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MADRAS RECORD OFFICE

Government of Madras

Judicial

DEPARTMENT

G.O. No.	637-38	Press
~~B.P.~~ No.		~~Mis.~~
Dated	19 th March	1951
		1880

*Original*Not to be folded or roughly handled

GOVERNMENT OF MADRAS.
JUDICIAL DEPARTMENT.

19th March 1880, No. 637. - 7

Bills—Legislative.

Read the following papers:—

No. 154. From SYED MUSTAFA SAHIB, District Munsif of Dindigul, to the Chief Secretary to Government, dated 3rd March 1880.

In obedience to the Proceedings of Government, dated 12th February 1880, I most respectfully beg to submit my humble opinion on the subject of Kazis' appointment.

1. In this part of the country Kazis have been appointed to each of the important villages to perform certain religious and funeral rites in the Mahomedan community and to do service in the mosque, for which some of them were granted Inams in the shape of lands by former Governments. They render these services enjoying the produce of the said Inams.

2. Till about two years ago there was a Kazi in the Trichinopoly District who had a sanad from the Collector, and on his death since two years his son has been doing the duties of Kazi without a sanad from the Collector or other public functionary. The former Kazi had many suits appertaining to religion among the Mahomedan sepoys referred to him for disposal by the Military Officer within the cantonment and decided them.

3. As very few persons in the Madras Presidency can properly perform the religious and funeral rites of the Mahomedans, I think the appointment of Kazis by Government from among men of good understanding and respectable knowledge is absolutely necessary, and the Bill now introduced for the appointment of Kazis by Government is no doubt due to the interests of the Mahomedan community who owe their gratitude to the Honorable Government. The duties performed by former Kazis are—

- (a.) Celebrating marriages.
- (b.) Deciding disputes arising between husbands and wives about the Mahur and divorce.
- (c.) Performing the various funeral rites for forty days from the date of death.
- (d.) Slaughtering sheep.

These are the duties performed by the present Kazis too.

4. The Kazis now in existence not being appointed by the State and granted sanads, the Mahomedans have not got any regard to them and pay no respect to their decisions.

5. It has been usual with the Kazis to have their duties performed by themselves or by other persons authorized by them alone. Several suits brought by Kazis against third parties for damages sustained by them (Kazis) for their interference with their duties were decided in their (Kazis') favor by the Mofussil and the late Sadr Adalat Courts.

6. The Kazis, though not paid by the State, receive some remuneration for their labor from the people, such as Rs. 1-4-0 in times of marriages from people in ordinary

station of life and according as they are able to pay, from others in good circumstances 4 annas at the first day's funeral ceremony from the former and as much as they can afford from the latter, other funeral ceremonies performed from third to fortieth day and the annual ceremony according to their position in life, and 2 to 4 pies from butchers for slaughtering a sheep. These Kazis also render service gratis to the poor Mahomedans who are not able to pay anything. As they perform all these duties and render service gratis, their rights should not be encroached upon by others.

7. In these circumstances, I am humbly of opinion that there should be an order passed to the effect that the Kazis hereafter to be appointed by Government should, either by themselves or persons authorized by them, perform the religious and funeral rites (and not others) within certain local area, and if any infringement takes place the party infringing should be made liable for the damages the Kazis are put to in respect of their income, and that the Kazis should not be required to appear as witnesses in Civil Courts in matters of a religious nature.

No. 155. *From S. T. McCARTHY, Esq., Acting Collector of Cuddapah, to the Chief Secretary to Government, dated 3rd March 1880, No. 62.*

With reference to G.O., dated the 12th ultimo, No. 280, calling for my remarks on the Kazis' Bill, a copy of which was therewith forwarded, I have the honor to state that, in my opinion, the Bill is unobjectionable. It cannot do harm, and will doubtless be productive of good.

2. I have consulted the Kazi of Cuddapah, who seems an intelligent man, on the subject. He approves of the measure, and complains that other persons not duly authorized or appointed have been usurping some of his functions and performing marriages which are contrary to Mahomedan tenets, and that difficulties have thereby arisen. This state of things, he seems to think, is the effect of the Act passed in 1864. He further suggests that parties performing the duties of Kazi without authority should be made liable to penalties. This of course is beside the present question, but it is probable that the proposed Act will tend to lessen or remove altogether the difficulties now complained of, as there is no doubt that the Mahomedan community at large within each local area will more readily recognise the authority of an individual appointed by Government than one not so appointed, and the claims of rivals will not meet with encouragement. At the same time I should state that I distinctly explained to the Kazi the purport of the saving clause in Section 3.

3. The present duties of this (and probably of most other Kazis) are performing marriages (Nikka), fixing auspicious dates for feasts, settling disputes between husband and wife, as also disputes about religious matters, partitions, &c.

No. 156. *From the Hon. MIR HUMAYUN JAH BAHADUR, to the Chief Secretary to Government, dated South Adyar, 4th March 1880.*

With reference to G.O., dated 12th February 1880, No. 280, Judicial Department, I have the honor to submit that responsible officers for the purpose of registering and keeping records in the language of the Court and in accordance with the advanced ideas of register keeping of all marriages and divorces among Mussulmans are much wanted to save the waste of time to the Judicial Courts occasioned by the non-existence of such records, and also to meet the convenience of the Mussulman community generally.

2. To keep a complete record of marriages and divorces for the purpose of admission in judicial tribunals as *bona fide* evidence it appears absolutely necessary that the registration of such occurrences by a competent officer should be made compulsory, and that such books and registers should be subject to periodical supervision of some officer like the Inspector-General of Registration and secured like those of the Registration Department.

3. It is also desirable that the Registering Officers should be confirmed by the Government after they had been duly elected by the community for whose good they are required, and under whatever designation the same may be, but that of a Kazi I think will be more acceptable to the people.

4. The Kazis' Bill referred to in the Government Order above mentioned, however, is silent on such points of details as noted herein, and how far these requirements of the Mussulman community will be met by that Bill can be well judged by the Government. But its wording seems to afford by implication conveniences to one section of the Mussulmans only.

No. 157. *From MOHIDEEN SHERIFF KHAN BAHADUR, Honorary Surgeon, Triplicane Dispensary, to the Chief Secretary to Government, dated Madras, 5th March 1880, No. 12.*

In obedience to G.O., No. 280, dated 12th February 1880, relating to the Bill for the appointment of persons to the office of Kazi, I have the honor to submit the following remarks.

2. The proposal to revive the appointment of Kazis by Government is a move in the right direction, and there is no doubt that it will benefit the Mahomedan community in this Presidency if it is brought into operation. I have often heard of the injury inflicted upon Mahomedans in the rural districts from forgery and other dishonest uses of the record of marriages, &c., in possession of the private Kazis, who are generally very poor and irresponsible persons, and am acquainted myself with the fact that the Mahomedan community even at Madras is not better off in this respect. A Government Kazi with some strict and stringent rules as to the registry and safe custody of marriage record, &c., will certainly be a great boon and save the Mahomedans from many injuries and evils which are so detrimental to their moral and social interest. Under these circumstances I fully admit the necessity of the Kazis' Bill.

3. I have consulted many members of my community on this subject, and quite agree with them that the Bill, as prepared by the Hon. Syed Ahmed Khan Bahadur, is extremely short and vague, and does not speak of anything which is essentially necessary to make it as useful as it is expected. This is a serious defect in a Bill on so important a subject, and requires to be rectified before it is passed by Government.

4. The Mahomedans at Madras are very anxious to make the registration of their marriages, divorces, and wills compulsory, and have been trying to do this for the last several years. They had forwarded a petition for the same purpose to Government about three years ago (April 1877), with more than 2,000 signatures, through Moulvi Sultan Mahmood Sahib, and still cherish a hope that Government will grant their wish. They consider the introduction of the Kazis' Bill as the fittest opportunity for making the registration of Mahomedan marriages, divorces, and wills compulsory, and for investing the intended Government Kazis with the power of such registration. The registration of marriages and divorces is nothing but a legitimate duty of a Kazi, and there is therefore no objection whatever in making this duty compulsory by providing for the same in the Kazis' Bill, which I myself think is the best opportunity for the above purpose.

5. Forgery and other fraudulent uses of wills are also a very frequent crime, and the cause of frequency is the same, viz., that their registration is not compulsory. In the "Indian Registration Act," Section 18, Clause (e), the registration of wills is optional; but the optional or voluntary registration is no guarantee against a dishonest use of anything which is not registered, and is therefore almost useless. The evil complained of can be entirely and easily removed if the registration of wills is also made compulsory in the manner recommended for that of marriages and divorces. It is very desirable to do this, and I am quite sure the Mahomedans of this part of India will be much benefited by it.

6. The office of a Kazi being a religious and responsible one, the Mahomedan community attach great importance to the selection of persons for that office. A

dishonest and incompetent Kazi is always a serious evil to the community for whose benefit he is intended. It is necessary, therefore, that whenever a vacancy for a Kazi occurs, the leading and principal members of the Mahomedan community should be ordered by Government to form themselves into a Committee for the purpose of selecting a proper person for that office. As the Committee of such persons will always know what the requirements and qualifications of a Kazi are, it must be left entirely to their own discretion to adopt any method or examination as they like to judge the competency of applicants. I consider this as a better and more practical plan for the selection of persons for the post of Kazi than that of binding the Committee with many minute and unnecessary rules, &c.

7. The number of Mahomedans of the Sheah sect is pretty large in Madras and a few other towns and villages in this Presidency, in each of which a Sheah Kazi might be required in addition to that of the Sunni. In any of such places, if the selection of a Kazi is for the Sheah sect, the Committee should invariably consist exclusively of Sheahs, and *vice versa*.

8. In discharging the duties confided to them, the Committee might inflict a serious injustice if they do not bear in mind one important point, viz., that in selecting a candidate for the post of a Kazi a preference should always be given to a person who may have an hereditary or other legitimate right to the office, if his fitness is sufficient or equal to that of other candidates. A man who has acted as a Naibe-Kazi previously in the same place where the vacancy occurs should also enjoy a similar preference, in my opinion, if there is no other candidate who has an hereditary or some other greater claim to the post.

9. Another thing which requires explanation in connection with the Kazis' Bill is the appointment of one or more Naibe-Kazis or Deputy Kazis under each Kazi. There is no Kazi in any part of India or in the world without one or more Naibs under him to perform the duties of that office during the absence of the former from illness or some other unavoidable cause. As the duties of a Naib are precisely the same as those of a Kazi, he should consequently be equally competent, and his appointment and dismissal be subject to the same rules and regulations as those of the former.

10. I beg now to state that I have been requested by many co-religionists of mine at Madras to add all the circumstances I have explained above to the Kazis' Bill and to frame it out myself, in order to make it much more useful to our community than the one prepared by its honorable originator. The request being a very reasonable one and quite in accordance with my own feeling, I have complied with it.

11. I regret the length of the Kazis' Bill prepared by me, but I could not have curtailed it without omitting something useful to my community. It will be seen from this Bill that there is nothing that could possibly be construed to confer any judicial or magisterial power on a Kazi or a Naibe-Kazi, nor anything which involves any expenditure on the State in addition to that the Government may contemplate on account of the appointment of Kazis.

12. I beg, herewith, to submit the Bill to Government, and hope it will meet with their approval.

No. 158. *From AHMED MOHIDEEN KHAN BAHADUR, Secretary to His Highness the Prince of Arcot, to the Chief Secretary to Government, dated Amir Mahal, 6th March 1880.*

In compliance with G.O., No. 280, of 12th February 1880, with reference to the Kazis' Bill, I beg to offer the following remarks, and would submit that most of them are approved of by His Highness the Prince of Arcot and by a majority of the leading members of the Mahomedan community with whom I am acquainted. Before proceeding with my remarks I would beg leave to state that the Mahomedan community are extremely thankful to Government for the legislative measure under consideration and to the Hon. Syed Ahmed Khan Bahadur, who moved in the matter with his usual energetic solicitude for the interests of a large section of Her Imperial Majesty's liege subjects. I need hardly say that the Act in a complete form will be

regarded as a great boon by all Mussulmans, as it will serve to redress the grievances resulting from the objectionable acts and conduct of some Kazis whose self-assumption of such an office is not only a disgrace in itself, but it is also contrary to the provisions of the Mahomedan law.

2. Under Mahomedan law the appointment of Kazis rests solely with the rulers, and it is required of the persons selected for the office that they should be holy and learned men, possessing an unimpeachable character and holding a good position among their fellows. Where a man who has been appointed a Kazi is found to disgrace himself in any way, he at once forfeits his position and office. No such office can be made hereditary in any particular person's family, nor can it descend to a person under a will of its previous holder, even in a country where the ruler is not a Mahomedan. But in a country where the ruler's religion is other than Islam, it will be quite lawful for the Mussulman subjects of such country to select a fit person for the post of Kazi and ask their ruler to recognise him as such, or they may apply to their ruler to appoint for their purposes a Kazi selected by the leading members of their community. Looking at Section 2 of the Kazis' Bill with these considerations it seems to have been advisedly drawn up, but with a view to make it more distinct and useful I would suggest that the following clauses and sections be added :—

(a.) "On receiving such application the Local Government shall appoint a Committee of the leading Mussulmans of that place consisting of as many members as may be deemed necessary, having regard to the bulk of the Mahomedan population of that area, for the purpose of selecting one or more fit persons, as the case may be, for the post of Kazi, and such Committee shall be allowed to continue for the purpose of reporting on any question in connection with the Kazi business, should at any time the Local Government require any information."

(b.) "Should the application be from Sunni Mahomedans the members shall be nominated from that sect; if from Sheahs, from the Sheah sect; and if from Mahomedans of both sects, the members shall be named from both sects, their number being in proportion to the number of inhabitants of each sect residing in that area."

Section 2, (a.)—"After the passing of this Act no person shall be recognised as Kazi, or shall have the right to exercise office as Kazi, within such local area in British India where this Act may be in force, except those appointed under this Act."

"Kazis appointed by the Native States shall be recognised within their local limits respectively."

Section 2, (b.)—"In a local area where more than one Kazi may be required, the superior one shall be the Kazi and the others Deputies or Naibs of the Kazi, who shall be dependants of, or assistants to, the former."

3. As many irregularities and evils are prevalent in connection with marriages and divorces, and several cases have occurred of fabrications in reference to marriages and divorces, leading, in a great many instances, to considerable vexation, I consider it essentially necessary that the registration of marriages and divorces should be made compulsory. The need of compulsory registration of marriages and divorces in the Madras Presidency has engaged the attention of the Madras Government (*vide* their Proceedings, No. 1123 of 1877, Judicial Department, wherein a long correspondence on the subject may be found). These Proceedings resulted in an order of Government, in paragraph 3 of which the Government directed their Legislative Department to prepare a "Bill providing for the compulsory registration of Mahomedan marriages and divorces in somewhat similar terms with the Bengal Act of 1876." Since the date of the above order, which was passed nearly three years ago, the Mahomedans of this Presidency have been anxiously looking for the promised Bill in the Government Gazette. Why the measure has been delayed is not known. To meet such a want, and also to guard against the evils, inconveniences, and defects connected with wills and endowments, with the partition of a deceased Mahomedan's estate and effects, and with subsistence by a husband or a father to his wife or his child, I would venture to suggest the insertion in the Bill of the following sections and would have Section 3 altered as at the end of them :—

Section 2, (c.)—"Every Kazi shall carefully prepare and keep a roll, separately, of the marriages, divorces, wills, and endowments occurring within his area that will be presented to him for registration or performed or executed in his presence."

"Every Deputy, besides doing the same, shall send a duplicate of every registration made by him to his principal Kazi within one week from the date of registration."

Section 2, (d).—"Marriages, divorces, or wills occurring within a local area shall be registered with the Kazi or the Deputy Kazi in office for that locality within a period of thirty days from date of occurrence."

(a.) "For the purposes of such registration the parties requiring it may attend at the office of the Kazi or of his Deputy, or they may ask the Kazi or his Deputy to attend at their residence, and the Kazi or Deputy shall attend to such request."

(b.) "To compel the attendance of a witness or a party the Kazi or his Deputy shall act according to the sections and clauses of the Indian Registration Act so far as it provides for the compelling of a party or a witness except in the case of a person of respectability and position, and gosha women to whose residence the Kazi or his Deputy shall go to take his evidence."

Section 2, (e).—"Both or any one of the parties concerned in the marriage, divorce, or will, or the maker, manager of the endowment, or the person concerned in it may apply for registration."

Section 2, (f).—"If the marriage or divorce is not performed in the presence of a Kazi or his Deputy, he shall, on application being made to him for the registration of any one of the above deeds, fully satisfy himself regarding the fact of the occurrence of such marriage or divorce by taking evidence of witnesses and of the other party involved in the case as far as possible under the provisions of the Mahomedan law, and then enter it in his roll."

"In case of a will the above process will only be necessary when the applicant for registration is the executor or executors, if any, or heir or heirs or legatee or legatees, in whose favor the will is made, or who has or have an interest in the will."

Section 2, (g).—"Endowments made after the passing of this Act shall be registered with the Kazi or his Deputy of the local area wherein the property endowed is situated, or of the local area wherein the person making the endowment resides, within a month from the date of such deed."

"Endowment properties hitherto existing shall also be registered with the Kazi of the local area within two months from the passing of the Act. For the registration of such existing endowments no fee will be charged by the Kazi."

Section 2, (h).—"Should, within the period prescribed for the registration of a marriage, divorce, will, or endowment, the husband or wife, or the maker of the will or endowment, die, the surviving wife, or the husband, or the heir or heirs, the executor or executors of the will or party or parties concerned in the will or endowment, or the manager of the endowment shall apply for registration within thirty days from the death of the husband or the wife or the maker of the will or endowment."

Section 2, (i).—"Any marriage or divorce, will or endowment taking place within a local area where this Act has been adopted, and which is not registered as prescribed within the periods mentioned in this Act, shall not be recognised in any Civil or Criminal Court of Law within the British Indian territory."

4. Claims for subsistence money preferred by a wife or a child against the husband or the father are, under present regulations, brought in a Police Court, and the Magistrates not being thoroughly acquainted with the principles of the Mahomedan law in the matter have often decided in a manner opposed to such principles of law: so also in matters affecting the partition of a deceased Mahomedan's estates and effects among his heirs much inconvenience is often felt in the Civil Courts of law. To facilitate an inquiry in regard to such matters and to further the ends of justice, I would propose the adoption of the following sections:—

Section 2, (k).—"In case of a cause of action arising in the matter of the partition of a deceased Mahomedan's estates and effects among his heirs, or in the matter of subsistence money to be paid by a Mahomedan to his wife or child, the party or parties willing to have recourse to law in any of the above matters shall, in the first instance, prefer his or their complaint before the Kazi of the local area wherein he or they reside, or before the Kazi of the local area wherein the property to be partitioned lies, or in which the dependant or dependants reside."

(a.) "The Kazi on receiving any such complaint shall, after full inquiry in regard to the provisions of the Mahomedan law, furnish the plaintiff or plaintiffs with a copy of his opinion bearing his seal."

(b.) "On obtaining an opinion from the Kazi the complainant shall institute a suit in a proper Court having jurisdiction to entertain such a complaint, filing at the same time the written opinion of the Kazi."

(c.) "Where the opinion of the Kazi obtained as above directed is filed in a suit, the Court assisted by the opinion of the Kazi shall deliver judgment in the matter in dispute after hearing

the case, or should any point in the written opinion require elucidation or is disputed by the opposite party, the Court shall order the attendance of the Kazi, and after duly examining him, shall then pronounce its decree."

Section 2, (l).—"The Local Government of the territory in British India where this Act comes in force shall, by Notification in the Official Gazette, sanction a table of fees to be received by the Kazi or his Deputy for all registrations, for his attendance at any place for such registrations, and for anything done in pursuance of the provisions of this Act."

"Such table of fees shall be regulated to suit the circumstances of the Mahomedan population of the territory where this Act comes in force."

Section 2, (m).—"The Local Government of the territory in British India where this Act comes in force may, if it is deemed necessary, modify, alter, or suspend the operation of any section or clause of this Act, or add any section or clause to the Act to suit the circumstance or convenience of the Mahomedan population of the particular locality."

Section 2, (n).—"Should this Act be required by the Mahomedan population of British Burmah, it shall be lawful for the Chief Commissioner of British Burmah, by Notification in the Official Gazette, to extend its operation to Burmah, observing at the same time the objects of the Sections 2 (l) and 2 (m)."

Section 3.—"Nothing herein contained shall be deemed to confer any judicial or other powers on any Kazi or his Deputy appointed hereunder."

5. I would further suggest that at the beginning of the Bill the usual explanatory and definition clauses should be inserted to explain and define the words and phrases used in this Bill. It would also, I think, be necessary to annex to the Bill the forms of registration certificate, &c., to be used and observed under the provisions of this Bill.

No. 159. From E. F. WEBSTER, Esq., Collector of Tanjore, to the Chief Secretary to Government, dated 10th March 1880, No. 1206.

In accordance with G.O., 12th February 1880, No. 280, I have the honor to report that the Bill for the appointment of persons to the office of Kazi appears to me to be unobjectionable. Its main object is simply to restore to the Government the power of appointing Kazis, of which they were divested by Act XI of 1864.

2. In paragraph 6 of the Statement of Objects and Reasons it is said that the Mussulmans of this Presidency have brought to the notice of Government the inconvenience felt by them in consequence of the State no longer having the power to appoint Kazis.

3. I have no knowledge of the existence of this feeling in Tanjore, but from all inquiries I have been able to make I am led to the belief that no objection exists to the proposed enactment.

No. 160. ORDER THEREON, 19th March 1880, No. 637.

Ordered that the foregoing papers be transmitted to the Government of India.

2. It is observed that the Bill enables Government to appoint Kazis for Sheahs and Sunnis respectively, and that its object is solely to legalize the action of the officeholder by restoring to it the element of State appointment which is essential.

3. It contemplates no change, but merely the restoration of the office to its former valid footing; and in that status the minute rules devised by Honorary Surgeon Mohideen Sheriff Khan Bahadur find no place.

4. His Grace the Governor in Council considers it expedient and necessary that the Kazis appointed by Government should be declared competent to nominate Naibs or Deputies.

5. The Government are of opinion that most of the evils for which it is suggested to make special provision will cure themselves when once there is a legally appointed Kazi.

(True Extract.)

R. DAVIDSON,
Chief Secretary.

To the Hon. Mir Humayun Jah Bahadur.
„ Ahmed Mohideen Khan Bahadur.
„ Honorary Surgeon Mohideen Sheriff Khan Bahadur.
„ the Collector of Cuddapah.
„ the Collector of Tanjore.
„ the District Munsif of Dindigul.

JUDICIAL DEPARTMENT.

Bills—Legislative.

No. 638.

FROM

R. DAVIDSON, Esq., C.S.I.,
Chief Secretary to the Government of Fort St. George,

TO

THE SECRETARY TO THE GOVERNMENT OF INDIA,
LEGISLATIVE DEPARTMENT.

SIR,

In continuation of my letter, dated 9th March 1880, No. 556, I am directed by His Grace the Governor in Council to transmit a copy of the marginally-noted Proceedings of this Government, and to recommend that the Kazis appointed by Government be declared competent to nominate Naibs or Deputies.

I have the honor to be,
Sir,
Your most obedient servant,

FORT ST. GEORGE,
19th March 1880.

Chief Secretary.

Exd. J. Wright.

Court. of 18801 *Exd.*

JUDICIAL.

To
THE HON. MR. HUMAYUN
JAIL BAHADUR,
Kc., Kc., Kc.

Dated March, 19th.

Issued

Recd.

G.O., 19th March 1880, No. 637.

Encl.

MAJCE.
Nos. 154-161.

Bills—Legislative.—Reports received from certain officers, &c., on the Kazis' Bill, transmitted to the Government of India with observations.



1880.
JUDICIAL DEPARTMENT.

From
The Chief Secretary to the Govt.
of Fort St. George,
To
The Secy. to the Govt. of India,
Legislative Department.

Dated 19th March 1880.

Issued

Recd.

No. 638.

Enclosure.

Bills—Legislative.—Transmitting reports received from certain officers, &c., on the Kazi's Bill, and recommending that the Kazi appointed by Government be declared competent to nominate Kazi's or Deputies.



To

The Honorable Mr. P. Davidson
Chief Secretary to Government
Madras.

Honorable Sir,

In obedience to the Proceedings of Government, dated 12th February 1880, I most respectfully beg to submit my humble opinion on the subject of Kazi's appointments.

1. In this part of the country Kazi's have been appointed to each of the important villages to perform certain religious & funeral rites in the Mahamedan Community, and to do service in the mosque for which some of them were granted Grants in the shape of lands by former Government. They render these services enjoying the produce of the said Grants.

2. Till about two years ago there was a Kazi in the Erichinopoly District, who had a Samud from the Collector.

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his son has been doing the duties
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collector or other public functionary.
The former Kazi had many suits
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3. A very few persons in
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for damages sustained by them (Kazis)
for their interference with their duties
were decided in their (Kazis') favor
by the Mufussil and the late
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6. The Kazis, though not paid
by the State, receive some remuneration.

This Act may be called the Kazis Act, 1880.
And it shall come into force at once.

St. C.

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Rs 1-4-0 in times of marriages for
people in ordinary station of life and
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Kazis also render service gratis to
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7. In these circumstances
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order should be passed to the
effect that the Kazis hereafter
be appointed by Government should
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I beg to remain,

Honorable Sir

Your most obedient servant
Sewant.

Syed Mustafa Sahib

[Signature]

District Munsif
Court Dindigul
3^d March 1880.

District Munsif of
Dindigul



R. D.
5 MAR 60

Santh Adyar
4th March 1880

S.

B. Dandekar Esq^r C. S. I.

Chief Secy to Govt.

Fort St. George

Sir

With reference to G.O.
dated 12th February 1880 No 280
Judicial Department I have the
honour to submit that responsible
officers for the purpose of register-
ing and keeping records in the
language of the Court and in
accordance with the advanced
ideas of register keeping, of all

154
10126375638180
to
The Chief Secy
to Govt
Judicial Dept
Fort St. George
Chennai
The District
Magistrate
Chennai

To keep a complete record of marriages and divorces for the purpose of admission in judicial tribunals as hearsay evidence it appears absolutely necessary that the registration of such occurrences by a competent officer should be made compulsory and

It is also desirable
that the registering officers should
be confirmed by the Government
after they had been duly elected
by the community for whose
good they are required and under
whatever designation the same
may be but that of a Stazi
I think will be more acceptable
to the people -

The Hoag's Bill referred

No. 7
1869-1870
The Chief Justice
to Governor
Harris
Sizing Office
Harris' Post

...among

to in the G. O. above mentioned
however is silent in such points
of detection noted herein and
how far these requirements of
the Mussulman community
will be met by that Bill can
be better judged by the Govern-
ment. But its wording seems
to afford by implication some-
times to one section of the
Mussulmans only.

I have the honor to be
Sir
Yours most obedt. servt.

Amir-ul-Umra
2

Feb 6.37

Sri Sri Koomayon
 Sri Bahadur

No.

Received

No.

Submitting remarks
on the Harris Bill.

156

R.D.
8 MAR 80

Amir Mahud
6 March 1880.

My dear Sir;

In sending the accompanying official letter to you, I would beg to apologise for not having been within the fixed in G. O. N: 280 of the 12th February. I made a mistake with regard to the date by which I was to submit my views and hence the delay. I however trust that you will kindly assist me in having my letter laid before the Government. & oblige.

I beg to remain,

I beg to remain,

My dear Sir;

Yours very sincerely.

Amund. Noted in the

for
The appointment of persons to the Office of
Kazi and Naib Kazi or Deputy Kazi.

Whereas, by the preamble to Act No. ~~XX~~ of 1864
(an Act to repeal the Law relating to the Offices of
Hindoo and Muhamadan Law Officers and to
the Offices of Kazi-ul-Kaziat and of Kazi, and
to abolish the former offices) it was (among other
things) declared that it was inexpedient that the
appointment of Kazi-ul-Kaziat, or of City,
Sawn, or Paragwa Kazi should be made by the
Government, and by the same Act the enactments
relating to the appointments by the Government of the
said officers were repealed; whereas, by the usage of
the Muhamadan community in some parts of British
India the presence of Kazi or Naib appointed by
the Govt. is required at the celebration of marriages and the
performance of certain other rites and ceremonies; and
whereas, it is expedient to define the duties of Kazi or Naib
Kazi relating to the registration of Muhamadan
Marriages, Divorces, and Wills, and is therefore expedient
that the Government should again be empowered to appoint
persons to the Office of Kazi and Naib Kazi, vesting
them with the power to register Marriages, Divorces, &
Wills. It is hereby enacted as follows:—

Short Title. 1. This Act may be called the "Kazi's Act, 1880."

Commencement. And it shall come into force at once.

It extends in the first instance, only to the territories administered by the Governor of Fort St. George in Council: But any other local Government may, from time to time, by notification in the Official Gazette, extend it to the whole or any part of the territories under its administration.

Local extent. 2. In this Act unless there be something repugnant in the subject or context—

Kazi. "Kazi," means a Mohammedan Law Officer who solemnizes marriages and performs certain religious rites & ceremonies.

Naiib or Deputi Kazi. "Naiib or Deputi Kazi," means a deputy Kazi who is subordinate to Kazi.

Mohakamab. "The Kazi's Mohakama," means the Office of a Kazi in the district.

Nikah. "Nikah," means legal marriage.

Shullockh. "Shullockh," means a Divorce.

Khullockh. "Khullockh," means a Divorce by mutual consent.

Morajul. "Morajul," means the limit of time allowed for payment of Dower on marriage.

Morowufful. "Morowufful," means a Dower payable at a future time after marriage.

Purda Nashum. "Purda Nashum," means a female who according to the Mohammedan Law & usage does not appear in public.

Wasiyoth Waimah. "Wasiyoth Waimah," means the last Will.

Gender. Words importing the masculine gender shall be taken to include females.

Number. Words in the Singular shall include the plural, vice versa.

Year & Month. Year & Month shall respectively mean a Mohammedan year & Month.

Half year or Half yearly. Half year or Half yearly, means the period commencing from the 1st day of Moharram & ending on the last day of Jannat-ul-Qasim, or from the 1st day of Rajab & ending on the last day of Zil-hijah.

Bulda of Madras. "The Bulda of Madras," means the City of Madras.

District. "District," means the local limits of the jurisdiction of a principal Civil Court of original jurisdiction (herein after called a District Court).

Town. "Town," means any collection of houses larger than a Village.

Village. "Village," means any small place or a collection of houses which is not a Town.

Notice. "Notice," means a Written printed or lithographed information.

- High Court. "High Court" includes the High Court in its ordinary original civil jurisdiction.
- District Court. "District Court," means the local limits of the jurisdiction of a principal civil court of original jurisdiction.
- Magistrate. "Magistrate," means a Magistrate appointed for the Town of Madras under the Presidency Magistrate Act 1877 or a Magistrate appointed under Act X of 1872.
- Recognized Agents. "The Recognized Agent" means Persons holding Powers of Attorney from Pundah Nisheen females authorizing them to make all necessary applications and appearances on behalf of such parties.
- Minor children. "Minor children" in the case of boys who have not completed the age of sixteen years and girls who have not completed the age of thirteen years or who have not attained puberty.
- Power to Government to appoint Kazi or Naib Kazi for any local area. 3. Whenever it appears to the local Government that any considerable number of the Mohammedan residents in any local area desire that one or more Kazi or Naib should be appointed for such local area, the Local Government may if it thinks fit after the selection of the Committee hereinafter mentioned appoint one or more persons to be Kazi or Naib for such local area.
- Kazi or Naib for Sheahs. 4. The local Government if necessary shall appoint a person of the Sheahs sect as a Kazi or Naib in any City or Town. If the Kazi to be selected is of the Sheah sect the committee will consist of exclusively of sheah and vice versa.
- Appointment of a Committee. 5. The Local Government may appoint a Committee consisting of 5 to 15 leading members of the Mohammedan Community for the purpose of selecting a competent person for the office of Kazi or Naib whenever it is required.
- The qualification and fitness to be a Kazi or Naib shall be left entirely to the discretion of the Committee. Provided that a preference will always be given to a person who may have an hereditary right.

legitimate right to the office, if his fitness is efficient or equal ^{that of} to other candidates. Further provided that a similar preference will also be given to a person who may have acted as a Naik previously in the same place if there is no other candidate who has an hereditary or other claim to the office.

The qualifications required for the office of Naika Kazi are the same as those of a Kazi.

Suspension removal and dismissal of Kazi or Naik. 6. The Local Government may, if it thinks fit, or at the desire of the majority of the Mohomedan population of any local area, suspend, remove or dismiss any Kazi or Naik.

Seals of Kazi & Naiks. 7. Every Kazi & Naik shall use a seal bearing the following inscription in Hindoostani language & character. The seal of the Kazi or Naik (or of the Deputy Kazi) of -

Register Books 8. The Local Government shall provide for the office of every Kazi or Naik the books necessary for the purposes of this Act.

Forms. 9. The Books so provided shall contain the forms, from time to time prescribed by the local Government, & the pages of such books shall be consecutively numbered in print & the number of pages in each book shall be certified on the title page by the officer by whom such books are issued.

Register Books to be kept by Kazi or Naik. 10. Every Kazi or Naik shall keep up the following Register Books.

Book I. Register of marriages in the form A contained in the schedule of this Act.

Book II. Register of Talaaks or Divorces in the form B. contained in the schedule of this Act.

Book III. Register of Khullahs in the form C. contained in the schedule to this Act.

Book IV. Register of Wasiyath Namah or Wills in the form D. contained in the schedule to this Act.

Entries to be numbered 11. All entries in each Register prescribed by the last preceding section shall be numbered in accordance with which shall

Domoni a fresh series being commenced at the beginning of each year.

The presence 12 On application it will be compulsory for every *Kazi* of *Kazi* or *Kail* or *Kail* to be present at every solemnization & dissolution to be compulsory of marriage and at the execution of every will at the solemnization

tion of marriages, divorces & execution of Wills.

Application 13 Every application for Registration of every marriage when & how to Divorce and Will affected shall be made at the earliest possible opportunity and in all other cases within one month of the date of such marriage Divorce or execution of the Will to the *Kazi* or *Kail* of the District Town or Division either orally or in writing as follows:

Who to make (a) If the application be for the Registration of marriage application in By the parties to the marriage jointly provided if the case of marriage man or the woman or both be minors application shall be made on their behalf by their respective lawful guardians and provided further that if the woman be a *Purdah* *Nisheen*, such application be made on her behalf by her duly recognized Agent or *Vakil*.

Who to make (b) If the application be for registration of a *Tullakh* or application in or Divorce. By the man who has effected the *Tullakh* or Divorce case of *Tullakh* If the application be for the Registration of *Khulla* or Divorce.

Who to make (c) By the parties to the divorce jointly provided that if application the woman be a *Purdah* *Nisheen* such application may be in case of *Khulla*, made on her behalf by her duly authorized Agent.

Duties of *Kazi* 14 On application being made to a *Kazi* or *Kail* for & *Kail* on appli registration under this Act of a marriage, Divorce, *Khulla* cation being made, and *Wasiyath* *namah* being effected & on payment to him of a fee of one Rupee the *Kazi* or *Kail* shall

(a) satisfy himself whether or not such marriage divorce *Khulla* & will was effected by the person or persons by whom it is represented to have been effected.

(b) satisfy himself as to the identity of the persons appearing before him and alleging that the marriage

(c) in the case of any person appearing as representative of the person (whether he appear as guardian or agent) satisfy himself of the right of such person to appear.

When he may 15 If the Hájí or Naib be satisfied on the above points he shall make an entry of the marriage, divorce or ~~other~~ Register. and Will in the proper Register.

In whose presence 16. Provided that no such entry shall be made entry to be made, otherwise than in the presence of every person who by section 15 of this Act is required to sign such entry.

Hájí or Naib 17 Nothing in the preceding section shall be held to prohibit a Hájí or Naib from receiving a remuneration in excess of the prescribed fee of one Rupee when such remuneration is voluntarily tendered.

By whom entries 18. Every entry in a Register kept under this Act to be signed. shall be signed as follows.

In case of 19. If the entry be of a marriage in a Register in the form (a) contained in the Schedule to this Act.

(1) By the parties to the marriage or, if either or both of them be minors by their lawful guardians respectively; provided that if the woman be a parda-Nahen the entry may be signed on her behalf by her only authorized Agent

(2) By two Witnesses who were present at the marriage ceremony

(3) In cases in which the woman is represented by an Agent, by two Witnesses to the fact of the Agent having been duly authorized to present her.

(4) By the Hájí or Naib

In case of Tullaack 19. If the entry be of a Tullaack or divorce in a Register in the form (b) contained in the Schedule to this Act.

(1) By the man who has effected the Tullaack or divorce

(2) By the Witness who identifies the person who has effected the Tullaack or divorce

(3) If the man be of the Sheah sect by two Witnesses to the divorce being effected.

(4) By the Hájí or Naib

In case of 20 If the entry of *Hukulla* in a Register in the *Hukulla* Dismal form be contained in the Schedule to this Act.

- (1) By the parties to the *Hukulla* provided that if the woman be a *Purda* *hashem* the entry may be signed on her behalf by her duly authorized *Sahel*.
- (2) By the person who identifies the woman.
- (3) If the application for registration has been made by an Agent on behalf of the woman by two Witnesses to the fact of the Agent having been duly authorized to represent her.
- (4) If the man be of the *Sheeh* Sect by two Witnesses to the *Hukulla* being effected.
- (5) By the *Kazi* or *Naib*.

In case of Wills. 21 If the entry be of a Will in a Register in the *Form* B. contained in the Schedule to this Act.

- (1) By the Testator or Testators and Executor or Executors to the Will or if either or both of them be minors, by their lawful guardians respectively provided that if the woman be a *Purda* *hashem*, the entry may be signed on her behalf by her duly authorized Agent.
- (2) By two witnesses who were present at the execution of a Will.

Copies of entry 22 On completion of the registration of any marriage or to be given to *Divorce* *Hukulla* or Will the *Kazi* or *Naib* shall deliver to each of the applicants for registration an attested copy of the entry; & for such copy no charge shall be made.

23 In every office in which any register hereinbefore is kept up. there shall be prepared a current *Index* of the contents of such register; and every entry in such *Index* shall be made as far as practicable, immediately after the *Kazi* or *Naib* has made an entry in any such register.

Particulars to be 24 The *Index* mentioned in the last preceding section shall contain the name, place of residence & father's name of each party shown in *Index* to each marriage, *Divorce*, or *Hukulla* & the date of registration. It shall also contain such other particulars and shall be prepared in such form as the Governor in Council may from time to time.

Indices may be cited, the index whether it be in the Office of the High Court or of the District Court and the copies of entries in such indices which are filed in the Office of the High Court or of the District Court under the provisions of section 35 of this Act, shall be at all times open to inspection by any person applying to inspect the same, & copies of entries in any of the registers and the certified copies of such entries, which are filed in the Office of the High Court or of the District Court under Section 35 of this Act, shall be given to all persons applying for such copies.

Such copies to be 26. Such copies shall be signed and sealed by the Registrar of the High Court in Original Side or the District Court or by the High Court or District Court as the case may be.

Fees for searches and copies. 27. Every High Court or District Court shall for the purposes of this Act be entitled to levy the following fees:—
For every search or permission to search in any index or register under his charge, 8 Annas.
For every certified copy of any entry in a register other than the first copy referred to in section 22 of this Act, one Rupee.

High Court or District Court to be 28. Every High Court or District Court shall perform the duties of his office subject to control of and under the Superintendence & control of the High Court or District Court in whose District the Office of such High Court or District Court is situated.
But in the City of Madras every High Court or District Court shall perform the duties of his office under the Superintendence and control of the Registrar of the High Court in Original Side.

District Court & High Court in Original Side 29. Every District Court, & in the City of Madras the Registrar of the High Court in Original Side shall have authority to issue (whether in compliance with a complaint or otherwise) any order consistent with this Act which he considers necessary in respect of any Act or omission of any High Court or District Court.

Registrar of the High Court 30. The Registrar of the High Court shall exercise a general superintendence over the Offices of all High Courts & District Courts & shall have power from time to time to frame rules consistent with this Act for the guidance of the said High Courts & District Courts and the regulation of their Offices generally.

Rules to be approved 31. All rules framed in accordance with the Act preceding section 30 shall be submitted to the Governor in Council for approval and after approval shall be published in the Official Gazette & shall then have the same force as if they were inserted in this Act.

Refusal to ³³ Every Kazi or Naib refusing to register a
register to be Marriage, divorce, Khulla or Will shall make
recorded. an order of refusal and record his reasons for
such order in a book to be kept for that purpose.

Appeal ³⁴ An appeal shall be against an order of
against refusal a Kazi or Naib refusing to register a Marriage, ^{High Court or}
sub to High divorce, Khulla or Will to the District Court
Court or to to whom such Kazi or Naib is Subordinate, if
District Court. presented to such district court within twenty
days from the date of the order, and the District
Court may reverse or alter such order and the order
passed by the District Court on appeal shall
be final.

Copies of entries ³⁵ Every Kazi or Naib shall at the expiration
to be sent half of every ⁱⁿ month, send certified copies of all entries
yearly to the dis. made by him during the month in the Registers
trial and High mentioned in the Section 10 of this Act, and
Court. also of the entries which have been made in the
index referred to in Section twenty four
of this Act, to the district court within which
such Kazi or Naib has been authorized to act
and the District Court on receiving such copies
shall file them in his Office.

Register to ³⁶ Every Kazi or Naib shall keep safely
two copies of each register until the same shall be filed, and shall
then

to the Governor in Council necessary to effect the purposes of this Act. The Governor in Council may from time to time cancel or alter any such rules.

Hazi or Naib 35 Every Hazi or Naib shall be and be deemed to be a public Officer and his duties under this Act shall be deemed to be public duties.

Parties to app. 39 On the day fixed in the notice for the hearing or day - parties to appear and answer the parties shall first in order be in attendance at the Office (Mabokamoh) in person or by other respective Vakeels or recognized Agents and the matters shall then be heard, unless the hearing be adjourned to a future day fixed by Hazi or Naib.

Notice to attend 40 The parties may obtain an application to give evidence to the Hazi or Naib before the day fixed for hearing or produce documents. if any matter herein provided for as the case may be issue Notices to persons whose attendance is required either to give evidence or to produce documents.

Notice how 41 Every notice to a party or a Witness served - either to appear or give evidence or produce a document shall be served as nearly as may be in manner hereinof prescribed for the Service

of

an agent or other person to his behalf, he shall require the signature of the person to whom the copy is so delivered or tendered to ^{an} acknowledgment of Service endorsed on the Original ^{on} Notice.

Procedure when 48 If the party or other person refuses to party refuses sign the acknowledgment or to receive the copy of to accept service the Notice or if the person cannot find the party or cannot be found there is no agent empowered to accept the service of the Notice on his behalf nor any other person on whom the service can be made the person shall affix a copy of the Notice on the outer door of the house in which the party ordinarily resides and then return the Original to the Mokhamach of Hâzi or his person which it issues, with an endorsement thereon, stating that he has so affixed the copy and the circumstances under which he did so.

Endorsement 49 The person shall, in all cases in which of time and the Notice has been served under Indian manner of ser. endorse, or cause to be endorsed on the Original Notice, the time when and the manner in which the Notice was served.

When

Examination 50.

When a notice is returned under
of Part. Section 49 the Magistrate shall examine
the person on oath touching his proceedings and
may make such further enquiry in the matter
as it thinks fit, and shall either declare that the
notice has been duly served or order such service
as it thinks fit.

Procedure if 51.

If any person on whom a notice
has been served fails to comply with the terms
of the notice, the Magistrate or his clerk shall enforce
the appearance of such parties or witnesses as
hereinbefore provided of enforcing the appearance
of parties and witnesses.

Procedure 52

If the Magistrate or his clerk desires the appear-
ance of any person who has failed or neglected
to appear whose presence or testimony is
necessary for the purposes of this Act either for the
registration of marriages, divorce, or other purposes
may be in his discretion call upon such Officer
Civil or Police Sergeant as the Local Government
from time to time directs in this behalf to issue
a Summons requiring him to appear at the Magistrate's
or his clerk's Office either in person or by duly autho-
rized agent as in the Summons may be mentioned
and at a time named therein.

Office of Civil 53 The Officer of Civil or Police Court
or Police upon receipt of the Bond fees payable in
Court to issue such cases shall issue the Summons accordingly
and cause it to be served upon the person
named.

whose appearance is so required.

Punish for 54 Whoever being bound by this Act to
not applying make application to the Registrar touching any
to Register. Marriage or divorce ^{and will} neglects or omits to make
such application within one month from the
date of such Marriage, or divorce, shall be liable
on conviction before a Magistrate, to a fine not
exceeding 50 Rupees, or in default of payment
to simple imprisonment not exceeding one month
for every such offence.

Nothing in this Act contained shall
be construed to.

(a) confer any judicial or Magisterial power on a
Hajji or Kishi Hajji.

(b) Authorize the attendance of any Hajji or
Kish at the celebration of a Marriage or at the time
of Divorce or at the execution of a Will, except
at the request of all the parties concerned.

(c)

(C.) prevent any person, who is unable to write, from putting his marks instead of the signature required by this Act.

Schedule.

(See Section 10 and 18)

Form A. Book I.

Register of Marriages (as prescribed by Section 10 of the Act for compulsory registration of Mohammedan marriages, Divorce, Khul'ah or Mulla)

1. Consecutive No.

2. Name of the bridegroom and that of his father, with their respective residences.

3. Name of the bride and that of her father with their respective residences.

4. Whether the bride is a Spinster, a Widow, or divorced by a former husband and whether she is adult or otherwise.

5. Name of the guardian of the bridegroom (if the bridegroom be a minor) and that of his guardian's father, with specification of the guardian's residence, and of the relationship in which he stands to the bridegroom.

6. Name of the guardian of the bride (if she be a minor) and that of his father with specification of his residence and the relationship in which he stands to the bride.

7. Name of the bride's Vakul and of his father, and their residences, with specification of the relationship in which the Vakul stands to the bride.

8. Names of the Witnesses to the two Suktas. Mention of the bride's Agent with names of their fathers and residences and specification of the relationship in which they stand to the bride.

9. Place in which the marriage was contracted, to be given according to the English Style, and according to the use current in the district.

10. Amount of Dower.

11. How much of the dower is Moafful (prompt) and how much Moafful (deferred).

12. Whether any portion of the dower was paid at the moment if so how much?

13. Whether any property was given in lieu of the whole or any portion of the dower with specification of the same.

14. Special conditions if any.

15. Names of Village, or Town, Police Jurisdiction, and district in which the Marriage took place.

16. Name of the person in whose house the Marriage took place and that of his father.

17. Date of registration, to be given according to the English Style.

Form B. Book II.

Register of Sulluckh or Divorces.

(prescribed by Section 10 of the Act for the compulsory registration of Mohamedan Marriages & Divorces, &c. 1875.)

1. Consentive &c.

2. Names of the husband and of his father and their residences.

3. Names of the Wife and of her father and their residences.

4. Date of Divorce, according to the English style and according to the era current in the District.

5. Description of Dower.
6. Manner in which the dower was effected.
7. Name of the Village, or Town, Police Jurisdiction, and district in which the dower took place.
8. Name of the party in whose house the dower took place and of his father.
9. Names of Witnesses to the dower, if any the names of their fathers, and their respective residences.
10. Name of party identifying the husband before the Kazi or Raii and that of his father and their residences.
11. Date of registration, to be given according to the English style.

Form C. Book III.

Register of Khulla (prescribed by Section 10 of the Act for the compulsory registration of Mohammedan Marriages, Dowers, and Wills.)

1. Consecutive No.
2. Name of the husband and that of his father, and their residences.
3. Name of the Wife and that of her father and their residences.
4. Date of Khulla, according to the English style.

and according to the era current in the district.

5. Amount of Dowry.

6. Whether Echulla was acknowledged by the wife in person before the Hôzi or Hôib.

7. If so, name of the party identifying her before the Hôzi or Hôib and that of his father and their residences, with specification of the relationships which he bears to her, if any.

8. If the Echulla be acknowledged before the Hôzi or Hôib by the wife's agent, his name and that of his father and their residences, with specification of the relationships which the agent bears to the wife, if any.

9. Names of the two witnesses to the deed and authorization of the wife's agent and those of their fathers with their residences.

10. Name of Village or Town Police jurisdiction & district where the Echulla took place.

11. Name of the person in whose house the Echulla took place.

12. Name of the Witnesses if any to the divorce being effected the names of their fathers and their residences.

13. Name of the person identifying the husband, and that of his father and their residences.

14. Date of registration to be given in English Style.

Form G. Book IV.

1. Consecutive No.

2. Name of the Testator and that of his father with their respective residences.

3. Name of the Executor & that of his father with their respective residences.

4. Name of the Legatee & that of his father with their respective residences.

5. Name of the guardian of the Executor (if the Executor be a minor) and that of the guardian's father with specification of their

6. Name of the abutting Witnesses and that of their fathers with their respective residences.
7. The description of the Request.
8. The copy of the Will.

Magras
5 March/80

Moore Sheriff of the County of
Hony. Surfer
Fipkane Dispensary

Sanjore Collectors Office
Camp Oranad, Sanjore
10th March 1880

N^o 1206

From E. J. Wheeler Esq.
Collector of Sanjore

To R. Davidson Esq. C.S.
Chief Secretary to
Government
Madras.

Sir,
In accordance with Govern-
ment Order 12th February 1880 N^o 280, I
have the honor to report that the Bill
for the appointment of persons to the
office of Kazi appears to me to be
unobjectionable. Its main object is
simply to restore to the Government the
power of appointing Kazis, of which
they were divested by Act II of 1864.
2. In para 6 of the statement
of objects and reasons it is said
that the Mussalmans of this Presidency
have brought to the notice of Government
the

1880

to

Bill

to go on by 19-5-80

for the appointment of persons

to the office of Kazi.

R. D.

C.M.P. 80

B-12-41

17/11/17
188-8-16
30-01-7

14-17-17

Madras 1880

1880-8-16

1880-8-16

the inconvenience felt by them in
consequence of the state no longer
having the power to appoint Kargis.

3. I have no knowledge of the
existence of this feeling in Tanjore;
but from all enquiries I have been
able to make I am led to the belief
that no objection exists to the pro-
posed enactment.

I have the honor to be

^{Res}
Your Most Obedient Servant

Fraser McLure.

Collector.

7

1. The first step is to identify the problem or issue that needs to be addressed. This involves gathering information and understanding the context of the problem.

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more particularly by the Muhammadans of the Madras Presidency. It is considered that the grant of the relief that is sought, viz., that Government should once more undertake the appointment of Kázis, is but a reasonable concession to the wants of the Muhammadan population.

With this object the present Bill has been prepared. It extends in the first instance to Madras only, where the want of duly appointed Kázis appears chiefly to have been felt, but it contains a clause empowering any other Local Government to extend its provisions to the territories administered by it, should the Muhammadans in those territories hereafter request its extension. It confers no legal rights or duties on Kázis. It simply, in order to satisfy the wants of the Muhammadan community, provides for the appointment of Kázis by Government, leaving the position and duties of the Kázis, whatever these may be, as they now are. To prevent any possible misapprehension on this point, a saving clause has been added to the effect that nothing in the Bill confers any judicial or other powers on a Kází, or makes his presence necessary at any marriage or other ceremony at which his presence is not now necessary.

SAYYAD AHMAD.

CALCUTTA;

The 19th January, 1880.

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

ANNEXURE

TO

Bill for the appointment of persons to
the office of Kāzī.

(Statement of Objects and Reasons.)

Price annas.

BILL

FOR

The appointment of persons to the office of Kāzī.

WHEREAS, by the preamble to Act No. XI of 1864 (an Act to repeal the law relating to the offices of Hindū and Muhammadan Law Officers and to the offices of Kāzī-ul-Kuzāt and of Kāzī, and to abolish the former offices) it was (among other things) declared that it was inexpedient that the appointment of Kāzī-ul-Kuzāt, or of City, Town or Pargana Kāzīs should be made by the Government, and by the same Act the enactments relating to the appointment by the Government of the said officers were repealed; and whereas by the usage of the Muhammadan community in some parts of British India, the presence of Kāzīs appointed by the Government is required at the celebration of marriages and the performance of certain other rites and ceremonies, and it is therefore expedient that the Government should again be empowered to appoint persons to the office of Kāzī; It is hereby enacted as follows:—

Short title.

1. This Act may be called
"The Kāzī's Act, 1880;"

Commencement.

and it shall come into
force at once.

It extends, in the first instance, only to the territories administered by the Governor of Port St. George in Council. But any other Local Government may, from time to time, by notification in the official Gazette, extend it to the whole or any part of the territories under its administration.

Local extent.

2. Whenever it appears to the Local Government that any considerable number of the Muhammadans resident in any local area desire that one or more Kāzīs should be appointed for such local area, the Local Government may, if it thinks fit, after consulting the principal Muhammadan residents of such local area, select one or more fit persons and appoint him or them to be Kāzīs for such local area.

The Local Government may, if it thinks fit, suspend or dismiss any Kāzī appointed under this section.

3. Nothing herein contained shall be deemed to confer any judicial or other powers on any Kāzī appointed hereunder, or to render the presence of a Kāzī necessary at the celebration of any marriage or the performance of any rite or ceremony.

Nothing in Act to confer judicial or other powers on Kāzī;

or to render the presence of a Kāzī necessary at marriages or other religious rites or ceremonies.

20. 637-387 19-3-80

YOM

The appointment of persons to the office of Kazi.

(Sayed Ahmad.)

Kay's Bill

Judicial DEPARTMENT

No. 763, 764, 767, 780 & 791

From the District Munsif, Dindigul, dated 3rd
March 1880, No. -
- " the Nabob Mir Shumayyeh Khan Bahadur
Wingard, dated 4th March 1880.
" Noodeen Sheriff Khan Bahadur, dated
5th March 1880, No. 12
- " Ag Co. Dealer of Cuddalore dated 3rd
March 1880, No. 62
- " Ahmed Mohideen Khan Bahadur,
dated 6th March 1880.

Frappé.

FOR ORDERS

FOR ORDERS.

The Spectre of the Bill is
 just before things in
 state of mind that
 it is a very serious thing
 and I am sure that
 the people will be
 very much interested in it.

May 1st. but I think
it will be better to have
a Bill on this point
out that the Bill enables
the Govt. to appoint Judges
for States & Territories
Especially. (As far
as I remember) & that
its objection is solely
to replace the action
of the office holders by
entrusting it to the element
of State appt. It is
essential. I don't contemplate
no change - but mostly
the restoration of the
office to its former

saline forcing -

(85)

The only recommendation
that I feel disposed to make
is that the basis
appt. by Govt. should be
competent & dominant
"Gaius" or "Justice"
in the State & the
Bill it is difficult
to speak positively.

I don't think there is
any provision in the
Bill for selecting the
Judge by popular vote
or otherwise as suggested
& I don't think I should
adopt the suggestion.

Most of the bills for it
is suggested to make
special provision with
regard to the selection
once there is a healthy

FOR ORDERS.

Sim. Almagut:

11/16/43

6c10/3

PROCEEDINGS of the MADRAS GOVERNMENT.

READ the following letter : —

From the District Messniff of Dindigul
of 20 March 80
" the Hon'ble Khir Khamayyah Bahadur
dated 4th March 80.
" the District Ahmed Mohideen Khan
Bahadur of 6th March 80, No
" the Acting collector of Fuddappah
of 30 March 80, No 62
" Hon'ble Surgeon Mohideen Sheriff
Khan Bahadur, of 5th March 80,
" Collector of Tanjore 10 March 1880.
No 150
Order 19th March 80 No 637

Noted that the foregoing
papers be transmitted
to the Govt of India
2. He observed that
the bill enables Govt
to appoint Rajs for
Sheks and Simris
respectively and that

An object is solely
to legalize the action
of the office holder
by restoring to the
element of state ap-
pointment which
is essential.

3. It contemplates
a no change but may
in the restoration of
the office to its former
valid footing and
in that status
the minute rules
devised by Hon^l
Surgeon Mohideen
Sheriff Khaw Bihad.

find no place.

4. His grace the
Gov. in Council con-
siders it - be it
a necessary matter
Kazis appointed by
Govt. should be declared
to be competent to
nominate Naibs
or Deputies.

^{The Government has}
5. Most of the suits
for which it is suggested
to make special pro-
vision will cu- th-
selves where once
there is a legally
appointed Kazi.

From order.

It is submitted that
copies of this may
be sent to all the
Mukhamadan Jetties
who have reported
on the bill

For letter to India
please see Accompanying
sheet.

No 638^v.

To
The Secretary to the Govt of India
Legislative Depto
Sir,

In Continuation of
my letter, dated 9 March,
No. 55, I am directed
by His Grace the Governor
in Council to trans-
mit a Copy of the
marginally noted
Proceedings of this
Court and to recom-
mend that the Kazis
appointed by Court
be declared Com-
petent &c.

* No 919th Ink do No 637.
date of receipt Recd.

Sold. of {1880} 44/10/35.

1051

the 6374638
Dutch 1/3 }
March 1880, No. 11
March 1880

Nos. 154-161

Bills - day. Papers received

from eastern Africa, on
the King's bill, trans-
mitted to the R. P. I write
flourishes.

— Householding Reports
lead from eastern Africa, from
on the Kageri's hills, & known
amounting that the Kageri of
points by first be declared
competent & nominate.
Waters on Republics.

To the Hon. Mr. Munsey Jah Bahadur 3
 Ahmed Mohideen Khan Bahadur 3
 Hany. Singar Mohideen Sheriff 3
 Khan Bahadur
 C. Mr. of Cuddapah & Tanjore
 Sub. to Mr. of Indigul. 3

Sept 1/4

68

Naibs a Depntier

1788

For St George.

19th March 1800.

10/9/57D5

1240. 1263-30019-3-20