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PART XI.

Bills introduced into the Legislative Assembly of Orissa. Reports of Select Committees presented or to be presented to that Assembly and Bills published before introduction in that Assembly.

LEGISLATIVE ASSEMBLY DEPARTMENT.

NOTIFICATION.

The 16th January 1939.

No. 315-L.A.—The following report of the Select Committee on the Orissa Hindu Religious Endowments Bills, 1937 and 1938, together with the Bill as amended by that Committee, is hereby published for general information.

Report of the Select Committees on the Orissa Hindu Religious Endowments Bills, 1937 and 1938.

We the undersigned members of the Select Committees, to which the Orissa Hindu Religious Endowments Bill, 1938, introduced by the Hon'ble Mr. B. N. Das (Chief Minister) and the Hindu Religious Endowments Bills of 1937 (introduced by Mr. Mandhata Gorachand Patnaik and Mr. Godavaris Misra respectively) were referred, have the honour to submit this our report with a copy of the Bill, as amended by us, annexed.

The Committees held meetings on the 11th July 1938, 18th September 1938, 24th and 25th October 1938 and 2nd, 3rd and 4th December 1938. The Committees issued a communique calling for memoranda from the members of the public containing their views on certain specified points. The Committees decided to consider the opinions received without receiving further evidence. They also decided to take the Hindu Religious Endowments Bill of 1938, as the basis for discussion and to consider along with it the other two Religious Endowments Bills. The Committees accordingly considered the materials placed before them and examined the provisions of the Bills. The Committees approved the Hindu Religious Endowments Bill of 1938 subject to the alterations made in it which are set out in the sub-joined notes with the reasons therefor and decided that the other Bills should not be further proceeded with.

Clause 1.—The short title has been changed to "the Orissa Hindu Religious Endowments Act, 1939, as the Bill will be passed into an Act only in the year 1939.

Clause 3.—The provision enabling the Provincial Government to exempt any endowment from the operation of the Act has been deleted as it was considered unnecessary to vest any such power in the Provincial Government.

In sub-clause (*b*), which now becomes the sole clause, the expression "any charitable endowment of a religious nature" has been altered to "any public endowment of a charitable and religious nature" to make the description clear and free from doubt.

Clause 4.—The Charitable and Religious Trusts Act, 1920, which also applies to Orissa, has been included among the enactments repealed.

Clause 6 (3).—The definition of "court" has been altered to mean the civil court of the lowest grade instead of the Court of the District Judge, as there is no special reason why such a superior court alone should have jurisdiction.

Clause 6 (7).—The definition has been slightly altered so as to remove the ambiguity by reason of the existence of the word "or" and also to make it clear that the places of instruction, etc., mentioned in it should be appurtenant to the institution.

Clause 6 (12).—The definition of "religious endowment" or "endowment" has been amplified to clarify the position that it includes property forming the endowments of a temple or math, though it be in ruins and the worship in connection with it is discontinued either temporarily or permanently. Opportunity has also been taken to exclude only gifts of movable property to the heads of maths, Archakas, etc., from the scope of "endowments" with the result that gifts of immovable property would fall within that description. Where an endowment was partly religious and partly secular it was felt that it should be deemed to be a religious endowment instead of leaving it to the Commissioner or any one else to determine what portion was to be allocated to religious uses, etc., as provided for in clause 59. An explanation has, therefore, been inserted to the effect that where an endowment is partly religious and partly secular it shall be deemed to be a religious endowment for the purpose of this Act. Clause 59 has in consequence been deleted.

Clause 6 (13).—The definition of "temple" has been amended so as to include within its scope cultural institutions, mandabs and libraries connected with places of public religious worship.

Clause 7.—Provision is inserted that a Commissioner should be a member of either the Provincial Judicial or the Provincial Executive Service.

Clause 15.—It is desirable that persons owning property burdened with the performance of any service or charity connected with a math or a temple should, like trustees of such specific endowments, be under the general superintendence of the trustee of the math or temple. The clause has been amended accordingly.

Clause 17.—The Committees considered that the decision of the Commissioner in appeal should not be final in cases of dismissal, removal or of suspension for six months and more of office-holders and servants, provided that the latter handed over charge on the date of the order of the punishment or within a reasonable time after it. Sub clause (2) has been suitably amended to carry out the object in view.

Clause 18.—It is necessary to provide for the enforcement of services, on the lines contained in this clause, even in cases where an endowment for the performance of a charity or service consists of other emoluments which are not charged on the property. The necessary provision has accordingly been incorporated in this clause.

Clause 20.—The clause has been amended so as to cover Maufi, Shibait or Jagir grants also.

Clause 32.—It was considered unnecessary to provide for the approval of the budget by the Provincial Government. Sub-clause (4) has accordingly been deleted and sub-clause (3) suitably amended.

Clause 33.—The Committees decided that it should be obligatory on the Provincial Government to appoint one or more persons for holding the enquiry whenever the Commissioner reported that the settlement of a scheme for administration was necessary. The provision for approval by the Provincial Government has therefore been omitted.

Clause 49.—The Committees considered that a graded scale of contribution on percentage basis should be levied on all religious institutions with reference to the annual income exempting those whose annual income was not appreciable. This is on the lines of clause 55 of Mr. Patnaik's Bill. Institutions whose annual income did not exceed Rs. 250 have, therefore, been exempted from the payment of contribution and rates varying from 1½ per cent to 3 per cent have been fixed on institutions with incomes in excess of Rs. 250. Power has been reserved with the Government to increase or decrease the rates in particular cases according to their discretion. The existing clause has therefore been substituted by a new clause to this effect.

Clause 54.—It was considered desirable that the Commissioner or persons having interest in religious endowments should be empowered to recover alienated properties within the period of limitation. A sub-clause has been inserted accordingly.

Clause 58.—The case of specific endowments attached to a math or temple have been provided for by suitably amending this clause.

Clause 59.—For the reasons already stated under clause 6 (3) this clause has been deleted.

The Hindu Religious Endowments Bill, 1938, introduced by the Hon'ble Mr. Biswanath Das, Chief Minister, was published in the *Orissa Gazette*, dated the 29th August 1938. The Hindu Religious Endowments Bill, 1937, of Mr. Mandhata Gorachand Patnaik was published in the *Orissa Gazette*, dated the 22nd October 1937 and the Hindu Religious Endowments Bill of Mr. Godavaris Misra was published in the *Orissa Gazette* on 22nd October 1938. We do not consider re-publication necessary.

We recommend that the Hindu Religious Endowments Bill, 1938, introduced by the Hon'ble Mr. Biswanath Das, Chief Minister, as amended by us, be passed. We also recommend that the Hindu Religious Endowments Bill, 1937, introduced by Mr. Mandhata Gorachand Patnaik and the Hindu Religious Endowments Bill, 1937, introduced by Mr. Godavaris Misra, be not further proceeded with.

CHARU CHANDRA RAY.
BISWANATH DAS.
BODHRAM DUBE.
PRANANATH PATNAIK.
RADHA MOHAN SAHU.
*GODAVARIS MISRA.
BICHITRANANDA DAS.
*JAGANNATH DAS.
*BRAJASUNDAR DAS.
*G. C. THATRAJ.
*M. G. PATNAIK.
BIRABAR NARAYAN CHANDRA DHIR NARENDRA.

* Subject to the note of dissent annexed.

Note of dissent by Babu Godavaris Misra, M. L. A.

1. In clause 6 of the Bill the definition of "religious endowment" or "endowment" given in sub-clause (12) should not exclude gifts of property, whether movable or immovable, made as personal gifts or offerings to the head of a math. The gift or offering is made to him only because he is the head of the institution.

2 Clause 7 provides for the appointment of a Commissioner of Endowments. This Commissioner should have a committee of five persons elected for the purpose. He should not necessarily be a member of the Provincial Judicial Service or Provincial Executive Service. Officers of any higher service should also be eligible for appointment as Commissioner.

3. In clause 54 there is provision for the recovery of possession of property comprised in a religious endowment. There should also be provision for holding an enquiry into all sorts of alienated property connected with endowments and for recovery in cases where alienation was not necessary.

4. There should be provision for the approval by some competent authority, such as the Commissioner assisted by a committee, of the selection of successors made by the heads of maths, succession to whose office is not by inheritance. This alone will check the selection of improper persons as successors and ensure better management of the endowments. The unfettered power so long enjoyed by the mahants of selecting their own successors has invariably been misused and needs to be subjected to some control.

Note of dissent by Babu Jagannath Das, M. L. A.

The main question is that the endowments are being mismanaged but legislation should be resorted to so as to prevent mismanagement. This necessarily leads to the proper selection of an authority into whose hands the administration of the endowments should be vested. In the three Bills there were three proposals. In one the proposal was to constitute a board partly with elected and partly with nominated members. Another Bill proposed a board only of nominated members. The Government Bill brought in the question of a single Commissioner. The Select Committee has adopted the last one. It will be unsafe and unwise to place all the endowments in the hands of one man recruited from the cadre of Provincial Executive or Judicial officers. A better plan will be to vest the power in the Collector assisted by a small board of elected members.

The second question with which I wish to deal is the definition of religious endowments arrived at by the Select Committee. Any movable given as gift or effering to the head of a math should be allowed to become his personal property. The head of religious institution has no existence separate and distinct from his institution. The offering or present is made to him only because he is the head and would not be made to him if he were not the head. The property should therefore go to the institution and not to the pocket of its head which is intended only to further the interest of the institution.

The third question is that of providing for the recovery of alienated property. It is found that large properties have been alienated by trustees without any legal necessity of the institutions. In such cases the property should be recovered; otherwise the object of the endowment will become automatically void. The Select Committee do not appear to have considered this point.

The fourth question is whether or not the selection of successors by trustees should be regulated. The report of the Select Committee is silent on this point. The Bill of Mr. M. G. Patnaik was also silent. It is only Pandit Godavaris Misra's Bill which included a provision to this effect. There should be some check upon ill-equipped persons coming in as successors. This can be done in either or two ways. One way has been provided in Pandit Misra's Bill. The alternative proposal is to fix a standard of efficiency and character which every intending successor should prove himself to have reached. This will no doubt become unwelcome to the vested interests but the legislation proposed by the Select Committee does not aim at administering to their wishes. Such a course will elevate the tone of morality and tend to weaken claims for legislation to regulate the conduct of mahant and other trustees.

Lastly I should take this opportunity of pointing out that it was unnecessary to propose such a long section as is provided in clause 19. The system of Devadasi is not so much in vogue in this province as it is in Madras from where the section appears to have been borrowed.

Note of dissent by Babu Barjasundar Das, M. L. A.

When the Bill was first introduced in the Legislative Assembly I objected to it on the ground that Government should on no account interfere in matters religious. Religion is a matter of faith. Where Reason fails, Faith comes in. The Victorian Poet rightly observes that:

> " By faith and faith alone can we embrace
> Believing where we cannot prove."

Religious endowments are the outpours of love, faith and service. As such, they are beyond the pale of secular utilitarian and economic calculations. Any judgment based on such calculations would fail to secure the end for which the endowments have been created.

To be a little more explicit, let me cite a concrete instance. A seer of ghee is to be offered in Bhog (offering) to a particular deity. Certain immovable properties have been endowed for this purpose. Twenty chhataks of ghee to be burnt in *Ahutees* and some lands have been dedicated for this purpose. The deity does not devour the ghee nor the burning of ghee does bring any palpable immediate benefit. Judged from an economical point of view, or of bringing the greatest good to the greatest number, these offerings and burnings will not stand the logical test. But it is not so. These are the injunction of Shastras, which a Hindu has followed for thousands of years and still follows it. He has implicit faith in the injunctions of the Shastras and is guided by his faith and not by any secular or utilitarian standard. Hence it is difficult nay dangerous to legislate in matters of faith.

However if in any case there be need for legislation, it should always be to further the end for which a particular endowment has been created and should never seek to lower, alter, or divert it to channels other than religious. Any legislation contrary to the spirit of the endowment will expropriate faith and trust and ultimately alter the nature of endowment.

In one of the sittings of the Select Committee it was decided to call for memoranda and take evidence. A communique was issued from the Legislative Department calling forth memorandum and evidence. Some organisations offered memoranda and were ready to give evidence. But in a subsequent meeting the decision to take evidence was reversed Some of the members who voted in the preceding meeting were absent at the meeting which reversed their decision. It is rather unfair to reverse their decision behind their back. It has afforded opportunity to the trustees of temples and maths to say that they were not consulted nor were they allowed to convince the Committee by their arguments.

In a vital question which affects the religious belief of man the revised decision of the Committee—not to receive oral evidence—is unfair and is calculated to give rise to general discontent amidst the orthodox section of the people.

Coming to the repeal of enactments I doubt if a Provincial Legislature has the right to repeal Imperial Enactments.

The definition of Religious Endowment has been made very elastic so as to include properties of secular character within the ambit of religious endowment. This may give rise to serious and ruinous litigations. In case of private house-holders who have endowed a portion of their properties on their domestic deities and partly maintained themselves and their family out of the offerings to the deity, it will prove ruinous. In my humble opinion the definition needs revision.

The gifts offered to a religious preceptor in his individual capacity as a preceptor when not specifically dedicated to the presiding deity of whom the preceptor is a trustee should on no account be made a part of the endowment. Such an action may lead to a misconception of the term endowment and create a confusion in the notion of the "worshipped" (ସେବ୍ୟ) and the "worshipper" (ସେବକ).

As to the appointment of a Commissioner there were three opinions. One being—one Commissioner, the other—Board of Commissioners more than one and a third opinion was to have an elected Board of Commissioners. In consideration of expedience and economy an appointed Commissioner with possibilities of subsequent additions was agreed upon. But I would suggest that the Commissioner who is to be an appointed Government servant should be assisted by a panel of Commissioners of at least two elected members of the orthodox Hindu faith who are not mahants or sebaks of any endowments and will be elected by an electorate composed of all the trustees of the endowments in Orissa and will hold office for a term of 3 years and will be ineligible for re-election during the three following terms of elections. This procedure will introduce an element of self government however remote in religious matter and may, to some extent, serve as a check on the whims of party government.

As to the remuneration of the Commissioner, I cannot myself get out of the incongruous position of a Commissioner appointed by Government being paid out of the endowment fund. One who pays the piper must call the tune is an old adage. Here the piper is paid by another and tunes his pipe to the dictation of another. To merge the endowment fund in the Government exchequer would be, I think, a forcible expropriation.

There is no doubt that there exists an element of gross mismanagement in certain endowments and need looking after. A self-governing Government should not strike at the root of self government and self-determination. These religious institutions should be given a wide scope of self determination while the popular Government may take the wise course of general direction in matters of improvement.

Note of dissent by Sri Govind Chandra Thatraj Bahadur, M.L.A.

First of all I am thoroughly opposed to the idea of having a single Commissioner It is a well-known fact that Orissa is a land of temples, with a large property attached to each, and administered according to old customs and usage by mahants and mathadhipathis. It is highly undesirable that the whole executive authority of religious institutions should be left to a single officer—who is going to be appointed with unlimited powers. Religious institutions do not only concern the mahants and pujaris, but also the people at large, and when a certain institution is connected with the public, the administration of such an institution should be carried by a committee instead of by a single autocrat who will have no allegiance to the public but to the party government of the day. I strongly feel that there should be a Board of Commissioners consisting of 5 or 3 members, instead of 1.

2. I am thoroughly opposed to the principle of appointment of the executive of these maths by the Government. We are now being governed by a party Government. Party politics play a good deal in our day-to-day administration. Is it wise to leave the choice to a Government which carries on its functions on party basis? Certainly not. The selection of the person or persons to be the executive head of the administration of religious institutions should be left to an impartial body. In Madras usually a committee is appointed with a High Court Judge as Chairman for this selection. In Orissa too a committee consisting of a High Court Judge, a member of the Public Service Commission, and a non-official be appointed to make this selection.

3. The Committee has inserted a provision in clause 7 of the Bill, that the Commissioner should be a member of either the Provincial Judicial or the Provincial Executive Service. In my opinion it is not wise, to take one from the provincial services, who will at all events be under the absolute control of the Government. By this, the party government of the day will have unlimited power of influencing the officer who has to look at all times for the favour of the Government for his future prospects to do right or wrong—as it thinks fit. In brief I wish to say that it is highly unwise to allow party politics in the administration of religious institutions, through the appointment as Commissioner of one of the Government servants who is dependent on a party government. It is more desirable to place the administration of these temples in the hands of a committee consisting of 3 or 5 persons representing different interests, such as, mahants, pujaris, donors, and one or two non-official nominated by the Government, or else I feel that by entrusting this most responsible task to a single Government servant, it would be *ultra vires* of the intentions of the donors, as these endowments were created for purely religious purposes and not for political ends. The Commissioner

should not be placed under the control or obligation of the Government, but should be a religious person and responsible to a band of religious-minded people.

4. Further, I am opposed to the provision of granting unlimited powers to the Commissioner especially those that are found in sections 11 and 54. I have already said a good deal about the Commissioner who is going to be appointed under this Bill. I would only like to add here that it is highly undesirable to vest such a large power and control in a single person who is going to be appointed in the manner referred to in paragraph 3. This will no doubt lead to discontent among both mahants and those interested in religious institutions as well as donors. It may lead to the defeat of the very object of endowing properties.

5. Further the term "Religious Endowments", has not been completely clarified and consequently I have no doubt that it would lead to so many complications and troubles in future. It cannot be denied that the Heads of religious institutions hold their property, partly from gifts made to the maths or temples which are under their charge, and partly from gifts made to them as Gurudakshina for initiating their disciples into the mysteries of religion. Both these categories of gifts contain both movable as well as immovable properties. To exclude only gifts of movable property to the Heads of maths, Archakas, etc., from the scope of "endowments", with the result that gifts of immovable property would fall within the description of religious endowment which forms the endowment of a temple or math, is absolutely wrong and opposed to logic. Donors gift both movable and immovable properties to temples as well as they give movable and immovable properties to Gurus as Gurudakshina. This adjustment as is noticed in the Bill is not sound, and I have no doubt that lot of complications and troubles will arise later.

In conclusion, I wish to say that it is no doubt usually felt in the country that endowments are wasted and treated in an irresponsible manner, quite contrary to the wishes of the donors. It should therefore be the legitimate duty of the Government to provide such legislation as would be reasonably necessary to see that endowments are not wasted, and that they are properly used for the good upkeep of the temple, regular worship of the deity, and for the establishment of institutions directly connected with religion. Beyond this, I do not understand how Government have thought it fit to place their hand in the direct administration of these endowments by the proposed appointment of one of their own officers, as the head of the administration of these religious endowments.

Religious institutions are not only concerned with Pandas, Mahants and Pujaris, but the public at large are closely associated and interested in the welfare of these institutions. Before enacting legislation, wide public opinion ought to have been elicited by the Government in support of their measure. The Bill was never sent for eliciting public opinion and much less was an Oriya translation of the Bill was circulated in villages.

Even the question of taking evidence from different religious interests, which was decided by one of the Select Committees, could not be put into operation as unfortunately the very proceedings of the Select Committee which decided to take evidence was declared *ultra vires* by the Chairman.

My modest attempt and that of my colleague Mr. M. G. Patnaik to decide afresh for taking down evidences were thrown down by majority of one vote. Thus those that are interested in religious institutions could not have an opportunity to meet the Committee and give their valuable evidence. The Government ought to see more for the proper utilisation of the temple funds, than to interfere in the direct administration through a Commissioner directly responsible to the party government of the day.

Note of dissent by Sriman Mandhata Gorachand Patnaik Mahasaya, M.L.A.

I. The amendment of the Hon'ble Mr Biswanath Das on behalf of Government to sub clause 12 of clause 6 defining religious endowment or endowment to the effect that gifts of immovable property made to the head of a math or to the Archaka, Panda, Pujari or other employees of a temple and carried by the majority of the members of the Select Committee is expropriatory and confiscatory of private rights. Endowments are constituted by grants made or confirmed by the State or by private persons. The intention of the grantor is all important in determining whether the grant was made for the benefit of the public or of a certain individual. It is a question of fact in each case whether the grant was made for the benefit of the individual. But if such intention is not clear from the deed of grant or otherwise it would not be unfair to cast the burden upon the head of the math or temple or Panda or Pujari concerned to prove that the grant was made for his personal benefit but when there is no ambiguity as to the intention of the donor that the grant is made for the benefit of an individual legislation that such a grant shall be deemed to be absolutely made for the benefit of a religious institution is nothing but Hitlerism as bad as its manifestation against German Jews.

The Bill as originally introduced by the Hon'ble Mr. Biswanath Das followed the Madras Hindu Religious Endowments Act the model for all three Bills in this respect. But the aforesaid amendment opposed to all principles was made at the Select Committee stage.

II. Apparently the present Government want an officer entirely dependent upon their will and one who would take their wish as a command to supervise the maths, temples and the religious endowments of this Province. He is invested with all powers of initiation and scrutiny and final sanction of the budgets of important religious institutions. Such supervision is bound to lead to corruption worse than though different in kind from that now prevalent in the administration of such institution. Moreover in view of the constitution of the the ministry and of the way in which the ministry is led by the chance majority of the Congress Party present at its party meetings even in all important matters the control assumed over the religious institutions and endowments is sure to be made use of for political purposes and not for the benefit the religious institutions or the purposes for which they stand.

Several provisions made in the Government Bill are miserable make-shifts which betray the intention of Government to assume control over the religious institutions while keeping up the appearance of judicial enquiries prescribed by the Madras Hindu Religious Endowments Act. Government do not wish to entrust the supervision of religious institutions to a corporate body appointed by Government themselves from among their own officials. Such unwillingness establishes the sinister intention of Government beyond question.

III Further proof of such sinister intention is available from clause 31 of the Government Bill under which power is taken by Government to scrutinise the dittam or the scale of offerings to be made. Under the Madras Hindu Religious Endowments Act in case of difference of opinion between the trustee and the controlling authority the trustee could carry the matter to a Court of law to establish what the dittam is. In a Court of law naturally the dittam consistent with the usage of the institution will be adopted but when Government take power to interfere in a matter like this political considerations are likely to weigh with Government. The Executive Government will be found to be the worst tribual for determining question of the kind as they can never maintain the judicial temperament or impartiality that is necessary for the disposal of such matters nor can they record evidence or appreciate evidence as a Court would do. So the transference of the power to determine questions of that sort from the Courts to the Executive Government is a retrograde step and cannot be supported.

IV. The Select Committee having once resolved to take evidence with reference to the answers to the questionnaire issued under the authority of such resolution and having called upon presons interested to offer themselves as witnesses for examination by the Select Committee should not have changed its front and repealed the resolution at a succeeding meeting and refused to take evidence with regard to an important measure like the Hindu Religious Endowments Bill. It is bare justice that the persons affected should be given an opportunity to be heard

On this ground alone the Bill deserves to be recommitted to the Select Committee with a direction to revise its conclusions in the light of the evidence to be taken.

THE ORISSA HINDU RELIGIOUS ENDOWMENTS BILL, 1938.

(*As amended by the Select Committees*)

Note.—Matter omitted is shown in italics within square brackets. New matter is underlined.

A BILL

TO PROVIDE FOR THE BETTER ADMINISTRATION AND GOVERNANCE OF CERTAIN HINDU RELIGIOUS ENDOWMENTS.

Preamble.

WHEREAS it is expedient to provide for the better administration and governance of certain Hindu religious endowments described hereunder;

It is hereby enacted as follows:—

CHAPTER I.

Short title.

1. This Act may be called the Orissa Hindu Religious Endowments Act, [*1938.*] 1939.

Extent.

2. (*a*) This Act extends to the whole of the province of Orissa and applies, save as hereinafter provided, to all Hindu public religious endowments.

Explanation.—For the purposes of this Act, Hindu public religious endowments do not include Jain religious endowments.

Commencement.

(*b*) It shall come into force on such date as the Provincial Government may, by notification in the *Gazette*, direct.

[*Power to exempt endowments.*

3. (a) The provincial Government may, after consulting the commissioner, exempt any endowment from the operation of all or any of the provisions of this Act or vary, alter or cancel such exemption.]

3. [(*b*)] The Provincial Government may, by notification, extend to any Jain or Buddhist religious endowment or to any public [*charitable*] endowment of a charitable and religious nature 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 Provincial Government shall publish in the *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 the issue of such notification and consider their objections, if any.

Repeal of enactments.

4. The Madras Hindu Religious Endowments Act, 1926, the Religious Endowments Act, 1863, [*and*] the Bengal Charitable Endowments Public Buildings and Escheats Regulation, 1810 and the Charitable and the Religious Trusts Act, 1920 (hereinafter referred to as the said Acts), so far as they apply to the religious endowments in Orissa, to which this Act applies, are hereby repealed.

5. (*i*) All action taken and all things done, the notifications issued and orders made under and in pursuance of the said Acts, shall be deemed to have been validly taken, done, issued or made.

(*ii*) All proceedings taken under the said Acts may be continued under this Act, in so far as they are not inconsistent with the provisions of this Act.

(*iii*) Any remedy by way of application, suit or appeal which is provided by this Act shall be available in respect of proceedings under the said Acts pending at the time of the commencement of this

Act as if the proceedings in respect of which the remedy is sought had been instituted under this Act.

Definitions.

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

(1) "Collector" shall include every officer who is authorised in this behalf to exercise the powers of a District Collector.

Commissioner.

(2) "Commissioner" means the commissioner appointed under section 7.

Court.

(3) "Court" means the Civil court of the lowest grade under the Bengal, Agra and Assam Civil Courts Act, 1887, [*District Judge*] within whose local limits the commissioner exercises jurisdiction or a math or a temple is situated.

District Collector.

(4) "District Collector" shall mean the chief local officer in charge of the revenue administration of a district.

Excepted temple.

(5) "Excepted temple" means and includes a temple, the right of succession to the office of trustee or the offices of all the trustees (where there are more trustees than one) whereof has been hereditary, or the succession to the trusteeship whereof has been specially provided for by the founder.

Explanation.—No action taken in pursuance of the power conferred on it by clauses (*a*) and (*b*) of sub-section (*1*) of section 39 shall be deemed to have the effect of converting an excepted temple into a non-excepted temple.

Hereditary trustee.

(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.

Math.

(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] and also places of instruction or places for the maintenance of vidyarthies or places for rendering charitable or religious services in general[.] which are or may be appurtenant to such institution.

Non-hereditary trustee.

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

Notified temple.

(9) "Notified temple" means a temple notified by the Provincial Government under section 42.

Person having interest.

(10) "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.

Prescribed

(11) "Prescribed" means prescribed by the Provincial Government by rules made under this Act.

Religious endowment.

(12) "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 whether or not such maths or temples be in ruins or the worship in connection with them is discontinued either temporarily or permanently and includes the premises of maths or temples but does not include gifts of movable property made as personal gifts or offerings to the head of a math or to the archaka, panda, pujari or other employees of a temple.

Explanation.—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, such endowment or property or the income therefrom shall be deemed to be a religious endowment and its administration shall be governed by the provisions of this Act.

Temple. (13) "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[.] and also includes any cultural institution or Mandab or library connected with such a place of public religious worship.

Trustee. (14) "Trustee" means a person, by whatever designation known, in whom the administration of a religious endowment is vested and includes any person who is liable as if he were a trustee.

CHAPTER II.

COMMISSIONER.

Appointment of commissioner.

7. (1) The Provincial Government may, by notification, appoint a person who profess[*ing*]es the Hindu religion and who is a member of either the Provincial Judicial or Provincial Executive Service to be a commissioner of endowments and he shall be deemed to be holding an office in the service of the Crown in India.

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

Remuneration of commissioner.

8. (1) The commissioner shall devote his whole time and attention to the duties of his office and shall be under the general control of the Provincial Government.

(2) The commissioner shall receive out of the funds of the endowments such salary as the Provincial Government may fix.

Office of the commissioner.

9. The commissioner shall have an office at such place as the Provincial Government may fix for the transaction of business.

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

10. (1) The Provincial Government may, from time to time, determine the number, designations, grades and scales of salary or other remuneration of the officers and servants who may be required for the purpose of enabling the commissioner to discharge his powers and duties under the Act.

(2) Subject to such control as may be prescribed, the commissioner 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 commissioner.

11. Subject to the provisions of this Act and of any scheme settled or deemed to be a scheme settled under this Act, the general superintendence of all religious endowments shall vest in the commissioner and he 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.

Explanation.—The general powers of superintendence of the commissioner shall include the power to pass such interim orders as he deems necessary in the interests of the proper maintenance of a math or temple or the administration of a religious endowment.

CHAPTER III.

RELIGIOUS ENDOWMENTS IN GENERAL.

Preparation of register of endowments.

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

(*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 officers 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 may be prescribed.

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

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

(4) A copy of the register as approved by the commissioner shall be furnished to the trustee.

Annual verification of the register.

13. (1) The trustee or his authorised agent shall annually scrutinise the entries in the register and shall submit to the commissioner for his approval a verified statement showing the alterations, omissions or additions required therein.

(2) The commissioner may, on receipt of the statement, make such inquiry as he thinks necessary and the commissioner 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 he shall carry out the alterations, omissions or additions ordered by the commissioner in the copy of the register kept by him.

Care required of trustee and his powers.

14. (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.

15. The trustee of specific endowments made for the performance of any service or charity connected with a math or temple or persons owning property burdened with the performance of any such service or charity 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 trustee.

16. (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 commissioner 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, the Bengal Court of Wards Act, 1879, or the Central Provinces Court of Wards Act, 1899.

Mad. I of 1902. Bengal IX of 1879. C. P. XXIV of 1899.

(2) In making an appointment under sub-section (*1*) the commissioner 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.

17. (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 Provincial 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 61, 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 punished by a trustee under sub-section (*1*) may, within such time

as may be prescribed, appeal to the commissioner and his decision shall be final except in cases where the punishment is of dismissal, removal or suspension for a period of six months or more and the office-holder or servant of the temple so punished has complied with the order of punishment and has handed over the properties of the endowment in his charge to the trustee or any person appointed by him on the date of the order of punishment or within a reasonable time after it. [*whose decision shall be final.*]

Enforcement of service when endowment is a charge on property.

18. Where an endowment for the performance of a charity or service connected with a temple consists merely of a charge on property or other emoluments not so charged 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 or the person in possession of emoluments not so charged, as the case may be, 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 or the person in possession of emoluments not so charged, as the case may be, 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.

Enfranchisement of freeing of lands, etc., held by a devadasi on condition of service in a temple.

19. (1) (*a*) (*i*) Where the remuneration for any service to be performed by a devadasi in a temple consists of lands granted or continued in respect of, or annexed to, such service by the Government the Provincial Government shall enfranchise the said lands from the condition of service by the imposition of quit-rent.

(*ii*) Where the remuneration for such service consists of an assignment of land revenue so granted or continued, the Provincial Government shall enfranchise such assignment of revenue from the condition of service :

Provided that where, at the time when proceedings are taken under this sub-section the devadasi is herself the owner of the lands in respect of which the assignment of revenue has been made, enfranchisement shall be effected and quit-rent imposed in the manner laid down in sub-clause (*i*).

(*iii*) Where the remuneration for such service consists in part of lands and in part of an assignment of land revenue, enfranchisement of the lands shall be effected in the manner laid down in sub-clause (*i*) and of the assignment of land revenue in the manner laid down in sub-clause (*ii*).

Explanation.—For the purposes of this clause a grant shall be deemed to consist of an assignment of land revenue in all cases in which the devadasi herself is not, at the time specified in the proviso to sub-clause (*ii*), the owner of the lands in question.

(*b*) Enfranchisement under clause (*a*) shall be effected in accordance with such rules as the Provincial Government may make in this behalf and shall take effect as and from such date as the Provincial Government may fix.

(2) Where the remuneration for such service consists, in whole or in part, of lands or produce of lands not falling under sub-section (*1*), the Provincial Government shall direct the Collector to determine the amount of rent payable on the lands or the produce in question. The Collector shall thereupon after giving notice to the parties concerned and holding such inquiry as may be prescribed by the Provincial Government by an order determine the amount of rent, and in doing so, he shall have due regard to—

(*a*) the rent payable by the tenant for lands of a similar description and with similar advantages in the same village or neighbouring villages; and

(*b*) the improvements, if any, effected by the devadasi, in respect of the lands.

Such order shall be communicated to the parties concerned and also published in the manner prescribed.

(3) The amount of rent fixed by the Collector under sub-section (*2*) may be questioned by petition presented to the Revenue Commissioner within three months of the date of the publication of the order under the said sub-section but, subject to the result of such petition, the order of the Collector fixing the amount

of rent under sub-section *(2)* shall be final and shall not be liable to be contested in any court of law:

Provided, however, that the Revenue Commissioner shall have power on sufficient grounds to entertain a petition presented after the expiration of the period of three months.

(4) While determining the rent under sub-section *(2)* the Collector shall fix a date from which the order shall take effect and such lands or produce shall be deemed to have been freed from the condition of service as and from the date so fixed.

(5) No obligation to render any service relating to any temple to which any devadasi may be subject by reason of any grant of land or assignment of land revenue or produce derived from land, shall be enforceable on such land, assignment or produce being enfranchised or freed, as the case may be, in the manner hereinbefore provided.

(6) No order passed under sub-sections *(1)*, *(2)* and *(3)* shall operate as a bar to the trial of any suit or issue relating to the right to enjoy the land or assignment of land revenue or produce derived from land, as the case may be.

(7) *(a)* The quit-rent imposed under sub-section (1) shall be payable to the temple concerned.

(b) The assignment of land revenue enfranchised under sub-section (1) or the rent fixed under sub-sections (2) and (3) as the case may be shall be payable to the devadasi concerned during her lifetime and after her death to the temple concerned.

(8) For the purpose of this section 'devadasi' shall mean any Hindu unmarried female, who is dedicated to a temple.

Resumption and regrant of inam granted for the performance of any charity or service connected with a math or temple in case of alienation of the inam or of failure to perform the charity or service.

20. (1) Any exchange, gift, sale or mortgage, and any lease for a term exceeding five years of the whole or any portion of any inam or maufi or shebait or jagir granted for the performance of a charity or service connected with a math or temple and made, confirmed or recognized by the British Government, shall be null and void.

(2) (*a*) The Collector may, on his own motion, or on the application of the trustee of the math or temple or of the commissioner or of any person having interest in the math or temple who has obtained the consent of such trustee, or commissioner, by order, resume the whole or any part of any such inam or maufi or shebait or jagir on one or more of the following grounds, namely:—

(*i*) that the holder of such inam or maufi or shebait or jagir or part has made an exchange, gift, sale or mortgage of the same or any portion thereof or has granted a lease of the same or any portion thereof for a term exceeding five years, or

(*ii*) that the holder of such inam or maufi or shebait or jagir or part has failed to perform or make the necessary arrangements for performing, in accordance with the custom or usage of such math or temple the charity or service for performing which the inam had been made, confirmed or recognised by the British Government or any part of the said charity or service as the case may be, or

(*iii*) that the math or temple has ceased to exist or the charity or service in question has in any way become impossible of performance.

When passing an order under this clause, the Collector shall determine whether such inam or maufi or shebait or jagir or the inam comprising such part, as the case may be, is a grant of both the melvaram (landlord's interest) and the kudivaram (cultivators' interest) or only of the melvaram [.] (landlords' interest).

(*b*) Before passing an order under clause (*a*), the Collector shall give notice to the trustee, to the commissioner, to the inamdar concerned or where only a part of the inam is affected, to the holder of such part as well as to the holder or holders of the other part or parts and to the alienee, if any, hear their objections, if any, and hold such inquiry as may be prescribed.

(*c*) A copy of every order passed under clause (*a*) shall be communicated to each of the persons and bodies mentioned in clause (*b*), and shall also be published in the manner prescribed.

(*d*) (*i*) Any party aggrieved by an order of the Collector under clause (*a*) may appeal to the District Collector within such time as may be prescribed and on such appeal the District Collector may, after giving notice to each of the persons and bodies mentioned in clause (*b*) and after holding such inquiry as may be prescribed, pass an order confirming, modifying or cancelling the order of the Collector.

(*ii*) The order of the District Collector on such appeal, or the order of the Collector under clause (*a*) where no appeal is preferred under sub-clause (*i*) to the District Collector within the time prescribed, shall be final:

Provided that where there has been an appeal under sub-clause (*i*) and it has been decided by the District Collector or where there has been no appeal to the District Collector and the time for preferring an appeal has expired any party aggrieved by the final order of the District Collector or the Collector, as the case may be, may file a suit in a civil court for determining whether the inam comprises both the melvaram and the kudivaram or only the melvaram. Such a suit shall be instituted within six months from the date of the order of the District Collector on appeal where there has been an appeal under sub-clause (*i*) or from the date of expiry of the period prescribed under sub-clause (*i*) for an appeal to the District Collector, in a case where there has been no appeal.

(*e*) Except as otherwise provided in clause (*d*) an order or resumption passed under this section shall not be liable to be questioned in any court by suit or otherwise.

(*f*) Where any inam or part of an inam is resumed under this section, the Collector or the District Collector, as the case may be, shall, by order, re-grant such inam or part—

(*i*) as an endowment to the math or temple concerned, or (*ii*) in case of resumption on the ground that the math or temple has ceased to exist or that the charity or service in question has in any way become impossible of performance, as an endowment to the commissioner, for appropriation to such religious, educational or charitable purposes not inconsistent with the objects of such math or temple, as the commissioner may direct.

(*g*) The order of re-grant made under clause (*f*) shall, on application made to the Collector within the time prescribed, be executed by him in the manner prescribed.

(*h*) Nothing in this section shall affect the operation of section 19.

Maintenance of accounts and appointments of auditors.

21. (1) The commissioner and the trustee of any math or temple or of any religious endowment attached to any math or temple shall keep regular accounts for receipts and disbursements.

(2) Such account shall be audited annually or at such other intervals as may be prescribed, by auditors appointed by the Provincial Government. Auditors so appointed shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. XLV of 1860.

Submission of audit report.

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

(*a*) to the Provincial Government in the case of the accounts of the commissioner, and

(*b*) to the commissioner in the case of the accounts of a math or temple.

Contents of the audit report.

23. (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 commissioner may require in respect of any specified religious endowment.

Recovery of cost of audit.

24. (1) Notwithstanding any provision to the contrary contained in the scheme, if any, settled or deemed to be settled under this Act, the cost of auditing the accounts of any math or temple or any religious endowment attached to any math or temple, shall be payable out cf the fund of such math, temple, or religious endowment. Such cost shall be fixed by the commissioner and shall not exceed one and a half per centum of the gross income of the math, temple or religious endowment concerned and shall be paid by the trustee thereof within the time allowed, and in accordance with the directions issued, by the commissioner, subject to any rules which the Provincial Government may prescribe in this behalf.

(2) If such cost is not paid within the time allowed, it shall be recovered in the manner provided in sub-sections (*2*), (*3*) and (*4*) of section 51 as if the default in such payment were a default in the payment of the amounts specified in sub-section (*1*) of that section. The protection conferred by sub-section (*5*) of the said section on the Crown and servants of the Crown shall also be available to them in respect of anything in good faith done or intended to be done in pursuance of this sub-section.

CHAPTER IV.

TEMPLES.

Chapter not to apply to excepted temples.

25. The provisions of this Chapter shall not apply to excepted temples or the trustees thereof.

Trustee to be Hindu.

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

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

(2) Non-hereditary trustees shall be appointed by the commissioner and in making such appointments the commissioner 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 commissioner 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 one year from such date.

(5) The Provincial Government may, by notification, remove from office any member of an existing Temple Committee constituted under the provisions of the Religious Endowments Act, 1863; and

until so removed, the members of such Committee shall be deemed to be non-hereditary trustees lawfully holding office on the date of commencement of this Act within the meaning of the next preceding sub-section.

Provided that, pending any such notification, the commissioner may, in the interest of the proper maintenance of the temple or administration of a religious endowment attached thereto, pass an interim order suspending any member of such Committee.

Trustee to obey orders of the commissioner.

28. The trustee of a temple shall be bound to obey all orders issued under the provisions of this Act by the commissioner.

Removal and dismissal of trustees.

29. (1) The commissioner 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 commissioner, 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, or

(*f*) for continued absence without the permission of the commissioner for a period of six months from the jurisdiction of the Munsif's court within which the temple is situated.

(2) When the commissioner proposes to take action under sub-section (*1*) he shall frame charges against the trustee concerned and give him an opportunity of explanation, of testing the 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 commissioner 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 communication of the order of suspension, removal or dismissal, appeal to the court against such order.

(4) The order of the commissioner under this section shall, when no appeal is preferred under sub-section (*3*), be final; and when such appeal is preferred, the order of the court shall be final.

Disqualification of trustees.

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

(*a*) is sentenced by a 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):

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

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

Fixing of standard scales of expenditure in temples.

31. Subject to the rules made by the Provincial Government under this Act and to the provisions of any scheme settled or deemed to be a scheme settled under this Act, which shall be subject to the said rules made by the Provincial Government,—

(1) the trustee of a temple may from time to time submit to the commissioner 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

commissioner 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 commissioner will consider such objection or suggestion;

(3) after the expiry of the period fixed under sub-section *(2)* the commissioner shall consider the objections or suggestions that may have been received and may pass such orders as he thinks fit on the proposals;

(4) after passing orders as provided in sub-section *(3)*, the commissioner shall submit the dittam or the scale of expenditure as fixed by him to the Provincial Government which may approve of it without modification or with such modification as it deems fit and the dittam or scale of expenditure so approved by the Provincial Government shall be final;

(5) 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.

Budget of temples.

32. (1) The trustee of every temple shall in each year submit to the commissioner before such date and in such form as the commissioner 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 commissioner may, within such time after the receipt of the budget as he may fix, direct the trustee to make such alterations, omissions or additions in the budget as he may think fit[.] and the budget as approved by the commissioner with such modifications as he deems proper shall be final.

[*(4) The Commissioner shall submit the budget with the modifications, if any, made under sub-section (3) to the Provincial Government which may approve it without modification or with such modification as it deems fit and the budget so approved by the Provincial Government, shall be final.*]

33. (1) When the commissioner is satisfied that in the interest of the proper administration of the endowments of a temple, a scheme of administration should be settled, he shall consult in the prescribed manner the trustee and the persons having interest. If, after such consultation, the commissioner still considers that the settlement of a scheme of administration is necessary he shall make a report to the Provincial Government, who, [*in case they approve of it*,] shall appoint one or more persons in that behalf, who shall be officers in the service of the Crown, and the said person or persons and the commissioner shall hold the necessary inquiry and, by order, settle a scheme of administration for the endowments of such temple.

A scheme settled under this sub-section may contain provision for—

(*a*) fixing the number of non-hereditary trustees;

(*b*) removing any existing trustee or trustees, whether hereditary or non-hereditary;

(*c*) appointing a new trustee or trustees in addition to or in the place of any existing trustee or trustees whether hereditary or non-hereditary:

Provided that where provision is made in the scheme for the removal of a hereditary trustee provision shall also be made therein for the persons next in succession who is qualified for being appointed as trustee;

(*d*) appointing or directing the appointment of a paid executive officer, who shall be a person professing the Hindu religion, on such salary as may be fixed by the Provincial Government, to be paid out of the trust funds, and defining the powers and duties of such officer; or

(*e*) defining the powers and duties of the trustee or trustees.

Explanation.—The power to settle a scheme under this sub-section shall be deemed to include a power to settle a scheme for any specific endowment or endowments attached to a temple.

(2) The commissioner may, for good and sufficient cause, suspend, remove or dismiss any executive officer appointed in pursuance of a scheme settled under sub-section (*1*) or direct the removal of such officer.

(3) A scheme settled under sub-section (*1*) may be modified or cancelled in the manner provided in that sub-section.

(4) Every order 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 such order shall be final and binding on the trustee.

(5) Any scheme of administration which has been settled by a court under this section or which under section 57 is deemed to be a scheme settled under this Act may, at any time for sufficient cause, be modified or cancelled by the court in a suit instituted by the commissioner or the trustee or any person having interest, but not otherwise.

Filling up of vacancies among office-holders or servants.

34. (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 hereditary 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 the commissioner.

35. 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 commissioner may require.

Inspection by commissioner or other officer of endowments.

36. The commissioner or any other officer 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 temple, and the trustee of such temple and all officers and servants working under him shall afford to the commissioner or such officer such assistance as may be necessary.

CHAPTER V.

MATHS AND EXCEPTED TEMPLES.

Submission of budgets and annual accounts.

37. The trustee of every math and excepted temple shall, in each year, submit to the commissioner before such date and in such form as the commissioner 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.

Inquiry by commissioner into mismanagement by trustees.

38. When the commissioner 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 commissioner stating that in the interests of the proper administration of such endowments a scheme of administration should be settled, the commissioner may hold an inquiry which shall be conducted in such manner as may be prescribed:

Provided that all such enquiries shall be held by the commissioner jointly with one or more persons in the service of the Crown appointed by the Provincial Government in this behalf.

Schemes for maths and excepted temples.

39. (1) If, after making the inquiry referred to in section 38, the commissioner and the person or persons who held the inquiry are satisfied that the trustee concerned has mismanaged the endowments of such math or temple or has spent or alienated them for improper purpose or, that, in the interests of the proper administration of such endowments, a scheme of administration should be settled, the commissioner and the said person or persons may, after consulting in the prescribed manner the trustee and the persons having interest, by order, settle a scheme of administration for the endowments connected with such math or temple.

A scheme settled under this sub-section may contain provision for—

(*a*) fixing the number of non-hereditary trustees;

(*b*) appointing a new trustee or trustees in addition to the existing trustee or trustees;

(*c*) associating one or more persons with the trustee or trustees or constituting a separate body, for the purpose of participating or assisting in the whole or any part of the administration of the endowments connected with such math or temple:

Provided that where the commissioner considers it necessary to associate any person or persons with the trustee or trustees of a math or to constitute any separate body for participating or assisting in the administration of a math, such person or persons or the members of such body shall be chosen from persons having interest in such math;

(*d*) appointing or directing the appointment of a paid executive officer who shall be a person professing the Hindu religion, on such salary as may be fixed by the Provincial Government to be paid out of the trust funds, and defining the powers and duties of such officer; or

(*e*) defining the powers and duties of the trustee or trustees.

Explanation.—The power to settle a scheme under this sub-section shall be deemed to include a power to settle a scheme for any specific endowment or endowments attached to a math or temple.

(2) The commissioner may, for good and sufficient cause, suspend, remove or dismiss any executive officer appointed in pursuance of a scheme settled under sub-section (*1*) or direct the removal of such officer.

(3) A scheme settled under sub-section (*1*) may be modified or cancelled in the manner provided in that sub-section.

(4) Every order 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.

Finality of order under section 39.

40. Every order under section 39 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.

Modification or cancellation of schemes.

41. Any scheme of administration which has been settled by a court under section 39 or which under section 62 is deemed to be a scheme settled under this Act may, at any time, for sufficient cause be modified or cancelled by the court in a suit instituted by the commissioner or the trustee or any person having interest but not otherwise.

CHAPTER VI.

NOTIFIED TEMPLES.

Power of Provincial Government to notify temple or endowment to be subject to the provisions of this Chapter.

42. (1) (*a*) The commissioner may, by notice published in the prescribed manner, call upon the trustee and all other persons having interest in a temple or in any specific endowment attached to a temple to show cause why such temple or endowment should not be notified to be subject to provisions of this Chapter.

(*b*) Such notice shall state the reasons for the action proposed, and specify a reasonable time, not being less than one month from the date of the issue thereof, for showing such cause.

(2) (*a*) The trustee or any person having interest in the temple or endowment may, thereupon, prefer any objection he may wish to make to the issue of a notification as proposed.

(b) Such objection shall be in writing and shall reach the commissioner before the expiry of the time specified in the notice aforesaid or within such further time as may be granted by the commissioner in that behalf.

(3) Where no such objection has been received within the time specified in the notice issued under sub-section (1) or within such further time as may be granted by the commissioner the Provincial Government may, by notification published in the *Gazette*, declare the temple or endowment to be subject to the provisions of this Chapter.

(4) Where any such objection or objections has or have been received within the time specified in the notice issued under sub-section (1) or within such further time as may be granted by the commissioner, the commissioner and one or more persons who are officers in the service of the Crown appointed by the Provincial Government in this behalf, shall hold an inquiry into the objection or objections in the manner prescribed, and decide whether the temple or endowment concerned should be notified to be subject to the provisions of this Chapter or not, and the Provincial Government may, by notification published in the *Gazette*, declare the temple or endowment to be subject to the provisions of this Chapter.

Scheme to cease to apply to notify temple or endowment.

43. On the publication of a notification in respect of any temple or endowment under section 42 the scheme of administration, if any, settled for such temple or endowment by any court or by the commissioner and the person or persons in the service of the Crown as hereinbefore provided, as the case may be, and all rules, if any, framed under such a scheme shall cease to apply to such temple or endowment.

Appointment of executive officer for notified temple or endowment and his powers and duties.

44. (1) For every notified temple or endowment, the commissioner shall appoint an executive officer whose salary shall be fixed by the Provincial Government and who shall be a person professing the Hindu religion as soon as may be after the publication of the notification under section 42 in respect of such temple or endowment.

(2) The executive officer shall hold office for such period as may be fixed by the commissioner in that behalf and he shall exercise such powers and perform such duties as may be vested in or assigned to him by the commissioner.

Explanation.—The commissioner shall define the powers and duties which may be exercised and performed, respectively, by the executive officer and the trustee, if any, of the notified temple or endowment. The executive officer shall for purposes of section 60 be deemed to be a person appointed to discharge the functions of a trustee under this Act.

(3) The executive officer shall be paid such salary and allowances as may be determined by the Provincial Government from the funds of the notified temple or endowment.

(4) The commissioner may, for good and sufficient cause, suspend, remove or dismiss the executive officer.

Sections 33, 38 and 39 not to apply to notified temple or endowment.

45. Sections 33, 38 and 39 shall cease to apply to such temples and endowments as are notified under section 42.

CHAPTER VII.

APPLICATION OF ENDOWMENT FUNDS.

Authority of trustee to incur expenditure on health, etc., of pilgrims and worshippers.

46. The trustee of a math or temple may, out of the funds of the endowments in his charge, after satisfying adequately the purposes of the endowments, incur

expenditure on arrangements for securing the health, safety, or convenience of disciples, pilgrims or worshippers resorting to such math or temple:

Provided that the commissioner may, for reasons to be set forth in writing, restrict and place under such control as he may think fit the exercise by the trustee of his discretion under this section.

Cypres application of endowment or surplus.

47. (1) The commissioner 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 realisation 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:

Provided that in the case of a temple founded and maintained by a community the amount of the endowment or the surplus shall, as far as possible, be utilized for the benefit of the community for the purposes mentioned above.

(2) It shall be competent to the commissioner 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 commissioner 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 commissioner 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 commissioner shall be final and binding on 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 in a suit instituted by the commissioner or the trustee or any person having interest but not otherwise.

CHAPTER VIII.

FINANCE.

Recovery from endowment of expenses incurred by the commissioner on legal proceedings.

48. All costs and expenses incurred in connection with legal proceedings in respect of any religious endowment to which the commissioner is a party shall, notwithstanding anything contained in section 55, be payable out of the funds of such endowment.

Annual contribution from endowments to the commissioner.

[***49***. *(1) Every math or temple and every specific endowment attached to a math or temple shall, for meeting the expenses of the commissioner and the officers and servants working under him, pay annually a contribution not exceed-*

ing one and a helf per centum of its income as the Provincial Government may determine :

Provided that every notified temple other than an excepted temple, and every notified endowment other than an endowment attached to an excepted temple shall pay annually to the commissioner such contribution not exceeding three per centum of its income as the Provincial Government may determine.]

49. (1) Every math or temple and every specific endowment attached to a math or temple the annual income whereof exceeds Rs. 250 shall, for meeting the expenses of the commissioner and the officers and servants working under him, pay annually a contribution at the following rates :—

(*a*) at $1\frac{1}{2}$ per cent of the annual income when it exceeds Rs. 250 but not Rs. 2,000 ;

(*b*) at 2 per cent of the annual income when it exceeds Rs. 2,000 but not Rs 5,000; and

(*c*) at 3 per cent of the annual income when it exceeds Rs. 5,000.

Explanation.—A math or temple or a specific endowment attached to a math or temple, the annual income whereof does not exceed Rs. 250 shall not be liable to pay any contribution for meeting the expenses of the Board :

Provided that in the case of any math or temple or specific endowment attached to a math or temple, the Provincial Government may, for special reasons, increase or decrease the rates of contribution payable under this sub-section as they deem fit.

(2) 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. V of 1908

50. There shall be a fund constituted by the contributions received under section 49. The Provincial Government shall pay annually to that fund a sum not less than Rs. 200 of which a sum not less than Rs. 100 shall be by way of grant and the balance by way of loan.

Assessment and recovery of costs, expenses and contributions.

51. (1) The costs, expenses and contributions payable under sections 48 and 49 shall be assessed on and notified to the trustee of the math, temple or specified endowment concerned in the prescribed manner.

(2) (*a*) Such trustee shall, within one month of the date of his receipt of such notice or within such further time as may be granted by the commissioner, pay, out of the funds of the math, temple or endowment concerned, the amount so demanded to the commissioner or any person authorized by him ; and in default of such payment, the Collector of the district in which any property of the math, temple or endowment is situated shall, on a requisition made to him in the prescribed form, by the commissioner and subject to the provisions of this section, recover such amount as if it were an arrear of land revenue and the amount so recovered shall, after deduction therefrom of such percentage on account of the cost of recovery as the Provincial Government may, by general or special order from time to time determine, be paid to the commissioner.

(*b*) On receipt of a requisition under clause (*a*) the Collector shall issue a notice to the trustee concerned—

(*i*) requiring him, within fifteen days from the service of such notice either to pay the amount mentioned in the requisition and specified in the notice or state, in writing his objections, if any thereto, and

(*ii*) stating that such amount or the amount found due from the trustee after his objections, if any, have been considered will be recovered as if it were an arrear of land revenue.

(*c*) If, within the period of fifteen days aforesaid, no objection in writing is received by the Collector from the trustee, the Collector shall proceed to recover the amount specified in the notice as if it were an arrear of land revenue.

(*d*) If, within the said period, an objection in writing is received by the Collector from the trustee with regard either to his liability or to the amount specified in the notice, the Collector shall transmit such objection to the commissioner.

(*e*) The commissioner shall consider the objection so transmitted and communicate to the Collector his decision confirming, withdrawing or modifying the original demand.

(*f*) The Collector shall then proceed to recover the amount, if any, due from the trustee under the decision so communicated as if it were an arrear of land revenue.

(3) The Collector may, on receipt of a requisition under clause (*a*) of sub-section (*2*), withhold the amount mentioned therein out of the tasdik or other allowance

payable by the Provincial Government to the math or temple concerned and pay to the commissioner, the said amount after the expiry of the period of fifteen days referred to in clause (*b*) of sub-section (*2*) or in case an objection is received under clause (*d*) of that sub-section the amount, if any, due under the decision referred to in clause (*e*) thereof. Where the tasdik or other allowances is insufficient for the purpose, the Collector may with hold and pay as aforesaid the amount available and recover the balance as if it were an arrear of land revenue.

(4) Places of worship, including temples and tanks where utsavams are performed, idols vahanams and jewels and such vessels and other articles of a math or temple as, in accordance with the usage of the temple or math concerned, are necessary for purposes of worship or ceremonial processions shall not be liable to be proceeded against in pursuance of sub-sections (*2*) and (*3*).

(5) No suit, prosecution or other legal proceedings shall be entertained in any court against the Crown or any servant of the Crown for anything in good faith done or intended to be done in pursuance of this section.

CHAPTER IX.

MISCELLANEOUS.

Power of Provincial Government to make rules.

52. (1) The Provincial 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 powers of the commissioner to hold inquiries, to summon and examine witnesses and to compel the production of documents;

(c) the grant of leave, leave allowances and travelling allowances to and the conditions of service of the commissioner;

(d) the budgets, reports, accounts, returns or other information to be submitted by the commissioner;

(e) the qualifications for officers and servants referred to in section 10, 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;

(f) the organisation of a staff of auditors, their salaries and allowances, the control of such staff, its relations with the commissioner and trustees and generally the conditions of service of auditors;

(g) the security, if any, to be furnished by the commissioner and the officers and servants referred to in section 10;

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

(i) the method of calculating the income of a religious endowment;

(j) the books and accounts to be kept at the office of the commissioner;

(*k*) the custody and investment of the funds of the commissioner and the trustees;

(*l*) the form and manner of applications to the commissioner;

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

(*n*) the regulation of the mode and scale of expenses in relation to endowments.

(3) Such rules shall be laid on the table of the Orissa Legislative Assembly and notified in the *Gazette*; after the expiry of fifteen days after the rules are so laid on the table of the Assembly, they shall have the force of law unless amended by the Legislative Assembly within that period or, if the Assembly is not sitting, during that period at its next meeting. If the rules are amended by the Legislative Assembly, the rules so amended shall have the force of law.

Power to alter schedules.

53. (1) The Provincial 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 schedule as amended in exercise of the powers conferred by sub-section (*1*).

Suits.

54. (1) The commissioner or any person having interest and having obtained the consent of the commissioner may institute a suit in the Court to obtain a decree—

(*a*) to recover possession of property comprised in a religious endowment;

(*b*) appointing or removing the trustee of a math or excepted temple or of a specific endowment attached to a math or excepted temple ;

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

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

(*e*) directing account and enquiries ; or

(*f*) 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. V of 1908.

(3) All suits or other legal proceedings by or against the commissioner under this Act shall be instituted by or against him in his name.

Cost of suits, etc.

55. 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 48, 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.

Cost of proceedings.

56. The costs of and incident to all proceedings before the commissioner or before him and the person or persons in the service of the Crown under sections 33, 38, 39, 42, and 43, shall be in the discretion of the commissioner or the commissioner and the said person or persons as the case may be, and they shall have full power to determine by whom or out of what funds and to what extent such costs are to be paid; and the order passed in this regard may be transferred for execution to the court and shall be executed by the court as if the order had been passed it by itself.

Schemes settled under section 92 of the Civil Procedure Code.

57. 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; and such scheme may be modified or cancelled in the manner provided by this Act.

Alienation of immovable trust property.

58. (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 or of any specific endowment attached to a math or temple shall be valid or operative unless it is necessary or beneficial to the math or temple and is sanctioned by the commissioner and two persons, who shall be officers in the service of the Crown, appointed by the Provincial Government in this behalf.

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

(3) The order 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.]

[**59**. (*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 commissioner may, with the approval of the Provincial Government 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 modify or set aside such order but, subject to the result of such application, the order of the commissioner shall be final.*]

Putting trustee in possession.

<u>**59.**</u> [**60**] Where a person has been appointed as trustee of a math or temple or a religious endowment connected therewith or has been appointed to discharge the functions of a trustee, in accordance with the provisions of this Act and such person is resisted in, or prevented from obtaining possession of the math, temple or religious endowment concerned and the records, accounts and properties thereof, the court may, on application by the person so appointed and on production of the order of appointment, direct the delivery to such person of the possession of math, temple or religious endowment and of the records, accounts and properties thereof.

Saving of established customs and usages.

60. [*61*] 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 requisites 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.

61. [*62*] Save as provided in this or any other Act it shall not be lawful for the Provincial Government or for any executive officer of the Provincial 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.

62. [*63*] (1) Notwithstanding anything contained in the Court Fees Act, 1870, as amended by the Madras Court Fees Amendment Act, 1922, and the Bihar and Orissa Court Fees (Amendment) Act, 1922, and the Court Fees (Central Provinces Amendment) Act, 1935, the proper fees for the documents described in columns 1 and 2 of Schedule I shall be the fees indicated in column 3 thereof.

VII of 1870. Mad. V of 1922. B. and O. II of 1922. C. P. XVI of 1935.

(2) The provisions of the Court Fees Act, 1870, shall otherwise, so far as may be, apply to the documents mentioned in Schedule I, subject to such enactment as may be in force for the time being in the areas of the province in which the institutions or endowments affected by such documents are situate.

VII of 1870.

Grant of copies of proceedings, etc.

63. [*64*] The commissioner may grant copies of proceedings or other records of his office on payment of such fees and subject to such conditions as may be determined by him. Copies shall be certified by the commissioner or such officer as may be authorised by him in this behalf, in the manner provided in section 76 of the Indian Evidence Act, 1872. I of 1872.

Settlement of dispute as to whether an institution is a math or temple as defined in this Act.

64. [*65*] (1) If any dispute arises as to whether an institution is a math or temple as defined in this Act or whether a temple is an excepted temple, such dispute shall be decided by the commissioner.

(2) Any person affected by a decision under sub-section (*1*) may, within one year, institute a suit in the court to modify or set aside such decision; but subject to the result of such suit, the order of the commissioner shall be final.

Removal of difficulties in working Act.

65. [*66*] If any difficulty arises in first giving effect to the provisions of this Act, the Provincial 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 62 [*63*].)

Section. (1)	Description of document. (2)	Proper fee. (3)
		Rs.
17(2)	Appeal to the commissioner by any office-holder or servant against an order of punishment by a trustee under sub-section (*1*).	2
	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.	The fee leviable on a plaint for the amount claimed under the Court Fees Act in force in the area in which the temple is situate.
29(3)	Appeal to court against an order of suspension, dismissal or removal by the commissioner.	15
33(4)	Suit under the sub-section	15
33(5)	Suit under the sub-section	15
38	Application to the commissioner by not less than 20 persons having interest for framing a scheme of administration for a math or excepted temple.	15
39(4)	Suit under the sub-section	15
41	Suit under section	15
47(4)	Suit under the sub-section	15
47(5)	Suit under the sub-section	15
54	Suit under the section	15
58(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 commissioner sanctioning alienation of immovable property under sub-section (*1*).	15

Section.	Description of document.	Proper fee.
(1)	(2)	(3)
		Rs.
[59 (2)	*Application to a court to modify or set aside an order of the Commissioner under sub-section (1) allocating any endowment, property or the income therefrom to religious and secular purposes.]*	15
59 *[60]*	Application to the court for delivery of possession of endowments to a trustee appointed by the commissioner.	2
64 *[65]*(2)	Suit to modify or set aside the decision of the commissioner under sub-section *(1)*.	15

C. G. NAIR,
Secretary to Government.

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