

Legislative (1895) Department.

ORDINARY PRINTED.

G.O., No 117

Dated 8th Nov. 1895

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[Despatch* Abstract.]

MALABAR MARRIAGE BILL.

RECORD OFFICE.

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No. 117, LEGISLATIVE, 8TH NOVEMBER 1895.

GOVERNMENT OF MADRAS.

LEGISLATIVE DEPARTMENT.

READ—the following paper:—

Memorial of K. P. ACHYUTA MENON, First-grade Pleader, Palghat, dated
3rd October 1895.

MAY IT PLEASE YOUR EXCELLENCY,—With reference to the Malabar Marriage Bill, which is before your Excellency in Council, I beg to offer the following suggestions for amendments and pray that the Bill may be passed with those amendments. The points upon which the amendments are suggested are the following :—

- | | | |
|------------------|--|-------------------|
| (1) Caste. | | (3) Renunciation. |
| (2) Inheritance. | | |

Caste.—The caste system introduced in the Bill is quite undesirable. The Bill is generally accepted by the educated section of the Malayalee community. They do not desire the retention of any caste, which is now acknowledged to be an impediment to progress. The distinction of caste, which is being slowly wiped off, will then find a firm root in the land. Malayalees have lost their scruples to inter-dine with any class of persons on the face of the globe and it is hoped that time will soon come when inter-marriages also will be common. The recognition of the system in the Bill will often give rise to disputes as to the person who is entitled to issue the writ of excommunication. There is no acknowledged authority in Malabar entitled to issue such writs. Each Nambudri jenmi and each Raja claims to have such rights, but their rights are not accepted beyond the sphere of influence of each on account of his position as landlord. If by contracting a marriage between persons of different classes or castes the married couple is excluded from the society, let them be socially degraded ; but why should the legislature say that the marriage is invalid for that reason ? It is, I believe, from every point of view, better to leave the society alone and not to interfere with it by legislation. Let the society work out its own rules.

Inheritance.—The provision in the Bill for the inheritance of a woman's property on her death by her children and tarawad in halves is highly objectionable. This provision is generally disliked. Tavazhi system is prevalent throughout, and under this system the children of a woman and the children's children in the female line inherit her property to the exclusion of other members of a tarawad. This practice is generally recognized by the Courts. The husband of a woman generally provides her, in the hope that her children will inherit the property. It is therefore humbly suggested that this provision may be so amended as to give the children the whole property of their mother. The right of enjoyment of one's property in the way he likes is an inherent right in all except in Malabar, where the mode of enjoyment is restricted to a particular way. This is not at all desirable. Though it will be difficult now to upset the practice prevailing for a long time, I do not see any reason why the children who inherit the property should not be given the privilege of dividing and enjoying the property as they liked. Therefore I humbly submit that provision be made for dividing their inheritance and of enforcing that right in case of disagreement.

If a man die intestate, the whole property must devolve upon his wife and children and must not be left to be divided between them and the tarawad. At events, the provision to divide the property between the wife and children and the tarawad is undesirable. If a division at all is to be made, it ought to be between the wife and children. It is really strange to exclude a mother, brother and sisters who form the members of the taravahi and give the inheritance to the tarawad. In the absence of the taravahi, the tarawad may take the place of the taravahi, and in the absence of both, the wife and children should inherit the whole and in the same way a provision should be made that in the absence of taravahi and tarawad a wife's property also should devolve on her husband. Tarawad is generally understood to mean the members of the family who have community of property and not those who are divided in interest and have only community of pollution.

Renunciation.—There is no provision in the Bill that a person may renounce his rights to the tarawad if he so pleases. It is doubtful whether under the present system he can relinquish his rights. Nobody is affected by a man's relinquishing his claims on the tarawad. On the contrary, the members of the tarawad only gain and at the same time the person who relinquishes his right to the tarawad will not be fettered in his choice of marriage by unnecessary objections raised to it on account of prejudice of members of the tarawad, who in some cases are numerous. To be clear on the question of relinquishment, a provision in the Bill to this effect is also desirable.

I therefore humbly pray that your Excellency will be pleased to consider the above suggestions favourably in dealing with the Bill and pass the same with the amendments herein indicated.

ORDER—No. 117, Legislative, dated 8th November 1895.

Communicated to the Select Committee.

(True Extract.)

Ag. Under Secretary.

for Chief Secy

To the Select Committee on the Malabar Marriage Bill.

Exd. A, Raitt,

Gobt. of {1895} Madras.
LEGISLATIVE.

Issued

Recd.

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G.O., No. 117, 8th November 1895.

NOVEMBER.

Malabar Marriage Bill.

Communicating to the Select Committee memorial from M.R.Ry. K. C. Achyuta Menon, Pleader, Palghat, containing suggestions for amending the provisions of the —

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CURRENT No. 287

Palghat. 3^d Nov. 1895

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To

His Excellency the Governor
in Council of Fort St George
Madras.

The humble memorial of K. P. Achyuta
Menon, First grade Pleader, Palghat.

May it please your Excellency,

With reference to the Malabar
marriage Bill, which is before
your Excellency in Council, I
beg to offer the following
suggestions for amendments
and pray that the Bill may
be passed with those amend-
ments.

The points upon which the
amendments are suggested
are the following:

- 1 Caste.
- 2 Inheritance.
- 3 Renunciation.

Caste. The caste system
introduced in the Bill is
quite undesirable. The Bill
is generally accepted by
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the educated section of the Malayalee Community. They do not desire the retention of any Caste, which is now acknowledged to be an impediment to progress. The distinction of Caste which is being slowly wiped off, will then find a firm root in the land. Malayalees have lost their scruples to inter-dine with any class of persons on the face of the globe and it is hoped that time will soon come when intermarriages also will be common. The recognition of the system in the Bill will often give rise to disputes as to the person who is entitled to issue the writ of excommunication. There is no acknowledged authority in Malabar entitled to issue such writs. Each Nambudri Jemmi and each Raja claims to have such rights but their rights are not accepted beyond the sphere of influence of each.

each on account of his position as land lord. If by Contracting a marriage between persons of different classes or Castes, the married Couple is excluded from the Society, let them be socially degraded; but why should the legislature say that the marriage is invalid for that reason. It is, I believe, from every point of view better to leave the society alone and not to interfere with it by legislation - let the society work out its own rules.

Inheritance. The provision in the Bill for the inheritance of a woman's property on her death by her children and Tarawad in halves is highly objectionable. This provision is generally disliked. Tarawad system is prevalent throughout and under this system the children of a woman and the children's children in the female line, inherit her property to the exclusion of other members of a Tarawad.

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This practice is generally
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It is therefore humbly
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way. This is not at all desir-
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practice prevailing for
a long time, I do not see
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who inherit the property,
should not be given the
privilege of dividing and
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provision be made for
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Case of disagreement.

If a man die intestate
the whole property must
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all events, the provision to
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the wife and children and
the Tarawad is undesired.
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the Tawazli and the wife
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provision should be made
that in the absence of
Tawazli

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Tavarzhi and Tarawad a wife's property also should devolve on her husband. Tarawad is generally understood to mean the members of the family who have Community of property and not those who are divided in interest and have only Community of pollution.

Renunciation. There is no provision in the Bill that a person may renounce his rights to the Tarawad if he so pleases. It is doubtful whether under present system he can relinquish his rights. No body is affected by a man's relinquishing his claims on the Tarawad. On the contrary the members of the Tarawad only gain; and at the same time the person who relinquishes his right to the Tarawad will not be fettered in his choice of marriage by unnece
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I therefore humbly pray
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I beg to remain,
May it please your Excellency
your Excellency's most obedt. servt.
Ch. Subramania Murthy

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Renunciation.—There is no provision in the Bill that a person may renounce his rights to the tarawad if he so pleases. It is doubtful whether under the present system he can relinquish his rights. Nobody is affected by a man's relinquishing his claims on the tarawad. On the contrary, the members of the tarawad will not and at the same time the person who relinquishes his right to the tarawad will not be fettered in his choice of marriage by unnecessary objections raised to it on account of prejudice of members of the tarawad, who in some cases are numerous. To be clear on the question of relinquishment, a provision in the Bill to this effect is also desirable.

I therefore humbly pray that your Excellency will be pleased to consider the above suggestions favourably in dealing with the Bill and pass the same with the amendments herein indicated.

I beg to remain,
Your Excellency's most obedient servant,
(Signed) K. P. ACHYUTA MENON.

PAIGHAT,
3rd November 1895.

ORDER—No. 117, Legislative, dated 8th November 1895.
Communicated to the Select Committee.
(True Extract.)

L. DAVIDSON,
Ag. Under Secretary.

To the Select Committee.
on the Malabar Marriage Bill