

Very Urgent
Legislative (1897) Department.

ORDINARY PRINTED.

G.O., No. 88

DATED 4. 11. 97.

Despatch No. 10 of 11. 11. 97

+ R No. 87 of 11. 11. 97

13/13

INDEXED.

[Despatch Abstract.]

Bill to amend the Malabar Marriage Act, 1896

Directing the publication in the Fort St.
George Gazette in English and the Malayalam and
vernaculars of a ———— ^{together with the statement of objects and reasons} and requesting the
Honble the Ag Advocate-General to take charge of it.

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	D

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	D

Government {1897} of Madras. LEGISLATIVE.

Recd.

Regd.

1897.

Enclosures

Spare copies

G.O., No. 88, 4th November 1897.

NOVEMBER.

Bill to amend the Malabar Marriage Act, 1896.

Directing the publication in the *Fort St. George Gazette* in English and in the Malayalam and Canarese vernaculars of a —, together with the Statement of Objects and Reasons, and requesting the Hon'ble the Acting Advocate-General to take charge of it.

GOVERNMENT OF MADRAS.

LEGISLATIVE DEPARTMENT.

READ—the following papers:—

G.O., No. 1083, Public, dated 18th August 1897.

Read—the following letter from the Hon'ble P. RAJARATNA MUDALIAR, Diwan Bahadur, Registrar-General of Births, Deaths and Marriages, to the Chief Secretary to Government, dated Madras, 5th June 1897, No. 265-G. :—

1. With reference to paragraph 10 of G.O., No. 1292, Public, dated 8th December 1896, I have the honour to submit a brief report on the work done under the Malabar Marriage Act IV of 1896 during the year 1896-97.

* * * * *

10. The marriage registrars of Calicut and Tellicherry have brought to notice that, in some cases, owing to the restrictive provisions of section 5 as to local jurisdiction, considerable hardship has been caused to persons who wish to register their sambandhams, but could not conveniently go all the way to the registrars having jurisdiction. In the case of a sambandham already formed, the Act provides that the registration shall be effected only by the registrar "within whose local jurisdiction either of the parties resided at the time when the sambandham was formed." In one of the cases referred to, the Tahsildar of Cannanore could not register his sambandham at that place, as both he and his wife were residents of Tellicherry when the sambandham was formed. Similarly it may happen that a vakil practising at Mangalore may have to go all the way to Calicut to register his sambandham if he or his wife or both were residents of that district. On the above ground, a High Court Vakil of Tellicherry, who wished to register his sambandham there, was actually referred to the registrar of Calicut.

11. I understand from the Hon'ble Mr. Sankara Nayar that sambandhams are usually formed at the house of the bride, but the registrar of Tellicherry points out that there may be cases (though rare) in which the sambandhams might have been formed at places other than those where the parties resided. In such cases it seems doubtful whether the sambandham can be registered by the registrar within whose jurisdiction it took place if the parties happened to have resided beyond his jurisdiction. From the heading of the last column of Form A (notice of marriage) appended to the Act, it may be urged that the legislature probably intended to provide for the registration of marriages by the registrar within whose jurisdiction the sambandham took place. This is obviously the more natural course to adopt, but I do not think that the wording of the form of notice can be held to override the plain provisions of the Act as contained in section 5, which distinctly makes the residence of the parties the basis for determining the jurisdiction of the registering officer. In view of the difficulties pointed out above, I venture to think that the Act should be amended so as to afford greater facilities for registering the sambandhams. There is no reason why the parties should not be allowed to register their sambandhams before the registrar within whose jurisdiction the sambandham was formed, or is intended to be formed; or before the registrar within whose jurisdiction either of the parties may be residing at the time the sambandham is proposed to be registered.

12. If the Act is amended as proposed above, it would be necessary also to amend the wording in the last column of the form of notice (A). The registrar of Calicut also suggests that columns 2 and 3 of the form should be amplified so as to show the

addresses of the persons referred to therein. He states that, in the absence of this information, it has been found difficult to serve the notices in many cases.

Order—No. 1083, Public, dated 18th August 1897.

Recorded.

2. With regard to the proposals of the Registrar-General of Births, Deaths and Marriages in paragraphs 10 and 11 of his letter, the Government considers that until further experience is gained no amendment of the Act in the direction suggested is advisable. It has, however, been brought to notice that in two sections early amendment is required. In clause 3 of section 8 an error has crept in. That clause alludes to "a notice of objection under section 7", while section 7 contains no reference to any such objection. It is proposed to amend the section by substituting for the word "section" and the figure "7" the words "the foregoing clauses". Again, in section 19, it is provided that a petition for dissolution of a marriage should be presented in the Court of the District Munsif having jurisdiction. There being no District Munsif's Court in the City of Madras, it is necessary to specify some other courts, and it is therefore proposed that such petitions should be presented in the City Civil Court. A Bill containing these amendments will be introduced into the Legislative Council during the ensuing Session.

(True Extract.)

(Signed) J. F. PRICE,
Chief Secretary.

To the Registrar-General of Births, Deaths and Marriages.
" Collector of Malabar.
" of South Canara.
" Hon'ble C. Sankaran Nayar.
" Legislative Department.

DRAFT BILL.

A Bill to amend the Malabar Marriage Act, 1896.

WHEREAS it is expedient to amend the Malabar Marriage Act, 1896; It is hereby enacted as follows:—

1. In section 8, sub-section (3) of the said Act, for the word and figure "section 7", the words and figures "sub-sections (1) and (2)" shall be substituted.
2. In section 19 of the said Act, for the words "in the Court of the District Munsif", the words "in the Madras City Civil Court in Madras or in the Court of a District Munsif in the mufassal," shall be substituted.
3. Madras Act IV of 1896 shall be read as if sections 8 and 19 thereof had always contained the words now inserted by sections 1 and 2 of this Act in substitution of the words in that Act as passed.

Statement of Objects and Reasons.

Sub-section (3) of section 8 of the Malabar Marriage Act, 1896, which prescribes the procedure to be adopted by the Registrar of Marriages when objection is taken to the registration of Sambandhams, refers to a notice of such objection under section 7. The reference to section 7 is an inadvertence, as the provision to that effect is contained not in section 7, but in sub-sections (1) and (2) of section 8. Section 1 of the Bill makes the necessary correction. Section 19 of the Act provides that a petition for the dissolution of a marriage shall be presented in the Court of the District Munsif having jurisdiction. There being no such court in the City of Madras, it is necessary to specify the court in the Presidency Town wherein such petitions may be presented. Section 2 of the Bill supplies the defect and specifies the City Civil Court as the court with jurisdiction in the City of Madras.

ORDER—No. 88, Legislative, dated 4th November 1897.

Under Rule 33 of the Rules for the conduct of business at meetings of the Council of the Governor of Fort St. George for making Laws and Regulations, His Excellency the Governor in Council having approved the draft Bill read above, directs its publication in the *Fort St. George Gazette*, together with the Statement of Objects and Reasons, in English and in the Malayalam and Canarese vernaculars.

2. The Honourable the Acting Advocate-General will be requested to take charge of the Bill.

3. Copies of the Bill, together with the Statement of Objects and Reasons, will be transmitted with a despatch to Her Majesty's Secretary of State for India.

(True Extract.)

G. S. FORBES,
Secretary to Government.

To the Public Department.

- " Hon'ble the Acting Advocate-General.
- " Hon'ble Members of the Legislative Council.
- " Superintendent, Government Press.
- " Malayalam Translator to Government.
- " Canarese " "

Hed. C. M. Thamburany.

GOVERNMENT OF FORT ST. GEORGE.

LEGISLATIVE (1897) DEPARTMENT.

Letter to the Right Honourable the
Secretary of State for India.

Dated // th November,

No. 10 of 1897.

Forwarding, for information, copies of a Bill to amend the Malabar Marriage Act IV of 1896.

LEGISLATIVE DEPARTMENT.

LETTER—to

THE RIGHT HONOURABLE THE SECRETARY OF STATE FOR INDIA.

MY LORD,

We have the honour to transmit, for your Lordship's information, copies of a Bill to amend the Malabar Marriage Act, 1896, which it is proposed to introduce into the Council of the Governor of Fort St. George for making Laws and Regulations.

2. The reasons for this measure are set forth in the Statement of Objects and Reasons which accompanies this letter.

3. As the amendments proposed by the Bill merely rectify certain errors in drafting, we propose to proceed with the Bill at an early date, after the re-assembling of the Council in Madras, without awaiting the usual communication from the Legislative Department of the Government of India to the effect either that your Lordship has no objection to the proposed measure or that no reply has been received from your Lordship within two months from the date of this report.

We have the honour to be,

My Lord,

Your Lordship's most obedient, humble servants,

(Signed) A.E. Havell
" H.W. Bliss
" J. Grose.

FORT ST. GEORGE,
// November 1897.

ENDORSEMENT—R. No. 87, Legislative, dated // November 1897.

Copy to the Government of India, Legislative and Home (Public) Departments.

(Signed) G.S. Forbes.
Secretary to Government.

Ed. C. M. Thambuswamy.

Land. Dept. Madras
C No 272 Leg

Government {1897} of Madras.
PUBLIC.

Leg

Recd. 31-8
Regd. 31-8 } 1897.

Enclosures
Spare copies.

Nov

G.O., No. 1083, 18th August 1897.

AUGUST.

Malabar Marriage Act IV of 1896.
Reviewing the report on the work done under the — during 1896.

GOVERNMENT OF MADRAS.

PUBLIC DEPARTMENT.

READ—the following paper :—

From the Hon'ble P. RAJARATNA MUDALIAR, Diwan Bahadur, Registrar-General of Births, Deaths and Marriages, to the Chief Secretary to Government, dated Madras, 5th June 1897, No. 265-G.

With reference to paragraph 10 of G.O., No. 1292, Public, dated 8th December 1896, I have the honour to submit a brief report on the work done under the Malabar Marriage Act IV of 1896 during the year 1896-97.

2. The registering officers of the districts of South Canara, Tellicherry and Calicut and the Registrar of Assurances, Madras, were appointed *ex-officio* marriage registrars under the Act by Public Department Notification No. 24, dated 8th December 1896, published at page 3, Part I of the *Fort St. George Gazette*, dated 5th January 1897; and the necessary books and forms were supplied from the Government Press by the beginning of February following. The present report accordingly relates to a period of less than two months.

3. During this short period, no less than 36 notices were received, of intention to register sambandhams as marriages under the Act, and 10 of the sambandhams were registered before the close of the year. Twenty-nine out of the 36 notices came from South Malabar or Calicut district, 5 from Tellicherry or North Malabar, and one each from South Canara and Madras.

4. The sambandham registered in the Madras district was that of the Hon'ble Mr. Sankara Nayar, who was the first to avail himself of the provisions of the Act. At the outset, a doubt was raised as to whether the sambandham could be registered in this district, as it had been actually formed in the Walavanad taluk of Malabar. As, however, the Hon'ble Mr. Sankara Nayar stated that, at the time of the sambandham, he was permanently residing in Madras (with his wife), the registration was effected in that district.

5. The following abstract shows the caste and profession of the persons who have applied for the registration of their sambandhams :—

Districts.	Caste.				Total.	Profession.					Total.
	Nayars.	Tiyyars.	Veluthedam or washer-men.	Others.		Government servants and pensioners.	Vakils.	Ryots.	Merchants.	Others.	
Madras	1	..	..	..	1	..	1	..	..	1	1
South Canara	3	2	..	..	5	3	2	..	..	..	5
Tellicherry	24	4	1	..	29	15	6	3	1	4	29
Calicut	..	..	..	..	..	18	9	3	1	5	36
Total	28	6	1	1	36	18	9	3	1	5	36

It will be seen that the Act has been taken advantage of chiefly by the educated classes,—Government servants, pensioners and vakils,—mostly Nayars. Six Tiyyars from Anjengo and one washerman from Tirtala, and three ryots of the Calicut district,

also applied for registration. The registrar of South Canara mentions it as worthy of notice that one man residing in the jungle tracts at the foot of the Western Ghats appeared before the marriage registrar of Beltangadi and applied for the registration of his sambandham.

6. No objections have been received in any of the cases registered under the Act, nor has any suit been filed for cancellation of the registration.

7. A sum of Rs. 107-15-0 was collected during the year, of which Rs. 29 (attendance fees) were retained by the registrars, and Rs. 31-8-0 were disbursed to process-servers. Of the balance, Rs. 43-5-0 were remitted to the treasuries before the close of the official year, and the remaining Rs. 4-2-0 in April 1897. Rs. 21-5-0 were spent in making notice boards for the marriage registrars of the Calicut district.

8. As the Act has been in operation for only a short time, it is too early to pronounce any definite opinion on the various points mentioned in paragraph 10 of the Government Order referred to above. As regards, however, the appointment of adigaries and representative members of Tarwads as marriage registrars, there is a consensus of opinion that such a measure is not called for at present. The acting district registrar of Calicut, who is a Nayar of considerable experience, goes even further and states that these men are illiterate and conservative, and will do more harm than good as marriage registrars, as they are not likely to conduct themselves with the tact and discretion necessary to ensure the successful working of the Act. He therefore suggests that, when the necessity for appointing additional registrars actually arises owing to increase of work, Government pensioners might be appointed to assist.

9. No difficulty has been experienced in serving processes through temporary process-servers, nor has it been found necessary to grant any clerical assistance in any of the offices. The subject, however, will be duly considered when the next report is submitted.

10. The marriage registrars of Calicut and Tellicherry have brought to notice that, in some cases, owing to the restrictive provisions of section 5 as to local jurisdiction, considerable hardship has been caused to persons who wish to register their sambandhams, but could not conveniently go all the way to the registrars having jurisdiction. In the case of a sambandham already formed, the Act provides that the registration shall be effected only by the registrar "within whose local jurisdiction either of the parties resided at the time when the sambandham was formed." In one of the cases referred to, the Tahsildar of Cannanore could not register his sambandham at that place, as both he and his wife were residents of Tellicherry when the sambandham was formed. Similarly it may happen that a vakil practising at Mangalore may have to go all the way to Calicut to register his sambandham if he or his wife or both were residents of that district. On the above ground, a High Court Vakil of Tellicherry, who wished to register his sambandham there, was actually referred to the registrar of Calicut.

11. I understand from the Hon'ble Mr. Sankara Nayar that sambandhams are usually formed at the house of the bride, but the registrar of Tellicherry points out that there may be cases (though rare) in which the sambandhams might have been formed at places other than those where the parties resided. In such cases it seems doubtful whether the sambandham can be registered by the registrar within whose jurisdiction it took place if the parties happened to have resided beyond his jurisdiction. From the heading of the last column of Form A (notice of marriage) appended to the Act, it may be urged that the legislature probably intended to provide for the registration of marriages by the registrar within whose jurisdiction the sambandham took place. This is obviously the more natural course to adopt, but I do not think that the wording of the form of notice can be held to override the plain provisions of the Act as contained in section 5, which distinctly makes the residence of the parties the basis for determining the jurisdiction of the registering officer. In view of the difficulties pointed out above, I venture to think that the Act should be amended so as to afford greater facilities for registering the sambandhams. There is no reason why the parties should not be allowed to register their sambandhams before the

registrar within whose jurisdiction the sambandham was formed, or is intended to be formed; or before the registrar within whose jurisdiction either of the parties may be residing at the time the sambandham is proposed to be registered.

12. If the Act is amended as proposed above, it would be necessary also to amend the wording in the last column of the form of notice (A). The registrar of Calicut also suggests that columns 2 and 3 of the form should be amplified so as to show the addresses of the persons referred to therein. He states that, in the absence of this information, it has been found difficult to serve the notices in many cases.

ORDER—No. 1083, Public, dated 18th August 1897.

Recorded.

2. With regard to the proposals of the Registrar-General of Births, Deaths and Marriages in paragraphs 10 and 11 of his letter, the Government considers that until further experience is gained no amendment of the Act in the direction suggested is advisable. It has, however, been brought to notice that in two sections early amendment is required. In clause 3 of section 8 an error has crept in. That clause alludes to "a notice of objection under section 7", while section 7 contains no reference to any such objection. It is proposed to amend the section by substituting for the word "section" and the figure "7" the words "the foregoing clauses". Again, in section 19, it is provided that a petition for dissolution of a marriage should be presented in the Court of the District Munsif having jurisdiction. There being no District Munsif's Court in the City of Madras, it is necessary to specify some other courts, and it is therefore proposed that such petitions should be presented in the City Civil Court. A Bill containing these amendments will be introduced into the Legislative Council during the ensuing Session.

(True Extract.)

J. J. Williams
for Chief Secretary.

To the Registrar-General of Births, Deaths and Marriages.
" Collector of Malabar.
" " of South Canara.
" Hon'ble C. Sankaran Nayan
" Legislative Department.

Exd. W. D' Moss.

Papers to be read in proceedings:—

Again G.O., No. dated 189 .
Again G.O., No. dated 189 .
Current No. 272 of 1897, dated 18 August, from the Pub Dept
" " " 189 " " " "
" " " 189 " " " "

ORDER.

his

Recorded.

2. The Public Department will be requested to forward to this Department at an early date, a draft bill together with the Statement of objects & reasons for the proposed legislation

To the Public Department (9+0).

Note. The error in Section 8 Subsection (3) crept in during the Select Committee stage & was somehow left undiscovered during the further stages.

Please see original of Select Committee Bill, report & the final copy of the Act herewith put up. The delay in the submission of this current is due to the fact that the original of the Pub papers &c were not available earlier

*In a case like this
the bill should be
prepared in this
Dept. Draft*

18/9/97

Haq. C.

Draft bill & stat of O.R. are herewith submitted, as also the usual draft order, for dispatch to the Secretary of State, &c. &c.

*CRV
18/9/97.*

*CRV
9/9/97*

NOTE FOR THE SECRETARY.

A draft Bill & Statement of Objects & Reasons are herewith submitted as ordered.

A draft order directing publication of the Bill under the Journal Rules, & a draft despatch to the Secretary of State forwarding copies of the Bill & Statement are also submitted.

CRV
1879/97

18. 8. 97
24/10/97

C 670997

[G.]
[75 A.]
300-8-3-47.

Draft Bill to amend the
Malabar Marriage Act, 1896

9. 8. 97
8. 11. 97

Draft Bill to amend the Malabar Marriage Act, 1896.

Whereas it is expedient to amend the Malabar Marriage Act, 1896; It is hereby enacted as follows: —

1. In section 8, Subsection (3) of the said Act, for the word and figure "section 7", the words and figures "subsections (1) and (2)" shall be substituted.
2. In section 19 of the said Act, for the words "in the Court of the District Munsif", the words "in the Madras City Civil Court ^{in Madras} or in the Court of a District Munsif in the mufassal," shall be substituted.

J.P.

Statement of Objects and Reasons

Subsection (3) of Section 8 of the Malabar Marriage Act, 1896, which prescribes the procedure to be adopted by the Registrar of marriages when objection is taken to the registration of Sambandham, refers to a notice of such objection under Section 7. ^{The reference to section 7 is an inadvertence, as the provision is that effect is contained in Subsections (1) and (2) of Section 8, and not in Sect}

^{The reference to Section 7 in Subsection (3) of Section 8 has therefore to be modified accordingly.} Section 1 of the Bill makes the necessary correction.

Submitted for approval.

Madras Act IV of 1896 shall be read as if sections 8 & 19 thereof had always contained the words now inserted by sections 1 & 2 of this Act in substitution of the words in that Act as passed.

not in section 7, but

CRV
1879197

8.2409

$\left[\frac{6}{24} \right]$
1,000-14-6-97

Legislative DEPARTMENT.

Papers to be read in proceedings: *these* *1* *5*

Again G.O., No.

dated

189

Again G.O., No.

dated

189

Current No. 272

of 1897, dated 18 August, from the Public Dept

" "

189

22

„ 189 , ,

Draft Bill "together with the Statement of Objects and Reasons"

ORDER. No 88 Legue 274 Nov 1897
PS

His Excellency the Governor in Council having approved the draft bill read above, directs its publication in the Fort St George Gazette, together with the Statement of Objects & Reasons, under Rule 33 of the Rules for the Conduct of business at meetings of the Council of the Governor of Fort St George for making laws and Regulations, in English & in the Malayalam & Tanjore Vernaculars.

2. The Honorable the Acting Advocate ^{General} will be requested to take charge of the Bill

3. Copies of the Bill together with the Statement of objects and Reasons will be transmitted with a despatch to Her Majesty's Secretary of State for India.

To The Public Dept.

" Honble the Acting Advocate-General 2/10/72 23 2/10/72

" Honble Members of the Legislative Council 3 2/10/72

" " Sepot. Govt Press 3 2/10/72

" " Ingle Law Translators Govt Press 3 2/10/72

(3/10/72)

Legislative Department

Letter to - ^{sup 9} NO 10 of 11-11-97
The Right Honble the Secretary of State
for India

Press
Copy proof with intent
cust.

My Lord,
We have the honour to transmit
for your Lordship's information copies of a
Bill to amend the Malabar marriage Act
1896, which it is proposed to introduce into
the Council of the Governor of Port St George
for making Laws and Regulations.

2. The reasons for this measure are
set forth in the statement of objects and
Reasons which accompanies this letter.

3. As the amendments proposed by the
Bill merely rectify certain errors
in the drafting, we propose to proceed
with the Bill at an early date, without
awaiting the usual communication from
the Legislative Department of the Govern-
ment of India to the effect either that
your Lordship has no objection to the
proposed measure or that no reply has
been received, ^{from your Lordship} within two months from the
date of this report.

after the reassembling of
the Council in Madras

Endorsement R.M. 12/11/97

Copy to the Government of India Home Depart-
ment, also, the Legislative Department.

disps
12/11/97

CRU
18/9/97

2/10



Bill to be introduced into the Council of the Governor of Fort St. George
for making Laws and Regulations.

Under Rule 33 of the Rules for the conduct of business at Meetings of the Council,
the following Bill, together with the Statement of Objects and Reasons, is published
for general information :—

No. 4 of 1897.

A Bill to amend the Malabar Marriage Act, 1896.

WHEREAS it is expedient to amend the Malabar Marriage Act, 1896; It is hereby
enacted as follows :—

1. In section 8, sub-section (3) of the said Act, for the word and figure "section 7", the words and figures "sub-sections (1) and (2)" shall be substituted.
2. In section 19 of the said Act, for the words "in the Court of the District Munsif", the words "in the Madras City Civil Court in Madras or in the Court of a District Munsif in the mufassal," shall be substituted.
3. Madras Act IV of 1896 shall be read as if sections 8 and 19 thereof had always contained the words now inserted by sections 1 and 2 of this Act in substitution of the words in that Act as passed.

STATEMENT OF OBJECTS AND REASONS.

Sub-section (3) of section 8 of the Malabar Marriage Act, 1896, which prescribes the procedure to be adopted by the Registrar of Marriages when objection is taken to the registration of Sambandhams, refers to a notice of such objection under section 7. The reference to section 7 is an inadvertence, as the provision to that effect is contained not in section 7, but in sub-sections (1) and (2) of section 8. Section 1 of the Bill makes the necessary correction. Section 19 of the Act provides that a petition for the dissolution of a marriage shall be presented in the Court of the District Munsif having jurisdiction. There being no such court in the City of Madras, it is necessary to specify the court in the Presidency Town wherein such petitions may be presented. Section 2 of the Bill supplies the defect and specifies the City Civil Court as the court with jurisdiction in the City of Madras.

(By order.)

G. S. FORBES,
Secretary to Government.