

Political (1895) Department.

ORDINARY MS.

G.O., No. 333

Dated 21st May 1895

~~INDEXED~~

[Despatch Abstract.]

ACT XXI OF 1850.

Communicating, with remarks, to the Secretaries of the Church
Missionary Society and of the London Missionary Society letter from the
Resident in Travancore and Cochin submitting his ^{views on a} memorial from the
Secretary, Church Missionary Society, on the subject of the effect
produced by -- in Tinnevely and Malabar.

CHIEF SECRETARY
7 MAY. 1895
GOVERNMENT OF MADRAS

WITH ORDE

Me The High Court has not yet
replied to S.O. of 25.6.94. No. 457.
Replies already recd have been put
in type (A) but nothing can be
done until they are complete

Trivandrum 11 May 1895

FROM

J. D. Rees Esquire C. I. E.

Resident in Travancore and Cochin

TO

The Chief Secretary to Government
Colacamund

SIR,

I have the honor to reply to G.O. dated 31st August 1894
No. 613 Political.

2. That G.O. calls for the Resident's remarks. I conclude
therefore that a statement of the Resident's views on this impor-
tant subject is not on this occasion required, but only a report
as to the disposal of the memorial to which Mr. Sell refers in his
letter.

3. The Secy informs me that the deputation which
presented that memorial was assured that the matter would
receive due attention, and that the Honorary Secretary of the Church
Mission Society has been informed that the Sarkar is awaiting the
result of the enquiry which the Government is making into
the operation of Act ~~XXI~~ of 1850 in Malabar. He goes on to say
that "the question raised is so momentous, and that the prayer of the
memorialists implies such far reaching consequences
as the most careful investigation cannot imperfectly compass,
and that the Sarkar, therefore, cannot be too wary in committing
themselves to any course of action."

4. He refers to the petition of the London Missionary Society
upon which a Committee (composed of two High Court Judges,

the Dewan and the European Officials) reported and upon which the Government at the instance of Mr Hannington passed proceedings No 295 dated 15th June 1889, and in short he proposes to deal with the memorial "when he has the benefit of the conclusions of the Madras Government on the result of the enquiry" ordered by G.O dated 28th June 1894 No 456

5. I have not yet had time to collect and digest judgments recently passed by the Courts in Mysore and Malabar, which I understand throw much light upon this difficult and important subject, but I may say that it appears to me that in any case the Dewan is justified in proceeding with the extreme caution and that the ^{2. Dewan} cannot be well pressed to accept and act upon the suggestions made in para 2 of G.O dated 15th June 1889 No 295 without such assistance as he may be able to obtain from experience subsequently gained and from the further developments of the situation in British India and its neighbouring Native States.

6. The prayer of the memorialists is that they may be allowed an opportunity of stating their case from which nothing but good can result.

I have the honour to be

Sir

Your most obedient servant

J. D. Rees

Resident

21st MAY 1895, No. 333, POLITICAL.

GOVERNMENT OF MADRAS.

POLITICAL DEPARTMENT.

READ—the following paper:—

From J. D. REES, Esq., C.I.E., Resident in Travancore and Cochin, to the Chief Secretary to Government, dated Trivandrum, 1st May 1895, Ref. on C. No. 1321.

I have the honour to reply to G.O., dated 31st August 1894, No. 613, Political.

That Government Order calls for the Resident's remarks. I conclude therefore that a statement of the Resident's views on this important subject is not on this occasion required, but only a report as to the disposal of the memorial to which Mr. Sell refers in his letter.

3. The Diwan informs me that the deputation which presented that memorial was assured that the matter would receive due attention, and that the Honorary Secretary of the Church Mission Society has been informed that the Sarkar is awaiting the result of the enquiry which the Government is making into the operation of Act XXI of 1850 in Malabar. He goes on to say that "the question raised is so momentous, that the prayer of the memorialists implies such far-reaching consequences as the most careful investigation can but imperfectly compass, and that the Sarkar, therefore, cannot be too wary in committing themselves to any course of action."

4. He refers to the petition of the London Missionary Society upon which a committee (composed of two High Court Judges, the Diwan and two European officials) reported and upon which the Government, at the instance of Mr. Hannington, passed Proceedings, No. 295, dated 15th June 1889, and in short he proposes to deal with the memorial "when he has the benefit of the conclusions of the Madras Government on the result of the enquiry" ordered by G.O., dated 28th June 1894, No. 456.

5. I have not yet had time to collect and digest judgments recently passed by the courts in Mysore and Malabar, which I understand throw much light upon this difficult and important subject, but I may say that it appears to me that in any case the Diwan is justified in proceeding with the extreme caution and that the Diwan cannot be well pressed to accept and act upon the suggestions made in paragraph 2 of G.O., dated 15th June 1889, No. 295, without such assistance as he may be able to obtain from experience subsequently gained and from the further developments of the situation in British India and in neighbouring Native States.

6. The prayer of the memorialists is that they may be allowed an opportunity of stating their case, from which nothing but good can result.

ORDER—dated 21st May 1895, No. 333, Political.

The letter from the Resident in Travancore and Cochin will be communicated to the Secretaries of the Church Missionary Society and of the London Missionary Society, with the intimation that this Government is prepared to receive any representations they may wish to make.

2. The Resident will obtain and submit with his remarks any communication which the Syrian Church in Travancore may desire to forward to Government.

(True Extract.)

J. F. PRICE,
Chief Secretary.

To the Secretary, Church Missionary Society.
" Secretary, London Missionary Society.
" Resident in Travancore and Cochin.

(Miscellaneous.)

G.O., dated 21st May 1895, No. 333.

Act XXI of 1850.—Communicating, with remarks, to the Secretaries of the Church Missionary Society and of the London Missionary Society, letter from the Resident in Travancore and Cochin submitting his views on a memorial from the Secretary, Church Missionary Society, on the subject of the effect produced by — in Tinnevely and Malabar.

TH MAY 1895, No. , POLITICAL.

GOVERNMENT OF MADRAS.

POLITICAL DEPARTMENT.

READ—again the following paper :—

G.O., dated 28th June 1894, Nos. 456, 457, Political.

ABSTRACT.—Directing that the Hon'ble the Judges of the High Court, the Collector of Malabar and the Secretaries of certain missionary bodies be consulted as to the effect produced by Act XXI. of 1850 in Tinnevely and Malabar.

READ—also the following papers :—

G.O., dated 31st August 1894, No. 613, Political.

Read—the following paper :—

From the Rev. E. SELL, Secretary, Church Missionary Society, to the Chief Secretary to Government, dated Madras, 17th August 1894.

In reply to your circular No. 457, Political, dated 28th June 1894, forwarding, for remark, Proceedings of the Madras Government, No. 456, Political, of 28th June 1894, I have the honour to state—

2. That the society has no missions in North Malabar and therefore I have no information as to the effect of Act XXI. of 1850 in that district ;

3. But the questions raised by the Resident in Travancore and Cochin in his letter, dated 11th May 1894, are too wide and important to be settled by the simple success or failure of the Act in question. The law in Travancore, which is felt to be unjust, affects 15,000 or more of the Church Missionary Society's converts, and it affects them so seriously that "a convert from Hinduism to Christianity loses *ipso facto* all rights to the property of the family to which he was entitled before his conversion." This is the law as declared by a full bench of the Judges of the Travancore High Court, one of whom said "as Judges of this Court we are bound to administer the law as it is and not as we think it ought to be."

4. Nine months ago a memorial was presented to His Highness the Maharajah of Travancore by the representatives of the Church Missionary Society of the London Missionary Society and of the Syrian Church in Travancore praying for some relief in this matter, but no reply has yet been given.

5. I would therefore respectfully request that the Madras Government, before deciding anything on this very important subject, should allow the memorialists above-mentioned an opportunity of stating their case.

Order—dated 31st August 1894, No. 613, Political.

The foregoing letter will be referred to the Resident in Travancore and Cochin for remarks.

(True Extract.)

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

To the Resident in Travancore and Cochin (with copy
of G.O., dated 28th June 1894, Nos. 456-57).
Secretary, Church Missionary Society.

Read again 50. 21 May 1895 No. 333 - a

Please send three proofs

2/6

From the Rev. L. J. FROHNMEYER, Chairman, Malabar district of the Basel German Evangelical Mission Society, to the Chief Secretary to Government, dated Tellicherry, 17th August 1894.

Under request of the Rev. M. Hoch, Secretary, Basel Mission Society at Mangalore, I take the liberty to give the information asked for in your letter dated 28th June 1894, No. 457, in my capacity as a Chairman of the Malabar district belonging to our mission.

2. At the very outset I am not quite prepared to endorse the opinion of the Resident in Travancore and Cochin that the Act XXI. of 1850 "has proved, so far as Malabar is concerned, almost a dead letter."

3. I dare say that the Act has not been quite useless. It is true there have been only a few cases where converts to Christianity derived some benefit by going to court, and in most cases the benefit has been rather very small, but I think it is not the Act which can be blamed for this.

4. In order to avoid a mere academic treatment of the matter under investigation, I propose first of all to report some cases which may help to throw light upon the question, and I wish to give, as far as possible, details taken from reliable sources.

(a) An important case seems to have taken place *anno* 1842 shortly after the mission had been started. In October 1842, one *Kunji Rama*, a Nayar from Tellicherry, took refuge in the mission house here, being afraid of his relatives, who made efforts to get his property and even sought after his life. Asking for instruction and baptism, he was for the time admitted as a probationer. The relatives came to take him back, but Kunji Rama being of age and having already broken caste rules, they abstained from any force to take hold of his person, but they used all means possible to deprive him of his property. Native officials were bribed to shut one eye in the matter, the seal on the door of Kunji Rama's room was removed, about 80,000 rupees were stolen and the room was shut carefully again. Dr. Gundert, the missionary in charge of the station, tried his best to assist the man, but English officials refused to interfere in the matter and Dr. Gundert wished to avoid litigation, as there was no Act then in favour of converts. Finally, the case was settled in court by arbitration, and, in spite of false witnesses set up against Dr. Gundert and his client Kunji Rama, succeeded in getting part of his property to the amount of about Rs. 15,000.

(b) The late Rev. *Abraham Muliyl* relinquished all claims to property, unwilling to partake of the amount that would be left after deductions for the so-called tarawad expenses.

(c) *Abel Kattuparambu*, now a catechist at Chombala, is the legal karanavan of the Nayar family to which he belongs. Some years ago he wanted to get something of his property, and for this purpose first of all had to prove his identity; but then many years had elapsed since his conversion and therefore his relations professed in court thorough ignorance of his having at any time been a member of the family. Happily the catechist had all the time since his conversion retained the tarawad name "Kattuparambu" as his surname and this served as a stray portion of the evidence in his favour.

(d) There is *John Sattyarthy*, another Nayar living with us, who tried in vain up to this time to get anything in the way of maintenance. He is the fourth claimant of the karanavanship and the relatives, in spite of personal representations of his case and friendly letters sent to them, simply declare: since you are away from the tarawad, you must earn your bread with your own hands; we see no reason to help you now (John Sattyarthy as a matriculate trained teacher draws a salary); in case of extreme need we shall see what is to be done. On asking him why he does not avail himself of the provisions of Act XXI. of 1850, he gives the following reasons:—First of all the income of the tarawad must be found out by some commissioner sent from the munsif court. The commissioner, very likely a Hindu, may be gained over by my tarawad people so as to mention only a smaller income than that what it really is. He must be paid by me. Is he a man of great respectability, he must be paid according to his dignity. Then, after these introductory expenses, I shall have to pay fees in the court according

to property. For all this, and if appeal is given for the fees in higher courts, I lack the money, and so I cannot go to court, but hope that perhaps by friendly mediation in course of time the relatives may be persuaded to give some assistance.

(e) Another Nayar convert, *Johannan Menoki*, residing here at Tellicherry, about a month ago obtained a decree from the Additional District Munsif's Court of Calicut for arrears of maintenance and future maintenance. The convert had asked for Rs. 4 per mensem, but he got only Rs. 2. He would not have been able to go to court had not a missionary at Calicut lent the necessary money.

(f) *Paul Karunakaran*, late a Police Inspector in Malabar, a convert from the Nayar caste, living now at Perampara, had been even the karanavan of his tarawad when his conversion took place. On account of religious and ethical reasons he resigned his karanavanship on his conversion and transferred all the property under his management to the tarawad. Enjoying great respect and love within his family even after his conversion, and the relatives, being touched by the generosity of this convert to Christianity, by their own free will left him unmolested in his own house near the tarawad house and since that maintain him separately (his own house is an inheritance from his father and does not form part of the tarawad).

(g) *James Victor* and *Rudolph*, two brothers of the Ullattil tarawad near Ponnani, embraced Christianity one after the other during the last three years. Although coming from a wealthy family they cannot take legal steps. Fortunately their relatives are comparatively well disposed towards them and so they hope that through friendly mediation of some influential persons they will obtain a little in the way of maintenance.

(h) One *Julia Arungadan*, the wife of a catechist at Waniyankullam, 24 years after her conversion to Christianity, got Rs. 100 and a small piece of land through friendly intercession of some influential people. Comparing this present with what she ought to have received 24 years before it must be called a mere mite. Having no means to take legal steps she had to be satisfied with this.

(i) *Joseph Murcott*, belonging to a rich Tiyer family at Tellicherry, lost, in consequence of his conversion, the whole of his property. A house and a small compound in the neighbourhood of his elder brother, who remained the sole possessor of the whole property, was the only thing left to Joseph and his large family. Being very much attached to his brother and keeping up friendly relations with him, he felt reluctant to claim part of his property. The elder brother occasionally helped the younger one with provisions and a little money in the manner of giving alms to a poor relative and Joseph was contented with this. In 1880 the elder brother died. He left about Rs. 50,000 to his Hindu relatives and Rs. 500 to his younger brother, who was able to pay his debts with these Rs. 500 and up to this time has to fight a hard struggle for existence.

(k) *Zacharias Chandren* got a small sum through litigation. He was not more than 6 years old when his parents with him and his younger brother and mother's younger sister embraced Christianity at Nettoor. His mother's uncle died about 25 years after, telling his people that a portion of his property should be given to his nieces and the children that had become Christians; but his wife, foreseeing this, had, some years previous to his death, prevailed upon him to get his Hindu nephews married to his daughters, so that a large portion of the tarawad property was given away as dowry to the daughters to which the nephews, being their husbands, did not raise any objection. On the death of the uncle the Christian heirs raised objection to the above procedure and put forward their claims. The property being in the Kurumbranat taluk (south), a suit was filed in the munsif's court at Quilandy. The munsif dismissed the suit saying that the heirs, having embraced Christianity, ceased to be legal heirs to the property. The party prepared an appeal in the District Court at Tellicherry, and on Mr. Reid, the then Judge, sending the records back for revision, the Hindus found that something favorable to their opponents would result out of it and therefore suggested a compromise. Our people being too poor to press forward their claims and the Nayar landlords, who had been cited as witnesses by them, threatening to give evidence against their interests in case they pressed the

matter forwards, they yielded. In the presence of the munsif the two parties came to a mutual agreement and compounds and lands to the alledged value of Rs. 1,500 were given to them from the tarawad property. As soon as the deeds were signed before the munsif they found out that they were deceived. The lands assigned to them were most of them held under kanam right by some people and the others were held by some rich jennis under mortgage or panayam right. This led to further litigation until at last, tired by this and seeing that nothing could come out of this, they gave up the whole thing. One only property that they have now left in their possession is a couple of paddy flats yielding 80 measures of paddy a year; but this land is itself at present held and enjoyed by the Hindu relatives, it being situated in an inconvenient place.

(l) *Nathanael Napally Mooper* and his brother *Eliezer* became converts during the time of Rev. Christ Müller at Chombala. About 20 years after their conversion their uncle died and the property passed over to his sons, the only heirs (nephews) having become Christians. The two converts at once put forward their claims, but the sons of their uncle pretended to be ignorant of their relation to the family and when the party went to court they cited a host of witnesses to prove that from that tarawad not a single soul had become a Christian at any time. Mr. Reid, the District Judge, decided the case in favour of the converts on Mr. Müller (who was at this time at Tellicherry) proving that they were converted from that family by narrating the story of their conversion. The karanavar had then come to Mr. Müller and in the interviews that they had touching the circumstances Mr. Müller had learned much of the tarawad.

5. In looking over all these cases the position of converts to Christianity with reference to Act XXI. may be easily realized. The cases in which our Christians have made use of the Act referred to are naturally very few. As the large bulk of our converts did come from very poor families, litigation in the majority of cases was out of question. And even on the few occasions in which conversions from wealthy families took place, litigation was beset so much with difficulties that one sparrow in the hand seemed preferable to two in the bush. Compounding with their Hindu relatives they were only too glad to accept a small compensation in satisfaction of their claims.

6. The reasons why most of our people shrink back from establishing their rights to their tarawad property in court are the following:—

Cases (c) and (l) show that in a country where the registration of births is not compulsory, it is not so easy to prove in a court of law that one be a member of a certain tarawad. If the mother of the convert is still alive and the necessary steps are taken soon after the conversion perhaps there will be no great difficulty, but long delay will lead to the relatives absolutely denying his identity. However such delay is not always due to negligence or thoughtlessness.

7. Although a convert in proving his identity must get maintenance decreed in his favour, only a few of our converts naturally will be in a position to undergo the heavy expense which litigation necessitates. Some of the converts mentioned above could not take legal steps for maintenance owing to poverty. In general they see themselves compelled to flee from home before they take their deciding step. If they stay they will be driven away as out-castes and in general they reach the mission stations destitute of anything, whether originally rich or poor. Mission societies perhaps may assist them now and then to start their case in a court, but of course, if not authorized from the Home Committee, individual missionaries will hesitate to take the responsibility upon themselves. The convert *Johannan Menoki* (cf. e) of the Pullancherry family, who recently attempted for this, had to spend about Rs. 75 before he got Rs. 24 per annum decreed on his behalf. In case either party appeals to a higher court the procedure will entail additional expenditure.

8. As has been pointed in connexion with *John Sattiyarthy's* case (cf. d), another burden for a convert consists in proving the actual amount of the income of the tarawad. In this respect the convert labours under a serious disability. The other party will produce account to show the income as small as possible, and easily they will get

witnesses to corroborate their statements. The convert at such a moment an object of abhorrence to all his relatives will be quite at a loss to produce witnesses in his favour.

9. Another drawback is that the law seems to allow the deduction of the so-called "tarawad expenses" from the income before it is divided between the members. If this would really be expenses necessary for the proper management of the property, it could not be objected to from the point of justice, although, in addition to what has been stated above, it means a further reduction of the convert's share; but these expenses for the tarawad, after a closer inspection, include items which make it a question of conscience whether a Christian convert can feel himself justified to contribute from his share to it or not. For example, there are the annual festivities of the family gods and goddesses (കുടുംബദേവത). There is the ceremony of the females of the family (പൂജ കട), a ceremony to drive away the devils supposed to be hovering about the person of a woman in the family way. There is further the Talikettu ceremony of the girls of the family and the obnoxious Tirattukalyanam, a ceremony performed at the first menstruation of a girl. It is evident that to the feelings of a genuine convert to Christianity the thought of contributing to some of these indecent ceremonies must be repulsive and abhorrent to the extreme.

10. The property of a tarawad under the Marumakattayam being undividable, a court of law will award only maintenance to converts. The Act, as it stands now, reserves to a convert all his rights and his property, but, on the other hand, the indivisibility of the tarawad frustrates the benefit of the Act to a large extent. The convert has no house to live in; in consequence of his conversion he is left without shelter, which, together with food, is considered all over the world to form those requirements man cannot dispense with. If the convert lives with his people he will pollute their house, such is the superstition in vogue. Men cannot be prevented to be foolish, superstitious or intolerant as long as they do only harm to themselves, but I think Government ought to interfere where such foolishness or bigotry takes place at the expense of others and with the intent to discomfort and ruin them. The convert has not the slightest objection to live with his people; why then, if the Hindu relatives cruelly thrust out a convert belonging to the tarawad and having a right to live in the house of the tarawad, does the law not force them to provide the convert with a house at the cost of the tarawad? Superstition in itself, I suppose, cannot be legally dealt with, but I think where the outcome of superstition are persecution and cruelty Government ought to take notice of it. It is a fact that, in consequence of a conversion, the member of a family, even a rich family, will be turned out and left without shelter and food to the tender mercies of strangers. If he is not cared for by missionaries and Native Christians he may go to ruin long before his claims can be satisfied in a court of law. It is perhaps too much to say that the tarawad property is undividable. I hear that in South Malabar it is very common that Nayers divide their property between various branches of the family to their sole and separate use. As far as I know this is occasionally done also in North Malabar; but for such a division the consent of all the members of the tarawad will be required, and need I say that they never will do so if proposed by a member of the family who has changed his religion. Still, if it is done for convenience sake, this proves that partition is not a thing which cannot be done for sacred or religious reasons. I know one case where it has been done between Hindu relatives and a Christian convert.

11. In 1871 a Native Christian woman of Udupi in the Canara district brought a suit for the recovery of her family property from the karanavar on the ground that he, having become old and infirm, was unable to manage the property and that he had also wasted the family property by alienating a portion thereof.

One of the pleas raised was that the plaintiff having become Christian has lost her right to the family property and that therefore her suit was not sustainable. The District Munsif overruled that objection and gave judgment for her. In appeal the District Judge confirmed the munsif's decision; but in special appeal the High Court sent the following issue:—

R. Appeal No. 273 M. 554 of 1871.
24th February 1872. Second Appeal No. 541 of 1872.
Tukra Pujari and three others, special appellants.
Boggi *alias* Karolina, respondent.
6th November 1872.

Following issue was sent—

“Whether there is a member of the family of the same creed with the majority of the members fit to be appointed ejaman.”

While the trial of the issue was pending the parties made an application for the case being referred for the arbitration of some persons. Accordingly it was so referred. The arbitrators, after taking down the evidence on both sides, *divided the property* between the convert and her brother and sisters. This award was confirmed by the High Court.

12. The maintenance on a very reduced scale awarded in the few cases where our Christians availed themselves of Act XXI. is accompanied with another drawback. It is given only to the convert. With his life it ceases. If he remains in the tarawad, which he is not allowed to do, his heirs have claim to it, but, by reason of his conversion, his Christian descendants lose all claim to it. The only remedy will be partition of the property.

13. There is no ruling, as far as I know, of any High Court as to whether a member of a tarawad family by becoming a Christian forfeits his rights to maintenance in the family house or to become the karanavan of the family, but even if there would be a ruling in favour of the convert the case of Paul Karunagaran (*cf. f*) shows that when the karanavan of a tarawad embraces Christianity, the rules of the caste will not allow him to continue so and the condition of the man himself will not allow him to remain as the karanavan. The duty of the karanavan to conduct all the superstitious ceremonies enumerated above will, as the head of the family, rest on his head and so he is compelled to give up his rights as karanavan.

14. In summing up the whole, I think it is evident that it would be ungrateful on the part of the Native Christian society to say that no benefit whatever has been derived from Act XXI.; the present conditions are no doubt decidedly better than to be entirely dependent on the mercies and the sense of justice in relatives who are greatly embittered against a convert. Still the Act is hemmed in with so many difficulties for the convert that either he can make no use of it at all or he will get a small fraction of what he is entitled to claim. Under the provisions of the Act it is clear that no person forfeits *any right or any property*, nor would his right to inheritance be in any way impaired or affected by change of religion. If such is the gist of the whole Act, it cannot be denied that converts, comparing with this the actual amelioration of their condition, must be sadly disappointed. To get the real benefit of Act XXI. the following amendments seem to be absolutely necessary.

15. In order to facilitate the identification of converts a kind of official registration of converts belonging to a tarawad ought to be instituted. This easily without expenses might be carried out by the Collector or Tahsildar of a district in ordering the adhkari, who will be personally acquainted with the people, on the conversion of a person to register his name and tarawad at once.

16. In the Basel Mission the missionaries are very anxious to retain the family name of their converts while giving up the Hindu name and caste epithet. This is now and then insisted upon even in opposition to the tendency of our Christians to anglicize their surnames. The case of Abel Kattuparambu (*cf. e*) illustrates the wisdom of this. In other countries a change of the family name is only possible with the permission of the authorities; and, looking upon the great confusion as to the surnames of Native Christians and the difficulties arising from this in establishing their rights in courts of law, all changes of family names should require registration in some Government office and any other change of the family name should be forbidden by law.

17. In consequence of this a convert would be enabled to prove at once his identity in court and thus settle the fundamental question; besides this would help to overcome the chief difficulty which prevents our converts to take legal steps, and this is their poverty. I am told that a case which is valid beyond doubt will be taken up by the court without expense to the plaintiff as a so-called “paupersuit.” A convert producing his certificate for identification and bearing the family name of the tarawad should enjoy this privilege and his case should be entertained as a pauper suit.

18. To expel a convert for his conversion sake from the tarawad and to thrust him out, leaving him without shelter, is a barbarism which has nothing to do with religion and should not be tolerated by Government in the name of religious neutrality. It is an anachronism in an age where people of all castes and creeds without the slightest objection travel together in the same compartment of a train. If relatives are cruel and narrow-minded enough to cast out a convert let them pay for their bigotry and provide some shelter for their more enlightened relative.

19. As converts for conscience sake cannot contribute towards the tarawad expenses and cannot perform the customs incumbent on a karanavan, partition of the tarawad between the Hindu members of the family and the convert will be absolutely necessary. This will be the only way to secure part of the property not only to the convert, but also to his Christian descendants. As such partition really takes place for the sake of convenience or expediency, as there is even one case in which it has been done between Hindus and a Christian woman, it is clear that no religious motives stand in the way of such a partition.

20. Of course the chief remedy will lie with any legislation which will do away with the whole monstrous and unnatural custom of Marumakatayam, and in this respect not only those who take an interest into the welfare of Christian converts, but everybody who is anxious for the advance of civilization in this country, will welcome the change in the marriage system which it is now contemplated to carry out by legislation. Marumakatayam, being the outcome of something quite different from religion, being detrimental to morality, to a real family life and consequently to a healthy national development, must break down sooner or later before the potentialities now working at the regeneration of India.

From the Revd. H. C. PARKER, M.A., Acting Secretary, Society for the Propagation of the Gospel, to the Chief Secretary to Government, dated Sullivan's Gardens, Madras, 25th October 1894, No. 884.

With reference to your letter, No. 457, of 28th June 1894, I have the honour to inform you that I distributed copies of the Proceedings of Government, No. 456, Political, among the superintending missionaries of this Society in Tinnevely, requesting their opinion as to the effect produced by India Act XXI of 1850.

Several of our missionaries have replied that they are unacquainted with the Act, but I was unable to send them copies owing to the Act in question being out of print at the Government Press. Others of our missionaries have replied generally that they consider that India Act XXI of 1850 has produced good results, and has proved just and beneficial in connection with the rights of converts to Christianity.

From H. MOBERLY, Esq., Acting Collector of Malabar, to the Chief Secretary to Government, dated Calicut, 11th January 1895, No. 58-P.—Dis.

With reference to paragraph 2 of G.O., dated 28th June 1894, No. 456, I have the honour to submit herewith a memorandum giving particulars of cases decided by the courts under Act XXI of 1850 and those in which relief was obtained without the intervention of courts.

2. Though the Act has been in existence for forty-four years, its aid has been successfully invoked through the courts only in a few cases.

3. To form a correct estimate of the effect which has been produced by the Act in this district, it is necessary to take into consideration those cases in which the principle of the Act has been recognized and applied for the settlement of conflicting claims.

4. According to the memorandum, relief has been granted or obtained in twenty-six cases in all. That the Act should have conferred benefits upon Nambudiris under social ban as well as upon Christian and Mahammadan converts is a powerful testimony to its salutary provisions.

5. It is at the same time necessary to remark that full advantage has not been taken of the Act for the following reasons :—

- (i) The Act is not so generally known as it should be.
- (ii) Christian and Muhammadan converts are, in the majority of cases, persons who come from families which possess little or no property, so that occasions for claiming the benefit of the Act rarely arise.
- (iii) In the case of Christian converts they are generally dissuaded from going to law.
- (iv) Some converts lack the means for suing for their rights and others are unwilling to fight with their relatives.
- (v) A large proportion of the population follows the Marumakkattayam law under which family property is impartible. All that an individual member who has embraced Christianity or Muhammadanism can claim is—
 - (i) a right to maintenance in the family house; and
 - (ii) a right to succeed to the management when he becomes the senior member of the family.

The District Judge, South Malabar, refers to the opinion of some of the District Munsifs that residence in the family house is a *sine qua non* when maintenance is claimed, and that if a man by a voluntary change of religion renders it impossible for him to live in the family house, the law should not be changed to meet his case. This argument is, it seems to me, specious.

A Karanavan of a Malabar tarawad is not justified in excluding an Anandiravan from participation in the income of the family property on the ground of misbehaviour, or because the Anandiravan has other property of his own (I.L.R., IV Madras, 171).

A member of the tarawad who has been compelled to live separately by the misconduct or ill-treatment of the Karanavan is entitled to have separate maintenance (I.L.R., II Madras, 282). It is perfectly certain that the members of a tarawad would not allow a convert to Christianity to live in the tarawad house, even if he expressed his willingness to do so; and I submit that on the analogy of I.L.R., II Madras, 282, the convert would be entitled to separate maintenance. Would a separate maintenance be denied to a leper-member who cannot without danger of infecting the other members live in the tarawad house?

6. A woman belonging to a Malabar tarawad governed by the Marumakkattayam law has issue by a man who is governed by the Makkattayam law, such issue are *prima facie* entitled to their father's property in accordance with the Makkattayam law and to the property of their mother's tarawad in accordance with the Marumakkattayam law (I.L.R., VIII Madras, 238).

When this double law of inheritance can exist, it is surely not incompatible with the Marumakkattayam law to give to persons entitled to maintenance under it the benefit of Act XXI of 1850.

7. In the case of Administrator-General *versus* Ananda Chari, it was held that the father of a Brahmin who became a convert to Christianity was entitled to the estate of the son on the latter's death—(I.L.R., IX Madras, 466).

It cannot be said that this decision is inapplicable to the estate under like circumstances of a Christian who, prior to his conversion, was governed by the Marumakkattayam law.

ENCLOSURE.

MALABAR DISTRICT.

MEMORANDUM OF CASES IN WHICH RELIEF HAS BEEN OBTAINED UNDER ACT XXI OF 1850.

PART I.—INSTANCES IN WHICH RELIEF WAS GRANTED BY CIVIL COURTS.

A.—Furnished by the District Judges of North and South Malabar.

1. In O.S., No. 53 of 1874, on the file of the Pyanad District Munsif's court, brought by two Tiyars following the Marumakkattayam law to recover from their tarawad certain properties, the defendants asserted that the plaintiffs were not entitled to sue as they had become separated from the tarawad by adopting Christianity, and the District Munsif for this reason dismissed the suit. In appeal (A.S., No. 401 of 1874) the District Judge (Mr. Reid) held that under Act XXI of 1850 plaintiffs had the same rights as if they had not become Christians and set aside the District Munsif's decree. Another suit on the file of the Badagara Munsif's court is also referred to by the District Judge, North Malabar, in which a Tiyar, who had become a Christian, sued to recover property on the ground that it belonged to his tarawad and that he was the Karanavan. This suit was, however, withdrawn.

2. A member of a Nayar family at Beypore following the Marumakkattayam law became the senior male member of the tarawad in 1890, but, being at the time employed in Wynaad, did not assume the management. In 1892, he became a convert to Christianity and his Nayar wife also became a Christian. In April 1894, he paid a visit to his family, but they refused to allow him to remain in the family house. He then sought in O.S., No. 302 of 1894, in the Munsif's court, Calicut, to recover maintenance at the rate of Rs. 4 per mensem. The claim was resisted by the other members of the family on the ground that by becoming a Christian he had lost his status as Karanavan and his right to maintenance. The Munsif held that as a Karanavan of a Nayar tarawad has to direct and superintend the family religious ceremonies, at which his presence is required, and as a Christian convert is incompetent to do this duty, the plaintiff had by his conversion lost his position as Karanavan, but that his claim to maintenance was preserved to him by Act XXI of 1850. The Munsif also found that as it was impossible for the plaintiff to live in the family house jointly with the other members who refused him admittance into the house, he was entitled to separate maintenance and accordingly awarded him Rs. 2 per mensem, regard being had to the income of the family.

NOTE.—I cannot agree with the District Munsif. It appears to me that Act XXI of 1850 forbids a convert to Christianity losing his right to be Karanavan.

B.—Instances reported by the Tahsildars and Deputy Tahsildars.

Ernad Taluk.

3. Cherusseri Illam Mahan Mussad's wife and his brother of Valakulam amsam, excommunicated for illegal intercourse, filed suits in the District Munsif's Court, Ernad, for maintenance. The brother obtained a decree whereby he was allowed, five paras of paddy and one rupee a month for maintenance; the woman got nothing.

4. One Puliya Nangili and Savitri (Nambudiri females) filed a suit in the District Court of South Malabar (No. 3 of 1858) against Sankaran Nambudiri and his brother, Raman Nambudiri, praying that the latter might be removed from the management of their tarawad as they had become outcastes, but the suit was dismissed under Act XXI of 1850 and the decision was upheld by the High Court in No. 58 of 1861.

5. One Palasseri Kesavan Nambudiri, who had become an outcaste, filed a suit in the Ernad Munsif's Court in pauper suit, No. 421 of 1883, for maintenance at the rate of Rs. 15 a month. The Court gave a decree granting maintenance at the rate of Rs. 5 a month. The decree was upheld in appeal.

6. The father of the above said Kesavan Nambudiri, who was also an outcaste, filed a suit in 1860 to recover possession of a land. The tenant and other members of the plaintiff's family contended that the plaintiff had no right of management of the property as he was an outcaste, but the suit was decreed for the plaintiff under Act XXI of 1850.

Wynaad Taluk.

7. One Anthoni Ammal, in Manantoddy, who forty years ago embraced Christianity, obtained her share of her Hindu father's property when he died two or three years after her conversion. It is not reported whether there was a suit in this case.

Palghat Taluk.

8. A. Kenkammal, daughter of one Appu Patter, of Ayakkad village, became a convert to Christianity and on the death of her father obtained a decree by virtue of a will for Rs. 600 as her share of the father's property.

Calicut Taluk.

9. One David Taikkandi, known before his conversion to Christianity as Kanarakutti, son of one Minchirayil Unni Panikkar, of Puttur desam in Edakkad amsam, brought a suit about the year 1868 in the District Munsif's Court, Calicut, for a paramba and obtained a decree in his favour.

10. Pavangat Manarikandi Chantukutti with his father, mother and their other children in Edakkad amsam, embraced the Christian faith about two years ago. They brought a suit in the Additional District Munsif's court to establish their claim to the Manarikandi paramba which belongs to their tarawad. The Munsif gave a decree in their favour, but the District Judge reversed it in appeal. The case is now reported to be pending in the High Court.

Rev. Mr. Lauffer, of the B.G.E. Mission, Calicut, gives the following two cases in addition to the above:—

11. One Zachariah Chandran sued his tarawad people and obtained a decree in his favour. As tarawad manager, he is receiving rents of land to the present day.

NOTE.—This decree is opposed to that referred to in paragraph 2 *supra*.

12. One Maria Tala sued her relatives for unlawfully taking possession of property which belonged to her by right of inheritance. In the Munsif's court she obtained a decree partly in her favour. The appeal decree was wholly in her favour.

PART II.—INSTANCES IN WHICH RELIEF WAS OBTAINED WITHOUT REFERENCE TO COURTS.

In Palghat.

1. Vattakkatt Krishnan Nayar, of Kavasseri amsam, obtained by an amicable settlement Rs. 500 from his tarawad after he became a convert to Christianity.

2. In Ponnani one Mannalam Kunneeth Sankaran, of Vatanappalli amsam, who was a fisherman (Mukkuvan) by caste and who embraced Muhammadanism, obtained as his share property worth Rs. 300 out of the tarawad property of the aggregate value of Rs. 900.

3. One Aruketti Kali, of the above-named amsam and caste, who adopted the Muhammadan faith, is to this day being given her maintenance from the tarawad.

4. A Tiyan, Karuppan by name, of the same amsam, became a convert to Muhammadanism and obtained his share of the tarawad property worth Rs. 800 in all.

5. About twenty years ago, a certain Battatiripad, of Paruttur amsam, was convicted of forgery and thereby excommunicated. He was given a maintenance allowance from his Illam up to the date of his death.

In Kurumbranat Taluk.

6. One Kunnarmal Karunakaran Nayar, who was formerly a Police Inspector, embraced Christianity some years ago. His Hindu relations, recognizing his claim to maintenance, have allowed him to live in the house formerly occupied by him and have made provision for his maintenance.

In Chirakkal Taliparamba.

7. One Chirakkath Malliseri Narayan Nambudiri became a convert to Muhammadanism at the age of thirteen or fourteen about fourteen years ago. He subsequently obtained from the Illam of his birth Rs. 300 as his portion.

There are others who, after they were outcasted by reason of adultery, criminal convictions or other causes, obtained a share of the property from their respective tarawad, which consented to the arrangement on account of the existence of Act XXI of 1850. The following statement gives fuller particulars of such cases:—

Name.	Remarks.
1. Chirakkoth illath Narayanan Nambudiri.	This man was about fourteen years old when he became a convert to Muhammadanism and twelve years have elapsed since he obtained from the Illam of his birth Rs. 300 as his share. He resides in Taliparamba.
2. Patinharath Kolasseri Hari-jayanthan Nambudiri.	Of the individuals who were excommunicated by the Nambudiris some eighteen to nineteen years ago after a social investigation of a case of adultery, No. 2, his wife and son, Narayanan Nambudiri, and his elder brother's son, Ashtamurti Nambudiri, are still alive. They live in Pattuva amsam after obtaining their shares on a partition of the Illam property.
3. Chirakkoth illath Vasudevan Nambudiri.	This man was excommunicated within the last four or five years on the alleged ground of his having taken his meals with No. 2. He therefore obtained his share of the tarawad property and has become a wanderer.
4. Natuvath Putavara Dalavedan Nambudiri.	It is a year since this man has become an outcaste, being found guilty of an offence similar to the one mentioned above. He has severed his connection with the Illam of his birth by obtaining his share of the property.
5. Ezhoth Eledath illath Vasudevan Nambudiri.	It is now nearly twenty-five years since this man has been excommunicated by reason of his undergoing a sentence of imprisonment. He has obtained a share of his Illam property and is now living in Thazham amsam.
6. Meppatt Tamara Potuval ..	It is nearly five years since this man severed his connection with his family after obtaining a share of the property by reason of his having undergone a sentence of imprisonment.
7. Pachamangalam Vasudevan Nambudiri.	It is nearly twenty-eight years since this man became an outcaste, being found guilty of adultery. He severed his connection with the family after obtaining a share of the property.

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