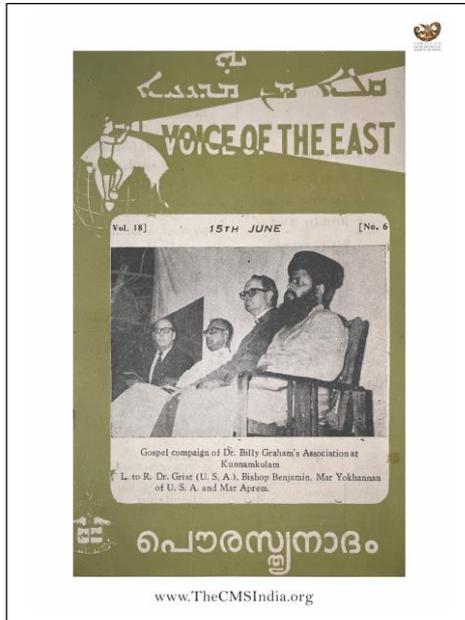
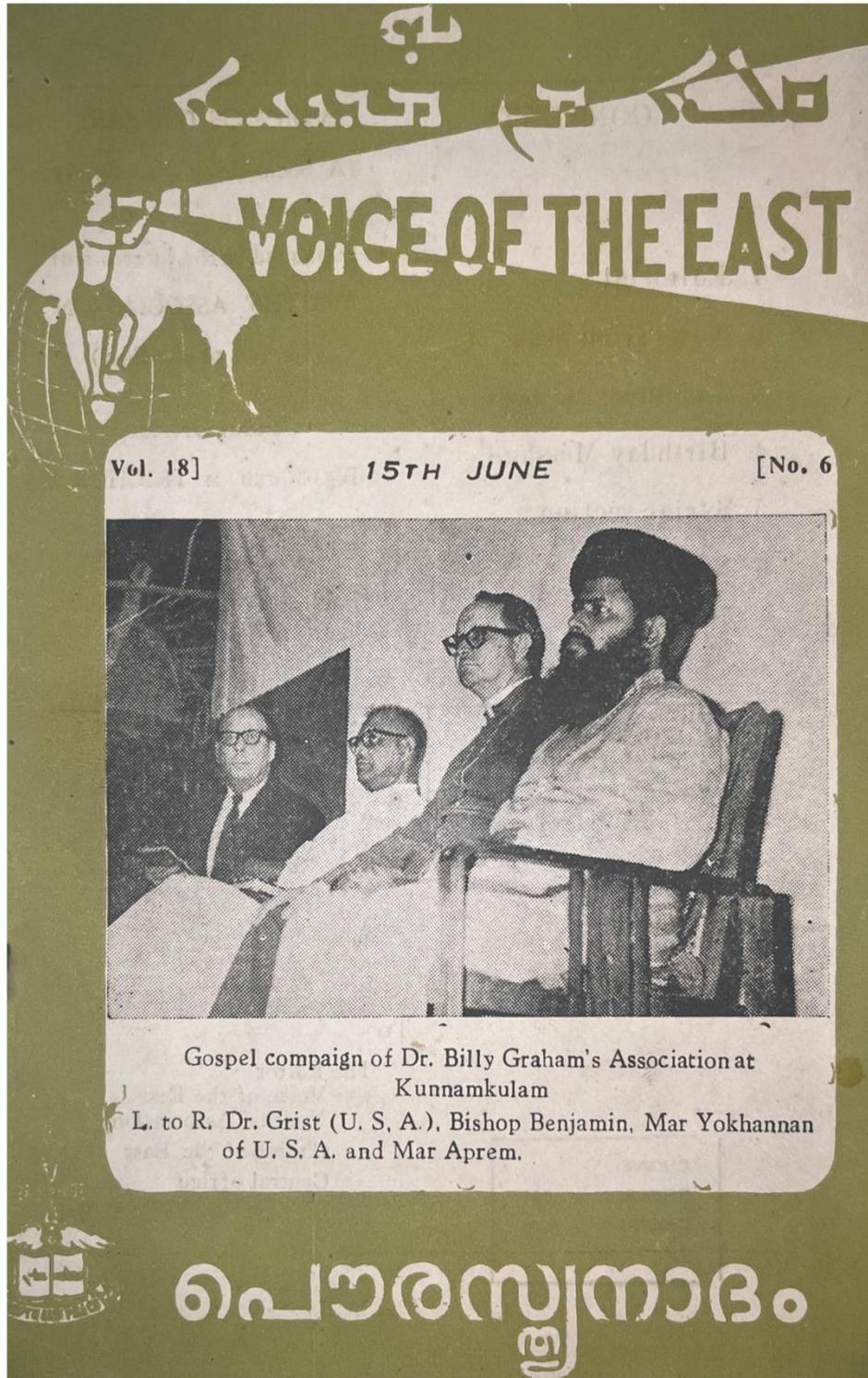


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VOICE OF THE EAST

Vol. 18

1971 June

Book 6.

Editorial

YOUTHS' DAY

The Central Youths' Association celebrated its Youths' Day on May 30 and 31 at the Marth Mariam Big Church premises. It was a sort of an anniversary for the Central Association. Usually activities are carried on by branch associations working in various parishes under the direction on the clergy.

On 30th May, Mar Aprem spoke of the activities of the Central Association and praised the young men in continuing the publication of the Magazine "Voice of the East" and acting as an official organ of the Church of the East all over the world. He also appreciated the co-operation extended by the youngsters of our Church in the activities of the Church.

His Lordship Zacharias Mar Athanasuis, Bishop of Thiruvalla of the Syro-Malabar Rite of the Roman Catholic Church presided over the function on 31st May and exhorted the youth to be peace makers and work for the progress of the Church.

May we hope that more youngsters will come forward to participate in the life of the Church.

Editor.

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NEWS FROM IRAQ

On 15th March 1971 H. G. Mar Thoma Gewargis the Metropolitan of Mosul arrived Kirkuk on a short visit to the Metropolitan of Kirkuk to meet H. G. Mar Narsai Thoma. During his stay at Kirkuk both Metropolitans had discussed religious matters concerning their dioceses, and one of the most important points reached, was to buy a Metropolitan palace at Mosul. This will be the second successful step after completion of buying a Patriarchate Palace at Baghdad. This matter will be finally decided at a top meeting with H. G. Mar Adhai at Baghdad after the Easter Day.

On 21st March, 1971 H. G. Mar Gewargis held a "Holy Qurbana" at Kirkuk, for the first time during his visit to Kirkuk.

On 22nd March, 1971 both Metropolitans left Kirkuk to Sulumaniya District, East of Kirkuk, this was the first visit of our Metropolitan at such Area. After having seen all people of our Parish at surrounding area of Sulumaniya City. Such as (Dur-Bandikhana and Ducan Dams), they returned to Sulumaniya at noon, where on 26th March H. G. Mar Narsai Held a "Holy Qurbana" at St. George Church, and a considerable numbers of our Parish came to participate such Glorious occasion and after completion of their visit they returned to Kirkuk in the same day.

Eramia Z. Odisho

(Sd/-)

KIRKUK.

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JUDGMENT

(Continuation)

O. S. No. 8 of 1965

27. The learned counsel for the 2nd defendant also challenges the bonafides of the suspension order. He contends that the Synodical council was never intended to be convened. I have already dealt with this argument. It is also contended that there has been long-standing ill-feeling between the Patriarch and the Metropolitan and this is the root cause of the proceedings initiated against the 1st defendant. While it is true that there have been serious difference of opinion between the two on the matters like hereditary succession and certain other matters relating to the affairs of the Church in India, there is nothing to show that the Patriarch was harbouring illwill against the Metropolitan. The controversy regarding hereditary succession does not affect the status and position of the present Patriarch, in as much as, he has been a Patriarch already for the past four decades. The other matters of dispute between the two dignitories also does not affect the interests of the Church and it cannot be held that the Patriarch was actuated with any malafide motive in taking action against the 1st defendant other than the legitimate interest of the Church and the community. It is also contended that Ext. P 5 refers to certain charges which the Patriarch considered inappropriate to enumerate in detail as "they are matters of personal question and explanation" and that the 1st defendant was kept in ignorance of these unspecified charges and these charges which must be sufficiently grave in nature have weighed with the Patriarch in passing the order of suspension. From a reading of the suspension Order Ext. D4, this inference cannot be drawn. No where in Ext. D4 are these unspecified charges referred to. That being so, I cannot accept that such charges were

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born in mind while passing the order of suspension. Finally, it was contended for the 2nd defendant that the Patriarch was set up against the 1st defendant by certain influential local leaders like O. T. Inasu and Thomakutty. While it is true that these two individuals chose to range themselves against the 1st defendant on the ground that he was working against the interests of the Church, there is nothing on record to show that they had any hand in bringing about the order of suspension passed by the Patriarch. Thus, all the attempt made by the contesting defendant to challenge the bonafides of the suspension order have to fail.

28. Sri. P. P. Devassy, the learned counsel for the 2nd defendant vehemently contended that the order of suspension passed is against all principles of natural justice and such is vitiated. The argument is that the Patriarch acted both as the prosecutor and the Judge, that really the suspension order is in the nature of a punishment and that no time limit for the suspension has been stipulated. The argument regarding Judge and Prosecutor cannot avail in challenging the order of suspension. Probably, that argument could be advanced if ultimately the final orders against the 1st defendant were to be passed by the Patriarch himself, subject of course to the canon law, in this regard. I have already held that the suspension order passed in the case is not by way of punishment. It is true that the order does not contain any time-limit. Every suspension order without a time limit cannot be struck down, if from the nature and circumstances of the case, it can be inferred that the suspension was intended to be in force only for a reasonable period. The 1st defendant on receiving the suspension order had two courses open before him; either he could confess his guilt and seek the pardon of the Patriarch in which case, as Pw. 4 says, the Patriarch would be in a position to revoke the suspension. Of course, the 1st

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defendant cannot be compelled to accept this course against his conscience. The second course before him was to face the Synodical council and justify himself and his conduct and in case, the charges be held to be baseless it will necessarily result in revocation of the suspension order. There is nothing to indicate in the facts and circumstances of the case, that the suspension order was intended to be final one and that it was not intended to be in force only for a reasonable period till the Synodical council adjudicates upon the disputes. The fact that the Patriarch promised in Ext. D4 to convene a Synodical council itself indicates that the suspension order was intended to be in force only till the council so adjudicates. It is also contended that in as much as certain allegedly grave charges were not specified, the 1st defendant has been prejudiced. I have already held that these unspecified charges could not have had a bearing on the order of suspension. These charges, if the Patriarch wished to press them, certainly would have been explained to the 1st defendant on his compliance to the summons of the Patriarch or at the Synodical council. The learned counsel for the 2nd defendant has relied on certain authorities explaining the principles on natural justice. The decision reported in 1969 K. L. T. 253 (Kurian Vs. Raghavan and others) is placed before me. The following observations in the decision are relevant.

“In the circumstances in which the authority competent to decide is the very authority to initiate proceedings, the fulfilment to some extent of the double role of prosecutor and judge is inevitable, and it is not to be presumed that a person who has once decided a matter without due hearing would have such a basis in favour of his decision as not to be capable of reaching a fair decision after due hearing.

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Although the requirements of natural justice must necessarily vary according to the circumstances of each case, the test as to whether there has been a violation is simple, disarmingly simple, although, perhaps for that very reason, difficult of application in practice. The test is much the same whether the tribunal be a judicial or merely a domestic tribunal. It is essentially whether there has been such a manifest failure of justice as to shock the conscience. In the name of judicial tribunals where public policy demands that there must not be even the appearance of injustice a presumption of such a failure will be drawn from such appearance just as a failure will be presumed when a mandatory safeguard for ensuring fair trial is disregarded.

In the concurring judgment delivered by His Lordship Krishna Iyer, J, the following observations are relevant.

“Mere likelihood of bias stemming out of official association with the cause is insufficient..... The “real likelihood” test or the “instinctive opposition” approach is the true one, and any insignificant and remote interest will be insufficient to invalidate..... The law is indulgent to domestic tribunals depending on a variety of factors. Domestic tribunals are associations or bodies, voluntary and contractual, like clubs, or statutory like the Bar Council or the Medical Council, but essentially, they exercise jurisdiction over members and others within the organisation or institution or profession, i. e., over insiders as against outsiders. Such limited internal jurisdiction is not interfered with by courts except upon substantial violation of fair procedure, assuming that natural justice has not been excluded by contract or other law.”

Judged by the test propounded above, it cannot be held that the order of suspension is vitiated on the ground

(to be continued)

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BIRTHDAY MESSAGE

I did not write a message in English for my last birthday. However, I wrote in Malayalam and published in the magazine for those who read that language. This year I feel that I should write a few words in English for my friends abroad who are readers of Voice of the East. It is strange but true that I have somehow established a personal relationship with most of the readers of this magazine. It is not very strange when we consider that the number of readers of this world wide magazine was only 100 and now nearly 150.

On June 13th, that was the day I was born 31 years ago in this town of Trichur where I now live and work. This is the same date I was ordained to priesthood six years ago after serving as a deacon for four years. In other words it is a decade since I began to wear a cassock and six years since my beard began to grow. It is difficult to recall all what has happened during the last ten years of my clergyhood.

Since I happened to take Mathematics as my main subject when I went to college at the age of 15, I cannot resist the temptation for calculation. Today I complete 996 days since I was consecrated to episcopal rank, on Sept. 21st 1968 at Mar Zaya Cathedral in Baghdad, Iraq. It is exciting to know that on 17th June I will be completing my first thousand days since the colour of my cassock turned to purple.

It is not out of place to look back and think over the trials and tribulations which such a high office has given me. Thousand days of Court cases and anxiety. Such a high office brings joy and honour and a satisfaction of some service done for the survival, if not progress, of the church to which I dedicated my life.

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Probably I may be the most persecuted ecclesiastical leader of the present century. That too by my own people. The court cases I have inherited from my predecessor and some debts were the main assets that came down to my career as the head of this ancient Indian church. The enemies of my consecrator, late Mar Thoma Darmo, obtained injunction against functioning as Metropolitan. Fortunately before the injunction was obtained, I had already ordained 3 priests and four deacons. They may be considered my spiritual children. Of course before arriving India I had the joy of ordaining some clergy for Iraq and Syria, one of whom became the Metropolitan of Kirkuk (Iraq) in 1969 A. D.

Last year I had the privilege of dedicating the Mar Kardakh church in Madras city. I may describe it as my first born. Many people from India and abroad contributed for it. It was a joy to see a place of worship for the congregation, which was worshipping in an school chapel belonging to the church of South India for the last 17 years.

In spite of the court cases and financial difficulties the past year was an year of blessings. Personally I got the synopsis of my thesis approved by the senate Executive of the Serampore University. I spent several weeks at the United Theological College, Bangalore doing intensive study. In Trichur too I did some research for my D. Th. thesis.

I do hope better luck in court cases, church activities and thesis writing for the coming year. Your prayers and support are requested.

Yours in Christ,

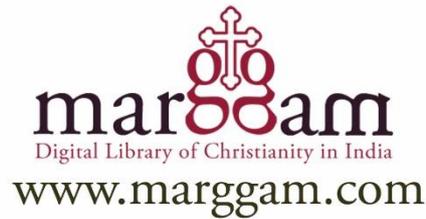
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