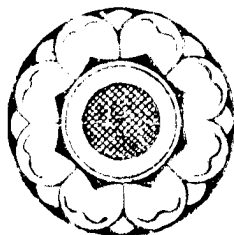


# THE BETRAYAL OF BUDDHISM

AN ABRIDGED VERSION OF THE REPORT  
OF THE  
BUDDHIST COMMITTEE OF INQUIRY



"THE RELIGION OF THE BUDDHOO PROFESSED BY THE  
CHIEFS AND INHABITANTS OF THESE PROVINCES IS  
DECLARED INVOLABLE AND ITS RITES AND MINISTERS  
AND PLACES OF WORSHIP ARE TO BE MAINTAINED AND  
PROTECTED". (ARTICLE 5, THE KANDYAN CONVENTION)

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## FOREWORD

The Buddhist Committee of Enquiry was set up on 2nd April 1954 in accordance with a resolution adopted at the 33rd annual conference of the All-Ceylon Buddhist Congress held at Kegalle on 27th December 1953. Its terms of reference were "to inquire into the present state of Buddhism in Ceylon and to report on the conditions necessary to improve and strengthen the position of Buddhism, and the means whereby those conditions may be fulfilled".

The Committee of Enquiry was composed of the following members:

Rev. Ambanwelle Siddharta Dhammananda,  
presently Anunayake of the Malwatte Chapter  
Rev. Haliyale Sumanatissa of the Asgiriya Chapter  
Rev. Pandita Palannoruwe Vimaladhamma,  
Vice-Principal of Vidyodaya Pirivena Colombo  
Rev. Balangoda Ananda Maitreya, Principal of  
Sri Dhammananda Pirivena Balangoda  
Rev. Pandita Sri Gnanaloka, Vice-Principal of  
Sarasvati Pirivena, Balagalla  
Rev. Kotahene Pannakitti, Vice-Principal of  
Vidyalankara Pirivena, Kelaniya  
Dr. G.P. Malalasekera P. de S Kularatna Esq.  
Dr. T. Vimalananda D. C. Wijayawardena Esq.  
Messrs: L. H. Mettananda T. B. Ellepola (who resigned later)  
Rev. Madaha Pannascha and Mr. C. D. S. Siriwardena joined  
the Committee at a later stage.  
Messrs T. U. de Silva and M. D. S. Abeyratne acted as  
Secretaries to the Committee.

The "Buddhist Commission" as it came to be popularly known held its sittings throughout the length and breadth of the country, beginning at Ratnapura on 26th June 1954 and concluding at Anuradhapura on 22nd May 1955. It travelled approximately 6,300 miles and heard evidence from organisations and individuals representing all sections of Buddhist society, both laity and Sangha.

The full report of the Committee of Enquiry is printed in Sinhalese. In this **abridged version** the original historical introduction has been replaced with a shorter and more general one and the chapter on administration of Temple Property omitted altogether. Other chapters have been shortened, with the exception of "Religion & State in Ceylon" which is printed in its entirety. Considerations of space have made the omission of all but the most important statistics obligatory, and the reader is referred to the original and complete Sinhalese version for further details, statistical and otherwise.

## INTRODUCTION.

More than twenty-five centuries ago the Sambuddha came to Lanka, say our chronicles, at the Durutu full moon, in the ninth month of buddhahood, to purify and prepare this Island for the time when it would become the repository of his matchless teaching of freedom and the most splendid part of his Kingdom of Righteousness. Shortly after he had sent forth his first sixty arhat disciples to extend the frontiers of the Kingdom of Righteousness, whose Wheel of Conquering Truth no ascetic, priest, deity, mara, or brahmin, could prevail against, the Blessed One set out for Uruwela to bring the one thousand Jatilas (matted hair ascetics) into the orbit of enlightenment.

While at Uruwela, the idyllic countryside of his final struggle and victory, preparing the Jatilas for liberation, the Blessed One visited Himavat, the Snowy Region, and seated by Lake Anotatta, on the rock Manosila, he surveyed the world, and saw Lanka the Island sanctified by the presence of the three previous Buddhas of this aeon, and known in the past as Ojadipa, Varadipa, and Mandadipa, full of excellent qualities, as the place most suited for preserving his Doctrine pure for posterity. Then he rose to the sky and travelling along the pathway of space, in the manner of a heroic lion, radiant with the infinite grace of a Supremely Enlightened One, arrived in Lanka for the first time, freed it of the uncivilised impure elements that infested it, blessed it with the Great Protective Chant of Amity, taught the Law to a vast concourse of devas, asuras, gandhabbas, kinnaras and such other beings, who assembled to hear him, at the beautiful Mahanaga Forest on the Mahavaeli at Alutnuvara, bestowed a handful of locks of his hair to Sumanadeva, and returned to Uruwela.

Twice more the Lord of the Three Worlds, the August One, the Buddha, visited this Lanka, this Jewel of the Indian Sea, remembering its importance for the future of his Law, and just before passing away finally, spoke to Sakka, the chief of deities, thus: "Vijaya, son of Sihabahu the king, has come to Lanka with seven hundred followers from the Lala country. Chief of deities, guard him and his followers and Lanka well, for there shall my teaching take root and flourish..."

### **I. Asoka Spreads the Teaching.**

The establishing of the Buddha's Law in Lanka took place two hundred and thirty six years after the nibbana of the Buddha, at Kusinara. That is when the great Maurya empire, founded by Candagutta, the contemporary of

Alexander the Great, reached its zenith under the greatest of all kings known to history, Asoka, who turned from conquests of the sword to conquests of the Good Law of the Blessed One, and spread the fragrance of the peerless, teaching of the Sublime One, the teaching of concord and compassion throughout the then known world. The influence of Asoka, who turned away as he himself says in his edicts from 'the gods who were believed in all over Jambudipa' and had been 'shown to be false' to the Sangha, the Order of the Blessed One, was immense. For the first time in the history of the world, Indian culture in its Mauryan Buddhist form spread from Devanagara (Dondra) in southern Lanka to Greece, in accordance with Asoka's words.

"I shall be diligent of the good of the whole world, materially and mentally: walking the path of peace, I shall lead the world too from passion to peace". And it is in this effort of Asoka that all the later waves of Buddhist culture, which inundated Asia, to the North, East and South-east, of India, took their rise, and found their inspiration. Therefore, T. W. Rhys Davids wrote:

"His (Asoka's) name is honoured wherever the teachings of the Buddha have spread, and is revered from the Volga to Japan, from Ceylon and Siam to the borders of Mongolia and Siberia", and Koeppen, "If a man's fame can be measured by the number of hearts that revere his memory, by the number of lips that have mentioned and still mention him with honour, Asoka is more famous than Charlemagne or Caesar".

### **II. Establishment of the Sasana in Lanka.**

Asoka sent his son Mahinda, and his daughter Sanghamitta, to Lanka, to secure the perpetuity of the Incomparable teaching of Nibbana, which is replete with the compassion

and right understanding of the Blessed One. It is thus that the people of this country came to have the noble doctrine and be included in the Buddha's Kingdom of Righteousness early in their history, and are now the oldest living Buddhist nation in the world. The consequences of the inclusion of this country in the Kingdom of the Buddha cannot be fully grasped without realising that but for the continuance of the Dhamma, through the study and practice of it in Lanka, there would have been no pure Sasana, in Burma, Siam, Cambodia, or Laos, and the True Doctrine of the Buddha, recited and accepted by the arahats, at Rajagaha, Vesali, and Pataliputta, that is to say, at the first three great councils of the Ariya Sangha, would have disappeared long ago. Or in other words, if the Aarahat, Anubuddha Mahamahinda Thera, the son of Emperor Asoka, had not come to this Island, and set THE WHEEL OF THE BUDDHA'S LAW in motion, the Pali canon would not have been recorded, the authentic, clear, and complete, account of the path to the extinction of ill, nibbana, would have vanished, and only the confused and conflicting accounts of the Master's teaching would have remained in the world.

Mahamahinda Thera not only brought the Dhamma, the Doctrine to Lanka, but he also taught it to the people of this country in such a way that it became the dominating element in all their activities and inspired them to develop a new culture, which became and still is, the basis of the social outlook of this country. And because Mahamahinda Thera taught in a masterly way, the Dhamma in Lanka never became a mere creed, a religion, a morality or a philosophy. Because of that teacher the Dhamma is for the people of this country something they cannot do without, something comparable to the air they breathe or their life-blood. With the abandonment of the Dhamma the people of this country shall wither, fade away, and perish. Therefore those who are trying to make the people of this country accept false teachings, all the apostles of unenlightened teachings in this country, are undermining the foundation of the social structure of Buddhist Lanka.

For twenty-three centuries Lanka has been nourished with the quintessence of human thought the sublime, teaching of the Sambuddha, the Supremely Enlightened One, and now the

people of this Buddhist Lanka, are being asked to give it up for crude teachings of unenlightened teachers, for exploded beliefs, outworn theories, and played out philosophies. The Buddhists do not want to exchange gold for lead or bread for filth, they want to hold fast to their compassionate, refined, and reasonable view of life, and their noble culture, which is founded on the Dhamma. Nor do they want to conquer others. Buddhist Lanka wants to live in virtue, and in the wisdom of mercy and amity, and inspire other nations too to live in harmlessness and peace, which form the essence of noble living. As Paul Peiris says, the message of the son and daughter of Asoka—

“left to the Sinhalese that heritage of high ideals, gentleness, and contentment of which neither the centuries of ruthless warfare, nor the more insidious attacks of modern commercialism, has succeeded in robbing them”.

Lanka at the time was divided into three kingdoms. The country north of the Mahavaeli and the Deduru Oya with the capital was the Raja or Pihiti Rata (kingdom); that to the south of the Mahavaeli and the plateau including the flat country up to the Kalu Ganga, the Ruhunu Rata, and the mountainous area in the centre together with the lowland between the Deduru Oya and the Kalu Ganga, the Maya Rata.

### **III. Three Great Kings.**

Within a quarter of a century of the passing away of Mahamahinda Thera, the Island became weak and subject to attacks of South Indian adventurers, one of whom Elara, a Cola noble, reigned for forty-four years till overthrown by the most heroic of Sinhalese kings Dutthagamini Abhaya, son of the king of Ruhuna, Kavantissa. He brought the whole of Lanka under his sway, and gave peace and prosperity to the Island for twenty-four years. Three outstanding figures illuminate the history of Lanka. They are Devanampiyatissa, Dutthagamini Abhaya and Parakkama Bahu I. The first was the wise ruler, who accepted the culture of the best of the Mauryas brought thither with the Three Jewels, by Mahamahinda Thera, and whose reign of forty years was peaceful and happy for the people of this country. The second was the man of action,



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brave, confident, and noble, who has become the model of Lanka for all time as the defender of the culture, institutions, traditions, and independence, of this Buddhist nation, whose devotion and loyalty to the Three Jewels have been unsurpassed elsewhere in the world. Dutthagamani improved Anuradhapura, which even today—

“more perhaps than any other relic of Buddhism captures the imagination of the student, and reveals something of the splendid civilisation which grew up about the Sangha. Its vast dagobas, its ancient trees and pleasant parks, its slender stone pillars and great carved lintels remain to tell of a noble city, where kings vied with one another in honouring the Sangha” (Kenneth Saunders).

The reign of Dutthagamani was a time of great constructive activity, architecturally, and in many other ways; the great Mahavihara, the earliest and the greatest monastic college of Lanka, founded by Mahamahinda Thera was at the height of its glory, and the country blessed not only with plenty, but with wise and virtuous monks too, who brightened the firmament of the Sasana. That Lanka was regarded even then as the centre of the Pure Dhamma preserved from the time of the Third Council held at Pataliputta in the time of Asoka, is clear from the record in the Mahavansa of the thousands of foreign bhikkhus who were present when the foundation of the Ruvanveli Mahacetiya was laid.

The third great figure in the history of Lanka was Parakkama Bahu I, the mightiest of all the kings of this country and the greatest of its rulers. It was due to his prowess that the darkness in which Lanka was enveloped as a result of the Cola occupation of the eleventh century, and the internal strife and dissension of the twelfth, was dispelled, and Lanka shone as a strong and well-governed country. Never before had this country risen to the eminence it reached under this king.

#### **IV A period of decline.**

After the death of Dutthagamani there was a steady decline politically and culturally for many decades and in the time of Vattagamani Abhaya who had to contend with five

Tamil usurpers, there was such a falling away from the Dhamma that the Pali canon, which up till then had been transmitted orally, was committed to writing, at the Aloka Cave monastery near Matale, to prevent the pure Dhamma from disappearing altogether.

Here it may be mentioned, that the elders, who met at Aloka Lena, and recorded the teachings of the Buddha performed the greatest service to the world in the history of the Sambuddhasasana. It was their foresight that saved the Path to Deliverance in all its pristine purity to humanity and but for their work this country could not have continued to be the custodian of the Pure Doctrine of the Buddha. But the recording of the Pali canon on ola leaves did not prevent the Dhamma from being neglected or distorted. In fact possessed of written scriptures the monks found less interest in learning the Dhamma by heart, and the decline in the study and also the practice of the Dhamma continued. Further, dissensions in the Sangha had already arisen in the reign of Vattagamini, and one of the reasons for the Fourth Council, for committing to writing the Pali canon held at the Aloka Vihara, was the secession of the Abhayagiri Vihara from the Theravada, and the separation of the monks of that monastery from those of the Mahavihara. The gulf between the two communities of monks widened with time and wrong doctrines also held sway from the first century B. C. to the second half of the twelfth century A. C.

Therefore, we find in the rock-inscription of Parakkama Bahu I that for 1254 years from Vattagamini's time the Sasana was decaying with the Sangha divided. It was to rid the Sasana of its impurities that the monks led by the Venerable Dimbulagala Kassapa and supported by the great Parakkama Bahu framed, the rules for the monks and brought about unity and order and diligence in the practice of the Code of Discipline in the Sangha.

In the reign of Mahanama 951-973 A. B. the commentaries to the Pali canon were written for the most part by the great Buddhaghosa, who came from India; during his reign Sinhala nuns are said to have visited China and given the bhikkhuni ordination to Chinese women. But as no mention of

the visits of Theravada nuns from Lanka are mentioned in the writings of Mahavihara monks, it is possible that the Sinhala nuns who visited China were of the Abhayagiri Nikaya.

After the death of Parakkama Bahu "Ceylon", says Paul Peiris, "was overrun by Indian hords...Twenty thousand merciless warriors swept through the country, plundering, ravishing, mutilating, and slaughtering. Even the yellow robe of the ascetic could not avail to save the person of the priest. The holiest shrines were violated and overthrown. The Ruvanvelisaya, "which stood like the embodiment of the glory of all the prious kings of old", was despoiled of its priceless relics. In sheer wantonness they loosed the cords which held together the rare palm-leaf books and scattered the leaves to the winds. The King himself was taken prisoner and blinded". This was in the thirteenth century.

The fourteenth and fifteenth centuries produced no great changes in the life of the people of this country. The period ending with the arrival of the Portugese has been summed up in these words by a British historian, David Hussey:

"The coming of Vijaya and his followers, about 486 B. C., began a reign of prosperity which reached its height in the reign of Tissa and Dutthagamini. After that Ceylon entered a long period of slow decline, due largely to Tamil invasions. The decline was averted for a time by various kings, chiefly by the great Parakkama Bahu, but it set in again. By 1505, the wars with the Tamils were over. The long and fierce struggle had spoiled the glory and destroyed the prosperity of the Sinhalese kingdom; but at the end of it **the Sinhalese had the two things which they most valued, their religion and their distinct nationality in their hands.** They had gone through a terrible struggle to keep them, but they had kept them, and to that extent they had won."

## V. The Portugese Period.

"There is no page in the story of European colonisation more gloomy and repulsive than that which recounts the proceedings of the Portugese in Ceylon", says Tennant, and

continues thus: 'Astonished at the magnitude of their enterprises, and the glory of their discoveries and conquests in India, the rapidity and success of which secured for Portugal and unprecedented renown, we are ill-prepared to hear of the rapacity, bigotry, and cruelty, which characterized every stage of their progress in the East. They appeared in the Indian Seas in the threefold character of merchants, missionaries, and pirates. Their ostensible motto was, 'amity, commerce, and religion'; but their expeditions consisted of soldiers as well as adventurers, and included friars and a chaplain-major; and their instructions were, **'to begin by preaching, but, that failing, to proceed to the decision of the sword'**."

The Portuguese occupied the maritime provinces and remained here for 150 years, oppressing and harassing the people of this country in a manner hitherto unknown. The Portuguese historian Manuel de Faria y Souza wrote—

"When he (Jeronymo de Azavedo) was acting in Ceylon as lord of war, he used to oblige women to throw their own children in to stone-troughs and pound them in them, as they would spices in brass mortars, without any mitigation of the cries uttered by those innocent under the blows that fell and without any pity for the hearts of mothers who saw themselves made the cruel executioners of their own souls. As soon as they had reduced (the children) to paste, he had the women beheaded as if they had not obeyed him."

The Sinhalese in their extremity produced great leaders to fight the ruthless Catholic invader from Portugal, such as Mayadunne, Cosme Mudaliyar, Vidiya Bandara and Rajasinha of Sitavaka, who made the position of the foe uncertain and difficult to maintain. The Portuguese finally were expelled from this Island on 24th June 1658. One of their historians laments the loss of Ceylon thus—

"Of all the great and lamentable losses and ruins of the Portuguese State in East Indies, the greatest and the most painful in the opinion of all well

qualified to judge, was the loss of the Island of Ceylon, because of the fruitful and most rich, and in every respect the most happy kingdom which was thereby lost, the enormous expense incurred on that conquest, and the bloodshed and lives which it cost on the Portuguese nation; all of which came to naught by our mismanagement, and is as forgotten, so far as a remedy is concerned, as the grief is remembered. And if as we ought, we make more account of the ruin of that Christianity and of its appurtenances, the extent of these losses being of the supernatural order, is so inexpressible, that it exceeds the limits of our sorrow, and the powers of our commiseration: for comparing what we possess with what we have lost, our hopes and our failures, we shall not find a cause for greater sorrow nor an object for similar grief".

The real reason for the above wail is perhaps to be found in the following passage from the same author (Father De Queyroz S. J.), "This is not a question of herrings and codfish, but of diamonds, pearls, seed pearls, rubies gold, silver, pinchbeck, copper, (white and black), cloves, cinnamon, pepper, cardamoms, gallingale, musk, silk, tapestry, wrought cloth, and other immense riches, and manufactures, which God distributed over these vast regions and seas, and which the industry of the natives can greatly increase, were it not for the tyranny of their princes. And he who is the master of these, at least by commerce, cannot fail to astound the world".

"They found in Ceylon", as Paul Peiris writes, "a contented race, and a fairly prosperous country.... and it is melancholy to reflect that they succeeded in producing nothing but chaos. Out of a long list of high-born Hidalgos whom Portugal sent to Ceylon, it is difficult to point to one name as that of an enlightened statesman and high-principled administrator....

No stately fabric remains as compensating gain for that religious fanaticism to which ample witness is borne by the desecrated ruins of those lovely structures which

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the piety of generations had strewn broadcast over the country.... Their bequest to the Dutch was a colony of half-castes, a failing agriculture, a depopulated country, and a miserable and ill-conditioned people.... They had in Ceylon an opportunity almost unique in the experience of European nations in the East, but their moral fibre had proved unequal to the occasion".

## **VI. The Dutch Period.**

The Dutch who succeeded the Portuguese came here with a good reputation as administrators, but they ended up their connection with this country as a treacherous and aggressive people who were in some respects as cruel as the Portuguese. Thus in them Rajasinha the Second was deceived and by them he was betrayed. It was Rajasinha II who was responsible for the coming of the Dutch, whom he, invited to Ceylon to help him get rid of the Portuguese, believing that they were as good as they appeared to be. The Dutch were not as fanatical as the Portuguese in the propagation of Christianity; the Dutch were here like the English later not to save our souls but to rake in the shekels.

The Dutch were permitted by the King of Kandy to build fortresses in the east coast so as to make their operations against the Portuguese in the west easy. The King of Kandy was to bear the expenses of the war and the Dutch had to hand over to him the fortresses taken from the Portuguese. The Dutch did not keep to the contract; perfidiously they retained what they got from their European predecessors. The Dutch were here for 'the cinnamon of Ceylon', which they said was 'the very best in the universe, and abundant'. They had a monopoly of the most valuable product of the time in this country and were most concerned about protecting the cinnamon for their benefit. They did nothing to advance the happiness of the people of the regions over which they had control. The Dutch did not persecute the Buddhists; all their venom was directed against the Roman Catholics.

"Portuguese influences, a lethargic and corrupt officialdom, the concentration on private profit, nepotism, and favouritism, a precarious financial system, a vexatious system of taxation, laws of unnecessary severity, were the signs of the intrinsic weakness and the hastening decay of Dutch power in Ceylon. Thus it is no matter for wonder that the Dutch power in Ceylon collapsed at the first touch of the advancing Britisher."

## **VII. The British Period.**

The British who succeeded to the heritage of the Dutch in Ceylon in 1796 were the most able of the three European powers which conquered Ceylon; they were able to forge their fetters on Lanka in such a way that the people began to hypnotize themselves into the belief that they would for ever be bound to the chariot wheels of Britannia. So great has been the denationalization of the Sinhalese in the British period that even to this day many of our leaders pay poojah to the British in a number of unconscious ways, which cannot escape the impartial onlooker. The method adopted by the English was to subjugate the minds of the people by 'education, exhortation, and the press' (Tennant). The results of their administration will be recounted in the next chapter.



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## RELIGION & STATE IN CEYLON

### I. The New Constitution.

The year 1948 ushered in a new era in Ceylon history. It brought about vast changes in the temporal affairs of the country. There have been important changes in the position of different religions, which are not easily recognized. One such change is that for the first time recognition has been granted to **religious bodies** in a constitutional enactment for our country. Another difference is that the religious freedom granted up to 1948 by the law, viz. "**liberty of conscience and free exercise of religious worship** to all persons who inhabit and frequent the said Settlements of the Island of Ceylon, provided always **that they quietly and peaceably enjoy the same**" (Proclamation of 23rd September, 1799), has given place in the Constitution to the right without any qualification of "**free exercise of religion**". There are in Ceylon religions which still proclaim that their work is not over until the whole of Ceylon has been brought under their sway and that **with Buddhism and Hinduism there can be no compromise**. (See Chapter I of the Official History of the Church of Ceylon entitled "A History of the Diocese of Colombo"—A Centenary Volume by the Ven'ble F. L. Beven, 1946). No religion claiming to teach Divine Truth can compromise with any other religion and so "free exercise of religion" can only mean all activities which mean death to other religions. In a democratic country which recognizes several religions we feel that the law needs to be more specific of the rights recognized.

"The recognition by the State of religious bodies necessarily involves relationship between those bodies and the State". (Constitutional Law, Wade and Phillips, page 456).

In Ceylon where several religions exist side by side **their relative status within the body politic is also a question of the greatest importance**. The law of Ceylon has created two classes of religious bodies the Christian religious bodies enjoying a **fully autonomous status of a type that no**

**religious body has anywhere else in the world except in the Vatican** and the Buddhist, Hindu and Muslim religions having a **subordinate status**. Their relative status represents the conquering and the conquered.

## **II. British Colonial policy regarding Religion.**

British colonialism has been a unique phenomenon in Ceylon History. The Dutch and the Portuguese merely superimposed a foreign bureaucracy upon the existing political and social order. British colonialism aimed at complete revolution. For our convenience, we shall explain the aims and methods in the words of one of England's greatest historians, whose massive erudition and unquestionable authority are bywords in academic circles, Lord Acton, Regius Professor of History at the University of Cambridge.

"The history of the organization and administration of the Punjab is a practical lesson upon the **duties of the English Government in its Oriental possessions**. We have to accomplish a change both in the State and in society to supersede the traditional government and the traditional civilisation. Indian culture, though it was developed by the same Aryan race to which our own civilization is indebted, has been arrested in its progress. **Its law has been identified with its religion** and, therefore, religion has tied down the people to the social usages and opinions which were current when the laws were first reduced to a code. The religion and manners of the Orientals mutually support one another; neither can be changed without the other. Hence the pioneer of civilisation has to get rid of the religion of India, to enable him to introduce a better culture, and the pioneer of Christianity has to get rid of the Indian culture before he can establish his religion. Thus the future progress both of Christianity and of civilisation demands that the Oriental career of England should not stop short at the point of contact with Eastern kingdoms and governments but should go on to deal with Eastern society". —(The Rambler, May 1862, page 534).

Lord Acton goes on to say that this change in society was being accomplished not by violent suppression but by "**choking out of all life**" of the local institutions by apparently harmless laws and unseen administrative changes. This duty that Acton speaks of was accomplished with greater success in Ceylon than in India. The role that Christianity was to perform in a British colony is clear. Governors North, Maitland and Brownrigg planted Christian missions on this soil on instructions from Secretaries of State like Lord Castlereagh. Brownrigg admitted his missionary role as Governor openly:

"It is not necessary to dwell upon my sincere zeal for a wide extension of the Christian faith, as it were independent of other motives; because it is in fact inseparably connected with my political office".—(Farewell letter to the Wesleyan Missionaries, 1820).

### **III. The Kandyan convention of 1815.**

It has been repeatedly asserted in official statements of our Government that Elizabeth is Queen of Ceylon, as successor to Sri Wickrama Raja Sinha, and is the latest sovereign of the oldest monarchy in the Commonwealth. This view has also been stated by the eminent Constitutional lawyer, Sir Ivor Jennings:

"On the other hand the idea of monarchy is essentially Indian in the neighbouring Island of Ceylon... the Queen is the latest of a line of monarchs, which started a thousand years before there was an England".—(The Queen's Government, by Ivor Jennings, 1954, pages 38 - 39).

When the British King became King of Ceylon in 1815 on the cession of the Kandyan Provinces, the British Crown assumed some of the prerogatives of the Kandyan monarch. In law the position is that the Crown may chose what prerogatives to assume, but once assumed they can be laid by, but they are never lost. They may be resumed at any time.

The Kandyan Provinces ceded on guarantees expressed in the Convention which contained as far as Buddhism was concerned the clause:

"The Religion of the Buddhoo professed by the Chiefs and inhabitants of these Provinces is declared inviolable and its Rites and Ministers and Places of Worship are to be maintained and protected". —(Article 5 of the Kandyan Convention).

What these words meant has been the subject of much discussion which we shall not enter into here. The meaning to be attributed to them will depend on whether they must be understood to mean what the English draftsman intended they should, at a future date, convey, or what those demanding a guarantee wished embodied in the Convention. What is more important are, what were the prerogatives the British Crown did assume, and these have nothing to do with the words of the Convention. What were the prerogatives that the predecessors of Elizabeth assumed as successors to Sri Wickrama?

#### **IV. Government connection with Buddhism 1815 - 1853.**

The Sinhalese monarch "protected" the Sasana and maintained it in its purity. The word protected is the nearest equivalent to the word signifying the functions of a Sinhalese king as regards the State. He exercised his power over the Religion to prevent schisms and heretical interpretations of the Dhamma. There is no authority to perform that function today. He also had certain specific prerogatives which in 1815 were:

- I. The appointment and dismissal of ecclesiastical officials.
2. The appointment of the Karaka Sabhas of Malwatta and Asgiriya and the enforcement of their decisions.
3. The custody and protection of the Tooth Relic.
4. The organisation and protection of religious ceremonial at Kandy.
5. The supervision of the administration of the Buddhist temporalities.
6. The appointment of lay officials at temples.
7. Patronage of the education system of Pirivenas.

These prerogatives were assumed and exercised until 1853.

### **V. Heathen Idolatry.**

We shall not here repeat the story of missionary activity in Ceylon of Christian missionaries as it has been recorded elsewhere. By 1838 they had realised that their efforts had not the results they expected and so began to press the Government to sever its connection with Buddhism. Reverends Boake, Spence Hardy and Murdoch carried on ceaseless agitation, and they enlisted the support of leading Government officers like the Colonial Secretaries Anstruther, Emerson Tennent and Government Agent Wodehouse. Missionary and official alike desired the end of the traditional social order. The Government wanted to dispossess the people and the temples of their land and break down the system of land holding in return for services so that the land could be passed on to European planters and the peasantry converted into a wage earning labour class on plantations. Traditional institutions like our family system, local government institutions and the religious institutions which cemented the social life of the people had to be destroyed. Not the least dangerous to their plan were the temples.

Selby, the Queen's attorney, said that Buddhism held the same position in Ceylon as the Anglican Church in England. The first step then was to sever the connection between the State and Buddhism. An Ordinance, No. 2 of 1846, was passed to create a Central Buddhist Committee, consisting of laity and clergy, which would undertake the functions of the Government. Naturally the Sangha objected. The Ordinance was disallowed but for a different reason. The law officers reported:

"An important objection to the Ordinance lies in the hierarchical machinery which it creates.

The Central Committee are to have the custody of the relic which involves the power of exhibiting it and of thus bringing together as they please large masses of people, being the most under their influence, under circumstances which render them most susceptible of mischievous influences. Over all priests of viharas and Basnayaka Nilames, they have power of removal involving the inquiry into the performance of their duties and to their appropriation of the revenues

of every temple in Kandy, and they are elected representatives, but of a large aristocracy of priests and officers, itself in a great measure self-elected.

On the whole then, I conceive the Queen's assent should be withheld from this Ordinance as giving a dangerous organization to the Buddhist hierarchy". (Report from Legal Adviser to the Crown, F. Rogers to the Rt. Hon. W. E. Gladstone, 25th June, 1846).

In 1853 the Government ceased to exercise the prerogatives, promising to give the Buddhists "an honest working constitution" but this promise was never fulfilled.

The missionaries and officials were right in thinking that it was the secular arm of the State i. e. royal protection that had upheld the Buddhist religion for twenty centuries. They were wrong when they gave the religion only twenty-five years after the withdrawal of Government support.

"Everyone knows", they said, "that it is the Christian British Government that upholds the Buddhist religion, and protects it from the spoliation, contempt and abandonment of the Buddhists".

## **VI. Impoverishment of Temples.**

Between 1819 and 1853 the Government had confiscated from time to time vast extents of temple lands. In 1846, it claimed 10,000 acres belonging to the Natha Dewala in Katukele alone, mention of which is made by Col. Forbes. The withdrawal of protection in 1853 gave the Government the chance of impoverishing the temples and undermining their authority further. Two enactments were devised for this purpose. One was the Temple Lands Registration Ordinance requiring all temples to register their claims to all their lands. Where the incumbents failed to register their claims in time the land was confiscated. When claims were made they were gone into and large extents of land were confiscated and the incumbents compelled to pay the survey fees for the lands in respect of which their claims were allowed. In most cases they had to pay twice the value of the land. The temples had no right of appeal against any

decision of the Temple Lands Registration Commissioners. It is estimated that in all the temples lost as much as 800,000 acres.

The other enactment was the Service Tenures Ordinance, passed at the instance of the missionaries who found the system of land holdings whereby tenants were obliged to pay services to temples and dewalas in return for their land, preventing the spread of Christianity.

"I have said that Christianity is incompatible with the maintenance of this institution, serfdom operating as a direct prohibition of conversion, adding to deprivation of civil rights, the forfeiture of religious liberty.....

If a temple serf should become a Christian, he could not of course perform any of the services in a heathen temple; consequently, under the laws as at present administered he would lose his land".— (Sessional Papers 1869-70. Papers on Service Tenures, Paper No. 5).

The Service Tenures Ordinance removed the influence of the temples by making it possible for a tenant to pay a small money payment in place of services. Temples became neglected and their customary festivals and rites difficult to maintain. Other anomalies sprang up. It became possible to sell a tenant's rights free of services due and large acreages of land today have been sold in that manner and form part of estates. Most strange of all **it has become possible to build Christian Churches on land dedicated to temples.** One recent case is the proposed Roman Catholic Church at Yayamulla in the Kurunegala District on land dedicated to the Kataragama Dewale of Kandy.

## VII. Result of the lack of a Governing Authority.

A person renouncing the world and living away from society needs no governing authority. But when a fraternity exists to minister to the needs of a community it must be held together by rules and administered by a legally constituted authority whose decisions are accepted as legally valid. When property to maintain the fraternity is found, the need for a

in trade, commerce or agriculture. He must lease out any land and invest any money on approved investments listed in Section 20 of the Trusts Ordinance. These are investments bringing poor returns.

centralized organization is all the greater. The need for a centralized authority is less in a State where there was religious unity and the king gave the legal support through the exercise of his prerogatives. But in the face of opposition of intolerant religions, well organized, a religion like present-day Buddhism with no organization to hold it together against disintegration from within and hostile attack from outside cannot last. Moreover religious bodies in our society are called upon to undertake large scale social service schemes like education. Such functions are impossible without organization. That is why a learned professor of Sociology from abroad said in a lecture at the Colombo Y. M. B. A. that **Buddhism cannot last fifty years.**

After 1853 it is a story of gradual decline and disintegration. What the enemies of Buddhism expected gradually came to pass. With no administration and control the Sangha began to manage the temple endowments. The enemies began to howl about "scandalous abuses". They persuaded Government to confiscate these lands wholesale. A Bill was prepared for the purpose. The timely arrival of Col. Olcott, who with the Ven'ble Hikkaduwe Sri Sumangala protested to the British Parliament, saved the situation.

One other consequence of a lack of an authority was that there was no **organization to start Buddhist education.** Col. Olcott looking for a way of starting schools had to organize Buddhist educational societies. Consequently, the Buddhist educational movement has remained a secular movement, with serious loss to both the Sangha and the laity. While the religious influence of the Sangha in education is denied to Buddhist children in their formative years, the Sangha were denied the opportunity of modern education which would enable them to minister to the needs of the Buddhist laity in the new society that was created.

### **VIII. The position Today.**

Today there is an Ordinance governing Buddhist affairs. It was the result of agitation on the part of men like Col. Olcott and Dr. W. A. de Silva. It provides to some extent



a system of management of temple lands. It also provides very inadequate remedies for certain Buddhist problems. **But the main reasons for these Ordinances have been political.** The provisions of the Buddhist Temporalities Ordinances have been prompted not by the desire to protect the religion but to protect the Government against possible political danger. One provision provides for compulsory registration of Bhikkhus and it is a penal offence to don a yellow robe, without registration. Yet when the Tapasa Sect consisting of persons of doubtful character was let loose by certain enemies of Buddhism to destroy the respect for the Sangha the Government took no action. The provision made for succession to the office of Viharadhipathi is so inadequate that disputes have to be taken to the civil courts and contested like testamentary actions.

As regards temple properties the Temporalities Ordinances have certain common features:

- A. Buddhist temporalities are brought under the law of trusts.
- B. Each temple is separately administered.
- C. Trustees are under the control of public officers.
- D. Rules of Mortmain have been incorporated.

We shall briefly refer to the significance of each of these features.

(A). **The law of trusts:** Although the law of trusts is an excellent law for certain purposes, it involves certain disadvantages. An owner of property has the control, management and the enjoyment or use of the property. He is strong in his possession. In a trust the control and management is vested in one person, the trustee, and the use in another, the beneficiary. Political interests were so safeguarded. The law of trusts prevents the best incomes from being derived because of this dual ownership and because a trustee is by law prevented from making the more lucrative kind of investments or engaging in trade, commerce or agriculture. He must lease out any land and invest any money on approved investments listed in Section 20 of the Trusts Ordinance. These are investments bringing poor returns.

(B). **Each temple is separately administered.** The Ordinance of 1846 provided for a central authority administering all property. Under the Temporalities Ordinances no central authority was allowed. As a result it is not possible for the Buddhists to organize any large scale educational and social service undertakings as the Christians can, for the benefit of the whole community.

(C). **Supervision by public authorities.** Temple trustees are answerable to the Public Trustee and to the Government Agents. They are bound by the Trusts Ordinances and the Temporalities Ordinance. The Temporalities Ordinance restricts the expense of any money outside the purposes laid down in Section 25. For all expenditure the Trustees must account to the Public Trustee. For any expense outside these heads, permission must be obtained from the Public Trustee. Once again the danger of temple revenues being used for political purposes is prevented through control by public officers. Therefore supervision by public officers is not so gracious after all. If there is any doubt let us see what Governor Gordon had to say when he introduced the first Ordinance in 1889:

"It is almost unnecessary for me to recall to mind the fact that when the connection of the Government with the Buddhist temporalities was severed, it was fully admitted by Her Majesty's Government that it became **an obligation, at the same time, to give to the Buddhist religious community a sound working constitution;** or that although this obligation was fully recognized more than forty years ago, the difficulties in the way of accomplishing the object in view have hitherto proved too considerable to be surmounted.....

The Ordinance about to be laid before you is an attempt to carry into effect a settlement based on the principles enunciated by Sir L. Longdon and Lords Kimberley and Derby.....

What is intended is simply to give to the Buddhists, as has been given to the Church of England, the means of

managing their own affairs, with, however, this important difference, that instead of one governing body there will be several independent governing bodies in the different districts.

The main objects of the Bill are the transference of temple property to trustees instead of the incumbents for the time being and the control of such trustees by Committees as is the case in India, where they have, as I am informed, on the whole worked satisfactorily. The most important feature in machinery for securing the efficient application of these provisions, is the establishment of a strict audit, under the direction of judicial authority. By adopting this plan the danger of creating a new and possibly formidable power, such as was created by the Ordinance of 1846 is escaped, the trustees being local and not central and, on the other hand, the sort of confiscation and interference contemplated by the Ordinance of 1877, and justly deprecated by the Secretary of State and Sir J. Longdon, are also avoided."

(D). **Rules of Mortmain:** Nothing is more significant of the hostility of the British to Buddhism than the manner in which they prevented the acquisition of property by Buddhist temples. This was done by Mortmain rules.

One of the most important sources of revenue of the Government is Estate duty or death duty as it is usually called. When a man dies his heirs have to pay this duty before succeeding to the deceased's property. And when these heirs die their heirs in turn have to pay the duty. If the property however remains in the name of a dead person, it is easy to see that no further duty becomes payable for the dead man cannot die again. For this lawyers use the word "Mortmain" literally the hand of death. When property is transferred into certain institutions, that property goes into Mortmain, for an institution cannot die. So when property goes into Mortmain, the State has for ever lost the income it would have derived from death duty on that property.

From early times in England, the Government has taken steps to control land from passing into Mortmain. Before a religious body or a charitable trust may buy land or receive

land by way of gift or bequest a licence had to be obtained. That is still the law of England and such licences are not granted unless the land sought to be acquired is for the actual use and occupation of the charity and not for purposes of deriving income. (The Mortmain and Charitable Uses Acts of 1889 and 1891.)

In the law of Ceylon the only religious institutions subject to all Mortmain rules were the Buddhist institutions and those which are completely free from them are the Christian religious bodies. Here are the laws that applied Mortmain rules on Buddhist charities:

1. The Proclamation of 18th September, 1819 providing for:
  - (a) **Registration of all Temple lands.**
  - (b) **Prohibition against donations or bequests to temples without licence.**
  - (c) **Forfeiture for violation of these rules.**
2. Control of Trustees by public officers **without whose authority no purchase is allowed.** This rule is still in force.
3. Provisions in the Temporalities Ordinances of 1889, 1905 and 1912 **prohibiting donations of land over Rs. 50/- without licence.**

In English law the provision is that if land is gifted to a charity without licence the land has to be sold. The rule binds the charity to apply for a licence. If it does not do so the land vests in the Crown. In Ceylon the law bound the donor. He had to get a licence before gifting or the land became forfeit. It will be seen that the spirit of the Ceylon legislation was to prevent any gift at all to the temples.

In 1840 the Legislative Council proposed by Ordinance No. 2 of 1840 to apply the law of Mortmain to all religious bodies but the Ordinance was disallowed as it would harm the future of Christianity in Ceylon.

In Ceylon it is not only from death duty that religious bodies are exempted. They also do not pay any of the direct taxes, income tax, profits tax, excess profits tax and Estate

duty. The income from these taxes together make up one-fourth of the revenue of our Government. Whenever a religious body buys property, whether land or shares in companies or any other property giving incomes, the direct taxes levied on them cease to be paid to Government thereafter. So the Government loses revenue and has to make up its income by indirect taxes i. e. duties on the articles of common use etc. which increases the burden on the poor man.

Since 1945, as everyone knows, there has been an increase in incomes and in values of property. Thus, the proportion of direct taxes to indirect taxes which are levied on property should have increased with the increasing values of property and incomes. Let us see if this has been really so. Here is the statement of the Finance Minister:

“ Direct taxes have gone up to nearly forty per cent of the total tax in 1945-1946, but have since then declined”. -(Economic and Social Development of Ceylon by the Hon. M. D. H. Jayawardene, 1955, page 17).

How much of this loss is due to property passing into Mortmain? The Government does not know. Although the Public Trustee's annual reports contain all details of Buddhist property, the wealth of the Christian bodies is a mystery to the Government and the public alike. While Buddhist Trustees may not purchase property, in fact Buddhist temple lands are systematically being reduced by compulsory acquisition by Government, there is no check on the acquisitions of Christian bodies. (See the Annual Administration Reports of the Public Trustee for details of compulsory acquisition of Temple lands).

British policy has been to keep the Buddhist religious bodies divided and weak, and in Lord Acton's words to gradually “choke up all life” out of them for political reasons.

In all fairness to the British we must say that British colonialism today is based on more enlightened principles. Here is an official pronouncement on its attitude to the religious beliefs of its African colonies.

"Since contact with civilisation.....must necessarily tend to weaken the sanctions of existing beliefs, and in view of the all-prevailing belief in the supernatural which affects the whole life of the African, it is essential that what is good in the old beliefs and sanctions should be strengthened".—(From the Official Advisory Committee's Report "Education Policy in British Tropical Africa" quoted in Education in the United Kingdom Dependencies, 1954, page 20).

Perhaps if Ceylon had continued a British colony the laws hostile to Buddhism made by the diehards of an earlier colonial regime would have been removed under this enlightened policy. But colonial chains still bind us down, after Independence, under our own Government.

### **IX. Legal Status of Religious Bodies in England.**

Before we pass on to examine the powers of the Christian religious bodies in Ceylon, it is relevant to see how they are placed in England. We make no excuse for this for we have copied the system of Government of the British and the checks and restraints in their law safeguarding their democracy, in our view, are just as necessary to protect the State in our country.

The Anglican Church has a status peculiar to itself on account of historical reasons. The Queen is the Head of the Church and appointments to the hierarchy are made on the advice of the Prime Minister. The Archbishop and Bishops are corporations, subject to the powers of the Crown.

The governing authorities of other denominations may be incorporated and may possess land but subject to important restrictions. Let us quote from the actual text-book:

"Religious bodies may hold property in relation to which the courts administer the ordinary law of trusts". (Constitutional Law, Wade & Phillips 1953, page 455).

All religious property is thus subject to the following controls in England:

1. They are subject to the law of trusts.
2. The Crown exercises supervision through Charity Commissioners to whom all accounts have to be rendered, the Lord Chancellor and the Courts.
3. They are subject to Mortmain rules.

The Government in this manner restricts the activities of all religious bodies and prevents them invading the spheres of activity not proper to them, viz. politics and profit-making. And over all these bodies the prerogative powers of the Sovereign exercise control through the public officers, and the courts.

In short, these bodies are cultural bodies only, i. e. organizations for promoting the moral and spiritual welfare of its adherents and which keep clear of politics and from the pursuit of worldly wealth. Speaking of the famous Section 29 in the Ceylon Constitution, Sir Ivor Jennings in the Waynflete Lectures delivered at Magdalen College, Oxford in 1949 says:

“Clearly the fundamental desire was not to secure tactical advantages but to leave the racial and religious communities as cultural bodies outside the political orbit”. (The Commonwealth in Asia, page 81).

We now proceed to see how far this desire has been achieved in the law of Ceylon.

## **X. Legal Status of Christian Religious Bodies In Ceylon.**

Christianity has been enthroned in Ceylon by our Constitution.

The historic speech of Governor Gordon will be recalled as regards the Constitution given to the Anglican Church:

“What is intended is simply to give to the Buddhists as has been given to the Church of England, the means of managing their own affairs, with, however, this important difference, that instead of one governing body, there will be several independent governing bodies in the different districts”. (Extract from an address of His Excellency the Governor on opening the sessions of the Legislative Council in October, 1899).

It should be remembered that Governor Gordon mentioned only one of the differences. The other difference is that the Church of England is completely free of Government control or supervision in the management of its property. Constitutions have now been given to all Christian religious bodies. Their constitutions vest in them **every power known to the law**, and as such **the only Church in the whole world that is superior to them in such power is the Vatican**. Each of the Christian religious bodies has a Constitution that makes it legally stronger than the Church authorities in England, France, Spain, the Argentine, America or any other country in the world.

Every Christian religious body in Ceylon is incorporated. Incorporation is a peculiar legal device to treat a whole institution like the Diocesan Council or one office like the Roman Catholic Archbishop apart from the persons who comprise the institution, as a person in the eye of the law, called a corporation.

Thus for the acts of a corporation in accordance with the powers granted to it, neither the individuals forming it nor the servants through which the corporation acts are themselves personally liable. This gives the persons serving a corporation a chance of working free from any responsibility for their acts to the law of the country. At the same time the corporation may buy property, engage in commerce, agriculture and industry. This peculiar creation of the law thus endows an incorporated body with a will of its own and vast powers, without involving its members in personal liability and gives it continuance of life as long as it is not dissolved in accordance with the law. Corporations like the East India Company have in the past been powerful enough to conquer territory and even to govern countries.

The formidable powers of a corporation make it a serious threat to the State, unless it is brought under State control and in Europe where the idea of corporations first originated no corporation is free from Government control. First, only the Government may create a corporation. In England a Royal Charter or an Act of Parliament is necessary. Secondly, a



corporation is never created with such wide powers that it can do anything. Its powers are limited to the purposes for which it is created. Any act outside the powers granted to a corporation is thus illegal. Thirdly the acts of a corporation are subject to supervision of the Government, and steps are taken to see that the corporation does not exceed its powers. Lastly the authority granting incorporation i. e. the Crown or Parliament, as the case may be, has the power to remove the incorporation granted. This last is the most effective check in the hands of the Government against an incorporated body.

Illustrations of how these checks are exercised by the Government over each of the three types of corporations will make the position in law clear.

### **1. Local Government Corporations**

These bodies are subject to control by different Ministers in England, like the Ministers for Health, Education etc. In Ceylon Local Government bodies are under the control of a Minister for Local Government. This control is called "Central control". The income and expenditure of local Government bodies are subject to audit by the Auditor-General. The Minister's powers extend up to dissolving a local Government body and vesting its powers in a special Commissioner.

The powers of a Local Government body are clearly defined and any act outside these powers may be checked by the Minister or by appeal to a court of law.

Lastly the servants employed by the various local bodies are members of a separate service placed under the Local Government Service Commission presided over by the Commissioner of Local Government.

These restrictions on local bodies are common to both England and Ceylon.

### **2. Commercial Corporations**

These are incorporated generally by the Registrar of Companies and may be private or public companies. They exist only for profit-making through trade, agriculture and industry. Their

powers are clearly defined by the articles which can only be amended by Parliament. If a servant of a company acts outside the powers of the corporation such acts are illegal and may be challenged in a court of law. Such servants become both civilly and criminally liable to the ordinary courts for such illegal acts.

The Government, both in its own interests and in the interests of the public closely watches the activities of these corporations, through an officer called the Registrar of Companies. He must be furnished with reports of meetings, resolutions and statements of accounts. Where companies act outside the powers they may be dissolved either by the ordinary courts or by Government by withdrawing the incorporation granted.

### **3. Religious and Charitable Bodies**

These are generally granted incorporation either by a Minister or by Parliament. In England, in rare cases incorporation is granted by the Crown by special charter. They are cultural bodies and must restrict their activities to moral, spiritual and charitable work for public benefit. They exist for purposes of ministering to the religious needs of the people, or to improve the moral and spiritual welfare of the people. They have been allowed to engage in charitable acts viz. the relief of the poor, education and other purposes of a similar nature. In England the danger of religious and charitable bodies going outside their legitimate sphere and interfering in other activities was foreseen. Religious bodies have great influence over people and it is easy to see how they may use this influence to become a formidable threat to the Government. The sources of power of religious bodies are twofold. Firstly they control the minds of persons under their influence through the use of religious sanctions and secondly they acquire worldly wealth, which can be used against the interests of the State.

In England, as we have shown, religious bodies are not autonomous. They are subject to Government supervision as far as their temporal possessions are concerned. They are subject to Mortmain laws which prevent them acquiring land without permission. They are subject to the law of Trusts which

prevents them from engaging in trade, and putting their wealth to improper use. Reports and accounts have to be regularly furnished to Charity Commissioners and the use of their property is subject to the ordinary courts by making them subject to the law of Trusts.

These provisions of law restrict them to the position of mere cultural bodies i. e. they are carefully prevented from using their powers granted by incorporation to engage in profit making and employing their worldly wealth for political purposes. These restrictions are necessary to prevent a religious body from becoming a danger to the State. This is what Sir Ivor Jennings meant when he called religious bodies "cultural bodies outside the political orbit". Religious bodies are, as far as possible, confined to their role as cultural bodies in England where these bodies are given the freedom to minister to the spiritual needs of the people but are subject to the supervision of the Government. There are no opportunities given to them to go after worldly wealth or to fall into the temptation of using their spiritual influence to gain power over the Government by engaging openly or secretly in politics. The danger of unrestricted power in religious bodies is all the greater in a democratic country where, on the one hand these bodies may exercise their control over the minds of voters, and on the other they may with money, honours and the like influence important persons like Ministers and public officers.

With these principles in mind, we may examine the constitutions given to the religious bodies in Ceylon and the question of how far the State has any control over them. All Christian religious bodies are incorporated and they have the fullest powers as regards property. They may do everything short of breaking the criminal law and not being real persons have not much chance of doing that. Some of these bodies like the Church of England have constitutions that provide internal checks, but even here the State has no direct control. Others like the Roman Catholic Archbishop, who is a corporation sole, are incorporated in such a way that there is no check whatsoever whether internal or external. These bodies may

engage in trade, agriculture and industry run schools, orphanages, undertake colonization schemes and acquire wealth without limit; and in fact they do all these things. In a democracy only the voters may exercise political power either individually or through political associations. In Ceylon we have the peculiar position of the incorporated religious bodies allowed by law to exercise political influence, a position that is unheard of in any other country except perhaps in Spain or the Argentine.

To make matters worse, the law and the administration have provided numerous privileges and sources of wealth for them. They are exempted completely from income tax. The Government provides employment in State and State-aided institutions for members of religious orders who have taken the vow of poverty. Their salaries and pensions pass directly to the church and swell its wealth. Of all religious bodies, the Roman Catholic Church is the wealthiest and has the largest sources of wealth, and yet receives most State aid. In addition to the estates it owns, it also engages in certain types of trade, and in business ventures. One of its most prolific sources of wealth is the "fish-tax", a ten per cent levy on the fish landed by every Roman Catholic fisherman. This was a Government tax up to 1840 when it was abolished. One hundred and fifteen years ago the Government realised £6,000 a year on this levy and its proceeds must have multiplied several fold since. The Roman Catholic Church collects it now. Those taking to religious orders must hand over their share of property to the Church. Annually the Church adds a large acreage to its possessions and acquires shares in the business organizations of the country. Commercial and agricultural activities are an important part of church activity and thus the Roman Catholic Church is the largest commercial organization in the country.

We are not concerned with the strictly religious activities of these bodies. But, in passing, we may mention that most of these bodies have institutions specially designed to give the greatest measure of control over the minds of persons professing these religions, that is useful in controlling and directing the activities of such persons in various spheres of action. A Christian citizen is thus a Christian first and a Ceylonese only afterwards.

We may lastly examine their political activities. It must be mentioned at the outset that they rarely openly engage in politics. Their political activities are carried on unseen by the public or through the guise of social work. On certain occasions they control voters in the exercise of their vote. An instance of this occurred after the last election when burial in the Catholic Church was denied to those who voted against the directives of the Church. It is the right given to religious bodies to do social work, a sphere of activity very closely bordering on political work, that makes religious bodies dangerous to the State and strict supervision necessary. They may bring together people into organizations whose activities can have a "mischievous influence", on the Government. Let us refer specifically to some of these activities.

The most prominent among them is the movement designated "Catholic Action". "Catholic Action", is a movement started by the Pope all over the world among Catholic laymen, embracing all activities from the intellectual to the manual, from the social to the political. It emphasises the promotion of Catholic aims by the lay apostolate. Fr. S. G. Perera explains the political aims of Catholic Action in a lecture published under the title "Catholics and Civic Responsibilities" as the **"devising of means to bring about harmonious agreement between Church and State in politics"**. Catholic action groups are found in every Government Department and Mercantile Firm, directed and guided by the Catholic hierarchy furthering Catholic interests and promoting the interests of the Catholics through the use of official positions. In this way the hierarchy is kept informed of Government activities and the public servants given directives as regards their official acts. This is how "harmonious agreement between Church and State" is brought about.

Then there is a special Catholic Employment Bureau, to secure as much employment for Catholics as possible. We Buddhists are constantly told to think of ourselves as Ceylonese first and Buddhists afterwards, but the activities of these bodies we have mentioned is a sad violation not only of this rule but also of the Christian principle of "do unto others as you would others do unto

you". Another sphere into which the Catholic church is breaking in is the Workers' Movement. Catholic Workers' Training Centres are being organized and with the intention of bringing harmonious relations between Church and State there will soon be Catholic Trade Unions. The "harmonious relations" will be brought about ultimately by a State made subordinate to the Church, for as Fr. Perera says **"this Catholic politics is the same all the world over and at all times"**. **The Church will never alter its position.** It is always the State that must bend. Laymen will be shown how profitable it is to be Roman Catholic through various methods. The latest venture is a Catholic University, the graduates of which educated in the Catholic way, may enter public life and help to change the outlook of Ceylon and subordinate it to Catholic interests. We must remind our leaders that this is a strange way of building up a Ceylonese nation, who think of themselves as Ceylonese first.

There is another sphere into which the Catholic Church is trespassing which we must view with the greatest alarm: Colonization schemes. With its wealth and its organization it is able to start colonization schemes. These are usually sited in the most sparsely populated electorates where the number of voters is small. The political effect of these Colonies will be far-reaching and we cannot understand how a Government supposed to be neutral to all parties can permit and even promote these religio-political colonization schemes.

It is impossible here to enumerate all the activities of these religious bodies which appear to us to fall into the category of those not proper to religious bodies. We have indicated some of those that the public may easily recognize as belonging to a class of activities outside the purely spiritual and moral sphere. Where charitable work is permitted to be undertaken by these bodies, we are of opinion, that it is the duty of the State to see that they are not of a type that may have mischievous effects upon the political and economic spheres. This is only possible with State supervision of activities of religious bodies not strictly religious.

## **XI. A Church Dictatorship.**

We now proceed to examine some of the serious consequences that are bound to result from the absolute power of incorporated religious bodies. Throughout the Middle Ages, in European countries, there was a long drawn out contest between the Church and State, the Church trying to bring the State to a subordinate position acting according to its own dictates. The battle ended as we know in the emergence of the secular state with the Church restricted to its proper functions viz. ministering to the spiritual needs of the people. Where the Church undertakes charitable work and owns property such undertakings are strictly controlled and supervised by the State. Here in Ceylon the Church is guaranteed by the law a position that makes it absolutely free of state control. Legally it has the position it was battling for in the Middle Ages. All that the Christian religious bodies need do now is to expand their activities, gradually, into fields other than religion and the conquest of Ceylon by these religious bodies will soon be an accomplished fact. Unlimited legal powers to engage in commerce, agriculture and industry, amass wealth, unlimited opportunity to organize social work and bring large sections of the people including non-Christians under their power, extensive privileges, no taxes to pay on the immense wealth and above all unlimited opportunity for political activity.

Only public opinion prevents these bodies from openly launching a Christian or Catholic political party. But how long can public opinion last? We must draw attention in this connection to Section 29 of our Constitution which prevents discriminatory legislation of Parliament but no such checks have been framed to control discriminatory acts of Ministers. The danger to Ceylon of incorporated bodies, uncontrolled by the Government, having immense wealth and immense influence will therefore be patent. How long will it take for the Christian religious bodies to acquire all the capital in Ceylon? We cannot say how long they will take but there is no doubt they will at no remote date in the future. How long will it take before they attain a domineering position in the political sphere in Ceylon? There is no doubt that such a position will

certainly be attained as things are, within a short time. Political power grows with wealth and both wealth and power are formidable forces of corruption. The law endows the incorporated religious bodies with unlimited opportunities for wealth and absolute power and we may say with Lord Acton that absolute power is the surest way to absolute corruption.

Democracy in Ceylon is faced today with the gravest danger it can know from religious bodies corrupted with wealth and power. The Colonial Government in 1846 saw a Central Buddhist Committee even under Government supervision, capable of "mischievous influence". How much greater is the danger of centralized religious organizations, incorporated by law with no checks on their power in a democratic state yet in its infancy? A powerful political party controlled by a few leaders may control Parliament through members whose nominations are decided by a few party bosses, who hold the party funds. An election is usually won today not on the merits of individual candidates nor on the merits of a party programme but on the amount of propaganda, the organization and the expenditure that a party can command. A party without funds is generally helpless at an election, however good its policy may be. This gives a corporation unrestricted in its powers, the chance of interfering. If it has the money to use for the purpose it can control the Press and thereby control opinion. It can finance the ruling party and thereby control the elections. It can influence Ministers and through them control the Government machine. It can influence public officers and bend the administration to its will. The danger is all the greater in a country like Ceylon where a large section of the voters do not understand the working of a democracy. How easy it is to achieve harmonious relations between Church and State!

How far are the incorporated religious bodies using their powers in this way? Those who have watched the attitude of the local Press and the actions of Government ought to recognize the influences of unseen forces at work. Let us bring one or two of the more glaring instances in recent times by way of illustration.



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Last year the Hon'ble Minister for Agriculture & Lands made a daring attempt to create a new type of land tenure for the Archbishop on Crown land. When Crown land is granted to peasants, it is given on the ordinary terms to persons selected by a Government officer from those appearing before him at a Land Kachcheri. Crown Land may be given for religious purposes under Section 4 of the Crown Lands Ordinance under preferential terms. The Minister concerned proposed to combine the two and grant sixty acres of land to the Roman Catholic Archbishop on preferential terms so that he may settle peasants of his choice on these lands on conditions devised by him. The peasants would then be tenants of the Church on rules imposed by the Church. Even the service tenures of temple lands did not give such rights. Those tenures were based on customary laws which the Buddhist monks could not change. The Gazette notification of 10th September 1954 speaks for itself. It will be noticed that the rent for an acre of land would be only Rs. 1/20 for a whole year. What would be the Archbishop's turnover annually?

**Notification under Crown Lands Regulation 21 (2)**

1. Notice is hereby given that the Archbishop of Colombo has applied for a long term lease of 50 acres of paddy and 10 acres of highland, situated at Amunukola, Hurulu Palata, Anuradhapura District for agricultural purposes.
2. The land is required for the settlement of certain landless families from Alagollewa village. The land is available. It is proposed to grant the application for lease subject to the following terms:
  - (a) Term: 30 years;
  - (b) Rs. 72/- per annum, subject to revision each time the lease is renewed.
  - (c) The lessee shall use the land for agriculture and no other purpose.
3. The lease will be granted unless valid reasons to the contrary are adduced in writing to me within six weeks from date hereof.

W. W. J. MENDIS,  
for Land Commissioner.

Colombo; 3, September 1954.

The second instance is the fate of the provisions in the recent amending Bill to the Income Tax Ordinance which proposed to make the incomes from agriculture, trade, commercial and industrial ventures of religious and charitable bodies liable to income tax. The provisions were recommended by the recent Taxation Commission and closely followed the English and the Indian enactments. It was a gentle attempt to get the religious bodies to render unto Caesar that which is Caesar's.

The local Press imposed a "black-out" on these provisions. The Bill passed two readings in the House of Representatives before the Church bodies realised the danger. The Bill would make them liable to tax but more dangerous than that the Government would become aware of its wealth. Moreover certain activities for which the law now has loopholes would become impossible. So the Bill had to be stopped and political influence was resorted to.

When two readings of a Bill are passed the Government is committed to the Bill in principle. The only way to stop the Bill is to postpone it and unless the third reading is made before the session is over, the earlier proceedings become void and proceedings have to start all over again. Government has the right to drop it out altogether. Delaying tactics were adopted. Memoranda were prepared and sent by the Christian bodies. Then the Government announced that the passage of the Bill would be delayed to give time for other religious bodies to make known their views. The Taxation Commission's Report and the Finance Minister's speech at the Budget Debate had given ample notice. Yet now the Government announced further time. Buddhist temporalities have from time immemorial been exempted from taxes. It was anticipated that under encouragement the Buddhists would protest. Unfortunately, for the Government, Buddhist Associations passed resolutions urging that the third reading should be made without delay. Even the Mahanayakas made no protests. In this predicament the Church launched out its usual "action". Vigorous lobbying prevented a quorum of the Standing Committee "A" when the Bill was to be considered. In the end the Government announced that it would postpone consideration of the particular provisions for the next year. The two readings already made

would be void when the present session of Parliament is closed and the Bill may never be revived. The Government for its part would be getting the fullest support of the Christian religious bodies concerned at the forthcoming election.

## **XII. Section 29.**

But the most astonishing use of political influence is shown in the famous Section 29 of the Constitution (order-in-Council) 1946, by which we are governed. The minorities in 1944 complained that the Sinhalese Buddhist Ministers used their powers against the religious and racial minorities. They were not able to show the Soulbury Commissioners any legislation directed towards that end. The greatest danger they said was the unrestricted use of Ministers' powers in the executive and administrative fields. Curiously enough the section providing against discrimination whether on racial or religious grounds is section 29 which leaves Ministers' powers just as they were and only limits the legislative power of Parliament. In the same provision the Christian religious bodies managed to safeguard their positions and attain a **status unparalleled in any other land.**

Before we proceed, it is perhaps proper to state how the section came to be what it is. The original draft published in Sessional Paper XIV was as follows:

- (1) Subject to the powers of this Order, Parliament shall have the power to make laws for the peace, order and good Government of the Island.
- (2) No such law shall—
  - (a) prohibit or restrict the free exercise of any religion, or
  - (b) make the persons of any community or religion liable to disabilities or restrictions to which the persons of the other communities or religions are not made liable.
  - (c) confer on persons of any community or religion any privilege or advantage which is not conferred on persons of other communities or religions; or

(d) alter the constitutions of any religious body except with the consent of the governing authority of that body.

The original draft included only these four provisions. The Soulbury Commissioners in their report to the British Parliament left this section unaltered.

Sub-section (d) is of particular relevance in our present discussion. Prior to the passing of this provision the legislature in Ceylon had the right to pass any law affecting a religious body just as the Parliament in England has. Thus it was that the Ceylon legislature granted incorporation to the Christian religious bodies. Sub-section (d) restricts this power and no legislation passed by Parliament would be valid without the consent of the governing authority of the body. Parliament has the right to originate and pass legislation affecting religious bodies. Let us take a hypothetical case. Supposing there are two proposals, the first by one or other of the Nikayas for incorporation and the other by a very large body of the Buddhist public for an incorporated governing body that will control Buddhist affairs as the Diocesan Council controls the affairs of the Anglican Church. In the first place the Government may reject both proposals and refuse to introduce the legislation necessary. A private member's Bill has no chance before Parliament. And so the Buddhists can get no action. On the other hand the Government may consent to introduce a Bill embodying one proposal and not the other. In its decision it will be guided by political considerations, i. e. how the passing of such a Bill may affect the political party itself and other sections of the public. The Bill itself will be drafted on lines suggested by the legal advisers of the Government. Finally, it must be discussed and passed by all members of Parliament whether Buddhist or not. What chance will the Buddhists have of securing an Act of Incorporation as has been given to the Christian religious bodies? Before such a Bill can even be introduced the Government may stop it. It can get the governing authority of some nikaya to object and the Bill need not be introduced. In passing, we may mention that had this provision existed in 1889, there would have been no Buddhist Temporalities Ordinance even though Governor Gordon and the Legislative Council were keen on passing the Bill.

To go back to the year 1945 at least one Christian religious body was not satisfied with this position created by Sub-section (d) to Section 29 (2). After the second draft was published the local draftsman was clandestinely induced to introduce a special proviso. So a final draft was prepared and according to Sir Ivor Jennings this was not published.

“ It could have been published if such publication was needed to convince the State Council but publication was found to be unnecessary, and accordingly this last draft was forwarded to the Governor by Mr. Senanayake in order that it might be used by the draftsman of the Order in Council”. (See Preface to “ Constitution of Ceylon ” by Sir Ivor Jennings, Oxford University Press, 1949).

In another article Sir Ivor states that Section 29(2) “ was slightly amended in final drafting to meet the views of the Roman Catholics”. (Law Quarterly Review, October 1949, page 472). The amendment made was the addition of a proviso to Section 29(2) (d) which is seen in the present constitution and runs as follows:-

“ Provided that, in any case, where a religious body is incorporated by law, no such alteration shall be made except at the request of the governing authority of that body”.

Before proceeding to examine the change brought about by the addition of this proviso it may be mentioned that the only religious bodies that are incorporated by law today are the Christian religious bodies. We may also mention that **it is likely that the only religious bodies that will be granted the type of incorporation given to these bodies will also be the Christian religious bodies.** If the Government sponsored Nikaya Incorporation Acts are passed, they would perpetuate division among the Buddhist Sangha as may be seen from what follows.

The Catholics in 1945 saw the vast powers already possessed by their Church. As we stated earlier, the incorporated religious bodies have every power the Law is capable of granting.

There was however yet one check on their power. It was the Legislative Council that granted the incorporation and parliament could legislate to amend the Ordinance with the consent of the governing authority. This power of Parliament had to be stopped. Even the need for the consent of the governing authority was not considered sufficient as a safeguard. Now the proviso prevents Parliament originating any legislation regarding these bodies. Only the governing authorities of these bodies may initiate laws affecting their constitutions and since they have already all the powers they need they have by the proviso placed themselves above the legislative powers of Parliament.

The incorporated religious bodies are thus in a position to exercise their powers in any field, as long as they are not found breaking the criminal law of the country. The extent of their wealth and how they use it are alike unknown to the Government. They may ally themselves with foreign powers which desire to bring this country under their control. They may organize public officers under their allegiance and control them for their purposes and there will be no danger as long as they work in harmony with the leaders of the governing party who in turn can be made to lean on these religious bodies for power. Thus unless the present position is remedied, the Government will gradually become more and more a puppet in the hands of these bodies. Only Parliament may have exercised control but the proviso has effectively removed that power. Already the political strength of these bodies has been shown in the fate of the recent Amending Bill to the Income Tax Ordinance. We fear more serious consequences in the future.

Before we pass on from this subject it is interesting to contrast the corresponding section viz. 25(2) of the People's Constitution of India. There the Constitution safeguards not the religious bodies but the State and the effect of existing legislation:

"25(2). Nothing in this article shall affect the operation of any existing law or prevent the State from making any law—

(a) regulating or restricting any economic, financial, political or other activity which may be associated with religious practice".

It was Sir Ivor Jennings' view that the fundamental desire of the draftsman of the Ceylon Constitution was to leave religious bodies as purely cultural bodies outside the political orbit. We have shown that if this was the desire, the Constitution of Ceylon has failed to embody that purpose. It has perpetuated as best as it could the political role of the Christian Church in Ceylon. The Constitution of India has placed religious bodies where they have a right to be, as cultural bodies, and the State has been protected. Parliament, in Ceylon, may reduce the powers of the Queen but it cannot reduce the powers of the Christian religious bodies. Over Ceylon, Christianity sits enthroned, and Ceylon bound hand and foot has been delivered at the foot of the Cross.

### **XIII. Religion and State.**

It has been reported by British lawyers that Buddhism in consequence of the terms of the cession of Kandy in 1815 occupied the same position as the Anglican Church in England viz. the state religion. Even after disestablishment the Anglican religion in England continues to be the most favoured church. In Ceylon the Colonial Government assumed some of the prerogatives of Buddhist kings and we have recounted how it laid by these prerogatives.

The question has to be answered on behalf of the hundreds of thousands that appeared before us, "What is the relationship between the State and Buddhism that should exist in the present day?" We have given great thought to this matter and we are of opinion that the anomalous position that exists today should cease without delay. Today the Government exercises a minimum of the prerogatives of the Buddhist kings, just sufficient to maintain political control of the Buddhist religion. The care and custody of the tooth relic is today the custody of a key to the casket kept by the Government Agent. The appointment of Maha Nayakas has become the issue of a letter of recognition. The decisions of

the kāraka sabha have no legal force. The Government ceases to exercise the care and maintenance of the temples. The 'Nation' which the Government Party intends to build is a united Ceylonese nation, not the Sinhalese and not the Buddhist alone.

"The Right Hon'ble D. S. Senanayake was acclaimed the 'Father of the Nation'. What was the Nation that everybody was telling about in his life time? Was it the Sinhalese? Was it the Buddhists? Was it the Christians or any other religionists? There is but one answer to this question. When we acclaimed him as 'Father of the Nation' we acclaimed him as the father of the United Ceylonese Nation." (Speech by the Prime Minister, Ceylon Daily News, September 26th, 1955).

A state religion is incompatible with the Government representing such a Nation and it is anomalous for a secular state like ours to have a Government exercising the powers of a Buddhist monarch. Besides, there have been vast changes in political institutions since 1815. Supreme authority no longer vests in a personal monarch but in Parliament. These prerogatives vest in the Crown controlled and answerable to an elected Legislature composed not only of Buddhists but of many non-Buddhists as well. Even the Buddhist members are not nominated as Buddhists but for other considerations. We therefore do not think it desirable that Buddhism should have any official connection with a secular State governed by a Legislature not consisting of Buddhists. Today the Governor-General is a Christian and the time may soon come when the Prime Minister himself is a Christian.

At the same time we are not satisfied that even the functions that the British Government retained in its hands are being satisfactorily exercised. There is provision to punish through the courts of law any person who dons a yellow robe in public without having his name registered with the Government. The penalty is a fine of Rs. 50/- a day of so continuing to wear the robe. Recently an organization started a sect of so-called Tapasa Monks who made it their programme to undermine the respect of the people for the Buddhist Sangha through a maligning campaign. The activities of the



sect were in violation of the law, but the Government took no steps. We are of opinion that it is incompatible for a secular Government to use its powers for maintaining the purity and strength of the Sasana. Meantime that function of the Sinhalese monarch and the prerogatives assumed by the British Crown in 1815 are not exercised today. We recommend that the Government should create a suitable body by the passing of a Buddha Sasana Act as the Government of Burma has done and vest all the prerogatives of the Buddhist kings as may properly be vested, in such a body. When this has been done and the Government has taken other steps necessary to rehabilitate the Buddhist religion, it must in our view sever all connections with Buddhism. Incidentally, we suggest that similar assistance may be granted to Islam and Hinduism which have themselves suffered considerably under Western rule.

We are in agreement with the view so often expressed by the Government that it recognizes religion as a great moral and cultural force in the country. But we cannot agree that the predominant position should be given to Christianity merely because the British Colonial Government gave it such importance. We are of opinion that it is the duty of Government to improve the moral quality of its citizens to the maximum extent possible and through the use of all religions. We are also of opinion that there should be no room left for any religious body to take up an uncompromising or hostile attitude towards other religions. We are strongly opposed to permitting any religious body to use the power of "the free exercise of religion" to exploit poverty, suffering, ignorance, immaturity of age and infirmity for winning over persons of other religions. In a land where the Buddhists form the majority and believe in peaceful co-existence we have a right to expect that the Christian hierarchy should treat our faith better than they treat savage creeds. The present attitude to say the least is most un-Christian.

"We would not be far wrong in describing Buddhism not as a religion but as a philosophy, and that philosophy contains features of such striking beauty, that the missionary may sometimes be confronted with the feeling that he is trying to displace in favour of Christianity a creed so beautiful, that it

may well claim the right to a separate existence rather than to be ruthlessly destroyed. Its virtues are such as to justify the claim some make for it, as one of the greatest helps to morality found in any religion". (The History of the Colombo Diocese by Ven. F. L. Beven, 1946, page 2).

Yet the same writer goes on in the same chapter to say that "alliance with Buddhism is impossible to Christianity" (page 6) and having given his reasons for his view sums up in these words:

"Here then were the two great religious forces (Buddhism and Hinduism) facing the Church of England when it came to Ceylon. The Christian looked to claim this Island for Christ, to establish it in the kingdom of God. He stepped forth courageously and fearlessly to make this claim. The majority of the inhabitants of the Island belonged to one or other of these two religions, with neither of which compromise was possible". (page 7).

It is a matter for regret that a Christian hierarchy in Ceylon should thus persist in bigoted intolerance even today.

We are strongly of opinion that the attitude of the Government towards some of these religious bodies should be changed without delay. We have seen how British Colonialism brought in the Christian Church to help in its political work. In its plan to change the agricultural economy of the country to a plantation economy the land had to be taken away from the people and handed over to the European planters. There was no place in the new order for the local government, religious and educational institutions of the people. These were gradually choked out of all life and their functions handed over to the new institutions introduced. The Gansabhawa which Col. Colebrook and John Bright praised so highly gave place to the law courts and the temple was replaced by the Christian Church. Thus it is that the Christian Church in Ceylon still retains functions which in democratic countries are the functions which people manage through local government bodies. We see in the present scheme of education and other social welfare work that is run on sectarian lines the greatest impediment to any plan for a united nation of Ceylonese. We have elsewhere