

ORDINARY, MS.

Public DEPARTMENT.
G.O., DATED 10-9-90
No. 634.

When given for copying

[Despatch Abstract].

Signature of a Secretary
sufficient on marriage
license.

A

His Excellency the Governor of Madras in Council, under and by virtue of the authority contained in and conferred by Section 6 of Act XV of 1872, passed by the Governor-General of India in Council, and entitled "The Indian Christian Marriage Act 1872," hereby licenses

to solemnize Marriages within the Territories subject to the Government of Madras in accordance with the provisions of the said Act.

As witness the hand of

Secretary to the Government of Madras
in the *Department by order and under the*
authority of the — Governor of Madras in Council, this

day of

18

B.

His Excellency the Governor of Madras in Council, under and by virtue of the authority contained in and conferred by section 9, Part I of Act No. XV of 1872, passed by the Governor-General of India in Council, and entitled "The Indian Christian Marriage Act, 1872," hereby licenses

to grant Certificates of Marriage between Native Christians, in accordance with the provisions of the said Act, within the Territories subject to the Government of Madras.

As witness the hand of
Government of Madras in Council
Order and under the authority of the Secretary to the
Department of
Governor of Madras in Council,
this day of 188 .

For the C.S.

R.L. must be bothered
with these signing these
certificates & licenses,
& there seems to be
no reason whatever for
his doing so.

As a Genl. Solicitor
dressed up the original
forms, this reference
is proposed; but there
can be little if any
doubt as to what
the present G.S.'s letter
will be -

H.P.

O.M. No 127

7/14-8-90

The Chief Secretary
has the honour to request
the Genl. Solicitor to
be so good as to
inform him whether
the signature of
a "Secretary to Genl."
~~may be substituted~~
for the will not be
equally valid with
that of R.L. the
Governor in the case
of the two forms
Enclosed (A & B).

issued under §§ 6 & 9
of the Indian Marriages
Act of 1872.

2. The sections empower
the local Government
to grant certificates
or licenses.

3. The present forms are
in this respect & the
concluding words
identical with those
of the 1872 Act.

Boyson, Genl. Solicitor,
in 1864, ~~and~~ as will
be seen from Eccles:

Pro: of 30 June in that
year, No. 160; but it
is not apparent why
the personal signature
of the "Governor of
Madras in Council" should
have been considered

(necessary)

J.F.

12/8

13 Aug 1890
S. S. D. Sign
fair copy

Well

Genl. Solicitor (with
file as it
stands) 14/8/90

Label 634
10-9-90

No 403

Madras 22nd August 1890

No 200

From,

Ernest Barclay,

Government Solicitor,

Madras

To,

The Chief Secretary to Government,

Ecclesiastical Department,

Ootacamund

Sir,

1 With reference to your Office Memorandum dated 14th -
instant No 127, I beg to advise that, in my opinion, the signature of
a Secretary to Government would be as valid as that of His Excell-
ency the Governor in the case of the forms forwarded with your Memo-
randum.

2 Form A purports to be a form of License to solemnize -
marriages. Under Section 6 of Act XV of 1872, the Local Government is
authorized to grant licenses to Ministers of Religion to solemnize
marriages. Form B purports to be a form of License to grant Certifi-
cates of Marriage between Native Christians; and, under Section 9 of
the same Act, the Local Government is authorized to grant such -
licenses to any Christian.

3 The forms prepared by Mr J R Boyson, when Government -
Solicitor, were under Act XXV of 1864; and, Section 4 of that Act -
empowered the Governor in Council, not the Local Government, to grant
licenses to Ministers of Religion to solemnize marriages. Mr. Boyson
probably drew a distinction between the Governor in Council and the
Local Government; but, if such distinction ever existed, it has been
done away with by Act I of 1862 ^{RP 1862} Section 2(10). Section 41 of Act
XXV of 1864 however authorized the Local Government to issue a -
license to any person, authorizing him to grant certificates of -

marriage between Native Christians, so it is not apparent why Mr. Boyson should have prepared the form under that Section in the way he did, I doubt very much whether licenses under Section 4 of Act XXV of 1864 required the signature of the Governor in Council, but licenses under Section 41 of that Act might clearly have been signed by a Secretary to Government.

4 Under Section 39 of 33 Geo III c 52 all orders and proceedings of the Governors and Council of Fort St George are to be expressed to be made by the Governor in Council and not otherwise, and previous to being published or put in execution had to be signed by the Chief Secretary to the Council, by the authority of the Governor in Council; but, by Section 79 of ^{53 III} 55 Geo III c 155, all such orders and proceedings had to be signed either by the Chief Secretary or in his absence by the principal secretary of the department to which such orders and proceedings related. Then Act II of 1834 authorized Secretaries to Government to exercise powers given by Act of Parliament to the Chief Secretaries, and under 21 and 22 Vict c 106 Section 64, all Acts and provisions in force at the passing of that Statute under charter or otherwise concerning India were, subject to the provisions of that Statute, to continue in force, and all enactments applicable to the officers and servants of the East India Company were, subject to the provisions of the Statute, to remain applicable to the Officers and servants appointed or employed in India. I have thought it advisable to go into the question of the authority of a Secretary to Government to sign licenses under Act XV of 1872, as it is, of course, of the greatest importances that such licenses should be legally issued.

5 I have made in red ink some slight alterations in the forms which accompanied your Memorandum and return them herewith with the other papers

I have the honor to be,

Sir,

Your Obedient Servant,

Ernest Barker

Government Solicitor.

Coat
No 200

from
The Govt. Solicitor
General

No 103
7-22-8 }
8-23-8 } 1890

Papers returned

Stating that the
signature of a Secretary
to Government is not
as valid as that of
H.E. the Governor
in the case of the forms
of marriage licenses

h 160- 20- 6- 84 E
h 101- 19- 7- 64
h 167- 2- 7- 64
h 547- 21- 7- 90 Date

Public
18
10th Sep. 1890
Recorded. 30/8

2. The forms as now
altered by the Govt.
Solicitor will be
substituted for those
hitherto in use, &
will be signed by
the Chief, or other
Secretary to Govt.

27th Oct

26/8

DESPATCHED
16 SEP 90
Govt. Solicitor

H.C.
Please note
have all revised
forms printed
and are ready
for use
Correct the present
instructions
12/11
m28.8/10.9
25.9/12.9

WITNESSED
17-9-90

BACK PAPER, No.
FURTHER PAPER, No.

READ AGAIN ORDER OF GOVERNMENT, DATED
18, No. , MISCELLANEOUS.

ENCLOSURES.

CURRENT No. 200

STATEMENT WITH DITTO.

ORDER OF GOVERNMENT.

STATEMENT WITH DITTO.

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Govt. Solicitor
Copied
despatched 16/9

A A