



DRAFT INDIAN CHURCH MEASURE

**introduced to the National Assembly of the
Church of England by order of the
House of Bishops**

and

**DRAFT INDIAN CHURCH STATUTORY
RULES**

**proposed to be made under clause 5 of the
Indian Church Bill, if it passes into law.**

*Presented by the Secretary of State for India to Parliament
by Command of His Majesty.
May 1927.*

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EAST INDIA (DRAFT INDIAN CHURCH MEASURE
AND STATUTORY RULES).

DRAFT INDIAN CHURCH MEASURE, 192 .

NOTE.—*The Draft was introduced to the National Assembly of the Church of England by order of the House of Bishops on the 2nd March 1927.*

A MEASURE proposed to be passed by the National Assembly of the Church of England to provide for the dissolution of the legal union between the Church of England and the Church of England in India, and to make provisions consequential thereon :

Whereas it is expedient that the legal union between the Church of England and the Church of England in India shall be dissolved, and that provision should at the same time be made for the last mentioned Church as proposed to be constituted after the dissolution of the said union :

And whereas a petition to that effect has been presented to the Church Assembly by the General Council of the Church of England in India :

And whereas the Secretary of State in Council of India and the Governor-General of India in Council and the Archbishop of Canterbury and the Bishops and duly appointed representatives of the Clergy and laity of the Church of England in India in Council assembled have approved the dissolution of such union :

1. In this Measure—

The expression "date of severance" means such day Interpretation.
not less than two years or more than three years
after the coming into operation of this Measure
as the Governor-General of India in Council at
the request of the General Council shall fix for the
dissolution of such union as aforesaid.

The expression "Indian Church" means, in respect
of the period before the date of severance the
Church of England in India and in respect of the
period after the date of severance, the Church of
England in India as severed from the Church of
England notwithstanding the adoption by the said
Church of any other name or names.

The expression "rule" includes canon, article,
declaration, constitution and regulation.

The expression "the rules of the Indian Church" means the ecclesiastical law and the articles, canons, doctrines, rites, rules, discipline and ordinances of the Indian Church existing at the date of the passing of this Measure with and subject to such modification or alteration, if any, as may after the passing of this Measure be duly made therein by the Indian Church.

The expression "Bishop of Calcutta" means the occupant for the time being of the See of Calcutta, whether or not that See is constituted an Archiepiscopal See.

The expression "General Council" means the body recognised as such by the Bishop of Calcutta.

Dissolution of
union between
the Indian
Church and
the Church of
England.

2. Upon the date of severance the union legally existing between the Church of England and the Church of England in India shall be dissolved, and—

- (i) The enactment mentioned in the first column of the Schedule to this Measure shall be repealed to the extent mentioned in the third column of the said Schedule.
- (ii) The Metropolitan Bishop of the Indian Church shall not in contemplation of the law be subject to the general superintendence and revision of the Archbishop of Canterbury, and the obtaining of the Royal Mandate to consecrate shall not be necessary in the case of the consecration of a Bishop for a charge in India, nor shall the Bishops in Foreign Countries Act, 1841, apply to the consecration of any such Bishop, nor shall any Bishop of any Diocese in England have any jurisdiction over the Indian Church in India.
- (iii) No ecclesiastical court or official of the Indian Church shall have or exercise any coercive jurisdiction.
- (iv) The ecclesiastical law of the Church of England, so far as it exists in India, shall in India cease to exist as law; and no proceeding by way of re-hearing or appeal from any decision, judgment, sentence, decree or other order of any ecclesiastical court or official of the Indian Church shall be entered, admitted, prosecuted, heard or determined in, by or before any of His Majesty's Courts of Justice in India or elsewhere, any Court of Commissioners Delegate in India or His Majesty in Council.

- (v) The rules of the Indian Church shall be binding on the members thereof for the time being in the same manner as if they had mutually agreed to be so bound and shall be capable of being enforced in the temporal Courts in relation to any property lawfully held on behalf of the said Church or any members thereof in the same manner and to the same extent as if such property had been expressly assured upon trust to be held on behalf of persons who should be so bound.

As in the respects particularly in this section mentioned so in all other respects the Church of England and the Indian Church shall as from the date of severance be legally severed, separate and distinct and every law and custom shall, except as in this Measure expressly provided, be interpreted and applied accordingly.

3.—(i) From and after the coming into operation of this Measure nothing in any Act of Parliament, law or custom shall prevent the General Council from making, amending or repealing rules for the general management and good government of the Indian Church and the property and affairs thereof, whether in respect of the whole of the said Church, or according to provinces or dioceses or other areas, and rules so made may provide for the future making, amending or repealing of rules for the like purposes and prescribe the persons or bodies by whom or by which such rules may be made, amended or repealed:

Provisions for
the constitu-
tion of the
Indian
Church.

Provided that no rules so made shall come into operation before the date of severance.

(ii) From and after the date of severance nothing in any Act of Parliament, law or custom shall prevent the bishops, clergy and laity of the Indian Church from holding synods, councils or assemblies whether general, provincial, diocesan or according to other areas, or from electing representatives thereto; or any such synod, council or assembly from acting in accordance with the rules of the Indian Church for the time being.

(iii) Any rule of the Indian Church made by any synod, council, assembly or officer thereof shall not after the date of severance be subject to any legal limitation in respect to scope or effect (whether arising from the operation of an Act of Parliament or otherwise) other than such as would apply to the like rule if made by a voluntary

association altogether distinct from the Church of England which should have come into existence on the date of severance :

Provided always that nothing in this section shall be deemed to confer upon the General Council or enable it to confer upon any other person or body of persons any coercive jurisdiction without prejudice however to the operation of the law relating to obligations binding on persons who shall be deemed, in accordance with subsection (v) of section 2 of this Measure, to have mutually agreed to be bound by any such rule.

Membership
of the Indian
Church, how
proved.

4.—(1) If for any temporal purpose in connection with this Measure, or if in any proceedings in any temporal Court, it shall be necessary to determine whether any person is, or at any past date was, a member of the Indian Church or of any Church in communion therewith, a certificate under the hand of the Bishop of Calcutta stating that such person is or is not, or was or was not on a named past date, a member of the Indian Church or of a Church in communion therewith, shall conclusively determine the fact stated therein.

(2) A certificate purporting to be made and signed by the said Bishop shall be deemed to have been made and signed by him until the contrary be shown.

Recognition
of General
Council.

5.—(1) The recognition of the General Council as such by the Bishop of Calcutta shall be sufficiently proved for all purposes by an expression of that recognition in writing under the hand of such Bishop; and if any question at any future time shall arise as to whether any assembly was or was not the General Council for the purposes of this Measure, whether generally or on a particular occasion or at a particular time, such question shall be referred to the Bishop aforesaid and by him finally decided.

(2)—(i) A document purporting to be a writing under this section and to be signed by the Bishop of Calcutta shall be deemed to be such and to have been made and signed by him until the contrary be shown.

(ii) No proceedings of the General Council in pursuance of this Measure shall be invalidated by any vacancy in the membership of that Council or by any defect in the qualification or election of any member thereof.

Saving right
of Bishops.

6. Nothing in this Measure or in any Act of Parliament shall prevent any person who is or has been Bishop of any

diocese in India from performing episcopal functions, not extending to the exercise of jurisdiction, in any diocese or reputed diocese at the request of the Bishop thereof.

7. This Measure shall come into operation on a date to be fixed by His Majesty in Council, but no date shall be so fixed unless and until an Act of Parliament is passed providing for the repeal of Part X of the Government of India Act so far as it relates to the Church of England.

Date of coming into operation.

8. This Measure may be cited as the Indian Church Measure, 1927.

Short title.

THE SCHEDULE.

ENACTMENT REPEALED.

Section 2 (i.)

Session and chapter.	Short title.	Extent of repeal.
15 & 16 Vict. c. 52.	The Colonial Bishops Act, 1852.	In section 1 the words "by virtue of such Royal Letters Patent under the Great Seal of the said United Kingdom."

DRAFT INDIAN CHURCH STATUTORY RULES.

NOTE.—*The Draft Rules have been agreed on with the responsible Authorities of the Church of England in India as likely to be suitable for issue under clause 5 of the Indian Church Bill, if it passes into law.*

Of Chaplains.

1. No Chaplain shall minister in any Maintained Church in any diocese in India unless he has obtained and holds a licence to officiate (hereinafter called a licence) from the Bishop of the diocese concerned. Every such Chaplain as a condition of obtaining such licence shall make the declarations required to be made by the Canons of the Indian Church before a licence is granted. Such licence when requested shall not be withheld except on account of the Chaplain's refusal to make any of the said declarations or for reasons for which under the law for the time

being in force in England a Bishop of the Church of England may refuse to institute or admit a clergyman presented to a benefice in England (other than reasons concerning the transfer of the right of patronage). If any Bishop of the Indian Church withholds a licence for which request is made by a Chaplain either on first appointment as Chaplain or on transfer from one diocese to another, the Chaplain may appeal either to the Bishop of Calcutta or, if the Bishop of Calcutta is the Bishop who has withheld the licence, to the Bishop of Madras or the Bishop of Bombay, whichever is senior by consecration, and the decision on the appeal shall be final. If any such appeal is allowed, the Bishop who has withheld the licence shall thereupon grant it. Provided that a Chaplain working in India at the date of severance and holding a licence from the Bishop of his diocese shall not be required to obtain a new licence unless and until he is transferred to another diocese.

2. Every Chaplain shall be under the episcopal supervision of the Bishop whose licence he holds, and his successors.

3. No Chaplain shall undertake any work other than that of ministering to His Majesty's troops and the servants of the Crown and their families if either the Bishop or the Governor-General in Council objects to his undertaking such work.

4. Subject to the provisions of Rule 5, no Chaplain shall officiate as a minister of the Indian Church except in so far as he may be authorised so to officiate in accordance with the rules for the time being of the Indian Church; nor shall any Chaplain administer or perform any sacrament, rite, ceremony, solemnisation of marriage, service or religious ministrations of any kind purporting to be a sacrament, rite, ceremony, solemnisation, service or religious ministrations of the Indian Church except in conformity with the rules for the time being of that Church.

5. Every Chaplain shall have the right to use the services contained in any Book of Common Prayer from time to time authorised in England when ministering in a Maintained Church or elsewhere to a congregation which includes members of the Church of England temporarily resident in India and which worships in the English language, and no Chaplain shall, by reason of exercising

this right, notwithstanding anything in the Constitution, Canons or Rules of the Indian Church, be liable to any ecclesiastical penalty, censure or disability whatsoever, nor shall any authority of the Indian Church hinder any Chaplain in the exercise of such right.

6. Subject to the provisions of Rule 1, Chaplains shall be posted by such person or persons as the Governor-General in Council after consultation with the Bishop of Calcutta shall appoint.

7. The Governor-General in Council shall facilitate the attendance of Chaplains at Diocesan Councils when summoned by the Bishops.

8. Before commencing proceedings or allowing proceedings to be commenced against any Chaplain before any Ecclesiastical Court, the Diocesan Bishop concerned shall notify the Local Government concerned of his intention so to do, and shall give the fullest consideration to any representation on the subject that may within four weeks of such notification be made to him by the Local Government.

9. Before withdrawing the licence of any Chaplain the Diocesan Bishop concerned shall communicate in confidence in such way as he thinks fit with the head of the Local Government concerned, and shall, if desired, discuss his intention privately with such head.

Of Maintained Churches.

10. The Churches entered for the time being in the Second Schedule to the Indian Church Act shall be maintained and repaired at Government expense, provided that nothing in this rule shall impose any liability on Government to repair any Church when before the passing of the Act such Church was not repaired at Government expense.

11. The Governor-General in Council may remove any Church from the list contained in the Second Schedule to the Indian Church Act by agreement with the Bishop of Calcutta or by 12 months' notice expiring with the end of a financial year, provided that such notice shall not be given unless he has notified his intention to do so to the Bishop of Calcutta and allowed him a reasonable opportunity of showing cause against such removal.

12. The Governor-General in Council may with the concurrence of the Bishop of Calcutta add any Church

to the list, transfer any Church from one sub-division of Part I of the list to another, or replace on the list any Church which has been removed in accordance with Rule 11, and such addition or replacement shall take effect from the beginning of a financial year.

13. The Governor-General in Council shall, before the end of March in each year, send to the Bishop of Calcutta a correct list of Maintained Churches for the ensuing financial year.

14. If the Governor-General in Council removes a Church from the list for the time being of Maintained Churches, such Church if at that time vested in the Crown shall vest in the Indian Church Trustees, provided that if the Governor-General in Council shall so require, the Indian Church Trustees shall hold it upon the trusts following, namely :—

- (1) Upon trust to permit the services of the Church of England as contained in any Book of Common Prayer from time to time authorised in England or any of them to be performed in that Church for any congregation which includes members of the Church of England domiciled in the British Isles (a) if a majority of the members of the congregation so domiciled or a majority of the members of the congregation worshipping in that Church in the English language desire such services, and (b) if and so long as the congregation is willing to contribute an equitable sum to be determined by the Bishop of the Diocese towards the cost of such services and towards the maintenance and repair of the Church ;
- (2) Upon trust to arrange for such services to be held at such times as are convenient to the congregation :

Provided further that if during a period of seven consecutive years, which period may include any period previous to the date of severance, no service has been held in any such Church, such Church shall be held freed and absolved from the trusts (if any) above specified.

15. Subject to the provisions of these Rules the Churches from time to time entered in the list of Maintained Churches shall be available for the services of the Church of England as contained in any Book of Common Prayer from time to time authorised in England.

16. The services mentioned in Rule 15, when performed in a Maintained Church, shall be performed in such

manner and according to such rules and by such persons as may be agreed as being in accordance with the practice of the Church of England by the Governor-General in Council and the Bishop of Calcutta, or, failing agreement, as may be determined by the Archbishop of Canterbury.

17. Subject to the provisions of Rules 15 and 21, a form of service or a form of part of a service authorised in India, whether authorised in England or not, may be used in a Maintained Church, if the Chaplain or Minister in Charge of that Church and the Church Committee desire it.

18.—(1) Forms of service authorised by the Bishop of Calcutta or the Bishop of the Diocese either (i) for special occasions at the request or with the consent of the Governor-General in Council or any Local Government or (ii) for troops at the request of the Commander-in-Chief in India, may be used in Maintained Churches either in addition to the Church of England services or in substitution therefor.

(2) Special Collects or Prayers for occasions or subjects peculiar to India may, on the appropriate occasions, be either substituted for prayers in the Church of England services or be added to those services.

19. Subject to the provisions of Rule 18, no service or part of a service which is not either contained in any Book of Common Prayer from time to time authorised in England or authorised by the Indian Church shall be used in a consecrated Maintained Church except when the Church is lent to some other Church or denomination.

20. No sacrament, rite, ceremony, solemnisation of marriage, service or religious ministration of any kind purporting to be a sacrament, rite, ceremony, solemnisation, service or religious ministration of the Indian Church shall be administered or performed in any Maintained Church except in conformity with the rules for the time being of the Indian Church.

21. The services of the Church of England shall, in every Maintained Church, have the first claim to the hours of service on every Sunday and Holy Day, and the times at which they shall be held shall be those most convenient to the congregation attending the Church of England services which are conducted in the English language in that Church. The hours shall be fixed by

the Chaplain or Minister in Charge in consultation with the Church Committee, and, in the case of services for troops, the Officer commanding the station.

22. No congregation which at the date of severance had a customary right to worship in a Maintained Church shall be prevented from so doing.

23. The practice or practices followed by the Church of England in India with regard to the marriage of persons in Churches during the 20 years preceding the date of severance, including those relating to the marriage in Church of divorced persons and to marriages between persons within the prohibited degrees, shall continue to be followed in Maintained Churches unless and until they are modified by the Indian Church, but no person whose domicile is outside India shall be debarred by any rule made by the Indian Church from being married in a Maintained Church who would have been entitled to be married in such Church by the rules as followed before the date of severance.

24. The arrangements made for the loan of Churches which have been consecrated for the use of the Church of England which are in force at the date of severance shall be carried out by the Church in India unless varied by mutual consent of the Governor-General in Council and the Bishop of Calcutta.

Of Episcopal Supervision and Ministrations.

25. The Indian Church shall provide episcopal supervision for Chaplains and episcopal ministrations for the congregations worshipping in Maintained Churches, and the Governor-General in Council shall make such grants as he may think fit to the Church in consideration of such episcopal supervision and ministrations.

Alteration of Rules.

26. If the Bishop of Calcutta refuses to concur in an alteration of these rules proposed by the Governor-General in Council, with the sanction of the Secretary of State in Council, as regards the episcopal supervision of Chaplains ministering to troops, the Governor-General in Council may, if he thinks fit, require the matter to be referred to arbitration of the Archbishop of Canterbury, or, if he be unwilling to act, some person appointed by him, or, if he fail to make such appointment, a person appointed

by the Governor-General in Council and the Bishop of Calcutta, and in the case of such reference the decision of the arbitrator shall be final.

Breaches of the Rules.

27.—(1) If it shall appear to a Local Government that any officer of the Indian Church has committed a breach of these rules, it shall report the same to the Bishop, who shall take such steps as he thinks fit to ensure their observance, and if a Local Government considers that a Bishop is permitting or himself taking action contrary to these rules, or has failed to ensure observance of the rules, the Local Government may request the Governor-General in Council to bring the matter to the notice of the Bishop of Calcutta, who shall thereupon take such steps as he thinks fit to ensure the observance of the rules.

(2) In like manner the Governor-General in Council may of his own motion bring any alleged breaches of the rules to the notice of the Bishop of Calcutta, who shall thereupon take such steps as he thinks fit to ensure their observance.

(3) The Governor-General in Council, whether acting of his own motion or at the request of a Local Government, shall give the Bishop of Calcutta an opportunity of taking action with regard to such alleged breaches, before he proceeds to act under the next following rule.

28.—(i) If after bringing alleged breaches of these rules to the notice of the Bishop of Calcutta, the Governor-General in Council shall be of opinion that such breaches continue to be committed, whether with the knowledge of the authorities of the Indian Church or through their default or neglect, or otherwise, or (ii) if he shall be of opinion that the Indian Church is so administered that the general intention of these rules is frustrated, and if, in either case, the Bishop of Calcutta differs from the opinion of the Governor-General in Council, the matter or matters in question shall, with the sanction of the Secretary of State in Council, be referred to arbitration in the manner provided by Rule 26, and the decision of the arbitrator shall be final.

29. If the arbitrator shall find that a breach of these rules has been and is being committed or that the Indian Church is so administered that the general intention of these rules is frustrated, and that the default is such as

to justify the Secretary of State in Council in taking action as specified in this rule, then the Secretary of State in Council may if he thinks fit call upon the Indian Church by its representative the Bishop of Calcutta to carry out any suggestions of the arbitrator for remedying such default and on the refusal or failure of the Indian Church to carry out such suggestions or without so calling on the Indian Church may declare that in all or any of the churches entered at the date of the declaration in Part I of the Second Schedule to the Act the ecclesiastical law of the Church of England to such extent as the Archbishop of Canterbury may direct shall be observed and followed, and in such case the Governor-General in Council may, with the sanction of the Secretary of State in Council, and the concurrence of the Archbishop of Canterbury, amend or cancel rules made on any matter specified in paras. (vi), (vii), (viii), (ix), and (xii) of section 5 of the Act, and/or make new rules in substitution therefor, or in amplification or modification thereof, and the Secretary of State in Council may, at any time, after making the above-mentioned declaration, further declare that all or any of the said churches shall, at the expiration of twelve months from the date of his declaration, vest in the Crown or in such person or persons as he may appoint for an absolute estate in possession, and such of them as are duly consecrated shall be held in trust for the purpose of ministrations in accordance with the rites of the Church of England, and shall be freed from any claim by the Indian Church or officials or members thereof.

If the Secretary of State in Council shall make the first above-mentioned declaration and the Archbishop of Canterbury shall declare his assent thereto, the Secretary of State in Council may require the Indian Church to provide episcopal ministrations for the churches specified in the said declaration and episcopal supervision of chaplains serving therein, and the Indian Church shall provide such episcopal ministrations and supervision so long as the Chaplains concerned hold licences from Bishops of the Indian Church, and the congregations of the said churches remain congregations of the Indian Church.

**Special Notice by the Governor-General in Council to
determine certain Provisions.**

30. The Governor-General in Council, with the sanction of the Secretary of State in Council, may at any time give five years' notice to the Bishop of Calcutta that he intends

to make either or both of the declarations mentioned in Rule 29, so far as concerns the churches included at the date of the declaration in Part I (A) of the Second Schedule to the Act, provided always that such churches shall vest in the manner and on the conditions prescribed in Rule 29 forthwith on the making of the said declaration, and not on the expiration of twelve months from the date thereof, and the declaration shall be modified accordingly.

Interpretation of the expression "Church Committee."

31. The expression "Church Committee" means, in the case of any Maintained Church served by a Chaplain, the Church Committee as constituted by the rules of Government before the date of severance or as constituted by rules made by the Governor-General in Council with the concurrence of the Bishop of Calcutta after the date of severance, and in the case of any Maintained Church not served by a Chaplain, the Church Committee as constituted by rules made with the approval of the Governor-General in Council by the General Council of the Indian Church or, failing such rules, by the Diocesan Council of the Diocese concerned.

32. These rules shall come into operation on the date of severance.

33. These rules may be cited as the Indian Church Statutory Rules, 1927.