CHAPTER III

Provincial Problems - Justice Party and Hindu Religious Endowments (1863-1927 A.D.)
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Changed Attitude towards the British:

The attitude of the Hindus towards the British and their rule in India was gradually changing. The early enthusiasm over the blessings of the British rule became cold as the evils of Muslim rule faded from living memory. As a result, by the end of 19th Century, the British forfeited the large fund of good will with which they had started at the beginning of the Century. The Mutiny of 1857, the first large scale popular outbreak, was the first expression of India's urge for independence against foreign rule. It brought together, in a desperate bid for freedom, an alliance of more diverse forces like the Hindus and Mohammadans, landed aristocracy and the peasantry etc. - a signal indication of Indian unrest and their growing determination to achieve independence.

The British were shrewd to realise the changing trend and initiated strong defensive action to protect their interests. In the opinion of Lord Rippon, the then Viceroy, "Policy as well as justice"
required that "India should be governed more and more
by means of, and in accordance with, that growing
public opinion which is beginning to show itself
throughout the Country."¹ Lord Rippon wrote to
Gladstone in 1884, "in the present condition of the
country, a truly and broadly liberal policy is
essential not only to the discharge of our duty as a
Nation but to the security of our Power as Government.²

Reform - Provincial Administration:

Even after 1858, Provisions were not having
any power of their own over the expenditure on the
Provincial revenues. They were acting only as agencies
of the Government of India to implement the imperial
will. To appease Public opinion and to appear that the
British were not reluctant to share their power,
they initiated action, by Mayo's devolution order of
1870, in making provinces more autonomous -
particularly in matters of Revenue and Expenditure -
and allowing them to be more responsive to the local
needs and demand.

1. Banerjee A.C. Constitutional History of India -
2. Ibid.
As a first step the Government of Madras brought in changes in the revenue collecting agencies. To make the Collector more efficient as a supervisor of the revenue system, he was relieved of some of his duties. The process began with the appointment of many more Deputy Collectors in 1885 and ended when the Tahsildars were drafted into the provincial civil Service in 1926. It replaced most of the locally recruited Revenue Officers with members of the provincial Civil service who were examined, recruited, controlled and disciplined from the Secretariat. The power of Village Officers was curtailed in distributing revenue demand within the village according to personal whim. The Provincial and the imperial governments also took steps to secure a better flow of information to the centre. Between 1880 - 1930 there were detailed Government enquiries into famine, agriculture, irrigation, Railways, etc. Between 1870 - 1910, the Madras Government acquired new Departments of Agriculture, Statistics, Industries and Fisheries, a new public works Secretariat, a Commissioner of Forests and a Registrar of Co-operative Societies. In the Districts it set up advisory Councils. These boards of non-official Indians advised and assisted

government in all the branches of administration. In 1880, new local-self-government Boards were set up by Rippon. The local Boards and advisory councils invited many more Indians into the process of Government in the district. Fort St. George was also drawing more Indians into the administration at the provincial capital. The new Departments of Madras brought prosperity directly to the people and indirectly to the exchequer. Thus the administration was reformed, the groundwork for development laid and the budget balanced.

In religious affairs, the British was aware of the mismanagement and mis-appropriation of temple funds by the locals due to the absence of a supervisory agency. The Government was interested in rectifying the defects of the Temple management and at the same time divest itself of its connections with religious institutions in view of her policy of religious neutrality. Various bills were conceived from 1860 - 1922 A.D to leave the administration of Hindu religious endowments to the local people. But they were dropped.

4. More Indians were taken on to the Senate of Madras University and High Court. In 1910, an Indian was appointed, for the first time, to the Governor's executive Council - the Cabinet of the Provincial government - Baker C.J. Politics of South India - New Delhi - 1976.
A Bill was introduced in the legislative Council in 1860. It provided for a Committee of Trustees. The Trustees in office were to be confirmed and the hereditary ones to be recognised. Vacancies were to be filled by election. The Bill provided a Committee of Audit consisting of not less than three and not more than seven. It was to audit the accounts and grant certificates, if accounts were correct. They were elected by those who had elected the trustees. With the permission of the committee, the Trustees could be criminally prosecuted for fraud. Suits relating to rites and ceremonies could be referred to Civil court or Panchayat whose decision was final. The Courts were to appoint members of the Panchayat belonging to the same sect as the religious institutions.

There was difference of opinion among the members of Board of Revenue as well as the general public at the discontinuance of connection of Government with temples and worship resulting in malversation of funds, malobservance of ceremonies and vested rights.

To rectify the defects in the administration of Hindu religious endowments, the inhabitants of Bhimilipatnam considered "administration by Government officials best, next to that by Hindu Zamindars and Proprietors residing near 6 Mr. G.W. Gajapati Raju, the Raja of Vijayanagar thought it impossible to appropriate the endowments of the Pagodas legitimately in the absence of surveillance on the part of Government officials. 7 The Collector of Masulipatam opined that the general feeling of the people was that the trustees were to be members of the family by whom the Pagoda was founded or endowed and were to be elected by the inhabitants of village where the Pagoda existed. In Zamindaris, the Zamindars were to take the place of the Government. 8

Sir Charles Trevelyan, the President of the Board of Revenue, agreed with the object of the Bill. He opined,"if our judges are left free to adopt the remedies to the special circumstances of each case - either insisting upon accounts being rendered or appointing trustees on the recommendation of trustworthy persons - they will be much more likely to save the endowments from depredation than if they are trammelled by detailed Regulations which must be inapplicable in the

7. Ibid
8. Ibid
majority of cases - I am of opinion that Regulation VII of 1817 be repealed and endowments be placed under the protection of the Court of Justice like every other property, more than this would be over legislation and over Government. But, Walter Elliot, a member of the Board of Revenue, opposed the repeal of the Regulation VII and leaving the most valuable properties beyond the pale of the law. He argued that the Collectors were to be given power to audit the accounts and bring the culprit to the notice of the Public Prosecutor or Criminal procedure. Mr. Moreland, another member of the Board of Revenue, believed that the endowments would be utterly wasted if left to the care of the courts which could not act unless encouraged to do so.

Since the opinion of the officials as well as the general public differed, the government of Madras transferred the papers to government of India. In 1863, the Imperial Government passed the Act No.XX of 1863, an act to enable the government to divest itself of the management of Religious Endowments. The sketch Act was drafted by Mr. Stokes.

The Act No.XX of 1863 was applicable to all the Public and Muslim religious endowments in the Presidencies of Bengal and Madras. It was not extended to Malbar. It was a general law and it did not deal with Hindu Religious and Charitable Endowments in particular.

2. The Act provided for the appointment of a Committee for the superintendence of mosque, temple or religious establishments and for the management of its affairs. The local agents working under the authority of the Board were instructed to transfer all landed and other property to committees.\textsuperscript{13}

The members of the Committee were to be appointed from persons professing the same religion as the one the institution belonged to and in accordance with the general wishes of those interested in the institution. The Local Government were entitled to cause an election under rules framed by them for the purpose of ascertaining the general wishes. Every member of the Committee thus appointed was to hold office for life. They could be removed for misconduct or unfitness by an Order of the Court. Vacancies were to be filled by election. No member of the Committee could also be a Trustee or Manager of the institution under its jurisdiction.\textsuperscript{14}

3. The Act divided all public religious endowments into two classes which were described in sections (3) and (4). The first class of endowments comprised of

\textsuperscript{14} Ibid
those in which the power of nomination of Trustee, Manager, and other administrators was vested in the Government. In the Second Class of endowments, the Government did not participate in their selections. In the case of first category of institution for the superintendence of these institutions, Government were to appoint local Committees of three or more persons to take the place and exercise the powers of the Board of Revenue, under the Regulations VII of 1817. 15.

In the case of endowments where the Government did not participate in their selection, the management and properties were left in the hands of the then Trustees, Managers or Superintendents who were liable to be sued by any person interested in them for any breach of trust or neglect of duty. They were subjected to Civil prosecution under the general laws for the criminal breach of trust. On the appeal from any person interested in the institution, the Civil Court could fill the vacancies by appointing a Manager. 16

Every Trustee, Manager and Superintendent of a

15. Ibid
mosque, temple or religious institutions were to keep regular accounts of their receipts and disbursements in respect of the endowments, where endowments were partly for religious and partly for secular purposes. The Board of Revenue was allowed to determine what portion of the endowments was to remain under its superintendence for secular purposes and what portions were to be transferred to the Trustees. 17

By the Act of 1863, the Government had laid down the principles of its relation to religious endowments and to those principles it adhered. For the first time in the history of India, the principle of direct election was sought to be introduced in the sphere of religious institutions and paved the way for self Government in matters of religious administration.

To implement the Act of 1863, the Collectors first formed Committees and saw that neither the members of the Government nor the Trustees became members of the Committee. 18 The Government provided rules, procedure

17. Ibid.
and qualifications for election of members to the Committees. It was laid down that vacancies would be filled by the rest of the members of the Committee conducting the election. 19

Though the Act of 1863 was passed to enable the government to divest itself of the management of religious endowments and to provide protection to them, the Act was not successful in achieving its purpose. The Act of 1863 proved to be a failure on account of the inherent defects in the structure of the Act and on account of the attitude of the people.

Defects:

1. Life membership of the committees proved to be a grave defect. Though it gave the services of honest and experienced people in some cases, it became a liability in many cases where the members were corrupt and dishonest. It was pointed out that "old age and imbecility are quite incompatible with the proper and efficient discharge of public duties." 20

Committees. Many a time it resulted in the reinstate-
ment of improper men by the Courts on account of some
technical or legal flaws.

4. The Act failed to provide for expenditure on the
maintenance of the establishment of the Committee.

5. The classification of the endowments, as descri-
bised above, was arbitrary and defective. It was
pointed out that better classification would have
been, those managed by public funds and those by
private funds. 23

6. The Act was singularly reticent on the internal
management of the Committees such as holding meetings,
conduct of business, the powers of the President and
Committee. Each Committee had its own way of doing
business (some elected their President for six months
and others for one year). 24

7. To avoid frivolous litigation, Section 18 of the
Act provided for a preliminary enquiry before a suit
could be filed to secure a prima facie, a bona fide

2. The duties and powers of Trustees, Managers and Superintendents of religious institutions and of members of Committees were not clearly defined. The Act simply transferred the powers exercised by the Board of Revenue and by the local agents (Collectors) to the Committees. Beyond this there was nothing in the Act to show what the exact powers of the Committees were. Hence the Committees were not able to deal effectively with disobedient and negligent trustees, Managers etc. A Trustee defying and setting at naught the authority of the Committee was a common occurrence.\textsuperscript{2}

3. The Act contained no explicit and well defined provision for the dismissal of a Trustee, Manager and Superintendent or holders of the religious inams by the Committee for misfeasance, breach of trust, neglect of duty etc.\textsuperscript{22} Consequently every delinquent holder of office or inam had to be proceeded against in the Civil Court especially in the Telugu districts of the composite state of Madras. The institution of suit for ejection was too costly and tedious to be ventured by the

\textsuperscript{21} Ibid.
\textsuperscript{22} Ibid.
suit. In practice it was not helpful both to the
condemner and the condemned. The former could not
marshal the facts, since the accounts were never
published and the latter, if judged guilty in the
enquiry could not hope to be judged impartially
during the case. "The Judge who had to try him,
had already made up his mind against him so far,
that he could not bring to the trial a mind with-
out a bias. He could not, as matters stand now,
help becoming - a grand jury, a policeman, a judge
rolled into one. This state of things is utterly
inconsistent with justice either to the plaintiff
or to the trustees".\footnote{25}

8. Section 13 of the Act required the Committees,
Trustees and Managers to keep regular accounts of
receipts and disbursement. As there was no provision
for regular scrutiny and publication of the accounts
by the Committees, the accounts were rarely kept, and
if at all they were kept, they were very fictitious.

9. Since the members of the Committees were not paid,
there was no incentive for them to work honestly.\footnote{26}

\footnote{25} G.O. 501, Public, dated 3rd May, 1897.
\footnote{26} G.O. 1975 (A), Judicial, dated 23rd October, 1874.
The attitude of the people was also responsible for the failure of the Act. They were used to the idea of the kings controlling their religious institutions and endowments. They felt that it was the responsibility of the Government, though alien, to look after the religious institutions. Universal regret was expressed at the discontinuance of connection of Government with the temples and worship which gave rise to malversation of funds, malobservance of economies and vested rights. In numerous appeals and petitions to Government, people expressed their wish that the Government was to give up its policy of neutrality in this sphere and set up a machinery to manage them. The people did not take the responsibility of organising the affairs of the religious institutions. Instead, they started a movement to alter or scrap the Act. It was only Dharma Rakshana Sabha which did a great deal of good work in expressing the grievances of the people with regard to the affairs of their religious trusts. The clamour for reform compelled the Government to set up a Committee to draft bills on the subject of the religious endowments. Between 1870 and 1920, twelve
attempts were made at Madras, Bombay and Calcutta
to remedy the defects of the Act. All these attempts
culminated in the passing of the Act I of 1925 which
repealed the Act of 1863. Mr. A.O. Hume, officiating
Secretary to the Government of India, Home Department,
in his Despatch to the Government of Madras stated,
"the funds of religious and charitable endowments in
certain portions of the lower provinces are to a very
great extent squandered, misappropriated by the
Managers and Trustees who administered them and the
Governor-General-in-Council fears that evils and
abuses of this nature now brought to light prevailed
to a greater or lesser extent all over India".\(^{27}\)

It was thought necessary to have a remedial measure
of general application. It was expressed by Govern-
ment of India that they would accept a legislation
which would make the Act XX of 1863 more effective
by remedying the admitted defects in it and enabling
the executive Government to abstain from all inter-
ference with the management of religious endowments
which were to rest extensively with the Votaries of the
particular creed concerned.\(^{28}\) The Council of the

Governor-General of India assembled for the purpose of making laws and Regulations under the provisions of the Indian Councils Acts of 1861 and 1892. Mr. V. Ramiengar, a member of the Madras Legislative Council, introduced the first measure in 1871. An Act was drafted by him for the better protection of Hindu and Mohammedan Religious Endowments and for their due appropriation to the purposes for which they were made. It provided an annual scrutiny of the accounts of revenues and disbursements of religious institutions, and insisted on the application of funds for which they were granted. The Board of Revenue felt that though the bill would be an improvement on the existing law, it was radically incomplete and would certainly fail to attain its object. The Government of Madras also concurred with the view.

A new Committee was set up with Sir William Robinson, as its President by the Madras Government which submitted its report and a draft Bill in 1877. It proposed for the establishment of a Central Board

31. Ibid
32. G.O. 639, Judicial, dated 4th April, 1876.
with paid members and the extension of control over temples of all classes. The Board of Commissioners was provided with the staff of Inspectors and Auditors to control and regulate the administration of the Devasthanam endowments. The Executive power was vested in the local Trustees and Managers to be appointed by the Board. Subject to an appeal to a Civil Court, the Board was empowered to remove the Trustees and Managers from office. Sanction was refused for its introduction on the ground that the Bill made too heavy a demand upon the work of public servants and gave officials too much scope to interfere with the internal management of religious institutions which was not in accordance with the principle of religious neutrality. The Governor of Madras observed "while we are endeavouring to establish and strengthen local self-government, we should encourage and foster local management of these essentially local matters and Trustees should be made to recognise the responsibility rather than be relieved of it; and to take any step likely to encourage indifference amongst local people to the responsibilities of local
duties is, impolitic³⁴.

The next Bill was drawn by D.F. Carmichael, a member of the Council in 1884.³⁵ The Bill aimed at the substitution of District Boards, constituted under the local Boards Act, in the place of Board of Commissioners in the Town of Madras and the exemption from all control of religious endowments under the management of hereditary trustees. The Government of India did not approve on the ground that local Boards were in their infancy, hence unwise to saddle them with additional responsibilities.

The Government appointed in 1884, a new Committee with Mr. Sullivan, a member of the Council as President to consider and report on the matter of the Draft Bills already before them.³⁶ The Committee submitted a Draft Bill in 1886.³⁷ It excluded the Mohammedan endowments in view of the absence of widespread complaint regarding their management of endowments. It proposed the appointment of Central Committee of paid members.

³⁴ G.O. 33-34, Judicial, dated 10th January, 1879.
³⁵ G.O. 58, Legislative, dated 5th February, 1884.
³⁶ Ibid.
³⁷ G.O. 1814, Public, dated 17th April, 1886.
The members of the first Committee alone were to be appointed by the Government in their legislative capacity and the subsequent vacancies to be filled by the High Court. The Bill provided for the establishment of District Committees, one-third of the members were to be nominated by the Central Committee and two-thirds to be elected with a view to secure local involvement. The Central Committee had to supervise and audit the accounts of the District Committees and the latter was to supervise and administer institutions in the revenue district under them. The Trustees were to manage the institutions, which were under District Committees. It insisted that Committees were to have the power to control and manage the properties of Maths, but were not be given the power of dismissing Matadhapatnis (head of the Maths). But the Government of India felt that the Bill was too wide in its scope and suggested the introduction of a Bill more limited in scope and more in harmony with the policy of the Act XX of 1863.

A new Committee was constituted to draft a Bill

38, Ibid.
39, G.O. 543, Public dated 15th April, 1867.
which would amend the existing law in conformity with the views of the Government. The Committee headed by Justice T. Muthuswamy Iyer consisting of six Hindus, submitted its report with a Draft Bill in 1893. The Committee was of the opinion that the administration of Religious Endowments was rotten to the core and required thorough and complete reformation. The Bill extended the authority of the local Committees to temples under hereditary Trustees and invested the District Judges with certain additional duties. All Trustees were to keep accounts. It excluded maths, private and small temples and institutions of a charitable nature. The Bill entrusted the District Judges with work of compiling and maintaining members' and voters' list, conducting elections, nominating prescribed numbers of members of the Committees, issuing summary orders to eject the dismissed Trustees etc. The Government of India refused the Bill on the ground that the Bill provided a number of functions to be exercised by the District Judge which were of an executive rather than a judicial

42. G.O. 72 - 74, Legislative, dated 26th May, 1894.
character. The performance of such functions by an Officer of Government whatever the designation of the office held by him, would be a departure from the principles of Act XX of 1863 and an interference by the Executive Government in the management and control of religious endowments. The only legislation of which the Government of India could approve would be in the direction of making Act XX of 1863 more effective by remedying admitted defects in it. They could not under any circumstances sanction any proposal to revise the procedure or alter the principles embodied in the Act in any material way.

In 1894, another Committee under the Presidency of Mr. Chnsttal Rao Pantulu, was constituted in 1894 which submitted its report and the draft Bill in 1899, to provide for the better administration of Hindu Religious Endowments. It was practically a re-enactment of Act XX of 1863 with certain alterations. The Bill limited the tenure of office of the members of the Committees to five years instead of life and fixed the number of members of Committees as not less than three and not more than twelve, to be decided by the Committee members. It

43. G.O. 114, Legislative, dated 23rd October, 1894.
44. Ibid.
included all religious institutions whose Trustees were appointed with the sanction of the Government. The hereditary Trustees were to keep regular accounts and submit them to the Committee once a year. The Government of India rejected the Bill on the ground that it extended the scope of the Act of 1863. It included a new class of trustees, extending the scope of the Act of 1863. By making the hereditary Trustees subjected to the control of Committees, the Bill departed from the principles of the Act of 1863.

Since the Committees failed in their Bills to provide a suitable remedy to rectify the defects in the administration of religious endowments, certain association like the Dharma Rakshana Sabha tried to protect the properties of the Hindu Religious Endowments. Established and registered under the Act XXI of 1860, it requested all the trustees and committees to furnish a list of endowments and properties of the temples. It audited the accounts, filed suits for the removal of corrupt Trustees and settled schemes. Very

46. G.O. 627-628 Public, dated 28th May, 1912.
few temples responded. It could not achieve its noble purpose of protecting the properties, as the Act of 1863 fortified the position of the religious institutions. Members of the public sent petitions, memorials and addresses to the Government to check the misappropriation of funds of the religious institutions.

A few Bills were introduced in the Imperial Legislative Council by private individuals. In 1897, one such Bill was introduced by Rao Bahadur Anant Charlu, a member of the Imperial Legislative Council to enable the Government to divest itself of management of religious endowments. He was for the abolition of the distinction between the endowments which had been under the direct control of the Government at one time and those that had not been so. It provided for the administrative machinery of Central Committee and District Committees for each religion to be elected.

47. Vide G.O. 86-87, Legislative, dated 3rd July, 1894.
   G.O. 216-17, Public, dated 21st February, 1899.
   G.O. 397, Public, dated 9th April, 1900.
   G.O. 739, Public, dated 7th July, 1911.
   G.O. 369, Public, dated 24th March, 1914, etc.,

by the members of that religion. The District Committees were to exercise general supervision over the religious institutions and the Central Committee acted as an Appellate Tribunal to correct the mistakes of the District Committees. The Government rejected the Bill on the ground that a uniform legislation throughout India was an impossible task in view of their vast diversity of conditions and requirements.

In 1896, the Honourable Kalyana Sundaram Iyyer introduced a Bill in Local Legislative Council of Madras. The Bill wanted to remove the life membership of the Committee members. It provided provision for the revision of voters' list, scrutiny and publication of accounts, empowered the Committees to deal effectively with negligent trustees and provided for adequate finances of the Committees. He withdrew his Bill on learning that the Government had the matter under consideration.

In 1902, Mr. Sreenivasa Rao proposed to introduce a Bill in Madras Legislative Council with the intention of removing life membership of the Committee Members.

50. Copy of the Bill and Legislative Council Proceedings, dated 26th February, 1896, and 9th April, 1897.
and providing scrutiny and publication of accounts. As Lord Curzon did not want the Government to interfere in the management of religious institutions, the Government of India did not accord any sanction for its introduction, though the Government of Madras supported the Bill.

In 1912, under the guidance of Dharma Rakshana Sabha Messrs. T.V. Seshagiri Rao and L.A. Govinda Raghava Iyer sought to introduce a Bill in Madras Legislature to rectify the defects of the Act of 1863 without damaging its spirit. The Bill wanted to remove the life membership of the Committee members, and wanted to introduce auditing of accounts, provided financial assistance to suits by the committee etc. While forwarding the Bill to the Government of India, the Government of Madras informed them that "there was the consensus of opinion in the State that the Act XX of 1863 required amendment and any refusal to allow the legislation to proceed would arouse much resentment". 51

A conference of officials and non-officials was convened by the Government of India in 1912 to discuss the question of the administration of religious and charitable endowments. In consultation with the Secretary of State, they decided to undertake an 

Imperial legislation and the Imperial Legislative Council enacted the Religious and Charitable Trusts Act in 1920. This Act was meant "to provide facilities for the obtaining of information regarding trusts created for public purposes of a Charitable or religious nature and to enable the Trusts of such Trust to obtain directions of a court on certain matters". But this Central Act was extremely limited in its scope and proved ineffective in controlling the Trusts.

Problems in the Madras Presidency - the Non-Brahman Movement:

Between the first and second World Wars, while North India was primarily concerned about achieving independence from the British Rule, South India was entangled in different movements viz.,

the National movement, the Non-Brahman Movement based on Caste and a movement for separate State for Andhras (Telugus) based on language.

During the years 1916-29 nationalist politicians, largely Brahmans, the highest Caste in the South Indian social hierarchy, were challenged by a group of non-Brahmans, who began to take an active part in the politics of Madras. Political movements purporting to protect the interests of a particular caste, sect or community - a minority - were a common feature of the new politics of India in the early twentieth century (a period of councils, ministers and electorates). It was unusual, if not paradoxical, to find a movement which claimed to defend a majority - a majority which included up to 98 percent of the population and almost all the men of wealth and influence in local society. The Non-Brahman Manifesto, with which the movement was launched in December 1916, argued with convincing statistics that Brahmans were unnaturally prominent in the public services, in the University, Senate, the High Court and all the superior political jobs open to Indians. Besides this, they ran the Congress and dominated public life. The Manifesto traced

the Brahman's success to their ancient literary traditions and their consequent skill to pass examinations. It also pointed out that the Brahman Congress and many Brahman public servants had espoused the cause of Home Rule and it pledged the loyalty of the non-Brahmans to the British connection. 56 An English paper 'The Justice', the Tamil 'Dravidan' and the Telugu 'Andhra Prakasika' were started and several non-Brahman conferences were held particularly by the South Indian Liberal Federation (S.I.L.F). These organs argued that there was a fundamental political conflict between the Brahman and non-Brahman, that the non-Brahmans needed to organise to achieve social uplift and political power and that government should take special steps to promote non-Brahman interests in education, in the services and in politics. 57

The social relationship between Brahmins and others varied from area to area. Infact, a few Brahmins were rich and powerful. Majority were employed in occupations that were essentially menial as cooks, scribes, and religious

56. The Hindu, 20th December, 1916.
functionaries and could be purchased by the wealthy of other castes for a few coins or a broken coconut.\(^{58}\) As majority of the Brahmans were educated, they preferred Government Jobs. The non-Brahman possessing land and wealth of his own was repugnant to serve under others. As a result they did not care for public service. Thus it could be seen that a community, minority in numbers, geared itself and occupied many positions of importance in all occupations which matter. The majority of non-Brahmans constituting 98 percent were to be content with agriculture and few other avenues.

During this period there was a sudden awakening among the non-Brahmans that they did not get their due share in employment and administration. It started as an agitation and grew into a movement. The sole object was to stop the Brahman advancement and to promote non-Brahman interests. As a first measure they advocated reservations in the Government jobs and representations in the University and syndicate based on Caste. Several biggest estate-holders of the province, particularly the Rajas of Pithapuram, Ramnad, Bobbili and Kalahasti resented the Mylaporean’s success in deploying the Dharma Rakshna Sabha to interfere in the management of temples which they had considered virtually their own property.\(^{58}\)  

On account of the changed circumstances the provincial governments were calling for more autonomy, another devolution of power just like the one Mayo had initiated in 1870, so that they could have even more freedom to adjust internal affairs to the special circumstances of their particular regions. Accordingly Montague - Chelmsford Reforms, introduced in 1919, created a new All India Legislative Assembly at Delhi and a scheme of 'dyarchy' or dual rule in Madras Presidency along with other provisions. For the next sixteen years the Governor in Council shared the responsibility for Provincial Government with three Indian Ministers. Thus it provided opportunities for Indians to participate in the administration of the Province and also an arena for provincial politics. In the elections, the Justice party - a non-Brahman political party attained victory in 1920 and led to the formation of Justice Ministry which lasted from 1920 - 23. The Ministry consisted mostly of Telugus like A. Subbanayalu Reddiar, Rajiah of Panagal and K.V. Reddi Naidu who provided not only leadership but also finance. The Justice Ministers undertook the responsibility of the Transferred subjects which included the religious endowments.
Justice Ministry and Hindu Religious Endowments:

Before 1920, the Justice leaders had vigourously opposed legislative interference in Temple affairs. 59 Once the Justicites had replaced the Mylaporeans at the Governor's right hand, their policy towards temples underwent a great change. As the temple interests of influential men like the M.L.C. N.A.V. Somasundaram Pillai of Tirunelvelly and the Madura Zamindar suffered under the attacks of Mylaporean's Dharma Rakshna Sabha, the Justice leaders pressed Government to break its sixty-year-old policy of non-interference and to allow them to legislate in the temple matters. 60 The first two justice ministries introduced one legislative measure to regulate the administration of the many temples and mathis that dotted the Madras countryside.

It had long been recognised that such a measure was necessary to correct the above powers by committees and individuals placed in charge of Hindu religious endowments' funds and to eliminate the costly law suits that resulted from the maladministration. But the British policy of neutrality in religious matters prevented any action being taken until the introduction

59. G.O. 175, (Local & Municipal) Feb., 1918, Madras Record Office.
of Montague - Chelmsford reforms in 1919. During Justice Ministry Raya of Panagal who was in charge of religious endowments appointed a Committee to draft a Bill with the Raya of Ramnad as its President. 61

The Justice leaders regarded the Bill as an attack upon religion. A resolution was passed at the Justice confederation in January 1923, stating that the non-Brahmans should train a batch of 'Purohits' (Priests) to officiate at their marriages and they should encourage matrimonial alliances between non-Brahmans. Justice party members like Mr. Venkataratnam, a Telugu, in a series of articles in 'Justice' criticised the interference of Brahmans as Priests in religious affairs. Notable among the leaders of the non-Brahman movement were S. Raghavayya Chowdary from Telugu area and E.V. Ramaswami Naicker in Tamil areas. Through the writings and preachings of S. Raghavayya Chowdary in Brahmanetara Vijayamu and Brahmanetara Sangha Dharasyam in Telugu and E.V. Ramaswami Naicker's Kudi Arasu - a Weekly in Tamil, non-Brahmanism acquired the making of a social theory, Brahmans were accused of dominating South Indian society ever since the Aryan invasions and of maintaining that domination through caste rules and ritual practices. E.V. Ramaswamy Naickers Self-Respect movement which began

61. Ibid
from 1925, the most organised a series of conferences between 1925 and 1931 and laid down a programme of social and political action which included condemnation of the 'theory of superiority and inferiority', the abolition of untouchability and the right of access to temples and wells for all communities, the proscription of holy books which promulgated Brahman mythologies, diversion of temple funds for secular uses, abolition of priests the abolition of all caste suffixes in personal names, the uplift of women etc.

The Andhra Movement:

During the Justice Ministry a large number of Andhras entered the Legislative Council. There was a simmering discontentment growing among Andhras that the reward for the Telugu speaking areas was not commensurate with its contribution to the province. The feeling that Tamil areas were being developed and the Andhra area was neglected on all fronts - education, employment and general development was gaining ground.

The remedy was sought in carving out a separate State, based on language for the Telugu speaking people
(like Bihar and Crissa) out of the composite province. 62

The Andhra members in Legislative Council on two occasions, once in 1921 and in 1922, questioned the government about its attitude towards the formation of a separate Andhra State and University. Mr. Suryanarayana from Vizagapatam District introduced a resolution recommending that the Madras Government should create a separate Andhra Province. 63

It is of interest to note that though the Andhra Movement was originally conceived and advocated by Andhra Brahmans, the non-Brahmans in the Justice party never opposed it.

The Telugu - Tamil rivalry in Madras:

Criticising the first Justice party ministry formed on 17 December 1920 as an 'Andhra Non-Brahman Hindu Ministry; a Tamil non-Brahman exhorted the Tamil - non-Brahman Hindus and the minorities not to sleep over the matter for they would sooner or later have to start, at a great disadvantage, a fresh campaign against the Andhra non-Brahman Hindus and the Andhra Non-Brahman Hindu Ministry in power would before them, found and strengthen

62. Some regarded the Andhra Movement as a Brahman Movement, others as a concealed demand for more employment opportunities for locals. A few considered it simply as a secessionist demand akin to the one for Pakistan. Dr. Pattabhi considers it neither social, nor educational nor even political - it is a national movement - or if you please, it is a sub-national movement - 'The Hindu' dated 24 September, 1913 - for details see Narayan Rao K.V. The Emergence of Andhra Pradesh - Bombay 1973.

their ascendancy and predominance in the councils.\footnote{64}

The Justice party took note of this criticism and within a week appointed 3 non-Telugus as Council Secretaries. The Hindu soon after the elections in 1923, editorially queried:

In the last 3 years, the Council’s energies in so far as they were effective, were utilised in tackling the Brahman - Non-Brahman problem. In the next triennium is the council to have nothing better to do than set up and attempt to solve a Tamil - Andhra problem?\footnote{65}

Thus Justice party was never homogenous as it was made up of different non-Brahman castes from different linguistic areas. Internal power struggle kept it always weak and divided. As a result the justice party did little to promote general religious or social reform. The interference of Justice ministers with the religious life of the Presidency created feelings of district and uneasiness between Brahmans and non-Brahmans. But the relation between Brahman and non-Brahmans was more cordial in the Telugu tracts due to the fact that alongwith Brahmans, Naidus, Kammus, Reddies etc. communities also

\footnote{64. Shankumar Pillai, K.S. “Andhra Non-Brahman Hindu Ministry”. The Hindu (5) and (6) February 1921.}

\footnote{65. The Hindu, dt.17 November 1923.}
had sizeable land holdings and were almost on par with Brahmins on the social ladder, Telugus were more interested in the formation of a separate State and a university, than in the caste politics.

The Hindu Religious Endowments Bill:

The Committee to draft a Bill on religious endowments with the Raja of Ramnad as its President came to the conclusion that the amendments required for the Act of 1863 to remedy its admitted defects were so numerous that the preferable course was to repeal it altogether and enact a self contained piece of legislation dealing with the whole subject of religious endowments in this Presidency. They accordingly prepared and submitted a comprehensive Bill on the subject in 1922.

The Bill of 1922 left the Muslim endowments to be governed by the Act of 1863 as the time was not opportune and dealt only with Hindu religious endowments. It provided for a regularly constituted committee to control and supervise the management of religious endowments. Its members were to be partly elected and partly nominated by the Local Government. (Provincial Governments). The Local Government was given the power to vary the constitution and the jurisdiction of the Committees and even to abolish them. The term of office was reduced to five years. The committee had to maintain a proper register of endowments, containing their origin and history, inspect the movable and immovable properties of the temples, and settle dittams.
(Standard scale of expenditure). They had to direct the religious institutions with an income of more than Rs.3,000/- a year, to get their accounts audited once a year by auditors certified by the Local Government. The Committees were empowered to determine the grades, designations, and scales of pay of its servants. The Local Government was given the power to make rules, enabling the Committees to intervene even in the internal administration of the temples. To put an end to the litigation, the Rannad Committee made the decision of the Committee and the Local Government the Collector and the Court final on many matters. Specific provision was made for the diversion of surplus funds of religious endowments for purposes of public utility, other than those for which they were originally intended. The power of diversion of funds was vested in the Court which followed the Cypres 66 doctrine. The Bill also aimed at safeguarding the long established customs and usages of temples and preventing the Government from interfering with the Hindu Religious Endowments except in a manner approved by law.

66. Cypres - "Where there is an intention exhibited to devote the gift to charity and no object is mentioned, or the particular object fails, the Court will execute the Trust Cypres, and will apply the fund to some charitable purposes similar to those (if any) mentioned by the donor". - V.K. Varadachari's The Law of Hindu Religious and Charitable Endowments, Edited by Vepa P. Sarathi, Second Edition, Lucknow, 1977. One of the earliest cases in which the doctrine of Cypres was applied in a religious endowment was in relation to the famous Sri Venkateswara Temple at Tirupati in Prayagdossji Varu V. Sri Rangacharulu Varu, Ibid. P.249.
In short, the Bill aimed to curb maladministration by providing local committees which could inspect temples, approve expenditure from temple funds, audit temple accounts and appoint temple trustees when there was a dispute over the post. The Bill did not touch the maths and it made no attempt to interfere with the power of the courts to intervene in temple affairs. 67

The Bill was published in the Fort St. George Gazette in English on 5th December, 1922 and in Tamil, Telugu, Malayalam and Kanarese on 12th December, 1922. It was referred to a select Committee which held thirteen sittings in all. At the Select Committee stage drastic changes were introduced which altered the character and tone of the Bill. Select Committee gave the opportunity to all persons to submit written representations on the provisions of the Bill. While retaining the main features of the original Bill, the Select Committee had made some elaborations and additions which necessitated a rearrangement of the Chapters and regrouping of Clauses of the Bill.

The Select Committee strongly supported the inclusion of Maths on the ground that "Math as an institution exists for the spiritual welfare of the disciples and matadhipati is an ascetic and could as such have no interest other than those which are proper and subserve the interest of his disciples".

Since large properties were in the hands of them and there were evidences for their mismanagement, the Select Committee declined to drop the Matha out of the Bill altogether. But they were not subjected to the jurisdiction of the local committees and the matadhita was expected only to keep proper accounts and to have them audited.68

The Select Committee decided to accord similar privileged treatment to certain temples which they called "Excepted Temples" and omitted the term "hereditary temples" which was used in the original Bill. The Term "Excepted temples" excluded cases where even one of the Trustees of a temple was non-hereditary. Even among temples in sole charge of hereditary trustees, it excluded cases where the hereditary character of the Trusteeship came into being for the first time after 1842. The year 1842 was selected as that was the year in which the Government began abandoning their control over temples in pursuance of the orders of the Court of Directors. The hereditary Trustees created by the English after 1842 were not allowed to enjoy the privileged treatment; the Trustees of most of the 'Excepted Temples' were Zamindars and wealthy land holders and other

persons who made voluntary contributions for their support from time to time. As they took strong exception to control by local committees and since any alienation of their sympathes would affect prejudicially the pecuniary support which the temples had been receiving at their hands, these Excepted Temples were exempted from the control of the Local Committees. 69

Select Committee added a Central Board or Boards depending on the volume of work, on the lines of Charity Commissioners in England. It was essentially an administrative body. It felt that the Local Committees formed under Act XX of 1863, suffered from want of guidance, control and coordination. The Board was intended to supply this want. The Board was expected to deal with the Maths and expected temples directly which were exempted from the control by Committees. It would hear appeals from the decisions of Committees and exercise, like the Board of Revenue under Madras Regulation VII of 1817, general superintendence over all religious endowments. 70

69. Ibid.
70. Ibid.
Select Committee advocated in favour of audit conducted by an agency appointed and controlled directly by the Government. The Government was to recover the costs of audit out of the funds realised by the Board and Committees in the shape of contributions. The Select Committee recommended that the Board be entitled to levy a maximum contributions of one and half per cent (1½%) on the income of all the institutions including the 'Maths' and excepted temples. The Committee were allowed a similar percentage of contributions for their own purpose from the income of non-excepted temples. 71

Out of the 27 members of the Select Committee, six members submitted minutes of dissent. Much of the criticism was directed against the clause relating to the creation of central board on the ground that an administrative body was given vast judicial powers and its decisor as final. Exact nature and scope of its powers were not carefully delineated and the machinery regarded costly. 72

71. Ibid
72. Ibid
When the Bill came out of the Select Committee of the Legislative Council looked completely different. Its new character showed that the Justice leaders were not simply interested in reforming temple management, but in imposing a large degree of central control on the temples and in bringing important patronage under their command. The new bill virtually annulled the power of the courts in temple affairs, included the maths, imposed a tax on temple incomes, gave a broader definition of the powers of the local committees and created a central Endowments Board which along with the local Committees, would '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'. The Endowment's Board, in consultation with the Ministers was to nominate members to local temple committees, to arbitrate in temple disputes and to assume direct control of individual temples if it deemed it necessary. Temples in the South had not been subjected to such a degree of supra local control since the time of the Chola Empire.

Several clauses of the Bill were hotly debated in the Madras Legislative Council during 1922-23 and several amendments were suggested. One important amendment moved by the
late L.A. Govindaraghava Ayyar which provided for the election of all members of the Temple Committee was accepted.\textsuperscript{73} The exclusion of the Mohammedan Religious Endowments was criticised on the mistaken notion that the Mohammedan Religious Endowments were better managed than the Hindu ones. The Raja of Panagal replied, "I have no doubt that Honourable Member will readily agree that the Khilafat question still disturbing the minds of the Islaame Communities, the time is not quite suitable for undertaking legislation in regard to Mohammedan Religious Endowments".\textsuperscript{74}

Religious institutions which were in receipt of a gross income of less than Rs. 250/- per mensem were excluded from the purview of the Bill. Diwan Bahadur T.N. Sivagnanam Pillai feared that the Trustees of these temples would make money. "Nobody knows what will become of them". He suggested that all the temples which were under the supervision of the temple committees prior to this Bill ought to be retained.\textsuperscript{75}

Mr. M. Suryanarayana Pantulu pleaded for the redrafting of the clauses relating to the Committees and their constitution as Clause 5 says "Local Government may, by notification,


\textsuperscript{74} Proceedings of the Legislative Council of the Governor of Madras, dated 19th December, 1922, Vol.10, p. 1006.

\textsuperscript{75} Proceedings of the Legislative Council of the Governor of Madras, dated 19th December, 1922, Vol.10, p. 971.
direct the constitution of a committee for any local area thus making it possible for the committee being constituted over all the religious and charitable institutions under the control of the hereditary Trustee, the Maharajah of Vizianagaram”. But the proviso says, “not more than one committee shall have jurisdiction over the same place of religious worship or religious institution or the endowments and properties connected therewith”. He pointed out that there were important religious places like Simhachalam, Srikurumam, Ramatirthalu and Panchdharalu in Vizianagaram District which were not equally and richly endowed. If there was a committee having jurisdiction over each temple it would be very difficult for a hereditary Trustee to manage their Devasthanams as to be profitable to all the institutions. Many a time the funds of the Simhachalam Devasthanam were used for other temples in the District which were not adequately endowed. Therefore, the Bill should be remodeled in such a manner as to make it possible for one hereditary Trustee to have the sole management of all the temples, under his control, the Committee being entrusted to have jurisdiction over all the temples under the hereditary Trustee.

76

Regarding Tirumala temple Mr. Ranganatha Mudaliar had pointed out that no provision was made in the Bill for an agency to inquire and decide whether the Trustees of such institutions were hereditary or otherwise as the properties of this temple were self acquired and were under the direct management of the Government till the year 1840 when they were handed over to the Mahant of Tirupati. Again Clause 29 of the Bill did not place any obligation on the hereditary Trustee regarding the scale of expenditure and the allocation of the funds to various objects, connected with the endowments. 77

The application of the cy pres doctrine to the surplus funds of the religious institutions was discussed in the Legislative Council. Mr. P.T.Rajan had pointed out "once we sanction the diversion of funds collected from endowments to purposes of public utility - a very illusive term indeed - there is no knowing where we can fix the expenditure within the limits of cy pres." 78 Hence it is a matter which should be guarded against. It was pointed out by Diwan Bahadur T.N.Sivagnanam Pillai that since the funds of Christian Missionaries and Mohammadan endowments were never diverted to other purposes, there was no need to divert the surplus

of the Hindu Religious Endowments to work of public utility. It had been pointed out that instead of allowing the mismanagement and misappropriation to continue, it would be better to devote these funds to some benevolent purposes such as medical relief or sanitary assistance or educational improvement, which would confer an advantage upon a large portion of Hindu community. It would be more appropriate to earmark the surplus amount of a particular temple to be spent for the benefit of the place where it was situated and its surroundings, after meeting the legitimate needs for the upkeep of the temples. Raja of Panagal opined, "Charity and religion are two things almost identical so far as the Hindus are concerned. So when the diversion is made in these directions, it cannot be objected to". 80

Opinion on the Bill was divided more according to considerations of political interest and political alignment. The Justice leaders feared a revolt among many of their closest supporters in the legislature, including men who had at first supported the idea of temple legislation but who shied away from the centralisation enshrined

in the new Bill. Many of the prominent land holders feared that Government would now make some of the temples on their estates, which they had long considered their personal property and which were among other things, a useful means to gain tax relief, into public places. 81

This Bill was introduced twice as Bill 12 of 1922 and Bill 5 of 1926, in the two successive Legislative Councils of Madras. The former became the Act I of 1925 and the latter the Act II of 1927. Though the Bill 12 of 1922 was welcomed by all to check misappropriation of the funds of the religious institutions, it was protested when it was passed in 1923 82 and sent to the Governor of Madras for his assent. A number of protests, representations and memorials were addressed to the Governor requesting him to withhold his assent. Those who were in favour of the Bill appreciated the Government's decision to give up the policy of neutrality with religious institutions and the realisation of Englishmen along with Indians as partners in shaping the destinies of this country as they were more alien to one another.

81. G.O. 3847, Local Self-Govt. 3rd September, 1926, Madras Record Office.

The Mahant of Tirupati presented a memorial to His Excellency the Governor on 5th May, 1923 requesting him to withhold his assent and to exclude him from the scope of the Bill. The Bill was objected on the grounds that it violated the principle of religious neutrality of Government, (2) the Mathas were not endowments (3) and the diversion of surplus funds was objectionable. The Bill was amended by the suggestions of Governor and sent to the Governor General for his assent. His Excellency being satisfied that the measures as a whole was a fair piece of legislation, he gave his assent and the Madras Act I of 1925 was put into force. It was the first law relating purely to Hindu Religious Endowment enacted by the Legislature.

The validity of the Act I of 1925 was challenged in the Madras High Court by leading Matadhipatis, Managers of temples and leading lawyers like Tej Bahadur Sapru. It was questioned whether the Governor of Madras was competent to remit the Bill to a Council. A Bill repealing the Madras Act I of 1925 and re-enacting its provisions in another code with a clause validating all the acts done under the Act I of 1925 was introduced in the Council in 1926. The Bill was passed on the 17th September, 1926 as the Madras Hindu

83. G.O.No.2803, Local and Municipal, dated 17th December, 192
Religious Endowments Act of 1927 or Madras Act II of 1927. It was an Act to provide for the better administration and governance of certain Hindu Religious Endowments and to remove certain doubts as to the legality of the action taken and things done under the Madras Hindu Religious Endowments Act of 1923. This Act repealed the Religious Endowment Act of 1863, and the Madras Endowments and Escheats Regulation of 1817, as far as they apply to Hindu Religious Endowments to which this act applied. This Act extended to the whole of the Madras presidency except the Presidency town and applied to all Hindu Public Religious Endowments including Jain Religious Endowments. The Local Government (or Provincial Government) might exempt any endowment, cancel or alter such exemption from the operation of any of the provisions of the Act in consultation with the Board. It could also extend the provisions of the Act to the Jain Institutions as they did not materially differ from the Hindus. The Act applied only to public and religious endowments and not to private and charitable institutions.