the termination of the suit, the Stamp Duty on the preliminary application shall be estimated, and shall be added to the costs of the suit. If the Court shall be of opinion that the suit has been for the benefit of the Trust, and that no party to the suit is in fault, the Court may order the costs, or such portion as it may consider just, to be paid out of the estate.

Costs.

Court may require accounts of Trust to be filed.

19. Before giving leave for institution of a suit, or after leave has been given, before any proceeding is taken, or at any time when the suit is pending, the Court may order the Trustee,

* Repealed by Act VII of 1870.

Manager, or Superintendent, or any Member of a Committee, as the case may be, to file in Court the accounts of the Trust, or such part thereof as to the Court may seem necessary.

No Civil suit to bar proceedings for Criminal Breach of Trust.

20. No suit or proceeding before any Civil Court under the preceding Sections, shall in any way affect or interfere with any proceeding in a Criminal Court for Criminal Breach of Trust.

Provision for cases in which the endowments are partly for religious and partly for secular purposes.

21. In any case in which any land or other property has been granted for the support of an establishment partly of a religious and partly of a secular character, or in which the endowment made for the support of an establishment is appropriated partly to religious and partly to secular uses, the Board of Revenue, before transferring to any Trustee, Manager, or Superintendent, or to any Committee of Management appointed under this Act, shall determine what portion, if any, of the said land or other property shall remain under the superintendence of the said Board for application to secular uses, and what portion shall be transferred to the superintendence of the Trustee, Manager, or Superintendent, or of the Committee, and also what annual amount, if any, shall be charged on the land or other property which may be so transferred to the superintendence of the said Trustee, Manager, or Superintendent, or of the Committee, and made payable to the said Board or to the local Agents, for secular uses as aforesaid. In every such case the provisions of this Act shall take effect only in respect to such land and other property as may be so transferred.

Government not to hold charge henceforth of property for support of any Mosque, Temple, &c.

22. Except as provided in this Act, it shall not be lawful. * *After the passing of this Act,* for any Government in India, or for any officer of any Government in his official character, to undertake or resume the superintendence of any land or other property granted for the support of, or otherwise belonging to, any Mosque, Temple, or other religious establishment, or to take any part in the management or appropriation of any endowment made for the maintenance of any such Mosque, Temple, or other establishment, or to nominate or appoint any Trustee, Manager, or Superintendent thereof, or to be in any way concerned therewith.

Effect of Act in respect of Regulations therein mentioned, and of buildings of antiquity, &c.

23. Nothing in this Act shall be held to affect the provisions of the Regulations mentioned in this Act, except in so far as they relate to Mosques, Hindu Temples, and other religious establishments; or to prevent the Government from taking such steps as it may deem necessary, under the provisions of the said Regulations, to prevent injury to and preserve buildings remarkable for their antiquity, or for their historical or architectural value, or required for the convenience of the public.

"India."

24. The word "India" in this Act shall denote the territories which are or may become vested in Her Majesty by the Statute 21 and 22 Vic., c. 106, entitled "An Act for the better Government of India."

* Repealed by Act XVI of 1874.

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