

ORDINARY MS.

G.O., No. 733

Dated 11 July 1896

Indexed

7. 1021  
RB. 9. 9/6

[Despatch Abstract.]

MALABAR MARRIAGE ACT, 1896.

Recording, pending the receipt of a further communication from the Legislative department, proceedings of that department communicating the assent of His Excellency the Viceroy to the---and directing the publication of the Act in the Fort St George Gazette.



## ACT OF THE GOVERNMENT OF MADRAS.

The following Act of the Governor of Fort St. George in Council received the assent of His Excellency the Governor on the 14th March 1896, and that of His Excellency the Viceroy and Governor-General on the 27th May 1896, and is hereby promulgated for general information:—

MADRAS ACT No. IV of 1896.

*An Act to provide a form of marriage for persons following the Marumakkatayam or the Aliyasantana Law.*

**WHEREAS** it is expedient to enable persons following the Marumakkatayam or the Aliyasantana Law of Inheritance to contract marriages which shall be recognized by courts of law as legal marriages and to provide for the issue of such marriages; It is hereby enacted as follows:—

1. This Act may be called "the Malabar Marriage Act, 1896," and it shall be applicable to all Hindus domiciled in the Presidency of Madras following the Marumakkatayam or the Aliyasantana Law of Inheritance.

2. In this Act unless there is something repugnant in the subject or context:—  
"Sambandham" means an alliance between a man and a woman by reason of which they, in accordance with the custom of the community to which they belong or either of them belongs, cohabit or intend to cohabit as husband and wife.

"Children" means sons and daughters of parents whose Sambandham has been registered as a marriage under this Act, whether born before or after such registration; but shall not include step-sons or step-daughters. In the case of any one whose personal law permits adoption, "children" shall include adopted sons and daughters.

"Marriage"

[PRICE, 1 anna 6 pices.]

| FURTHER PAPER |     |     |      |     |
|---------------|-----|-----|------|-----|
| No.           | ... | ... | S.D. | ... |
| 2684          | ... | ... | ...  | ... |
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செப்பனிருபவர் பபயர்  
செப்பனிருவதற்காக எடுத்தல்,  
கொள்ளப்பட்ட நாள் 7/12/96  
செப்பனிரு முடிந்த நாள் 7/12/96  
செப்பனிருபவர் பபயர்  
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MADRAS ACT No. IV of 1896.

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MADRAS ACT No. IV of 1896.

Marriage.

"Marriage" with its grammatical variations and cognate expressions means, except in section 3, clause (a), the last word of section 3 clause (c), section 15 clause (a), and the last word of section 15, clause (c), a Sambandham registered under the provisions of this Act.

Tarwad.

"Tarwad" means and includes all the members of a joint family with community of property governed by the Marumakkatayam or the Aliyasantana Law of Inheritance.

Conditions subject to which a Sambandham may be registered as a marriage.

3. A Sambandham between Hindus both or either of whom follow the Marumakkatayam or the Aliyasantana Law of Inheritance may be registered under this Act as hereinafter provided subject to the following conditions:—

(a) Neither party must be subject to a personal law of marriage according to which he or she, as the case may be, cannot validly contract a marriage with the other party.

(b) The relation of the parties must not be such in respect of consanguinity or affinity that a Sambandham between them is prohibited by any custom or usage applicable to the community to which they belong or either of them belongs.

(c) Neither party must at the date of the notice under section 5 have a husband or wife living whose Sambandham with her or him has been registered under this Act and which marriage is not null and void under section 15 or with whom she or he is otherwise legally married.

(d) The parties must not belong to different communities between the members of which, according to the custom or usage applicable to either community, cohabitation is prohibited.

(e) The Sambandham must have been formed in accordance with the customary ceremonies, if any, prevailing in the community to which they belong or either of them belongs.

(f) A party to a Sambandham who is a minor must have obtained the consent of his or her legal guardian to the registration of the Sambandham as a marriage.

Appointment of Marriage Registrars.

4. The Local Government may appoint one or more Registrars under this Act either by name or as holding any office for the time being for any portion of the territory subject to its administration. The officer so appointed shall be called "Registrar of Marriages under the Madras Marriage Act, 1896," and is hereinafter referred to as the "Registrar." The portion of territory for which any such officer is appointed shall be deemed his district.

Registration.

Notice of intention to register a Sambandham to be given to the Registrar.

5. When it is intended to register a Sambandham as a marriage under this Act, both or either of the parties shall give notice in the form (A) to this Act annexed to the Registrar within whose local jurisdiction either of the parties resided at the time when the Sambandham was formed or within whose local jurisdiction it is intended to form it.

Registrar to file such notices and to maintain the "Marriage Notice Book."

6. The 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 fairly into a book to be for that purpose supplied to him by the Local Government and to be called "The Marriage Notice Book." Such book shall be open at all reasonable times without fee to all persons desirous of inspecting the same.

7. (1) Every

7. (1) Every Registrar shall on receiving any such notice forthwith cause a copy thereof to be affixed to a Notice Board in some conspicuous place in his office; and shall then serve or cause to be served at the expense of the party giving such notice a copy thereof on the other party to the Sambandham, if both parties have not joined in giving such notice, on the guardians, if any, of the parties thereto, and on the managing members of the Tarwads or families to which they respectively belong.

Copies of notice to be served on interested parties.

(2) If at any time before registration is effected the party by whom notice was given under section 5 signifies in writing to the Registrar that he withdraws such notice the Registrar shall, thereupon, at the expense of the party withdrawing the same, communicate the fact of withdrawal to the persons mentioned in sub-section (1).

Withdrawal of notice.

8. (1) Any person entitled to receive a notice under sub-section (1) of section 7, any member of the Tarwad or family of either party or any person having any expectancy of succession to the property, if any, of such Tarwad or family of either party may within one month from the date of such service of notice object to such registration on the ground that such Sambandham or registration is in contravention of the conditions prescribed in section 3.

Persons entitled to object to registration of a Sambandham.

Grounds on which objection may be taken.

(2) Such objection shall be in writing signed by the person objecting and shall be presented by the objector or his duly authorized agent to the Registrar who shall file the same in his office. A copy of such objections shall at the expense of the objector be served on the party by whom notice was given under section 5.

Procedure of Registrar if objection is taken.

(3) On receipt of a notice of objection under section 7, the Registrar shall not proceed to register the Sambandham as a marriage until the expiry of four months from the receipt of such notice unless such notice is in the meantime withdrawn.

(4) If no such objection be made under this section and if neither party withdraws the notice under section 7, sub-section (2), such Sambandham may at any time, not being less than one month nor more than six months from the service of the notice under section 7, be registered as a marriage.

Procedure if no objection is taken.

9. Any person objecting to the intended registration of a Sambandham may, after complying with the provisions of section 8, file a suit in a competent civil court for a declaratory decree declaring that such registration would contravene one or more of the conditions prescribed in section 3.

Person objecting may file a suit in Civil Court.

10. The Judge before whom such suit is instituted shall thereupon give the person instituting the same a certificate to the effect that such suit has been filed. If such certificate be lodged with the Registrar within four months from the receipt of notice of objection, the Sambandham shall not be registered as a marriage under this Act till the decision of such court has been given and the period allowed by law for appeals from such decision has elapsed; or, if there be an appeal from such decision, till the decision of the Appellate Court has been given or such suit or appeal has been withdrawn or dismissed for default.

Registration to be delayed pending final disposal of suit, if certificate of institution is lodged with Registrar.

If such certificate be not lodged within the period prescribed in the last preceding paragraph, or if the suit by the objector be finally dismissed or withdrawn the Sambandham may be registered as a marriage.

11. Before a Sambandham is registered as a marriage, the parties thereto and three witnesses shall, in the presence of the Registrar, sign a declaration in the form (B) to this Act annexed. If either party is a minor, the declaration shall also be

Declaration to be signed before registration.

be signed by his or her legal guardian, and in every case it shall be countersigned by the Registrar.

Registrar to enter certificate of marriage in "The Marriage Certificate Book."

12. When such declaration has been made, the Registrar shall enter a certificate of marriage in a book to be for that purpose supplied to him by the Local Government and to be called "The Marriage Certificate Book" in the form (C) to this Act annexed and such certificate shall be signed by the Registrar and countersigned by the parties, three witnesses and, if either party is a minor, by his or her guardian also.

Registration at a private residence.

13. Subject to such rules as may be prescribed in that behalf by the Local Government, the Registrar may attend at the private residence of the parties or of the guardian of a party who is a minor for the purpose of such declaration and marriage certificate book being signed by them in his presence.

Fees payable to Registrar.

14. The Local Government shall prescribe the fees payable for the duties to be discharged by the Registrar under this Act.

The Registrar may demand payment of any such fee before the registration of the Sambandham or performance of any other duty in respect of which it is payable.

The said marriage certificate book shall, at all reasonable times, be open for inspection. The Registrar shall furnish certified extracts from the marriage certificate book upon payment of the fee prescribed by the Local Government therefor and such extracts shall be admissible as evidence of the due registration as marriage of the Sambandham therein mentioned.

Marriage when null and void.

15. (1) A marriage shall be null and void only—

(a) If either party is subject to a personal law of marriage according to which he or she as the case may be cannot validly contract a marriage with the other.

(b) If a relationship can be traced between the parties through some common ancestor who stands to each of them in a nearer relationship than that of great-great grandfather or great-great grandmother, and by reason of such relationship a Sambandham between them is prohibited by any custom or usage applicable to the community to which they belong or either of them belongs.

(c) If either party has a husband or wife living whose Sambandham with such party has been registered as a marriage under this Act and such marriage is not null and void under clauses (a) and (b) of sub-section (1) or with whom she or he has been otherwise legally married.

(2) A marriage shall not be invalid on the ground that the Sambandham or registration contravenes any of the grounds mentioned in section 3 other than those specified in clauses (a), (b) and (c) of sub-section (1).

Marriage not invalid by reason of irregularity in procedure.

16. (1) No marriage under this Act shall be held invalid by reason of any irregularity in the giving of notice under section 5 or of failure to give notice under section 7 to any person entitled to receive it, or by reason of any irregularity in the publication or service of the copy of such notice or in complying with the provisions of sections 5, 11 and 12.

(2) But when any person entitled to be served with copy of notice under section 7 has not been so served, it shall be competent to him to institute a suit within three months from the date of registration of the Sambandham for cancellation of such registration on all or any of the grounds mentioned in section 8.

Maintenance.

### Maintenance.

17. (1) The wife and children shall be entitled to be maintained by the husband or father as the case may be. In a civil suit by the wife or children for maintenance, it shall be open to the husband or father to plead all defences open in such a suit to a Hindu governed by the ordinary Hindu law.

(2) Nothing herein contained shall affect the right of the wife and children to be maintained by the Tarwad.

Maintenance of wife and children.

### Guardianship.

18. When a man's wife and children are minors maintained by him or his Tarwad, he shall, subject to the provision of the "Guardians and Wards Act, 1890," be the guardian of his wife when she is over fourteen years of age and of his children, provided that such guardianship shall not extend to the right and interest of his wife or children in the property of the Tarwad to which his wife and children belong.

Guardianship of minor wife and children.

### Divorce.

19. A husband and wife or either of them may present a petition for dissolution of the marriage in the court of the District Munsif within the local limits of whose jurisdiction either the husband or wife or in cases in which one of them alone is petitioner the respondent has a permanent dwelling or actually and voluntarily resides or carries on business or personally works for gain at the time when the petition is presented.

Petition for dissolution of marriage.

20. A copy of such application when made by one party alone shall be served on the other party to the marriage at the expense of the petitioner.

Notice to be given to other party, if petition is not joint.

21. Six months after the presentation of a petition by both parties or in cases where the application is made by one party alone six months after the service of notice under section 20, the court shall, on the motion of the applicants or applicant, declare in writing the marriage dissolved; provided that such motion is made within seven days after the expiration of the six months or if the court is closed then that such motion is made on the day on which the court is re-opened. Upon such declaration the marriage shall be deemed dissolved from the date of such declaration; and no declaration made under this section shall be held invalid by reason of any irregularity in complying with the provisions of sections 19, 20 and 21. If no such motion is made within the time hereinbefore prescribed the court shall dismiss the petition.

Court to declare marriage dissolved on motion made within a specified period.

22. Where a marriage has been dissolved without the consent of the wife, she shall, notwithstanding such dissolution, be entitled to claim maintenance from the husband so long as she remains a Hindu, continues chaste, and does not form a Sambandham or contract a marriage provided that she was not guilty of adultery uncondoned before such dissolution.

Maintenance when claimable by divorced wife.

23. Where a man following the Marumakkatayam or the Aliyasantana Law of Inheritance dies intestate in respect of his self-acquired or separate property or any portion thereof, one-half of such property or in the event of no member of his Tarwad surviving him the whole of such property shall devolve on his widow if he leaves no children, or on his children in equal shares if he leaves no widow, or on his widow and children in equal shares if he leaves both widow and children.

Succession to separate property of a married man dying intestate.

24. Where

Succession to separate property of a married woman dying intestate.

Service of notices under this Act.

24. Where a woman following the Marumakkattayam or the Aliyasatana Law of Inheritance dies intestate in respect of her separate or self-acquired property or any portion thereof one-half of such property shall devolve in equal shares upon her children and, in the event of no member of her Tarwad surviving her, the whole of such property shall devolve on her husband.

25. Copies of notices under sub-section (1) of section 7, notice of withdrawal under sub-section (2) of section 7, copies of objections under sub-section (2) of section 8, shall be served through such officer or court as the Local Government may direct in this behalf, and the law in force for the time being for the service of summons on a defendant in a civil suit shall apply to such service.

FORM (A).

SECTION 5.

Notice of Marriage.

To \_\_\_\_\_, a Registrar of Marriages under Act \_\_\_\_\_ for the District of \_\_\_\_\_

I hereby give you notice that I intend registering as a marriage under Act \_\_\_\_\_ Sambandham between me and the other party herein named and described:

| Name. | Names of tarwad and of the managing member thereof. | Names of the legal guardians (if any) | Rank or profession or calling | Residence | Age | State. | The place in which the Sambandham was formed or is intended to be formed. |
|-------|-----------------------------------------------------|---------------------------------------|-------------------------------|-----------|-----|--------|---------------------------------------------------------------------------|
| A.B.  |                                                     |                                       |                               |           |     |        |                                                                           |
| C.D.  |                                                     |                                       |                               |           |     |        |                                                                           |

Witness my hand, this \_\_\_\_\_ day of \_\_\_\_\_ 189\_\_\_\_  
Signed \_\_\_\_\_

FORM (B).

SECTION 11.

Declaration to be made separately by the Bridegroom and by the Bride.

I, A.B., hereby declare as follows:—

- (1) I am a Hindu governed by the \_\_\_\_\_ Law of Inheritance
- (2) I am \_\_\_\_\_ years of age.
- (3) The registration of my Sambandham with the conditions prescribed in section 3 of Act \_\_\_\_\_

will not contravene any \_\_\_\_\_  
(4) I consent

(4) I consent to the registration as a marriage of the Sambandham between me and J.D. [or, if the party making the declaration is a minor, "(4) my legal guardian consents to the registration as a marriage of the Sambandham between me and C.D."].

(5) I am aware that, if any statement in this declaration is false and if in making such statement I either know or believe it to be false or do not believe it to be true, I am liable to imprisonment and fine.

(Signed) A.B. (the Bridegroom or Bride).  
( " ) E.F. (Guardian, if any).  
(Countersigned) M.N.,  
Registrar of Marriages under Act  
for the District of \_\_\_\_\_  
(Signed) G.H. }  
( " ) I.J. } Three witnesses.  
( " ) K.L. }

FORM (C).

SECTION 12.

Marriage Certificate.

I, E.F., certify that, on the \_\_\_\_\_ of \_\_\_\_\_ 189\_\_\_\_, appeared before me A.B. and C.D., each of whom in my presence and in the presence of three witnesses, whose names are signed hereunder, made the declarations required by Act \_\_\_\_\_ and that the Sambandham between them was registered as a marriage under the said Act in my presence.

(Signed) E.F.,  
Registrar of Marriages under Act  
for the District of \_\_\_\_\_  
(Signed) A.B.  
( " ) C.D.  
( " ) M.N. (Guardian, if any).  
(Signed) G.H. }  
( " ) I.J. } Three witnesses.  
( " ) K.L. }

Dated the \_\_\_\_\_ day of \_\_\_\_\_ 189\_\_\_\_

(By order.)

LIONEL DAVIDSON,  
Secretary to the Council.

# NOTES.

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| 13     | G. |
| Dept.  |    |
| Encls. |    |
| 7      |    |

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D.O. No. 400 1279 June 9/96

Ottapalam  
Malabar

Dear Sir

CHIEF SECRETARY  
20 JUN. 1896  
GOVERNMENT OF MADRAS

Under the  
Malabar Marriage Act Registrars  
have now to be appointed to  
register marriages.

I venture to suggest that the  
Sub Registrars and Registrars of  
the Districts of Malabar and  
Canara and the Registrar of  
Madras be appointed Registrars  
for the present.

It may perhaps be advisable  
to appoint more: the greater the  
number of Registrars, the greater  
the number of marriages that

7  
will be registered. And it will  
be necessary to afford all  
reasonable facilities for reg. to

Yours sincerely  
C. Sankaranarayanan

The Hon. J. F. Price.

~~Document No.~~ 450

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733

DEPARTMENT.

From

*The Honorable C. Sankaran  
Nair R.O. B.  
Malabar*

No.

Dated 19 June 1896

Received 20 " " "

Registered 22 " " "

Enclosures

SUBJECT.

*Suggesting that Sudder Registrar  
of the District  
of Malabar and  
Registrar of Madras  
appointed to register marriages*

St. George, 24

733

OFFICE NOTE No.

9

From

~~Under~~  
THE SECRETARY,

Legislative Department

To

Chief  
THE SECRETARY,

DEPARTMENT.

Publi

In forwarding the accomp.  
of the Malabar Marriage Act, 1896,  
undersigned has the honour to state  
the Governor General's assent thereto  
was published in a supplement to the  
Fort St. George Gazette dated 16th Ju  
1896, and that the Act has accordingly  
come into force with effect from that  
date in virtue of the provisions of  
section 40 of the Indian Council's Act  
1861.

2 It will be necessary to issue early  
orders in the Public Department (a) ap-  
pointing Marriage Registrars under  
section 4 of the Malabar Marriage Act,  
(b) directing the supply to such officers  
of "Marriage Notice Books" (section 6)  
and "Marriage Certificate Books"  
(section 12) (c) prescribing the fees pay-  
able under section 14, and (d) regulating  
the channel through which notices issued  
under the Act shall be served.

It will further be necessary  
to consider whether any rules should be

From

6. Not.  
From the Under Secretary  
Legislative Dept.

No.

Dated 24 }  
Received 24 } June 9 6  
Registered 24 }

Enclosures — one copy of

SUBJECT.

Stating that the Governor-General's Assent to the Malabar marriage Act was published in the Fort St. George Gazette 16-96 and requesting early orders appointing marriage registrars etc.

This is all right, but I don't see the need of telegraphing —

I should also wait until my note of yesterday on Mr. Benson's letter of we had been considered. Will be useful to start thinking of the Act if it really (as seems likely) has a flaw in it which will nullify all action taken under it.

RS  
25/6/96

regarding appl. Marriage Reg. under section 4 Madras Act IV of 1896. <sup>Appl. as such of</sup> Has been suggested that Registrars Sub. Registrars of Malabar and S. Canara districts and Registrar Madras be suggested. If you concur submit necessary minutes appl. soon also arrange with Supdt. Genl. for supply of <sup>forms approved</sup> forms of marriage notice vide books section 6 and certified books section 12 and submit proposals as regards fees payable under section 14 and channel through which notices issued under Act shall be sent and also suggestions as regards rules under section 14.

CS.  
25.6.96

RS  
25/6/96

11/733  
GOVERNMENT OF MADRAS.

LEGISLATIVE DEPARTMENT.

READ—the following paper:—

From S. HARVEY JAMES, Esq., Secretary to the Government of India, Legislative Department, to the Chief Secretary to the Government of Madras, dated Simla, the 30th May 1896, No. 1257.

I am directed to return herewith, with the assent of His Excellency the Viceroy and Governor-General signified thereon, To provide a form of marriage for persons following the Marumakkatayam or the Aliyasantana Law. the authentic copy of the law noted on the margin, which was received with your letter, No. 43, dated the 16th April 1896, to the address of the Secretary to the Government of India in the Home Department.

ORDER—No. 57, Legislative, dated 16th June 1896.

The assent of His Excellency the Viceroy and Governor-General to the Malabar Marriage Act, 1896, will be communicated to the Public Department, and the Act will be published in the *Fort St. George Gazette*.

2. Copies will also be sent to the Malayalam and Canarese Translators to Government, who will furnish translations for publication in the Gazette.

(True Extract.)

*Wm. A. Raitt*  
22/6  
for Chief Secretary.

To the Public Department. ✓ with copy of Act.  
" Superintendent, Government Press.  
" Malayalam Translator to Government.  
" Canarese " "

End. A. Raitt.

LEGISLATIVE.

C. 2043 and 2044

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733

L.O. No. 733.8 11 July 1896

Recorded, pending  
the receipt of a further  
comm. from the Legation  
dept.

Issued

Recd. 15 June 96  
Regd 26 June 96

Encl. 1

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10.7.6.

11/7/96

G.O., No. 57, 16th June 1896.

To the Legation dept. 18/7

JUNE.

Malabar Marriage Act, 1896.

Ordering to the Public Department the  
Excellency the Viceroy and Gover-  
nor to the —, and directing publication of  
the Act in the Fort St. George Gazette in English  
and in the Malayalam and Canarese vernaculars.

WITH ORDER