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PART VI.

BILLS OF THE GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Report of a Select Committee, together with the Bill as re-settled by them, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 20th June 1872:

We, the undersigned, the members of the Select Committee, to which the Bill to consolidate and amend the law relating to the solemnization in India of marriages of persons professing the Christian Religion was re-committed, have the honour to present this final report.

We have considered the papers noted in the margin, received after the presentation of the first enclosures.

The Bill, as formerly settled and as published in the *Gazette of India*, applied (so far as regards Native States) to Christian *British* subjects of Her Majesty. As there are many Native Christian subjects of Her Majesty in Native States, for whom it is desirable to provide, we have struck out the word 'British' in section one, and in section nine we have authorised the Governor General in Council to license persons to grant certificates of marriage to such Native Christians. Power to do this is conferred on the Governor General in Council by Statute 32 & 33 Vic., c. 98, s. 1.

We have provided (section two) that the repeals to be effected by the proposed Act shall not invalidate any marriage confirmed by a repealed enactment (*c. g.* 14 & 15 Vic., c. 40, s. 24), and that appointments made and licenses granted under any repealed Act shall be deemed to be respectively made and granted under the proposed Act.

Section eleven forbids a marriage to be solemnized in any place other than a church, where there is a church within five miles of such place. We have provided that this distance shall be measured, not as the crow flies, but by the shortest road.

Sections seventeen and forty-one provide that ministers and marriage-registrars shall not issue certificates if any lawful impediment, according to the law of England, be shown to their satisfaction. We have struck out the words in italics.

In sections twenty-five and fifty-one we have provided that the two witnesses there mentioned shall be exclusive of the person solemnizing the marriage.

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Section sixty contains a clause declaring that, in the case of marriage between Native Christians, the parties shall not stand to each other within the prohibited degrees of affinity. In the case of Natives there is no rule as to these degrees applicable throughout India. We have therefore struck out this clause and replaced it by a general provision that nothing in the Act shall validate any marriage forbidden by the personal law to which either of the parties is subject.

We have extended section sixty-six (as forbidding the issue of a certificate by falsely representing oneself to be a person whose consent to the marriage is required by law) to cases where the person making the representation believes it to be false, or has not reason to believe it to be true.

Sections seventy-six and seventy-seven are intended to prevent monogamists from acquiring a right to practise polygamy by changing their religion. But we are of opinion that a Bill regulating the solemnization of Christian marriages is not the proper place for such provisions, which affect persons other than Christians, and which relate to the essence of the contract of marriage, whereas the Act is intended only to govern its ceremonial and the mode of contracting it. And as we have reason to think that under the existing law a second marriage effected during the existence of a prior one contracted under the law of monogamy would be invalid, it seems to us more prudent to postpone the matter for further consideration and to make it the subject of a separate Act.

In section seventy-eight we have provided that a marriage, otherwise duly solemnized, shall not be void merely on account of irregularity in respect of the place of its solemnization.

We have empowered the Local Government to declare who shall in any place be deemed to be the District Judge, and we have authorised the Governor General in Council to delegate to any officer the powers conferred by the Act in respect of Christians in Native States.

Lastly, we have saved marriages duly performed by ministers, consuls, and consular agents of foreign States.

We have found it necessary or expedient to amend the drafting of most of the sections, and we recommend that the Bill thus altered be passed.

SIMLA;
The 20th June 1872. }

A. HOBHOUSE.
J. STRACHEY.
H. W. NORMAN.

THE INDIAN CHRISTIAN MARRIAGE BILL, 1872.

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A Bill to consolidate and amend the law relating to the solemnization in India of the marriages of Christians.

[AS RE-AMENDED BY THE SELECT COMMITTEE.]

Whereas it is expedient to consolidate and amend the law relating to the solemnization in India of the marriages of the persons professing the Christian religion; It is hereby enacted as follows:—

PRELIMINARY.

Short title. 1. This Act may be called "The Indian Christian Marriage Act, 1872."

It extends to the whole of British India, and, so far only as regards Christian subjects of Her Majesty, to the territories of Native Princes and States in alliance with Her Majesty;

and it shall come into force on the passing thereof.

2. The enactments specified in the fifth schedule hereto annexed are repealed, but not so as to invalidate any marriage confirmed by, or solemnized under, any such enactment.

And all appointments made, licenses granted, consents given, certificates issued, and other things duly done under any such enactment shall be deemed to be respectively made, granted, given, issued, and done under this Act.

For clause xxiv. of section nineteen of the Court Fees Act, 1870, the following shall be substituted:—

'xxiv. Petitions under the Indian Christian Marriage Act, 1872, sections forty-five and forty-eight.'

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

"Church of England" and "Anglican" mean and apply to the Church of England as by law established;

"Church of Scotland" means the Church of Scotland as by law established;

"Church of Rome" and "Roman Catholic" mean and apply to the Church which regards the Pope of Rome as its spiritual head;

"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.

"Native State" means the territories of any Native Prince or State in alliance with her Majesty;

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.

Persons by whom marriages may be solemnized. 5. Marriages may be solemnized in India—

(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 Minister of religion licensed under this Act to solemnize marriages;

(4) by, or in the presence of, a Marriage Registrar appointed under this Act;

(5) by any person licensed under this Act to grant certificates of marriage between Native Christians.

6. The Local Government may grant licenses to Ministers of Religion to solemnize marriages within the territories under its administration, and may revoke such licenses.

7. The Local Government may appoint one or more Christians, either by name or as holding any office for the time being, to be the Marriage Registrar or Marriage Registrars, for any district subject to its administration.

Where there are more Marriage Registrars than one in any district, the Local Government shall appoint one of them to be the Senior Marriage Registrar.

When there is only one Marriage Registrar in a district, and such Registrar is absent from such district, or ill, or when his office is temporarily vacant, the Magistrate of the district shall act as, and be, Marriage Registrar thereof during such absence, illness, or temporary vacancy.

8. The Governor General in Council may, by notification in the *Gazette of India*, appoint any Christian to be a Marriage Registrar in respect of any district or place within the territories of any Native Prince or State in alliance with Her Majesty.

The Governor General in Council may, by like notification, revoke any such appointment.

9. The Local Government or (so far as regards any Native State) the Governor General in Council, may grant a license to any Christian, either by name or as holding any office for the time being, authorizing him to grant certificates of marriage between Native Christians.

Any such license may be revoked by the Authority by which it was granted, and every such grant or revocation shall be notified in the official Gazette.

PART II.

TIME AND PLACE AT WHICH MARRIAGES MAY BE SOLEMNIZED.

10. Every marriage under this Act shall be solemnized between the hours of six in the morning and seven in the evening:

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 morning and six in the evening, 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.

11. No Clergyman of the Church of England shall solemnize a marriage in any place other than a church,

unless there is no church within 5 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.

For such special license the Registrar of the Diocese may charge such additional fee as the said Bishop from time to time authorizes.

PART III.

MARRIAGES SOLEMNIZED BY MINISTERS OF RELIGION LICENSED UNDER THIS ACT.

12. Whenever a marriage is intended to be solemnized by a Minister of Religion licensed to solemnize marriages under this Act—

one of the persons intending marriage shall give notice in writing, according to the form contained in the first schedule hereto annexed, or to the like effect, to the Minister of Religion whom he or she desires to solemnize the marriage, and shall state therein

- (a) the name and surname, and the profession or condition of each of the persons intending marriage,
- (b) the dwelling-place of each of them, and
- (c) the time during which each has dwelt there, and
- (d) the church or private dwelling in which the marriage is to be solemnized:

Provided that, if either of such persons has dwelt in the place mentioned in the notice during more than one month, it may be stated therein that he or she has dwelt there one month and upwards.

13. If the persons intending marriage desire it to be solemnized in a particular Church, and if the Minister of Religion to whom such notice has been delivered be entitled to officiate therein, he shall cause the notice to be affixed in some conspicuous part of such church.

But if he is not entitled to officiate as a Minister in such church, he shall, at his option, either return the notice to the person who delivered it to him, or deliver it to some other Minister entitled to officiate therein, who shall thereupon cause the notice to be affixed as aforesaid.

14. If it be intended that the marriage shall be solemnized in a private dwelling, the Minister of Religion, on receiving the notice prescribed in section twelve, shall forward it to the Marriage Registrar of the district, who shall affix the same to some conspicuous place in his own office.

15. When one of the persons intending marriage is a minor, every Minister receiving such notice shall, unless within twenty-four hours after its receipt he returns the same under the provisions of section thirteen, send by the post, or otherwise, a copy of such notice to the Marriage Registrar of the district, or, if there be more than one Registrar of such district, to the Senior Marriage Registrar.

16. The Marriage Registrar or Senior Marriage Registrar, as the case may be, on receiving any such notice, shall affix it to some conspicuous place in his own office, and the latter shall further cause a copy of the said notice to be sent to each of the other Marriage Registrars in the same district, who shall likewise publish the same in the manner above directed.

17. Any Minister of Religion consenting or intending to solemnize any such marriage as aforesaid, shall, on being required so to do by or on behalf of the person by whom the notice was given, and upon one of the persons intending marriage making the declaration hereinafter required, issue under his hand a certificate of such notice having been given and of such declaration having been made:

Proviso. Provided—

(1) that no such certificate shall be issued until the expiration of four days after the date of the receipt of the notice by such Minister;

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

(3) that the issue of such certificate has not been forbidden in manner hereinafter mentioned by any person authorized in that behalf.

18. The certificate mentioned in section seventeen shall not be issued until one of the persons intending marriage has appeared personally before the Minister and made a solemn declaration—

(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, when either or both of the parties is or are a minor or minors,

(b) that the consent or consents required by law has or have been obtained thereto, or that there is no person resident in India having authority to give such consent, as the case may be.

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 be resident in India.

20. Every person whose consent to a marriage is required under section nineteen, is hereby authorized to prohibit the issue of the certificate by any Minister, at any time before the issue of the same, by notice in writing to such Minister, subscribed by the person so authorized with his or her name and place of abode and position, with respect to either of the persons intending marriage, by reason of which he or she is so authorized as aforesaid.

21. If any such notice be received by such Minister, he shall not issue his certificate and shall not solemnize the said marriage until he has examined into the matter of the said prohibition, and is satisfied that the person prohibiting the marriage has no lawful authority for such prohibition,

or until the said notice is withdrawn by the person who gave it.

22. When either of the persons intending marriage is a minor, and the Minister is not satisfied that the consent of the person whose consent to such marriage is required by section nineteen has been obtained, such Minister shall not issue such certificate until the expiration of fourteen days after the receipt by him of the notice of marriage.

23. When any Native Christian about to be married takes a notice of marriage to a Minister of Religion, or applies for a certificate from such Minister under section seventeen, such Minister shall, before issuing the certificate, ascertain whether such Native Christian is cognizant of the purport and effect of the said notice or certificate, as the case may be, and, if not, shall translate or cause to be translated, the notice or certificate to such Native Christian into some language which he understands.

24. The certificate to be issued by such Minister shall be in the form contained in the second schedule ~~to~~ ^{to} be annexed, or to the like effect.

25. After the issue of the certificate by the Minister, marriage may be solemnized between the persons therein described according to such form or ceremony as the Minister thinks fit to adopt:

Provided that the marriage be solemnized in the presence of at least two witnesses, besides the Minister.

26. Whenever a marriage is not solemnized within two months after the date of the certificate issued by such Minister as aforesaid, such certificate and all proceedings (if any) thereon shall be void, and no person shall proceed to solemnize the said marriage until new notice has been given and a certificate thereof issued in manner aforesaid.

PART IV.

REGISTRATION OF MARRIAGES SOLEMNIZED BY MINISTERS OF RELIGION.

27. All marriages hereafter solemnized in India between persons one or both of whom professes or profess the Christian religion, except marriages solemnized under Part V. or Part VI. of this Act, shall be registered in manner hereinafter prescribed.

28. Every Clergyman of the Church of England shall keep a register of marriages and shall register therein, according to the tabular form set forth in the third schedule hereto annexed, every marriage which he solemnizes under this Act.

29. Every Clergyman of the Church of England shall send four times in every year returns in duplicate, authenticated by his signature, of the entries in the register of marriages solemnized at any place which he has any spiritual charge, to the Registrar of the Archdeaconry to which he is subject, or within the limits of which such place is situate.

Such quarterly returns shall contain all the entries of marriages contained in the said register from the first day of January to the thirty-first day of March, from the first day of April to the thirtieth day of June, from the first day of July to the thirtieth day of September, and from the first day of October to the thirty-first day of December, of each year respectively, and shall be sent by such Clergyman within two weeks from the expiration of each of the quarters above specified.

The said Registrar upon receiving the said returns shall send one copy thereof to the Secretary to the Local Government.

30. Every marriage solemnized by a Clergyman of the Church of Rome shall be registered by the person and according to the form directed in that behalf by the Roman Catholic Bishop of the Diocese or Vicariate in which such marriage is solemnized,

and such person shall forward quarterly to the Secretary to the Local Government returns of the entries of all marriages registered by him during the three months next preceding.

31. Every Clergyman of the Church of Scotland shall keep a register of marriages, and shall register therein, according to the tabular form set forth in the third schedule hereto annexed, every marriage which he solemnizes under this Act,

and shall forward quarterly to the Secretary to the Local Government, through the Senior Chaplain of the Church of Scotland, returns similar to those prescribed in section twenty-nine of all such marriages.

32. Every marriage solemnized by any person who has received episcopal ordination, but who is not a Clergyman of the Church of England or of the Church of Rome, or by any Minister of Religion licensed under this Act to solemnize marriages, shall immediately after the solemnization thereof, be registered in duplicate by the person solemnizing the same (that is to say), in a marriage register book to be kept by him for that purpose, according to the form contained in the fourth schedule hereto annexed, and also in a certificate attached to the marriage register book as a counterfoil.

33. The entry of such marriage in both the certificate and 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 it solemnization.

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.

34. The person solemnizing the marriage shall forthwith separate the certificate from the marriage register book, and send it, within one month from the time of the solemnization, to the Marriage Registrar of the district in which the marriage was solemnized, or, if there be more Marriage Registrars than one, to the Senior Marriage Registrar,

who shall cause such certificate to be copied into a book to be kept by him for that purpose,

and shall send all the certificates which he has received during the month, with such number and signature or initials added thereto as are hereinafter required, to the Secretary to the Local Government.

35. Such copies shall be entered in order from the beginning to the end of the said book, and shall bear both the number of the certificate as copied, and also a number to be entered by the Marriage Registrar, indicating the number of the entry of the said copy in the said book, according to the order in which he receives each certificate.

36. The Marriage Registrar shall also add such last-mentioned number of the entry of the copy in the book to the certificate, with his signature or initials, and shall, at the end of every month, send the same to the Secretary to the Local Government.

37. When any marriage between Native Christians is solemnized under Part I. or Part III. of this Act, the person solemnizing the same shall, instead of proceeding in the manner provided by sections twenty-eight to thirty-six, both inclusive, register the marriage in a separate register book, and shall keep it safely until it is filled, or, if he leave 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.

Whoever has the control of the book at the time when it is filled, shall send it to the Marriage Registrar of the district, or, if there be more Marriage Registrars than one, to the Senior Marriage Registrar, who shall send it to the Secretary to the Local Government, to be kept by him with the records of his office.

PART V.

MARRIAGES SOLEMNIZED BY, OR IN THE PRESENCE OF, A MARRIAGE REGISTRAR.

38. When a marriage is intended to be solemnized by, or in the presence of, a Marriage Registrar, one of the parties to such marriage shall give notice in writing, in the form contained in the first schedule hereto annexed, or to the like effect, to any Marriage Registrar of the district within which the parties have dwelt,

or, if the parties dwell in different districts, shall give the like notice to a Marriage Registrar of each district,

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.

39. Every 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, every 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 each of the other Marriage Registrars (if any) in the same district, who shall likewise affix the copy in some conspicuous place in his own office.

40. 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 the Local Government, and to be called the "Marriage Notice Book;"

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

41. 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:

Provido. Provided—

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

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

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.

42. The certificate mentioned in section forty-one shall not be issued by any Marriage Registrar, until one of the parties intending marriage appears personally before such Marriage Registrar and makes oath—

(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 they have dwelt in the districts of different Marriage Registrars) that the party making such oath has, had their, his, or her usual place of abode within the district of such Marriage Registrar,

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.

43. When one of the parties intending marriage is a minor, and both such parties are at the time resident in any of the towns of Calcutta, Madras, and

Bombay, 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 a Judge of the High 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 forty-one.

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 said fourteen days so required;

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

44. The provisions of section nineteen apply to every marriage under this Part, either of the parties to which is a minor;

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 of either of the parties, by reason of which he or she is so authorized.

SCHEDULE.

(See Section 2.)

ENACTMENTS REPEALED.

Number and year of enactment.	TITLE.	Extent of repeal.
Bengal Regulation XVI. of 1797.	A Regulation respecting Appeals from the Court of Sudder Dewanny Adawlut to His Most Excellent Majesty and His Most Honourable Privy Council.	The whole.
,, V. of 1803.	A Regulation for empowering the Sudder Dewanny Adawlut to try Appeals from the Decisions of the Provincial Court of Appeal established in the Provinces ceded by the Nawaub Vizier to the Honourable the English East India Company; and for extending the Jurisdiction of the Sudder Dewanny Adawlut over the said Provinces, and all the Civil Courts established therein.	The whole.
Madras Regulation VIII. of 1818.	A Regulation prescribing the Rules under which Appeals may be preferred to the King's Most Excellent Majesty in His Privy Council, from the Decisions of the Court of Sudder Adawlut at Fort Saint George.	The whole.
Bombay Regulation IV. of 1827.	A Regulation prescribing the Forms of Proceeding of the Courts of Law in Civil Suits and Appeals, and Rules for the Trial of the same.	Section 100.
Act II. of 1844	An Act respecting the Expenses of preparing Copies of Proceedings in Appeals.	The whole.
Act XXV. of 1852 ..	An Act for the execution of Decrees made in appeal by Her Majesty in Council, or by the Courts of Sudder Dewanny Adawlut and of the Zillah and City Judges in the Presidency of Fort William in Bengal.	So much as has not been repealed.
Act II. of 1863	An Act to regulate the admission of Appeals to Her Majesty in Council from certain Judgments and Orders in Provinces not subject to the General Regulations.	The whole.

WHITLEY STOKES,
Secretary to the Government of India.

or further payment is required for the purpose of translating, transcribing, printing, indexing, or transmitting the record, except as aforesaid,

the Court may order the appellant to furnish, within a time to be fixed by the Court, other and sufficient security, or to make, within like time, the required payment.

If the appellant fail to comply with such order, the proceedings shall be stayed,

and the appeal shall not proceed without an order in this behalf of Her Majesty in Council,

and in the meantime execution of the judgment, decree, or order appealed against shall not be stayed.

12. When the record, except as aforesaid, has been transmitted to Her Majesty in Council, the appellant may obtain a refund of the balance, if any, of the amount which he has deposited under section eight.

III.—PROCEEDINGS PENDING APPEALS.

13. The Court admitting any appeal under this Act may

(a) direct the judgment, decree, or order appealed against to be enforced, or

(b) direct that no order for enforcing such judgment, decree, or order shall be issued pending the appeal, and that, if any such order has been issued, it shall, so far as it has not been executed, be suspended, or

(c) give any other direction respecting the subject-matter of the appeal that it thinks fit.

14. But the Court shall give no such direction unless and until the party applying therefor furnishes such security as it thinks fit for the due performance of the decree or order which Her Majesty in Council may make on the appeal.

15. If at any time during the pendency of the appeal the security so furnished by either party appears inadequate, the Court may, on the application of the other party, require further security.

In default of such further security being found, if the original security was furnished by the appellant, the Court may issue an order enforcing the judgment, decree, or order appealed against as if he had furnished no such security.

And if the original security was furnished by the respondent, the Court, so far as may be practicable, shall compel him to deliver up the property forming the subject-matter of the appeal, and such property shall be dealt with according to the rules applicable to the case.

IV.—EXECUTION OF DECREES OF HER MAJESTY IN COUNCIL.

16. The decrees or orders of Her Majesty in Council when duly certified shall be enforced

and executed, subject to the directions of the High Court or other Court as aforesaid, by the Judge by whom the suit was originally tried, and in the manner and according to the rules applicable to the execution of his original decrees or orders.

17. Whoever desires to enforce or obtain the execution of any such decree or order of Her Majesty in Council, shall present a petition to the Court which made the first judgment, decree, or order appealed from, and the said petition shall be accompanied by a certified copy of the decree or order made in appeal and sought to be enforced or executed.

18. An appeal shall lie from any decree or order made by such last-mentioned Court relating to the enforcement or execution of any such decree or order of Her Majesty in Council, in the same manner and subject to the same rules as an appeal from a decree or order made upon a petition for the enforcement or execution of the judgment, decree, or order first appealed from.

V. MISCELLANEOUS.

19. The High Court may, from time to time, make rules consistent with this Act to regulate—

(a.) the service of notices under section seven,

(b.) the amount and nature of the security required under sections eight and eleven,

(c.) the testing of such security,

(d.) the estimate of the cost of transcribing the record,

(e.) the preparation, examination, and certifying of such transcript,

(f.) the revision and authentication of translations,

(g.) the preparation of indices to transcripts of records, and of lists of the papers not included therein,

and all other matters connected with the enforcement of this Act.

All such rules shall be published in the local official *Gazette*, and shall thereupon have the force of law.

All rules heretofore made and published by any High Court relating to appeals to Her Majesty in Council shall, so far as they are consistent with this Act, be deemed to have been made and published hereunder.

20. The rules and restrictions referred to in Bengal Regulation III. of 1828, section four, clause five, shall be deemed to be the rules and restrictions applicable to appeals under this Act from the decisions of the High Court of Judicature at Fort William in Bengal.

And Bombay Regulation XIX. of 1827, section eight, shall be construed as if for 'Regulation IV., A. D. 1827,' the words and figures 'the Privy Council Appeals Act, 1872' were substituted.

21. Nothing herein contained shall be understood to bar the full and unqualified exercise of Her Majesty's pleasure in receiving or rejecting appeals to Her Majesty in Council.

A Bill to consolidate and amend the Law relating to Appeals to the Privy Council from Decrees of the Civil Courts.

[AS AMENDED BY THE SELECT COMMITTEE.]

WHEREAS it is expedient to consolidate and amend the law regulating the admission of appeals to Her Majesty in Council from certain judgments, decrees, and orders of the Civil Courts; It is hereby enacted as follows:—

I.—PRELIMINARY.

1. This Act may be called "The Privy Council Appeals Act, 1872."

Short title.

It extends to the whole of British India, but it does not apply to any matter of criminal jurisdiction;

Extent.

And it shall come into force on the passing thereof.

Commencement.

2. The enactments specified in the schedule hereto annexed are repealed to the extent mentioned in the third column thereof.

Repeal of enactments.

II.—ADMISSION OF APPEALS.

3. Subject to such rules as may from time to time be made by Her Majesty in Council regarding appeals from the Courts of British India, and to the provisions hereinafter contained—

an appeal shall lie to Her Majesty in Council,

(a) from any final judgment, decree, or order made on appeal by a High Court or other Court of final appellate jurisdiction,

(b) from any final judgment, decree, or order made by a High Court in the exercise of original civil jurisdiction, and

(c) from any other judgment, decree, or order when the High Court declares that the case is a fit one for appeal to Her Majesty in Council.

4. In each of the cases mentioned in clauses (a) and (b) of section three,

Value of subject-matter.

the amount or value of the subject-matter in dispute must be ten thousand rupees or upwards, or the judgment, decree, or order must involve, directly or indirectly, some claim or question to or respecting property of like amount or value.

Such amount or value shall be computed according to the rules prescribed by the Court Fees Act, 1870, sections seven and eight.

5. Whoever desires to present an appeal under this Act must apply by petition to the Court whose judgment, decree, or order is complained of.

Application to Court whose decree is complained of.

6. Such application must ordinarily be made within six months from the date of the judgment, decree, or order aforesaid.

Time within which application must be made.

But if that period expires when the Court is closed, the application may be made on the day that the Court re-opens.

And where the applicant satisfies the Court that he had sufficient cause for not applying within the period so prescribed, the Court may admit his application within such other period as, under the circumstances of the case, it considers reasonable.

7. Every petition under section five must (among other things) pray for a certificate either that as regards amount or value the case fulfils the requirements of section four, or that it is a fit one for appeal to Her Majesty in Council.

Upon receipt of such petition the Court shall direct notice to be served on the opposite party to show cause, within one month of the date of the service of the notice, why the said certificate should not be granted.

8. If such certificate be refused, the petition shall be dismissed.

But if the certificate be granted, the Court shall require the applicant, within two weeks of the grant,

(a) to give security for the costs of the respondent, and

(b) to deposit the amount required to defray the expense of translating, transcribing, printing, indexing, and transmitting to Her Majesty in Council two correct copies of the whole record of the suit, except

(1) formal documents directed to be excluded by any order of Her Majesty in Council in force for the time being;

(2) papers which the parties agree to exclude; and

(3) accounts, or portions of accounts, which the officer empowered by the Court for that purpose considers unnecessary, and which the parties have not specifically asked to be included

9. When such security has been given and deposit made to the satisfaction of the Court, the Court shall

(a) declare the appeal admitted,

(b) give notice thereof to the appellant and respondent respectively,

(c) transmit to Her Majesty in Council, under the seal of the Court, two correct copies of the said record, except as aforesaid,

(d) give to either party one or more authenticated copies of any of the papers in the suit on his applying therefor, and paying the reasonable expenses incurred in preparing them, and

(e) give to either party an authenticated copy of any local Regulation, Act, or Ordinance which he may require in the appeal.

10. At any time before the admission of the appeal, the Court may, upon cause shown, revoke the acceptance of any such security and make further directions thereon.

11. If at any time after the admission of the appeal but before the transmission of the record, except as aforesaid, to Her Majesty in Council, such security appears inadequate,

Power to require further security or payment.

The following Preliminary 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 4th July 1872:—

We, the undersigned, the members of the Select Committee to which the Bill to consolidate and amend the law relating to the admission of appeals to Her Majesty in Council from

From Officiating Secretary to Chief Commissioner, Oudh, No. 344, dated 22nd January 1872, and enclosures.

judgments and orders of the Civil Courts was referred, have the honour to report that we have considered the Bill and the papers noted in the margin.

We have expressly excluded matters of criminal jurisdiction from the operation of the proposed Act.

Section three of the Bill, as introduced, speaks of appeals from final decrees or orders made on *repeal* or *revision* under the law relating to appeals. We have struck out the words italicised.

Act II. of 1863, section two, provides an appeal from interlocutory judgments. We have therefore struck out the word 'final' in the fifth paragraph of section three of the Bill as introduced.

We have provided (section four) that the amount or value of the subject-matter of appeals shall be computed according to the rules prescribed by the Court Fees Act, 1870, sections seven and eight. An analogous rule is prescribed by Bengal Regulation XVI. of 1797, section three.

We have provided for the case of the period prescribed for applications, under the proposed Act, expiring when the Court is closed, and for admitting, in proper cases, such applications after the prescribed period. Similar provisions are made in the new Limitation Act, 1X. of 1871, section five.

We have followed in sections seven and eight the rules of the High Courts at Fort William and Bombay, and we have authorised the exclusion, from the transcript of the record of formal documents, of papers which the parties agree to exclude, and of unnecessary accounts. This is in accordance with the present practice, and, so far as regards formal documents, follows the rule prescribed by clause 2 of the order of the Privy Council dated 13th June 1853.

Sections ten, eleven, and twelve are modelled on rules of the High Court at Fort William.

In section thirteen we have authorised the Court, on receiving security for the performance of the decree of the Privy Council, to give any direction that it thinks fit respecting the subject-matter of the appeal.

In section nineteen we have empowered the High Courts to make rules regulating all matters connected with the enforcement of the proposed Act.

In section twenty we have made the amendments of Bengal Regulation III. of 1828, section four, and Bombay Regulation XIX. of 1827, section eight, necessitated by the proposed repeals.

Lastly, we have saved (section twenty-one) the exercise of Her Majesty's pleasure in receiving or rejecting appeals to Her in Council.

We have made many changes in the wording and arrangement of the Bill, and, before proceeding further with it, we recommend that it be published, with this preliminary report, in the *Gazette of India*, and sent for consideration to the various Local Governments and High Courts.

(Signed) A. HOBHOUSE.
J. STRACHEY.

Simla, the 4th July 1872.

THE PRIVY COUNCIL APPEALS BILL, 1872.

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SCHEDULE.

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.

Effect of protest. 45. If any person whose consent is necessary to any marriage under this Part is of unsound mind,

Petition where person whose consent is necessary is insane, or unjustly withholds consent. 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, where the person whose consent is necessary is resident within any of the towns of Calcutta, Madras, and Bombay, to a Judge of the High Court, or if he is not resident within any of the said towns, then to the District Judge.

And the said Judge of the High Court, or District Judge, as the case may be, may examine the allegations of the petition in a summary way.

And if upon examination such marriage appears proper, such Judge of the High Court or District Judge, as the case may be, 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.

46. Whenever a Marriage Registrar refuses to issue a certificate under this Part, either of the parties intending marriage may apply by petition, where the district of such Registrar is within any of the towns of Calcutta, Madras, and Bombay, to a Judge of the High Court, or if such district is not within any of the said towns, then to the District Judge.

The said Judge of the High Court or District Judge, as the case may be, may examine the allegations of the petition in a summary way, and shall decide thereon.

The decision of such Judge of the High Court, or District Judge, as the case may be, 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.

47. Whenever a Marriage Registrar resident in any Native State refuses to issue his certificate, either of the parties intending marriage may apply by petition to the Governor General in Council, who shall decide thereon.

Such decision shall be final, and the Marriage Registrar to whom the application was originally made shall proceed in accordance therewith.

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48. Whenever a Marriage Registrar, acting under the provisions of section forty-four, 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, where his district is within any of the towns of Calcutta, Madras, and Bombay, to a Judge of the High Court, or, if such district be not within any of the said towns, then to the District Judge.

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 of the High Court, or District Judge, as the case may be, 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 the High Court or District Judge, 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.

Whenever a Marriage Registrar appointed under section eight, to act within any Native State is not satisfied that the person forbidding the issue of the certificate is authorized by law so to do, the said Marriage Registrar shall send a statement of all the circumstances of the case, together with all documents relating thereto, to the Governor General in Council.

If it appears to the Governor General in Council that the person forbidding the issue of such certificate is not authorized by law so to do, the Governor General in Council 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 of the certificate had not been forbidden.

49. 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 forty-four, or a Judge of the High Court or the District Judge, under section forty-five or forty-six, 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.

50. The certificate to be issued by the Marriage Registrar under the provisions of section forty-one, shall be in the form contained in the second schedule to this Act annexed, or to the like effect,

Form of certificate.

and the Local Government shall furnish to every Marriage Registrar a sufficient number of forms of certificate.

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

or, where notice is required to be given under this Act to the Marriage Registrars for different districts after the issue of the certificates of the Marriage Registrars for such districts,

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 some Marriage Registrar (to whom shall be delivered such certificate or certificates as aforesaid), 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].”

52. Whenever a marriage is not solemnized within two months after the notice has been entered by the Marriage Registrar, as required by section forty, 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.

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

54. After the solemnization of any marriage under this Part, the Marriage Registrar present at such solemnization shall forthwith register the marriage in duplicate, that is to say, in a Marriage Register Book, according to the form of the fourth 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 shall be signed by the person by or before whom the marriage has been solemnized, if 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.

55. The Marriage Registrar shall forthwith separate the certificate to be sent to the Secretary to Government. from the marriage register book and send it, at the end of every month, to the Secretary to the Local Government.

The Marriage Registrar shall keep safely the said Register Book until it be filled, and shall then send it to the Secretary to the Government, or to such other officer as aforesaid, to be kept by him with the records of his office.

56. The Marriage Registrars in Native States shall send the certificates mentioned in section fifty-four to the Secretary in the Foreign Department of the Government of India.

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

58. 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 Act.

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

PART VI.

MARRIAGE OF NATIVE CHRISTIANS.

60. Every marriage between Native Christians applying for a certificate, shall, without the preliminary notice required under Part III., be certified under this Part, if the following conditions be fulfilled, and not otherwise:—

On what conditions marriages of Native Christians may be certified.

(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:

(3.) In the presence of the person licensed under section nine, and of at least two credible witnesses other than such person, each of the parties shall say to the other—

"I call upon these persons here present to witness that I, *A. B.*, in the presence of Almighty God, and in the name of our Lord Jesus Christ, do take thee, *C. D.*, to be my lawful wedded wife [or husband]," or words to the like effect:

Provided that no marriage shall be certified 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 nineteen has been given to the intended marriage, or unless it appears that there is no person living authorized to give such consent.

61. When, in respect to any marriage solemnized under this Part, the conditions prescribed in section sixty have been fulfilled, the person licensed as aforesaid, in whose presence the said declaration has been made, 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 such licensed person, and shall be received in any suit touching the validity of such marriage as conclusive proof of its having been performed.

62. A Register Book of all marriages of which certificates are granted under section sixty-one, shall be kept by the person granting such certificates in his own vernacular language.

Such Register Book shall be kept according to such form as the Local Government from time to time prescribes in this behalf, and the said book, or true extracts therefrom, duly authenticated, shall be deposited at such places as the Local Government directs.

63. Every person licensed under this Act to grant certificates of marriage, and keeping a Marriage Register Book under section sixty-two, shall, at all reasonable times, allow search to be made in such book, and shall, on payment of the proper fee, give a copy, certified under his hand, of any entry therein.

64. The provisions of sections sixty-two and sixty-three as to the form of the register book, the deposit of extracts therefrom, and the granting searches and copies of the contents of such register, shall, *mutatis mutandis*, apply to the books kept under section thirty-seven.

65. This Part of this Act, except so much of sections sixty-two and sixty-three as are referred to in section sixty-four, shall not apply to mar-

riages between Roman Catholics. But nothing herein contained shall invalidate any marriage celebrated between Roman Catholics under the provisions of Part V. of Act No. XXV. of 1864, previous to the twenty-third day of February 1865.

PART VII.

PENALTIES.

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

67. Whoever forbids the issue by a 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.

68. Whoever, not being authorized under this Act to solemnize a marriage in the absence of a Marriage Registrar of the district in which such marriage is solemnized, 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, or (in lieu of a sentence of imprisonment for seven years or upwards) with transportation for a term of not less than seven years, and not exceeding ten years;

or, if the offender be an European or American, with penal servitude according to the provisions of Act No. XXIV. of 1855 (*to substitute penal servitude for the punishment of transportation in respect of European and American convicts, and to amend the law relating to the removal of such convicts*),

and shall also be liable to fine.

69. 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 by the Anglican Bishop of the Diocese or by his Commissary, nor to marriages performed between the hours of seven in the evening and six in the morning by a Clergyman of the Church of Rome, when he has received the general or special license in that behalf mentioned in section ten.

70. Any Minister of Religion licensed to solemnize marriages under this Act, who, without a notice in writing, or when one of the parties to the marriage is a minor, and the required consent of the parents or guardians to such marriage has not been obtained, within fourteen days after the receipt by him of notice of such marriage, knowingly and wilfully solemnizes a marriage under Part III., shall be punished with imprisonment for a term which may extend to three years, and shall also be liable to fine.

71. A Marriage Registrar under this Act, who issuing certificate, or marrying, without publishing notice; (1) knowingly and wilfully issues any certificate for marriage, or solemnizes any marriage, without publishing the notice of such marriage as directed by this Act;

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

(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 or without sending, by the post, or otherwise, a copy of such notice to the Senior Marriage Registrar of the District, if there be more Marriage Registrars of the district than one, and, if he himself be not the Senior Marriage Registrar;

(4) issues any certificate, the issue of which has been prohibited as in this Act provided by any person authorized to prohibit the issue thereof;

issuing certificate against authorized prohibition; shall be punished with imprisonment for a term which may extend to five years, and shall also be liable to fine.

72. Any 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 marriage, where one of the parties intending marriage is a minor, before the expiration of fourteen days after the entry of such notice or 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.

persons authorized to solemnize marriage (other than Clergymen of the Churches of England, Scotland, or Rome).

73. Whoever, being authorized under this Act to solemnize a marriage,

and not being a Clergyman of the Church of England, solemnizing a marriage after due publication of banns or under a license from the Anglican Bishop of the Diocese or a surrogate duly authorized in that behalf,

or, not being a Clergyman of the Church of Scotland, solemnizing a marriage according to the rules, rites, ceremonies, and customs of that Church,

or, not being a Clergyman of the Church of Rome, solemnizing a marriage according to the rules, rites, ceremonies, and customs of that Church,

knowingly and wilfully issues any certificate for marriage under this Act, or solemnizes any marriage between such persons as aforesaid, without publishing, or causing to be affixed, the notice of such marriage as directed in Part III. of this Act, or after the expiration of two months or after expiry of certificate;

or knowingly and wilfully issues any certificate for marriage, or solemnizes a marriage between such persons when one of the persons intending marriage is a minor, before the expiration of fourteen days after the receipt of notice of such marriage, or without sending, by the post or otherwise, a copy of such notice to the Marriage Registrar, or, if there be more Marriage Registrars than one, to the Senior Marriage Registrar of the district;

or knowingly and wilfully issues any certificate, the issue of which has been forbidden under this Act by any person authorized to forbid the issue;

or knowingly and wilfully solemnizes any marriage forbidden by any person authorized to forbid the same,

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

74. Whoever, not being licensed to grant a certificate of marriage under Part VI. of this Act, grants such certificate intending thereby to make it appear that he is so licensed, shall be punished with imprisonment for a term which may extend to five years, and shall also be liable to fine.

75. Whoever by himself or another wilfully destroys or injures any Register Book or the counterfoils thereof, or any part thereof, or any authenticated extract therefrom,

or falsely makes or counterfeits any part of such register book or counterfoils 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.

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

Limitation of prosecutions under Act.

PART VIII.

MISCELLANEOUS.

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

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

- (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.

78. 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 the Local Government, such person shall make and send in like manner a separate certificate of the original erroneous entry, and of the marginal correction therein made.

79. Every person solemnizing a marriage under this Act, and hereby re-enters.

and every Marriage Registrar or Secretary to a Local Government having the custody for the time being of any register of marriages, or of any certificate, or duplicate to copies of certificate under this Act,

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.

80. Every certified copy purporting to be signed by the person entrusted under this Act with the custody of any marriage register or certificate, or duplicate required to be kept or delivered under this Act, 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.

81. The Secretary to the Local Government shall, at the end of every quarter in each year, select from the certificates of marriages forwarded to him during such quarter, the certificates of the marriages of which the Governor General in Council may desire that evidence shall be transmitted to England, and forward the same certificates, signed by him, to the Secretary of State for India, for the purpose of being delivered to the Registrar General of Births, Deaths, and Marriages.

Local Government to prescribe fees. 82. Fees shall be chargeable under this Act for—

receiving and publishing notices of marriages; issuing certificates of marriage by Marriage Registrars and the registration of marriages by the same;

entering protests against, or prohibitions of, the issue of marriage certificates by the said Registrars;

searching register books, or certificates, or duplicates, or copies thereof;

giving copies of entries in the same under sections sixty-three and seventy-nine;

The Local Government 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 it may seem fit.

83. The Local Government may make rules in regard to the disposal of the fees mentioned in section eighty-two, the supply of Register books, and the preparation and submission of returns of marriages solemnized under this Act.

84. The powers conferred on the Local Government by sections eighty-two and eighty-three may, so far as regards Native States, be exercised by the Governor General in Council.

85. The Local Government may, by notification in the official Gazette, declare who shall, in any place to which this Act applies, be deemed to be the District Judge.

86. The powers and functions given by this Act to the Governor General in Council may be delegated to and exercised by such officers as the Governor General in Council from time to time appoints in this behalf.

87. Nothing in this Act applies to any marriage performed by any Minister, Consul, or Consular Agent between subjects of the State which he represents and according to the laws of such State.

88. Nothing in this Act shall be deemed to validate any marriage which the personal law of the parties forbids him or her to enter into.

SCHEDULE I.

(See Sections 12 and 38.)

NOTICE OF MARRIAGE.

To a Minister [or Registrar] of

I hereby give you notice that a marriage is intended to be had, within three calendar months from the date hereof, between me and the other party herein named and described (that is to say) :—

Names.	Condition.	Rank or Profession.	Age.	Dwelling-place.	Length of residence.	Church, chapel, or place of worship in which the marriage is to be solemnized.	District in which the other party resides, when the parties dwell in different districts.
<i>James Smith.</i>	<i>Widower.</i>	<i>Carpenter.</i>	<i>Of full age.</i>	<i>16, Clive Street.</i>	<i>23 days.</i>	<i>Free Church of Scotland Church, Calcutta.</i>	
<i>Martha Green.</i>	<i>Spinster.</i>	.....	<i>Minor.</i>	<i>20, Hastings Street.</i>	<i>More than a month.</i>		

Witness my hand, this

day of

seventy-two.(Signed) *JAMES SMITH.*

[The italics in this schedule are to be filled up as the case may be, and the blank division thereof is only to be filled up when one of the parties lives in another district.]

SCHEDULE II.

(See Sections 24 and 50.)

CERTIFICATE OF RECEIPT OF NOTICE.

I,

do hereby certify that, on the _____ day of _____, notice was duly entered in my Marriage Notice Book of the marriage intended between the parties therein named and described, delivered under the hand of _____, one of the parties (that is to say):—

Names.	Condition.	Rank or Profession.	Age.	Dwelling-place.	Length of residence.	Church, chapel, or place of worship in which the marriage is to be solemnized.	District in which the other party resides, when the parties dwell in different districts.
<i>James Smith.</i>	<i>Widower.</i>	<i>Carpenter.</i>	<i>Of full age.</i>	<i>16, Clive Street.</i>	<i>23 days.</i>	<i>Free Church of Scotland Church, Calcutta.</i>	
<i>Martha Green.</i>	<i>Spinster.</i>	<i>.....</i>	<i>Minor.</i>	<i>20, Hastings Street.</i>	<i>More than a month.</i>		

and that the declaration required by section seventeen or forty-one of "The Indian Christian Marriage Act, 1872," has been duly made by the said (*James Smith*).

Date of notice entered.
Date of certificate given.

} The issue of this certificate has not been prohibited by any person authorized to forbid the issue thereof.

Witness my hand, this

day of

*seventy-two.**(Signed)*

This certificate will be void unless the marriage is solemnized on or before the _____ day of _____

[The *italics* in the schedule are to be filled up as the case may be, and the blank division thereof is only to be filled up when one of the parties lives in another district.]

SCHEDULE IV.

(See Sections 32 and 54.)

MARRIAGE REGISTER BOOK.

971-1227

Number.	WHEN MARRIED.			NAMES OF PARTIES.		Age.	Condition.	Rank or profession.	Residence at the time of marriage.	Father's name and surname.
				Christian Name.	Surname.					
	Day.	Month.	Year.							
1				James	White	26 years	Widower	Carpenter	Agra	William White.
				Martha	Duncan	17 years	Spinster .....	.....	Agra	John Duncan.

447-11

Married in the

This marriage was solemnized between us { James White, } in the presence of us { John Smith. }
 { Martha Duncan, } { John Green. }

SCHEDULE IV.—continued.

CERTIFICATE OF MARRIAGE.

Number.	WHEN MARRIED.			NAMES OF PARTIES.		Age.	Condition.	Rank or profession.	Residence at the time of marriage.	Father's name and surname.
				Christian Name.	Surname.					
	Day.	Month.	Year.							
1				James	White	26 years	Widower	Carpenter	Agra	William White.
				Martha	Duncan	17 years	Spinster .....	.....	Agra	John Duncan.

Married in the

This marriage was solemnized between us { James White, } in the presence of us { John Smith. }
 { Martha Duncan, } { John Green. }

447 mm

SCHEDULE V.

(See Section 2.)

ENACTMENTS REPEALED.

Number and year.	Title.	Extent of Repeal.
Statute 58 Geo. 3, cap. 84 ..	An Act to remove doubts as to the validity of certain marriages had and solemnized within the British territories in India.	The whole.
Statute 14 & 15 Vic., cap. 40..	An Act for marriages in India	The whole.
Act V. of 1852	An Act for giving effect to the provisions of an Act of Parliament passed in the 15th year of the reign of Her present Majesty intituled "An Act for Marriages in India."	So much as has not been repealed.
Act V. of 1865	The Indian Marriage Act, 1865.....	The whole Act, except so far as it relates to the Straits Settlements.
Act XXII. of 1866	An Act to extend the Indian Marriage Act, 1865, to the Hyderabad Assigned Districts and the Cantonments of Secunderabad, Trimungerry, and Aurungabad.	The whole.

WHITLEY STOKES,

Secretary to the Government of India.