

CHAPTER 433  
KANDY CHURCH

*Ordinances* AN ORDINANCE TO PROVIDE FOR A CHURCH IN KANDY.  
Nos.11 of 1842,  
21 of 1910,  
7 of 1914,  
17 of 1930,  
2 of 1931.

[29th September. 1842.]

Preamble. Whereas several persons have, with the concurrence of the Lord Bishop of the diocese, subscribed certain sums of money for the purpose of erecting a church at Kandy, for the celebration of Divine worship according to the rites of the United Church of England and Ireland, and by some minister thereof duly appointed by Government: And whereas the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, has consented to grant from the public chest a sum equal to the amount of subscriptions paid up, provided that such sum shall not exceed the sum of £ 1,500 : And whereas it is expedient to provide for the immediate appointment and continual succession of trustees for the direction of the building of the said church, according to such plan and specification as shall be agreed upon between His Excellency the Governor of this Island and the trustees:

3. Before any sum or sums of money shall be issued as aforesaid, the parties to subscribing shall, by plurality of votes, elect from among themselves three persons to act as trustees; and such election shall take place at a meeting of the subscribers, of the time and place of holding which meeting fourteen days' notice shall have been previously published in the Gazette; and upon intimation being given to the Governor of the election of such three persons as aforesaid, the said Governor shall thereupon nominate three other persons to act as trustees; and the real estate in the said church, and in all lands and hereditaments thereunto belonging shall be thereupon conveyed to the said trustees so elected and nominated and their successors for ever, duly elected and nominated as hereinafter provided, in trust for the purposes of the said church.

Short title. 1. This Ordinance may be cited as the Kandy Church Ordinance.

Governor empowered to issue £ 1,500 towards building the church. 2. It shall be lawful for the Governor by warrant under his hand to authorize the issue from the Treasury of this Island of any sum or sums not exceeding in all £ 1,500, to be applied, under the direction of trustees to be appointed as hereinafter provided, to the building of a church in Kandy :

Provided that no such issue shall be made until a moiety of the estimated costs thereof shall have been raised by subscription and lodged in the Treasury.

4. And whereas a provisional committee of management for the purposes of the said church was appointed at a certain general meeting of the subscribers to the said church held at the Kandy Library on the 27th day of January, 1841; it is therefore enacted that upon the election and nomination of trustees as aforesaid the said provisional committee shall deliver over to the said trustees all deeds, books, plans, papers, and vouchers relating to the said church in their custody or power, and all and any sums of money, donations, or subscriptions, given or subscribed for the purpose aforesaid, in their possession or control, and the said committee of management, and the office, and duties thereof, shall thereupon cease and determine.

Trustees to be elected annually.

5. The said trustees so elected and nominated as aforesaid shall continue to be and to act as trustees until the last Monday in the month of January, 1844; and upon such day such trustees shall cease to have any power or authority so to act; and three persons shall be elected at a general meeting to be held on that day, and three other persons shall be nominated by the Governor as soon as convenient thereafter, to be the trustees of the said church for the year immediately ensuing; and a fresh election and nomination of trustees shall in like manner take place within every last week of the month of January thereafter or as soon thereafter as may be convenient, and copies of the minutes of every election or nomination of a trustee which shall take place under the provisions of any clause in this Ordinance shall be transmitted without delay to the Registrar-General and the Registrar of the Bishop of the diocese :

Provided always that no person shall be elected a trustee at any general meeting before the completion of the said church who shall not have paid up a subscription thereto of at least five pounds, or after its completion who shall not have paid the sum of fifteen rupees to the funds of the said church during the year prior to his election nor any person who shall not be a member of the Church of the Province of India, Burma and Ceylon hereinbefore referred to as the United Church of England and Ireland.

Clergyman to be ex officio chairman of trustees.

6. The clergyman for the time being duly appointed to the said church, or during his absence the clergyman duly appointed to officiate for him, shall at all times be ex officio chairman of the trustees, but shall not have the power of voting by reason of being such chairman, except in cases where the votes of the trustees present shall be equal.

Vacancies occasioned by death, resignation, or removal of trustees, how to be filled.

7. Whenever any trustee shall die or shall resign, or shall leave Sri Lanka, then, in case such trustee shall have been originally elected at a general meeting, his vacancy shall be filled by some other person duly qualified in like manner as such trustee, to be elected at a general meeting to be called for that purpose as soon as may be convenient by the continuing trustees, or the

major part of them; and, in case such trustee shall have been originally nominated by the Governor, his vacancy shall be filled as soon as may be convenient by some other person duly qualified, to be nominated in like manner:

Provided always that if such general meeting shall not be called within one month after the death, resignation, or departure of such trustee from Sri Lanka, it shall be lawful for the Governor to nominate some person duly qualified as aforesaid to be a trustee.

Sittings in church, how to be appropriated.

8. The trustees for the time being duly nominated and elected as aforesaid, or the major part of them, are hereby authorized and required to set apart, as soon as conveniently may be after the completion of the said church, one pew, containing not more than six sittings nor less than four, for the use and occupation, free from all charges, of the clergyman licensed to officiate in the said church; and the remaining sittings, after due provision shall have been made for the accommodation of the Governor and of the military, shall be assigned to the trustees for the time being and their successors for the purposes hereinafter mentioned.

Remaining sittings to be set apart to the use of all worshippers.

9. The trustees for the time being duly nominated and elected as aforesaid, or the major part of them, are hereby authorized and required from and after the 1st day of January, 1931, to set apart the said remaining sittings free of any charge whatever to the use and accommodation of all worshippers at the said church, reserving however to those persons who have prior to the said date rented pews or sittings in the said church, and desire to retain the same, the right to do so, so long as they continue to pay in future a subscription of at least five rupees annually for each sitting to the funds of the said church.

Subscribers of Rs.50 to have property of choice of sittings.

10. Every subscriber towards the building of the said church to the amount of not less than fifty rupees shall have a right in the first instance to become a renter of a pew or sitting in preference to any other person who shall not have so subscribed, and such subscribers shall, amongst themselves, have priority in the choice of

pews or sittings, not exceeding six sittings, according to the amount of their subscriptions, the subscriber to the larger amount to have the prior choice, and the choice of subscribers to an equal amount to be determined, if need be, by lot.

Party having engaged a sitting not to be disturbed.

**11.** Any person having engaged any pew or sitting, and continuing to pay rent for the same according to the rate fixed, and also conducting himself or herself in the said church so as not wilfully or maliciously to disturb the performance of public worship, or to molest any part of the congregation attending the same, shall not be, under any pretence whatever, removed or ejected without his or her own consent from the occupation of such pew or sitting, at all times when the said church shall be open for the performance of public worship, the ministration of any sacrament, or other rite or ceremony, according to the use of the United Church of England and Ireland :

Provided nevertheless, that if any person having engaged any pew or sittings in the said church under agreement to pay for the same according to the rate or rent assessed thereupon, shall suffer such rent to fall into arrear, and to continue unpaid for three months after the same shall have been demanded by the trustees, or by any person empowered by them or the major part of them, or if any person having engaged as aforesaid any such pew or sittings shall refuse to pay for the same such increased rate of rent as the trustees, according to the provisions hereinbefore described, shall have assessed and affixed, or if any person engaging and occupying any such pew or sittings, and continuing to pay the rent assessed upon the same, shall by any unsuitable noise, gesture, or deportment, wilfully and irreverently interrupt the celebration of public worship, or shall designedly and habitually disturb any part of the congregation within the said church, in all such cases it shall and may be lawful for the trustees to issue a monition to every such defaulter or offender, and in case such defaulter or offender shall not forthwith pay all such arrears, or shall not amend and desist from the practice so complained of, it shall be lawful for the said trustees to declare such pew or sittings occupied by the party complained of to be vacant.

**12.** It shall and may be lawful for the major part of the trustees, with the previous consent of the Bishop of the diocese, and with his approval of any proposed epitaph or inscription, to permit any monuments to be erected or placed in such parts of the said church, or of the enclosed ground about the same, or of the burial ground belonging thereto, as they may deem convenient, or vaults to be dug and made in the said burial ground, upon payment to the said trustees for the use of the said church, for such permission by the person or persons desiring to erect or place any monument in the said church or enclosed ground about the same, or in the said burial ground or to dig and make any vault in the said burial ground, of such charges as are contained and set forth in the Schedule, over and above the fees which may be legally demanded for burial; and it shall be lawful for any person or persons erecting or placing any monument in the said church or enclosed ground about the same, or digging or making any vault in the said burial ground, by and with such permission as aforesaid, to have and maintain and keep up such monument or vault, according to the terms of such permission, to and for the sole and separate use of the said person or persons and his or their heirs for ever.

Trustees authorized to permit the erection of monuments and digging of vaults with the previous consent of the Bishop of the diocese.

**13.** It shall not be lawful to bury any body within the said church or within the enclosed ground about the same.

Bodies not to be buried within or near the church.

**14.** It shall be lawful for the trustees for the time being, or the major part of them, and they are hereby required to collect and gather, or cause to be collected or gathered, all sums of money which shall be due for pews or sittings in the said church, and all subscriptions and donations thereunto, and all rents and revenues that may at any time arise out of any land or hereditaments belonging to the said church, and all fees or payments for monuments or vaults, and to apply for the said sums and to sue for the recovery of the same from all persons who shall fail or refuse to pay the same ; and the said trustees shall, out of the said sums so received or recovered, regularly pay the salaries allotted to all lay persons holding any office in or about the said church, according to such rates and at such periods as shall be determined upon by the majority

Trustees to collect all dues to the church, and to appropriate them in payment of salaries, repairs, &c.

of the said trustees, and shall apply the surplus in such repairs and such improvement of the said church and premises as shall to them appear most expedient.

(3) It shall be lawful for the said trustees on the death, retirement, removal, or incapacity of the clergyman of the said church, to nominate a fit person to be clergyman thereof, subject to the consent of the Bishop of the diocese, and to such rules made by the synod of the diocese in regard to such nomination as may be lawfully binding on them.

Power to trustees to acquire property and maintain parsonage, schools, and missions, &c., out of income and collections.

15. (1) It shall be lawful for the said trustees, after defraying such necessary expenses as are specified in section 14, to spend any income, rents, revenues, interest, fees, collections, or subscriptions, or any other funds which may come into their hands as trustees, in the purchase or acquirement of property of any description for the purposes of their trust, or in the payment of the stipends of the clergy, teachers, and catechists of the said church, or in the erection or purchase of a parsonage for the use of the clergyman of the said church, or for the maintenance of such parsonage and of schools or missions attached to the said church, or on any other religious work connected with the said church.

(4) Nothing in this Ordinance contained shall affect the right of the said trustees to sell any real estate and property vested in them as trustees in pursuance of, and in accordance with, the terms and conditions contained in the instrument or deed of trust.

Power to trustees to lease real property for a term not exceeding ninety-nine years.

(2) It shall be lawful for the said trustees to lease any portion or portions of the real estate and property vested in them as trustees, or any right or privilege over or affecting any such estate or property, for the purposes of their trust, provided that the following conditions be observed :—

16. It shall be lawful for the trustees for the time being, or the major part of them, to make or enter into, perform, and execute, and compel the performance and execution of all such contracts and agreements, matters, and things, and to commence and maintain all such suits and actions as they shall deem necessary to the performance of the trust reposed in them; and all such contracts and agreements shall and may be entered into and enforced, and all such suits and actions be brought by them in the name of " the trustees of the church at Kandy " or " the trustees of . . . . . church at Kandy " (describing the same by its name, after it shall have been named at consecration), as the case may require, without specifying the Christian or surnames of the trustees, and no action shall abate by reason of the death or removal or going out of office of any trustee; and all suits or actions, the cause of which shall rise or accrue to any person whatsoever from or by reason of any contract or agreement or any other matter or thing made or entered into, done, or performed by the said trustees in the execution of the said trust, shall be brought by such person against the said trustees under the name and title aforesaid.

Actions to be brought by and against trustees.

- (a) every such lease shall be made to take effect in possession at or within one year next after the making thereof, and shall be for such term not exceeding ninety-nine years, as the trustees shall think proper;
- (b) on every such lease shall be reserved the best rent or reservation in the nature of rent, either uniform or not, that can be reasonably obtained;
- (c) every such lease shall be by notarial instrument, and shall contain a condition for re-entry on nonpayment of the rent for a period not less than twenty-eight days after it becomes due;
- (d) every such lease shall contain such covenants, conditions, and stipulations as the said trustees shall deem expedient with reference to the special circumstances of the demise.

17. One person, not being a trustee, shall be elected at a general meeting to be called by the trustees immediately after the completion of the building of the said church, to be an auditor of the accounts rendered by the trustees of the said building; and one other person, not being a

Auditors to be elected annually.

trustee, shall be nominated by the Governor to be an auditor for the same purpose; and one person shall thereafter be elected at a general meeting in the month of December in every year to be an auditor of the yearly accounts of the said trustees ; and one other person, not being a trustee, shall be thereupon nominated by the Governor to be an auditor for the same purpose and during the same period.

holding such general meeting shall be affixed in some conspicuous part of the said church.

20. The right of voting at every general meeting shall be vested in subscribers who have paid up their subscriptions previous to the date of the notice to convene such general meeting, and that from and after such time as the said church shall have been reported to be completed and fit for use the right of voting shall be vested in persons who have paid during the previous year a subscription of at least five rupees to the funds of the said church, being members of the church of the Province of India, Burma and Ceylon:

Who may vote at general meetings.

Provided always that no such subscriber or person shall on any occasion be allowed to give more than one vote.

21. No person shall be suffered to sing or say the common or open prayer, or to administer the sacraments, or to preach any sermon in the said church, except the clergyman duly appointed to the said church, or some clergyman duly authorized to officiate for him.

No person to read prayers or preach except clergyman or person officiating for him.

22. Any power or function vested in or assigned to the Governor by any of the preceding provisions of this Ordinance, and continuing to be exercisable by him immediately before the 4th day of February, 1948, shall, on and after that day, be exercisable by the Governor-General, and on and after the 22nd day of May, 1972, be exercisable by the President.

Powers, &c., of Governor to be exercisable by President.

Trustees to keep annual accounts, and to submit them, with auditors' report, at a general meeting every year.

18. The trustees shall keep an account wherein they shall enter all moneys received and paid by them under and by virtue of the provisions of this Ordinance, which account the auditors, or either of them, may inspect at all reasonable times; and a statement of accounts for the previous financial year, together with any report of the auditors or either of them thereon, shall be laid before the general annual meeting to be held within the last week of the month of January, or as soon thereafter as may be convenient.

Trustees to call a general meeting upon receiving a requisition signed by twenty subscribers or renters of sittings.

19. It shall be lawful for the trustees for the time being, or the major part of them, and they are hereby required, to call a general meeting of the persons who have paid during the previous year a subscription of at least five rupees to the funds of the said church, being members of the church of the Province of India, Burma and Ceylon, within twelve days after receiving any requisition in writing to that effect, signed by not less than twenty of such persons; and ten days' notice of the time and place of

[Section 12.]

SCHEDULE

Erecting a tablet or monument in the church, not less than fifty rupees nor more than two hundred rupees.

Erecting a monument in the ground adjoining the church, not being the burial ground, any sum not less than thirty rupees nor more than one hundred rupees.

Burial in a brick or stone grave in the burial ground, ten rupees.

Headstone or footstone (each), five rupees.

A stone covering over such grave, ten rupees.

A vault, for each person it is capable of containing, fifteen rupees.

A raised tomb over a vault, for each person it is capable of containing, fifteen rupees.