CHAPTER III

SOCIAL LEGISLATION

The Government of Travancore felt it necessary to make changes in the Viruthi system (system of allotting land on concessional rate in return for the performance of certain services) as it failed to adapt to the altered economic conditions, and less efficient in fulfilling its purpose and entailed hardship in its practical working, and abuses crept in course of time. So they promised by a proclamation to renew the whole system of providing vegetables, labour and building materials which required scrutiny, to make restrictions to future requisitions, framing a new schedule of such things, to revise the prices of such articles according to the ruling prices. The Viruthicars were also given the liberty to relinquish their services. The Government proclaimed "— it shall be the duty of the Government to check all abuses, as far as possible by proper administrative measures to protect the Viruthicars from exactions, and ensure the due and punctual payment of the prices at the stipulated rate."

Another Viruthi proclamation provided relief to the poor ryots. It reduced the scope as far as compatible with the conditions of the Viruthi tenure and secured substantial benefit to the Viruthicars. They were completely and permanently
exempted from all obligations like providing material for Thingal institutions, charity houses, camp services on the occasion of the tours of the Maharaja, but restricted to simple personal labour, supply of provision and material in connection with the five annual festivals and the Murajapam ceremony.

In 1894, an amendment was moved in the Legislative Council to give a more specific meaning to the 'service inam lands' in section 2 of the Civil Procedure Code, because it was liable to misinterpretation and an explanation was added, "not to include among the Nair Wiruthi land 'such lands granted as reward for past services' but not within the meaning of the Section 3'.

The Adiyara Proclamation of 30 June 1888 also protected the landed interest of the Nair community.

Being aware of the difficulties and burden of realising 1/4 of the value of the property for inheritance from a distant relative of a Mammakkathayee, the Government relinquished their claims. The object of the proclamation was to remove inequality in the distribution of public burdens, to stop illicit gains by unscrupulous revenue subordinates. So they were 'pleased to command relinquishment of the said Adiyara from the date of this Proclamation 4'.

Two other rulings of the period were the dress regulation of women passed in 1865 at the instance of the British authorities, and the presence of respectable women in courts which was brought to their notice by Alevancheri Thumbrakal in case No. 2 of 1052 in the Alangel Sub-Court. The Government observed, "the women of respectable families have been exempted from personal attendance
in court and cutcheries though not strictly ghosha — and the judicial authorities were required not to make unnecessary compulsions on such women⁶.

A major legislative attempt to alter the hypergamy of the Nair community was made by P. Thanu Pillai, a member of the Legislative Council. As early as 1887, the Malayali Sabha circulated a draft of the bill. But the Government did not show any inclination to accept it. In 1896, P. Thanu Pillai, introduced a Bill related to marriage among the Marumakkathayees without any substantial change in the matrimonial usages. It sought merely to formulate and declare such usages which would provide a means of preserving the evidence of dissolution of the union. The aim was to minimize litigation and remove the doubts of the legal validity of Marumakkathayam marriages⁷. Because it brought forth aspersions from outsiders⁸ —— it is a blunder to connect the system of descent through females with the system of marriage in Kerala⁹. As regards marriage, the Bill wanted, "If one would cast off the prejudices and pre-conceived notions and impartiality and dispassionately investigate the subject he will find that conjugal is not union known as sambadham or Pudavakoda is not a casual or fugitive connection; formed for the purpose of sexual gratification but a serious and solemn alliance and the intention of the parties is to make a life-long one⁹". Hence it was believed undesirable to have this important matter affecting the well-being and social progress of a great community to be at the mercy of judicial decision.
Some argued that the Bill would legalise polyandry and polygamy even in the last decade of the 19th century and there were others whose objection was for leaving aside the question of inheritance\(^ \text{10} \).

The Bill was referred to the Select Committee consisting of P. Thanu Pillai, K. Krishna Rao, the Raja of Peranapad and K. Kuruvilla. The Select Committee submitted a majority report in January 1897. "In the long term, Thanu Pillai's Bill could be seen as a step towards ending the hypergamy of Nayar women and their deference to the high castes. Its immediate effect would be to make high caste men who had performed eembadham with a pretty Nayar girl and later changed their affections, liable to a criminal prosecution for adultery and bigamy\(^ \text{11} \)."

But, as the general reaction of the Kshatriyas, Brahmins and Nambudiris were against the proposal, the attempt miscarried.

The Hindu wills Bill was introduced in the Council with the object of conferring testamentary disposition of property to certain classes of people who did not possess that power, to recognise those who already possessed it, and to regulate the exercise of the privilege with reference to them all by the imposition of certain restriction and rules. As there was no legal sanction to such disposition, the High Court doubted, "the competency of Hindus to make wills", and "ruled that Hindus of Travancore were not competent to make valid disposition of property through will" ( VI TLR 146). In order to counteract the decision of the court dubious methods were adopted. However, many wanted the power of making settlements to take effect
after death. When the Bill was taken up for consideration by the House an amendment of Krishna Swami Rao to Section 5 to include along with children, other heirs like wife, father and mother, were approved by the House. The Act indicated some sort of achievement for the educated Nairs.

The first major legislation passed at the instance of any community was the Nair Regulation 1 of 1911-1913 with the object of defining and amending the law of marriage, succession and family management among the Warumakkathayees like Nairs and Samanthas in accordance with their new conditions and needs.

Section 3, dealing with marriage, specially declared "Sambandham of a Nair female with a Nair or a high caste subsisting on the day of the Regulation come into force or solemnized thereafter should be deemed to be marriage for all legal purposes. It could be dissolved only by the death of either of the parties or by mutual consent with the formal order of dissolution by a competent authority. Dissolution was subject to payment of compensation to the wife to a maximum of Rs. 2000/- In case of dispute on the amount of compensation, it was the court to decide after an enquiry into the position, means and circumstances of the parties, without going into the grounds of proposed dissolution. A reasonable compensation to the husband meant the repayment of pecuniary loss caused by the wife's breach of the marital contract. It was laid down that "After the Regulation comes into force, a subsequent sambandham of a male or female during the continuance of a prior sambandham or other marriage shall be void."
The draft Bill suggested maintenance of the wife and children by the husband or the father as the case might be provided the wife did not commit adultery and retain her religion. Accordingly in case of those marriages contracted under Section 3, Clause (II) after the death of the husband/father, wife and children were entitled to maintenance out of the husband's/father's separate or self acquired property provided the widow retained her religion, widowhood and chastity. Meanwhile it contended that "Nothing herein contained shall affect the right of a wife or widow or children to be maintained by the tarwads."

As regards the property of an intestate Nair it said "on the death of a Nair, leaving him surviving a widow or children or both, she or they shall, if he has undivided and divided Marumakkathayee hair be entitled to a half share of his self-acquired or separate property left undisposed of at his death, and if there are such heirs, such widow or children or both be entitled to the whole of such property." Nairs were given testamentary powers for the self-acquired and separate property subject to the condition of maintenance of those under Section 10.

The Bill said that except for proper necessity with the consent of the adult members of the tarwad no Karanavan or other managing member should alienate tarwad property or incur debts binding on the tarwad. Such contingency might be presumed to exist only if the transaction had the express consent of the senior anandaravan. It was also made obligatory on the part of the Karanavan to maintain a true and correct inventory of all valuable moveables of the tarwad and a correct receipt
and disbursement subject to the pain of removal from the office for disobedience. 20

The anandaravans were empowered, as persons interested, to redeem tarwad properties in the possession of a mortgagee under the Karanavan. 21 A decree passed, to which the Karanavan or the managing member was a party, was declared to be binding on the tarwad if the senior anandaravans of his thavazhe and of every thavazhe collateral to the same, if any, were also made parties to the suit in which such decree was passed, unless set aside on the ground of fraud 22.

Part VII of the draft Bill suggested partition sub-section (I), Section 25 of part VIII declared the Regulation as void in conferring any rights on the parties or to the offsprings of sambandham dissolved before the commencement of the Regulation.

When the Bill came up for legislative deliberation opinion differed on the expediency of recognizing and legalising the prevailing customs of marriage. Thus, an amendment was suggested,

"(3) Conjugal union of a Nair female subject to the restriction of consanguinity and affinity with

(i) a Nair male or,

(ii) any male other than a Nair, with whom conjugal union is permitted according to recognised social customs and usages openly solemnized by the presentation of cloth to the female by the male whether so solemnized before the date or the date from which this Regulation comes into force, shall be deemed to be a valid marriage for all legal purposes".

The proposed amendment was accepted 23. Another amendment, moved by Ananda Rao, was added to put restrictions on the age of male
and female proposing to marry at 18 and 16 respectively. Marriages below those ages were declared void unless performed with the approval of the legal guardian.

An amendment moved by P. Kesava Pillai to provide some claims to the divided brothers etc. in preference to wife and children was rejected. When the part dealing with partition of terraces was taken up Kesava Pillai informed the House that public opinion was against allowing partition, he said "As far as I have correctly understood the situation, the numbers of middle class families are not in favour of a change", and speaking on the advantage of a united ownership of the system he requested that part VII of the Bill dealing with partition might be wholly dropped. Mr. Nadhavan Tampi feared that "it would only be attended with injurious consequences", and pointed out that the opinion of the public was divided on partition. As all the non-official Nair members were against partition the Dewan declared, "The position of the Government with regard to the question of partition is this. Partition was one of the points urged in the petition originally presented at the Assembly and it was therefore referred to Mr. Govinda Pillai Committee for enquiry. What the Committee found on investigation they included in the Bill, provision relating to partition. When the Government order sanctioning the introduction of the Bill into the Council was issued, it was recognised that public opinion was divided on the subject. Personally I am of the opinion that some provision for partition between branches, only remotely related to each other, will be a wholesome change in the Narumakkathayam law calculated to increase the volume of happiness in such terraces as have become unwieldy. For the greater part of my official life, I have been on the
West Coast, among the people governed by the Marumakkathayam law and I have formed the above opinion after long experience and careful thought. Whatever my personal views in this matter may be the Government do not wish to enact the law of partition ignoring the protest of the non-official members of this Council, who all belong to the community affected by this law. But I may assure that the time will come before long when the unanimous voice of the Nair community will demand the provision of partition and that they very Council will have to take up again this question of partition. With this remark I agree to part VII relating to partition being omitted.24.

Opinion expressed in the House was against retention of the maintenance provision," "obligation given to maintenance can only be a personal matter", Said Ananda Rao, "while the retention of this will make it a right against property. In matters of this kind, it is in my opinion, inexpedient to make a law which will conflict with the personal law of another community in the absence of a well established custom or court decision. By the omission of this clause, whatever the rights the Nair wife, the widow and minor children have at present as against non-Nair husband and father are not of course taken away. The proposed law given the Nair females a great many more rights than they now have and I think that in course of time this position will further improve25; and hence suggested the omission of the clause. The Government was of the opinion that "In order that a system like this may be workable it is essential that it does not militate against the interests of the classes, whose co-operation cannot be ignored as unnecessary," and the clause was dropped at his suggestion.
The Nair Regulation was brought because of the ever increasing public opinion, but, as noted important sections were dropped, to suit the purpose and convenience of the establishment. Demands began for an amendment of the Regulation to facilitate partition. It was pointed out that lack of individual partition was the main cause of further decline of Nair tarwads. Submissions were constantly made in the Popular Assembly for an enactment for the change in the system of inheritance and succession. Only half of the self-acquired property was allowed for the wife and children. But the public demanded the whole of the self-acquired property for the wife and children as a matter of right and remodelling of marriage and inheritance laws and marriage between Nair females and non-Nair males.

The Government expressed that they had no definite view and it would depend upon the public response and the majority opinion. Dr. Kunjan Pillai, the official member was of the opinion that, "the Nair community is deteriorating materially to a great extent, and I think, this is due to the fact that they had no individual credit. I think that the matured opinion of the community is that those evils cannot to a very large extent be removed if individual partition is not allowed to Nair tarwads."

The Nair Act (Amendment) passed as Regulation II of 1100/1925, repealed the Regulation I of 1098. It was made applicable to all Nairs domiciled in Travancore and those whether domiciled or not but having marital relation with Nairs domiciled in Travancore.
The Nair Act recognised the marital relations of a Nair woman with a Nair male or non-Nair with whom such relations were recognised by social customs and usages which were openly solemnised by the presentation of cloth, either before or after the Regulation I of 1888, provided in case of minors solemnised with the consent of the legal guardian. It declared that those who commit adultery, bigamy were punishable under various sections of the Travancore Penal Code. Women were given the right to sue for maintenance and restitution of conjugal rights. Marriage was allowed to be dissolved only by the death of either party or by mutual consent by a registered instrument or by a formal order of dissolution on the basis of insanity, incurable disease, impotence, incompatibility of temperament, habitual cruelty, adultery or change of religion. The wife was also declared competent to sue for divorce, if she had completed her 16 years of age. Habitual cruelty was explained to include wilful desertion for a period of two years and persistent neglect to maintain the wife.

If the petitioner for a divorce was the husband the court could, expect when the respondent lived in adultery or changed religion, award the wife such compensation not exceeding Rs.5000/-, or such monthly allowance till her remarriage, considering the position, means and circumstances of the parties, and, if otherwise, the court could also decree, in her favour such compensation not exceeding Rs.5000/- or such monthly allowance till her remarriage, reasonable to the means, position and circumstances of the concerned parties.
Subsequent marriages during the continuance of a prior marriage and performed after the commencement of the new Regulation was held void, and "Notwithstanding anything contained in Sub-clause (I) the marriage of non-Nair males in his own caste shall not be void though he has married a Nair wife before the commencement of this Regulation. 31"

The Act laid down that, wife and minor children, except those married, were to be maintained by the husband or the father as the case might be, provided the wife had cohabited with the husband. 32 The husband or the father was declared to be the legal guardian of the minor children or minor wife, except the married daughter, without any right or claims over their tanved property.

As regards intestate succession the Act said, "on the death of a Nair male leaving him surviving a widow or mother or both, they shall take the whole of the self-acquired and separate property left undisposed of by him at his death. In the absence of the mother and the widow, the children and the lineal descendants of deceased children shall take the whole, and in the absence of the mother widow and children, the lineal descendants of the deceased children shall take the whole 34." The Sub-Section (I) (II) and (III) of Section 12 to Section 20, dealt with devolution of property of intestate Nair male and female.

The most important part of the Act was the Sub-section (I) and (2) of section 21. It dealt with non-Nair husbands." On the death of a non-Nair male marrying a Nair female after the commencement of this Regulation and leaving him surviving by such marriage a widow or children or the lineal descendants of
deceased children or all, they shall, if the deceased has also left heirs according to the law by which he is governed, be entitled, after deducting the reasonable expenses of his funeral, to one half of the self-acquired and separate property left undisposed of by him at his death, and, in the absence of heirs according to the law which he is governed, such widow or children or the lineal descendants of deceased children or all shall be entitled to the whole of such property;" and Sub-section (2) of Section 21 dealt with those marriage subsisting on the date of the commencement of the Regulation. They were, "entitled to one-fourth of the self-acquired and separate property left undisposed by him at his death, and in the absence of heirs, according to the law by which he is governed, such widow or children or the lineal descendants of deceased children or all shall be entitled to the whole of such property."

Section 24 of Chapter V conferred testamentary succession—any Hindu may dispose of by will the whole of his or her self-acquired or separate property." Sections 25 to 32 dealt with the tarwad and its management. Except for the consideration of tarwad necessity and with the written consent of all the major members of the tarwad no Karanavan or other managing member was to sell immovable property of the tarwad or mortgage it with possession or lease it for a period of more than 12 years. It was also provided that "No debt contracted by the Karanavan or other managing members shall bind the tarwad, unless it be for tarwad necessity."
Evidenced by a registered document, a member, after being invested with karanjavanship or management by law, was entitled to give up the position by a unilateral surrender.

Another provision which gave considerable progress to the community was the protection of maintenance right whether the members of the tarwad lived in the tarwad house or not. Subject to certain provisions, every adult member was entitled to claim his or her share of the property, "until partition, no member of the tarwad shall be deemed to have definite share in tarwad property liable to be seized in execution nor shall member be deemed to have any alienable or heritable interest therein.

Mover of the Bill pointed out in the Council that members of other communities who had marital relations with the Nairs would be affected by the law. The Sudersanan and some other journals opposed a change in the law and its application to the Brahmins. Such critics doubted whether the Government had any right to interfere with the personal law of the communities concerned. But a full Bench of the Travancore High Court had already decided that the children of a Brahmin by a Nair wife had during their minority a right of maintenance against the self-acquisition of the father (20MLR65). It amounted to interference with the personal law of a Brahmin. But the reaction of the Nair community was different. "There is no doubt that Brahmins and Nairs have began to see things in a different light", and Mr. Roman Tampi continued. My Bill provides that within a specified time non-Nair husbands and wives could apply to be exempted from the operation of the law. As for the future, if non-Nairs do not like to incur these
responsibilities it is open to them not to contract marriages with Nair females. It appears to me therefore that the proposed change, while protecting the interests of a large section of the Nairs, redeem the self-respect of the community as a whole.

When the Bill was first introduced oppositionists to individual partition warned that it would endanger the position of women, and secondly they feared the extinction of Nair community that commanded wealth, prestige and influence. The first and main objection relates to the position of women after partition. It was no doubt true that the women had got a tarwad and were entitled to be maintained by the karanavann. The arguments regarding the condition of women after partition were refuted that interest of women were neglected in joint families. But, after individual partition women would be separated from the tarwad as any other individual and make her entirely dependant upon the husband. "When she is once out of the tarwad she will have a firm stand with her husband. The divorce is now an easy process. But divorce would be more strictly discouraged with a view to check capricious repudiation." In order to further protect the interests of women, after individual partition, certain control over the indiscreet disposal of property by the husband was suggested. It was requested that if at all partition was allowed in the Narumakkathayam tarwads it should be individual partition. I find that there has been a large volume of public opinion in favour of the individual partition. As I stated at the outset, it is individual liberty, individual responsibility and self-reliance that have to be created among the Nairs and
these qualities can be inculcated only if the individual is set free and made to stand on his own legs. There is no doubt that if individual partition is effected each member will naturally get only a small share but he can call it his own. This will surely teach him self-reliance and create incentive to work for his betterment\textsuperscript{37}. The Government adopted an uncompromising attitude regarding the alliance with non-Nairs. Subba Aiyar, the Law member declared in the House,\textsuperscript{38} so far as the provision relating to the non-Nairs are concerned, there has not been enough time to know what the public opinion upon the point is. I do not grant that if a non-Nair marries a Nair woman, he is bound to see that even after his death his Nair wife and children are well off and that sufficient provision is made for them. -- Another point that has suggested itself to me is the provision for enabling the Nair wife to get a share of her husband's property. This may again lead to some difficulties. We should see that Nair wife and children are provided for care should be taken to see that they do not have a higher status than the caste wife and her children or get more than what the latter would get\textsuperscript{39}.

An amendment was proposed when the Bill was taken up for consideration in the Legislature. It was proposed to insert, "contracting a marriage with a Nair female after the commencement of this Regulation" in the Clause 21(2). Many of the Brahmins had no objection to recognise the logical consequence that inheritance must follow marriage, and the desirability of conferring a statutory right of inheritance on the wife and children of a Nair. But the difference of
opinion was regarding when the right should begin to operate. K.A. Krishna Iyengar explained that there was no precedence in the claims of inheritance right by the Nair wife of a Brahmin and it was also not recognised by the court of law. He continued, "I must decline to believe that the members of the Malabar Nambudiri families entered into marriage contracts with the consciousness that the institution was bad. It was not bad then. It is now bad. It has become unworkable owing to the conditions of modern civilization and modern ideas of life and ideals of conduct. It has become unworkable and the necessity has arisen for the legislation to intervene." Their main objection was the devolution of property, especially self-acquired to a non-Brahmin wife and children without giving others a chance to share the property. Because in the latter case property and wealth circulated in the community itself.

"If after passing the Regulation — and knowing all the consequences of an alliance with a Nair female a non-Nair male enters into marital relation with a Nair female, there is absolutely no harm if you do not give him any protection." Brahmin members argued that social legislation should be, carried on the line of least resistance and should not interfere with the right of others, and warned that the Bill badly hit communities which had contracted marital relation with the Nairs without the idea that a law would be passed binding them and their property. "The Bill would further restrain the existing relationship between Nairs and non-Nairs." But, the Nair members rejected the amendment as, "illogical, unfair and unjust." There was an allegation that the Government had taken side with Brahmin interest in the
amendment and issued confidential circulars to official members to support the amendment proposed by V. Subba Aiyar relating to the examination of the existing marriages of non-Nairs with Nair females. However, the Government wished to keep the issue as confidential and declared their unwillingness to divulge anything on the circular. An amendment moved by P.K. Narayana Pillai to clause 44 was rejected because of the complication it would bring. The amendment was moved to protect the rights of women to claim restitution of conjugal union if the husband married for a second time by fraud. In subsequent years the Act came up for further amendments.

In 1926, an amendment was moved in the Council to amend the Nair Regulation II of 1100, so as to include in the sub-section 2 of section 3 between the words 'male' and 'whether', 'or by the mutual consent of the parties evidenced by a registered document' with the object to include any valid marriages, solemnized by the mutual consent of the parties evidenced by a registered document, to "prevent some of least of the marriages from degenerating into conubinage and ruining the lots of trustful and simple minded women". When the amendment was put to vote the House divided 6 against 16 with 24 neutrals and the amendment was declared lost.

The Travancore Nair (Amendment) Bill was brought before the Assembly in 1945 by Puliyoor T.P. Velayudhan Pillai to counteract the negative effects of the Regulation II of 1100. The main principles of the draft Bill were to make provisions for a new type of joint family with safe guards to check the too frequent division of property, as within five years of the working of the Regulation II of 1100, 32903 tarwads were affected
by the "partition fever", to make deeds and settlements to
dodge till the life time of one's grand children, to give
right of pre-emption in respect of the property of the
co-sharers and to prevent the effect of certain rulings of
the High Court which were contrary to the real intention of
the legislature and the well established system of law
governing the community. 44

According to the amendment Nairs were given the power
to bequest or gift the self-acquired or separate property in
favour of the lineal descendants who were not in existence at
the date of such disposition. 45 Section 35A of the proposed
amendment said, "Notwithstanding any rule of law or anything
contained in the foregoing provision, the wife or widow and
the child or children of such wife or widow and the lineal
descendants of deceased children who became entitled to property
mentioned in Sections 11, 21 and 22 and also the heirs mentioned
in Section 17 shall not be entitled to claim a separation of
their share or shares in such property as to alienate their
share or shares therein, nor shall such share or shares be
liable to be proceeded as against in execution of any decree
against all or any of them during the life time of such wife
or widow and of the minority of any such child or children or
such lineal descendants of deceased children."

The proposed amendment further explained partition
as separation of interest effected either by means of an
agreement in writing registered or by a preliminary decree for
partition passed by a competent court of law. The amendment
42A of the Section 42 of the Regulation II of 1100 gave the
right of pre-emption to the share or shares or any part thereof
to any other co-sharers.

The President of the House expressed complete neutrality of the Government in the amendment moved. The mover of the amendment informed the House that the second provision contained in clause 3 of the Bill was necessitated by the fact that gifts and settlements in favour of unborn persons were not valid according to the existing rules. The third provision contained in clause 8 of the Bill regarding the right of pre-emption was taken as absolutely necessary on account of the peculiar condition that resulted from the operation of the Nair Act. Under the Act both male and females, unlike the pura makkathayee's were entitled to equal share in the tarwad property. That is because, the fact that a girl was married to a person belonging to a distant place, necessitated the disposal of girls share in order that she might settle down in her husband's place. In such cases it was only reasonable that her share in the tarwad properties should be sold to the co-sharers.

The proposed amendment was opposed in its implications that it would develop immobility. Intercine warfare and interminable struggle were feared as the inevitable results. "The Act is not going to save the community. It will hinder progress," A.V. Udayabhanu warned, "mobility alone can help progress in the community. Hardwork and industrialisation alone can save the community. These cheap attempts at saving the community are futile and disastrous." As far as fragmentation was concerned the Bill was not of much use. As other communities were also affected by individual partition a comprehensive law was called for for the whole community. C.K. Sanku Pillai feared that the proposed amendment would do more harm than good to the community, without really helping
to stop fragmentation. He concluded that, "To say that this community should go back and remain with the old joint family is impossible. As far as I have been able to gather from educated friends of mine this section is most dangerous to the community. When a poll was taken to refer the Bill to the Select Committee the House was divided 32 against 22 with 13 neutrals and it was declared carried.

The Nair Regulation triggered off a number of other similar pieces of legislations. The Vellalas of Nanjanad followed the Mamakkathayam of the Nairs and Makkathayam of the East Coast Vellalas. The Committee appointed to investigate found no need for general reform and complete overhauling. As regards partition, powers of the karanavan, marriage, dissolution, devolution of property, there were differences of opinion.

The Act was passed in 1926. It defines marriage, succession and partition among the Vellalas. The act stated that all conjugal union of a Vellala male with a female subject to the restrictions of consanguinity and affinity according to customs either before or after the commencement of the Regulation was declared valid for all legal purposes. Subsequent marriages were declared null and void. Divorce was allowed subject to the payment of compensation.

Section 12 and 13 of the Chapter III declared husband or father as the legal guardian of the wife and minor children. As regards intestate succession the Act said "leaving him surviving children or lineal descendants of deceased children or both,
they shall be entitled to the whole of his property subject to
the right of the widows of the intestate for maintenance
until her or their death.50. Sons and daughters were given
equal right to the paternal property. The Act gave the power
of adoption.

Section 30, 31 (1) and (2) of Chapter VII gave members
of the tarwād right to claim a share of the property of his
or her tarwād subject to certain conditions.

When the Act was considered by the Council, G. Raman
Menon moved an amendment to include in clause 3, a marriage
entered into through registered document as valid. He based
the argument on the fact that such a provision was conducive
to the individual liberty accepted in various aspects of life.
However others were less willing to introduce an innovation
and so the amendment was rejected.51

Regulation III of 1096 was the immediate reaction to
the Regulation II of 1100. When the Nambudiris felt the
demands of the latter Regulation as aggressive, they could
not but defend their position.

The Travancore Malayala Regulation was passed for the
better management of the tarwād, to define and limit the powers
of the karanavān, to improve the rights and freedom of enjoyment
of property by the junior members, to lay down rules of intestate
succession in respect of the self-acquisition of the Nambudiri,
to remove the impediments on the growth of family of the
younger members and to remove the uncertainty in the law of
succession. The Act now based on the principles worked out by the Yogashema Sabha. It was felt that changing condition of the time and progress of the community required these changes.

The karanavan was given the right to possess and manage the property of the illam and Devaswoms and other institutions over which the illam had uraima rights.\(^{52}\)

Negligence of a karanavan to give a girl of the illam in marriage even after her 18th year of age, her father or in his absence, any other member of the illam who could perform udakapurvam was given the power to have her marriage performed, and to realize a reasonable amount as expense from the illam.

Section 15 of Chapter IV said, "on the death of a Malayala Brahmin male leaving him surviving caste widows and sons and daughters by caste wives they shall, subject to provision of section 21 of the Nair Regulation 11 of 1100 take the whole of the self-acquired and separate properties left undisposed of by him at his death in equal shares", and in case he died intestate, not survived by lineal descendants, it was provided that subject to section 21 of the Nair Regulation of 1100, the undisposed property should devolve on the members of his illam,\(^{53}\) and when a Malayala Brahmin female died, survived by sons and daughters, they should take the whole of the self-acquired and separate property left undisposed at her death in equal shares. Streedhanam was entitled to be treated as the joint property of the husband and wife.
When the Bill was introduced before the House certain sections came under criticism. The clause defining Grahasta and clause 18 had the effect of making a Malayala Brahmin a Grahasta in the technical sense and not in the legal sense. "That I think is an unjustifiable invasion of the rights of individuals of other community as well. I think such things are very objectionable and unreasonable\textsuperscript{54}, and the clauses 22 and 23 were also considered detrimental to the interest of the Nair community. It was alleged as against the Nair Regulation and an attempt to nullify the provisions of that Regulation, namely section 21 (I). "It is not the tarred properties but for the separate and self-acquired properties, and even for that the present Nambudiri Bill wants to discredit the wife and children of a Nambudiri Brahmin if they belong to any other caste. That I think is unjustifiable. A Nair lady who may be the wife of a Nambudiri Brahmin for all legal purpose is declared to be not entitled to separate properties of Nambudiri Brahmin on the ground that she is not a member of the family\textsuperscript{55}.

The Bill was attacked for not accepting the principle of individual partition and individual liberty by members like K.P. Nilakanta Pillai and K.C. Hammen Mappilai. Section 3 of the Bill excluded out castes from any claims to the property. But many councillors were critical of the conservative attitude of the Nambudiris desire perpetuate such obnoxious system of Smarthevicharam\textsuperscript{56}. It was also requested to have strict provision for monogamy among the Nambudiris.
There were differences of opinion about section 11 as to who should be given the responsibility for the marriage of a Nambudiri girl after her 18 years of age on Karanavan's failure to do so. The new section was suggested by N. N. Jathavedan Nambudiripad, and the proposed amendment of Revathinal Ramavarma was accepted giving the power to her father or in his absence any other member of the ilam who could perform udakapurvam, to send her married.

When the Malayala Brahmins passed a Regulation to defend their position, it was considered in every Kshatriya quarters that their position was too anomalous and required a Regulation. They felt that the existing state of affairs were obviously unsatisfactory, and some enactment to define and amend the law of marriage, succession, maintenance and tarwad management was very much overdue. The objects and reasons of the Bill said that, "If the Kshatriya female is married to a Nambudiri in the ordinary socially recognised manner, the marriage is not now legally recognised in any statute while his similar marriage with a Nair female as also his marriage with a caste wife are considered legal union. Hence it can be seen that it was an attempt to ward off the evil effect of others social legislation on the Kshatriyas". Thus, the Bill attempted to give legal sanction to the prevalent social customs and traditions of the community, to legalize marriage and divorce, to make provision for claims of maintenance and rules for succession.

The scope of the Act extended to all Kshatriyas domiciled in Travancore or those who had or would have marital relation with Kshatriyas domiciled in Travancore. The accepted classes of conjugal union were, those within the community subject to
restrictions and usages, and those marriages of a Kshatriya male or female with a non-Kshatriya male or female, permissible according to recognised usage, if registered in the manner provided. Meanwhile it recognised those marriages with Nair women under section 3 of the Nair Regulation 11 of 1100. Registration of marriage was also provided by the Act. Once a marriage was duly registered any subsequent marriage of any Kshatriya either with Kshatriya or non-Kshatriya, and any non-Kshatriya male or female having non-Kshatriya wife or husband, as the case might be, was declared void. Marriage was allowed to be dissolved only by the death of either of the party or by mutual consent or by a formal order of dissolution by a competent authority. As regards dissolution of marriages between a Kshatriya male and Nair female it was provided that provision of Nair Regulation 11 of 1100 alone should apply.

Sub-section(1) and (2) of section 12 of Chapter III declared husband or father as the legal guardian of the body and property of the wife and children, except married daughters, as the case might be. Right to dispose the separate or self-acquired property was also conferred on them. Section 14 to 28 of Chapter V dealt with intestate succession and the rules for the devolution of separate and self-acquired property of a Kshatriya male or female.

The Sixth Chapter of the Act, made mode provisions for the better management of the tarwad, as many of them were mismanaged due to the tendency of karanavans to concentrate power and exclude junior members from it. Regulation gave
the karanavan right to possess and manage all properties belonging to it and Devarwama and other institutions of which the tarwad had uraima right. Under the provisions of the Act karanavan could not delegate his powers to anyone except through a registered instrument, but he was given the power to relinquish the position voluntarily. Maintenance of a true and correct inventory of the valuable movables, correct account of receipt and disbursement was made obligatory on the part of the karanavan, subject to inspection by adult anandaravans. Alienation of movables or immovable property except with the written consent of the major member was declared invalid. The Regulation specified, "No debt contracted by the karanavan or managing member shall bind the tarwad unless it be for tarwad necessity." He was also restricted from making any substantial change prejudicial to the interest of the tarwad. To protect the tarwad from possible mismanagement it was declared "No decree shall bind the tarwad, unless it is obtained against the karanavan, as such, and senior anandaravans of his thavazha, and every thavazha collateral to the same if any.

As regards maintenance, whether domiciled or not in the tarwad house, every member of it was provided to be maintained equally. Notwithstanding the provision of maintenance a Kshatriya wife or minor children, except married, were declared under the guardianship and maintenance of the husband or father and its scope was extended to non-Kshatriya wife and children.

Every member of a tarwad was given the right to divide from the tarwad by making a demand for the purpose and by such
demand members were entitled to such share as would fall to such member if a division per-capita was made among all the members of the tarwad on the date of such demand.

In the Bill submitted for the consideration of the House provision for partition was avoided fearing the negative consequences it could have on women unless there was some change in the system of marriage and to provide for the caste marriage of the Kshatriyas. Many others opposed the Bill for the lack of provision for maintenance.\textsuperscript{59} The Act could considerably improve the position. Old views of the powers of the karanavan had given way to the new, reducing him to be a manager. The other members succeeded in vindicating their rights as co-owners and in liberating their rights of maintenance from some of its harassing restrictions.

Later, in the Sree Chitra State Council, P.R. Godavarma Raja introduced a Bill to amend the partition provisions of the Kshatriya Act because of its ruinous effect. It was passed as Act V of 1117.

The Chief object of the Amendment was "to preserve the corpus of tarwad property\textsuperscript{60}". The Select Committee reported that on the question of exemption of the scheduled tarwads from the provisions relating to partition there was complete unanimity of opinion\textsuperscript{61}.

The section II, 52-A (I) of the Amendment Act of 1117 empowered any adult member of the scheduled Kshatriya tarwad to apply for exemption from the section 43 and 44 of the
Travancore Kshatriya Act VII of 1108. On application, and
on the basis of enquiry by such authority of the Government,
if they were satisfied that "(a) that adequate arrangements
have been made for the maintenance of all members of the tarwads
and that such arrangements have been ascertained by the members
of the tarwad or (b) that if it is in the interest of the
tarwad as a whole that such exemption should be granted".

Members of the tarwad were also given the right to file
a suit for maintenance in case of neglect or refuse to be
maintained. The Act declared "An order passed under Sub-section
(2) shall be as valid and binding and shall be executable in
the same manner as a decree passed by such court against the
tarwad in the suit for maintenance".

The application for exemption suggested in the Amendment
Act was due to the mismanagement of the affairs, acting contrary
to the interest of the tarwad, for not maintaining a true and
correct account, non-payment of maintenance to members of the
tarwad. Section 52-D conferred the members with the power
to revoke the exemption granted by the Government on application
by a majority of adult members.

Another legislative attempt of the period was the
Krishnanvaka Marumakkathayam Bill. K.R. Blankath moved for the
introduction of the Krishnanvaka Marumakkathayam Bill in the
Sree Chitra State Council. As Marumakkathayees, Krishnanvaka
community was also groaning under the autocratic mismanagement
of karanaavans and the changed relationship made the community
appeal for a legislation. The object of the Bill was to
legislative succession, inheritance, marriage and dissolution, and partition. It was pointed out if partitions were going to be allowed, dissolution of marriage was to be made more strict. For partition provision, in order not to delay partition by any member, the claimant for partition was to make definite the number of shares into which the family property would be divisible. This view was projected from the experiences of the Nair Regulation. The House referred the matter to a Select Committee.

Scope of the Act was confined to those Marumakkathayees who were either domiciled within or without Travancore and those who had marriage relations with Krishnanvaka community. The Act declared valid conjugal union of a Krishnanvaka Marumakkathayee male or female within the community held before or after the Regulation subject to the customs and usages.

The Regulation provided for dissolution of marriage. Polyandry and polygamy were prohibited. It provided for the maintenance of wife and minor children.

Chapter IV of the Regulation provided for the devolution and partition of property.

When the Bill was taken up for consideration, an amendment was moved to sub-clause 2 of Section 3 to insert words between the words 'force' and 'or', 'and subsisting on such date', to read as, "Any male other than Krishnanvaka Marumakkathayee with whom conjugal union is permitted according to recognised social customs and usages openly solemnized before the date on which the Act came into force and subsisting such
date or so solemnized subsequent to that date shall be deemed to be a valid marriage for all legal purposes. The amendment was suggested to remove from the scope those marriages dissolved before the commencement of the Act. The amendment was put to vote and carried.

Social legislation affecting the minority communities

The earliest of the legislative attempt made by the Government to regulate the marriage and personal law of Christians was in 1877. Because of the interdenominational misunderstanding anyone married according to the rites of one Church had to be married again according to the rites of the new Church he joined. Sometimes this was done to a new person. The Regulation, passed on the advice of the British Resident due to complaints from the Protestant Missionaries, provided, "whoever having a husband or wife living marries in any case in which such marriage is void by reason of its taking place during the life of such husband or wife shall be punished with imprisonment and shall also be liable to fine."

Those persons whose husband or wife had been continuously absent for seven years and not heard of as being alive within that time, were exempted from the scope of the Regulation. Whoever committed another marriage by concealing the former were declared liable for punishment of varying degrees of fine and imprisonment.

In 1890, there was a proposal for the introduction of the Christian Marriage Act. The Dewan of Travancore proposed for a Regulation to govern the Christians of all denominations. They had been, from ancient times, allowed to follow their own
religious rites and marriage. One so performed was usually upheld by the Courts. In many of such marriages, it was solemnized between parties who had not attained the age fixed by the canonical law, and a case cropped up where a boy married to a girl during tender years, on attaining manhood set aside the marriage on the ground that they were too young to give consent, or were not even aware that any binding marriage had taken place. Moreover, the system of recording marriage had been imperfect in many denominations. In a case that came before the Court there was no entry in the register, though it was asserted by one of the parties that a marriage had taken place. In these circumstances many Christians of various denomination petitioned and proposed for a Regulation.

The proposed law only followed canonical law. Scope of the regulation was limited only to those marriages solemnized in Travancore by a person who had episcopal ordination and according to the rules, rites, ceremonies and customs of the concerned church. It was also provided that marriage could be solemnized by a Marriage Registrar. The rules stipulated to conduct the marriage between the hours of 6 and 7 during day. Exemption were allowed only with the sanction of the concerned Bishop. It also held that, nominally, marriage should be held only in a church unless there was no church within five miles distance by the shortest road from such a place. The draft regulation declared 20 years as the age of maturity.

The Bill made obligatory on those who solemnize marriage to keep a register with the signatures of the parties and two credible witnesses and despatch it to the Dewan's custody.
The British Government approved the Bill with certain suggestions for modifications to bring it in line with the British Indian Law. However the Travancore Government altogether dropped the move.

There were demands from the Christians for a legislation. The Travancore High Court also expressed the desirability of a law especially for the intestate succession. The objects and reasons for the Bill stated that there were disagreement in the customs and usages of various denominations. Separate legislation was felt undesirable as it would lead to much litigation. So the Government resolved to enact a uniform law.

For the purpose of succession no distinction was made between the self-acquired property and the ancestral property or between the property of a male and that of a female. The Act declared that a man died intestate "in respect of all property of which he had not made a testamentary disposition which is capable of taking effect". In such cases it was provided to devolve such property upon the wife or husband or upon those who were kindred to the deceased in the order prescribed by the Act. Sections 16, 17 and 18 provided to give an equal share to the widow if the intestate was survived by widow and lineal descendants, or one-half share if the intestate was survived by widow and ancestors, or the whole share if the intestate was survived by none except the widow.

Sections 24 of the Act, gave the wife or mother only the interest terminable at remarriage or death, over the movable property devolved on them by the action of Sections 16, 17, 21 and 22. As regards division of property among male heirs the
Act said, "without prejudice to the provision of section 16, the male heir mentioned in group (1) of Section 25 shall be entitled to have the whole of the intestate's property divided equally among themselves subject to the claims of the daughter for streedhanam 75". The Act fixed the streedhanam due to a daughter at 1/4 of the value of the share of a son or Rs. 5,000/- which ever was less, "provided that any female heir of an intestate to whom streedhanam was paid or promised by the intestate or in the intestate's lifetime either by such intestate's wife or husband by his or her heir shall not be entitled to have any further claim in the property of the intestate, when any of her brother or lineal descendants of such deceased brother shall survive the intestate," but a streedhanam promised was declared a charge on intestate's property.

Female heirs were given the right to the intestate property only in the absence of lineal descendants on male line. The Act exempted from the operation of section 24, 28 and 29 the Catholics of the Latin Rite and certain Protestant Christians of Karunagapally, Quilon, Chirayinkil, Trivandrum, Neyyattinkara and other talooks because their usages allowed equal rights to the intestate's property among male and female.

When the Bill was moved in the Council, an amendment was suggested to substitute, "a portion of the property equal to the share of a son", with the reason that the widow was not entitled to a share in the property of the intestate and that the word 'share' in the section would therefore be misleading. The amendment was defeated on the plea that it would affect other heirs of the intestate injuriously and such other ground 76.
Another amendment was moved to insert words, "or paternal grandmother" between "grand father or any lineal descendants" in section 17. The proposed amendment by T.K. Velu Pillai was rejected on the ground that there was no justification to make mother's position less advantageous than that of the grand mother. Another amendment moved by T.K. Velu Pillai to omit the words "immovable property" from the section 24 of the Bill was put to vote and lost.

There was opposition in fixing streepanam to Rs. 5,000/- or 1/4 of the share value, whichever was less. However, the main ground of attack on the Bill was the question of the rights of inheritance of a widow and an unmarried daughter. To it, Christians other than the Syrian Christians were in general agreement. As the opinion about the right of an unmarried daughter differed considerably an amendment was suggested and finally accepted. In view of the ever increasing dowry rate the maximum amount fixed was Rs. 5,000/- or 1/4 of the property whichever was less. When the Bill was finally taken up for passing, on the basis of difference of opinion, it was decided to keep the section as such.

Section 34 of the Bill was for fixing a limit for claiming the streepanam from the family property of the women. It was dropped by the Council on the ground that such things like ornaments etc. were given to women at the convenience of the family. So the amendment was carried and the section was dropped.

The Regulation was opposed by some Christian papers as a "glaring defiance of every canon and principles by which
the law makers in the civilized countries is required to abide. It was described as a legislative adventure which strikes at the very root of the social and domestic policy of the vast majority of the concerned classes. Nazrani Deepika suspected that the whole system would upset the law of inheritance of the Christians. But the Malayala Manorama 'rejoiced' at the passing of the Regulation "it is far better to have it passed in its present shape than to leave things as they are."

Subsequently another Bill was brought before the State Council to amend the provision regarding streevahanam of the Christian women. According to the Christian Regulation the amount given by anyone except the father or the legal guardian was not considered as dowry. In many undivided families it was done by the grand father who gave the streevahanam but it was taken only as a gift and led to litigations.

The amendment was suggested with the intention to create safeguards from misuse and mismanagement on the part of those who received dowry. It was usually wasted to clear debts or litigations or for some other unproductive purposes. This made the women virtual destitutes. So it was requested to make streevahanam a charge on the property of those who received it. The notion was put to vote and carried for introduction. The House was divided 8 against 2 with 21 neutrals. Yet, another amendment was brought forward by E.P. Varughese so as to make the daughter a co-sharer of the father property providing 1/3 share and a charge on the husband's property to clear off possible misuse. Some members remained totally opposed to amendment. However, the amendment suggested by E.P. Varughese
was put to vote and lost. The House was divided 2 against 8
with 14 neutrals.39

Again, an amendment of the Christian Succession Act was
brought before the Council by K.K. Kuruvilla in 1941, to remove
certain difficulties of the Succession rules. The foremost
difficulty was that when a man died intestate there was invariably
conflicting interests among the female in-laws. The brother
himself was sometimes indifferent to the marriage of the sisters
because of the financial difficulties. There was still a further
difficulty that when a man died intestate the part of the property
given to his daughter was only 1/4 or Rs.5,000/- whichever was
less, even if the intestate had left behind him lakhs of rupees.

"I claim", said K.K. Kuruvilla, "that a girl has as much right
as a boy. It is with this view of safeguarding the interest of
our sisters and widows that I have introduced the Bill.90". The
motion for the introduction of the Bill was put to vote and
carried.

The Travancore Christian Guardianship Bill was another
legislation moved in the State Council by Joseph Vithayathil,
in 1940, to define and declare the law relating to guardianship
applicable to the Indian Christians in Travancore. The Bill
declared a person below the age of 18 as a minor. It was
necessitated by the uncertain condition and lack of uniformity.
The Christian Succession Act remained silent on the point.
Troubles cropped up especially when the minor was in possession
of property. There was a scramble for guardianship.

Section 3 of the Bill said, "The following persons in the
order named, shall be the legal guardian of minors in respect
of their person and property, namely the father, the mother, paternal grand father, full-brothers in order of seniority, the paternal uncles in order of seniority; "with the condition of not being in minority or unsound mind. The Bill said no person could be a legal guardian of a minor except those persons mentioned in section 3 or a person appointed by a Court of law.

As regards the Proclamation which affected the converted Christians about their inheritance the Government said in June 1869, relinquishing their claims to the property of a Hindu who died intestate without leaving an heir but only converts to another religion that, "the principle of toleration requires that such practice should be altered. We hereby notify that from and after the date thereof the Sircar relinquishes all claims to property to self which will descend to the natural heirs independently of religious conversion subject to such public demands as would hold in the case of succession by Hindu heirs. However, the Proclamation did not grant the right to claim maintenance especially if there were other non-converted heirs.

Finally on the basis of the complaint registered by Rev. Fr. Jacob Madathumchalay, Vicar Roman Catholic Church, Vezhakulam Thodupuzha, the Government issued a circular to all the Heads of Departments that "official communications addressed to the Christian Priests, the title 'Mr.' alone is in certain cases used, instead of the appropriate designation suitable to the status of the Priests concerned. To avoid such mistakes the Government direct that in official correspondence the title 'Reverend' should be used in respect of the Christian Priests instead of 'Mr.'"
Legislations affecting the socially under-privileged communities

The Ezhava Regulation was passed to meet the demand of the community to change from the old social system. The Act was made applicable to all Ezhavas domiciled in Travancore except those following the makkathayam and to those who contracted marital alliance with the Ezhavas who were domiciled in Travancore. The Act declared that the conjugal union of an Ezhava subject to the restrictions of consanguinity and affinity with an Ezhava female, openly solemnized either by the old or the new marriage system whether so solemnized before or after the Regulation came into force, and subsisting on such date should be deemed as a valid marriage for all legal purposes. However, the conjugal union of a male who had not completed 18 years of age or female who had not completed 16 years of age was declared not valid, unless it took place with the consent of the legal guardian. Subsequent marriage during the continuance of a prior marriage was declared void. Dissolution of marriage was allowed either by the death of either of the party or by mutual consent or formal order of dissolution by a Court, subject to the payment of compensation to the wife. In case of dispute it was to be decided by a court after an enquiry into position, means and circumstances of the parties concerned but without going to the grounds of the proposed dissolution. Such compensation in no case was to exceed Rs. 2,000/- where the petitioner was the husband and Rs. 500/- where the petitioner was the wife.

The Act declared it obligatory and legal on the part of the husband or father to maintain and protect the minor or major
wife and minor children, except the married daughters. It was made conditional to the fulfilment of the condition on the part of the wife to cohabit and retain her religion.

Section 15 to 19 of Chapter IV laid down the rules for the devolution of the property of an intestate Ezhava. The Act conferred testamentary disposition of self-acquired and separate property.

Either for lease or mortgage of immovable property for more than 12 years it was made necessary for the karanavan to secure the written consent of all major members. No debt contracted by the karanavan or other managing member should be binding on the tarwad property unless it was for the tarwad necessity. The karanavan was given the right to surrender the rights of management. The Act also provided for the partition of the tarwad property.

When the Bill was brought before the legislative an amendment was moved by the Law Member for the exclusion of converts from the rights to claim the property of their tarwad. It was opposed and rejected. There was also criticism of the way in which the Ezhava Law Committee recommended to thavazhe partition and not individual partition.

Later, Ezhavas of Makkavazhe system of inheritance who were excluded from part II of the Regulation III of 1100 began to desire for some regulation because, "Neither marriage nor its dissolution according to the practice now prevailing among them wanted any formality, but only a mere declaration to that effect."
Subsequently, an amendment Bill was moved in the Sree Mulam Assembly by N.R. Krishnan with the object, as pointed out by the legal Remembrancer, "to repeal and to re-enact the Ezhava Act with certain modification——This is a repealing, amending and consolidating Bill which seeks to repeal the Act and re-enact with certain modifications. It was the result of a long felt want of the Ezhava community and the S.N.D.P. Yogam also appointed a Committee to go into the question.

But, postponement of the Bill was requested by the Legal Remembrancer because the sections dealing with marriage provisions in the existing Act affected Ezhavas alone. But the new provisions tried to make valid the conjugal union of an Ezhava female with any other Hindu. It was pointed out by him that "There are also other Acts governing various other communities and this provision will affect all those acts." The question that the Bill might be circulated for eliciting public opinion was put vote and lost. The House was divided 4 against 20 with 26 neutrals.

Other backward communities like Pulayas, Kammalas, Varnava and Thatcher moved for legislative enactments more or less on the same line of other communal legislations. Among the Pulayas marriage and dissolution remained disorganized leading to conflicting verdicts from the Courts. The Travancore Kammala Bill was introduced for all Malayala Kamalas. The community was longing for some legislation, due to the defects in the marriage and dissolution and inheritance and sub-caste divisions. They could divorce as they pleased.
and no sanctity was attached to marriage without any mutual rights or obligation. Polygamy and polyandry were permitted with disastrous results. Wife and children were often deserted without proper guardianship. If the relations of the woman quarrelled with her husband she was immediately married to another person. The Travancore Varnava Bill was introduced to regulate marriage, succession and inheritance as they were put to many difficulties due to its absence. The Bill included communities like Pathiyar, Vanan, Velan, Chayakkaran and others. The Travancore Thatcher Bill was introduced in the Assembly with the object of codifying various customs and practices regarding inheritance, partition, marriage and divorce.

The Kammala, Varnava and Thatcher Bills declared, subject to the conditions of consanguinity and affinity marriage performed was to be considered legal for all purposes. A second marriage during the continuance of the previous one was declared void. Divorce was permitted for reasons like adultery, change of religion, incurable disease, physical or mental deformity, and habitual cruelty — explained to include wilful desertion and persistent neglect to maintenance. Provision was also made for the payment of compensation or monthly allowance till her death or re-marriage. All the Bills placed wife and children under protection, maintenance and legal guardianship of the husband or the father, subject to the condition of cohabitation, retention of religion by the wife. The Bills provided for due share of the property of the husband or father. Testamentary disposition of self-acquired and separate property was allowed along with partition.
The Kammala Bill was criticised in the House for not giving proper assignment of share to the daughter. Section 16 of the Bill seriously affected the property right of unmarried Kammala women. In the Bill provision was made for the marriage of minors with the consent of parents but on attainment of majority they were given the liberty to sue for divorce. It was pointed out as an inconsistency.

Welfare legislation, land legislation

The most important legislations which affected the society as a whole were the tenancy Proclamations. In Jemni-Kudiyan issues T. Madhava Rao, the Dewan of Travancore supported the Kudiyan's rights basing his arguments on customs and utility. Because the tenants were holding the land for a long time after paying the stipulated rent, and from the point of view of utility, permanency of tenure was necessary for the economic improvement of the land "only if it remained in the hands of those who are able to spend labour and capital upon it".

The Dewan knew that if tenants were to depend on the pleasure of the jemmis there would be less improvement in the landed property. The first attempt in this line was made 1040/1865, regarding the Sirkar land.

In 1867, in view of the public demand, an amendment to the proclamation of 1865, was issued by the Maharaja to legislate the reciprocal relation of the jemmis and the Kudiyans and to give effect to them in the way equitable to both parties. The Proclamation said, "while tenants hold lands of jemmis for a consideration under such tenure as Kanapattam, Otti, Oolavoo pattom etc. so long as they pay the stipulated rent and other
customary dues, they shall not be liable to action for ouster by the jenmi nor shall the court give judgement in favour of such action.\textsuperscript{112}

The jenmy was given the right of readjusting the rent at the renewal of the lease if it was allowed by custom. He could also sue the tenant for the recovery of rent and other dues with interest thereon where such dues had fallen in arrears. He could also seek the recovery of land if the tenants had withheld payment of rent and other dues, and where it was proved that payment of rent for a whole period of 12 years had been so withheld by the tenant. In such cases the court could order restoration of land. Such restoration was declared subject to the payment of compensation for improvement. And, in cases where the jenmy refused to receive the rent the tenant was given the liberty to deposit the same in Munsiff court with variola or a written declaration. This was provided with a view to bar any action by the jenmy for ejecting the tenants on the ground of non-payment of the rent.

It was also made clear by the proclamation of 1867 that, thereafter, if the jenmy desired to secure the power of revocation of the agreement to express clearly in the lease deed, to the effect that, "It is hereby declared that at any time after such a day, of such a month, of such a year, the jenmy shall have the right to redeem the land from the tenant, and the tenant shall in no way demur to exercise of such right and jenmy shall be at liberty to seek ejection of the tenant holding, such lease, and the court may order ejection in accordance with the terms of the lease.\textsuperscript{113}".
To amend the defects of the Proclamation of 1867, the Government passed the Regulation V of 1071/1896, to make the provisions more comprehensive and clear. The Regulation guaranteed that the jenmi should not have any right, claim or interest in any land except the right to receive the jennikaram thereon and the kudiyan should be deemed to be the owner of the land subject to the payment of jennikaram. The Government specified, "The right of the jenmi as well as the kudiyan were inheritable as well as transferable by sale, gift or otherwise" and kudiyan could relinquish or apply to relinquish his holding or any portion thereof, and "no jenmi has the right to evict or sue for eviction of a kudiyan from his holding or any portion thereof".

When the Jenmi-Kudiyan Bill was discussed in the Council there was a move to widen the scope of the term jenman land but it was opposed. Another amendment was moved to include other improvement of the land for the payment of compensation such as the construction of dwelling houses, cattle sheds, permanent well, or strong fencing etc. V. Nearam Ayia moved an amendment to omit clause (b) of section 7 (I) because it gave a number of excuses to shake the fixity of kuthakapattam property which was tantamount to the destruction of permanency of tenure. He said, "I do not mean to say that a neglect to pay renewal fees or take a renewal lease by the tenant, should not be visited with pain and penalties, but eviction is an extreme step and should not be resorted to for such a trivial fault". The motion was put to vote and lost. The House was divided 3 against 4.

The next amendment to the Bill proposed in the Council was for the omission of clause (d) of section 7 (I) which said,
"intentional or wilful commission of such acts of waste as one calculated to materially and permanently impair the value and utility of the holding for purpose of tenancy and to injure the interest of jenmi". It was described as the "most unnecessary and vexations interference with the right of the kuthakapattam tenants" because of the constant interference that would then arise to destroy the permanency of tenure and the beneficent object of the Royal Proclamation of 1042/1867\textsuperscript{115}. The amendment was put to vote and lost. However, a modified version of the clause (d) was adopted which said, "Intentional or wilful commission of such act of waste as are calculated to materially and permanently impair the value and utility of the holding so as to injure the interest of the jenmi\textsuperscript{116}.

The enactment could pull on nearly a decade. As unrest cropped up representations were made from both sides. In 1915, a Committee was appointed to go into the question and a new Bill was published in 1924 on the basis of the recommendations. It was opposed by the landed interests. In 1108/1932 another Regulation was passed and jenmis were reduced to the position of landlords entitled merely to certain dues called jenmykaram\textsuperscript{117}. All payments to jenmis were converted into annual payments. There was no separate legislation for different types of tenure except kanapattam. This was the last land legislation to secure the tenancy in Travancore prior to independence\textsuperscript{118}.

There were other Proclamation by which the Maharaja relieved the people of the financial burden. It was the practice of the Government to realise the interest under different names for loans advanced by them or by the Devaswoms in remote times. So, in order to relieve those under the burden they proclaimed,
"no demand should be made in respect of the principles as well as interest and all the arrears which remained unpaid after the 3rd days of Karkadagom 1070/15 August 1895 and all such principles, interest and arrears to be written off the account." They by another Proclamation abolished the case known as Akshabhogam in order to relieve the burden of ryots from 1 Chingam 1071/16 August 1895, and the arrears remained unpaid after 15 August 1895 on that account was written off. Those who had taken loans advanced by the Government to perform Oolium service was recognised in the account as Muthalelppu. They felt that "the levy of the fund or the interest as aforesaid of the service on account of the advances—has been a source of hardship and loss to them—we resolved, in the interest to abolish the Muthalelppu." The Proclamation said, "That all services rendered on account of the Muthalelppu shall be discontinued." 

It appears that the land legislation passed in the 19th century benefited more to the tenants belonging to the Nair Community. So was the other proclamations. It is to be remembered that by the end of the 19th century joint family system of the Nairs was on the verge of collapse. It could to a certain extent protect the landed interest of that community because the depressed classes were evidently landless, so was the case for many of the backward communities. Syrian Christians and Muslims engaged their attention in trade and commerce and converted Christians remained more or less in the same old condition and the Brahmins were mostly the landlords.
Legislation for the protection of women and children

Protection of children

Earliest of the executive attempt to protect the children was made in 1902. The Government issued a notice for the protection of pauper children and lunatics. The Maharaja by virtue of his position as the sovereign as loco parentis in such cases had been pleased to direct the District Magistrates be authorised to act as guardian of such children and lunatics found within their respective districts for the protection against ill-treatment. But the Government was unwilling to accept those suggestions which incurred additional expense.

Mr. Kesava Pillai, a non-official Councillor, introduced the Travancore Elementary Education Bill in 1913. He said though the Government made education free, parents were not obliged to send their children to schools. Various members supported the Bill. The Dewan warned if the Bill incurred additional expense it would be rejected, in the meanwhile he professed the interest of the Government in educational development.

In the area of application, the Bill said, every parent would be obliged to send their boys between the age of 6 and 10 to a recognised school for a specified number of days. Non-attendance on certain circumstances was pardoned. Employment of children were prohibited. Violation of the rule was made liable for prosecution.

The Bill was rejected for 'want of funds'. The Government was highly criticised by newspapers. One paper commented
"we can understand the vehemence with which a mere bird of passage in the country like Mr. Richardson, opposed the Bill but what passes our comprehension is that almost a high hearted measure in which a reasonable officer of the Travancore Darbar like Mr. M. Krishnan Nair should not have thrown cold water on the Bill.126. But on various occasions the Government showed their concern over the moral welfare of children.

To prevent children from falling into bad ways the Government passed the Reformatory School Act in the year 1926/1921 and another Act to prevent the juvenile from the use of tobacco and intoxicants. Both these Acts were repealed when the Travancore Children's Act was passed in 1945.

The Travancore Children's Bill was introduced in 1945 by the Government to consolidate and amend the law relating to the custody and protection of children, trial and punishment of youthful offenders. They felt that strict and better control of young vagrants or ill-protected or convicted of offenses had permanent importance and could be made as the useful citizens of the state.127. The Reformatory School Act became insufficient to meet the growing needs of the society.128. The Bill was made applicable to children below the age of 16, giving power to the police and magistracy to take action and pass appropriate orders for the custody and protection of children who were destitute, vagrant or likely to be exposed to cruel and bad associations and moral dangers.

A youthful offender was defined as "any child who had been found to have committed any offence punishable with imprisonment, or those vagrant and destitute children or whose
parents were unfit to take the guardianship of children by the reason of their criminal or immoral nature, which would make them criminal 109. The Bill declared if the court was satisfied because on enquiry of the conditions it could order him to be sent to a certified school or to the care of a relative or other fit persons named by the court till the child attained the age of 18 years or for any shorter period.

Whoever in charge of children abandoned, exposed, wilfully neglected or ill-treated them in such a manner to cause unnecessary suffering, injury, induce to beggary, administer or induce to administer intoxicants, induce a child to bet or borrow money and enter into transactions compel to reside or frequent such places like brothel, encourage seduction, prostitution were provided with varying degrees of imprisonment, fine or both 129.

Section 21 empowered the magistrate on the basis of a complaint to issue a warrant for the search of children in the area of his jurisdiction. Section 29 provided for committing a youthful offender to a certified school. He was also empowered under sub-section (a) and (b) of section 30 to discharge a youthful offender after due admonitions or on probation of good conduct and commit to the care of his parent, guardian or any other fit person for a period not exceeding 3 years. It was also made an offence, punishable by imprisonment of either description for a term not exceeding two months or with fine or both, on the part of newspapers or newsheet to publish the proceedings of court so as to give identification of such children either by picture or by description.
The Borstal School Bill was introduced in the Sree Mulam Assembly by N. Ramakrishna Pillai, the Legal Remembrancer to the Government, with the object of establishing and regulating Borstal School for the detention and training of adolescent offenders. They considered it undesirable to familiarise youthful and adolescent offenders with ordinary jail life and adult prisoners, and also to wean them away from evil propensities.13

The Bill aimed at giving the adolescent offenders, while under detention, some industrial training and other instructions and subject them to disciplinary and moral influences. So the Bill gave a term of not less than 3 years and not more than 5 years instead of sentencing them into the ordinary way of imprisonment. A system of conditional release on licence was also introduced with the necessary provisions for the revocation of such licences.

The Prevention of Begging Bill was moved in the Assembly in 1945, by the Legal Remembrancer. They felt it unjust to deal with begging as a crime and it would be impracticable to do so131. So they attempted to solve it by establishing institutions like poor houses and work houses. Another member commented on the Bill as the duty of the State and community to take care of the disabled and to provide work for the able bodied. "I believe that the root cause of begging is destitution and poverty. I do not believe that the root cause can be removed unless there is a social and economic re-adjustment. If begging is to be eradicated the state must sooner or later find a solution to the problems".
Section 3 provided penalty for the violation "whoever in any public street, road or thoroughfare or any place of public resort, begs or applies for alms or expresses or exhibits any sort of wound, body ailemient or deformity with the object of begging or of exhorting alms shall be punishable with imprisonment or fine which may extend to one month or with a fine which may extend to one hundred rupees\textsuperscript{132}. Section 4 of the Act said that subsequent sections would be applicable only if they notified a place as a workhouse or a special home. Magistrates were given power to commit an able bodied person above the age of 16 to a workhouse.

Section 3 of the Bill came under criticism. The House doubted how the Government was going to realise a sum of Rs. 100/- from a beggar\textsuperscript{133}.

Legislation affecting women

It was the evils of child marriage that quite often engaged the mind of the Government. Amendments were proposed and passed in the Legislative Council to the clause 5 of section 375 and the section 376 of the penal code, to alter the age limit for sexual relationship with a minor girl either with or without her consent and reducing the age of consent to 10 years. These alterations were made at the instance of the Brahmins\textsuperscript{134}. But, later it was raised as a question of humanity and public morality. It was argued that the Government had already interfered in such matters and what remained was whether age of consent ought to be raised or not\textsuperscript{135}. 
On the basis of representation in the Popular Assembly requesting to amend section 375 of the Penal Code so as to raise the age of consent to 14 without discriminating between the husband and a stranger, the Government referred the matter to the Dewan Peishkar for opinion. They reported public opinion was against raising the age of consent to 14. So the Government decided, "As the public opinion is reported to be not in favour of raising the age of consent to 14 they cannot consider that question". As regards exemption in favour of the husband, it was observed that the Travancore Penal Code prescribed the age of 10 years. The Indian Penal Code fixed it at 12 years. Therefore they were of the opinion that no special concession should be allowed to exist in favour of the husband and agreed with the suggestion made by the High Court and Dewan Peishkar, Kottayam, that the age of consent should be raised to 12 years in all cases.

The child marriage issue cropped up in the Council after the publication of the Census of 1931. A resolution was moved in the Council that "early steps be taken to bring the provisions of the Child Marriage Restraint Act, known as the Sarada Act recently passed by the British Indian Legislature into operation in this State". Child marriage was prevalent among Tamil Brahmins, Kudumbas etc. and absence of widow re-marriage made the question more grave and some other communities like the Christians and Nairs took pride in the fact that they had married their daughters before their maturity. N. Kunju Krishna Pillai said, "I know myself of several such instances on account of pre-puberty marriage, immature cohabitation and premature child birth, the girl
died. Even during the last few months I myself have attended at least three marriages in which the girls were less than 13 years. I am speaking of the Nair community where it is supposed child marriage is not common. These marriages took place, not in towns, but in the interior, among the people who were not very much educated. The Government showed reluctance for an enactment of the legislation. However, the resolution was put to vote and carried. The House was divided 30 against 5 with 3 neutrals.

After nearly ten years the Government passed the Child Marriage Restraint Act, drafted on the lines of the British Indian Act, with the object of preventing the social evil even though it was not rampant in the state. But there were instances where some Britishers came to Travancore to avoid the punishment of the Sarada Act.

While introducing the Bill Smt. T.Narayani Amma said "In matters like the evil of child marriages, we have to compare the conditions of Travancore not with what they are in less advanced states and provinces in the British India but with what they are in more advanced and progressive countries. And, if we so compare, it would be found that conditions here stand in need of immediate change." When sought whether the Assembly should further consider the question it was divided 4 against 36 with 11 neutrals and was declared carried.

When the Bill was finally taken up for consideration the Government declared their position that in all matters of social legislation they would remain neutral in voting.
"Individual opinion of the Government is a very different matter. Speaking of myself" said the Dewan, "I have held that this measure is extremely necessary subject to certain qualifications. But that is a matter which will not affect the Government in dealing with it as a social reform measure. And social reform measure will depend for its success upon the ability and persuasiveness of the members interested in the measure to bring to others round to their point of view." Some of the Brahmin members of the House objected that it was an unnecessary piece of legislation for them. When it was put to vote for the introduction of the Bill, the Council was divided 14 against 9 with 10 neutrals and it was declared carried.

The Act stipulated as child a male below the age of 18 and a female below 14, and by minors it meant all those below the age of 18.

The Act declared that whoever contracted a child marriage would be punishable with a fine to the extent of Rs.1000/-.

Penalty was also prescribed for those who conduct child marriage, whether the parent or legal guardian. Lodging complaint to the court was limited to within one year after the solemnization. The Court was empowered to issue injunction to prohibit the marriage after issuing a previous notice. Women were excluded from punishment under this Act. The Government reserved the power to exempt any marriage on application by the legal guardian.

An amendment was introduced when the Bill was taken up for consideration of the House to reduce the age of females from 14 to 12 on religious ground, but it was rejected.
An amendment to clause 11 moved by Smt. T. Narayani Amma regarding the individual exemption was carried. Another amendment was also moved to delete the words "within 6 months of passing of this Act" at the end of the section 11, by P.S. Narayana Aiyar. Puthuppally S. Krishna Pillai, Legal Remembrancer, explained the amendment, "The result is that when a child marriage is to take place, the party has to apply to the Government to get previous permission and then perform the marriage. My submission is that the omission of the words suggested by Nilakanta Aiyar is not in any way likely to impair the efficiency of the Act". The amendment was put to vote and carried. The Assembly declared the Bill carried.

The main defect of the Act was the provision for exemption even when knowing that child marriage was injurious to the parties concerned. Objections were merely sentimental and religious. Moreover penalty provided for its breach was very light.\(^{144}\)

Subsequently the Government issued a press communiqué, "Having regard to the state of general public opinion on the question of child marriage, Government will be inclined to view with disfavour applications for exemption from the Child Marriage Restraint Act which are obvious attempts at the evasion of the law\(^{145}\). They received a number of applications for exemptions and in some special cases it was granted.

The Hindu Widow Remarriage Bill was another piece of legislation. It aimed at removing the legal obstacles of remarriage of Hindu widows in Travancore, as a permissive measure. According to the Census Report of 1931, there were 119 widows in every 1000 women. Widow remarriage was prohibited among
certain communities.

Most of the members of the Assembly favoured the introduction of Bill. But objection was raised against clause 4 and 5 which said, "A widow who has not completed her 16th years and whose previous marriage has not consummated shall not remarry without the consent of her guardian, viz her father, her mother or her next male relative. The consent of the guardian shall be presumed to exist until contrary is proved". Objection was raised against the second part of the clause as an inroad into the guardianship and the clause 5 related to giving the right to property of the deceased husband. They were described as highly objectionable. The Additional Head Sirkar Hakil, on behalf of the Government, declared their neutrality. However, the motion that the Bill was passed was put to vote and declared carried.

Anti-dowry Bill was introduced to restrain the ignominous custom of dowry in marriages. Whatever might have been the origin, it began to be considered by the vast majority as a great social evil calling for removal. There were several communities like the Brahmins, Christians, Nairs, Ezhavas and Nanjanad Vellalas who were infected by it. It vitiated the sacredness of marriage and caused unhappy alliances, breaches of agreement and family quarrels and it was decided to put a stop to it. "My only object," said Smt. T. Narayani Amma, "is to see the sacredness of marriage is not tinted with the idea of purchase and sales and that the economic condition of poor families is not affected by a pervasive custom".
The Bill was made applicable to all Travancoreans by residence and nationality. Dowry was defined as stipulations made in connection with marriage, fixing the quantity or quality of things to be paid for in cash or in kind on ceremonial and other occasions before or after the marriage and the giving and receiving of presents in cash or in kind.

It declared whoever gave or took or bargained to give or take a boy or girl in marriage in lieu of receiving or promise of receiving any money or other gratification, should be deemed to have committed an offence. Exception to spontaneous and voluntary gifts out of natural love and affection up to a value of Rs. 1000/- was declared not culpable.

Punishment suggested for the violation of the rules was Rs. 1000/- and it was provided that, "No court shall take cognisance of any offence under this Act save upon a complaint made by a resident of Travancore, within one year of the commitment. If any person ordinarily residing in Travancore was proved to have violated in the law outside Travancore simply to evade the application, they would be deemed to have committed the offence."

When the Bill was discussed it was objected to on the basis of customs and practices by the Christian members. Pat. T. Narayani Amma pleaded that the system had made the life of many unhappy on account of this pernicious custom and many families were ruined on this account and that it was the duty of every right thinking person to prevent such unfortunate happenings. The Dewan referred to the Bill "--- under the provisions of the Bill the girl will not get anything out of the family property."
Even the comparatively small amount which is paid as dowry will be saved to the brothers — that in several cases the dowry system had led to regular persecution of the girl's parents, but unfortunately in certain cases, the dowry is the only substitute in fact that a girl gets from her family of birth.

The Bill faced opposition from Mr. A. Nesamony, Chazhikkattu Joseph, Joseph Vithayathil, Kadakkavoor P. Madhavan and others, though accommodations were made in the Bill to adjust the provisions of certain Acts already existing in Travancore by defining streethanam as "what is given by way of gift out of natural love and affection".

Legislations affecting the political social and economic status of women

Constant representation in the Sree Mulam Popular Assembly forced the Regent to resolve that, "the women should have the same rights and privileges as men under the Popular Assembly Rules in respect of both the franchise and membership."

There were different legislations which affected the dignity of women. An amendment of the Penal Code was moved in the Legislative Council in 1894 to prevent any public servant to assist any other person (public servant or not) to commit sexual intercourse with a woman in his charge or under his control. So section 164 of the Travancore Penal Code was amended as "or assist any other person to commit sexual intercourse with such women" was inserted.

Another legislation to protect the dignity of women was the abolition of Devadasy system. The institution of kudikkari, as in other places, degenerated in Travancore and was tapping
the social morality. The earliest occasion to restrict the freedom of recruitment to the class of kudikkari was in 1084/1908-1909, when the application was made for the dedication of a Nair girl of 11 years to the Suchindram temple and for her affiliation to Kudi No 12. The Divisional Assistant in charge of the Padmanabhapura Division ordered thereon that it was punishable under sections 372 and 373 of the Travancore Penal Code to dedicate a girl before the age of 16 to the temple and in that case it was specially so as the girl did not appear to the one belonging to the class of kudikkari. The Government declined to interfere on appeal. Similarly another application was turned down in 1085/1909-1910 from Parakal. Hence the kudikkari of Suchindrum appealed for a reconsideration of the order. The question was fully considered and disposed of. Adhering to their previous decision, the Government allowed such of the children of the kurikkari as had undergone the sacrament of talikettu in their houses to be appointed to duties in temples if they decided to do so on attaining the age of 16. In 1921 the Government decided to stop further recruitment and in 1931 they resolved to put a stop to the practice for ever by making some provision, for their subsistence.\textsuperscript{154}

Another legislation which protected the honour and dignity of the women of the state was the Travancore Immoral Traffic Act passed in 1941. It declared involvement of any person in the management of brothel as culpable for imprisonment to an extent of two years or with a fine to the extent of Rs. 1000/- or with both.\textsuperscript{155}

Whoever forced a person, below the age of 18 years to live or have company with and exercise control or influence, in such
a manner as to aid, abet or compell to prostitution and involve in the traffic of women for the same purpose or to detain a woman against her will or those who induce a woman were all declared punishable under the Act for imprisonment upto a period of 2 years or Rs. 1000/- or with both.¹⁵⁶

When the Bill was taken for consideration in the Assembly, S. Subramoniya Aiyar moved an amendment to alter the meaning of "promiscuous sexual intercourse for hire", while admitting that traffic in women was immoral and should be stopped for the interest of the State and society but demanded that a woman's freedom to have sexual intercourse of her own will and pleasure should not be limited or whether it should be limited to exceptional circumstances or not it was not for others to decide.¹⁵⁷ The Dewan explained that "--- I do not take it that that object of this legislation was to deal with the much bigger and wider question of promiscuous sexual intercourse by itself. I donot think that any Government can usefully or with any effect deal with the question because the very word 'promiscuous' remains to be defined. The evil that I have intended to be dealt with by this Regulation was the marketing, the commercialisation of vice.¹⁵⁸". The amendment was put to vote and lost. The Bill was declared passed.

There were certain legislation which affected the economic condition of women in the society. The first of them was related to the right of inheritance of Hindu women. An amendment was suggested to the Hindu Law of Inheritance in
Travancore to bring it in conformity with the changing ideas and sentiments of the society, to alter the order in which certain heirs of a Hindu male dying intestate or who died intestate were entitled to succeed to his estate, to give effect to the principles of consanguinity and propinquity as accepted under the Mithakshara Law and in the British Indian Act II of 1929, and to remove sex disqualification which excluded one's nearest female relatives from inheritance.

The proposed Bill was made applicable to persons who, but for the passing of this Regulation, would have been subject to the Mithakshara Law in respect of the provision, herein enacted, and in respect of any property of the male not held in coparcenary and disposed of by will.

The Bill said, "A son's widow, son's daughter, daughter's daughter, sister, sister's son shall, in order so specified, be entitled to rank in the order of succession next after father and before a father's brother." These were made subject to certain provisions provided in sub-section (a) (b) (c) (d) (e) of section 3.

In the original Bill proposed a son's widow was excluded. So an amendment was moved to include her in section 2 of the list of heirs and to give preference to other heirs, because "The son's widow practically is son's daughter's mother. To exclude her while including her daughter is unhappy." A widow was a co-partner under the Hindu Law as recognised in Travancore, whose rights were recognised in Travancore and its courts (5 ThR 45 and 6 ThR 943). The amendment was put to vote and carried. The House was divided on the issue 16 against 6 with 13 neutrals.
Another amendment was added in section 3 to include a sub section "or effect any rule of law by which the widow or members of a joint family are entitled to be in possession at the death of the last surviving member", and the proposed amendment of G. Narayana Aiyar was carried by 10 against 8 with 4 neutrals.\textsuperscript{164}

The Hindu Women's Right to Property Bill the second one. It was introduced in 1939, because the Hindu widows who were governed by the Mitakshara law was labouring under serious difficulties in getting even their quota for maintenance from their husband's family. The childless widow of an undivided member had no right either to enjoy her husband's share of the family property or to sue for partition and recovery of her husband's share. Her right was only for maintenance whatever might have been her status in the husband's family. Naturally good feeling and affection between the various members of the family was wanting in case of a childless widow. It was explained that whatever might be the restrictions enjoined in texts as to widowhood it was now well settled that she had to lead a peaceful and continued life as compatible with her status of the family. Generally, such widows had to approach courts to get her maintenance property declared and recovered. It was considered acceptance of her rights would considerably reduce her misery.\textsuperscript{165} They rightly commented, "we will be failing in our duty if we do not open our eyes and redress the grievances and difficulties of the Hindu widow and do our best to give them relief".

According to the Bill, when a Hindu died intestate leaving his separate property his widow or widows, all of them should,
subject to the provisions of sub section (II) were entitled to the same share as a son. Position of the widow was made clear. "Any interest devolved on a Hindu widow under the provision of this section shall be a limited interest known as Hindu Woman's Estate, provided, however, that she shall have the same rights of claiming partition as a male owner". The Bill declared a person intestate in respect of all the properties for which he had not made a testamentary disposition capable of taking effect.

One of the main defects of the proposed law was that the widow was given a right to sue for partition and another was that the widows interest was only of life interest. Naturally, therefore, her interest would stop with the annual yield out of the property. Further, the Bill did not differentiate between a childless widow and widows with children, especially unmarried daughters, where certainly the needs of the widows were greater. Many others members of the House who spoke on the Bill stood against imposing "compulsory pious life" on helpless widow. The House accepted the principle of the Bill.

The Maternity Benefit Act was the third legislation which protected the economic status of women. It was passed to prevent the employment of women in factories for sometime before and after confinement and to provide for the payment of maternity benefit to them. The principle described by the President of the House was that such women should not be forced by poverty to come back to work at a time when it would imperil their health and future well being.
The Act laid down that, "After this Act come into operation, no employer shall knowingly employ a woman in any factory during four weeks immediately following the day of confinement". It contained every woman worker in a factory, except a seasonal one, were entitled for the payment of maternity benefit at the rate of 14 Chuckrums a day for the actual days of her absence—four weeks before and four weeks after the confinement—provided that the women had been employed in the factory for a period of not less than 9 months immediately preceding the date on which she gave the notice. If a woman died during this period the benefit was payable for the days upto and including the days of her death.\textsuperscript{170}

It was declared illegal for an employer to dismiss a woman so as to evade the law. Contravening the provisions of the law was punishable with a fine upto Rs. 250/-.

The Bill was referred to the Select Committee. They recommended a sanction of 10 Chuckrums per day. An amendment was passed in the Assembly to increase 10 Chuckrums to 14.\textsuperscript{171}

Another amendment was moved to insert in sub clause 2(a) of clause 8 words, "or notice of retrenchment" after the words 'sufficient cause' with the object of checking the dismissal of pregnant women. Because of the implications that the amendment would even extent to the whole period of preganancy, the amendment was rejected.\textsuperscript{172}

Legislation affecting temples and its customs

The earliest executive attempt to restrict abusive
celebration of festivals was made in 1891, on the basis of the complaint lodged by the Christians of Shertallay. It induced the Government to issue a notice prohibiting the use of obscene songs, obscene language, and gestures outside the boundaries of the temples during pooram festival. The notice warned those who violated the law would be dealt with accordingly.\(^{173}\)

Subsequently, in 1927, during the Regency, they declared for general information that, "singing or reciting or uttering of any obscene songs, ballads or words or doing of obscene acts in or near any public place in connection with the utsavam festival in Shertallay temple is strictly prohibited and that those, who contravene the directions therein contained were liable to be proceeded against accordingly to law\(^ {174}\)."

In 1925, the Government informed the Devaswom Commissioner of their desire to discontinue animal sacrifices in temples and to decrease the expenses on that account from the Devaswom funds.\(^ {175}\)

The most important Proclamation on Devaswoms was the Temple Entry Proclamation, issued on 12 November 1936, permitting the backward Hindu communities to worship in the temples. The Proclamation said"---none of our Hindu subject should, by reason of birth or caste or community, be denied the consolation and solace of Hindu faith. We have decided and hereby declare and order and command that, subject to the rules and conditions as may be laid down and imposed by us for preserving their proper atmosphere and maintaining their rituals and observances there should henceforth be no restriction placed on any Hindu by birth or religion on entering or worshipping
at the temples controlled by Us and Our Government 176. The
word 'temples' were defined as "including not only the temples
and shrines but also mandapams and other buildings as well
as tanks and wells appurtenant to the temples 177."

Other minor laws - welfare

In 1938, an Act was passed by the State Council with
immediate effect not to exclude any person from "inheritance
or from any rights or share in a joint family property by
reason of disease, deformity or physical or mental defect 178."

Another legislation dealt with the abolition of capital
punishment in the State. It was received with much acclaim
and emotion was put to vote and carried in the Assembly 179.

The greatest legislative achievement, of far reaching
implications, passed by the Government was The Travancore
Special Marriage and Succession Act in 1941, with the object
of providing a form of marriage for persons who could not
otherwise validly contrast a marriage and whose marriage would
otherwise be invalid, and to provide a law of intestate succession
to them.

It was extended to all persons domiciled in Travancore
and to such persons not so domiciled as had or would have marital
relations in the form prescribed under this Act with persons
domiciled in Travancore 180.

Section 3 of Part I of the Act said that subject to the
conditions laid down marriage could be solemnized under the Act
between persons with whom it was not sanctioned or recognised
as valid under any custom by which such persons were governed, neither party at the time of the marriage should have a husband or wife alive, not below the age limit of 21 for men and 18 for women, and not related to each other by any degree of consanguinity or affinity which would according to any law or custom to which either of them was subject, render their marriage invalid.

Solemnization of marriage, under section 12 could be done in the presence of the Registrar and three witnesses signing the declaration. It could also be solemnized in any form, provided that each party say to the other "I (A) take thee(B) to be my lawful wife (husband)". Section 13, sanctioned to celebrate it either at the office of the Registrar or at such place within the jurisdiction of the Registrar as the parties desired, subject to certain conditions and payment of fees.

It was made a penal offence, to invoke the Act during the subsistence of the previous marriage, under sections 497 or section 498 of the Penal Code.

Divorce was allowed either by the death of either of the party or by mutual consent or by the formal order of a competent authority. Payment of reasonable compensation was provided under the Act, under sub section (3) of section 20 which in no case was to exceed Rs. 5,000/-. The Act declared that wife and children except the married daughters were to be under the protection and legal guardianship of the husband or father, subject to condition of cohabitation.
The Act protected the right to property of those who solemnized marriage under provision of this Act. "A person who marries under this Act shall not, by reason of such marriage, incur forfeiture of rights or property, nor shall it be held in any way to impair or affect any right of inheritance by reasons of his or her renouncing or having been excluded from the communion of any religion, or being deprived of caste notwithstanding any law or usage now in force." No person was given by such marriage to acquire any interest in the property of the person who he or she married or became incapable of doing any act in respect of his or her own property which he or she could have done if unmarried.

For those belonging to the joint families the Act said, "The undivided share in a joint family property of a person who had married under this Act should be deemed to have determined as on the date of such marriage and should be treated as such person's separate property." But such persons who married under this Act were declared incompetent to act as a karanavan.
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