

- (1) பக்கத்தின் எண்ணிக்கை 31-50
 (2) புதுக்கித் திருப்பிய நாள்
 (3) ஆதாரக் குறிப்பவர் கருக்கொப்பம்

தமிழ்நாடு ஆவணக் காப்பகம்.

தமிழ்நாடு அரசு

பெருநகர நகராட்சி

அரசாணை எண். 71-72 மு. கோப்புத் தாள் எண்.	அச்சுத் பலகை
நாள் : 1-2-1890	1890

மேல்க்கொண்ட தாள்படி கையாளவோ கூடாது.

ORDINARY, PRINTED.

Public DEPARTMENT

G.O. DATE 1. 2. 90

No. 8. 71. 72

First copy sent to Press. 1/2

Returned for signature. 1/2

Despatched in print.

[Despatch Abstract.]

Christian Marriage Act

Returning, with certain
remarks, to the Resident
proposed draft regulations
for Travellers & so forth;
and forwarding copy of the
Proceedings to the Govt of India

8-9-15 ✓
2-3-17 ✓
25-4-17 ✓
15-3-18 ✓

Govt. of {1890} Madras.

PUBLIC.

Issued

Recd.

Encl.

G.O., &c., 1st February 1890,
• Nos. 71, 72/

FEBRUARY.

71-72 Feb
1. 2. 90

Sent to Adv. Chas
with om. 558-2 Pol
23.5.8

From M.R. By. T. RAMA ROW, Dewan of Travancore, to the British Resident of Travancore dated Trivandrum, 22nd October 1889, No. 5226—J-1956.

[Subject—District Judge under the Christian Marriage Act.]

With reference to your letter No. 371, dated the 9th May last, inquiring whether there would be any objection to appointing the European Judge of the High Court as District Judge under the Christian Marriage Act, I have the honor to refer you to my letter No. 5145—J-1917, dated the 18th instant, forwarding, for approval, the draft of the Christian Marriage Regulation to be introduced here. You will observe that in the draft regulation, the Christian Judge of the High Court is empowered to perform under the proposed Travancore law the functions vested in the District Judge under the British enactment.

2. If, however, the appointment is to be by the British Government under their Act XV of 1872, His Highness' Government see no objection to the arrangement. The Christian Judge of our High Court may be so appointed, just as the Head Sircar Vakeel is appointed Marriage Registrar for the British Government.

ORDER—dated 1st February 1890, No. 71, Public.

The draft regulations will be returned to the Resident in Travancore and Cochin with the following remarks:—

The Governor in Council thinks that the omission of provisions regarding licensed ministers is a mistake. The bracketing of London Missionaries with those of other Christian denominations need not be objected to; and it may be true that when this is done all Christian communities within the State will be provided for. But this may not always be so.

TRAVANCORE REGULATIONS.

Section 5.—To the list of persons who may solemnize marriages should be added those appointed under sections 8 and 9, Act XV of 1872, by the Governor-General in Council.

Part III.—To this should be added a proviso that in the case of marriages where one or both of the parties is a British subject the provisions of sections 28 to 37 of Act XV of 1872, as amended by Act VI of 1886, should be complied with. It is thought that section 52 of the draft regulation which is apparently intended to meet this want will not do so effectually. Provision should also be made for due previous notice of marriage as in Part III of Act XV of 1872, and Part IV of the Draft Regulation.

Part IV, Section 19, Paragraph 2.—Before the words "and such consent is hereby required" insert the words "and subject to the provisions of section 20 below."

Section 29.—When one or both of the parties married is a British subject, the provisions of sections 55 and 56, Act XV of 1872, as amended by Act VI of 1886, should also be complied with.

Part V.—Section 5 of the Draft Regulation does not provide specially for the solemnization of marriages between Native Christians, and this part of the regulation with the exception of the proviso to section 33 therefore seems unnecessary.

Part VI.—A section corresponding to section 73, Act XV of 1872, should be inserted after section 42. There should also be a provision that marriages solemnized Act XV of 1872, shall be solemnized according to the provisions of that Act and that failure to comply with such provision shall be punished as provided in that Act.

Part VII, Section 49.—When one or both of the parties is a British subject the provisions of the last clause of section 78, Act XV of 1872, should also be complied with.

COCHIN REGULATIONS.

Section 4.—For "Chief Secretary to the Government of Madras" wherever it occurs, the "Registrar-General of Births, Deaths and Marriages" should be substituted as in Act XV of 1872 as amended by Act VI of 1886.

Section 6.—No provision is made for dealing with the case of one of the parties being a British subject. The period of imprisonment should correspond with the provisions of sections 68 and 74, Act XV of 1872.

2. It is observed that no opinion has been offered on the suggestion made in clause (c) of G.O., dated 25th April 1889, No. 31, Ecclesiastical, that the Appeal Court at Cochin should be invested with the function of a District Judge under section 85 of Act XV of 1872, for the purpose of carrying out the provision of the Act within Cochin territory.

3. In returning the draft regulations with the remarks of the Madras Government, the Resident will request the Governments of Travancore and Cochin to obtain the opinions of the heads of the various Christian denominations in their respective territories on the provisions of the proposed regulations before taking further steps to pass them into law.

4. A copy of these Proceedings will be forwarded to the Government of India.
(True Extract.)

J. GROSE,
Ag. Chief Secretary.

To the Resident in Travancore and Cochin
(through the Political Department).
" Registrar-General of Births, Deaths and Marriages.

ENDORSEMENT—dated 1st February 1890, No. 72, Public.

Copy to the Government of India, Home Department.

Ag. Chief Secretary.

Exd. W. H. French.

GOVERNMENT OF MADRAS

PUBLIC DEPARTMENT.

READ—the following paper:—

From J. C. HANNINGTON, Esq., Resident in Travancore and Cochin, to the Chief Secretary to Government, dated Trivandrum, 9th November 1889, No. 136.

With reference to G.O., dated 23rd July 1888, No. 103, Ecclesiastical, and in continuation of my No. 86 of 20th March 1889, I have the honor to forward copies of letters noted in the margin from the Dewans of Travancore and Cochin.

- { No. 5145—J-1917, dated 18th October 1889.
" 5228—J-1956 " " "
" 1490, dated 6th October 1888. " " "

2. I also enclose the original enclosures of those letters.
3. The Dewan of Cochin proposes to introduce a short Act which will render the British Indian Christian Marriage Act effectual in the State of Cochin as regards British subjects.
4. The Dewan of Travancore goes further and proposes to introduce a regulation affecting and governing marriages between Christians of all denominations throughout Travancore.
5. The regulation is framed on the basis of the British Indian Act and appears to me to have been carefully considered.
6. At the same time, I think, it might be well prior to its being laid before the Travancore Legislative Council, that it should be submitted to the heads of the various Churches in Travancore for an expression of their views.

ENCLOSURES.

From M.R.By. T. GOVINDA MENON, Dewan of Cochin, to the British Resident in Travancore and Cochin, dated Ernakulam, 6th October 1888, No. 1490.

In acknowledging the receipt of your letter of the 17th ultimo, No. 789, forwarding copy of G.O., dated 23rd July 1888, No. 103, Ecclesiastical, I have the honor to state that marriages among Christians have hitherto been performed in this country by Clergymen of the Church of England or of the Church of Rome or by those belonging to the Jacobite Syrian rite, but no Marriage Registrar has been appointed, probably because the necessity has not arisen for such appointment.

2. This Government is prepared to legislate in order to make the Indian Christian Marriage Act of 1872 effectual as regards Christian British subjects, and to prevent the solemnization of illegal marriages in the State. I enclose a draft regulation based on the provisions of the said Act, which, if approved of by you, I shall be glad to submit to His Highness the Raja with a view to its being passed into law.

From M.R.By. T. RAMA ROW, Dewan of Travancore, to the British Resident of Travancore and Cochin, dated Trivandrum, 18th October 1889, No. 5145—J-1917.

With reference to the correspondence on the subject, I have the honor to forward, herewith, draft of a Christian Marriage Regulation for Travancore, which, if approved of, will be brought before our Legislative Council and published for general information before being passed into law.

2. A memorandum of Objects and Reasons accompanies the draft.

To

The Resident in Travancore & Cochin } Dec^r 13/10
(thru the Poll. Deptt) }
" Reg. Genl. of B. }
" & all Marriages. } Copy to the Govt. of
India Home Department
65 Dec^r 13/2

by the Governor General in
Council under sections 8 & 9
of Act XV of 1872 shall be
collegiated according to
the provisions of that Act
and that failure to comply
with such provision shall
be punished as provided
in that Act.

Part VII, Sect 49 When one
or both of the parties to a
British subject the provisions
of the last clause of sec 78,
Act XV of 1872 should
also be complies with
Travancore Regulations

Sect 4 For Chief Secretary
to the Govt. of Madras whenever
it occurs the Registrar
shall the death & marriage

1872 for the purpose
Carrying out the provisions
of the Act within Cochin
Territory
3. In returning the drafts
regulations with the
remarks of the Madras
Govt: the Resident will
request the Govt. of
Travancore and Cochin
to obtain the opinion
of the heads of the
various Christian denominations
in their respective territories
on the provisions of the proposed
regulations before taking
further steps to pass them
into law.

of the parties married is a ~~trial~~
subject the provisions of sec
55 & 56 Act ~~XX~~ of 1872, ~~20~~
amended by Act ~~XX~~ of 1886, also
also be complied with.

Part V Section 6 of the Draft
Regulation does not provide
specially for the solemnization
of marriages between ~~native~~
Christians and this Part of the
Regulation is, with the exception
of the proviso to sec 33 therefore
seems more ~~correct~~

Part VI A section corresponding
to sec. 73, Act ~~XX~~ of 1872
should be inserted after
sec. 42. There should also
be a provision that marriages
solemnized be ~~between~~

subject the provisions of sections
26 & 27 of Act ~~XX~~ of 1872 as
amended by Act ~~VI~~ of 1886
which he complies with. It
is thought that section 52 of
the ~~draft~~ regulation which
which is apparently in-
tended to meet this want
will not do so effectually.
Provision should also be
made for due previous
notice of marriage as in
~~Part III~~ of Act ~~XX~~ of 1872
and part ~~III~~ of the draft
regulations.

Part VII, Section 79 para 2
Before the words "and each of them
is hereby required" insert the words
"and subject to the provisions
of Act 20 below".
Section 29 Where one or both

The Native Registrar of
B. D. & Co. has been appointed
to discharge the same functions
for Travancore under
Sect 13, Act ~~VI~~ of 1886.
Vide G.O. 190 Pub. 726.2.87.

Public

How
Draft Christian marriage
regulations proposed by the
Int. & American churches

The draft ~~was~~ ^{is} returned with
returned to the Resident.

Transverse Regulations

sect 5- To the list of persons

who may solemnize marriage
should be added those of -
-pointed under section 8 & 9,

Act XV of 1872, by the General
2/1/90 General in Council

Part III To this should be added a proviso that: in the case of marriages where one or

to see if there is any
 authority that the people
 should be sent to the
 prison

W. B. Green

the heads of the various Xhosa
 communities in their territories
 in their prisons before taking further
 steps to put them into law?

Calver
 17/12

Cochin Regulation

The Reg. is merely for the
 the regulation of the prison in
 the Indian territory being set
 in the case of the subject and
 directed, like the Transvaal Reg.
 provided a hearing. This
 for the subjects of the State

Sec 6. It was found that in the
 the case of one of the parties to the
 hearing being a N. A. subject
 The period of imprisonment
 has been left blank. It should be
 made to correspond with the provisions
 of sec 68 & 74 of the Indian Act

Sec 4. In Chief Secretary to the
 Govt. of Madras. There is no
 doubt that the Reg. of the
 death sentences is in force
 Sec 3/1892 is amended by Act No. 7
 1896.

The suggestion in para (5) for
 15.4.55 that the effect of
 31 Act
 which should be inserted with the
 functions of a Dist Judge under sec
 85 of the Indian Act for the purpose
 of carrying out the provisions of the
 said Act in Cochin territory, has
 not been entered

The regulations may be amended,
 with the necessary criticism, to
 the native police for the should
 be reported to obtain the opinion

FOR ORDERS

The Transvaal is not
 part of the Indian territory
 passes it.

Public
DEPARTMENT

Current No. 3573

From The Res^d Travancore

FOR ORDERS.

Travancore Regulation

Sec 5. This section purports to deal with all Xtham marriages solemnized in Travancore... to the period the many differences were made... these off^d under sec 8 of Act of 1872 by the H^h in Council

Part III of the Regn.

To this should be added a proviso that in the case of marriages where one or both of the parties is a ~~native~~ H^h subject the provisions of sec 28-37 of the Indian Marriages Act 1872 as amended by Act III of 1876 shall

Observe the Regulation which is in force in Travancore... the married couple... the Regⁿ... in Travancore.

as to the Regⁿ is intended... in Travancore...

23/7/88 24/08 Eccl.

1889

Political Department.

From

The Resident in Travancore & Cochin.

To

The Chief Secretary to Government,
Fort St. George.

Dated 9th November

Received

No. 136.

Enclosure 7.

Order
~~The H^h in C. & Cochin~~
The Resident will be glad to be placed in possession of the news of the duration the advisability of conducting the various Xtham of the various Churches in Travancore before the proposed bill passed into law.
Signed (The Regⁿ)

23/11

60-71-7271-29

Indian Christian
Marriage Act -
Forwarding Regulation
from Travancore
and Cochin -

136.

Resident's Office,

Travancore, 9th November 1889.

From

J. C. Hamington Esquire
Resident in Travancore and Cochin.

To

The Honble J. L. Price
Chief Secretary to Government.
Fort St. George.

Re

With reference to Government
order 23rd July 1888, No. 103 Ecclesiastical
and in continuation of No. 35
of 20th March 1889, I have the honor to
forward copies of letters noted in
the margin from the Deans of
Travancore and Cochin.

2. I also enclose the original
enclosures of those letters.

3. The Dean of Cochin proposes
to introduce a short act which
will render the British Indian
Christian marriage act of 1875
in the State of Cochin as regards
British Subjects.

The

No. 5745 dated 18 October 1889.
11917
No. 5746 dated 20 March 1889.
11918
No. 1490 dated 6th Nov 1889.

No. 7172 dated 12 Nov 1889.

Nº 5226
1956. Muzur Kutcherry
Travancore 22^o October 1889.

To,

J. C. Harrington Esquire
British Resident of Travancore
900 900 900

Subject

District Judge
under the
Christian
Marriage
Act.

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With reference to your letter
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British enactment.

No 7172291-290000

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I have &c

Signed/ T. Rama Row

Deewan

1 True copies/

Resident

7/5

information before being
passed into law.

A Memo of objects
and reasons accompanies
the draft.

I have &c.

(Signed) J Rama Rao.

Dewan

26-7-27-28-29-30-31.

2
P. 3573/89
26-1-2-90 26-7-72

No 5145
8/19/17.

38h
Muzur Butchery
Trivandrum
18th October 1884

J C Hannington Esq.
British Resident of
Travancore & Cochin

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- with draft of a Christi-
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- mit to His Highness the
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being passed into law.

I have &c
(Signed) J Govinda Menon
Dewan

No. 1490.

280
Huzur Bait
Ernakulam in Cochin
6 October 1888

J. C. Hannyngton Esq.
British Resident in
Travancore & Cochin

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1st FEBRUARY 1890, Nos. 71, 72, PUBLIC.

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(True Extract.)

J. GROSE,
Ag. Chief Secretary.

To the Resident in Travancore and Cochin
(through the Political Department).
,, Registrar-General of Births, Deaths and Marriages.

ENDORSEMENT—dated 1st February 1890, No. 72, Public.

Copy to the Government of India, Home Department.

Ag. Chief Secretary.

Exd. W. H. French.

Gobt. of {1890} Madras.
PUBLIC.

Issued

Recd.

Encl.

G.O., &c., 1st February 1890,
Nos. 71, 72.

FEBRUARY.

Indian Christian Marriage Act.

Returning, with certain remarks, to the Resident the proposed draft Christian Marriage regulations for Travancore and Cochin; and forwarding copy of the Proceedings to the Government of India.

Whereas it is deemed desirable to render the provisions of the Indian Christian Marriage Act of 1872, which has been extended to Cochin so far as regards Christian subjects of Her Majesty, effectual, and to prevent the solemnization of illegal marriages in this State, it is enacted as follows:—

1. No marriage among Christian subjects of Her Majesty shall be held valid in this State unless it be solemnized by one of the persons hereunder mentioned:—

- (1) Any person who has received episcopal ordination, provided that the marriage be solemnized according to the rules, rites, ceremonies and customs of the church of which he is a minister.
- (2) Any clergyman of the Church of Scotland, provided that such marriage be solemnized according to the rules, rites, ceremonies and customs of the Church of Scotland.
- (3) Any minister of religion licensed under the Indian Christian Marriage Act to solemnize marriages.
- (4) Any Marriage Registrar appointed under the aforesaid Act.
- (5) Any person licensed under the said Act to grant certificates of marriage between Native Christians.

2. After the solemnization of any marriage among Christian British subjects, the clergyman, or other authorized person, by whom the marriage was performed, shall forthwith register the marriage in a Marriage Register Book, showing the date, the Christian names and surnames of the parties, their age, condition, rank or profession, residence at the time of marriage, and their fathers' names and surnames. Such entry shall be signed by the parties married and attested by two credible witnesses as well as by the person solemnizing the marriage.

3. Every Marriage Register Book as aforesaid shall at all reasonable times be open to inspection by the parties interested, and a certified copy of any entry therein shall be given on payment of the prescribed fee.

4. Whenever a marriage has been solemnized between persons one or both of whom is or are a Christian British subject or British subjects, the person solemnizing the marriage shall, if he be a clergyman of the Church of England, send a copy of the entry contained in his register to the Registrar of the Archdeaconry to which he is subject; if he be a clergyman of the Church of Scotland, he shall forward such copy to the Chief Secretary to the Madras Government, through the Senior Chaplain of the Church of Scotland; if he be a clergyman of the Church of Rome, to the Chief Secretary to the Government of Madras; and if he be one belonging to the Jacobite Syrian Rite, to the said Chief Secretary through his Metropolitan.

5. Every Marriage Registrar who may be appointed and every minister of religion or other person licensed by the Madras Government shall, in solemnizing marriages between Christian British subjects, follow the procedure laid down in the Indian Christian Marriage Act, and forward copies of the entries in their Marriage Registers or the prescribed returns, at the appointed times, to the authorities mentioned in the said Act.

6. Whoever, not being a person coming under any one of the descriptions mentioned in section 1 of this Regulation, knowingly solemnizes a marriage between British subjects one or both of whom is or are a Christian or Christians, shall be punished with imprisonment which may extend to years.

7. Sections 69 to 75 of the Indian Christian Marriage Act, defining the offences against the Act and the penalties attached thereunto, shall, so far as regards Christian subjects of Her Majesty, have the same force and effect in this State as if those sections formed part of this Regulation.

Provided, always, that no prosecution for any violation of the Indian Christian Marriage Act, or of this Regulation, shall lie after the expiry of two years from the date of the offence.

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A Regulation to govern the solemnization of the Marriages of Christians in Travancore.

Preamble. WHEREAS it is expedient to regulate the solemnization in Travancore of the marriages of persons professing the Christian Religion. It is hereby enacted as follows:—

PRELIMINARY.

Short title. This Regulation may be called—The Travancore Christian Marriage Regulation 106.

Commencement. It shall come into force on the passing thereof.

2. Nothing herein contained shall be understood as invalidating any marriage previously solemnized and which according to the usage of the country would be a valid marriage.

3. In this Regulation, unless there is something repugnant in the subject or context—

“Church of England.” and “Anglican” mean and apply to the Church of England as established by British Law.

“Church of Scotland.” means the Church of Scotland as established by British Law.

“Church of Rome.” and “Roman Catholic” mean and apply to the Church which regards the Pope of Rome as its spiritual head.

“Syrian Church” means the Church which regards as its spiritual head the Syrian Patriarch of Antioch or Mar Athanasius and his successors in office duly consecrated as Metran.

“Church.” includes any chapel or other building generally used for public Christian worship.

“Minor” means a person who has not completed the age of twenty-one years, and who is not a widower or a widow.

The expression “Christians” means persons professing the Christian religion.

And the expression “Native Christians” includes the Christian descendants of Natives of India converted to Christianity, as well as such converts.

PART I.

The persons by whom Marriages may be solemnized.

4. Every marriage between persons, one or both of whom is a Christian or Christians, shall be solemnized in accordance with the provisions of the next following section, and any such marriage solemnized otherwise than in accordance with such provisions shall be void.

5. Marriages may be solemnized in Travancore—

(1) by any person who has received episcopal ordination provided that the marriage be solemnized according to the rules, rites, ceremonies, and customs of the Church of which he is a minister;

(2) by any Clergyman of the Church of Scotland, provided that such marriage be solemnized according to the rules, rites, ceremonies, and customs of the Church of Scotland;

(3) by any ordained Minister of the London Missionary Society, provided that such marriage be celebrated according to the rules, rites, ceremonies and customs of that community;

(4) by, or in the presence of, the Marriage Registrar appointed under this Regulation.

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Marriage Registrar. 6. Our Dewan may with Our sanction appoint a Christian, either by name or as holding any office for the time being, to be the Marriage Registrar of the State and may revoke such appointment with like sanction.

PART II.

Time and place at which Marriages may be solemnized.

Time for solemnizing marriage. 7. Every marriage under this Regulation shall be solemnized between the hours of six in the morning and seven in the evening.

Exceptions.

Provided that nothing in this section shall apply to—

- (1) a Clergyman of the Church of England solemnizing a marriage under a special license permitting him to do so at any hour other than between six in the morning and seven in the evening under the hand and seal of the Anglican Bishop of the Diocese or his Commissary, or
- (2) a Clergyman of the Church of Rome solemnizing a marriage between the hours of seven in the evening and six in the morning, when he has received a general or special license in that behalf from the Roman Catholic Bishop of the Diocese or Vicariate in which such marriage is so solemnized, or from such person as the same Bishop has authorized to grant such license,
- (3) a Clergyman of the Syrian Church solemnizing a marriage between the hours of seven in the evening and six in the morning when he has received a general or special license in that behalf from the Syrian Metran to whom he is subordinate or from such person as the Metran has authorized to grant such license.

Place for solemnizing marriage. 8. No Clergyman of the Church of England shall solemnize a marriage in any place other than a Church, unless there is no Church within five miles' distance by the shortest road from such place,

or unless he has received a special license authorizing him to do so under the hand and seal of the Anglican Bishop of the Diocese or his Commissary.

Fee for special license. For such special license such additional fee may be charged as the said Bishop from time to time authorizes.

PART III.

Registration of Marriages solemnized by Ministers of Religion.

Marriage when to be registered. 9. All marriages hereafter solemnized in Travancore between persons, one or both of whom professes or profess the Christian religion, except marriages solemnized under Part IV or Part V of this Regulation, shall be registered in manner hereinafter prescribed.

Registration of marriages solemnized by a clergyman and returns to be furnished to Government. 10. Every Clergyman or Minister of religion shall keep a register of marriages and shall register therein, according to the tabular form set forth in the schedule hereto annexed, every marriage which he solemnizes under this Regulation immediately on the conclusion of the solemnization, and such person shall forward quarterly to the Secretary to Our Dewan returns of the entries of all marriages registered by him from the 1st day of January to the 31st day of March, from the 1st day of April to the 30th day of June, from the 1st day of July to the 30th day of September, and from the 1st day of October to the 31st day of December of each year, respectively; and these returns shall be sent by such Clergyman within two weeks from the expiration of each of the quarters above specified.

11. The entry of such marriage in the marriage register book shall be signed by the person solemnizing the marriage, and also by the persons married, and shall be attested by two credible witnesses, other than the person solemnizing the marriage, present at its solemnization.

Every such entry shall be made in order from the beginning to the end of the book.

Registration of marriages between Native Christians under Part I. 12. When any marriage between Native Christians is solemnized under Part I of this Regulation, the person solemnizing the same shall, instead of proceeding in the manner provided by sections 10 and 11 both inclusive, register the marriage in a separate register book, and shall keep it safely until it is filled, or, if he leaves the district in which he solemnized the marriage before the said book is filled, shall make over the same to the person succeeding to his duties in the said district.

Custody and disposal of register book.

Whoever has the control of the book at the time when it is filled, shall send it to Our Dewan to be kept by him with the records of his office.

PART IV.

Marriages solemnized by or in the presence of the Marriage Registrar.

Notice of intended marriage before Marriage Registrar. 13. When a marriage is intended to be solemnized by, or in the presence of the Marriage Registrar, one of the parties to such marriage shall give notice in writing, in the form contained in the schedule hereto annexed, or to the like effect to the Marriage Registrar appointed by our Government, and shall state therein the name and surname, and the profession or condition, of each of the parties intending marriage, the dwelling place of each of them, the time during which each has dwelt therein, and the place at which the marriage is to be solemnized.

Provided that, if either party has dwelt in the place stated in the notice for more than one month, it may be stated therein that he or she has dwelt there one month and upwards.

Publication of notice. 14. The Marriage Registrar shall, on receiving any such notice, cause a copy thereof to be affixed in some conspicuous place in his office.

When one of the parties intending marriage is a minor, the Marriage Registrar shall, within twenty-four hours after the receipt by him of the notice of such marriage, send, by post or otherwise, a copy of such notice to a Magistrate of the town or taluk in which each of the parties resides, who shall likewise affix the copy in some conspicuous place in his own office,

Notice to be filed and copy entered in Marriage Notice Book. 15. The Marriage Registrar shall file all such notices and keep them with the records of his office,

and shall also forthwith enter a true copy of all such notices in a book to be furnished to him for that purpose by Our Dewan and to be called the "Marriage Notice Book,"

and the Marriage Notice Book shall be opened at all reasonable times, without fee, to all persons desirous of inspecting the same.

Certificate of notice given and oath made. 16. If the party by whom the notice was given requests the Marriage Registrar to issue the certificate next hereinafter mentioned, and if one of the parties intending marriage has made oath as hereinafter required, the Marriage Registrar shall issue under his hand a certificate of such notice having been given and of such oath having been made:

Provided—

that no lawful impediment be shown to his satisfaction why such certificate should not issue;

Provided that the issue of such certificate has not been forbidden, in manner hereinafter mentioned, by any person authorized in that behalf by this Regulation;

that four days after the receipt of the notice have expired; and further, that where, by such oath, it appears that one of the parties intending marriage is a minor, fourteen days after the entry of such notice have expired.

17. The certificate mentioned in section 16 shall not be issued by the Marriage Registrar, until one of the parties intending marriage appears personally before such Marriage Registrar, and makes oaths—
(a) that he or she believes that there is not any impediment of kindred or affinity, or other lawful hindrance, to the said marriage, and
(b) that both the parties have, or (where one of them has dwelt out of Travancore territory and in the district of a Marriage Registrar in British India or elsewhere) that the party making such oath has had, their, his or her usual place of abode within the district of such Marriage Registrar or in such other place, and, where either or each of the parties is a minor,
(c) that the consent or consents to such marriage required by law has or have been obtained thereto, or that there is no person resident in India authorized to give such consent, as the case may be.

18. When one of the parties intending marriage is a minor, and both such parties are at the time resident in Our territories, and are desirous of being married in less than fourteen days after the entry of such notice as aforesaid, they may apply by petition to the Christian Judge of Our High, or in his absence, to the Christian Judge of any Zillah Court, for an order upon the Marriage Registrar to whom the notice of marriage has been given, directing him to issue his certificate before the expiration of the said fourteen days required by section 16.

And on sufficient cause being shown, the said Judge may, in his discretion, make an order upon such Marriage Registrar, directing him to issue his certificate at any time to be mentioned in the said order before the expiration of the fourteen days so required.

And the said Marriage Registrar, on receipt of the said order, shall issue his certificate in accordance therewith.

19. The father, if living, of any minor, or if the father be dead, the guardian of the person of such minor, and in case there be no such guardian, then the mother of such minor may give consent to the minor's marriage,

and such consent is hereby required for the same marriage, unless no person authorized to give such consent is resident in India,

and any person whose consent to such marriage would be required thereunder may enter a protest against the issue of the Marriage Registrar's certificate, by writing at any time before the issue of such certificate the word "forbidden" opposite to the entry of the notice of such intended marriage in the Marriage Notice Book, and by subscribing thereto his or her name and place of abode, and his or her position with respect to either of the parties, by reason of which he or she is so authorized.

When such protest has been entered, no certificate shall issue until the Marriage Registrar has examined into the matter of the protest, and is satisfied that it ought not to obstruct the issue of the certificate for the said marriage, or until the protest be withdrawn by the person who entered it.

20. If any person whose consent is necessary to any marriage under this Part is of unsound mind,

or if any such person (other than the father) without just cause withholds his consent to the marriage,

the parties intending marriage may apply by petition to the Christian Judge of Our High Court, or in his absence, to the Christian Judge of any Zillah Court.

And the said Judge may examine the allegations of the petition in a summary way:

And if, upon examination, such marriage appears proper, such Judge shall declare the marriage to be a proper marriage.

Such declaration shall be as effectual as if the person whose consent was needed had consented to the marriage, and if he has forbidden the issue of the Marriage Registrar's certificate, such certificate shall be issued and the like proceedings may be had under this Part in relation to the marriage as if the issue of such certificate had not been forbidden.

21. Whenever a Marriage Registrar refuses to issue a certificate under this Part, either of the parties intending marriage may apply by petition to the Christian Judge of our High Court, or in his absence, to the Christian Judge of any Zillah Court.

The said Judge may examine the allegations of the petition in a summary way and shall decide thereon.

The decision of such Judge of Our High Court or Zillah Court shall be final, and the Marriage Registrar to whom the application for the issue of a certificate was originally made, shall proceed in accordance therewith.

22. Whenever a Marriage Registrar, acting under the provisions of section 19, is not satisfied that the person forbidding the issue of the certificate is authorized by law so to do, the said Marriage Registrar shall apply by petition to the Christian Judge of Our High Court or in his absence, to the Christian Judge of any Zillah Court.

The said petition shall state all the circumstances of the case, and pray for the order and direction of the Court concerning the same,

and the said Judge shall examine into the allegations of the petition and the circumstances of the case,

and if, upon such examination, it appears that the person forbidding the issue of such certificate is not authorized by law so to do, such Judge of Our High Court or the Christian Judge of a Zillah Court, as the case may be, shall declare that the person forbidding the issue of such certificate is not authorized as aforesaid,

and thereupon such certificate shall be issued, and the like proceedings may be had in relation to such marriage, as if the issue had not been forbidden.

23. Every person entering a protest with the Marriage Registrar, under this Part, against the issue of any certificate, on grounds which such Marriage Registrar under section 19 or the Christian Judge of Our High Court or the Christian Judge of a Zillah Court, as the case may be, declares to be frivolous and such as ought not to obstruct the issue of the certificate, shall be liable for the costs of all proceedings in relation thereto and for damages, to be recovered by suit by the person against whose marriage such protest was entered.

24. The certificate to be issued by the Marriage Registrar under the provisions of section 16 shall be in the form contained in the

schedule to this Regulation annexed or to the like effect, and Our Dewan shall furnish to the Marriage Registrar a sufficient number of forms of certificate.

25. After the issue of the certificate of the Marriage Registrar,

marriage may, if there be no lawful impediment to the marriage of the parties described in such certificate or certificates, be solemnized between them, according to such form and ceremony as they think fit to adopt.

But every such marriage shall be solemnized in the presence of the Marriage Registrar and of two or more credible witnesses besides the Marriage Registrar.

And in some part of the ceremony each of the parties shall declare as follows, or to the like effect:

"I do solemnly declare that I know not of any lawful impediment why I A.B., may not be joined in matrimony to C.D."

And each of the parties shall say to the other as follows or to the like effect: "I call upon these persons here present to witness that I A.B. do take thee C.D. to be my lawful wedded wife (or husband)."

26. Whenever a marriage is not solemnized within two months after the copy of the notice has been entered by the Marriage Registrar, as required by section 15, the notice and the certificate, if any, issued thereupon, and all other proceedings thereupon, shall be void;

and no person shall proceed to solemnize the marriage, nor shall any Marriage Registrar enter the same, until new notice has been given, and entry made, and certificate thereof given, at the time and in the manner aforesaid.

27. A Marriage Registrar before whom any marriage is solemnized under this part may ask of the persons to be married the several particulars required to be registered touching such marriage.

28. After the solemnization of any marriage under this Part, the Marriage Registrar shall forthwith register the marriage in duplicate; that is to say, in a marriage register book according to the form of the schedule hereto annexed, and also in a certificate attached to the marriage register book as a counterfoil.

The entry of such marriage in both the certificate and the marriage register book there be any such person, and by the Marriage Registrar present at such marriage, whether or not it is solemnized by him, and also by the parties married, and attested by two credible witnesses other than the Marriage Registrar and person solemnizing the marriage.

Every such entry shall be made in order from the beginning to the end of the book, and the number of the certificate shall correspond with that of the entry in the marriage register book.

29. The Marriage Registrar shall forthwith separate the certificate from the marriage register book and send it at the end of every month to the Secretary to Our Dewan.

The Marriage Registrar shall keep safely the said register book until it is filled, and shall then send it to the Secretary to Our Dewan to be kept by him with records of his office.

30. When any Native Christian about to be married gives a notice of marriage, or applies for a certificate from the Marriage Registrar, he shall ascertain whether the said Native Christian understands the English language, and, if he does not, the Marriage Registrar shall translate, or cause to be translated, such notice or certificate, or both of them, as the case may be, to such Native Christian into a language which he understands;

or the Marriage Registrar shall otherwise ascertain whether the Native Christian is cognizant of the purport and effect of the said notice and certificate.

31. When any Native Christian is married under the provisions of this Part, the person solemnizing the marriage shall ascertain whether such Native Christian understands the English language, and, if he does not, the person solemnizing the marriage shall, at the time of the solemnization, translate, or cause to be translated, to such Native Christian into a language which he understands, the declarations made at such marriage in accordance with the provisions of this Regulation.

32. The registration of marriages between Native Christians under this Part shall be made in conformity with the rules laid down in section 12 (so far as they are applicable), and not otherwise.

PART V.

Marriage of Native Christians.

Of what conditions marriages of Native Christians may be certified.

33. A marriage between Native Christians shall be celebrated only if the following conditions be fulfilled, and not otherwise:—

- (1) The age of the man intending to be married shall exceed sixteen years, and the age of the woman intending to be married shall exceed thirteen years.
- (2) Neither of the persons intending to be married shall have a wife or husband still living.

Provided that no marriage shall be celebrated under this Part when either of the parties intending to be married has not completed his or her eighteenth year, unless such consent as is mentioned in section 19 has been given to the intended marriage, or unless it appears that there is no person living authorized to give such consent.

34. When in respect to any marriage solemnized under this Part, the conditions prescribed in section 33 have been fulfilled, the person celebrating the marriage or the Marriage Registrar, as the case may be, shall, on the application of either of the parties to such marriage, and, on the payment of a fee of four annas, grant a certificate of the marriage.

The certificate shall be signed by the Marriage Registrar or the person celebrating the marriage, and shall be received in any suit touching the validity of such marriage as conclusive proof of its having been performed.

35. A register book of all marriages, of which certificates are granted under section 34, shall be kept by the Marriage Registrar or the person celebrating the marriage in his own vernacular language.

Such register book shall be kept according to such form as Our Dewan from time to time prescribes in this behalf, and true extract therefrom, duly authenticated, shall be duly forwarded to the Secretary to Our Dewan.

36. The Marriage Registrar, or the person celebrating the marriage, shall, at all reasonable times, allow search to be made in his book of register of marriages and certificates and shall, on payment of the proper fee, give a copy, certified under his hand, of any entry therein.

37. The provisions of sections 35 and 36 as to the form of the register book, depositing extracts therefrom, allowing searches thereof and giving copies of the entries therein, shall, *mutatis mutandis*, apply to the books kept under section 12.

38. For the purposes of this Part the "person celebrating the marriage" shall be understood to mean a person authorised to celebrate marriages under clauses 1 to 3 of section 5.

PART VI.

Penalties.

39. Whoever, for the purpose of procuring any marriage, intentionally makes any false oath or signs any false notice or certificate required by this Regulation, shall be deemed guilty of the offence described in section one hundred and ninety-three of the Indian Penal Code.

40. Whoever forbids the issue by the Marriage Registrar of a certificate by falsely representing himself to be a person whose consent to the marriage is required by law, knowing or believing such representation to be false, or not having reason to believe it to be true, shall be deemed guilty of the offence described in section two hundred and five of the Indian Penal Code.

41. Whoever, not being authorised under this Regulation to solemnize a marriage, knowingly solemnizes a marriage between persons, one or both of whom is or are a Christian or Christians, shall be punished with imprisonment which may extend to ten years and shall also be liable to fine.

42. Whoever knowingly and wilfully solemnizes a marriage between persons, one or both of whom is or are a Christian or Christians, at any time other than between the hours of six in the morning and seven in the evening or in the absence of at least two credible witnesses other than the person solemnizing the marriage, shall be punished with imprisonment for a term which may extend to three years, and shall also be liable to fine.

This section does not apply to marriages solemnized under special licenses granted under the proviso to section 7.

43. The Marriage Registrar under this Regulation who commits any of the following offences:—

(1) Knowingly and wilfully issues any certificate for marriage, or solemnizes any marriage without publishing the notice of such marriage as directed by this Regulation.

Marrying after expiry of certificate.

(2) After the expiration of two months from the issue by him of a certificate in respect of any marriage solemnizes such marriage.

Solemnizing marriage with minor within fourteen days without authority of court or without sending copy of notice.

(3) Solemnizes, without an order of a competent Court authorizing him to do so, any marriage when one of the parties is a minor, before the expiration of fourteen days after the receipt of the notice of such marriage.

Issuing certificate against authorized prohibition.

(4) Issues any certificate, the issue of which has been prohibited as in this Regulation, provided by any person authorized to prohibit the issue thereof.

shall be punished with imprisonment for a term which may extend to five years and shall also be liable to fine.

Issuing certificate after expiry of notice on, in case of minor, within fourteen days after notice, or against authorized prohibition.

44. The Marriage Registrar knowingly and wilfully issuing any certificate for marriage after the expiration of three months after the notice has been entered by him as aforesaid,

or knowingly and wilfully issuing, without the order of a competent Court, authorizing him so to do, any certificate for the marriage, where one of the parties intending marriage is a minor, before the expiration of 14 days after the entry of such notice, of any certificate, the issue of which has been forbidden as aforesaid by any person authorized in this behalf,

shall be deemed to have committed an offence under section one hundred and sixty-six of the Indian Penal Code.

45. Whoever not being authorized by this Regulation to solemnize a marriage between persons, one or both of whom is or are a Christian or Christians, solemnizes such marriage, or issues a certificate of such marriage, intending thereby to make it appear that he is so authorized, shall be punished with imprisonment for a term which may extend to seven years, and shall also be liable to fine.

Destroying or falsifying register books.

46. Whoever, by himself or another, wilfully destroys or injures any register book or the counterfoil certificates thereof, or any part thereof, or any authenticated extract therefrom,

or falsely makes or counterfoils any part of such register book or counterfoil certificates,

or wilfully inserts any false entry in any such register book or counterfoil certificate or authenticated extract,

shall be punished with imprisonment for a term which may extend to seven years and shall also be liable to fine.

47. The prosecution for every offence punishable under this Regulation shall be commenced within two years after the offence is committed.

PART VII.

Miscellaneous.

What matters need not be proved in respect of marriage in accordance with Regulation.

48. Whenever any marriage has been solemnized in accordance with the provisions of sections 4 and 5, it shall not be void merely on account of any irregularity in respect of any of the following matters, namely:—

(1) Any statement made in regard to the dwelling of the persons married, or to the consent of any person whose consent to such marriage is required by law.

(2) The notice of the marriage.

(3) The certificate or translation thereof.

(4) The time and place at which the marriage has been solemnized.

(5) The registration of the marriage.

49. Every person charged with the duty of registering any marriage, who discovers any error in the form or substance of any such entry, may, within one month next after the discovery of such error, in the presence of the persons married, or, in case of their death or absence, in the presence of two other credible witnesses, correct the error by entry in the margin, without any alteration of the original entry, and shall sign the marginal entry, and add thereto the date of such correction, and such person shall make the like marginal entry in the certificate thereof.

And every entry made under this section shall be attested by the witnesses in whose presence it was made.

And in case such certificate has been already sent to the Secretary to Our Dewan, such person shall make and send in like manner a separate certificate of the original erroneous entry and of the marginal correction therein made.

50. Every person solemnizing a marriage under this Regulation and hereby required to register the same,

and the Marriage Registrar or the Dewan or an officer authorized by him having the custody for the time being of any register of marriages, or of any certificate, or duplicate or copies of certificate under this Regulation,

shall on payment of the proper fees, at all reasonable times, allow searches to be made in such register, or for such certificate or duplicate or copies, and give a copy under his hand of any entry in the same.

51. Every certified copy, purporting to be signed by the person entrusted under this Regulation with the custody of any marriage register or certificate, or duplicate required to be kept or delivered under this Regulation of any entry of a marriage in such register, or of any such certificate or duplicate, shall be received as evidence of the marriage, purporting to be so entered, or of the facts purporting to be so certified therein, without further proof of such register or certificate, or duplicate, or of any entry therein, respectively, or of such copy.

52. Our Dewan or an officer authorized by him shall, at the end of every quarter in each year, select from the certificates of marriages forwarded to them, respectively, during such quarter the certificates of the marriages of which the Governor-General of India in Council may desire that evidence shall be transmitted to England, and shall send the same certificates signed by him to the British Resident for the purpose of being forwarded to the Government of Madras for submission to the Secretary of State for India.

Government to prescribe fees.

53. Fees shall be chargeable under this Regulation for,

receiving and publishing notices of marriages, issuing certificates of marriages by the Marriage Registrar and registering marriages by the same, entering protests against, or prohibitions of, the issue of marriage certificates by the said Registrar; searching register books or certificates, or duplicates or copies thereof; giving copies of entries in the same under sections 36 and 50,

Our Dewan with our sanction shall fix the amount of such fees, respectively, and may from time to time vary or remit them either generally or in special cases, as to him may seem fit.

54. Our Dewan may with our sanction make rules in regard to the disposal of the fees mentioned in section 53, the supply of register books, and the preparation and submission of returns of marriages solemnized under this Regulation.

Non-validation of marriages within prohibited degrees.

55. Nothing in this Regulation shall be deemed to validate any marriage which the personal law applicable to either of the parties forbids him or her to enter into.

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II Travancore
Regulation:

STATEMENT OF OBJECTS AND REASONS.

The Christians in Travancore have from ancient times been allowed to follow their own religious rites and forms in the matter of marriage, and a marriage so performed has been held valid by the Courts. There is, however, reason to believe that among certain classes of Native Christians, marriages are performed between persons who have not attained the age fixed by their own canonical laws, and cases have lately arisen where boys married to girls of tender years have on attaining manhood set aside the marriage on the ground that they were too young to give consent, or were not even aware that any binding marriage had taken place. There is also reason to believe that the system of recording marriages in some of the Christian communities is very imperfect. In a case that lately came before the Courts, there was no entry of the marriage in the Church Register, though it was asserted by one of the parties that a marriage had taken place. In these circumstances, a petition has been presented to His Highness' Government by certain Christians, praying that a Regulation may be passed on the lines of Act XV of 1872 of British India.

2. That Act is itself an amendment and consolidation of previous laws. It makes a distinction in the privileges accorded to ministers of different denominations of the Christian religion. While clergymen of the Established Churches of England and Scotland and of the Roman Catholic Church are empowered by virtue of their office to celebrate marriages, ministers of the several dissenting bodies of Protestants can do so only on obtaining licenses from the local Governments. A Government which itself owns an established church with a regularly constituted hierarchy may, no doubt, make this distinction between clergymen episcopally ordained and those who are not so ordained, especially as such has been always the law in British India.

3. There are also in the Empire several communities, such as Methodists, Wesleyans, Presbyterians, Lutherans, Baptists, Salvationists, whose ministers have not received episcopal ordination, while in Travancore, we have only one such body, namely, the adherents of the London Missionary Society.

4. All the Christians in Travancore, with very few exceptions, fall into some one of the following classes:—

- (1) *Roman Catholics*, all owning the Pope as their spiritual head.
- (2) *Syrian Christians*—(a) some acknowledging the Patriarch of Antioch as the head of their Church, (b) some under the Most Revd. Mar Athanasius.
- (3) *Protestants*—(a) belonging to the Established Church of England, or are (b) adherents of the London Missionary Society.

5. There may be a few Presbyterians or Methodists, but they have neither a separate place of worship nor a minister. They attend some one of the Protestant churches or chapels.

6. It is a question whether a Native State which regards all classes of Christians alike would be justified in extending to the ministers of some, exceptional privileges not accorded to others. Even in British India, I find that when Act XV of 1872 was brought into Council as a Bill, the

Vide the Honorable Mr. Hobhouse's remarks, page 192 of the Fort St. George Gazette, dated 30th July 1872.

Dissenting Ministers complained "that they find themselves unjustly placed in a humiliating position before members of their own churches by laboring under a disability which attaches to none of the Churches of England, Scotland or Rome." In British India, however, there were historical reasons for drawing this distinction, and the Bill then introduced merely maintained a state of things which was submitted to under laws of a much older date. Here, however, we are legislating for the first time, and this is a Hindu State, where the reasons for making the law uniformly applicable apply with greater force. If we made a distinction between clergymen episcopally ordained and those who are not, there would be the further difficulty of granting licenses to some of the ministers of the London Missionary Society. Nor does the necessity of drawing the distinction press here as it does in British India. We have only one class of ministers who are not episcopally ordained, viz., those of the London Missionary Society, and even the native clergymen among them are certainly as well educated and as respectable a body as the native pastors of the Church Missionary Society or the priests and cathanars of the Roman Catholic and Syrian Churches. All that we do by the proposed regulation is this—that instead of granting separate licenses to individual ministers of the London Missionary Society to perform marriages, we license all *ordained* clergymen of that Society, whether European or native, by the law itself, placing them in this respect on a footing of equality with clergymen of the Established Churches of England and Scotland and of the Roman Catholic Church.

7. In regard to ministers of the Syrian Church, I find that, though they are ~~clergymen~~ episcopally ordained, the British Act does not include them in the same category as ministers of the Roman Catholic Church and the Established Churches of England and Scotland. The omission was probably owing to the very limited number of this class of Christians in British India. But in Travancore they number several hundred thousands, and have about six or seven Bishops and many churches and priests. It would be a cause of offence to them if their ministers were treated different from Roman Catholics and others duly ordained by the Bishops. The ordained ministers of all classes of Christians, whether episcopally ordained or not, are therefore treated alike in the matter of their qualification for the celebration of marriages, and this disposes of the requirements of very nearly all the Christians in Travancore. There may still be a few who do not fall into any of the classes enumerated above, such as what are called the "Six years' people," secessionists from other Christian churches, and followers of a man named Justus Joseph, who some years ago preached that the world would come to an end in six years from that time and established a new form of worship and a system of public confession of sins. But when the six years expired and the world did not come to an end as predicted, his influence declined and his adherents reverted to their old faith, till, I believe, there are hardly any who now believe in his doctrines. If, however, there should be a few of his following or of other Christian denominations, a Marriage Registrar is provided for them. One such officer is quite sufficient for this State, considering the very small number of marriages in which he will be called upon to take a part. For many years past, the Marriage Registrar appointed by the Madras Government has not, I believe, had occasion to grant certificates or celebrate a single marriage.

8. The age for marriage is also fixed for all Native Christians alike, as well as the form of recording marriages and submitting returns which are required to be sent to the Dewan's office. When so recorded and submitted, the law will be complied with. The ministers may send the same or other returns to their Bishops or Ecclesiastical superiors. This will be over and above the law and a matter of obedience to departmental orders which the said Bishops or Superiors can always enforce.

9. These are the principal modifications made in the British Indian Act to adapt it to the circumstances of this State.

10. I will now go into the details.

11. Together with this are submitted—

- (1) a copy of the British Act XV of 1872, with corrections in red ink to adapt it for Travancore;
- (2) a copy of the proposed Travancore Regulation

Note.—The parts and sections referred to are those of the British Act.

12. Part I, Section 7.—As only one Marriage Registrar is contemplated, the provisions relating to the Senior Marriage Registrar are all omitted.

13. Section 9.—As according to the modifications made, no minister has to be licensed, all the provisions relative to such licensed ministers are struck out, including the whole of Part III.

14. Part II, Section 10.—The privilege of marrying out of authorized hours is not extended to ministers of the London Missionary Society, as they have no Bishops to authorise them to do so. But the Syrian ministers are placed in the same category as others, having Bishops over them.

15. Part IV.—Sections 29 and part of 30 are omitted—*vide* paragraph 8 of this paper. So also sections 32, 34, 35, and 36, which relate to certificates by episcopally-ordained ministers who do not belong to the Church of England or the Church of Scotland or the Church of Rome, and by licensed ministers of other denominations.

16. Section 39.—As we have only one Marriage Registrar, the provisions requiring that notice of a marriage should be sent to other Marriage Registrars is omitted, but it is provided instead that where contracting parties reside in different taluks, the notice should be sent to be posted in the office of the Magistrate of that taluk. No provision is made for cases where one of the parties resides within, and the other out of, Travancore. This State can have no power to make requisitions beyond its own limits. So also the British Act does not provide for notices being sent to Pondicherry or Goa or even Ceylon when one of the contracting parties happens to be a resident of any of those places.

17. Section 40.—Yet the party making the declaration, who is presumed to be amenable to Travancore laws, is required to state where the other party to the proposed contract resides, so that both parties may have the opportunity of making inquiries regarding any impediments to entering into the married state. If he or she makes a false declaration, that party will, of course, be subject to a charge of perjury.

18. Section 45.—One of the Judges of the High Court is a Christian; but during the vacations, he may be absent from the country, and therefore, in such absence—and in such absence only—the powers conferred on him are devolved on any Christian Judge of a Zillah or District Court, of whom we have now more than one who is a Christian. Practically, however, the whole of this part is likely to be a dead letter, unless other Christian communities than we now have, spring up in the country.

19. Part V, Section 60.—As Part III applying to marriages celebrated by ministers of religion licensed by Government has been struck out, this section is modified accordingly.

20. As in the British Act, the minimum age for marriage is made applicable only to Native Christians, as Europeans and Eurasians, I believe, never marry under that age, and all denominations of Christians in this State are required to conform to this provision. Following Hindu customs, many Native Christians, especially in the Syrian Churches, marry below that age, and, as the law now stands, there is no penalty attached to such marriage, though the canonical laws of the Church itself forbid them. The civil law as proposed does no more than follow the canonical law, and can work no hardship. The advantage secured is that, while we have no provision to declare invalid breaches of the canonical law, we now enact that such breaches shall be noticed by the civil law. So also in respect of consent of guardians to the marriage of those whom the civil law regards as minors.

21. Section 68.—Parts of this section are omitted, as we have no "transportation" in our Penal Code.

22. Section 87.—Is omitted, as we have no Consuls or Consular Agents in this State.

23. Section 88.—This section brings us to the question as to whether, independent of the draft Regulation now submitted, we should specially provide for enforcing the British Act (XV of 1872) in this State, in so far as the marriage of British subjects is concerned. The section which is copied from the British Act provides that nothing in it shall be deemed to validate any marriage which the personal law applicable to either of the parties forbids him or her to enter into. In the case of British subjects, the personal law would be Act XV of 1872 and any other enactment which may hereafter be passed by the Indian legislature. If he marries in Travancore against the provisions of that law, the marriage would not be valid in British India, and the British courts could enforce the penalties enjoined by the law when he returns to British territory. Owing to this personal law, it was necessary that the British Act should be extended in its operation to the Native States in so far as British subjects are concerned, just as the Indian Succession Act, the Divorce Act, and other British enactments are made operative against those subjects residing in Native States. And in so far as the Marriage Act is concerned, facilities for compliance with the British law have been afforded by the British Government in appointing their own Marriage Registrar in this State and issuing their own licenses to clergymen not episcopally ordained. But could it have been the intention of the Indian Legislature, that the penalties enjoined by the Act should be enforced in and by the Native State itself? Obviously the courts of this State cannot enforce British enactments, nor are the subjects of Travancore amenable to its penalties, in case a minister who is a Travancore subject marries two British subjects in this State against the provisions of the British enactment. The only way of doing this would be for the Native State to adopt the British Act in its entirety as its own regulation, and then enforce the penalties, not as offences against the British Act, but as against its own laws. But this could hardly have been the intention of the Indian Legislature. I do not know whether there is any Native State which has followed this course; most Native States have certainly not adopted it, though I believe there are British subjects residing in every one of them. And if it is intended that this particular Act is to be adopted as our own law, there are many other Acts of British India which are made applicable to British subjects in Native States which will have also to be adopted in their entirety. If however, we do adopt it, there would be this anomaly, that while under the proposed Travancore law as now submitted, it would be no offence for a minister of the London Missionary Society who is a subject of Travancore to marry two Travancore subjects without holding a license, the same man will be amenable to punishment if he married parties who are British subjects. There may, of course, be cases where the British law will reach a minister performing a marriage even in Travancore, as, for instance, when the minister is himself a British subject celebrating a marriage between British subjects. Such a man, I presume, could be punished by the British courts when he goes to British India. Or a British Marriage Registrar offending against Act XV of 1872. It is to cover such cases, I presume that the operation of the Act was extended to the Native States.

24. As the main provisions of the British Act have been adopted in the proposed Regulation, cases such as I have indicated are not likely to occur, as it is not probable that British subjects will come to Travancore expressly to get married by a native clergyman of this State without fear of the consequences that will attend them on their return to their homes, not only invalidating the marriage, but rendering them liable to the penal law.

25. There will, however, be a class of cases where the parties, though British subjects, are domiciled in the Native State, by permanently settling here without any intention of returning to British India. In respect of these, the Travancore law of marriage will, I presume, apply. Of this class, I believe, was the marriage which gave rise to the correspondence beginning with the representation made by Mr. J. H. Prince, the British Marriage Registrar in Trivandrum. In that case, the bride was a born subject of this State, and the bridegroom, though born in British territory, had settled here and for many years past had held and still holds an appointment in the service of this State. His parents came here when he was a boy, and his father also held an office here and is to this day a vakil in our courts. The family, I believe, has no dwelling or other interests in British India and no present intention of returning there. It was on this law of domicile governing marriage relations, that a case was lately decided by the High Court in

Calcutta, in which after much argument, it was ruled, that though by the laws of England, a marriage with a deceased wife's sister was not valid, that law was not applicable to the parties in the case, who were Eurasians having an Indian domicile.

26. In conclusion, it should be noted that the proposed Regulation, like the British Act, does not deal with what may be called the "substantive law of marriage." It does not define what are the impediments to marriage, or what are the prohibited degrees of consanguinity or affinity within which such alliances cannot be contracted. The parties are left to follow the directions of their religion in these respects, so long as they observe the provisions of the general Penal Code. The Christian communities, I believe, do not observe a uniform practice in this respect. While in the Roman Catholic Church marriage with a first cousin is forbidden, except upon a special license from the Bishop, there is, I think, no such prohibition in the Protestant Church.

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III Statement of

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