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PART VI.

BILLS OF THE GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 31st March 1871, and was referred to a Select Committee with instructions to make their report thereon in two months:—

Bill No. 14 of 1871.

A Bill to amend the Railway Act.

WHEREAS it is expedient further to amend Act No. XVIII. of 1854 (*relating to Railways in India*); It is hereby enacted as follows:—

Preamble. 1. This Act may be called "The Railway Act Amendment Act, 1871":

Local extent. It extends to the whole of British India:

This section and sections two, four, eight, and nine shall come into force on the passing hereof, and the rest of this Act shall come into force in respect of any Railway or part of a Railway when rules have been made under section four for such Railway or part thereof;

And this Act shall be read with, and taken as part of, the said Act No.

This Act to be read with XVIII. of 1854 (*relating to Railways in India*) and other Acts. Act No. XIII. of 1870 (*to apply the provisions of Act No. XVIII. of 1854 to Railways belonging to, or worked by, Government*).

Interpretation-clause. 2. In this Act—

"Railway" includes all lines of rail, sidings, or branches, worked over by locomotive engines for the purposes of, or in connexion with, a Railway, also all stations, offices, warehouses, fixed machinery and other works constructed, or being constructed for the purposes of, or in connexion with, a Railway:

"Cattle" means also elephants, camels, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lamps, goats, and kids.

3. Sections nineteen, twenty, and twenty-one of the said Act No. XVIII. of 1854 are hereby repealed.

4. The Governor General in Council, or the Local Government with the sanction of the Governor General in Council, shall make rules, and may in like manner from time to time vary the same, for the provision of fences for any Railway or any part thereof, and for roads constructed in connexion therewith, and of gates or bars at places where any Railway crosses a road on the level, and for the employment of persons to open and shut such gates or bars.

5. The expression "public road" in The Cattle Trespass Act, 1871, sections eleven and twenty-six, shall be deemed to include a Railway, whether or not it be fenced.

6. The owner or person in charge of any cattle trespassing or straying within fences of a Railway duly provided with fences and gates or bars in accordance with the rules applicable to such Railway shall, on conviction before a Magistrate, be liable to a fine not exceeding ten rupees for each animal, in addition to any amount that may be recovered under the Cattle Trespass Act.

7. Whenever cattle are wilfully driven or permitted to go upon or across any Railway duly provided with fences and gates or bars in accordance with the rules applicable to such Railway, otherwise than for the purpose of crossing the Railway at a gate or bar provided as aforesaid, the person in charge of such cattle, or, if he cannot be identified, then the owner of the said cattle, shall, on conviction before a Magistrate, be liable to a fine not exceeding fifty rupees for each animal, in addition to any amount that may be recovered under the Cattle Trespass Act.

8. The Governor General in Council, or the Local Government with the sanction of the Governor General in Council, may from time to time authorize subsidiary rules to be made—

in the case of a Railway worked by a Company or person,—by such Company or person,

and in the case of a Railway worked by Government,—by the Local Government, or an officer specially appointed in this behalf by the Local Government.

Every subsidiary rule so made shall, if consistent with the regulations made and allowed under section twenty-nine of the said Act No. XVIII. of 1854, have the same force as such regulations.

9. The Governor General in Council may from

Power to declare authority by which powers of Local Government are to be exercised in case of Railways. time to time, by notification in the *Gazette of India*, empower any authority or concurrent authorities to exercise the powers of the Local Government under this Act and the Acts mentioned in section one, in substitution for, or concurrently with, such Local Government, and may specify the local limits within which such powers may be so exercised.

STATEMENT OF OBJECTS AND REASONS.

The necessity for amending Act No. XVIII. of 1854, relating to Railways in India, has long been recognized, and a Bill dealing with the subject in

a comprehensive manner has long been before the Council. But objections have been taken to the form of the Bill, which are admitted to have force, and the Government of India considers that the whole question must be reconsidered. Hence a sensible delay must arise before the required amendment of the law is effected.

Certain matters, however, have from time to time come before the Government, which it is not expedient to leave unprovided for till the new law can be passed, and the present Bill is introduced to meet those cases for which immediate legislation seems necessary.

The principal point is the modification of the law as to fencing and cattle trespass, which in some respects too strict and in others too lax.

It is further necessary to correct defects in the definitions of some of the terms used in the old law.

Also, some extension is needed to the power of making regulations for the guidance of Railway servants.

(Signed) R. STRACHEY.

The 20th March 1871.

WHITLEY STOKES,
Secretary to the Government of India.

The following Report of a Select Committee, together with the Bill as settled by them, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 27th March 1871 :—

We, the undersigned, the Members of the Select Committee of the Council of the Governor General

of India for the purpose making Laws and Regulations to which the Bill to legalize marriages between certain Natives of India not professing the Christian Religion was referred, have the honour to report that we have considered the Bill and the papers noted in the margin.

Memorial from the Theists, known as Bráhmās of Calcutta, dated 11th September 1868.

From President of Pársi community of Bombay, dated 11th November 1868.

Memorial from certain members of the Hindú community of Bombay, dated 13th November 1868.

.. from Adi Bráhma Samája of Calcutta, dated 26th November 1868.

Endorsement, Home Department, No. 499, dated 1st December 1868, forwarding memorial from British Indian Association, dated 23rd November 1868.

.. Home Department, No. 500, dated 1st December 1868, forwarding letter from Government of Bengal, No. 5172, dated 29th October 1868, and enclosures.

Memorial from the Pársis of Bombay, dated 15th December 1868.

Endorsement, Home Department, No. 50, dated 21st January 1869, forwarding memorial from the Head of the Pársi community, Surat, dated 4th January 1869.

.. Home Department, No. 51, dated 21st January 1869, forwarding memorial of certain Pársi inhabitants of Bombay, dated 9th November 1868.

.. Home Department, No. 52, dated 21st January 1869, forwarding memorial from certain landholders, North-Western Provinces, Allahabad, dated 16th December 1868.

Memorial from members of Allahabad Institute, dated 2nd December 1868.

Endorsement, Home Department, No. 97, dated 9th February 1869, forwarding letter from Secretary, Allahabad Bráhma Samája, No. 43, dated 25th January 1869, and enclosures.

.. Home Department, No. 109, dated 10th February 1869, forwarding despatch from Secretary of State for India, No. 41, dated 8th December 1868.

Minute by Honourable H. S. Maine, dated 4th September 1868.

Memorial from Bombay Association, dated 2nd January 1869.

From Officiating Under Secretary to Government of Bengal, No. 560, dated 8th February 1869.

Memorial from Hindús of Bombay, dated 18th February 1869.

Minute by Honourable Sir Dig Bijay Singh, dated 9th March 1869, and enclosures.

From Chief Commissioner of Coorg, No. 113-2, dated 12th May 1869, and enclosures.

.. Secretary to Chief Commissioner, British Burma, No. 395, dated 2nd May 1869.

.. Officiating 1st Assistant Resident, Hyderabad, No. 202, dated 1st July 1869, and enclosures.

.. Secretary to Government, North-Western Provinces, No. 1257a, dated 23rd August 1869, and enclosures.

.. Secretary to Government, North-Western Provinces, No. 1527A, dated 9th September 1869, and enclosures.

Opinion by Honourable J. B. Norton, Advocate General, Madras, dated 11th August 1869.

It is the unanimous opinion of the Local Governments that the Bill as introduced should not be passed. They all, on the other hand, agree that the Bill would be unobjectionable if confined to the Bráhma Samája, for whose benefit it was originally designed. We have, accordingly, narrowed its operation to the members of that sect.

We have provided that the parties shall, before the solemnization of the marriage, sign a declaration that they are members of the Bráhma

From Officiating Secretary to Chief Commissioner, Oudh, No. 4279, dated 25th September 1869.
 From Secretary to Government, Madras, No. 1480, dated 29th October 1869, and enclosures.
 " " to Chief Commissioner of Oudh, No. 5237, dated 20th November 1869, and enclosures.
 " " to Government, Panjáb, No. 1575, dated 10th November 1869, and enclosures.
 " " to Government North-Western Provinces, No. 355A, dated 18th January 1870, and enclosure.
 Despatch from Secretary of State, No. 20, dated 6th May 1869.
 From Acting Under Secretary to Government of Bombay, No. 2242, dated 25th July 1870, and enclosures.
 Endorsement, Home Department, No. 507, dated 9th December 1870, forwarding letter from Acting Secretary to Government of Bombay, No. 3929, dated 15th October 1870, and enclosures.
 From Bábu Keshab Chandra Sen, dated 19th December 1870, forwarding Opinion of the Advocate General, Calcutta.

Samája, that they are unmarried, that the bridegroom has completed his age of 18 years and the bride her age of 14 years, that they are not related to each other within the degrees of consanguinity or affinity prohibited by the custom which would have regulated a marriage between them if the Act had not been passed, and (when the wife has not completed her age of

eighteen) that the consent of her father or guardian has been given to the marriage.

We have provided that the marriage fee shall be payable immediately after the solemnization, and may, in case of non-payment, be recovered as if it were a fine.

In some cases, it appears that, in marriages heretofore solemnized between Bráhmás, the rule as to the age of the parties has not been strictly observed. In section (9) legalizing prior marriages, we have, accordingly, omitted the reference to clause 3 of section 2.

We have struck out the table of prohibited degrees, which, however well adapted to Bengal, was unsuited for other parts of India.

We recommend that the Bill thus altered be passed.

J. F. STEPHEN.

F. R. COCKERELL.

The 27th March 1871.

AMENDED BILL.

A Bill to legalize Marriages between members of the Bráhma Samája.

WHEREAS it is expedient to legalize marriages between the members of the sect called the Bráhma Samája when solemnized in accordance with the provisions of this Act; It is hereby enacted as follows:—

1. This Act may be cited as "The Bráhma Marriage Act, 1871."
 Short title. Marriage Act, 1871."
- Local extent. It extends to the whole of British India, and it shall come into force on the passing thereof.
- Commencement.
- Conditions of validity of Bráhma marriages. 2. Every marriage between members of the said sect shall be valid—

(1). If it is solemnized in the presence of the Registrar hereinafter mentioned and of at least three credible witnesses, in whose hearing each of the parties makes the following declarations:—

"I, A B, am a member of the Bráhma Samája."

"I, A B, declare in the presence of Almighty God that I take thee, C D, to be my lawful wedded wife [or husband]," or words to that effect:

(2). If the parties are unmarried:

(3). If the husband has completed his age of eighteen years, and the wife has completed her age of fourteen years:

(4). If the parties are not related to each other in any of the degrees of consanguinity or affinity prohibited by the custom which would have regulated marriages between them if this Act had not been passed; and

(5). If, in case the wife has not completed her age of eighteen years, the consent of her father or guardian has previously been given to the marriage.

Explanation:—A widower and a widow shall be deemed to be "unmarried" within the meaning of this section.

3. It shall not be necessary for the Registrar to satisfy himself of the truth of the facts referred to in the second and following clauses of section two. But immediately before the solemnization of the marriage, a declaration in the form contained in the first schedule hereto annexed shall be signed by the following persons:—

(1) the parties to the intended marriage, and if the woman has not completed her age of eighteen years, her father or guardian, and

(2) three witnesses, and shall be countersigned by the Registrar.

4. Every such marriage hereafter solemnized shall, as soon as may be after the solemnization thereof, be certified by such person as the Local Government from time to time appoints in this behalf for the District in which the marriage is solemnized. He shall be called the Registrar of Bráhma Marriages, and he may be the Registrar appointed under the Indian Registration Act.

Such certificate shall be in the form contained in the second schedule hereto annexed, and shall be signed by the Registrar and three witnesses present at the marriage.

5. The husband shall pay a fee of two rupees to the Registrar, if the marriage is solemnized in his office, and if it is solemnized elsewhere within his District, such fee as the Local Government prescribes.

Every such fee shall be payable immediately after the solemnization of the marriage, and may, in case of non-payment, be recovered as if it were a fine imposed by the Magistrate of the District.

6. On payment or recovery of the fee the Registrar shall enter the declaration and certificate in a register to be kept by him for the purpose.

Such register shall at all reasonable times be open for inspection, and shall be admissible as evidence of the truth of the statements therein contained. Certified extracts therefrom shall on application be given by the Registrar on the payment to him by the applicant of two rupees for each such extract.

7. Every person required to subscribe or attest such declaration or certificate who wilfully neglects or omits so to do, shall, on conviction of such neglect or omission, be punished by a fine not exceeding one hundred rupees.

8. Every person making, signing, or attesting any such declaration or certificate containing a statement which is false, and which he either knows or believes to be false, or does not believe to be true, shall be deemed guilty of the offence described in section one hundred and ninety-nine of the Indian Penal Code.

9. Every person married under this Act who, during the lifetime of his or her wife or husband, contracts any marriage shall be subject to the penalties provided in sections four hundred and ninety-four and four hundred and ninety-five of the Indian Penal Code for the offence of marrying again during the lifetime of a husband or wife.

10. Every member of the said sect who, before the passing of this Act, has gone through any ceremony with the intent of thereby contracting marriage with any other person who, at the time of the said ceremony, was a member of the same sect, shall be deemed to have been married under this Act, if the marriage was solemnized in the presence of at least three witnesses, and if the conditions specified in section two, clauses two, four, and five, were complied with in the case of such marriage.

FIRST SCHEDULE.

(See section 3).

Declaration.

We, *A B* [the bridegroom] and *C D* [the bride], hereby declare as follows:—

1. We, the said *A B* and *C D*, are members of the Bráhma Samája:

2. Neither of us is married:

3. I, *A B*, have completed my age of eighteen years, and I, *C D*, have completed my age of fourteen years:

4. We believe that we are not related to each other in any of the degrees of consanguinity or affinity prohibited by the custom which would have regulated a marriage between us if the Bráhma Marriage Act had not been passed.

[And where the bride has not completed her age of eighteen years:]

5. The consent of *M N*—the father [or guardian] of me, the said *C D*, has been given to a marriage between me, the said *C D*, and the said *A B*, and such consent has not been revoked.

6. We are aware that, if any statement in this declaration is false, and if the person making such statement either knows or believes it to be false, or does not believe it to be true, he or she is liable to imprisonment and also to fine.

(Signed) *A B* (the bridegroom).
C D (the bride).

Signed in our presence by the above named *A B* and *C D*:

G H,
I J, } (three witnesses).
K L, }

[And when the bride has not completed her age of eighteen years:]

M N, the father [or guardian] of the above-named *C D*.

(Countersigned) *E F*,

Registrar of Bráhma Marriages for the District of

Dated the day of 18 .

SECOND SCHEDULE.

(See section 4.)

Registrar's Certificate.

I, *E F*, certify that on the of 18 appeared before me *A B* and *C D*, each of whom, in my presence and in the presence of three credible witnesses, whose names are signed hereunder, made the declarations required by the second section of the Bráhma Marriage Act, 1871, and I further certify that the said *A B* and *C D* are lawfully wedded husband and wife.

(Signed) *E F*,
Registrar of Bráhma Marriages
for the District of

G H,
I J, } (three witnesses).
K L, }

Dated the day of 18 .

WHITLEY STOKES,
Secretary to the Government of India.