

CHAPTER 434

PRESBYTERIAN CHURCH (KANDY)

Ordinances AN ORDINANCE TO REGULATE THE TEMPORAL AFFAIRS OF THE PRESBYTERIAN
Nos.13of1845, CHURCH IN KANDY, IN SRI LANKA.
1 of 1933.

[12th December. 1845.]

Preamble. Whereas by the Ordinance No. 1 of the present year 1845,* entitled " An Ordinance to promote the building of places of Christian worship, and to provide for the maintenance of ministers of the Christian religion", it is amongst other things provided that before any sum of money shall be issued from the Colonial Treasury for the erection of any place of worship, trustees shall be elected or appointed in such manner as shall be by any future Ordinance provided, \n whom the real estate in the site of such place of worship or minister's dwelling, or both, as the case may be, and of any lands and hereditaments thereunto belonging, shall be vested upon such trusts as shall in such future Ordinance be declared: And whereas it is proposed to erect a Presbyterian place of worship in the town of Kandy, and a dwelling house for the minister of such proposed place of worship has already been erected, and it is expedient that provision should be made, as well for the original nomination of trustees as for maintaining from time to time a proper number of duly qualified trustees, in manner hereinafter mentioned, and for defining the manner in which the trusts hereby created shall be fulfilled, and otherwise for regulating the temporal affairs of the said Presbyterian church and minister's dwelling with lands and hereditaments as aforesaid:

said place of worship and minister's dwelling, or any three or more of them, shall and may at any time after the passing of this Ordinance convene a meeting of the subscribers (of the time and place of holding which fourteen days' notice shall have been previously published in the Gazette) at which meeting three persons shall be elected by majority of votes to act as trustees until Monday in the last week in December next ensuing after the said place of worship shall have been opened for Divine worship.

3. On the completion of the said place of worship, and before or so soon as shall be practicable after the same shall have been opened for Divine service, the trustees then in office shall, except as hereinafter excepted, rent out the sittings therein according to such general scale, and agreeably to such regulations for fixing the rates of seat rents, and other matters connected therewith, as shall have been agreed upon by the majority of subscribers present at the meeting held for the election of such trustees, or of any other meeting of subscribers to be especially convened by the said trustees for that purpose.

Trustees to rent out sittings in church.

4. Upon Sunday in the first week of every month of December after the said place of worship shall have been opened for Divine service, there shall be appointed for the year commencing on the first day of January then next ensuing three new trustees, of whom one shall be appointed by the minister of such place of worship for the time being, and two by a majority of the seatholders present at a meeting to be convened for that purpose by the trustees for the time being, and to be holden at such hour and place as shall be specified in a notice to be posted for that purpose in some

Annual meeting in December.

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

Original trustees how appointed. 2. The first or original trustees of the Presbyterian Church aforesaid shall be elected and appointed in the manner following, that is to say, the persons who have subscribed towards the erection of the

* Repealed.

conspicuous place in such place of worship for at least fourteen days previously to the day fixed for the holding of such meeting :

Provided always that nothing in this clause contained shall be construed to prevent the reappointment at any such meeting of all or any of the trustees who shall at the time of such meeting be actually in office; and

Provided further, that in case the minister shall fail to make such appointment, or the trustees shall fail to call such meeting, or in case at any time there shall not be any duly appointed trustee, it shall be lawful for the Governor to nominate so many persons as are required for completing the number of trustees to be trustees until the next ensuing annual meeting.

Vacancies in the office of trustee how filled up.

5. In case of the death, incapacity, resignation, or departure from Sri Lanka of any trustee appointed or elected under the provisions of this Ordinance before the expiration of the period for which he shall have been so appointed or elected, or in case any such trustee shall be absent from Sri Lanka, or be in a part thereof remote from the said place of worship for more than six months in succession, or shall be a confirmed person of unsound mind, or shall be or become disqualified to act in such capacity, it shall be lawful for the remaining trustees to convene a special meeting of seatholders for the election of a new trustee or new trustees, as the case may be, to supply the vacancy or vacancies so created during the remainder of that period :

Provided that no trustee shall be permitted to resign his office until he shall have duly accounted to the satisfaction of his co-trustees for all sums of money at any time received by him in his said trust; and

Provided also, that where any such vacancy shall in any year arise after the month of June, no such new appointment shall be necessary, but the powers which by this Ordinance are given to the trustees may, until the next annual meeting, continue to be exercised by the remaining trustees or trustee; and provided always that if any such vacancy shall occur among the first or original trustees before the said place of

worship shall have been opened for Divine service, it shall be lawful for the remaining trustees (subject to the approval of the Governor) to fill up the same.

6. The minister of the said church for the time being shall ex officio be entitled to be present at and to be the chairman of all meetings of the trustees, or other meetings concerning the affairs of the said church, and shall at all such meetings be privileged to vote upon any question concerning the affairs of the said church or concerning the minister's dwelling thereof; and in case there should at any such meeting be an equality of votes, the chairman, whether the minister or other person, shall have a casting vote; and the chairman of every meeting for the election of any trustees or trustee under any of the provisions of this Ordinance shall, after signing the minutes thereof, transmit the names of the persons or person so elected for the approval of the Governor.

Minister to be chairman at meetings of trustees.

7. Every person who shall be elected or appointed as trustee for the said Presbyterian church as aforesaid shall be a member of the congregation of the said church, either as a seatholder or a communicant, and above the age of twenty-one years, and any trustee ceasing to be either a seatholder or a communicant, as the case may be, shall be held *ipso facto* to have resigned his office, and thereupon a new trustee shall be elected in the manner provided by section 5 of this Ordinance.

Who may be a trustee-

8. The said first or original trustees, and all others who shall from time to time be hereafter elected as trustees under any of the provisions of this Ordinance, shall during the time of their continuance in office stand and be possessed of all the real estate in the site of such place of worship and minister's dwelling, and of the buildings constructed or to be constructed thereon, and of the lands and hereditaments thereunto belonging or appertaining, and of all sums of money already given or subscribed towards the erection of the said place of worship or minister's dwelling, and of all such sums of money as shall at any time hereafter be granted to them from the Treasury, and of all such donations and subscriptions as shall at any time hereafter

Objects of the trust-

be given or subscribed for the purpose aforesaid, or in aid of the funds of such said church, and of all rents and revenues arising from the letting of pews or sittings, and of all fees and payments for vaults, monuments, tombstones, and the like, and of all rents and revenues arising out of any of the lands or hereditaments belonging or appertaining to the said place of worship or minister's dwelling or otherwise, upon trust in the first place, and until the said place of worship shall be erected and completed, to cause the same to be erected and completed according to such plan and specification thereof as shall be approved by the Governor, and after the completion of the said place of worship to inclose the ground surrounding the same, and the minister's dwelling which has been already erected, and to do other necessary works connected therewith; and also upon trust thereafter to pay and apply the said sums of moneys, donations, subscriptions, rents, fees, and revenues for repairing, keeping up, and maintaining the said place of worship and minister's dwelling, and the said inclosure; and lastly upon trust to provide such articles as may be necessary for the proper celebration of Divine service in the said place of worship, and to pay the salaries of the clerk, servants, and officers employed in and about the same.

employed in or about such place of worship (the minister's clerk or precentor excepted, who shall in each case be appointed and removed by the minister only), and generally to manage the temporalities of such place of worship, and to fix the salaries or other remuneration of all such officers and servants (including such clerk as aforesaid): And it is also hereby declared that the said trustees shall have no power or authority to appoint or dismiss the minister of such place of worship.

11. The trustees for the time being shall upon all matters before them have each one vote, and any two of them shall form a quorum, and in the event of a difference of opinion between such trustees on any occasion, the votes of any two of them (where three are present) shall be binding upon all; or in case of an equality of votes when the trustees and the minister are all present, the minister shall possess a casting vote; and the trustees for the time being shall have power from time to time to make by-laws (such laws not being inconsistent with or repugnant to this Ordinance) for their general guidance, which laws shall be equally binding on and shall be observed by their successors until abrogated or altered by such successors.

12. At every meeting held in the first week of December as aforesaid for the appointment of trustees after the said place of worship has been opened for Divine service, two indifferent persons shall be elected by and out of the seatholders to be auditors of the accounts of the trustees then about to quit office, and in the month of January following the trustees who have so quitted office shall cause a true and particular account of their receipts and expenditure during the period they have held office, duly audited and signed by the auditors, to be transmitted to the Governor, in order that, should it be deemed expedient by him, the same may be published in the Gazette for general information.

13. It shall and may be lawful for the minister of the said church for the time being to have free access and admission to the said church, and the burial ground belonging thereto and every part thereof, at all times as he shall think fit, and freely to exercise his spiritual functions therein, without any hindrance or disturbance of the

Place of worship to be for ever holden for the purposes for which originally erected.

9. The said place of worship and minister's dwelling shall, with their respective appurtenances, be and continue to be for ever dedicated to the purposes and holden solely for the uses and be appropriated to the service of the religious denominations of Presbyterians adhering to the Westminster Confession of Faith, for which the same are or shall be originally erected.

Trustees to let pews and seats, and manage the temporalities.

10. It shall be lawful for the trustees for the time being, subject to such general rules as shall be from time to time established by the seatholders at any such annual meeting in December, to fix the amount which shall be payable for the rent of pews and seats in such place of worship, and the amount of fees which shall be payable for vaults, monuments, and tombstones, and to let such pews and seats (subject to all existing rights therein, if any) in such manner and to such persons as they the said trustees shall think fit; and to appoint, suspend, and remove all church officers and servants

trustees of the same or any person whatever; and such officiating minister shall or may, during such time as aforesaid, freely use, have, possess, and enjoy the minister's dwelling house and appurtenances belonging to the said church, and shall or may, with the consent of the trustees for the time being, but not otherwise, let the said dwelling house and appurtenances to any other person:

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 trustees under the name and title aforesaid, nor shall any trustee, by reason of his being a plaintiff or defendant in any such suit, be prevented from being a witness therein.

Such possession not to confer right of property.

Provided that no such liberty of access and admission to such house of residence as aforesaid, nor occupation of the same, for any length of time whatever, shall be construed to confer any right of property in the same upon the said minister or other parties by whom such dwelling house and the appurtenances may have been so occupied, nor any right or title to retain possession of the same after such minister shall have been removed from his office, or after his resignation thereof, or during his absence from Sri Lanka or suspension from his office, nor shall the same be pleaded in bar of any ejection which may be brought by or on behalf of the trustees of the church as aforesaid for recovering possession of such house of residence and the appurtenances thereof.

15. The right of voting at every meeting convened in respect of such place of worship shall, until the said place of worship shall be opened for Divine service as aforesaid, be vested in subscribers who have paid up their subscriptions previous to the date of the notice to convene such meeting; and from and after such time as the said place of worship shall have been so opened the right of voting at every annual meeting shall be vested in renters of sittings in the said place of worship who shall have duly paid up their rent: Right of voting at meetings.

Provided always that no such subscriber or renter of sittings shall on any occasion be allowed to give more than one vote, or to give any vote except in person; and

Trustees may sue and be sued.

14. It shall be lawful for the trustees for the time being to call in and compel the payment of all sums of money which are or at any time hereafter shall be due and payable to them under and by virtue of any of the provisions of this Ordinance, and in their own names to make and 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 Presbyterian Church at Kandy " (describing the place of worship by its name after it shall have been named), 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 arise or

Provided that no person shall be entitled to vote who shall not be at least twenty-one years of age.

16. It shall be lawful for any trustees appointed or elected under the provisions of this Ordinance to accept or take from persons willing to give the same, or from the State, subject to the provisions of any law now or hereafter to be in force relative to such gifts, any lands or premises adapted for the site of the place of worship to be erected under the provisions of this Ordinance, or of a minister's dwelling, with a garden and other appurtenances thereunto or any lands or premises adapted for the purposes of a burial ground, or any lands or premises for the maintenance of such place of worship or of the ministers thereof, and such land or premises so given shall be deemed and taken to be for ever vested in the trustees of such place of worship for the time being in trust for the purposes thereof. Trustees to take grants of lands.

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Free sittings reserved.

17. On the completion of the said church one-sixth part of the whole number of sittings therein shall be appropriated to the use of the poor as free sittings ; and if at any future period the number of sittings in the said church shall be increased, there shall be appropriated to the use of the poor so many additional free sittings, as that the number of free sittings shall always bear the same proportion to the whole number of sittings as is hereinbefore provided.

whereas in the case of the Presbyterian church in Kandy it has been made evident that the subscribers have completed the erection of a minister's dwelling, and have expended therein the sum of six hundred and ten pounds: It is hereby enacted that the said conditions, so far as relates to the minister's dwelling, shall be regarded as having been fulfilled, and the said sum of six hundred and ten pounds shall be and is hereby held to have been paid into the Treasury.

Certain conditions of former Ordinance declared to be fulfilled.

18. And whereas in the afore-cited Ordinance it is provided that no sum of money shall be issued from the Treasury until the whole amount required to be furnished by subscription shall have been deposited in the Treasury, nor until a specification and plan of the intended place of worship or minister's dwelling, or both, as the case may be, shall have been submitted to the Governor and Executive Council and approved of by them: And

19. 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.