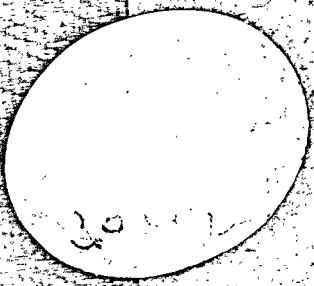


30552, Vol 1

REPORT OF THE
MALABAR MARRIAGE
COMMISSION

1891



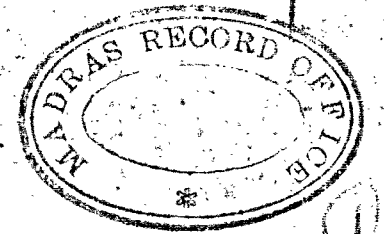
REPORT

OF THE

Malabar Marriage Commission

WITH

ENCLOSURES AND APPENDICES.



ENCLOSURE A.—Memorandum by the President.

„ B.—Memorandum by M.R.Ry. Rama Varma Tamburan Avargal.

„ C.—Memorandum by M.R.Ry. O. Chandu Menon Avargal.

„ D.—Memorandum by M.R.Ry. Mundappa Bangera Avargal, B.A., B.L.

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„ II.—List of 474 persons to whom Interrogatories were sent.

„ III.—Sixty-four selected answers, with list.

„ IV.—Depositions of 121 witnesses examined *viva voce*, with list.

„ V.—Statement showing Marumakkathayam Castes.

„ VI.—Extract from the Diary of the Commission.

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1891.

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 " C. Memorandum by M.R.Ry. O. Chandu Menon Avargal.
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- " II. List of 474 persons to whom Interrogatories were sent.
 " III. Sixty-four selected answers, with list
 " IV. Evidence of 121 witnesses examined *visâ voce*, with list.
 " V. Table of Marumakkathâyam castes.
 " VI. Extracts from Diary of Commission.

To

THE CHIEF SECRETARY TO GOVERNMENT,

Fort St. George, Madras.

SIR,

We, the undersigned Members of the Commission appointed by G.O., dated 4th May 1891, No. 25, Legislative, have the honour to submit the following Report:—

2. It seems unnecessary to recapitulate the circumstances leading to the appointment of the Commission, further than to say that the starting point is the proposal "to provide a form of marriage for Hindus following the Marumakkathâyam law."

3. *Object of the Commission.*—The object of the Commission, as defined by the Government of India (G.O., 7th April 1891, No. 13, Legislative), was to provide evidence,

- (a) as to the customs connected with Hindu marriages in Malabar,
- (b) as to whether the proposed changes are desired by the majority of the classes subject to the Marumakkathâyam law,
- (c) or are essential for the protection of the minority:
- (d) Whether legislation is expedient,
- (e) and if so what form it should take:
- (f) Whether the measure would affect the religion, or the religious rites and usages, of the Marumakkathâyam classes.
- (g) What would be its effect upon the people of the neighbouring States of Cochin and Travancore,
- (h) and upon the people governed by the Aliyasantâna law.

4. *Procedure followed by the Commission.*—The procedure followed by the Commission to collect the necessary material for a report is, described below, in the words of the President:—

"It was our anxious desire to render the information which we had to collect, full and comprehensive. With this object a set of questions was framed about one month before the Commission visited Malabar, and replies were invited from representative men, selected by Mr. Winterbotham in communication with his Tasildars, from the official and the educated classes, from representatives of influential families or Tarawâds, in the interior, and from the members of the Bar in the District. We also invited representations from the several Kovilakams or families of the ancient rulers of this part of the country, and from Nambutiris whose opinions on matters of caste are considered to be authoritative. Before questions were framed by the Commission, Mr. Winterbotham had invited information from the Dewans of Travancore and Cochin and from several intelligent and educated men in those States through the British Resident. In the result, interrogatories were sent on the whole to 474 persons, of whom 322 sent in replies. (*Vide Appendix II.*)

Another arrangement made in view to obtain comprehensive knowledge and to secure an expression of public opinion throughout the District, consisted in inviting a few leading men from every Taluk to appear before the Commission and to favour it with their views as to the expediency of the proposed legislation and as to the best mode of regulating and improving sexual usages among persons subject to the Marumakkathâyam law. We deemed it advisable to adopt this procedure, *first*, to supplement and elucidate the written answers in cases in which it was desirable to do so, and to obtain a knowledge of special local customs; *secondly*, to enable the Government to see how far local opinions are in favour of the proposed, or any other, form of legislation regarding marriage, and on what points they vary in different parts of the District and among different classes of people. In order to economise our time and prevent public inconvenience, we intended also to hold a Conference wherever a large number of persons attended, and to record the representations which they desired to make in connection with the Bill. For the purpose of enabling the people readily to come forward and to submit their views, it was arranged that the Commission should sit before the outburst of the South-West Monsoon at Cannanore and Tellicherry, and then visit Calicut, Shoranore and Palghât. At the several stations mentioned above, we examined every one who appeared to give evidence in compliance with our request. In none of the stations which the Commission visited, was the attendance so large as to suggest the necessity of substituting a general Conference for individual examination. On the other hand the attendance on some days was so meagre that the examination of witnesses was over early in the afternoon, and that was the case for several days at Cannanore and Tellicherry and on the last day of our sitting at Calicut and Palghât. Another part of our procedure consisted in announcing in the District Gazette our desire to consider and record any representation which organised literary and other Societies, or persons who had not been specially invited, wished to submit for or against the proposed legislation. We received representations from one Society (The Travancore Malayâli Association), and from twelve meetings held in several portions of the District. We also received, through Government or direct, 38 petitions, of which 13, signed by 2,723 persons, were in favour of legislation, and 25, signed by 2,131 persons, were against it. Opportunity was given to such of the Native Commissioners as belong to Malabar to mention to Mr. Winterbotham the names of persons who might in their opinion be specially requested to give evidence. It seemed to me that in an enquiry like the one which the Commission had to institute, it would not be amiss to get an insight, if practicable, into the sentiments of respectable Nayar ladies competent to form and express an opinion regarding the necessity for a marriage-law. It was not, however, practicable to do anything in furtherance of this object in North Malabar where the Nayar women are notably conservative and live in privacy in their homes,—a privacy akin to the close seclusion which is observed by Nambutiri ladies. Though women in South Malabar are allowed greater freedom, and their intercourse with men of respectability is not unduly restricted, yet I understood that it was not in their power to express their opinions otherwise than through their Kâranavans and husbands, and that it was difficult to ascertain their genuine feeling. I may mention that shortly before the Commission was about to dissolve I received four petitions, three signed by 245 ladies, alleging that legislation was necessary, and the fourth, signed by 387 ladies, objecting to any change in the existing usage. They tend to support the view

that the ladies follow more or less the lead of their male relatives. In addition to these sources of information the Commissioners had before them the opinions of several European writers who had resided for sometime amidst the people subject to the Marumakkathâyam usage and made their home-life a subject of special study. Appendix I. contains copious extracts to facilitate reference to those opinions. We had also before us the very interesting and instructive account of the Malayâli races given by Mr. Logan in his Manual on Malabar; and the opportunities which he had of acquiring a knowledge of local usage during his stay in the District for about 20 years, and the keen interest and zeal with which he endeavoured to acquire such knowledge, impart a special value to his description of domestic and social life in Malabar. Further, we had before us the opinions of the Committee, consisting among others of Mr. Logan, Mr. Wigram, Mr. Sankara Nair, and the late Raja Sir T. Madhava Row, the distinguished Minister of Travancore. After recording evidence at the several centres in the District and tabulating the answers to our interrogatories, the Commissioners discussed the Bill in detail and prepared memoranda embodying their opinions and the reasons for the same. The memoranda and the resolutions recorded at the several meetings held at Calicut form the basis of the report which Mr. Winterbotham has kindly undertaken to prepare.

“Having described the procedure which we followed, I shall make a few remarks with reference to the material available to the Commission. As regards the information elicited regarding marriage customs, it is reliable; but it must be accepted with caution so far as it bears on the extent to which polyandry still lingers in parts of South Malabar and influences the relation of the sexes. Testing the recorded evidence by what I have heard outside the Office during my tour, from disinterested local officials and landholders, I think the extent is understated. It was a matter about which it was not possible to subject the witnesses to a searching cross-examination without giving offence to them and to the local community. The procedure of the Commission was throughout so arranged as to be sympathetic and conciliatory and neither aggressive nor offensive. It was suggested to us that the Moplas in Ponnani and Valluvanad would give us a different version, but having regard to the irritation and excitement which the proceeding might occasion, we assumed the responsibility of declining to avail ourselves of this source of information. There is another fact which I must submit for the information of his Excellency in Council. A majority of representative men in the District have not come forward to lay their views before us in spite of every effort to direct their attention to the object of our enquiry. This peculiarity attracted my attention at each of the stations I visited, and I endeavoured to ascertain the cause from several Tasildars and District Munsifs and a few influential landholders who happened to see me. I cannot attribute this to mere indifference, for the widest publicity was given to the nature of our enquiry, and there were traces of an impression on the public mind that the proposed legislation would break up the Marumakkathâyam Tarawâds. I find also from the recorded evidence that many witnesses, both educated and uneducated in English, assail the provision regarding the succession of wives and children to self-acquired and separate property as inaugurating a double system of inheritance in one and the same family and closing one important source from which Tarawâd property has hitherto been recruited. The general reluctance to come forward to give evidence appears to me to be a silent protest against any change of the

Marumakkathâyam usage.* It will be remembered that the people were free either to respond or not to respond to our invitation, and that we could only do our best to ascertain the public feeling as it actually exists, and give every one an opportunity of saying what he desired to say."

5. In other words this Commission was under all the disadvantages which generally attach to Commissions as investigating bodies. We had no power to compel the attendance of witnesses, and it was alike impolitic and impracticable to subject the witnesses to any examination as to their own personal experience in matters connected with the softer sex, or with family life. Any attempt to put witnesses through such an ordeal would have operated to prevent any one from coming forward.

Neither was it desirable to examine witnesses from the numerous castes following the ordinary law of inheritance, and living side by side with the Marumakkathâyam people. Any evidence unfavourable to the latter would have exposed a witness to the hostility of his Marumakkathâyam neighbours; and where this apprehension did not prevent disclosure, the result would have been to rouse caste antipathies, and to stir up bad blood.

Thus, in considering the evidence taken by the Commission, it should be borne in mind that the witnesses were not on oath, nor subjected to cross-examination, and that they were under a strong natural bias to suppress unpleasant facts, and to reveal the bright side only of the picture. To supply the shading required for a truthful representation, it would be necessary to hear what their neighbours of other castes had to say; and such an enquiry, as already explained, would have produced far more evil than good.

When we find witnesses (especially those of North Malabar) asserting that the Marumakkathâyam people require no law to curb vicious propensities, and that by both men and women, a standard of chastity and conjugal fidelity is maintained in which there is no room for improvement, we may accept the picture subject to the above reservation, viz., that all the shade is left out.

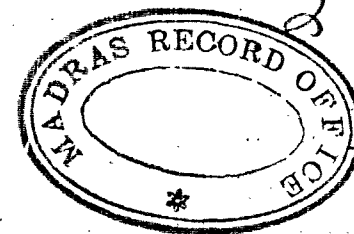
6. Of the 322 sets of answers sent in, it was obviously impossible, and unnecessary, to print the whole. After careful perusal 64 answers have been printed, as sufficiently illustrating all shades of opinion (Appendix III.). The selection was not an easy matter, but the choice was determined either by the intrinsic merit of the essay, or by the prominence of the writer in respect of rank, position or education.

The Commission examined 121 witnesses *viva voce*, and their evidence, printed in full, forms Appendix IV.

7. In treating of the subject of marriage, a brief description of the Marumakkathâyam classes, and of their caste and family-system, in theory and practice, cannot be omitted, though to all familiar with the subject much of the disquisition may appear tedious and superfluous.

It is unfortunate that the tabulation of the results of this year's Census has not progressed far enough to enable the Commission to avail themselves of the information it would afford.

* Note.—We do not concur in this opinion. We attribute the reluctance to a natural dislike to be questioned regarding peculiar customs.



EXTRACT FROM ANSWERS TO INTERROGATORIES

M. R. Ry. KUNHI MANGALATH MANAYIL SUBRAMANIAN THIRUMUMP Avargal,
NAMBŪDRI LAND-LORD,
PAYANUR GRĀMAM, CHIRAKKAL TALUK.

11. Tālikettu kalyānam is a preliminary part of marriage. *Description.* Although it is attended with ceremony up to Pancha mehini (പഞ്ചമേഹിനി) still in North Malabar its principal object is to show that the maiden can henceforth use ornaments, such as *thōda*, *kāthila* (earrings) *charatu* (marriage thread) &c, use *thattu* (താട്ട, the under cloth crossed between the thighs) and assume the name of either Akkamma, Pullayāramma, Nēthiyāramma &c. according to the caste she belongs to, instead of miss, or maiden (കുറുപ്പ) as she was hitherto called, and to consider herself no more a kanyaga (കുറുപ്പ = maiden, or virgin).

12. Tāli is tied by her father. As Tāli kettu, the preliminary marriage ceremony is to be performed before a girl attains her puberty and before she is 12 years old, it is the father's duty to give her the necessary ornaments. Therefore the father ties the Tāli.

13. The custom of tying the Tāli for a number of girls at the same time by one and the same man does not prevail among Nayars of North Malabar.

14. The man who ties the Tāli obtains no right to cohabit with the girl because it is only a ceremony preliminary to marriage, performed by the father without any husband being fixed.

15. As long as it is the father who ties tāli it is evident that he cannot have sambandham with the girl. Among those who get the tāli tied by Brahmins there is no objection to sambandham being formed by him who ties the tāli, provided the usual sambandham ceremonies are undergone.

16. If the person who tied the tāli should become the husband or sambandhakaran of the girl, he should be a Brahmin or her father's nephew (sister's son). The usual pudamuri ceremony should be undergone.

17. Amongst those who get the tāli tied by the father, there is pollution if he dies,—not as the person who tied the tāli but as father. To those who get the tāli tied by Brahmins, there is no pollution if the man who tied tāli dies.

18. If the father is dead the mother generally ties the tāli.

19. It is compulsory among Nayars following Marumakkathayam that the Tālikettu ceremony should be performed before the girls attain puberty. After 12 the age of puberty commences, and the ceremony should therefore be performed before that age. This is done so that the girls may not attain puberty before the preliminary marriage ceremony. Marriage among all castes should be performed before puberty. Amongst Brahmins, where a suitable husband cannot be found, the marriage can be performed even after puberty.

20. If after the Tālikettu ceremony a girl wishes to have sambandham with a man, a pudamuri (cloth gift) ceremony has to be undergone.

Description.—The Karnavan, father and an Enangan (friend of his own caste connected by marriage or otherwise) of the man who wishes to have Sambandham with any girl, go to the house of that girl and speak to the Kāranavan of the girl about the intended Sambandham. If he consents the horoscopes of the two are examined, and on the horoscopes agreeing an auspicious day is fixed for Sambandham.

On that auspicious day, the girl's people prepare a repast; during night the would-be-husband and his castemen (friends) come to the house of the girl, and enter the western room with friends, and present betel and nut to the males and females of that tarawād, and his castemen, according to the prescribed custom. The girl is then introduced into the western room by females to whom the Sambandhakkāran presents cloth. The Brahmans present, are then presented with gifts by the bride and bridegroom. After these preliminaries the people who assembled then take meals with the Sambandhakkāran. The man and woman are then considered man and wife.

21. When a Nayar lady forms Sambandham with a Nambudri or Pattar, the same ceremonies which a Nayar has to undergo in such cases as detailed above have to be undergone with this difference. As Brahmans cannot take meals in the girls' house he has to feed them in his matam if he has any, or in temples, or feeding houses. His Brahman friends he has to feed in his house.

22. In North Malabar the formalities attending Sambandham are alike every where. I cannot give any decided answer in reference to the practice in South Malabar as opinions differ.

23. In North Malabar a female cannot have more than one Sambandhakkāran. It is not customary.

24. It is objectionable for a female to have more than one Sambandhakkāran. This is not permitted in order to prevent them from becoming prostitutes.

25. A woman cannot terminate Sambandham at her will and pleasure.

26. If the Sambandhakkāran hears anything ill of his spouse, he informs her people accordingly, and dissolves the Sambandham.

27. A man can form Sambandham in more than one house at the same time.

28. There is nothing to prevent him from so doing.

29. Until the Vettalakettu (betel-leaf-bundle) ceremony is performed by the husband in his house, the woman sleeps and takes her meals in her own house. The ceremony of introducing the bride for the first time after Sambandham into the bridegroom's house is called Vettalakettu ceremony. After the ceremony she lives in the Sambandhakkāran's house. If she conceives, the ceremonies attending on the 1st conception and confinement are performed in her own house. The confinement generally takes place in her own house.

30. This is the custom in North Malabar. I do not know the custom in South Malabar.

31. According to custom the man either supports, or does not support, his wife and children during Sambandham. There is nothing compulsory.

32. A man and a woman either cleave together for life, or separate themselves, according to the good or bad disposition of each.

33. If a woman lives with her Sambandhakkāran in his house and bears him children the husband has to feed and clothe them according to custom.

34. If the Anandaravan lives with the Kāranavan in the Tarawād they all work together for the Tarawād and the proceeds go to the Tarawād property. If they live separate, and earn anything by renting and cultivating Tarawād lands, they have every liberty to dispose of their earning; but usually the earnings are made over to their nearest relatives (sisters' children).

35. The Anandaravars work both for the Tarawād and for themselves.

36. The Anandaravars support their wives and children with their earnings. The surplus of their earnings are made over to their sisters' children.

37. The Kāranavan of a North Malabar Tarawād has no liberty to transfer property to his children or others without the consent of Anandaravans, because in North Malabar nephews inherit property. If he is one who has earned much and if he wishes to make over a portion to his children, he usually does it with the consent of his nephews. Such grants are called Puthrāvākāsam (son's right). It is called Puthrāvākāsam because the property does not go to the Tarawād of the son, but is enjoyed by him and his sister's children separately.

38. A law not inconsistent with the existing custom cannot be unwelcome to the Marumakathāyam Hindus. It is objectionable to legislate against existing customs.

39. If the Bill for legalizing marriage is passed into Law the old practice of settling things through father, Kāranavan, relations and friends will die out, and the methods pointed out in the Bill, which are in direct contravention of the existing customs, have to be followed. It is therefore not a good one. If declaration is to be made before a Registrar the boys and girls will be led to act independently without caring for the words of the parents and elders, and without obtaining their consent, as if it were a matter of taking land on rent. This is not good.

40. The conditions of a valid marriage set forth differ much from the recognized practice. It is evident from the very meaning of the words 'marriage' and 'Sambandham'. 'Sambandham' can be dissolved; but 'marriage' cannot. At the time of marriage a wife may be alive, but not so when a husband is alive.

There is no rule that a female can marry only after 14. It is the rule that permission of the parents and elders (എമ്മ) is absolutely necessary however old she may be.

41. There should be a Law preventing females of South Malabar from having more than one Sambandhakkāran at one and the same time. A woman will be justified in marrying another if (1) her Sambandhakkāran dies (2) if he has become a devotee, if he has left the country and does not return for a reasonable time (3) if he is impotent (4) if he has been excommunicated. It is not proper that she should be allowed any liberty to change Sambandham at pleasure.

42. According to social usage reasonable grounds for dissolving a Sambandham are:—

(1) Madness, excommunication, leprosy, impotency, being born in the same Gōtram, blindness, deafness, chronic disease, skin disease, these are grounds for divorce.

43. It is the custom among Nayars to give oil and clothes to the wife and children, to supply her wants during confinement (oil, medicine, &c.) to undergo the expenses of Chōrānu (first feeding) of the new-born child with rice; Pērvili "naming" of the new-born in the shape of ornaments &c., and such other provisions according to a person's means.

44. The law of Marumakkathayam was enjoined by Parasurama, the creator of Kêrala, and Shangarâchariar, the law-giver. It has been observed from time immemorial. To try to convert it into Makkathayam is only disregarding them, and is in direct contravention of the established customs followed for centuries by our ancestors; and if any change is effected it will be found that the change will be neither Makkathayam nor Marumakkathayam, but a mixture of the two. I have heard many people of North Malabar say that the intended law is against their interest and a source of grievance to them. I do not therefore agree with any of the provisions proposed for legislation.

45. The Nayers of North Malabar do not give their females to people of distant places in marriage.

(Signed). SUBRAMANIAN THIRUMUMP,
Nambudiri Land-Lord of Payanur
Grâmam in Chirakkal Taluk.

(True translation as near as may be).

H. M. WINTERBOTHAM,
Collector of Malabar
on Special Duty.

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EXTRACT FROM
ANSWERS TO INTERROGATORIES
BY

M. R. RY. KARAMVELLI KUNHUNNI KURUP, AVARGAL,
NAYAR LAND-LORD,
CALICUT TALUK.

Amongst Nayers and other high caste people following Marumakkathayam, a man of a higher division can keep* women of a lower division. Sambandham (with them) is prohibited. But in the case of Rajagan (washerman) and Kshuragan (barber) and other low classes (of Nayers) their women must not even be kept (by the higher caste men).

2. The same liberty can never be granted to women.

3. There are many divisions amongst Nayers between which there is no inter-marriage. Sambandham is not customary between the Chârûnatha and Sudra Nayar divisions.

4. In such case the woman would be turned out of society, and not received by her own caste.

5. No.

6. Kôrapuzha.

7. Sambandham is not usual between Nayers of North and South Malabar; but Nayers of North Malabar are in the habit of keeping* Nayar women of South Malabar.

8. South Malabar Nayers cannot form Sambandham with Nayar woman of North Malabar. The reason is that the Nayers of North Malabar have the superiority in caste.

9 and 10. The old rule was that women living between Kallai river in the South and Kôrapuzha, and women living North of Kôrapuzha, were not allowed to cross the river (either way.)

11. Tâlikettu Kalyânam is a ceremony by which at the auspicious moment, in an ornamented pavilion, with certain rites, the ornament called Tâli is fastened on, and by these rites she who was a Kanyâga (maiden) becomes an Amma (matron.)

14. The man who ties the Tâli acquires no right to cohabit with the girl. Amongst the Nambudiris, the person to tie the tâli is the girl's father; if she has no father, her brother,—if she has no brother, her father's brother,—if she has no father's brother, a male who is related so as to observe 10 days' pollution,—if there be no such relative, then the mother. Can these persons cohabit with the girl? Just so it is in the other case. The tâli-tying is not a marriage.

20. After Tâlikettu when she comes of age it is necessary that she should go through the ceremony for beginning Sambandham, called Pudamuri and other names. This is the ceremony which among Nayers is the Vivâham (marriage). For it the parties to the Sambandham, their relatives &c., must be invited and a feast &c., must be given.

*NOTE.—The word used is the idiomatic phrase for keeping a mistress.

21. The same ceremonies must be observed if a Brahmin or Kshatriya, is the husband, except that he will not eat in the house.

25. A woman cannot terminate the Sambandham at her pleasure. Women are not independent in such matters.

26. Amongst Nayars to terminate a Sambandham there is no formality whatever.

38. There is no necessity for such a law. A majority of Marumakkathayam Malayâlis neither desire nor consent to such a law. To pass a law objected to by the majority is unjust and very grievous to the public.

This will be clear if leading people are questioned personally. Multitudes beg that Government will not pass such a law without so doing. It is also contrary to the Proclamation of 1858 in which the Queen promised never to interfere with matters relating to religion. Moreover to change a law of succession and a law of marriage which have been in force from time immemorial is not a thing to be agreed to, and will be very grievous and hurtful to the people. Besides from this cause many suits and family quarrels, and numerous other inconveniences and evils will afflict the Marumakkathayam tarawâd, and thereby many tarawâds will speedily go to ruin. It can never be pronounced proper, nor can the passing of it be willingly consented to.

41. Nothing to add or omit because, I wholly disapprove of the proposed marriage law.

42. Misconduct of the man or woman.

44. The new rights can in no way be agreed to.

(Signed) KARAMVELLI KUNHUNNI KURUP.

(True translation as near as may be).

H. M. WINTERBOTHAM,

Collector on Special Duty.

MARUMAKKATHAYAM MARRIAGE COMMISSION.

ANSWERS TO INTERROGATORIES

BY

M. R. RY. V. KELU ERADI AVARGAL,

DISTRICT MUNSIF,

PAYYANAD.

1. Yes.

2. No.

3. Sambandham is forbidden between Sâmandans, such as Erâdi, Nedungâdi, Vellôti and Tirumulpâd on the one side, and Ambalavâsis such as Wârriar, Pisharôdi, Nambiassan &c., on the other. Even amongst the Ambalavâsis inter-marriages are not allowed.

As regards Nayars their divisions are numerous. A Kiriya Nayar can have Sambandham in any of the lower divisions such as Sudras, Purathchârâthâ, Akathchârâthâ, Athikurissi, Pallichân and Vattêkkât. But no Nayar of the lower division can have Sambandham in any above it.

Even among the Sudras there are several sub-divisions, and the superiority of each depends upon the superiority of the Illam, or Mana, to which it is attached.

4. If a woman of a higher division admits for her husband a man of a lower division, she subjects herself to exclusion from community.

For instance, if a woman of a Sâmandan or Ambalavâsi, caste takes a Nayar for her husband she is altogether put out of caste. Similarly if a Kiriathil woman takes a Sudra, or Vattêkkâtavan as her husband, she is also excluded from her community, and it may be stated generally that when marriages are contracted between different divisions in contravention to the customary rules the female, as well as her house people, are shunned by their community. On public occasions such as Kalyânam and other ceremonies, where the Castemen generally assemble, the members of the above family are not only not invited, but their presence is even avoided.

5. No.

6. Kôrapuzha.

7. The Nayars of South Malabar do not generally form Sambandham with those in North Malabar. But the Nayars of North Malabar form Sambandham in South Malabar.

8. I do not see why it should not be done. But cases where such a Sambandham has been formed are indeed very rare. The cases are rare, because the females of North Malabar do not generally cross Kôrapuzha.

9. They do not generally do it.

10. Perhaps, when the people of North and South Malabar formed subjects of different Rajahs it was considered unsafe to allow females of one country to go to another.

11. Tālikettu—which literally means the tying of the Tāli—is one of the grand ceremonies which more or less is celebrated in every Marumakkathāyam Tarawād. The details of the ceremony vary in different divisions. In every case the day of the ceremony is fixed in the presence of the castemen or relations. It is done after due consultation with Astrologers. In the case of rich Tarawāds arrangements for the feasting of Brahmins, castemen and lower orders, are made. All relations and friends are invited. The person who ties the Tāli is not always the casteman. In the case of some it is so, and in the case of others a man of a higher caste is invited to do the duty.

The day previous to the ceremony, the girls are adorned with jewels and a ceremony called "Ashta Mangalyam," or "Kayyil Ariyiduga" (pouring rice in the hands) or "Akathu vekkuga" is performed. The meaning of this ceremony is that the blessings of the God Ganapathi are invoked. The night is spent in jollity, the Brahmini, a female of Nambiassan caste singing the whole night. The next day at the appointed hour the ceremony of tāli tying takes place with much éclat. The great part of the ceremony may be said to end here. In the case of some, the feeding &c., continues for 3 days. The girl at the time of the ceremony is dressed in "Kōdi" (new) cloths which are generally given by the person who ties the Tāli. During the aforesaid 4 days she is supposed to be under pollution and bathes only on the last day. In the case of some a portion of the new cloth, dressed by the girl, is cut off by the person who has tied the Tāli. This I believe is meant to be a divorce in order to permit the girl to be married to another sometime hence, and here the ceremony ends. The Kalyānam is invariably performed before the girl attains puberty.

12. I have stated above that in different divisions different persons tie Tāli. For instance in the case of Ambalavāsis, Kiriathil Nayars, and a few others, their castemen are selected for the purpose. In the case of Samandans and certain Nāturālis, a Kshatria Rajah, or a Tirumupād of the Kshatria caste, is invited to do the duty. The person who ties the Tāli is called *Manavālan*.

13. Amongst some it is so done.

14. He obtains no right.

15. There is no prohibition.

16. I am unable at present to give instances.

17. Pollution is observed amongst those whose marriage custom is to have the Tāli tied by an Enangan, or casteman.

18. I am not aware of such cases.

19. She must undergo the ceremony before attaining puberty. I am unable to find anything but custom to support it.

20. Yes. First the horoscopes are consulted; permission of the bride's Kāranavan is obtained, and a day for the ceremony is then fixed. The bridegroom goes to the house of the bride accompanied by friends and relations, and the occasion is made as grand as the position of the parties would permit.

21. The occasion is not made so grand as in the case of the Nayar.

22. The formalities are mostly the same. But I believe there are slight differences. In North Malabar the ceremony is called *Pudava muri* and is celebrated on a grander scale than in the South.

23. No.

24. I can find no prohibition. But such cases are very rare.

25. Yes.

26. No formality is necessary.

27. Yes.

28. No.

29. Generally in her Tarawād house. But there are also many cases where she lives with her husband.

30. I do not think there is much difference.

31. No liability is attached to the husband.

32. The rule is for one man and one woman to cleave together for life and changing is only an exception.

33. He does feed them and clothe them.

34. No allowance is made by the Kāranavan. The Anandaravans often cultivate Tarawād lands for rent and in such cases they are allowed to deal with the surplus income as they like.

35. Some Anandaravans work for the Tarawād and some try to earn something for themselves. Now-a-days the tendency is more towards the latter.

36. With their earnings they support their wives and children. In majority of cases their earnings go to the Kāranavan only after their death.

37. The word is more current in North Malabar than in South Malabar. But in both districts the wife and children cannot claim property as a matter of right. But the husband often gives his property in gift during his life-time and in some cases after the death of the husband, the Tarawād, out of regard for the deceased, gives some property to his wife and children. In this respect the practice in North and South Malabar is almost the same.

38. The passing of the proposed law will to a great extent interfere with the present system of inheritance of property. The proposed change will create Tarawāds within Tarawāds and make the inheritance of property more complicated.

Further, intermarriages between several castes not being permitted by custom, husband must necessarily be chosen from castes higher, generally Brahmins. The law of inheritance which governs the Brahmins being different from that of the Malayalis as well as of those that may submit to the proposed law—they the Brahmins, would naturally be reluctant to contract such a marriage as contemplated by the proposed law. This objection is only applicable to some and I shall not therefore seriously object to a permissive law being passed.

39. If legal sanction is to be accorded to marriage I would prefer to retain the customary form. As evidence of its legal recognition I would propose the following simple form of recording it. In every amsam, or village a Marriage Registrar may be appointed. Registers containing 2 foils and one counterfoil may be retained by him. On the completion of a marriage ceremony, the Registrar may be requested to attend the residence of either the bride or bridegroom with his register. The form may be filled up in the presence of himself and 3 or 4 witnesses, who are able to identify the bridegroom and bride, and the signatures of the parties to marriage may be taken thereto, and of the two foils one may be given to the bridegroom and the other to the bride, as a document to evidence the marriage. The counterfoil should always be sent to the District Registrar.

Here I may say the attendance fee of the Marriage Registrar should in no case exceed the 2nd class travelling allowance of a Public servant.

40 and 41. Condition No. 1 precludes a man from marrying more than one wife. Here it differs from the Sambandham recognised in practice. I would omit this part of the condition. But to the 2nd condition I would add the following, "If she has not already attained puberty;" and in the 3rd condition would reduce the age to 18.

I object to both the 1st and 2nd Provisoes to condition No. 4.

The 1st ignores all caste distinctions; and the 2nd both Pulasambandham, and Dāyādi Sambandham, which under the existing rules form a bar for inter-marriages. I am for preserving the existing caste rules.

42. Adultery.

43. The husband is bound to pay the sundry expenses such as cloths, oil &c. But as a rule maintenance is also given.

44. The proposed rights are fair.

45. Instances are not many.

V. KELU ERADI,
District Munsiff, Payyanad.

Marumakkathayam Marriage Commission.

Answers to Interrogatories

BY

M. R. RY. C. KARUNAKARA MENON AVARGAL,

SUB EDITOR OF "THE HINDU,"

MADRAS.

1. Among Nayars and higher castes, a man of a higher division can have Sambandham in a lower division.

2. The same liberty is not accorded to the woman, but a similar one is. As the man is allowed to marry into a lower division, so the woman is allowed to marry into a higher division. Hence, there is no inequality practically.

3. Sambandham between different divisions is forbidden, except under the conditions indicated in the answers to the 1st and 2nd questions. As for Sambandham between Chârna Nayars' and Sôdras, the term Chârna itself includes several divisions, and men of some of the higher divisions can and do form Sambandham with Sudra women. Among the rest, Sambandham is forbidden.

4. If a man and a woman belonging to different divisions, between which Sambandham is not customary, form Sambandham, it certainly subjects them to social penalty by way of excommunication from their caste.

5. Such Sambandham can, by no means, be validated by Prâyaschitham.

6. I do not quite understand the question, "what is the recognised boundary between North and South Malabar for caste purposes?"

7. The Nayars of North and South Malabar occasionally form Sambandham with one another.

8. There is no possible objection to Sambandham between a Nayar of South Malabar and a Nayar woman of North Malabar, provided convenience warrants, and the conditions of caste are satisfied.

9. The Nayar women of North Malabar are not allowed to cross to the South of Korapuzha.

10. Tradition traces this prohibition to an ancient feud between the Chera-
kkal Rajah and the Zamorin which resulted in a ruling by the former that the women of North Malabar should not enter the Zamorin's territory.

11. I am unable to answer this question in detail within the short time allotted to me. But I may say that the Tâli-kettu Kalyânam does not materially differ from the Kalyânam or marriage among other Hindus.

NOTE.—In Malabar the ceremony is popularly known as Penkettu Kalyânam and not Tâli-kettu Kalyânam. The former makes the girl and the latter the Tâli prominent. Tâli-kettu seems to be a newly-coined expression.

12. As to who should tie the Tāli, depends upon the customs of particular castes. In some castes none but an Enangan (a man of the same caste as the girl, who is competent to marry her) can tie the Tāli, while among others, according to their caste custom or usage, a Brahman, Kshatriya, Sāmantan or other caste man may do it. The man that ties the Tāli is, in Malayalam, called *Manavālan*.

13. As far as I know, it is not the custom, generally, for one and the same person to tie the Tāli for a number of girls. But the custom is found among certain castes, for whom a Brahman or a Kshatriya ties the Tāli. It is difficult in some parts to get as many Brahmans, or Kshatriyas as there are girls, to undergo the ceremony. Hence, the custom is the result of necessity, and not one sanctioned by our early law givers.

NOTE.—I know one instance in which a Rajah having to send a Kshatriya Tirumulpad to a certain Nayar family for this purpose, deputed an Embranthiri Brahman in the guise of a Tirumulpad

14. The man that ties the Tāli, does not thereby obtain a right to cohabit with the girl. The reason is plain. The man that is competent to tie the Tāli by reason of his caste, may not be so by his position in other respects. He may be a poor man without any recognised status in society except as a casteman. This makes it inevitable that he should not be allowed to marry the girl for whom he merely performs a ceremony.

15. There is no prohibition to his afterwards forming Sambandham with the girl.

16. I have personally known of instances of such Sambandham.

17. When the man who tied the Tāli dies, there is no pollution, properly so called, to the girl. But as far as I know, among certain classes, the girl bathes on hearing of his death as symbolic of a belief, that she has by his death, contracted pollution which is removed by at once bathing.

18. To the best of my knowledge, in no part of Malabar is the Tāli tied on by the girl's mother instead of by a man.

NOTE.—Among Nambudiri Brahmans, the father sometimes ties the Tāli.

19. Every Marumakkathāyam girl must undergo the Tāli-kettu ceremony before reaching the age of puberty. There is much more than custom to be pleaded in justification of this. I have elsewhere stated that the Tāli-kuttu Kalyānam does not differ, in any essential respect from the marriage ceremony among other Hindus. All available evidence unmistakably points to the conclusion that the Kettu Kalyānam is in intention, if not in effect, the actual marriage ceremony as among other Hindus. With one exception, there is little difference in the ceremonies, that exception being, that while the Brahmans recite the Vedas and Mantrams, we are compelled to substitute for them what is called Brāhmini Pāttu (song by Brāhmini). In singing her songs, the Brahmini must regulate her voice so as to make it harmonise with the tune in which the Rig Veda is recited; or, in other words, she should sing her songs in Rig Veda *swaram*. The Brahmans alone being privileged to recite Vedas and Mantrams, it was ruled that for other classes, the Kshatriyas and Sudras, the Brahmini pāttu, sung in *Veda swaram*, would be a sufficient substitute. From the time when Kettu Kalyānam came into existence in Keralam, the Brahmini pāttu has also been in existence. The following are some of the verses recited on the occasion of Kettu Kalyānam; and they will show that the Tāli-Kettu-Kalyānam, is not such a meaningless ceremony as has been vulgarly supposed:—

*1. "The weaver has spun the white and red threads, and in the wedding-pandal the Veda Brahmini has twisted them into cords. She has bound them as an armlet on the right arm of the virgin (saying) "May the thread be your constant light and may you live a hundred years in the enjoyment of married life. May the possession of husband and happy children be yours. May you have children as numerous as paddy counted, and life for years as numerous as rice counted."

*2. "The Pandal has been six months in building and the Kettle drums announce (the festival). There is a banquetting hall and a bed-chamber. The *Māla* is put around the neck of the sweet-voiced damsel, and as *they* lived there happily as husband and wife, so let these live here long in the enjoyment of happiness."

The above lines all speak of the preparations for marriage, the union of the bride and bridegroom, their happy married life and so forth. The concluding lines in the first, express the wish that the bride may long enjoy conjugal happiness, that a number of children be born to her, and that she may live long. Those in the second are to the effect that as Rama and Sita (in Rāmāyanam) lived happy there after their marriage, so may this couple here live long and happy. It must be noted that among all higher caste Hindus, the marriage ceremony is divided into two parts, *viz* (1) that in which the religious ceremonials form the chief feature, and which is known as betrothal, and (2) that which is popularly known as consummation. As among other Hindus, so among Marumakkathāyam followers, the first part which is more important from a religious point of view than the second, must be performed before the girl shows the first signs of menstruation, since in default, the girl becomes subject to excommunication; and no girl can be married before the performance of this ceremony. The second or the consummation ceremony among Hindus in general, may take place either on the 4th day after the religious ceremony, or on any other auspicious day selected afterwards. The same is the case among the Marumakkathāyam followers. It will hence be seen that the only difference between Marumakkathāyam men and other Hindus in respect to the marriage ceremony is, that while the latter perform the ceremony after selecting a husband, and postpone the union of the couple for a future date *i. e.* when the girl attains puberty the former perform the ceremony first, and select the husband (in the large majority of cases) only on the second occasion *i. e.* when the girl is fit to be united to her husband. The *Manavālan* in the Tāli-kettu ceremony, merely performs a vicarious part for the future husband. But when a husband is ready to hand, it is not unusual for the girl to be actually married on the occasion of the Tāli-kettu. The reason for this departure from the ordinary Hindu custom, seems to me to be, that our early law givers, in view of the scarcity of men and the consequent difficulty of securing a husband for every girl before puberty, and the danger of girls being out casted in default, devised this happy plan: to allow every girl to be married, in a sense, with the necessary religious ceremony, and to enable her to remain unmarried for life without being subjected to excommunication from caste. This view receives much support from the fact that the Nayars were, till the British advent towards the close of the last century, a great fighting race, and that they often lost lives in their frequent wars with the neighbouring principalities and tribes. Nor is this the only Hindu custom in regard to which the letter of the law has been closely followed without a corresponding adherence to its spirit. Among the Nambudiris, who are admittedly the holiest and purest of Indian Brahmans, the women are allowed to

*NOTE.—Verses translated by the Commission.

remain unmarried for life without being excommunicated, and as if to make tardy retribution to women who die unmarried, the corpse cannot be burned till a Tāli string is tied round the neck of the corpse, while lying on the funeral pile by a competent relative (vide Logan's Manual page 127). Similarly in other Hindu customs also it will be found that while the letter of the law is strictly adhered to, the spirit is sometimes lost sight of or is not observed.

20. After Tāli-kettu kalyānam, when a girl desires to consort with a man further formalities are necessary. The guardians and relatives of the bride and bridegroom, having, after the examination of the horoscopes of the parties, satisfied themselves as to the position of the stars and the suitability of the match, proceed in consultation with the astrologer to appoint an auspicious time and day. When the time has been fixed, friends and relatives are informed of, and invited for, the ceremony. Just before the appointed time, a large number of people gather at the house of the bridegroom who then proceeds to the house of the bride, accompanied by all those who have gathered as his friends, relatives and followers. The procession arriving at the bride's house, a large banquet is held, and the bridegroom then gives Dakshina to the Brahmans who generally assemble in large numbers. This having been done, we proceed to a separate room, generally the *sanctum sanctorum* of the house, where the bridegroom presents to the bride (according to local custom) either a pair of cloths or *Thāmbūlam* (betel and nut) with fire to witness. These, briefly, are the formalities necessary for the consummation of the marriage. The next day, betel nut and sweetmeats are sent to all neighbouring houses.

21. When a Nayar lady forms Sambandham with a Nambudiri, the same formalities are observed as when the husband is a Nayar. As for Pattars, it is not customary for respectable Nayars to allow them to form alliance with their women. Even among the lower classes, as Mr. Logan says, it is only when nobody else can be found, that a Patter is admitted. The Malayalam language has even a proverb to that effect:—ആമല്ലെങ്കിൽ പട്ടം ഏതല്ലെങ്കിൽ താള “If there is none (to wed), then a Patter; If there is nothing (to eat) then greens.”

NOTE.—the word “Sambandhakāran” used in this question is used mostly by the vulgar. The respectable classes, as far as I know, seldom use it except perhaps jocosely sometimes.

22. The essentials of the formalities attending Sambandham are the same in North and South Malabar, with this difference, that in some parts, Tāmbūlam, or money is substituted for clothes. Parts of the Palghat Taluk, which stand half-way between Malayalam and Tamil country, and which have contracted many of the practices of the latter, are however, unique in one respect. They call their Sambandham, Kedakkapara, and the formula recited on the occasion is, that the man may come and go for six months, meaning of course, that if the parties agree within these six months, they may continue for life as husband and wife.

23. A woman cannot have Sambandham with as many men as she pleases at the same time. One man for one woman is the rule.

NOTE.—I beg to observe that this question is not at all warranted by anything connected with the Nayar marriage custom.

24. Certainly this is prohibited. The best authority for the prohibition is the custom itself of the people. If more is wanted, I can quote from authentic popular Malayalam literature any number of passages. For example:—

* (1). “Wherever there is a man he wants a woman to look after him.”

* (2). “Those who abandon their husbands will meet with great danger and infamy.”

* (3). “It is better to have no wife than have one whose words you give way to.”

* (4). “He who has no servant: he who has no wife: he who has no son: these are poor indeed.”

In none of the above is it stated that a man is to have more than one woman or *vice versa*. On the contrary, it is expressly stated that one man must have one woman.

25. A woman is not allowed to terminate the Sambandham if she wishes to do so. She must have sufficient cause for it, and must satisfy her relations and society that she has sufficient cause.

26. The formality that is common to all parts is, that the woman's and her husband's relatives and the elders of the Desam should be informed and convinced of the causes of the difference between the parties, and there should also be an open declaration of the dissolution.

27. A man cannot have Sambandham in more than one house at the same time.

21. If he chooses, his Tarawad people and society will not recognise it as Sambandham. No woman, or Tarawad of any status, would consent to such an alliance. Women for the purpose can be found only among prostitutes and outcasts.

22. During Sambandham, the woman sleeps and takes her meals in her husband's house while she lives there, and in her own house at other times.

30. The custom is not the same in North and South Malabar, inasmuch as in the North, the woman lives more frequently in the husband's house.

31. According to recognised custom, the man should support the woman and her children, with the only exception that while the latter live in their own house the husband ought not to pay for their meals.

32. It is not the custom to change Sambandham frequently. In 999 cases out of a thousand, it is the rule for one man and one woman to cleave together for life.

33. If a woman lives with her husband in his house, and bears him children, unquestionably, he does feed and clothe them.

34. If Anandaravans work for the Tarawad, the Karanavan gives them all personal expenses. They sometimes cultivate Tarawad land for a rent. In such cases, they are permitted to deal with the surplus, if any, at their pleasure. But every Anandaravan is expected to contribute his mite to the Tarawad.

35. The Anandaravans generally work for the Tarawad and for themselves. In rare cases alone, they earn something for themselves.

36. Where they, and not the Tarawad, support their wife and children, they do so only with a portion of their earnings. A substantial portion, they either make over to the Tarawad, or earn for the sake of the Tarawad.

37. This question assumes that there is a right called Putrāvākāsam. Such a right does not exist. All that the word indicates is, that which the father gives to

*NOTE.—Malayalam proverbs: translated by the Commission.

his children during his life time. Property so given is called, both in North and South Malabar, Putrâvakâsam.

38. There is the greatest objection to "providing a form of permissive marriage Law for Nayers." The proposal in the first place makes the gratuitous assumption, which every true Nayar must indignantly deny, that we have no form of marriage at present. Secondly, it casts a stigma on those who cannot, or do not follow it. Thirdly, it will injuriously react upon the community by creating followers of different and conflicting laws in the same family. Fourthly, an optional law is the least fitted to bring those, for whom it is really needed, within its operation.

39. My answer to the preceding question renders it unnecessary for me to answer this.

40. "The conditions of valid marriage mentioned in the margin" differ from the Sambandham recognised in practice.

(1). No difference.

(2). With regard to man, the age limit agrees. But as regards the woman, the age limit is 12. Although these are the respective minimum age limits, marriage does not generally take place at such an early age.

(3). Even beyond the age limit given here, it is customary to obtain the consent of the Karanavans.

(4). No difference.

1st Proviso.—This is against the rules of caste.

2nd Proviso.—All those who are descended from a common female ancestor, however remote, are prohibited from marrying one another. Other prohibitions are in regard to the wife's sister, a brother's wife's sister, an uncle's wife's sister, a brother's daughter, father's sister, daughters of paternal uncles &c.

41. I need make no suggestions other than what are indicated in my answer to the preceding question.

42. Reasonable grounds for dissolution of Sambandham, according to social usage are:—(1) Adultery; (2) Desertion for one year without cause; (3) Excommunication from caste; (4) Change of religion.

NOTE.—Even desertion for one year is not generally regarded as sufficient cause.

43. The existing usage as to the maintenance of Nayar wives and their children is as follows:—So long as the wife and children live in the husband's house, the latter bears all their expenses. But when they live in their own house, the husband does not pay for their meals. All other expenses are borne by him, or his Tarawâd, as if they were living in his own house.

44. I have answered this question separately.

45. Sambandham sometimes takes place between Nayars in British Malabar and those living in Cochin and Travancore.

MADRAS,
18th May, 1891. }

C. KARUNAKARA MENON, B.A.

To.

H. M. WINTERBOTHAM Esqr.

Collector of Malabar on special duty.

Sir,

For various reasons, I have thought it necessary to answer the 44th question separately. If I answer (b) and (d) in this, I shall have, in effect, answered the whole. The proposals under the two heads virtually amount to this, that the wife and children shall, at one and the same time, be members of two distinct families, retaining the old right in the one, and possessing a new right in the other—a phenomenon to which a parallel can hardly be found in any part of the civilized world. The issues herein involved are so serious, and at the same time so far-reaching, that no thinking man can fail to perceive in this the most important and the most consequential feature of the so-called marriage Bill. If the Hon. Mr. Sankaran Nayar had brought forward an Inheritance Bill or, according to his own notions, a Bill to provide a form of inheritance for Marumakkathâyam Hindus, the question would have assumed an entirely new aspect. I say "to provide a form of inheritance" advisedly, because Mr. Sankaran Nayar could have maintained more correctly that we have no inheritance than that we have no marriage. Among Marumakkathâyam Hindus, there is no inheritance properly so called; the only right which a member possesses being the right to be maintained, a right created not by reason of the death of any one—in which case, it could be called inheritance—but by reason of the birth of himself into the family. Mr. Sankaran Nayar not only contemplates the transference of the devolution of property from one line to another, but also goes on to create in favour of wife and children a claim, which the sisters and nephews, and, for the matter of that, all Marumakkathâyam Hindus do not enjoy, and have at no time enjoyed. Put plainly, the Hon. gentleman attempts to kill not two, but three birds, at one shot: (1) to provide a form of Christian marriage for Hindus, (2) to create a new form of inheritance, and (3) to transfer the line of succession from sisters and nephews to wife and children. The admirable ingenuity which compressed this stupendous scheme within the limits of an apparently harmless marriage Bill, did not however, take into account, a very inconvenient question which must necessarily arise for settlement. I must, in all seriousness, ask whether "a Bill to provide a permissive form of inheritance" will not secure all that Mr. Sankaran Nayar aims at. A Bill declaring that the devolution of one's property will be, not as heretofore to sisters and nephews, but to wife and children, will secure a legally recognized status to the latter in the same way as by the Bill under consideration; and any other rules that may be necessary for the regulation of conjugal relations may be incorporated in the same (i. e., assuming that divorce is necessary). Why Mr. Sankaran Nayar should not have followed this direct course, is not clear to me. The fact that he has tacked on this important question of inheritance to a marriage Bill, does not relieve the Legislature of its responsibility to decide whether it can entertain a Bill to provide a special form of optional inheritance to any section of the Indian people; for that is the main issue involved in the measure, and must be settled one way or the other. If the Legislature be of opinion that it is expedient and possible to allow a few people to have a permissive form of inheritance, there is hardly any necessity to institute an expensive enquiry into the whole social system of the people. Mr. Sankaran Nayar has simply to be asked to put his Bill in the converse form, that is to say, in the form in which it will not mislead people, but make its real object prominent and

plain. Put in this form, the Bill is freed from many difficulties which now beset it, and the only question to be settled will be one of principle. If a few men avail themselves of a permissive form of inheritance, which the Legislature grants them, and they thereby enable their wife and children to inherit to them, the others cannot reasonably complain that their customary marriage is being indirectly invalidated or declared illegal. How far the principle of permissive inheritance is sound, and conducive to public interests generally, I need not here consider. (I have discussed it in my pamphlet published last year.) But I may be permitted to point out its revolutionary effect on one of our most cherished institutions, which has hitherto preserved the individuality of the Kerala race. The Marumakkathayam system, which to foreign eyes may appear strange, is a natural and angled (*sic*) growth. Under it has sprung up and flourished a wealthy aristocracy and a well constituted middle class. In fact, we owe to it much more than the English people owe to their Fromogeniture. The Tarawad property being merely the accumulated earnings of individual members, a law declaring the devolution of individual earnings in another line, will be a direct attack upon the Marumakkathayam system. If the Legislature is satisfied, that the Marumakkathayam system is so mischievous that there is sufficient warrant for so violently disturbing it, it is certainly entitled to do so. But then it is also incumbent on it to remove dangerous uncertainties, and provide against a possible conflict between different claimants. The law may easily make arrangements for the disposition of property, but it cannot so easily regulate family affections, and family practices. To the Keralan, the Tarawad is a centre of the strongest attachment; and it is impossible to make him feel, that he is a being separate from his Tarawad. The man that is capable of earning money first directs his attention to the improvement of the Tarawad, and not to the promotion of his personal happiness. Even Mr. Sankaran Nayar, if he gets a short holiday, would run up to his Tarawad. That being so, we can more or less imagine how far Legislation will change the instinct, and sense of duty, of a nation. The men live and secure their earnings, whether in money or land, in their Tarawad, and by the proposed law, during their life time, their wife and children may remain quiet, but on their death, the latter must exercise their new right of inheritance; and this means an unavoidable conflict, before the law courts, with the Tarawad. Indeed, if every Nayar early separated himself from his Tarawad, and lived alone with his wife and children, like the Chalyans (weavers) of Malabar, much of the objection on this score, would disappear. The Chalyans are, in the eye of the law, Marumakkathayam followers, but in their daily life, they resemble Makkathayam men. Being mostly poor, they have no Tarawad; but a man takes a woman to wife and lives with her for life, attending to their common daily avocations, and participating each in the other's sorrows and pleasures. The little property that the man possesses, he settles in the names of his wife and children; and on his death there is nothing left for his legal heirs to claim. For them, such a law as Mr. Sankaran Nayar proposes would be harmless, and perhaps desirable. But for such a people as the Nayars, with their complicated Tarawad system, and family instincts, the new law would prove simply mischievous. The time may perhaps come when the Nayar will be in the condition of the Chalyan, in regard to his family relations; and then, and not till then, can Mr. Sankaran Nayar's new-fangled ideas be forced upon the people with any advantage. As it is, a family distinct from the Tarawad, is unknown to the Marumakkathayam follower; and any one that now acts like the Chalyan disregarding the interests of his Tarawad, subjects himself to much popular odium, and is an object of universal contempt and ridicule. Popular feeling and popular practices

being what they are, it seems to me wiser and more beneficial to public interests, to abstain from any Legislation of the kind contemplated. Even in the present state of the law, we occasionally hear of cases (more particularly in Palghat) where the Karanavan of the Tarawad having made over to his wife and children property which is not acquired by himself, his sons and nephews resort to the Law Courts to settle their disputes. Be it remembered that the Karanavan alone is competent to deal with the Tarawad property in this fashion. If such litigation could arise when the sons have no legal right to anything except what their father gives them during his life time, we may easily imagine what the result will be when a similar dispute will have to be settled between the sons and the nephews, after the death of every member of a Tarawad, who takes advantage of the proposed Law. The only instance of such a mixed system of inheritance, as is involved in Mr. Sankaran Nayar's Bill, is found among a few Mappillas on the coast; and the fate of the Nahas and Marakkars of Parapanangady, which is perhaps better known than any other, should ever be an awful warning to the advocates of mixed inheritance. It was more than 15 years ago, that a member of the Marakkar family died; and the celebrated riot which immediately followed, the sons and nephews of the deceased taking opposite sides, will be remembered with no little misgiving by the District authorities who administered the country at the time. The contending parties, however, got out of the Criminal Court, only to try their civil remedy; and up to the present time, they have been engaged in the same business, with the result that the Marakkar family now stands as an example of past greatness ruined by a mixed inheritance.

When I consider the other aspects of the provision, certainly it does not become more acceptable. It is laid down that if either a husband or wife die intestate in respect of any of his or her separate property, the said property shall devolve on the survivor and children in equal shares. How far the division of property here indicated will injuriously affect the interests of the country, becomes evident when we remember, that few people in Malabar possess any property except in land. Such is the instinct of the people that even the poorest, who manages to scrape together a few rupees, invests them in land in some form or other; and the result is, that almost every man can boast that he has a land and house of his own. If the division of property contemplated by Mr. Sankaran Nayar were in operation in Malabar, there cannot be any the least doubt, that landed interests would be nowhere. Endless division of landed property has, before now, been condemned by political economists; and ordinary common sense is enough to see that they are right. Malabar is essentially an agricultural country without the Zemindary system based upon Fromogeniture; and this makes the gravity of the measure still more clear.

It now remains for me to consider the religious aspect of the question, which cannot be disregarded or ignored without serious consequences. It is perhaps not necessary to go into the origin of the Marumakkathayam system of succession. The system may have been either a natural growth, or the work of Parasu Rama, who is said, and generally believed, to have reclaimed the country from the sea and settled it with inhabitants from Aryapuram. For our present purpose, it is enough to realise that, in spite of all uncertainties of origin, Marumakkathayam has a sound religious basis. The present religious observances of the people are the result, not a little, of the religious reformation inaugurated by Sankarachariyar in the first year of the Kollam era followed on the coast, that is, about 1066 years ago. In that year were promulgated the sixty-four peculiar rules of observance for Keralam, known as Kerala

Anāchārams. Whether these rules, were the original work of Sankarāchāriyar, himself, or were the mere codification of the law that had already been in existence, it is not perhaps now possible to say. If the popular belief, that Parasu Rama was the author of the Marumakkathāyam system be well-founded, then, indeed, those rules which relate to inheritance and religious ceremonial must be much older than the period of Sankarāchāriyar. Of the 64 rules, of which a translation is given in Mr. Logan's Manual, Pages 155, 156, 157, the 61st lays down that "Ceremony is to be performed in honor of an uncle," and the 62nd, that "the right of inheritance goes towards nephews." In these we find a clear confirmation of the principal of Hindu Law, which recognizes inheritance as the co-relative of religious duty. The Legislature is now asked to quietly transfer the right of inheritance from the nephew to the son, without minding whether it has a corresponding right to transfer the key of spiritual salvation. If it cannot do the latter, then certainly it cannot do the former. The Marumakkathāyam follower is bound to perform religious oblations, not only in honor of his immediate ancestor, but in that of one and all his ancestors who may have at any time gone over to the majority. All those who are descended from a common female ancestor, though belonging to different Tarawads without right to inherit, are entitled to perform religious oblations, to one another in consideration of a contingent right to inheritance, which may arise on a family becoming extinct. If the family in which A is born becomes extinct, and such cases are not rare, all the branch families, have an equal right to perform religious rite, and offer the funeral cake to the deceased members of A's family and, in virtue of the performance of such ceremony, to inherit his family property. Sexual connection between members of families, which are so related, is incestuous, and in this respect undoubtedly the Marumakkathāyam follower has fully respected the injunction of Parasu Rama, that the mother is a thousand times more sacred than the father. As I have already remarked, this so-called marriage Bill involves issues of the gravest character, and in my humble opinion, it is imperative that the Commission should direct its attention more to the incidents of inheritance than to those of marriage.

I have the honor to be,

Sir,

Your most obedient servant,

C. KARUNAKARA MENON, B. A.

MADRAS,

18th May 1891.

MARUMAKKATHĀYAM MARRIAGE COMMISSION.

EXTRACTS FROM ANSWERS TO INTERROGATORIES

BY

M. R. RY. K. ERESHA MENON, AVARGAL,

SECOND GRADE PLEADER,

PARAPPANANGADI.

11. Tālikettu Kalyānam is a marriage ceremony almost similar to the marriage that obtains among the Nambudiri Brahmins of Malabar. First, castemen and relatives are invited to a feast. After their meals, a lamp is lighted and on examining the horoscope an auspicious day (Mūhūrtham) is fixed for the ceremony. A list of things required for the Kalyānam is then prepared and the Kalyānam days are fixed. This ceremony is called "Samayam Cheyyuka" (fixing time).

(2) The next ceremony is "putting rice in the hand and keeping inside." For this the girl is accompanied by her relatives and castewomen, and after bath she is bejewelled and made to sit in a room upon a blanket covered over with cloth. A lighted lamp, "Ashtamangalliam" (eight auspicious articles), "Pūrna Kumbham" (a vessel full of water) and "Nirachuveppu" (a measure full of rice or paddy) are kept by her side. A Brahmini, with a few of the girl's castewomen, then enters the room and offering prayers to God, places a looking-glass, a flower and "Akshatham" (a pigment of rice, saffron and lime &c.) in the girl's hand. She then begins to sing.

(3) The castewomen next lead the girl and the Brahmini to a well, and after keeping the "Pūrna Kumbham" (the vessel full of water) and "Kuruthi" (water coloured with saffron and chunam) near the well, go round the well several times. The Brahmini then sings some songs, and taking the "Kuruthi" (water coloured with saffron and chunam) waves it over the girl's head and after washing her with water taken from the "Pūrna Kumbham" (vessel full of water), puts a bracelet on her arm.

(4) The women in the girl's family, with vessels containing rice, flower &c. in their hands come to the yard, accompanied by the girl and the Brahmini, and there offer prayers to their guardian deities.

(5) The Brahmini then makes the girl worship the sun with the persons above mentioned.

(6) On the day of the tāli-tying ceremony the girl is dressed in a double cloth called "Mantrakoti," and covered over with another double cloth.

A pandal on four supports will be erected at the spot where the tāli-tying ceremony takes place and after decorating it, a lamp, "Ashtamangalliam" (eight auspicious articles) "Pūrna Kumbham" (a vessel full of water) and "Nirachuveppu" (a measure full of rice or paddy) are placed in it.

The "Manavālan" who ties the tāli messes with some of his castemen in a neighbouring house. This ceremony is called Ayini ūnū അയിനിയൂനു.

After this is over the Manavālan is escorted by many people to the girl's house, and the girl's brother washes his legs and gives him a seat in the pandal. He then takes the girl, and going round the pandal, places her by the side of the 'Manavālan'. A book treating of the marriages of Gods is then read, and the girl's relatives and castemen make many gifts to the Brahmins. This is done at the expense of the girl's father. At this time, only fellow castemen, and people of a higher caste are permitted to attend.

After this is over the tāli is tied round the girl's neck, and she is taken into the house by her castemen.

(7) The next ceremony is the 4th Kalyānam. The girl is decorated and taken to the temple with the "Manavālan," and after offering prayers to the Gods she returns and takes her meals in the pandal with the "Manavālan," and her castemen. Then the cloth, spread over the seat occupied by the "Manavālan" at the time of the tāli-tying ceremony, is divided and a piece of it is taken by the "Manavālan" while the other piece is given to the girl, as an indication of the severance of their marriage ties.

12. Brahmins, Kshatriyas, Sāmantans, or fellow castemen, ought to tie the tāli. They are called "Manavālans".

14. No. This is owing to the severance of their connection by dividing the cloth between themselves on the 4th day of the kalyānam.

38. The present system of marriage is a very valid one, and is practised from a very remote period. I do not think it necessary that a law should be framed altering the system.

40. It differs a good deal. By this system of marriage, Marumakkathāyam will practically be changed into Makkathāyam. The present system of marriage is not so bad as to discard Marumakkathāyam altogether.

The Nayars of Malabar are divided into several castes of which men of the lower castes cannot form Sambandham with women of the higher caste. This rule is affected (by the proposed law).

(Signed). K. FRESHIA MENON,

Second Grade Pleader.

(True translation as near as may be).

H. M. WINTERBOTHAM,

Collector on Special Duty.

Marumakkathayam Marriage Commission.

Answers to Interrogatories

BY

M. R. RY. A. ACHUTHAN SOMAYAJIPAD AVARGAL,

ALANGAD AMSHAM, PONNANITALUK.

Nambūdiri Landlord and Vaidigan (man learned in the Vēdas)

1. Yes. Amongst Nāyars and higher castes, a man of a higher division can have Sambandham in a lower division.

2. The same liberty is not accorded to a woman.

3. In some cases, Sambandham between different divisions is forbidden. e. g. Kiriyaṭhil, Sudran, Channavan, Pallichān, Vattekkātt and Athikkurissi.

4. It does subject them to social penalty; they will be kept aloof from the other members of their own society.

5. Such a Sambandham can be validated by a Prāyaschitham.

6. Kōrapuzha.

9 and 10. To the North of Kōrapuzha and to the South of Aleppie river there are no Brahmins who perform the Yāgam and kindred ceremonies; therefore high caste Brahmin women cannot travel beyond these boundaries and consequently the Sūdra dependents too, of these Brahmins are prohibited from going further than the two limits.

11. Tāli kettu Kalyānam is the way by which marriage (mangalyam) is effected among people following the Marumakkathāyam Law.

12. A male member of the society and caste (to which the girl belongs) ties the Tāli. Manavālan is the name generally given to such men.

13. Yes.

14. The man who ties the Tāli does not thereby obtain a right to cohabit with the girl. It is because the law of chastity is not in force.

15. Though there is no right, yet there is no prohibition to his afterwards forming Sambandham with the girl.

16. No.

17. There is no pollution to the girl.

18. The Tāli is tied on by the girl's mother only on very rare occasions.

19. No.

20. No formalities are necessary.

21. No.

23. She may if she pleases.

24. This is not prohibited.

25. A woman can terminate the Sambandham if she wishes to do so.

26. No.
 27. Yes.
 28. No; there is nothing to prevent it.
 29. In her own house.
 31. No.
 32. A man can act as he likes in this matter.
 33. He simply clothes them.
 34. No allowance is made to the Anandaravar by the Kâranavan. They often cultivate Tarawâd land for rent and in such cases they are permitted to deal with the surplus if any, at their pleasure.
 35. Both the customs are in vogue.
 36. They hand over their earnings to their Kâranavan.

38. (1) In chapter 48 of Kerala Mâhâtmyam, Parasu Rama ordains that in Malabar all castes below Brahmans should follow only the Marumakkathâyam Law of inheritance; and therefore that ordinance of Parasu Rama should be strictly followed.

(2) Moreover it has been ruled both by Parasu Rama and by Sankarâchâriar that the Hindu Nayars should be subservient to Brahmans, and it has been so done ever since.

(3) Brahmans are to perform rites and thereby (are to) protect (everything). But these rites cannot be duly performed without the assistance of Sûdras. To ensure this, the above named persons ruled that the Marumakkathâyam Law should be followed by the Sudras. If in opposition to this, Makkathâyam Law comes to be observed by the Sudra Nayars of Malabar as proposed now, they would render themselves unable to perform any service to the Brahmans who, as well as Malabar, would suffer thereby. It will be found very difficult in practice, and greatly opposed to the welfare of the people at large, to follow the system proposed by one learned man in contravention to that laid down by the above said Parasu Rama and Sankarâchâriar! who knew so little of the Puranas!

(Signed) A. ACHUTAN SOMAYAJIPAD.

(True Translation as near as may be)

H. M. WINTERBOTHAM.
Collector on Special Duty.

EXTRACT FROM

ANSWERS TO INTERROGATORIES

BY

M.R.RY. VALLÛR MANAKKAL VÂSUDÊVAN NAMBÛDRI AVARGAL.
 (NAMBÛDRI LAND-LORD), WALLUVANÂD TALUK.

20. There will be a feast suitable to the condition of the Sambandhakkâran.
 21. When a Nambûdri, or a Pattar, begins a Sambandham feasting is not customary.
 23. Although it is improper it is being carried on.
 24. There is no support for it but the custom of the country.
 25. She can terminate the Sambandham.
 26. There is no formality.
 38. There is no objection to passing a marriage law if it is in such a form that it will not dissipate joint property.

(Signed). VÂSUDÊVAN NAMBÛDRI.

True translation as near as may be.

H. M. WINTERBOTHAM.
Collector on Special Duty.

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Marumakkathayam Marriage Commission.

Answers to Interrogatories

BY

M. R. RY. C. RAMUNNI MENON AVARGAL, B. A.,

SUB-REGISTRAR,

TIRURANGADI.

1. The Kiriyaatil Division alone of the Nayars, enjoys the liberty of forming Sambandhams among the lower divisions of Nayars. Among the other divisions, superiority of caste does not carry with it a privilege of forming Sambandhams in all lower divisions alike.

2. The Nayar women of the higher castes cannot form Sambandhams with the men of the lower divisions.

3. Sambandhams between the several co-ordinate divisions are forbidden; i. e., Sambandhams between the Charna and the Sudra divisions are not generally allowed.

4. Sambandham of such a kind subjects the woman to some social penalty. The penalty most generally inflicted is, that the woman and such of the members of her Tarawad as live with her in the same house, are not invited to be present at the houses of her fellow-castemen on occasions of important domestic ceremonies; neither do the latter attend at her house on such occasions.

5. There is no Prayaschittam ordained that validates such Sambandhams. Each case of such very rare occurrences is disposed of by the caste community on its special merits. The result of caste interference is that such Sambandhams are often compulsorily dissolved; and the parties to them subjected to pay some fine in the shape of an offering to some temple.

6. The boundary generally talked of is the Korapuzha river.

7. The high caste Nayars of North Malabar very generally form Sambandham in the South. The converse cases are rare.

8, 9 and 10. are best answered together, and the answer to question 10 will furnish the key for answers to the two others. I shall therefore address myself to question No. 10.

(There are no specific reasons assigned in explanation of the prohibition against the crossing to the South of the Korapuzha river by the women of the Taluks that lie to the North of it. Similar prohibitions against passing beyond other specified limits are found to operate in other places in this District. Any explanation of the prohibition must be such as will satisfactorily explain all the cases. The prohibition against the crossing to the North of the Kottakatavu in the Kurumbranad Taluk by the women of the Payyormala country, (2) of the Putiyachira (പുതിയച്ചിറ) in the Calicut Taluk by the women of the Vatakkumpuram (വട്ടാക്കുപുരം) tract; and (3) of Karukapuzha (കറുകാപുഴ) in the Palghat Taluk by the women of the Walluva-

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nad Taluk are additional illustrations of such prohibitions. The reasons for them must be looked for in the past political condition of the District; and the object must have been to confine the various tribes in the places which formed their original homes, for purposes as well of aggression as of defence. That for a number of centuries prior to the occupation of the District by the Muhammedan kings of Mysore, this District had been split into a number of petty principalities ruled over by a number of semi-independent petty chieftains who were perpetually at war with each other will, it is presumed, be accepted as a fact established on historical evidence. That among those petty chiefs the Zamorins of Calicut for some time occupied a position of pre-eminence, in point of power and extent of territory, is also another fact which will be accepted without much dispute. It is pretty well known that the Zamorins succeeded in reducing to subjection almost all of the minor chieftains of the present South Malabar, and that their dominions extended as far South as the northern limits of the present Cochin State. In the interior, the Ernad, Walluvanad and a considerable portion of the Palghat Taluk became subject to the authority of the Rulers of Calicut. While thus successful in extending their power in the South, the Zamorins did not enjoy equal good fortune in their operations in the North. To the North of the Korapuzha, the Rajahs of Kurumbranad ruled over the parts that now constitute the division of the Deputy Tahsildar of Quilandy; and in the still further North, beyond the Kuttiyâti (കുട്ടിയടി) river, the Chirakkal Rajah and his feudatory, the Kadathanad Rajah ruled over the plains. Unsuccessful as the Zamorins were in effectually reducing these chiefs to subjection, they nevertheless managed to inspire the northern chiefs with a somewhat keen dread of their power. This view of the relations between the Zamorins and the northern Rajahs is attested by the fact, that tradition while supplying numerous evidences of their hostility points to no considerable length of time during which they were at peace with one another. The relations between one among the Zamorins and a certain Kurumbranad Rajah indeed became for some time at least so far friendly that at least one Kurumbranad Rajah succeeded in getting a Tampuratti of the Zamorins's family as his bed-mate; (I use this expression for the questions do not seem to favour the expressions 'husband' and 'wife' as applied to the adherents of the Marumakkathayam Law.) The result of this short connexion however did not in the sequel prove highly satisfactory to the Kurumbranad people, in as much as the wily Zamorin contrived to wrest a large slice of their lands from the authority of the Kurumbranad Rajah. Thus from superior strength as well as from their greater astuteness the Rulers of Calicut came to be looked upon in the North as objects of very considerable fear and hatred; and the subjects of these rulers as aliens which in those days meant enemies.

While the political tactics of the Zamorins tended to generate feelings unfavourable to them, in the minds of their Northern neighbours, the administration of their home affairs was not often carried on in such ways as to allay the intensity of the fear and hatred which their political proclivities originated. The reports of events occurring in the Zamorin's dominions must even in those days have spread throughout the whole of the District; and at times true, some times exaggerated and more often false, as the reports are likely to have been, they must nevertheless, have eagerly been listened to and believed in without much discrimination by their hearers. The northern people must have been made aware of the outrage committed under a Zamorin's orders, or at least with his knowledge, on a number of Nayar women who were locked up one night in the Kovilagam, and who for this reason were afterwards disowned by their castemen. The northern people, again, are likely to have

heard something about another event which also occurred in the South; and of which though not caused by the Zamorins, nor exactly in the territories under their immediate authority, the blame must nevertheless have been attributed to them. The second important event was also an outrage done to women; and was this time done by the new Arab settlers, who forcibly carried away some women one or two of them of very high rank too, into the bargain, and made them their wives. Such unpleasant facts occurring in the South must have made the northern people regard the Zamorin's dominions as dangerous places to live in or travel through, and that more especially for women, and as, to them such travellings or settlements were not necessary, they made the passing into the Zamorin's dominions by women an offence against society "punishable with forfeiture of caste." Partly to the apprehended dangers of settling in the territories of hostile chieftains and partly to prevent the dispersion of the people, should the reasons be attributed that have constituted to the growth of a custom the force of which has not hitherto been much impaired and of which the explanation is so hard to get at.)

8. The North Malabar Nayars of the ancient days did not know to what order of creation the Nayars of the South belonged, neither did they trouble themselves to make any laborious researches into the matter. Moreover there was the additional difficulty that once a Sambandham was allowed to be formed, the Sambandhakâran from the South would request that the women might be allowed to be taken to his home and thus made to cross the Korapuzha. This difficulty was insurmountable, and rather than to attempt to overcome it, the best way of dealing with it in their opinion was to evade it altogether.

11. The Tâli-kettu Kalyânam is the ceremony of first tying a Tâli or (Mangalya Sâtram) മംഗല്യസത്രം around the neck of a girl before she attains her puberty. At present the ceremony has no meaning, but it is of some value as furnishing some evidence of the fact that the tribes among whom it now prevails, had at some past period of their history the institution of marriage by which the person who tied the Tâli became the husband of the girl.

12. Each Division of the Nayars has its recognized caste out of which persons are chosen to officiate as Tâli-kettukâran. Manavâlan (മാണവലൻ) is the name by which the Tâli-kettukâran is generally distinguished. But the name is not applied when a Nambûdiri or a Kshatriyan happens to be the person who ought to officiate as Tâli-kettukâran.

13. The custom is to engage as many Manavâlans as there are girls around whose necks the Tâlis are to be tied.

14. No. Foreseeing that a claim to cohabit would thereby be advanced, our forefathers so far altered the original frame work of the Tâli-kettu Kalyânam that along with the completion of the Kalyânam the dissolution of the marriage was also effected. The Manavâlan, among the Nayars, eats his last meal as such on the fourth day, cuts into two a piece of unbleached new cloth, one end of which is held by the girl, and is forthwith sent about his business. (a) The reasons why he should not be allowed to do so would form the materials of a very interesting chapter in the history of the social organization of the Nambûdiris and the Nayars of Malabar. Even if I had the requisite amount of ability for dealing with it I should be allowed to reserve an exposition of them for a more convenient opportunity.

15. There is no prohibition to his afterwards forming Sambandham with the girl.

16. No.

17. The Kiriyaatil and the Sudra Divisions of Netunganad, Ernad and Sher-nad are known to recognize a pollution, the term of which extends to 15 days. Cases are also known where men have observed pollution on account of the death of women for whom they acted as Manavâlans.

18. The Tâli with the string attached must be placed on the neck by the Manavâlan; the mother may fasten the two ends of it.

19. Yes. It is the rule throughout the Walluvanad, Ernad and Calicut and Kurumbranad Taluks. It is said that in some of the Manapuram amsams of the Chavakkad Division of the Ponani Taluk, the practice prevails of performing the Tâli-kettu ceremony even after the girl has attained her puberty. Marriages have at all times with the Hindus formed, a part of the duties which rest on religious sanction; and the rule that the Tâli-kettu ceremony should take place before the girl has attained her maturity, is an exact reproduction of that based on Sanskrit authorities and prevailing among the Brahmans generally, of giving a girl in marriage before she has attained puberty.

20. Yes; the girl should be united with the man in the regular Sambandham fashion. The formalities gone through are the formalities incidental to a Sambandham connexion.

21. The formalities are nearly the same.

22. The Sambandham of the Walluvanad, Ernad and Calicut Taluks and the ഉവംപുറകൽ Uvam-purakal of the Kurumbranad Taluks are one and the same ceremony. In the പുടമുരി Pudamuri of the latter Taluk the girl is taken to the house of the man on the morning of the day after the ceremony.

23. The practice said to exist even now of two or three persons forming the Sambandhakkârans of the same woman at the same time, and this without evoking the disapprobation of the average members of the community among which it prevails, is in itself some evidence of the fact that such Sambandhams are allowed. With respect to the practice itself, it must be said that it is fast dying out. It is not always exactly the pleasure of the woman on which the practice is dependent. A plurality of Sambandhakkârs is often tacked on to the same woman at the express desire of, or at least with the connivance of the head of the woman's family and often against her wishes.

24. No authorities legal or religious can be cited either as commanding or forbidding the apparently very odd practices that are found prevailing among the Nam-bûdiris and the Nâyars of this District, and I am unable to say in what books such prescriptions or prohibitions are to be found. With reference to almost all of the existing practices it is my belief that explanations based on historical and religious considerations can be offered.

25. The woman can terminate the connexion, but in so doing she must obtain the consent of her relatives.

26. In the cases of a man terminating the Sambandham, proper notice must be given to the heads of the family of the woman about the intended act, and the reasons therefor must be assigned. The clothes to be given to the woman for the time are to be sent to her, and the man ceases to visit her.

27. Yes.

28. The consent of the heads of the Tarawâds where he wishes to form his 2nd and 3rd Sambandhams should be obtained and this is all that appears to be necessary.

29. When the Sambandham formed is of the ഉവംപുറകൽ Uvam-purakal kind, the woman remains in North Malabar in her own house; and the Sambandhakkâran visits her there. She lives with the Sambandhakkâran in his house only after the പുടമുരി Pudamuri has taken place. After her പുടമുരി Pudamuri the woman lives with her man in his house throughout the greater portion of the year and visits her own house only when domestic occurrences render her presence there necessary.

30. The Sambandham of South Malabar lies midway between the ഉവംപുറകൽ Uvam-purakal and the പുടമുരി Pudamuri of the North. The woman after her Sambandham lives in her own house as well as in that of her Sambandhakkâran. When the periods of her stay in the two houses are compared, it will most generally be found that in the course of a year her stay in her own house has been the longer of the two.

31. The woman and the children she bears to her man are supported by the man during the time they live in the man's house. When they live in their own house the man need not make provision for feeding them. Live where they may, the clothing of the woman and the children is provided for by the man.

32. The Rule is for one man and one woman to cleave for life.

33. This question is answered in the answer to question 31.

34. Whether they do or do not work for the Tarawad the Anandravans have a right to be fed by the Tarawad as long as they live in the Tarawad house.

They often cultivate Tarawad lands for a rent. There is no objection to their dealing with the surplus as they please, still, Karanavans would demand contributions under alleged Tarawad necessities. The history of the rise, growth and decline of the various Tarawads would form an instructive preparatory study for the purpose of clearly understanding the relations of Karanavans and Anandravans in regard to the Tarawad property, as well as the self or separate acquisitions of the Anandravans.

35. The rule that now prevails among the members of the established Tarawads is that the Anandravans work in order that they may earn something for themselves.

36. The earnings are not handed over to the Karanavan. The Anandravans keep them to themselves investing them in land (as is most often the case). The Anandravans' women and children are supported by them out of their separate acquisitions.

N. B.—The rules stated in these answers as prevailing are what are found to exist in the present day after about ninety years' British rule in this District. The effect of that rule on the constitution and present state of the Tarawad does not form a subject of the questions now asked, and no attempt is here made to describe the effects, which have begun to have important bearings on the social history of the Malayali.

37. I am not aware that such an അവകാശം (avakâsam) is recognized.

38. It is not apparent what that weighty affair of State may be in consideration of which the Government is concerned in its own interests to provide a law for

a portion of the inhabitants of this District. It is not pretended that the peace of this District cannot be maintained unless such a measure is brought into operation, nor does any administrative difficulty appear to be apprehended for the removal of which such a measure is needful. It cannot be assumed that having secured the peace of the District and carried its administrative machinery nearly into perfect working order, the Government wishes, in the leisure which the tranquillity of the District has afforded, to see some "experiments" made so that the result of the experiment may be made available for the edification, or the improvement, of the human race. It does not appear that any strong discontent is felt with the existing state of things so, that the Government is bound to take steps for its removal, nor is there any security offered that the new measure will be productive of so much unmixed good that it is desirable at whatever cost to get it introduced. Assuming these state of things to exist, I ask where is the necessity shewn for the introduction of a "permissive law." Any person who has taken care to study the social phenomena which Malabar presents will be slow to believe that the Malayalis (*i. e.*, the Nambûdiris and the Nâyars) who have admittedly attained to a pretty high state of social advancement, have not nevertheless been able to get out of the "Polyandrous state" so far as their (the Nâyars') marital relations are concerned. A knowledge of the circumstances under which a right to inherit property has come to be associated with descent from women rather than from men, will go far towards the conclusion that so long as those circumstances exist, a new law to regulate the marital relations of the Nâyars can at present be productive of only social misery far greater than what the present Law is calculated to remove. The Nambûdiris and the ruling Chiefs, whose influence on the Nayar society was the most considerable and most direct of all so moulded it that they made the interests of the Nayar subservient to their own, and until the force of that influence is minimized, any law for the regulation of the marital relations of the Nâyars can only work mischief to that community. The explanation and illustration of my meaning cannot be made intelligible without a statement of the social polity of the Nambûdiris of Malabar as I conceive it. To expound it here is not an easy task and I should beg to be excused from now doing it.

39, 40 and 41. I shall leave unanswered.

42. Adultery on the part of the women and loss of caste are the principal ground on which a Sambandham may be broken off.

43. The question has been sufficiently answered in my answers to some of the preceding questions.

45. Sambandhams are often formed.

If all things considered legislation should be decided upon *i. e.*, if the parties to the business would not withdraw unless they gave a law to the Nâyars, a short law, not much difficult to pass an examination, might be constituted of the clause (e) of the proposed new rights in question 44.

The bill that I would draft is as follows:—

"Every person whose personal Law is the Marumakkathâyam Law, and who is of sound mind and who is not a minor shall be competent to dispose of his self-acquired or separate property by Will."

(Signed) C. RAMUNNI MENON.

Tirurungadi,
12th May, 1891.

Marumakkathâyam Marriage Commission.

MEMORANDUM

BY

J. STURROCK ESQR. C. S.

1. In ancient Tuluva (modern South Canara) it appears that all property was vested in females, and descended from mother to daughter.

2. Various theories have been put forth to account for this, but nothing definite is known as to the origin of the custom. It is however certain that it has a great hold on the people, for it has survived ten centuries of Hinduism, and even the Tulu Mohammedans adhere to it. The only important modification that has taken place is that the management of property is now so commonly exercised by males that the rule of inheritance has become known by the misleading name of "Alia Santâna," or inheritance by a sister's son.

3. Together with the management by males there has grown-up a practice of a wife leaving her family house to reside with her husband, and a consequent striving to benefit the children at the expense of the estate of the husband's family. This has naturally led to much quarrelling, and even crime.

4. Amongst the Tulu people, a woman retains after marriage something of the power which in European countries she exercises during courtship, and is allowed to practically divorce her husband as readily as a Mohammedan can divorce his wife, or a Hindu take a second wife without giving freedom to the first. The laws of property and inheritance are also entirely independent of the marriage laws, and this fact, together with the independence enjoyed by married women, has led English and Hindu Judges to decide that there is no marriage amongst the Tulu people—a decision which has naturally led to some heart-burning, amongst those who attach importance to English and Hindu ideas on these subjects. The great mass of the people continue to follow the ancient marriage rules, and lead domestic lives undisturbed by the fact that other people, with other ideas, consider that they are not married at all.

5. The impression formed by me during thirteen years residence in South Canara was that, amongst the higher classes, the Tulu women, who follow the Alia Santâna rules, enjoyed a reputation for singular fidelity, and that even the lower classes did not regard the marriage ties more lightly than their neighbours governed by other laws.

6. From the above remarks it will be understood that I think it desirable a husband should be enabled by law to assign his self-acquisitions to his wife and children, either during his life-time or by bequest, but I consider legislation with regard to the marriage relations of the Tulu people quite uncalled for. The less our legislature deals with these matters the better. There are occasions on which it is imperative to do so, but this is not one of them.

7. The stigma which our courts have indirectly thrown on Tulu marriages might perhaps be to some extent removed by an allusion in the preamble of the act about property, to the effect that amongst the Tulu people inheritance is not affected by the marriage rules. This probably would not suffice to bring Tulu marriages within all the sections of the Penal Code dealing with marriage rights, but I do not think that would matter. I do not consider it fair to say, as in the paper to which this is a reply, that the Alia Santâna customs permit any one to commit adultery with a man's wife with impunity. There are other than penal safe-guards against adultery, and I understand that these have their full force amongst the better classes of the Tulu people.

J. STURROCK, C.S.

Camp Karur, 3rd May 1891.

(NOTE.—Mr. Sturrock was Collector and Magistrate of South Canara for over 6 years, and served in the District for over 13 years)

ANSWERS TO INTERROGATORIES

BY

M. R. RY. T. KUNHI RAMAN NAIR AVERGAL,
Judge, High Court,
TREVANDRUM.

AS - 23 (23)

MARUMAKKATHAYAM MARRIAGE COMMISSION.

ANSWERS TO INTERROGATORIES

BY

M. R. RY. T. KUNHI RAMAN NAIR AVERGAL,
JUDGE, HIGH COURT,
TREVANDRUM.

1. Yes.

2. No.

3. I know of no absolute prohibition against intermarriage between different divisions. Sambandham between a woman of a highest class (Purathu Chârna in North Malabar, and Kiriya in South Malabar, Cochin and Travancore) and men of other divisions (Akathu Chârna, Sudra &c.) is however, not customary; the customary law on the subject being that a woman cannot form Sambandham, with a man belonging to a division not equal to, or higher than, that to which she herself belongs. A man may form Sambandham with the women of any division equal to, or lower than, his own, and men of the highest division do form Sambandham with women of any division.

Nayar men and women of Akathu Chârna division do not generally form Sambandham with Sudra division, though men of Purathu Chârna division, being of the higher class, do. I understand also that a sub-division of Sudras, known as Pannikot Vamsam or clan, in Calicut and Ernad, do associate with Akathu Chârna, or Akathoot Parisha, division with the permission of the Zamorin. Here, I may observe once for all, that the designation by which the different divisions of Nair caste are known, are not the same in North and South Malabar, and that there are several divisions, and sub-divisions, each claiming superiority in the social scale. Others, though the claim is not universally recognized. The two main divisions in North Malabar are Purathu Chârna and Akathu Chârna while in South Malabar, they are (1) Kiriya (2) Sudra (3) Chârna. In the Taluq of Calicut, Chârna division is sub-divided into (1) Purathu Chârna and (2) Akathu Chârna, the former being (unlike in the North) lower than Kiriya, or the highest class of Nairs, though higher than Akathu Chârna.

4. Yes. The woman and her progeny, if any, lose their social status as members of the division to which the woman originally belonged by birth, and become merged in that of the husband. They are not invited by their fellow caste men on festive occasions, and are not permitted to sit in the same row as their kinsmen on the mother's side, and take meals, on public occasions.

5. Such Sambandhams may be validated by a Prayaschitham though the idea is not universally accepted by orthodox Nairs of North Malabar.

6. Kora Puzha River.

7. The Nairs (men) of South Malabar are not generally permitted to form Sambandham with the women of North Malabar, though there are stray cases in which such Sambandhams have been formed, especially by those belonging to the highest class, or *kiriyam*, in the South. There is no prohibition to the men of the North forming Sambandham with women of the South, subject to the general rule that the man should be of a class equal to, or higher than, that of the woman.

8. A South Malabar Nair is, as already stated, not generally taken as a husband by a North Malabar woman, the reasons assigned being 1, the unwillingness of the latter to cross the Kora-puzha river, and 2, the difference in the ceremonies constituting Sambandham, and 3, the treatment generally accorded to wives and children in South Malabar, who are not as a rule permitted, as in the North, to reside in the Tarawād houses of their husbands or father, but are obliged to live in their own Tarawāds.

For my part, however, I do not see why intermarriages between people of North and South should not be allowed, on the usual conditions obtaining in the North.

9. It is commonly said that Nair women of North Malabar may not cross to the South of Korapuzha river, but as a matter of fact numerous Nair families (high and low) of the North have in ancient times, and especially during the occupation of Malabar by Sultans of Mysore, crossed this river *en route* to Travancore. The traditionary prohibition was originally directed, not to the mere crossing of the river, but to the settlement of North Malabar women and families, in the territories of the Zamorin and other Princes in the South, except those of the Maha Rajas of Travancore, who were friendly to the Kolathunād, or North Malabar, Rajas. I know of several high caste women of the North, who have crossed this river on their way to Travancore with their husbands or relatives. Several colonies of North Malabar Nairs are settled in North and South Travancore, and some of them residing in Mavelikara, Shengannoor &c. in Travancore, still retain their rights in their old Tarawāds in North Malabar, and form Sambandhams with women of North Malabar. The Rajas of Mavelikara, Ennakad, Tiruvalla, Arammula &c. of Travancore, still hold and possess Estates in North Malabar, and the female members of these princely houses, and their dependents belonging to the N & class, used often to cross this river, on their way to, and back from, Travancore.

10. In olden times the chieftains of Malabar, then divided into several petty kingdoms, were often at warfare with each other, and there were feuds between the chieftains of North and South Malabar. There was no guarantee at that disturbed time that the people of the South would guard the safety and honour of

the women of North, and outrages on women were probably apprehended at the time. Hence (if the traditionary account be correct,) it was decreed that females of North should not cross Korapuzha, and settle in the Territories of hostile chieftains, and I understand that similar prohibitions existed in Travancore? which like British Malabar consisted at one time of several petty States. The prohibition in Travancore has disappeared with the reason therefor, but it is retained by the North Malabareans, who are conservatives to the core. The prohibition is under present circumstances, meaningless, and the intelligent portion of the North Malabar public are beginning to regard it as an obsolete one.

11. Tāli Kettu Kallyānam is, as its very name implies, the ceremony celebrated on the occasion of investiture of a girl with Tāli (marriage badge) a small gold ornament, threaded on a cotton or silk cord, in token of the girl having attained the marriageable age, and been betrothed to some one.

The Kāranavan, or manager of a Tarawād when he finds that there are one or more girls in his Tarawād, about to attain the age of puberty, in communication with the father of the girl or girls, and other relatives and fellow caste-men, determines the auspicious day and hour for tying the Tāli, by consulting an astrologer. A marriage pandal, or shed, is erected, and decorated, and on the day fixed for tying the Tāli, the girl, or girls, are bathed with water consecrated by Brahmins, and be decked with jewels and ornaments. In some places in South Malabar, an Enan-gen (a fellow caste-man), in others a Thirumulpād, or an Arya Pattar (foreign Brahmin) is invited to act as bridegroom for the purpose of tying the Tāli. In North Malabar, and amongst some high caste families in Cochin and Travancore, a Malayali Brahmin (Nambudri or Potti) is invited for this purpose. The bridegroom elect is met in procession and brought to the Pandal, where lighted lamps, measures containing paddy and rice, cocoanuts, betel &c., are kept. Then at the propitious moment the Tāli is tied in the presence of relatives and friends, amidst general rejoicings indicated by Arpu, or Korava—a noise made by the assembled multitude; and dinner parties are given subsequently. Four days are spent in South Malabar, Cochin and Travancore, in feasting and merriment, and on the fourth day, the bride and the so called bridegroom go to a river, or tank, in procession with music, to bathe. In North Malabar, the ceremonies last only two days, and the procession for bath in the tank, takes place on the second day—on the fourth or fifth day the bride goes in procession to worship the village Deity. The details of this ceremony are not uniform, and vary in different parts of the country. In North Malabar, and amongst the higher classes in Travancore, a woman called Brahmini belonging to the Pushpakan caste, is invited to sing bridal songs at the marriage shed, in the presence of the bride and other relatives. In some places in the South, these songs are dispensed with.

The person who tied the Tāli, is after the ceremony, dismissed with suitable presents in money and cloth.

12. The person who ties the Tâli is called in Malayalam Manavâlan (മാനവാളൻ). It would seem that originally the privilege of tying the Tâli was confined to Enangan, called Machambi in Travancore—(a fellow caste man) but as some families assumed an air of superiority, and wanted to raise themselves in the social scale by associating with those high in the social scale, the services of Thiroomulpâds and Brahmins were preferred.

13. No. It is not an approved custom, though there are not wanting a few instances in which a number of girls had their Tâli tied on by one man at the same time and place. It is so done only in the case of poor families who cannot afford to engage the services of more than one Thiroomulpâd, or Brahmin. It is never done when the person who ties the Tâli is an Enangan, or Machambi (fellow casteman).

14. Not. Unless he is permitted to complete the marriage by the ceremony of cloth presentation. The explanation for this anomaly, for it is nothing less, is to be sought for in the ancient political and social organization of the country.

The Malabar Sudras were in ancient times the slaves and dependents of Malabar Brahmins, whose word was law to them, and who, it is to be feared, made laws affecting the Sudras in such a way as to suit their (Malabar Brahmins) convenience, and to further their interests. The lawgivers of Malabar, though they did not think it expedient to prohibit the Tâli Kettu Kallyânam ceremony, which the Sudras in common with other Hindus had come to regard as a solemn religious ceremony, probably interpreted the ancient Smrithis in such a way as to make it appear that the person who acted as bride-groom, or tier of the Tâli, did not thereby acquire the full status of a husband until a further ceremony, that is presentation of cloth, takes place, and this second ceremony is postponed till after the attainment of puberty of the girl. On the conclusion of Tâli kettu, the bride-groom is dismissed with presents in token of the dissolution of his engagement. Here I may add that the marriage system of Marumakkathayam Hindus, like the ordinary Hindu Marriage system, originally consisted of two processes, the betrothal and the actual marriage, and the ceremony of tying the Tâli, or Kettu Kallyânam is simply a relic of the betrothal ceremony, ordained by the ancient Smrithis, which the Sudra colonists of Kerala, (Malabar, Travancore and Cochin) wished themselves to be governed by, as the rule prevalent at the time in the land from which they emigrated to Kerala.

It is thought by some that according to the ancient Smrithis, the bride does not become a member of the family of the bridegroom on the first day of the celebration of the marriage rite, and that she does so only after undergoing certain further ceremonies to be performed on the fourth, or subsequent, day after the marriage and represented by the consummation of the marriage, (see Aswalayana-1-8-12.

Apastambha Dharma Sutra-2-6-10-and 15; Gobhila Grihya Sutra 2-3-13-2-5) Yama 8-6-(Bombay Edition Likhitha page 377) and in the state of ancient authorities there was not much difficulty in persuading ignorant people of the servile class that so long as the consummation of marriage does not take place, the tying of the Tâli confers no rights on the tier, and that the dissolution of the agreement of betrothment may be effected after this ceremony, so that the bride may be at liberty to form Sambandhams with the younger cadets of the Brahmin families, who are from sordid motives prohibited from marrying in their own caste. The dismissal of the bridegroom, or manavâlan, with presents, is also looked upon as a sort of dissolution of the tie. There is in my view, no valid reason why the tier of Tâli, or manavâlan, should not have the right to cohabit with the girl, when the proper time for consummation of a marriage arrives; and it is to be devoutly wished that some system by which the original intention involved in the celebration of Tâli Kettu ceremony can be fully carried out, could be devised. The custom has however taken so deep a root in the minds of the people, that it will take some time before the desired reforms, which must come from within, can be introduced.

15. There is not the least prohibition to the person who ties the Tâli afterwards forming Sambandham with the girl.

I have personally known of several instances of such a Sambandham in Travancore, and the practice of giving cloth at the marriage shed (പ്രാമുലിപ്പുടം കൊടുക്കുക) whereby the giver becomes the real husband of the girl, is not rare in Malabar also.

In cases, where the tier of the Tâli is a fellow caste man, (Enangan or Machambi) and not a Brahmin, or Kshatria, the girl incurs pollution on the death of the person who tied the Tâli on her. The practice of observing such pollution obtains amongst Kiriyaams in Betutnad and Nedunganad, amongst Sudra Nairs attached to the Superior or Adhya Brahmins in Walluvanad, Nedunganad, Betutnad, and also amongst such of the Illakâr and Swarupakâr in Trevandrum and Changanasheri, who get the Tâli tied by a fellow caste man (Enangan or machambi.)

18 In some families, who, on account of poverty or other causes, are unable to procure the services of a regular bridegroom on the occasion of Tâli Kettu ceremony, or when there had not been time to ascertain by consulting an astrologer whether the bridegroom's natal star agrees with the bride's, mothers or other relatives tie the Tâli,—an image of the Deity, or a sword, being in such cases placed in front of the bride, to represent the bridegroom, if one is not forth coming. This mode of performing the ceremony is not generally approved and may be said to be of very rare occurrence.

19. There is undoubtedly an idea that the Tâlikettu ceremony should be performed before the girl attains the age of puberty, which is ordinarily supposed to be 11 years, but the idea has no justification whatever in any law applicable to Sudras.

The practice is also not uniform among the followers of Marumakkathayam. In the District of Changanassery in Travancore, the Tali Kettu ceremony is performed even after puberty, and in the Tarawads of Thirumulpads and others belonging to the Kshatria class, the same practice is said to prevail. The Malabar Brahmins celebrate marriages after the girls have attained their puberty and they cite a text of Manu in support of their practice. The text is as follows :—(*Translated by the Commission into English*) "A virgin may, even after the attainment of puberty, remain till death in her house according to her pleasure; but shall never be given (in marriage) to one devoid of all virtue."

If this text could be interpreted, as it has been, to sanction marriages after puberty in the case of Malabar Brahmins, I do not see why it should not apply to Malabar Sudras who are inferior to Brahmins.

20. The ceremony of Pudava Kotukal, or Pudava-Muri in North Malabar and Travancore, and Sambandham, or Guna-Dôsham, in South Malabar and Cochin, will have to be gone through before a man and woman can consort as husband and wife. This ceremony is the real or actual marriage ceremony amongst Marumakkathayis, and it is performed with great publicity and a degree of pomp suitable to the circumstances in life of the parties. When the Kâranavan, or the father, or some elderly member of a man's Tarawâd, or the man himself, if of proper age, has found out a suitable match for him, and if the match is ascertained to be agreeable to the guardians, or other protectors, of the girl, a small deputation consisting of the relatives and friends of the would-be bride-groom, proceeds to the house of the girl and request an examination of the horoscope of the girl, taking with them the bridegroom's horoscope. A formal examination of horoscopes is then made by an astrologer, previously invited for the purpose, and an auspicious day is fixed for the Pudava Muri ceremony. On the appointed day, the bridegroom, after getting the formal sanction of his elders, to each of whom he presents a bundle of betel and nut, goes in procession to the house of the bride, accompanied by a number of his friends and other villagers. The castemen, relations and friends of the bride's Tarawâd also assemble in the bride's Tarawâd house. The guests are then treated to a sumptuous banquet, distribution of money, especially the religious gifts called Dânam and Muhûrtham, is made to pious Brahmins. Two or three lighted lamps, a measure containing paddy and rice, and a bunch of cocoanut flowers are placed in the room set apart for the purpose, and the bride is escorted to that room by her Ammayi (Uncle's wife) or other female relatives, and there in the presence of all, rich suits of cloth are given by the bride-groom to the bride, who receives the cloth after getting the formal sanction of her Kâranavan, father, or other elders. The marriage is completed by the presentation of cloth and the couple retire to the bedroom. This ceremony is always performed at night, and is followed in North Malabar by another ceremony called Vettalakettu, which is the taking of the wife to her husband's Tarawâd after the marriage.

The ceremony of presenting cloth is not performed in South Malabar and Cochin, but the other formalities necessary to enable a man to consort with a woman as his wife are nearly the same. The main difference is that the cloth is not formally presented to the bride in the presence of the guests assembled, but is distributed afterwards among relations and kinsmen of the bride, and that the ceremony of Vettalakettu is also not customary, as the rule there is for the wife to remain in her own Tarawâd even after consummation of the marriage.

21. The same formalities as when the Sambandhakâran is a Nair are observed when a Nair Lady forms Sambandham with a Nambudiri or Pattar, with this difference that the cloth instead of being presented by the bridegroom into the hands of the bride direct, is placed on a plank before her, and is thence taken by the bride, after getting the formal consent of her elders.

22. The first part of this question has been already answered.

I believe the formalities are the same throughout North Malabar. My personal knowledge is confined to Chirakkal and Kottayam Taluqs of North Malabar, and to Bekal Taluq forming part of South Canara.

I believe also the formalities are the same throughout South Malabar, with some minor difference in details. Less pomp is displayed on these occasions in some places than in others.

23. Certainly not in these days. Such a practice never existed in North Malabar. A few Tarawâds of a low order in Nedunganâd Taluq in South Malabar, and a few similar Tarawâds in Travancore, had years back been following a sort of polyandrous system, but such Tarawâds were looked down upon with contempt, and shunned by the community at large. They had therefore to give up the practice as one opposed to general public opinion, and I don't think that polyandry is recognized, or approved, by the community at large in Malabar, Cochin and Travancore.

24. No authoritative text books, laying down the law relating to marriages among the followers of Marumakkathayam exist, and I am unable to cite any express texts of law prohibiting polyandry among Nairs. A native work treating of the law of inheritance applicable to Marumakkathayam Hindus, contains in para 212 a contradiction of the assertion made by a few globe-trotters and others, who without careful enquiries took it for granted that the practice of a few disreputable families, is the practice of the whole Nair community. This work, a portion of which has been translated in the Madras Journal of Literature p. p. 172—187, Volume for 1878, was compiled by the late Pandit of the Travancore Sadr Court—a learned foreign Bramin—and printed by the late Kerala Varman Thirumulpâd of Trevandrum. I have already sent a copy of this book for the information of the Commission.

25. Yes; but in North Malabar and in respectable families in South Malabar a woman does not act, and is not permitted to act, independently in these

matters. She takes the opinion of the elders of her Tarawād, and it is only after procuring their approval that the Sambandham is terminated.

26. No sort of formality seems necessary to dissolve the connection; but the fact is communicated to each other through a respectable messenger. In some places the wife's people refuse to accept presents sent on important festival days, such as Onam, Vishu and Thiruvathira, and their refusal is construed as a termination of Sambandham. In Palghat Taluq, however, it is said to be the custom to send for the husband and two of the fellow castemen, and to declare the unwillingness of the woman to continue as wife in the presence of these men. If the divorce is to be effected at the instance of the husband, the declaration by him is made to the relatives of the wife; and the wife and children are, in North Malabar, sent to her Tarawād house with a message to the Karanavan, or other elder members of the Tarawād.

27. Yes.

28. Nothing.

29. In North Malabar and in some parts of Travancore the woman generally resides in the house of her husband during Sambandham.

30. No.

31. Yes; but among the poorer classes, the recognized custom is to supply the wife and children with cloth and oil only.

32. It is not the custom to change Sambandham frequently, and it is the rule for one man and one woman to cleave together for life. There are of course exceptions to the rule, and instances of divorce are not rare; but if the divorce is effected by either man or woman without sufficient cause, the person in fault is shunned by his fellow caste men and neighbours.

33. He does feed and clothe them.

34. If the anandravars work for the Tarawād they are fed and clothed by the Karanavan and their necessities, including the expenses of their wife and children, if any, are supplied by the Karanavan.

They do sometimes, but not often, cultivate Tarawād land for a rent, and in such cases they are permitted to deal at their pleasure with the surplus if any.

In former days the Anandravans used to work generally for the Tarawād, but in recent times the Anandravans generally try to earn something for themselves.

When the Tarawād consist of near relatives only, or when the Karanavan is a good manager, who has really at heart the interests of the members of the Tarawād individually and collectively, the Anandravans do hand over their earnings to the Karanavan.

37. A gift of some property is made by the father with the consent of the other members of his Tarawād to his children, and this gift is called Puthrāvākāsam in North Malabar. Similar gifts are made in South Malabar also, but not as often as in the North. The practice in Travancore in rich Tarawāds is for the father to execute the deed of gift at the time of Kettukalyānam ceremony and proclaim

the gift at the marriage pandal, in the presence of the assembled guests.

38. Yes, my objections are:—

(1) Any law intended, as the proposed one, to raise the moral and material prosperity of the Marumakkathāyam Hindus, should be binding on the whole Community. The State should not undertake legislation in such matters unless it is satisfied that the proposed measure will conduce to the well-being of the community at large; and when once it is so satisfied the law should be made compulsory on the community, whatever the wishes or sentiments of the individual members may be.

(2) The proposed change in the law of Inheritance regarding separate property, will tend to create dissensions in Marumakkathāyam Tarawāds, increase litigation, and eventually lead to the ruin and extinction of Marumakkathāyam system of inheritance.

(3) No new form of marriage need be introduced. The marriage customs in vogue if strictly enforced, are not positively mischievous, and the evils complained of may be remedied without radical innovations.

(4) The proposed permissive law would militate against the well known principle that no person or body of persons "can create a new form of estate or alter the line of succession allowed by law for the purpose of carrying out his own wishes or policy". The rule of inheritance being one laid down, or recognised by, the State not merely for the benefit of the individual, but for reasons of public policy, should not be altered at the instance of persons who would retain the benefits derivable from the old law, but would avoid the obligations imposed thereby.

(6) It is unfair and unjust to Marumakkathāyam Tarawāds that they should be altogether deprived of the benefits of education of the members, imparted generally out of Tarawād funds, and that the residue of the Tarawād Fund should still be left available to those from whom no advantage is to be derived by the Tarawād as a whole.

(7) It is in fact a one-sided measure, which does not sufficiently take into account the duties and obligations *inter se* of the members of Marumakkathāyam Tarawāds, and of the moral obligations one is under of making due provision for his mother, sister, and other nearest relatives, out of his earnings.

(8) The non acceptance of the optional law would virtually inflict bastardy on the children of many respectable classes of society, who under the customary law now sought to be superseded, are regarded as legitimate.

(9) The registration of marriages would simply increase the trouble and expense to which the poor classes of society are now put in celebrating marriages.

(10) Any social reform should as far as possible be on the lines of the practice adopted by the intelligent portion of the community, but the present Bill ignores these practices.

39. If legal sanction is to be accorded to marriages, I would certainly retain the customary form of marriage. The form of marriage proposed in the Bill is unsuited to the people for whom it is intended. I am not sure that the parties should be put to the expense of registration. The publicity with which

marriages are celebrated affords the means of proof of marriages. The marriages of other classes of Hindus are not registered, and no evil consequences of a nature demanding legislative interference are known to have resulted from the omission.

40. Yes. In some respects. In the first place, the prohibition involved in the first condition as far as it relates to males is not sanctioned by law or custom. In common with other Hindus, the followers of Marumakkathayam are permitted by law and custom to contract a second marriage during the life-time of the first wife, though females are not so permitted.

2ndly, the age for contracting a Sambandham or Marriage is popularly supposed to be 18 for the male as proposed, and 12 for the female and not 14. The girls' attain puberty between 11 and 14.

3rdly, the two provisos to clause 4 introduce innovations which may not be acceptable to the orthodox members of the community.

41. I would leave unaltered the present practice whereby a man is at liberty to contract more than one marriage under certain circumstances. The practice as already stated is sanctioned by the Hindu Sastras, held sacred by every Hindu and the interference with such practices is uncalled for. The first condition proposed to be laid down should be so altered as to make it conform to the precepts of Hindu law. I would omit the two provisos to clause 4. They are misleading, and not in accordance with popular sentiments on the subject.

Marriage between persons belonging to the same Vamsam, or clan, whose relationship though only traditional is kept up by the observance of pollution (പുലാ and വലായ്മ) on the death of a member in the family, is strictly prohibited among Marumakkathayis, and such prohibition against marriage which is to be found in almost every part of the world, and to which some writers have given the name of exogamy should I think be respected in toto.

42. Adultery. The commission by either party of heinous crimes involving lifelong incarceration in jail. Disobedience to lawful orders, and quarrelsome behavior on the part of the wife. Loss of caste in either party.

43. Nayar wives and their children are supported by the husband during his lifetime, if he can afford to do so. After the husband's death, they are supported by the Kāranavan out of Tarawād funds, if the husband died without making adequate provision for the maintenance of his children. If the parties do not belong to the working classes and if the wife's Tarawād be rich, while the husband is poor, the wife and children reside in their Tarawāds and are there maintained by the Kāranavan.

44. I have no objection to urge against the proposals (a) and (b). They simply legalize the practice observed by the respectable portion of the Marumakkathayam community, and would not generally speaking be distasteful even to the masses. I see also no serious objection to the proposal (c).

The proposal (d) deals, though indirectly, a deathblow to the Marumakkathayam System of inheritance. If the Tarawād is not to get any portion of the selfacquisition of its members, the Marumakkathayam Tarawād System cannot be properly worked, or maintained, according to the intention of its founders. That System has endured for ages, and the Tarawād is the best extant type of the primitive Hindu undivided family, whose cherished idea is to work and earn for the good of the whole, and not for the individual benefit alone. It has conferred domestic happiness in past ages on a large proportion of the inhabitants of the West Coast, and it is not proposed to do away with that System altogether. If so, the soundness of the proposal (d) is open to question. In my opinion all that the State ought to do at present in order to satisfy the requirements of the progress of Malabar society, is to declare the marriages under the present System valid for the purpose of bringing the sinners against morality under the clutches of penal law, and to confer upon the wife and children a claim for maintenance, out of the husband's selfacquisition, should he die without making due provision for the maintenance of his wife and children.

The proposal (e) if adopted would be very beneficial. The doubts thrown upon the competency of Marumakkathayee Hindus to dispose of their separate property by will, are indeed felt as a grievance by many. To prevent, however, arbitrary and whimsical dispositions contrary to moral precepts, it may be distinctly laid down that the maintenance of destitute parents, and of unmarried or destitute sisters, will be a charge on a man's self acquisitions; and that testamentary disposition made without any regard to their right of maintenance, would only be given effect to subject to such rights.

I am not in favour of a total change in the law of inheritance in the manner proposed and I think the State should at present aim simply at repairing the recognized evils of the Marumakkathayam system, without pulling down the fabric of the system, and thus necessitating its reconstruction. In this view it follows that the proposal (f) is in my view superfluous.

45. Sambandham between the Nayars of British Malabar (South) and those living in Cochin and Travancore is customary. There are several families in Cochin and Travancore who are allied to those in British Malabar. Many of the high caste families in Travancore for instance. Tampis of South Travancore and Kurups of Trevandrum, and numerous other families in North and South Travancore, are descended from those who from time to time emigrated from the land now known as British Malabar; and most of the princely houses, allied by marriage, or otherwise connected with, the reigning family in Travancore, still possess Palaces and Estates in British Malabar. There have however of late not been many marriages between women of North Malabar and persons residing in Cochin and Travancore, owing to the prejudice of the former to cross the Korapuzha river.

T. KUNHI RAMEN NAIR.

1. I shall now proceed to record as briefly as possible my views on the proposals now under investigation by the Malabar marriage commission.

2. These proposals are to pass a permissive law enabling such of the Marumakkathayam Hindus as are willing to do so, to contract a marriage in a prescribed form; to institute a judicial system of divorce; to make adultery and bigamy offences; and to confer on the persons contracting marriage under the Act and their children, certain new rights, namely,

(a) To the husband. The guardianship of his wife and of her children born to him before or after such marriage, and the right to take by survivorship jointly with his children any undisposed of separate or self-acquired property which the wife may die possessed of.

(b) To the wife and children—A right to claim maintenance from the husband, and to take by survivorship, that is to succeed to the undisposed of separate or self-acquired property of the husband.

(c) To the wife alone—The legal guardianship of the children in her own separate right.

(d) To both husband and wife—Power to dispose of his or her separate property by will.

3. As will be seen from my answers to the questions you have been good enough to address to me, the only proposals which have my entire support are those aimed at conferring testamentary power, and at giving a right of maintenance to the wife and children out of the earnings of the husband.

4. The testamentary power seems urgently called for. There is, I believe, a consensus of opinion on the desirability of legislation on this point, and legislation on the subject has been suggested not only by the late Malabar Land Tenure Commission but also, as I understand, by Sir Charles Turner, who did not view with favor the other proposals of the late Commission. The present proposal restricts the testamentary power to those who contract a marriage under the new system, but I have looked in vain, in the statement of objects and reasons, for any reasons for confining the privilege to a select few, and I conclude that the restriction is unintentional. If not, the restriction seems wholly uncalled for. The reasons which may be urged in support of conferring testamentary power on a husband and wife under the new system, equally not in the case of every follower of the Marumakkathayam system. The reasons are (1) that the legal duties of a Marumakkathayam follower are constantly in conflict with his natural affections; (2) His wife and children, mother and sister are the greatest objects of his love and affection, but the two first do not get his property at all after his death, descending as it does to his Tarawad which may, for the time being, be, for ought we know, under the administration of a very distant relative, and the two last get in some cases, only a distant chance of succeeding to the actual management of such property; (3) At present he can make provision for those nearest and dearest to him only by making gifts with transfer of possession,

and thus stripping himself of his hard earned property, during his life-time, which in the generality of cases a prudent man is very reluctant to do; and (4) that the power of making will, to take effect after one's death, would minimise the evils of the present system by enabling him to dispose of his property in favor of his wife, lineal descendants and others. This power is now possessed by other Hindus, and was at one time thought to be inherent also in the followers of Marumakkathayam under the customary law of the country (See the Fifth Report of the Select Committee of the House of Commons on the affairs of the East India Company 1812 page 133) but some rulings of the Madras High Court have tended to shake this belief though the tendency of the latest rulings is to recognise the testamentary power in certain cases. It is of the utmost importance that there should be no room for doubt upon an important point like the testamentary power, and an authoritative declaration by the Legislature of the validity of wills executed by Marumakkathayam followers, in regard to such separate property as could now be alienated by gift during their life time, seems needed; and this declaration should of course include every Marumakkathayam follower, and not a fraction of them alone.

5. It is also expedient in my humble view that the wife and children of every Marumakkathayam Hindu should be expressly given a statutory right to maintenance out of his separate or self acquired property. Such right is now enjoyed by them in practice during the life-time of the husband, and the custom on this subject prevailing throughout North Malabar in respectable and influential Tarawads has, I understand, been judicially recognised by the highest Court in the Madras Presidency, but there are not wanting instances in which the widows and children of respectable men, brought up in ease and comfort during the life-time of their husbands or fathers, have become beggars, as their own Tarawad did not possess any property; and the opinion of the public generally is that such a state of things should not be continued any longer. The legislation on the point will, therefore, be hailed with joy by at least the majority of the Marumakkathayam Hindus, and may, therefore, be undertaken by the State without laying itself open to the charge of having unduly and unnecessarily interfered with social institutions. To concede this right however to only those marrying under the new system, and to refuse it to those marrying or married under the old system, would be making an invidious distinction which cannot be supported in principle, unless indeed it is to be authoritatively held by the Legislature that those who cohabit as husband and wife after performing the ceremonies prescribed by the custom of their community and popularly supposed to constitute a real marriage, are really not fit to be recognised as husband and wife, and that their offspring are bastards deserving of no sympathy in the interests of morality. I do not think such a view can properly be held in the circumstances under which the customary Sambandham, or Guna Dosham, as the ceremony of actual marriage is in some places called, takes place, nor does the ease with which divorces can be effected by the husband or

wife under the custom of the country, and which, in some quarters, is held to reduce the relationship to a mere concubinage, detract from the value attachable to the ceremony of Sambandham (actual marriage.) The Mahomedan Law sanctions divorce by the husband at his mere will and pleasure, and yet no one has been hitherto bold enough to urge, on that ground, that the relation of husband and wife under the Mahomedan Law does not constitute a legal marriage. The old theory probably was that a girl, if of a mature age, is at liberty to choose Sambandhakâran or husband for herself, and to separate from him according to her pleasure, but according to modern practice, the right of choosing a husband is exercised by the father, or Kâranavan or other natural protectors of the girl, and divorce is also not effected without the consent of the elders in the girl's family. It is thus only in theory that the marriage, or Sambandham, under the Marumakkathâyam system can be said to be based upon mutual consent and dissoluble at will. In practice, the moral sanction has in general been found sufficiently strong to prevent dissolution, and if statistics be taken of the number of divorces among respectable classes of the community during the last ten years, the result would, I am sanguine, show that the divorces amongst Malayâlis (except the working classes) are not more frequent than amongst other races.

6. Even granting that the power of divorce is wantonly exercised in Malabar to such an extent as to be detrimental to the well-being of the society, the fact cannot alter the character of the original transaction, and relationships formed by people according to the dictates of their common law, and in the full belief of their efficacy as a real marriage, are worthy of being recognised by the State. Each community should be judged by its own laws and customs, and not according to foreign laws, which it cannot be expected to know, and ideas borrowed from other systems can hardly be imported with justice into the discussion of the validity of Malayâli marriages. A deference to local and ancient customs is dictated not only by justice but by policy also, and the British Government has pledged itself to respect the social customs of its subjects. If so, the wife and children under the existing customary marriages should not be ignored, and they must be given the full benefit of any law which may be made in favor of similar classes. In conferring this right, the Legislature would, as already observed, be simply legalising the present practice on the subject, and no real innovations are involved in the proposal.

7. The other proposals adverted to in para 4 are open to grave objections which in the aggregate appear to me to be fatal in effect.

8. The first in order of these objectionable proposals is the one for providing a peculiar form of marriage on the lines prescribed for Parsis and Brahmos. The proposal proceeds on the assumption that no system of marriage exists amongst the community at present, but the assumption is, I am afraid, purely gratuitous and has no foundation in fact.

9. As already stated in my answer to the Commissioners' questions, the Marumakkathâyam Hindus of the West Coast have a marriage system of their own evidently modelled on the system followed by their brethren on the East Coast. First there is the Kettu Kalyânam, or ceremony of tying the Tâli or marriage badge, which is a relic of the betrothal ceremony of Hindus, and 2ndly there is the consummation of marriage, or real marriage, which in different parts of the country is known by different names—Puda Muri, Puda Kuta, Sambandham or Guna Dôsham. The latter term signifies, as in the English wedding service, the mutual contract of the parties "for better for worse, for richer for poorer," and it shows that the original intention was that the persons united by the ceremony should cleave together for life. The betrothal ceremony, or Kettu Kalyânam has in course of time become an idle and meaningless ceremony, as it was thought for some reason or other, which it is not easy to gather with certainly at this distance of time, that the bridegroom selected haphazard need not consummate the marriage, or complete the ceremony, and the bridegroom's assent to a formal dissolution of the engagement is purchased at the conclusion of the ceremony, except in rare cases where he is allowed to consummate the marriage by the presentation of cloth. The presentation of cloth is the symbol for consummating marriages, and what originally was intended to be a mere consummation of marriage previously contracted by the tying of Tâli, has in course of time come to be regarded as the real and actual marriage. This latter ceremony, that is the Sambandham or Guna Dôsham, is performed publicly, with due solemnity, in the presence of friends and relations especially invited to the bride's house, and the real husband is chosen for the most part by the woman's parents, or other guardians. The ceremony has something also of religion in it, Dânam and Muhûrtham presents to Brahmins being usually made on the occasion, and the performance of this ceremony is considered essential to legalise the union of man and woman as husband and wife. Cohabitation between men and women without undergoing this ceremony is looked upon by the public as an illegitimate and improper connection, involving social disgrace. Such being the real state of circumstances, can it be justly said as has been done in some quarters that the customary Sambandham, or Guna Dôsham, is only a sort of concubinage "into which the woman enters of her own choice, and is at liberty to change as often as she pleases." That the actual fact is otherwise is known to every one who has taken the trouble of minutely enquiring into the matter, and a great authority Sir James Stephen the late Legal Member, is reported to have said in the Vice Regal Council at Calcutta in 1872, that "in spite of the loose marriage system, loose from a purely legal point of view only (the italics are mine) the marriage is practically as common and as binding among Nairs as in many other races. The connection which they form usually last for life, and is marked by a great deal of mutual fidelity." Similar testimony is borne by local District Officers (European) of whom

Mr. Logan, whose experience of Malabar was great, has remarked in the Malabar District Manual, that "no where is the marriage tie more rigidly observed and respected, nowhere is it more jealously guarded, or its neglect more savagely avenged than in Malabar." It may with safety be assumed that when several thousands of intelligent people practise certain customs for thousands of years, as the marriage customs of Malabar have been, by a race second to none in intellectual and physical attainments, there must be something in those customs entitled to respect, and though social reforms may be found needed by modern circumstances, such reforms must come from within, and not be forced on the people. Any violent and radical changes in the form of marriages, far from conducing to the progress of needful social reforms, would simply retard it; and it makes but little difference that the special form is applicable to only those who may choose to adopt it. Those who adopt the new form, in which religious elements suited to popular ideas find no place, are likely to be treated by the orthodox members of the community as outside the pale of their caste, and no one who has anything to lose by his severance from his Tarwâd and from his caste, would adopt the new law. The measure will further create jealousy and ill-feeling amongst the members of Tarwâds, and where peace and contentment prevailed before the introduction of the new law, dissension and split would, I am afraid, be the order of day. In any event, there will be a further split in the community which is already divided into numerous sub-divisions, and the proposed law may, in all probability, prove the very reverse of beneficial. I think no good is likely to accrue, in the long run, by passing a permissive law for a community noted for its tenacity to old customs; and that I am not exaggerating the hold which the customs and usages have over people, may be easily inferred by anybody when I say that there are still numerous people in North Malabar, who think that because it was not the custom for their women to cross a certain river in the past, therefore the crossing of the river in this 19th century is objectionable. There is not the least necessity for altering the form to which people have become accustomed by long usage. The marriage ceremonies are not uniform throughout the world differing as they do a good deal from one another, and there is nothing in the Puda-Muri, or Sambandham, ceremony of Malabar to warrant its exclusion from the list of marriage ceremonies.

10. If, as stated in some quarters, Courts have ruled against the validity as marriage of the customary Sambandham, or Guna Dôsham (I am not aware of any such ruling by the highest Courts, bearing on the Marumakkathâyam system) the best course to pursue is to seek the intervention of Legislature for the purpose of removing these doubts, by affirming the validity of customary marriages, and a special form of marriage unsuited to the sentiments of the people is the last thing which those having the well-being of the community at large, at heart, should seek to get. Every innovation is viewed by people with

suspicion and distrust, and the form proposed is hardly calculated to allay these suspicions. Apart from the omission to provide for the presence of some religious emblem such as the lighted lamps, Nirapara* &c, essential in the view of the common people to add solemnity to such serious engagements like marriage, the new form is too un-Hindu in its general character to find general acceptance. Females of the respectable classes, however educated they may be, are naturally shy and reserved, or affect to be shy, and would find it inconvenient—nay derogatory, to repeat in public in the presence of a Registrar (an utter stranger and perhaps a Christian, Mahomedan, or Pariah) and of those assembled, the words of the formula proposed in the Bill, and the very idea of young females appearing in public and before strangers is distasteful to the community. The wives are not, in some places, permitted to utter even the names of their husbands, and it would shock the feelings and sense of propriety of such people, if they are forced to say in public as proposed the words "I take thee to be my lawful husband."

11. It is possible that if the materials for forming a correct judgment on the question of the validity as a legal marriage of the customary Puda-Muri, or Sambandham, ceremony, and on the present practices of the people, be properly placed before the highest tribunals, they may be led to take a different view in regard to Marumakkathâyam system than what they are reported to have taken when cases under the kindred Aliya Santhânam marriages of South Canara cropped up before them. The Sadr Court of Bengal has so far back as 1817 (see Jaganatha's Digest 606) declared the validity, between Kshatrias, of the Gandharva marriage, one of the eight forms of marriage sanctioned by the ancient Smrithis, and belonging, as Mr. Mayne rightly observes, to a time when the notion of marriage involved no idea of permanence or exclusiveness. Marumakkathâyam, and for that matter Aliya Santhânam, marriages under the present system, surely stand on an equal, if not higher, footing with Gandharva marriages. The notion is entertained by some, namely that the connection as husband and wife under these systems, being dissoluble at the will of either party, no prosecution can successfully be maintained for adultery or bigamy, but those who entertain this idea have not in my view taken note of the fact, namely that some overt act, expressive of the intention to divorce, that is a formal declaration, is needed, before the dissolution can take place. Until such declaration is made, the relationship lasts, and the parties are treated by the public as husband and wife, and if anybody offends during the existence of this relationship he is liable for the consequences. Under such circumstances, it may be doubted, if legislation on the subject is necessary at all, but as the right of maintenance as one of the legal incidents of marriage has to be conferred by Statute, the resort to legislation may be needed, and I see no harm in taking this opportunity to place the whole law on a satisfactory footing by an express declaration from the Legislature of the applicability of the provisions of the Penal Code

* Note.—Nirapara=A full measure (of paddy.)

anent the offences against marriage, to Marumakkathāyam Hindus as well. I need hardly add that the Penal Law relating to bigamy does not affect ordinary Hindu males, and that the Marumakkathāyam Hindus should be placed only on a par with ordinary Hindus. The present proposal to make the husband also indictable goes too far, and is on that ground open to objection.

12. I do not think the registration of marriages urgently called for. The marriages of Hindus and Mahomedans in this Presidency are not registered, and the omission to register has not been found by experience to be productive of much evil. Every Malayali marriage is celebrated publicly and openly with a due amount of pomp, and the fact affords the best means of proof of marriages. If registration is thought necessary, such registration may be effected, without the trouble and expense attending the registration of a conveyance before a Registrar by parties not appearing in his office, if the Government would direct the Registrar to file in his office certificates of marriage signed by the husband and wife, and their Kāranavans, or fathers, in the presence of three witnesses, one of whom shall be the local Adhikāri, or village Munsif. Precedent for such a form of registration of marriage is furnished by the rules framed with the sanction of the British Government for regulating the marriages of certain castes in Ahmedbad and Kaira Districts, one of such rules being that every betrothal, or marriage, shall be reported to the Talati for registration without fee.

13. Next as regards the proposal to institute a judicial system of divorce. I doubt very much if it will suit the conditions among which the Marumakkathāyam community live and move. The measure will give terrible scope for private malice to bring humiliation and disgrace upon respectable families, and will, I am afraid, destroy the happiness of the people whom it professes to serve. A public trial of matrimonial and divorce suits of the kind contemplated, regardless of the result of the trial, is a life-long disgrace to any family. The readers of reports of trials in Divorce Courts, both in England and in India, are not likely to be fascinated with the proposed mode of settling private family disputes and squabbles. There is no denying that the West Coast Hindus, though following peculiar usages in regard to marriages and inheritance, are still Hindus in religion and by birth, and that ancient Hindu Smrithis, and the interpretation put upon them by learned persons, have influenced, and do still influence, their rules of life, wherever the local circumstances have not compelled them to adopt other rules, and they would, I believe, rather wish to be put on a level as far as possible with their Hindu brethren in social matters, than with the Parsis whose Marriage and Divorce Act 15 of 1865 forms the basis of the proposals made. Makkathāyam Hindus constitute the bulk of the population of India, and no Matrimonial or Divorce Courts have hitherto been established for the benefit of this large and increasing population, though the right of divorce, or more correctly speaking the right of supersession for certain justifiable reasons, is not denied by their law, and some castes

among the Hindus practically exercise this right, nor has the necessity for such been felt under the social laws governing the Hindu community.

14. I am free to confess that the freedom of divorce now enjoyed in theory by the Marumakkathāyam Hindus is liable to abuse, and I am at a loss to appreciate the views of those who consider that there is nothing in the prevailing customs requiring improvement, and that the absolute freedom of divorce now conceded by custom is essential to the well-being of the society, but at the same time the adoption bodily of the English or Parsi law of divorce, which may be turned by designing and unscrupulous persons into an engine for oppression and mischief, is to be deprecated, and I think the requirements of progress of the community would be amply met if it be laid down (1) that no divorce is to take place except upon the mutual agreement of both husband and wife, to be recorded in a writing signed in the presence of at least three of their fellow castemen; or in cases where either party has lost caste by change of religion, or been imprisoned for life, and (2) that adultery uncondoned will bar the wife's claim for maintenance against the husband or his estate.

15. Still more strongly is the proposed change in the law of succession to the self-acquired property of a member of a Marumakkathāyam Tarawād to be deprecated. The essence of the joint-family system is that its members should work for the common good, and bring their earnings to the common stock. Just expectations of people would be frustrated if the property of every earning member left undisposed of by him, is to be given away to persons other than those appointed by the customary law. The Marumakkathāyam Tarawād is the best extant type of the primitive undivided Hindu family, and the ideas and principles pervading the system are borrowed from the primitive Hindu Law, with this difference, that instead of the wife and children, the sister and her children are regarded as heirs. The only thing that can be urged against the system is that it does not recognise the claims of wife and children, and is, therefore, opposed to natural laws; but when the claims of wife and children are recognised in the manner already suggested, by conferring upon them a right to maintenance on the lines of the practice adopted by the respectable classes of the community, the reason for the proposed change would fall to the ground, and further interference with this social institution would be unnecessary in the interests of the community at large. A widow with sons in an undivided Hindu family has, under the ordinary Hindu Law, simply a right of maintenance; and the head of the family is, under the Hindu Law, bound to maintain besides his personal family, consisting of his wife and children, his grand-mother, unmarried sisters, widowed sisters who may have no other provision, his illegitimate children and their mothers &c. (1. Strange 67, 171, 175). Similarly a Nair Tarawād ordinarily composed of a number of men, women, and children, standing in the relation of mother, sister, niece, uncle, nephew, brother and so on to one another;

look to each other for help and support, and those of the relations, who are unable to earn their livelihood depend entirely upon the earning member for their support. The laws of succession obtaining in other civilized countries do not wholly ignore the claims of mother and sisters to inherit a portion of the Intestate's property under certain circumstances, and the Hindus of all classes have long regarded it as a moral, if not a legal obligation to support their destitute mothers, sisters and other relatives out of their own earnings. The sister has by some eminent ancient Hindu lawyers (Nanda Pandita and Balambhatta, for instance, who interpret the text of Mitakshara, which gives the inheritance to brethren, as including sisters) been regarded as an heiress to her brother's property, and this interpretation, though rejected by others as opposed to the whole spirit of the Hindu Mitakshara Law, must probably have had much influence in moulding the ideas of the primitive Hindus of the West Coast. Intelligent and thoughtful Hindus of the East Coast are, I believe, alive to the injustice perpetrated by modern Hindu lawyers by cutting off sisters from their right of succession as nearer heirs to their brothers, and the public feeling on the subject has prompted an honourable member of the Madras Legislative Council to give notice of his intention to introduce a Bill with the object, I presume, of giving greater rights to the sisters than are enjoyed under what is called the modern Hindu Mitakshara law. It would certainly be a retrograde step, if we are now to introduce into Malabar laws of inheritance, considered defective in other parts of India.

16. The proposed change is further inconsistent with the declaration made, namely that the Marumakkathayam system will be left untouched. If the earnings of individual members are not to flow into the old channel, subject to every valid and just claims and charges on them, the maintenance of wives and children being included among such charges, but are to be diverted into other channels,—the present system will, like the crops without the means of irrigation natural or artificial, have to disappear from the field sooner or later. It is not true that every Malayali Tarawad is possessed of ancestral or Tarawad property upon which he can fall back in the absence of other property. Most of the Tarawads, as I have already said, look upon the earnings of their members for their prosperity and aggrandizement, and the Tarawad system has not in the past been productive of such serious evils as to warrant its extinction by a stroke of the pen. The system has been the growth of centuries, and is believed to have conferred happiness on the people generally, and any introduction of foreign ideas into that system, in a manner inconsistent with the ideas and notions prevailing in the bulk of the community of what is right and proper, can only result in mischief, and tend to bring the Hindus of the West Coast into the same chaotic scramble of antagonistic interests which from actual experience I have found to be the characteristic of the double system of inheritance, Marumakkathayam in regard to ancestral, and Makkathayam in regard to self-acquired, property, followed by some Mappilla families of South Malabar. I know for a fact that several Mappilla families in Shernad, where I was

employed for sometime, have been constantly at enmity with each other, owing to the prevalence of both the Marumakkathayam and Makkathayam systems among them, and been ruined by frequent litigation.

17. It is perhaps superfluous to remark that the practice of dealing with one fraction of a subject without giving heed to the effect likely to result on the whole matter, is unwholesome, and no part of an ancient system like the Marumakkathayam can be destroyed without detriment to the whole system. It may be granted that the old system is not the best divisible system *per se*, but it must be judged by its results. What then are these results? We find there aristocratic families who, in spite of dynastical changes, revolutions, and wars of old, have retained their ancient possessions virtually intact. We find there middle classes and farmers who, though at times subject to the tyranny of those in power in olden times, have similarly retained what little they possessed, and are able to support their poor relations without being under the necessity of driving them to the streets, and we find also working classes, whose lot and position in life, would compare favourably with those of similar classes elsewhere. Careful observers of this Malabar system have in the past eulogised it as a wholesome one from an economical point of view, and a system which has produced these results, must have been built on a careful utilisation of natural laws for securing general content, and the greatest happiness of the greatest number. There is not the least necessity for superseding such a system in favor of a double system of inheritance, the effects of which among the few who had adopted it in former times, have not been beneficial.

18. I am free to admit that the natural love and affection which a man has towards his own children is greater than what he possesses towards other relatives, and that the present system, which ignores this natural love, has like every other system in this mundane world its advantages and disadvantages, but the disadvantages may vanish by degrees as western education and civilization progress, and a hasty legislative interference with the social customs can, in the present state of the feelings of the masses, result only in defeating the very object which the Government have in view, that is the welfare and progress of society in moral and material condition. I need hardly add that the true statesmanship consists not in introducing violent and radical innovations in the social systems opposed to the feelings and sentiments of the masses, but in assisting the progress of social reforms in a given community by legislating on the lines of the practice which the majority and not the minority, of the community may have thought fit to adopt under altered conditions, and circumstances in life, of the bulk of the community.

19. To sum up my remarks. I consider

(1) That the proposed change in the law of inheritance regarding self-acquired property is inexpedient.

(2) That the only legislation needed in the interests of the well-being of the Malayali society is one for the purpose of (1) affirming the validity of existing real marriages, the betrothal ceremony which has for centuries been treated as merely an idle and mock ceremony being of course disregarded, (2) of creating a charge on the self-acquired property of a man for the maintenance of his wife and children, who may be otherwise left unprovided for (3) of restricting divorces to cases where the parties mutually consent, or lose caste, the adultery uncondoned being treated as a bar to wife's claim for maintenance, and (4) of declaring the validity of testamentary dispositions of property made by Marumakkathayam Hindus with due regard to the claims of destitute mother and sister.

20. With reference to Para 4 of your letter, I may say that I have observed amongst the educated and intelligent of the Marumakkathayam community, symptoms of a revolt against the case law (I would not call it a custom, because the custom is otherwise) which prevents a man from bequeathing his self-acquisitions to his wife and children, and others dearer to him, and against the custom which gives his wife and children no claim to maintenance from his separate property.

21. People would undoubtedly welcome a way of escape from these customs, or supposed customs, and there can be no two opinions as to the necessity for reform on grounds of morality. The best way of escape, however, from the evils produced by these customs or case-laws, is by legislation in the mode suggested in the preceding Paras.

I have the honor to be,

Sir,

Your most obedient servant,

T. KUNHI RAMEN NAIR.

APPENDIX

LIST OF NATIVE WORKS.

1. Keralacharam, translated in the Indian Antiquary—1st August 1875.
2. Kerala Olpathi (of which there are different versions).
3. Kerala Mahatmyam—104 Chapters (not yet printed), a synoptical abstract of which has been published by Dr. Gundert in the Madras Journal of Literature 1844.
4. Kerala Avakasa Kramam, compiled by the late Pundit of the Travancore High Court, and continued and printed by Karala Varma Thirumulpad, Trevandrum—a portion of this has been translated in the Madras Journal of Literature (p. p. 172-187. Volumes for 1878).
5. Kerala Vishicha Mahatmyam, being an account of the chief sub-divisions of Marumakkathayam caste. St. Thomas Press—Cochin, page 98—(1876).
6. A pamphlet on the birth and death pollutions by Patchu Mussad—Trevandrum.
7. Marumakkathayam, or Law of Inheritance among the Sudras of Malabar, by R. Muthu Krishna Naidu.

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LETTER FROM
M. R. RY. T. RAMA ROW AVARGAL,
DEWAN OF TRAVANCORE.

(This letter is to be taken as expressing the unofficial opinion of a
private individual.)

PEERMEDE,
30th April 1891.

To,

H. M. WINTERBOTHAM ESQUIRE,
Collector of Malabar, on Special Duty.

SIR,

I have the pleasure to acknowledge your printed letter dated the 11th Instant regarding the Honorable Sankaran Nayar's Bill to provide a form of marriage for Marumakkathâyam Hindus.

2. I have read the Bill, and some of the discussions in the papers on the subject.

In reference to para 3 of your letter, I may observe that, considering that the marriage customs among the Marumakkathâyees in Malabar and Travancore are very much alike, and that, especially in recent years, there are intermarriages between the people of both countries, the Bill, if passed into law in Malabar, cannot but have some beneficial influence on the Marumakkathâyam people in Travancore. The strictly joint-family system which permits and virtually knows no partition of the Tarawad property, does not seem to prevail with the same rigour in this country as in Malabar. Here branches of the same Tarawad, somewhat removed from each other, voluntarily effect divisions; and the wife, who in Malabar seldom leaves her Tarawad, is here in several instances allowed to live and mess with the husband. The change contemplated in the Bill appears therefore to be likely to be felt to be far more striking and sudden in Malabar than in this country.

Adverting to para 4, I have reason to believe that the educated portion of the Malayalees are not satisfied with the existing custom in respect of marriage, and would hail any measure which will have the effect of making the marital tie more real and binding than is unfortunately the case now. I understand that some six years ago, a few of the educated Malayalees of this place formed themselves into a Committee with a view to take the sense of their country-men as to the expediency of moving for a change in the law, or rather the custom, regulating their marriage. Beyond drafting a Bill and circulating the same among some of the prominent members of their community, the Committee seems to have done nothing; but the fact seems to indicate the nature of the feelings of the educated classes in this matter.

There is no doubt that the exceedingly lax system of marriage, which obtains among the Marumakkathâyees is, in reference especially to the advancement which is common with their Makkathâyee brethren, they have been making in recent years, a solecism; and some change which would considerably mitigate, if not completely

remedy the evil, without sapping the foundation of the Marumakkathayam system, appears to be called for even on grounds of morality. This, I am glad to say, appears to be the opinion also of some of the prominent members of the Nayar community here. They seem to view some parts of the Honourable Sankaran Nayar's Bill as too far in advance of the popular sentiment. They want simply to make the marital tie legal and permanent, and give the children a right to a moiety of the self-acquired property of the father, and to the wife a right to maintenance out of such property of her deceased husband. In all other matters they would simply follow the ordinary Hindu Law.

Referring to para 5, I would name the following gentlemen as being competent and probably also willing to give evidence before the Commission.

Mr. T. Kunhi Raman Nayar, Puisne Judge High Court.

„ A. Govinda Pilli B. A. B. L., Ag. Dewan Peishcar, Trevandrum.

„ P. Thanu Pillay. M. A., Huzur Dy Peishcar.

„ N. Madhavan Thumbay, Nagercoil Amma Vedu.

„ M. Kunju Krishna Panikar B. A. B. L., 1st Class Magistrate, Cottayam.

In regard to the last para, I regret I am not just now able to refer you to any work which treats of the marriage customs among the Marumakkathayees.

I have the honour to be,

Sir,

Your most obedient servant,

(Signed) T. RAMA ROW.



ESSAY

ON

Marumakkathayam Marriage Question

BY

M.R.Ry. A. GOVINDA PILLAY AVARGAL, M.A.,

Dewan Peishcar,

TREVANDRUM.

(NOTE—This gentleman is a Travancore Nayar by birth.)

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Marumakkathayam Marriage Law.

1. In discussing this subject it will be convenient to treat it under the following heads.

- (1) Description of the existing custom of marriage, among Marumakkathayees.
- (2) Its legal consequences.
- (3) What are the defects of the existing law, and whether there is a general feeling of dissatisfaction in regard to it.
- (4) On what lines a change would be desirable and on what grounds, and
- (5) Whether the changes proposed in Mr. Sankaran Nair's bill would be desirable.

I shall first consider the 1st question. Then the 2nd and 3rd together, and so also the 4th and 5th, and close with a summary of the changes that I would propose.

2. Meaning by "marriage" cohabitation between man and woman for life until formally dissolved, apart from any right of heirship attached to such union, in various degrees under various systems of law, such unions are formed with Malayalee women, not only by Malayalee Sudras, but also by men of all the higher castes. A proposal is first made by the husband, or his relations, to the intended wife or her relations. The latter's horoscope is delivered to the former to see if the stars agree and if they do, for fixing an auspicious day (or Muhûrtham) for the union. A muhûrthachârthu is prepared in consultation with an astrologer, and delivered to the girl's relations. The date being thus fixed, the bridegroom with his friends and villagers meet at the appointed hour at the bride's house, where the latter's villagers would be assembled. At the auspicious hour Dakshina (*presents in money*) would be given to Brahmins, and the bride, being led out by some female relation, is formally presented by the seated bridegroom, after due salutation with a few pieces of cloth. The feasting follows this; and from the date of this ceremony, the parties become man and wife.

3. Some say that this ceremony is accompanied by Ashtamangalyam *i. e.*, the procession of ornamented girls with lights and rice-pans. This is common in Travancore only for the Thâli-tying, or Kettukalyânânam ceremony, which has practically nothing to do with the marriage followed by cohabitation above described. Again some say that the presentation of cloth is made always in a particular room in the house. It may be so in particular places, but there is no general rule on the subject. It may be the southern room, or Thekkémuri in Malabar, but in Travancore it is generally the arappuray, or interior nalookettoô (quadrangle) of the house, or the Eastern Erayam or verandah.

4. The above is the marriage ceremony, or Sambandham, as it is called. I will next consider its consequences. From the above description it is evident that there is no religious element in the union. Some have likened it to marriage among Nambudiris; but the latter have Homam, which Malayalis or indeed any other Sudras, do not, and cannot, perform. There are, it is true, some traces of religious rites in the kettukalyânânam ceremony, such as, Bhûthakkalam (the serving out, of rice and curries to Bhûthams*), the pouring of water into a palmyra leaf, held by the bride

*Note—Bhûtham—a demon generally malignant: sometimes a guardian spirit.

and bridegroom, and Ashtamangalyam. But the kettukalyanam is practically nothing more than a ceremony of introduction of a girl to womanhood, and has nothing to do with the conjugal union, unlike the marriage between man and woman under Hindu Law; therefore the Sambandham between a Malayali man and woman has no religious element in it.

5. Let us next consider the subsequent relation between the parties, following upon a Sambandham as above described. In South Malabar and North Travancore, the wife is rarely taken to the husband's Tarawad. In South and middle Travancore, the rule is the other way, the husband always taking the wife to his own Tarawad for cohabitation. Where the wife is left in her own Tarawad, she of course passes her time in the company of her Tarawad relations and her friends, the husband visiting her in the night, and at other times as he can find it convenient. In these cases it is evident that the wife and children do not move in the company of the husband, and the latter derives no help in the management of his household affairs from his better-half.

6. Either party can dissolve the union at any moment. It is said that such dissolutions are very rare. Respectable families do consider it a disgrace to dissolve such unions without sufficient cause. But there is no doubt that under the customary law, both the wife and husband have absolute power to divorce each other without even assigning any cause. It is true a social stigma does attach to people who treat so lightly the marriage union. But such stigma attaches also to habitual liars and drunkards. Many people do avail themselves of the liberty, in the same manner as many are habitual liars and drunkards. There is no more a legal sanction against the former than against the latter.

7. As a logical consequence of this liberty of dissolution, adultery is no criminal offence. The High Court of Madras held that in the case of parties governed by the Aliyasantanam law, adultery with the wife was no criminal offence, as the union could be dissolved at any time. Though the point has not been expressly decided under the Marumakkathayam law, the principle of the decision applies equally, as both laws equally consider the mother, and not the father, as the source of family relationship, and therefore attach no permanence to the union between man and wife. The fact that respectable Malayalis do consider it a grave moral offence, cannot justify the visiting of the act with criminal consequences consistently with the liberty given to the wife to dissolve the union whenever she pleases; for the wife may plead that she dissolved it the moment before she received her paramour. On this point therefore clearly the moral sense of Malayalis is in advance of the law.

8. Next as to the children: as to those places, where as already stated there is no cohabitation in the proper sense of the term, the children are practically not under the influence of the father, and the latter has very little to do with their education. They are looked after by the Karanavan of the Tarawad, who sometimes no doubt is a close relation of the mother, but is generally a distant relation of both. Where cohabitation does exist, no doubt the wife is useful to the husband in the management of his affairs, and the children are looked after, and educated by the husband. But in most cases the wife lives in constant dread of the Tarawad relations of the husband, and her anxiety as to the future of herself and children in case the husband dies without providing for them, places her interests in constant

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conflict with those of the Tarawad members; and with the exception of Tarawads whose ample means place them above the possibility of want, the union far from being a source of happiness, occasions constant annoyance and unhappiness.

9. The husband cannot claim the children, whose legal guardian is the Karanavan of the Tarawad, who generally is some remote kinsman, and cannot possibly have the same regard for the welfare of the children as their father, and who in obedience to natural impulse, will be rather inclined to care more for his own children, and those of his nearest relations, than those of his distant kinswoman.

10. At the husband's death, the wife and children though they join in the funeral ceremonies, and observe pollution as shêshagârs (*relatives*), cannot generally legally claim any share of his property, or even maintenance. In North Malabar, maintenance is allowed to the wife and children by special usage. Among the Thiyanis of Travancore the sons get a half of the self-acquired property left by the father. In South Travancore too, among the Nanjenad Vellalars, the wife and children similarly get a certain fraction of the father's property $\frac{1}{4}$, $\frac{1}{7}$ or $\frac{1}{10}$. But these usages are confined to particular clearly-defined sections of the Marumakkathayis, and the rest never think of advancing any claim based on such usages. Under the existing law therefore the latter, who form the great majority, can claim as a matter of right no part of the father's property. It is true respectable families always make some provision for the children of the deceased. But even among them the allowance will be hardly in proportion to the property left by the deceased, and therefore barely sufficient to bring up the children in the condition in which their father left them. It is true that in Travancore, the wife gets some nominal gifts, such as a few pieces of cloth, a cot or spittoon of the deceased, and the son sometimes his earring. But these are given more as a matter of ceremony. In the generality of cases in Travancore, wife and children get nothing from the husband's Tarawad relations after his death. The existence of even a few of such cases would be a sufficient ground for legislative interference with a custom, which the moral sense of the Malayalis pronounces to be unnatural. For a change in the law giving the children a share or maintenance, while it will do no harm to those who already do make some provision, will do good to innumerable wives and children, of well-to-do men, whose property now goes to enrich their Tarawad alone.

11. It will be seen from the above,

(a) that the existing practice as to marriage among Malayalis, Sambandham, has no religious significance in it,

(b) that it is not necessarily followed in all cases by cohabitation as husband and wife,

(c) that in those cases in which it is, it is the cause of constant anxiety and unhappiness to all parties concerned,

(d) that the union may be dissolved at any time by the will of either party. Indeed even the fact of its occurrence is too often denied,

(e) that adultery with the wife is not a criminal offence,

(f) that the person who naturally has most concern for the children, i. e. the father, has no right of guardianship, which is generally possessed by some re-

note kinsman of the mother, whose regard is based on power and association alone, and not on natural affection,

(g) and that at the death of the father how muchsoever he may have acquired, no Malayali except a few excepted and clearly defined sections, can claim any part of such acquisition as a matter of right. These are the legal consequences of marriage among Malayalis.

12. I proceed next to consider the defects of the custom above detailed, and the state of public feeling with regard to it at the present day.

13. If woman was created to serve as man's helpmate, and the union of the two was intended to promote the happiness of both, and the careful nurture of the rising generation, the Malayali system of marriage not only fails in accomplishing these objects, but defeats them. It must be distinctly understood that I do not mean to assert that respectable Malayalees treat their wives as the customary law allows them to do. The fact however is that not a few take advantage of it, and I am speaking only of the custom which allows such license. There can be no doubt that conjugal affection, i. e. the mutual love of man and woman as husband and wife, strengthens the educated affection arising from constant association and the exercise of power. The relation between father and son will therefore be naturally stronger than that between the father and his sister's son. The law therefore which ignores the former relation, and substitutes for it the weaker tie, is deficient in the factor most conducive to human happiness, and the advancement of the rising generation. The instinctive feeling of animals, the usage of all civilized nations known to history, and even the feeling of enlightened Malayalis all point to the soundness of this view.

14. Considering its importance, it is evident that the sanctity of this union ought to be guarded by every possible sanction, and ought not to depend for its permanence on the mere caprice of either of the parties. Every means therefore ought to be welcome which can help to secure permanence to the conjugal union, and check capricious dissolution, consistently with the happiness of the married couple. Some contend that the existing system by keeping the wife in constant dread of divorce, has an advantage over other systems. No doubt, such dread is beneficial to society in the case of ill-behaved women. But the law is evidently productive of evil in the case of husbands who want to put away grown-up women, from the worst of motives. Public opinion has been found too weak to check this practice in too many cases. The law therefore, while it works some good, is also productive of much evil, and if some measure can obviate the evil and at the same time secure the good, surely that must be adopted, and I think such an arrangement is not impossible.

15. Under the present law, even the fact of marriage may be denied with impunity, the union beginning in not a few cases even without the formal present of clothes. Even as to the cloth-giving ceremony, a formal deed of marriage duly attested by respectable villagers and registered as other instruments under the Registration Act, will give additional security to the union. This will give due publicity to it, and will make it impossible afterwards to deny the fact of marriage. If similar publicity can be insisted on, for a dissolution of the union, capricious divorces will be effectually checked. The opinion of enlightened Malayalis is decidedly in favour of securing some such safe-guard to their marriage-union.

16. Apart from the obligation that the change will impose upon the husband, the fact of marriage could not be disputed in charges of adultery, which, it is the unanimous wish of all Malayalis, ought to be made a criminal offence. Some say that in some parts of Malabar adultery is savagely avenged: and in fact many murders have been committed by people having been compelled to take the law into their own hands. This, far from being a circumstance against the necessity of the change, is a strong argument in favour of it, for it shows that the change while it will do no harm, would be in perfect harmony with the moral sense of the public, and will obviate the necessity for private vengeance.

17. As the object of the union is to secure the happiness of husband and wife and the due nurture of children, though all possible safe-guard should be provided against capricious divorces, yet in cases of a mutual desire to separate, owing to incompatibility of temper or of proved adultery, it would lead to the unhappiness of the married couple if they are compelled to continue cohabitation. The Hindu Law, it is true, does not allow divorce in either case, because in the former case it would be against its policy to allow the parties even to think of disagreement, the wife being always bound to yield; such however is not consistent with modern notions of an independent individuality in the wife, and all systems of modern law do allow divorce in other cases than adultery. Divorce by mutual consent may be sometimes conducive to the happiness of both parties. To prevent a frivolous exercise of it, it would be enough to deprive the parties of mutual claims on each other, and as the children already born ought not to suffer owing to the disagreement of the parents, the dissolution ought not to affect their rights. A conviction for adultery may be made to stand on the same ground as dissolution by consent of both parties.

18. Next as to the guardianship of the children, as already observed natural affection points to the father as the fittest person to look after his children, fitter in every respect, than a remote or even very near, kinsman of the mother. I have already pointed out that in the case of the father, natural affection supplies an additional safe-guard to the due exercise of the functions of guardianship, apart from those of association and "power," which exist in the case of the Karanavan. It is said that the mother, and mother's relations are the fittest persons for guardianship. Of course to those who think it unnatural for grown-up and married daughters to separate from the company of their mothers, it may seem strange to give the guardianship of children to their father. But those who think that woman was created as man's helpmate, that as such she has certain duties to perform by keeping constant company with her husband, and not be merely frequently visited by him, and that no one can have such care for children as he who begets them, I say these, will be of a contrary opinion. It is hardly too much to say that the opposite view entirely ignores conjugal cohabitation, and thus strikes at the root of the main object of marriage, and the theory of civilized nations, that the wife is the husband's better half which is taught even by our great national literary work (പാതിയും മനുഷ്യകൾ ഭാര്യ എന്നറിഞ്ഞാലും മെലിനിപകെ ഭാര്യ വലിയ സഖിയെല്ലെ)*.

19. In connection with this question, the high authority of Manu has been invoked to support the mother's right. It is said that Manu says that the soil is more important than the seed. It is a sufficient answer to this to say that the same law-giver most distinctly recognised the father, and not the mother, as the source of family relationship and gave the right of guardianship to the former.

* NOTE.—"Know ye that the wife is the half of man: oh king! a wife is a great help-mate."

20. It has again been alleged that the past generations of the Nair community were remarkable for their spirit of independance and a feeling of fellowship, and that all this was due to the government by karanavans. That the Nairs were so distinguished, and that no few of them distinguish themselves now, is undisputed. There has also been a feeling of fellowship, or clanship, which has commanded the admiration of European visitors. But this could in justice be no more ascribed to the rule of a karanavan, than the Hanseatic league or the Heptarchy of Mediæval Europe. The same martial spirit and union, and perhaps to a higher degree, prevailed among the Rajputs, and yet they were utter strangers to karanavanship.

21. It is again said that the numerous members under the common Tarawad roof constitute a school for a training in sympathy and brotherhood. This is to a certain extent true, especially in the case of Tarawads possessing extensive property. But it is difficult to understand why the Tarawad alone should have such a monopoly of training in preference to the paternal roof.

22. It is no unusual sight in Travancore to see children, who were brought up in good circumstances by a hard-working father, literally neglected by the karanavan after the father's death. It is a well-known fact that most Malayals, whose karanavans are distant kinsmen, owe their education to their fathers.

23. I come next to the question of maintenance of the wife and children, and the absence of any right in them to claim any part of the father's earnings. That a man who begets children should be under a legal obligation to maintain them could be hardly disputed as a maxim of justice and sound policy. No man is under an obligation to marry. On the contrary public policy requires that he should not do so until he is in a position to make some provision for his children. For, otherwise by increasing the number of mouths to be fed, he by his own voluntary act increases the demands on the existing food-supply of the community, and therefore to that extent impoverishes it. As the father, more than any one else, is responsible for this multiplication, it can hardly be doubted that the responsibility for making a provision for the children ought to rest primarily on him. This is a dictate of natural law and the rank, position, or caste of the father ought to make no difference in the case. In the simple but forcible language of Sir Arthur Helps "There are few things clearer to the human mind, 'to saint to savage and to sage' than that a father owes duties to his children. The dullest savages have seen that. Even Lacedæmonians, if they put off individual fatherhood, only did so by throwing it on the community. How can a man for a moment, imagine that any difference of rank (a mere earthly arrangement) can absolve him from paternal duties? I am lost in astonishment at the notion. And then imagine a man performing all manner of minor duties neglecting the first one, the while. I always fancy that we may be surrounded by spiritual powers. Now think what a horrible mockery it must seem to them, when they behold a man going to charity dinners, busying himself about flannel for the poor, jabbering about education at public meetings, immersed in different forms and ceremonies of religion, or raging about such things because it is his duty he tells you: and at the door, holding a link, or at that moment bringing home the produce of small thefts in a neighbouring narrow alley, is his own child a pinched-up, haggard, out-cast, cunning-looking, little thing. Throw down man the flannel and the soap and the education and the Popery and Protestantism, and go up that narrow alley and tend your child: do not heap that palpably unjust burden on a world which has enough at all times of its own to

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bear. If you cannot find your own child, adopt two others in its place and let your care for them be a sort of sinsuffering. These are indignant words, but not more so than is right and I will not suppress one of them." (Companions of my Solitude. p. 160.)

24. Indeed, the moral obligation is hardly denied by any one. The great majority are in favour of giving the wife and children maintenance out of the earning of the father. Some there are who contend that it is no hardship to the sons as they will get maintenance from their Tarawad. But this is no answer to the questions whether the sons have not a natural claim on the father's property, at least for maintenance. If A has a moral claim on B, it is no answer to say that he may be otherwise provided for by C, a third party. The natural Tarawad may be too poor to provide adequately for the maintenance of the children in question. Further it must be remembered that the appointment of maintenance to the children from the Tarawad amounts to the proportionate impoverishment of the numbers of the latter in consequence of a multiplication for which they are in no way responsible, while it holds out a temptation to multiply with impunity, which is admittedly opposed to public policy.

25. The law of Travancore does not, as it stands at present, give the sons distinctly the right even to claim maintenance. The moral sense of the public is decidedly opposed to this state of things; nay, it even goes to the extent of demanding a certain share of the father's separate acquisition for the wife and sons. As already observed the Thiyars of Travancore do give such half to the wife and children, and the Nanjanad Vellalars give $\frac{1}{4}$, $\frac{1}{7}$ or $\frac{1}{10}$ according to circumstances.

26. The reasons already given for giving maintenance to the sons apply more or less to giving them a legal right at least to a share. There is hardly a respectable Malayali who does not make some such provision for sons. In most alienations which Sheshagars (*heirs-at-law*) sue to cancel, the ultimate object is to make some provision for the wife and children of the alienor. At the present day various attempts are made by the father to effect this object secretly, although the general moral sense of Malayalis is in favor of making such a provision. There is surely some defect in the law which obliges people to resort to secret disposals in the performance of a duty which the public conscience admits that the father owes to his children. It is the duty of the law to afford facilities for the performance of a duty, the binding force of which is universally felt. For, unless the law interferes and helps with its sanction, the selfish instinct of individuals will raise difficulties in the accomplishment of any object, though its desirability be universally admitted. Permanence to the marriage union and continual cohabitation being secured by registration of marriages, there would be no difficulty in establishing paternity. The law ought to carry such intention into effect by giving the son a definite share of the father's acquisitions such a share as the father himself is likely to have given if alive.

27. Some say that such a law is unnecessary as Malayalis give some property always to the sons. That respectable Malayalis do make such provision especially in the North, I admit. But there are thousands of families which don't do so. If the Law fixes such a share as Malayalis ordinarily give, while on the one hand those who now virtually observe the rule will not be disturbed, it will secure the performance of a similiar duty by the few who would gladly evade it if possible.

28. Some say that as succession to property is closely connected with religion, by prescribing rules for its devolution, the legislature would be interfering with religion. The only religious rites of Malayalis are the observance of pollution and the performance of Shrâdha. I have already remarked that both are performed by Malayalee sons. As to pollution it is always understood that the son observes it. So far therefore as the father is concerned, the son is not outside the pale of religious affinity. How could it possibly be otherwise when, in fact, the Malayalis got their religion from the Hindu sages who always recognize the son as the first and most effective offerer of the funeral cake? There could therefore be no objection to give the son a share of the father's acquisition on the score of religion. Admittedly no religious question is raised when a man disposes of his separate acquisition in his life time. A man may dispose of all his separate acquisition to a christian before he dies, and the Shêshagârs cannot legally question the validity of the act. Why then should religion be invoked if the law does exactly what the owner would have done in the performance of his duty to his sons?

29. Some again contend that the change would be introducing discord and unpleasantness into Tarawads, where they say perfect harmony and good will have always prevailed, and that it would lead to the disruption of Tarawads and ultimately lead to confusion. These arguments have no, doubt, some force in case the Tarawads are to get no share of the self-acquisition. But if, as they admit, the sons are always provided from the self-acquisitions in respectable Tarawads, the giving of a share would be the doing of what each Tarawad thinks it proper to do, and there is no room for discord. As to less generous Tarawads, there could not be more unpleasantness than exists at present, in consequence of frequent attempts of the father to perform his duty to his sons; while on the other hand the fixing of a definite share will make each party to understand what he can expect, and so far would remove some grounds for anxiety. Under the existing law, a Maroomakkathayee who has only distant Shêshagârs, and who has made no provision for children, is under constant anxiety in his last moments. The distant Shêshagâran who is near enough for inheritance gets all, while the persons nearest to his heart have not even a distant right of inheritance. The poor man's death enriches the legal heir and impoverishes his children. Instances are not rare in which Karanavans under the above circumstances, petition the authorities to protect them from their distant Shêshagârs. But the above apprehension of discord and confusion is a little inconsistent with that "sympathy," "perfect good will" and "harmony" which they say exist in Tarawads, in consequence of the exercise of a "benevolent despotism" by the karanavan. It is very strange that the sympathy and good will which can educate itself to look with brotherly feelings on the daughters of most distant cousins, living under the same roof, cannot extend itself to the sons of an elder or younger brother, but should look upon the latter as strangers. All that I ask is that the circle of sympathy and disinterestedness existing in Tarawads which they say develops itself into "patriotism," should first extend itself to the children, who admittedly stand in a much nearer degree of blood relationship than many other members of the Tarawad. The arguments urged in favour of the joint family system, as a most effective instrument for the cultivation of the family affections, as a fitting school for the responsibilities of public life and also as obviating the necessity for a poor law, are all sound. They apply, however, to Makkathayam families at least equally as to Maroomakkathayam ones. However that may be, a slight extension of the sphere of the Tarawad sympathies in the right direction, *i. e.* to

those who are nearest in blood relationship cannot deprive the existing system of its beneficial effects. It must be granted however that the total disinherison of the Tarawad in respect of the father's separate acquisitions, would lead to disunion, unpleasantness, and the gradual extinction of the Tarawad system.

30. It will be too late in the present condition of the world's progress, totally to ignore the individuality of each member of the Tarawad, as those would do who are for appropriating to the Tarawad all the earnings of each member. If sons stand nearest to a man's heart in natural affection, the disallowing them a portion of the earnings, would be withholding to a certain extent the inducement for exertion in the father. The extinction of individuals in the general family system, did have its value in an earlier age of civilization, under the patriarchal system of which the Tarawad is the latest survivor. Under such a system, there was no separate acquisition for each member, and no partition, and the head of the family had despotic power over the other members. But these are inconsistent with modern enlightenment, and they have accordingly been superseded in all enlightened countries, and are being virtually superseded in Malabar with the progress of education. It is said that the Tarawad may engage in joint speculations, and that a joint-stock company of relations would work better than one composed of strangers. This would no doubt be true, if all the members have good business capacity, which unfortunately is not governed by Tarawad relationship. A system that does not recognise individuality is highly detrimental to the growth of enterprise, and the progressive development of the nation.

31. Some contend that a change in the existing law will cause a diffusion and dissipation of wealth, which now accumulates in rich Tarawads, and thus perpetuates aristocratical families. The interests of the community as a whole, *i. e.* according to the principle of the greatest happiness of the greatest number, which is also cited by those who urge the above reasons, are according to sound principles of political economy promoted by any measure which tends to the diffusion of property rather than to its accumulation in a few hands.

32. Some say that the proposed change will introduce heirship inconsistent with the accepted notions of Hindu Law, by giving for instance to the children of a Brahman, or Kshatria, by a Sudra woman a legal right to the separate acquisition of their father, to which the Brahman relations would be heirs. There are it is true many highly respectable members of the superior castes who look to Sudra families for wives. It might be injudicious to throw any obstacles in the way of such unions. But it is difficult to see why even in such cases the Sudra sons should not get a share of the father's self-acquisitions. The practice now is to make ample provision for them from such earnings and in fixing a share the law will be simply legalizing that practice. The old Hindu Law did give such a share to Sudra sons and such cases of Marumiukkathayam sons claiming from Makkathayam fathers are not unknown to Malabar Law (see the case reported at p. 238. I. L. R. Madras). It may be said that the passing of the law is unnecessary as in most cases such provisions are made, and in such unions the wife will hardly require a legal sanction. This objection will be fully removed by giving the legal share only to the offspring of registered marriages and making registration optional. In the case of respectable and well-to-do high caste men such registration may not be necessary, and the altered law will not apply to them. But with regard to others, the heirs will not be deprived

of anything more than what, under the existing Hindu Law, the deceased may himself dispose of by gift, alienation, or will. Then as to the principle of taking off a share of the self acquisition of a high caste man to be given to one who is a stranger under the Hindu Law, it rests on the same ground on which I have already rested the right to bare maintenance.

33. Some apprehend confusion and increase of litigation if makkathayam is brought into existence side by side with marumakkathayam, and they point to the litigation in Mâpilla families in Malabar. This however is not felt in Travancore among Nanjanad Vellalars and Thiyars, who have a peculiar usage as already stated, and as to Malabar it is a question whether the increase of litigation attributable to the co-existence of the two rules of inheritance, is more than the increase due to alienations by Malayalis to make provisions for sons. If this question is answerable in the negative, then the change in the law will be productive of some good and no harm.

34. One difficulty that has been suggested, that namely of determining the extent of a Karanavan's self acquisition for the purpose of division is no doubt a real difficulty. The amount of litigation is great even now, notwithstanding the presumption in favour of Karanavan's acquisitions being all made from Tarawad funds. It will be more when it becomes necessary at the death of each Karanavan to ascertain the exact amount of his self acquisition for the purpose of division. To apply the existing Law to registered marriages, would be virtually denying a share to the sons, for it is very rarely that with the burden of proof on them the sons can make out self acquisition. On the other hand to create a general artificial presumption opposed to the existing one, would not only be an encroachment on vested rights, but would also be unreasonable as a Karanavan being in the Tarawad and working with the other members of it, ought in fairness to be assumed to have made all accessions by the joint exertions of all. The rule is one of general justice applicable to all trustees and also to managing members under the Hindu Law.

35. It is hardly possible to propose an unobjectionable measure that can fully obviate this difficulty. It may however be suggested that as the question generally arises only between the shêshagârs of Sudra fathers and their sons, and as the object of the altered law will be to promote cohabitation between the Karanavan and his wife and children, it would be only fair that the latter too contributed towards the increase, quite as much as the shêshagârs where all live together. In such cases therefore it would not be a violent presumption to hold that the wife and children and the shêshagârs equally co-operated with the father in making the acquisition in the case of registered marriages. In such cases therefore the principle of equal division of the Karanavan's acquisition between his Tarawad, and himself and children, may be applied. This half may be considered as the Karanavan's separate acquisition for division between shêshagârs and sons. In the case of registered marriages, it would be the interest of shêshagârs to make all really Tarawad acquisitions in the names of others than the Karanavan, as they know that otherwise they would have to divide them with the sons. But no acquisition made under the existing law, where cohabitation has not begun under a registered marriage, and on which therefore the existing legal presumption has already operated, should be affected by the above rule.

36. I have thus considered the defects of the existing system of marriage, and its consequences to the wife and children. A change of the marriage system

is demanded by educated Malayalis and would be welcome by all classes of marumakkathayees. The obligation of making some provision for wife and children from the earnings of the husband is universally felt, and a legal recognition of such obligation would, far from increasing litigation, diminish it by removing one of its main sources. I have also considered the objections that I have seen and heard urged by some against a change. Such objections however seem to me to have reference to the total disinherison of the Tarawad in respect of self acquisition, and the consequent gradual destruction of the Tarawad system. But I do not apprehend any serious opposition to a measure which without going to that extent may give the children a substantial share of the self acquisition of the father. There may be some opposition even to this limited change. But such opposition can come only from an interested and insignificant minority, and should have no weight in an enlarged view of public policy. Nevertheless, to be on the safe side, legislation on the subject may begin with a permissive Act. There can be no reasonable opposition to such a procedure.

37. I next proceed to complete the discussion of the 4th division of the subject, i.e., on what lines I would propose a change and on what grounds. It will be seen that under the preceding head, viz., the defects of the existing system, I have also discussed most of the changes that I would propose, and I have done so as I thought it best to place the proposed remedy side by side within the diagnosis of the disease. Before summing up the changes I would propose, I shall state shortly the principles that we ought to follow in legislating on the subject.

38. (1) A change in the law of marriage, and devolution of separate acquisition ought to be made agreeably to the moral sense of the community.

(2) Provision ought to be made to secure permanence to the marriage union and to ensure its continuance.

(3) The change should go no further than is required by the altered moral sense of the community.

(4) The change ought to be in some known direction.

(5) The provision for sons, while it satisfies a felt necessity, ought not to place inducements to idleness, and should promote a healthy diffusion of property as far as possible.

(6) Some arrangement ought to be made which will enable the father to remedy the inequalities of the law, as, otherwise, the attributes of ownership would not be complete.

(7) Though the change may be in the right direction and based on sound principles, yet it is safer, to begin legislation as a tentative measure, and pass only a permissive law.

39. In the first place I have already stated that the necessity for a permanence in the marriage law is universally felt, some durable evidence as to the fact of marriage, and a guarantee against capricious dissolution. Registration of marriages would secure a permanent record of the union, and as important consequences are to follow that union, it is necessary that the event should be placed beyond the possibility of a denial. It is resorted to in civilized countries, and would be highly useful for purposes of Government. It is true the people are not accustomed to it now, but when they see that it is harmless while it is productive of much good

they will become as accustomed to it as to the taking of the Census. It is true that marriage under the Hindu Law is never denied though there is no marriage register. If marriages among Malayalis were equally free from repudiation, there would be no necessity for registration. But unfortunately repudiation is by no means uncommon. The absence of the religious element is another reason for resorting to all available means to secure evidence of the union. It would be desirable to enact that marriage coming under the Act ought to be registered under the Registration Act, the deed being drawn up in the presence of the leading villagers and attested by the local officer. A registered marriage may be presumed to continue until a dissolution deed is similarly registered.

40. The moral obligation to provide for wife and sons is universally felt. I have already discussed the grounds on which maintenance and a share from the self-acquisition ought to be provided.

41. Granting that the above changes are felt as a moral necessity, it would be hardly consistent to object to them on the ground that the law ought not to be changed to suit the convenience of particular individuals, or even particular sections of the community, as the provisions of the law are all based on public policy. Those who contend this are, no doubt, right in saying that the law is based on public policy, but they ignore the fact that public policy changes with progress. The policy of the ancient Hindus gave the sanction of marriage almost to every casual union between man and woman, and there were 8 sorts of marriages as they called it. This policy changed with progress, and at the present day we have practically only two sorts of marriage, the Bramham and Asooram. It was the policy of the ancient Hindu Law to ignore self-acquisition and to give the father absolute power to divide ancestral property as he liked. The gradual recognition of individual, as distinguished from corporate, existence necessitated a change. The Hindu Sages wisely provided "good usage" (Sadâchâram) as one of the sources of law. The function of the sage is now performed by the Legislative, which in the exercise of its wisdom and foresight ought to make such changes in the law as are called for by the moral needs of the community.

42. But, thirdly, no change ought to be made, however good in the abstract unless demanded by Sadâchâram and the moral needs of the community. Permanence should be secured to the marriage union, and the wife and sons must get maintenance and a share. To secure the former, it is not necessary to go through a preliminary investigation first before the Registrar, and then before the District Judge, or to solemnize the marriage before the District Registrar, or to carry on a divorce suit in public court at the instance of either party. Such procedure will be quite antagonistic to the feelings of a community whose females, unlike European ladies, would consider it a disgrace even to appear to give evidence in a court of justice. These feelings ought to be respected as an interference with them is not called for by the requirements of the case. Dissolution, if both parties disagree, would be desirable but this may be evidenced by a deed, similarly executed as a deed of marriage and similarly registered. A conviction for adultery may be made another ground for dissolution, at the option of the parties. In the two cases of dissolution, provided for the convenience and comfort of the husband and wife, the children, if any, ought not to be made to suffer. They must get their share in any case. To allow dissolution in other cases would be to encourage conjugal disunion, and will prove detrimental

to the growth and education of the rising generation, which are the main objects of the proposed change.

43. Again the proposal to allow marriage beyond a certain degree of blood-relationship, but within degrees prohibited under the existing customary law, is another uncalled for and highly prejudicial interference. The existing practice in these respects is in no way inconsistent with the proposed improvement. In these respects we can aim only at improvement and not re-construction. As Sir Arthur Helps says "We are apt to imagine for ourselves a *tabula rasa* in any department of human affairs that we wish to meddle with, and we think that it will be so pleasant to inscribe, as it were upon blank leaves what we wish to indite. The misfortune, however is that there remains hardly anything in human life which can be begun again in this trenchant manner. As an example it may be noticed that several socialistic schemes for equalizing conditions would require a total demolition of most of the buildings which are at present on the earth. Now these buildings represent the work of ages, and the humble improver does not by any means desire to demolish them" (Thoughts upon Government page 155.) What we are is due mostly to what we have been, and though we are not always to be what we are, yet it would be unwise to ignore what we are in deciding what we shall be. I would, therefore, strongly object to the introduction of the provisions of the Bramho and Parsi Marriages Acts among Malayalis. The break up of the Tarawad system which would be the necessary consequence of disinheriting it of all self-acquisition, would be also objectionable on the same grounds. This too is not called for by the necessities of the case, and would be highly resented by the great majority of the Malayalis.

45. 4thly.—The question next arises what provisions ought to be made as to cases of cruelty, insanity, barrenness, and so forth. If any provision on these points is necessary, we ought rather to resort to a system of law well-known to the people, and daily observed and administered before them, and which has had such a salutary effect in promoting the purity and growth of families, rather than one existing under a foreign social organization, the beneficial consequences of which, in these respects, are at best doubtful. I would, therefore, propose that the legal consequences of marriage between husband and wife not specially provided in the act, shall be as under the Hindu Law.

46. I next come to the fifth of the principles noted in para 38 viz., on what data the sons' share should be fixed. I have already stated that the sons ought to get only a share and not the whole. The practice prevailing now among marumakkathayees is one of the data on which to fix the share. Many give more than half, while others give much less. Among the Thâyars of middle Travancore, one half is the fraction and this on the ground that the father on the one hand, and the mother and children on the other, must be presumed to have contributed in equal shares to the acquisition. In case of cohabitation, this would, no doubt, be an intelligible principle on which to proceed. I think it would be generally in accordance with public feeling to fix the proportion of children's share at one half of the father's separate acquisition.

47. A distribution of the property of a Malayali between the children and his Tarawad would tend to a greater diffusion of property than if it went to one of the parties alone, and that is for the public good, while in that respect the devolu-

tion of the whole to children alone, is open to the same objection as its accumulation in the Tarawad. The confinement of property now within the Tarawad with all the existing restraints on alienation, too often prevents all improvement, on the principle that "what is everybody's is nobody's." Any arrangement that will increase the incentives to individual exertion would be conducive to public good. It is not sound policy to bequeath large fortunes to one set of heirs, because such bequests, while they withdraw property from hands which would have made a better use of them also increase the inducements to idleness on the part of the recipients. The distribution of a man's self acquisition between the shêshâgars and children will tend far to counteract this tendency and would, therefore, be productive of some public good.

48. I come next to the 6th principle i.e. that of testamentary disposition. The existence of this power among the Malayalis as among the other Hindus has been treated as indisputable in recent decisions of the Madras High Court. In the first place the notion of ownership would not be complete without this power. It would be rather inconsistent to allow a man to dispose of property by gift, or alienation, and at the same time to refuse the power of making an arrangement to be effected after death.

In the next place, the exercise of the power would be often beneficial to remedy the inequalities incidental to a division by the law, without a knowledge of the merits of each object which could be always possessed by the testator. Some sons may not deserve a share at all, while some may deserve more. Thirdly there may be strangers whose services, especially in the last moments, may have proved more valuable than sons or shêshâgars, and who therefore deserved recompense for such services. I am therefore, of opinion that testamentary power should be allowed to all Malayalis to the same extent as power of alienation *inter vivos*.

49. I come now to the last point, viz., whether the legislation must be made generally applicable to all Malayali marriages or only permissive i. e. attaching the marital consequences as to permanency, divorce, maintenance, adultery, and inheritance only to such marriages as the parties choose to register under the Act? If all Malayalis are prepared to welcome the change, there would be no necessity to resort to permissive legislation. If the law is made compulsory on all, it is probable that many high caste men, who now require no compulsion to make ample provision for children, will rather forego such unions. Malayali women will be the sufferers. Again the division of the acquisitions of existing Karanavars in aristocratic Tarawads at present will give rise to some discontent and anxiety in Malabar, whereas that unpleasant consequence may be most effectually averted by allowing the law to work itself as education progresses and as Malayali men and women come gradually to understand its beneficial tendency. It is true that people will be gradually reconciled to the law as they see that it simply enforces what every good Malayali would do. But even this could not be understood at once. It will be the work of time. Last and not least of all, in interfering with established customs, however good and necessary such interference may be, it is wise to proceed by cautious steps, especially when such procedure cannot be productive of evil.

51. It is now for me to state what, according to the above views, is the legislation I would propose. I would propose a bill like the following:

MALABAR MARRIAGE BILL.

1. "Marriage" means the union of man and woman, intended to be for life (unless dissolved as provided in this Act), independently of any ceremonies attending its celebration.

2. Marriage of a Marumakkathayam woman with a Marumakkatayam, or Makka-thayam, husband may be evidenced by a deed attested by leading villagers and a local officer (not lower in rank than an Adhigari) and such deed may be registered under the Registration Act.

3. Such marriages shall be presumed to continue until dissolution by mutual consent of parties, embodied in a deed executed and registered as above: or at the option of either party, by a similar deed, in case of conviction for the adultery of the husband or the wife.

4. Except as provided in the preceding section, during continuance of the marriage, all marital rights and duties of husband and wife, including guardianship and maintenance, shall be governed by the Hindu Law.

5. The children born during the continuance of all marriages registered under this Act shall in all cases (including cases of dissolution under section 3) be entitled on the death of their father to one half of the separate acquisition left by the father.

Explanation.—In case of registered marriages under which cohabitation has followed under this Act, of all accessions to Tarawad property from date of marriage made by the husband as Karanavan, not proved to have been made from separate funds, one half shall be presumed to be his separate acquisition for the purpose of division under this section.

6. Every Marumakkatayee shall have the testamentary power to the same extent as power of alienation *inter vivos*.

7. The existing Marumakkathayam law shall apply to all other matters not expressly provided in this Act.

8. Marriages contracted before this Act may be registered under it, and its provisions shall apply only to registered marriages.

(Signed) A. GOVINDA PILLAY.

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Answers to Interrogatories

BY

M.R.Ry. E. K. KRISHNAN AVARGAL, B.L.,

Sub-Judge, South Malabar,

CALICUT.

NOTE.—Marumakkathâyam Tiyan of North Malabar.

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A8 (48)

Answers.

1. Yes.
2. No, but I have heard that in some parts of Cochin and Travancore a Nayar woman is permitted to consort with men of an inferior sub-division of caste.
3. In the instance mentioned, viz, between a *Chârna* Nayar and *Sudra* woman and *vice versa*, *Sambandham* is usually not permitted from pure sentimental objection, or pride of caste. *Chârna* Nayars, of whom one class known as *Parisha Menon* are hereditary servants of the Zamorin, are generally *adima* to some ruling family and do not acknowledge as their equals *Sudras*, so called, who are *adima* to Nambûdiri Illams. Their masters are rather prone to encourage this rivalry.
4. Yes. The delinquents are not invited to festival, or social, gatherings, and not permitted to enter the cook-room.
5. I do not know.
6. The *Kottapuzha*, or Murât River. The principal ferry to cross it in olden times was *Thorashêri* and the river itself was known by that name.
- 7 and 8. As a general rule Nayars of South Malabar are not permitted to form *Sambandham* with Nayar women of North Malabar. But Nayars of North Malabar are welcome *Sambandhakarans* to South Malabar Nayar women, provided they are not inferior in caste. I can assign no reason for the first mentioned prohibition except rigidity of caste rules observed in North Malabar, and possibly hostility between the former rulers of North and South Malabars, who did not permit inter-marriages amongst their subjects from political reasons.
9. No. But on plea of pilgrimage the prohibition is sometimes overlooked.
10. The prohibition as already stated had its origin in the rivalry of rulers in North Malabar and South Malabar, viz., the Kolathiri and Konâthiri (Zamorin).
11. *Tâlikettu* is a regular marriage ceremony, except that the person selected to tie the *Tali* is not necessarily the husband of the girl. Mr. Logan's description of the ceremony at pages 134 and 135 of his work appears to me correct.
12. An *Enangan* (fellow-caste man) or a man of higher caste than the bride should tie the *Tâli*. He is called *Manavâlan* (bridegroom). Amongst North Malabar Nayars the *Tâli* is invariably tied by a Brahman.
13. Yes, in case it is tied by *Manavâlan* who is not an *Enangan*.
14. No. By custom he has not the right. I can only explain it by the surmise that Brahmans, who colonised the country, successfully tried to abolish regular marriage for their selfish ends, that is to say to permit of concubinage between younger members of Illams, who are not permitted to marry caste wives, and the Nayar women. The miscegenation I believe is the very foundation of Marumakkatâyam rule, though in an ethnological point of view it has vastly improved the Malayali races.
15. None whatever.
16. No. Amongst Tiyans however the *Enangan* who ties the *tâli* is the betrothed husband, and he is never displaced unless divorce takes place.

17. Yes, I believe when the bridegroom is an *Enangan*.

18. Yes, when the family is very poor and cannot afford to defray the expenses of a Kalyanam. Amongst Tiyans of South Malabar maternal aunt ties it, amongst those of North Malabar the eldest female of the girl's Tarawad ties it.

19. (a) Yes.

(b) I believe so.

20. Yes, in most cases. The *Gandharva* form also prevails in South Malabar. Some formalities are observed, but they differ very much in different localities. The simplest form is for the bridegroom to go to the bride's house accompanied by some male friends, and after giving her some pecuniary present, *Sambandham* is consummated.

21. I do not know.

22. (a) Not the same.

(b) In North Malabar *Sambandham* is of two kinds *Pariamecheyga* (പരിമേച്ചേഗ) and *Pudamuri* (പുദമുരി). In the former form which is more akin to South Malabar *Sambandham*, the bride is not taken home by the bridegroom. In the latter case she is. There is a regular banquet given to the united guests and *Dakshina* is distributed amongst Brahmans by the bridegroom if he is a man of means, in *Pudamuri* amongst the Nayers of North Malabar.

(c) I do not know.

23. No. The practice once prevailed in South Malabar about Walluvanad Taluk, and even there rarely. It is now repudiated. It is considered a disgrace for a woman to have more than one *Sambandhakaran*.

24. I do not know.

25. Legally speaking she can terminate *Sambandham*. But practically she seldom does so without the consent of her Karanavans. In this respect a woman is accorded greater liberty in South Malabar. I never heard of a Nayar woman of North Malabar dismissing her husband, but in South Malabar, I have heard of women coolly dismissing their *Sambandhakaran* and forming alliances with other and more eligible *Sambandhakaran*.

26. I am not aware of any formality necessary for dissolution of connection amongst the Nayers of South Malabar. Amongst *Marumakkatayam* Tiyans the custom is for the husband to send a message of divorce by the *Nadukaran* (middleman) who negotiated the *Sambandham*. It is called *Nyayam koduka* (giving her rights). A Tayan woman is seldom allowed the liberty of putting an end to *Sambandham* without the consent of her Karanavan.

27. Yes.

28. None whatever.

29. In her husband's house in North Malabar, and mostly in her own house in South Malabar.

30. No.

31. Yes.

32. Changing *Sambandham* is the exception. Living together as man and wife till death is the rule, certainly in North Malabar.

33. He does. The Tarawad's liability to provide maintenance to the wife and children of a North Malabar Nayar living with him in the Tarawad house, has been recognised by a judicial decision.

34. (a) None except maintenance

(b) They do.

(c) Yes.

35. I know many who do work for their Tarawad, and others who try to earn something for themselves. I think the general practice is for Anandaravans to earn something for himself. A Karanavan more often employs *Kdriastans* (agents) to manage family property.

36. Very few Anandaravans hand over their earnings to their Karanavan, and many support their wife and children with them.

37. *Puthravakâsam* is a meaningless word, and no son of a *Marumakkatayam* man has any right (*avakâsam*) to his property that is not given to him in his lifetime or bequeathed by will. Property given by father is generally called *Puthravakâsam* property. The moral duty of providing for one's offspring is better understood and practised in North Malabar. Hence the coinage of this word there. This practice is coming into vogue in South Malabar.

38. In my opinion there is no valid objection to providing a permissive Marriage Law for Nayers. Its tendency will no doubt be to destroy Tarawad system by diverting self-acquisition of individual members from its grasp, but the happiness of the greatest number of Malayalis is not, in my opinion, bound up with the maintenance of Tarawad system.

39. I would retain the customary form of marriage amongst Nayers, and make registration compulsory if legal sanction is to be accorded to it. I see no sufficient ground for substituting the form subjoined to the question. I shall dispense with the presence of Marriage Registrar. I would suggest that a declaration of marriage, in an approved form, be signed by the bridegroom and bride, and countersigned by the guardian of the bride if she is below 18 years of age, and be attested by two or more witnesses. Let the declaration be filed in the Registrar's office in the same manner as declaration of naturalization is filed in appointed offices in the United States of America. If the Registrar is a fellow-casteman and invited to the marriage ceremony, he may then and there attest the declaration if asked to do so. I would certainly object to a civil marriage being solemnised before a Registrar of assurance in his office, seeing that he may be of any caste or creed.

40. The conditions of valid marriage mentioned in the question do differ from the *Sambandham* recognised in practice. In the first point, under the custom now prevailing, a man may have any number of *Sambandham* wives. Can a man having a wife of that status be competent to marry another woman in legal form would be a question? I would never permit him. But *Sambandham* is a very elastic word. Every fugitive connection is not a *Sambandham*. When a man has a recognised *Sambandham* wife he shall marry her, and nobody else, unless he has put her away for sufficient reasons. This I conceive would be one of the difficulties of the scheme.

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No. 2. The age question presents this anomaly. The Bill enacts 14 as the age of marriage and therefore of consent, whereas the Imperial Legislature has drawn it at 12 years. However it will work no hardship in Malabar. Amongst the higher classes, infant marriage is almost unknown.

The other conditions do not conflict with Sambandham conditions.

41. I consider a provision for divorce an indispensable part of the proposed law. I would certainly hesitate to invest courts with matrimonial jurisdiction over persons solemnising marriage under it. It may be delegated to a caste Panchayat composed of persons chosen by each party. According to the principles of English law of divorce, adultery on the part of wife ought to be a sufficient ground for a decree *nisi* if the suit is by the husband; adultery and cruelty, or hopeless disease ought to be the ground for dissolution of marriage if the suit is by the wife. In this connection I must say that I would tolerate no Mrs. Jackson of Clitheroe abduction case notoriety, amongst Malayali ladies. I would give a *decree nisi* against a woman who persistently refused to submit to marital rights of her husband. I would also make change of religion a ground for divorce.

42. Adultery on the part of wife is the chief ground, neglect and cruelty in the part of husband are also grounds.

43. They ought to be maintained by the husband.

44. I have no objection to make to these provisions.

45. Yes.

CALICUT,
8th May, 1891.

E. K. KRISHNAN,
Sub-Judge.

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Answers to Interrogatories
BY
M.R.Ry. C. GOPALAN NAIR AVARGAL,
Sub-Judge, North Malabar,
TELLICHERRY.

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Answers:

1. Yes; he can.
2. No.
3. The general rule is that no Nair can have Sambandham with a woman whom he cannot touch without pollution, nor a man of a lower division with a woman of a higher division. No Nair—man or woman—of the *Chârnatha* (ചാർനത) caste can form Sambandham with a woman or man of the *Sudra* or any other recognised division of caste. A *Sudra* Nair cannot also have Sambandham with a *Chârnatha* woman. Even among the several recognised divisions of castes there is any number of subdivisions, and these do not always inter-marry.
4. It does. The man or woman of the higher division, who forms such connection with one of a lower division, forfeits his or her caste.
5. Not that I am aware of.
6. The proper recognised boundary is *Thorashêri puzha* (river) dividing the old dominions of the Zamorin from those of the *Kolathiri* or *Chirakkal Rajah*. *Korapuzha* is now spoken of as such boundary line, but its correctness may be doubted; and, so far as I can understand, the old Kurumbranâd Taluk, lying between *Thorashêri puzha* and *Korapuzha* is a part of South Malabar. This view will receive confirmation from the fact that the old Pynad Munsiffce, which covered the old Kurumbranâd Taluk, was till some time back a part of the Zillah of Calicut.
7. Nairs of North Malabar do form Sambandham with those of South Malabar, but the reverse is not often the case, though instances may be quoted.
8. The Nairs of North Malabar do not, as a rule, allow women of their district, to have Sambandham with men of South Malabar. It is difficult to give the reason unless we are to suppose that the Rajah of Kolathiri, who was the king of the best part of North Malabar, was jealous of any connections between women of his country and the subjects of the Zamorin.
9. The Nair women on the North of *Thorashêri* river do not as a rule, cross to its South, and recently people of the old Kurumbranâd Taluk have also made a rule not to cross to the North of *Thorashêri* or to the South of *Korapuzha*; but I do not think that the Kurumbranâd rule is so stringent or absolute.
10. The prohibition is, I believe, due to the difference of allegiance between the subjects of Kolathiri and the Zamorin, and the consequent difficulty of travel and protection of the people of the one country in the other. Somewhat similar prohibition had also, I am told, existed, for the same reason, in the several states of Germany which were subject to different Governments.
11. *Tâli Kettu Kalyânam* is a mimicry of the *Mangalia Sutra*, or the *Tâli* tying ceremony of the Tamilians, and the Telugus, probably introduced to assuage the feelings of the Malabar ladies for the absence of a regular marriage. A farce of most of the ceremonies among the Tamilians and the Telugus, on such occasions, is also gone through in *Tâli Kettu Kalyanam*.

12. In the case of the females of the Rajahs, the *Koyi Pandārams*, or the Rajahs of Beypore, or Cranganore, tie the Tāli, and also the Nambudiris in the case of the Kovi-lagam of Cochin, and of the *manas* (Nambudiri families) in the Payanur Grāmam. In the case of some aristocratic families, *Thirumalpāds* discharge the same office. Nedunngādis tie the Tāli for the Chārnatha (ചാർനത) people. In the case of all others, a man of the same Enangan (എണങ്ങൻ) or Kiriyaṭhil (കിരിയത്തിൽ) caste, does the same. The person so tying the Tāli, is called *Manālan* (മാണാളൻ) or *Manālapilla* (മാണാപ്പിള്ള).

13. Yes; in some cases it is so.

14. Certainly not, except perhaps in the cases of *Koyi Pandārams*, who tie the Tāli to the Ranis of the royal family of Travancore, and the Numbudiris who do the same to the Ranis of Cochin, and the ladies of the *manas* of the Payanur Grāmam.

The reason for the man tying the Tāli not thereby obtaining a right to cohabit with the girl is evidently the fact of the marriage being not in itself a binding ceremony.

15. Certainly not; while, on the other hand, if such connection can be effected it is considered the most becoming.

16. I have.

17. When the person, who ties the Tāli, is a Nair, or Enangan എണങ്ങൻ, there is the same pollution as if the Sambandhakāran of the girl were dead.

18. When the people are poor, the Tāli, I am told, is sometimes tied by the mother, or the Embrandiri of the temple before which the ceremony is performed.

19. As the Tāli Kettu Kalyanam is the mimicry of the proper Hindu marriage, it follows, as a matter of course, that every Marumakkatāyam girl must undergo that ceremony before reaching the age of puberty, lest she lose her caste.

I can however see nothing but the custom in justification of this.

20. Yes. After Tāli Kettu Kalyanam, before a girl can consort with a man, there must be between them the ceremony called Pudamuri, or Kidakkora.

21. The same formalities are not always observed, though an attempt is made at times.

22. In North Malabar the ceremony of Sambandham is called *Pudamuri*, and the husband gives clothes to the woman on the night of the wedding in the presence of a large assembly. In South Malabar the ceremony is called *Kidakkora*, or *Kidak-korakalyānam* and, instead of clothes as in North Malabar, the husband gives betel leaves and nuts to the girl. The *Kidakkorakalyānam* in the Palghat Taluk is celebrated with nearly as much pomp and show as the *Pudamuri* in North Malabar, but I do not think that the other Taluks of South Malabar are equally particular.

23. Not now at all events; nor did such a practice ever exist in any respectable family. I have however heard cases some years back, but they rather prove the exception than the rule. The practice was always looked upon with abhorrence.

24. I do not think it is prohibited in so many words, nor can I quote any

authority for such prohibition, as there is no written law on such usages.

25. She can.

26. No sort of formality is now observed in dissolving the connection, unless it be the giving of notice to the members of the girl's family. Till a few years ago, a custom had prevailed in the Palghat Taluk, of the husband giving the girl a couple of gold fanams, when notice of dissolution was given; but I am not sure whether there was a similar rule in the other Taluks of Malabar.

27. Yes; just as a Tamil or Telugu Brahmin can have more than one wife at a time.

28. Though no respectable man would care to have more than one Sambandham at a time, there is nothing to prevent him from having more than one, if he so chooses.

29. In South Malabar, except perhaps in the Palghat Taluk, the woman usually sleeps and takes her meals in her own house, except when she is on a visit, or *virunnu*, to her husband's.

30. In North Malabar she usually lives in her husband's (or Sambandhakka-ran's) house.

31. According to recognised custom, a man is not bound to support the woman and her children during Sambandham when they live, not under his immediate protection, but in their own house or Tarawad; but he is bound to do so whenever they live in his house or under his immediate protection. There has been a Judicial decision to this effect in the case of a well-known family in North Malabar.

32. The rule certainly is not to change Sambandham frequently, but for one man and one woman to cleave together for life. Several instances to the contrary may however be quoted.

33. He does.

34. Yes; if Anandiravar work for the Tarawad, the Karanavan, in addition to feeding and clothing him, also finds enough for the clothes and oil for his wife and children. He also feeds the Anandiravan's wife and children when living in the Tarawad.

Yes.

Yes.

35. Till very recently they generally worked for the Tarawad, but a tendency in the other direction may now be traced.

36. There is no invariable rule. It depends upon individual pleasure and benefit, though the tendency now is for each man to keep his own earnings with himself, so that he may pass them over to his near blood-relations of the Tarawad or to his wife and children, as he likes.

37. Yes. Putrāvākāsam gifts are well-known among Nairs and Marumakkatāyam Tiyars in North Malabar. Such gifts are made by a man to his wife and children, and the property so gifted descends to their descendants in the family to the exclusion of its other members.

Though not to such an extent, except perhaps in the Palghat Taluk, such gifts are made in the whole of South Malabar also.

38. I can see no objection to providing a permissive Marriage Law for Nairs, provided that *it does not infringe the present rules of the caste, or interfere with the Marumakkattayam law of inheritance.*

39. I would prefer to retain the customary form and have the marriage registered before a Registrar, or a Village Munsiff or three witnesses, the declaration being sent to the Registrar, without any unreasonable delay, when the marriage itself is not solemnized before that officer.

40. I should think they do. In the 1st place a man, having one woman, does now take in a second. Even a woman of 21 years or more does not, as a rule now contract a marriage without the consent of her Karanavan or Guardian. As the 1st and 2nd provisos are now worded, there is nothing to prevent a Marumakkattayam Brahmin, or any high caste Nair from contracting a legal marriage with a barber, washer-woman, or Tiyyar woman, whom he cannot either approach or touch without pollution, nor the members of one Tarawad from marrying a descendant of his great-great-grandmother, though they still continue to be members of the same Tarawad and offer *Bali* and *Pinnams* at the same *Tara*.

41. In condition No. 1, I would take away the words "a wife or," leaving the law as it now obtains among the Brahmins and Mussalmans. In clause 2, I would reduce the age of the woman to twelve, as they are usually now married and obtain puberty by that time. To proviso 1, I would add, after the words "marrying," the words "if they belong to the same class or division of the caste or if Sambandham between them would not be forbidden by the custom hitherto in force." To the 2nd proviso, I would add the words, "unless they be members of the same Tarawad, or unless Sambandham between them would not be permitted by the custom hitherto in force."

42. Adultery, gross disobedience to the husband's orders, or incurable or loathsome disease.

43. See answers to questions 31 and 33.

44. I have no objections to the clauses (a) and (b), the 1st part of (c) and the whole of (f). But in (c), I doubt whether the guardianship should not at once go to the Tarawad after the husband's or father's death—a woman being never fit for independence under the general Hindu Law. I would certainly object to clause (d) as it would be virtually interfering with the Marumakkattayam law of inheritance, which the majority of the people do not, as yet, want to be set aside. As I learn from the Hon'ble Mr. C. Sankaran Nair's speech before the Council when introducing the bill, his object is to have a Law to provide, for such of the Marumakkattayam Hindus as wish it, a form of marriage which the Law will recognise; and, so far, I am with him. But I do not see, why, with a view of merely obtaining this object, we should startle the people of Malabar with innovations in their Property Law, which the majority do not, as yet, want and which the exigencies of the case do not necessarily demand. In my opinion, it will be sufficient if we confine the legal incidents of any marriage under the Act to

i. the transfer of the guardianship from the Karanavan to the husband or father,

ii. the liability of the husband, or father, to maintain his wife and children,

iii. an absolute right on the part of the person to will away his private property to his wife and children, or to whomsoever he likes.

As I have already shown, and as some of the recent decisions of the High Court would show, these are no new rights or usages now being introduced into the Malabar Law. Will has been known for years, and it has been very common for a dying Karanavan to declare, on his death-bed, to his Senior Anandiravan and the other members of his Tarawad, that such and such things, or so many rupees should be given to his wife and children, or to any of his favourite servants. The obligation of the husband or father to maintain his wife and children, when living with him, has also been long known and recognised; and in North Malabar and also in several parts of South Malabar, the Karanavan even now virtually transfers to the husband, or father, the guardianship of the wife and children, when he sends them to live in his (husband's) house. These three rights, if recognised as arising under a marriage solemnised under the proposed Act, will therefore be no new rights created under the Act, and, in my opinion, in making an optional Marriage Law of this sort, it would not be a wise policy to startle the people with any interference with their Property Law, unless it is clearly shown that the majority of them are in favour of such change.

As to clause (d), it may further be pointed out, that it is only proposed to provide, for such of the Marumakkattayam Hindus as wish it, a form of marriage which the Law will recognise, and it would therefore follow, that one or more members of an undivided Marumakkattayam Tarawad might marry under this Act and the others not. Under the clause (d) the separate or self-acquired property of any member so marrying, will descend to the surviving husband, or wife, and children born of such marriage, while the property of the other members, who do not so marry, will lapse to the Tarawad, and will, under the right of survivorship be liable to be enjoyed by the first-named member who marries under this Act, and whose property will go to his own children and not to the Tarawad. So far as I know, no case has been made out why such an unfair and invidious distinction should be made in favour of one member of a Tarawad, who takes the benefit of the Act, to the prejudice of the others who do not. I would therefore altogether drop the clause (d), and also the 2nd part of clause (e), as it goes further than the English Law, and because the recent decision in the Jackson case in England might well show, that there might be very good reasons for a husband even to refuse a bare subsistence to his widow.

By these remarks, I do not wish it to be understood that I am by any means in favour of the Marumakkattayam Law of inheritance; and, if my private opinion be consulted, I would certainly say that it should never have existed at all. But seeing that it has existed so long, and cannot be interfered with, without causing a great revolution, it would be highly impolitic to make any change in that law, till it is wished by the majority of its followers, which I do not think is still the case. To make an innovation of the character suggested in clause (d), would be to introduce the thin end of the wedge to cut away the whole system of that law, which the people do not, as yet, wish the Government to do. If the Government would interfere in the matter of Property Law, the sooner the whole Marumakkattayam law is done away with and the Hindu, or any other rational or natural law, introduced into the country, the better. But so long as they would not interfere in a matter of that character in the absence

of an application from the people, a piece-meal law of the sort suggested in clause (d) would only add to the confusion and disunion already existing in Malabar families. In my opinion, a law, legalising the marriage performed under this Act, with the rights of maintenance to the wife and children so marrying, and giving the right to dispose of one's private estate by will, will amply satisfy the present wants of the country, and in this there can be no grave complaint from the novelty of the thing. The practice among the Mâpillas of North Malabar, who follow the Marumakkatâyam Law of inheritance, but still contract their marriages according to the rites of the Koran, would illustrate this view.

45. Yes, it is customary. In my opinion, a change in the Marriage Law of British Malabar, not assented to by the Rajahs of Cochin and Travancore, might prove troublesome to the people.

(Signed.) C. GOPALAN NAIR,
Sub-Judge, North Malabar.

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Answers to Interrogatories

BY

M.R.Ry. KARIMPETTE KRISHNA MENON AVARGAL, B.A. B.L.,
High Court Vakeel.

Answers to Interrogatories

Questions 1, 2, 3.—The general rule is that males of the same, or any higher caste, may form Sambandham with the females of the same, or any lower caste. This rule answers the 2nd question in the negative. But as this general rule is subject to numerous exceptions, it requires some explanation:—

1. There are 8 classes of Malabar Brahmans of whom the Elayathu (ഇലയതു) caste forms the lowest sub-division. An Elayathu may form Sambandham only with Nayar females, but not with the females of any of the intermediate classes.

2. Patters (foreign Brahmans) may form Sambandham in any but the Brahman caste.

3. Kshatrias may form Sambandham with Kshatriya females as well as with the females of any other caste lower to it.

4. The Sâmanthas may form Sambandham with Sâmantha as well as Nayar females. But notwithstanding this rule the members of the Zamorin Maharajah's family, which is admittedly a Sâmantha family, are not allowed to consort with the women of the Kiriya and Sudra Nayar castes, although there have of late been at least two instances in which this peculiar custom has been broken through.

5. Of the Ambalavâsi (temple-servant) castes a Pishârodi, or a Vâriar, may form Sambandham with the females of his own caste, as well as with any Nayar females, although in some parts of North Malabar these castes are denied this privilege. The Pishârodi caste being considered higher than the Vâriar caste, the males of the former are allowed to consort with the families of the latter caste. The other classes of Ambalavâsis are allowed to form Sambandham only with females of their own respective castes. I may here observe, however that according to Kêrala Mahâtmyam, a work considered by the Nambudiris to be an authority in these matters in Malabar, a Mûssathu (മുസ്സതു), the highest class Ambalavâsi, may only marry a female of his caste but may not cohabit with her. This right is mentioned in the work above referred to, to have been taken away from him, and assigned to the Brahmans by Parasu Rama by way of punishment for an offence alleged to have been committed by one of his castemen during the reign of Rama. But this theory is denied by immemorial practice to the contrary.

6. Of the Nâyars the Kiriya caste being the highest, a man of that caste may form Sambandham with a woman of any Nayar caste. The Sudra Nayar caste being the next lower one, a male member of that caste may form Sambandham with a female of any Nayar caste except the Kiriya. But the Chârnnathu (ചാർന്നതു) caste in South Malabar and the Sudra Nayar caste deny to each other the right of intermarriage. The male members of the Chârnnathu, and all the divisions of Nâyars lower to it, may form Sambandham only with females of their own respective castes.

7. The washerman and the barber castes form the lowest sub-divisions of the Nayar community. No man of a higher caste may form Sambandham with a woman of either of these castes without social degradation.

Questions 4 and 5.—The Vaidikas (Nambûdiri doctors of law) maintain that according to the Sastras no Nayar lady shall be subject to social degradation on account of her Sambandham with a man of any other Nayar caste. They say that all the sub-

divisions of the Nayar community are of the same caste, and that there is therefore no Sastric distinction between them in regard to their social position. It is evident therefore that there cannot be any Prāyaschittam provided for by the Sastras for such a union. An innocent act can have no Prāyaschittam. But notwithstanding this theory such a union is regarded by the society as disgraceful and in practice entails social degradation, its rigor being proportionate to the difference in social position of the respective castes of the parties.

Question 6.—The river Korapuzha is the recognised boundary between North and South Malabar for caste purposes. But the inhabitants of the regions adjacent to the river on both sides do intermarry, and in every respect treat each other as castemen.

Question 7.—The North Malabar Nayars of higher ranks are treated in the South as of Kiriya castes and are therefore allowed to form Sambandham with Nayar ladies of all castes in South Malabar. But the other divisions of the Nayars of North Malabar are denied the privilege even with respect to their own castes in the South.

Question 8.—The Nayars of South Malabar, whether of the Kiriya or any other caste (subject to the custom mentioned in my answer to question 6), are not allowed to form Sambandham in the corresponding families in the North. But among some of the lower sub-divisions of the Nayars both in the North and in the South this custom is not always very rigidly adhered to. This custom, I believe must have originated,

(1) from the utter ignorance of the people in ancient days as to the social positions of the people in any distant district,

(2) from the national hostilities which existed between the peoples of different and neighbouring principalities consequent upon the constant fight between their respective chieftains, and

(3) from the contempt engendered by the comparatively low morality of the people in the South in matters of sexual relations.

Questions 9 and 10.—The reasons mentioned in the above para must also, I believe, account for the absurd prohibition referred to in question 9. There is no valid reason now for the observance of the custom. There have of late been several breaches of the absurd prohibition. There were also similar prohibitions regarding the Chālliam and the Kallai rivers which have long since become obsolete. A similar prohibition regarding the Putiyapālam river is still respected by the ladies of the orthodox Nayar families of Kizhakkumpuram and Vadakkumpuram. All these restrictions must have originated from various social and political reasons, and their observance even at the present day is simply an instance of the survival of effects after the cessation of their causes.

Questions 11 and 12.—The Tāli-kettu Kalyānam is the ceremony of tying the Tāli (neck-ornament) on a girl. Among all the Marumakkathāyam classes down to the Nayars it is performed with all the pomp and details of an actual marriage ceremony without its reality. But seeing that among the Nambūdiris it is the father who ties the Tāli on the girl about to be married, that they have no manthram to repeat as they do it, and that their real marriage ceremony consists in Pānigrahanam (receiving of the hand), I am strongly inclined to doubt whether the Tāli-kettu Kalyānam among the Nayars, which must have been copied from that of the Nambūdiris as is evidenced by their close resemblance to each other in almost every detail, really imports anything like marriage.

Question 12.—In support of this view I may also state that it is only among a very small portion of the Malayalis that each girl has a separate man to tie the Tāli on her. Throughout the whole of North Malabar among the Nayars the Tāli is tied by a lowcaste Nambūdiri, or an Emprān (Canarese Brahman). Among the Sāmanthars, Nāduvāzhi Nayars, and Atiyōtis in all Malabar it is a Kshatriya who performs the act. Among the Chārnatu caste it is a Sāmantha and among all the Nayar castes in Cochin who have no Enangars (classmen) it is again a Kshatriya, who performs the act.

Question 13.—Nor is it necessary in these cases that each girl should have a separate individual to tie the Tāli on her. A single individual, moreover, may tie the Tāli on any number of sisters and cousins on one and the same occasion, or on persons standing in the relation of grandmothers, mothers, daughters, and grand daughters to each other, provided he could live to be present at the successive Tāli-kettu ceremonies of all these women.

Question 14.—Among some classes even the very mother of the girls ties the Tāli on her. These facts very strongly suggest that the Tāli-kettu Kalyānam hardly imports real marriage. But on the other hand there are also facts which tend to support the opposite view. In South Malabar, Cochin, and Travancore, the Enangu or clan system prevails to a more or less extent, and in these parts of Kērala where a girl has her own Enangars, or classmen, the right (or duty) of tying the Tāli on her is assigned to one of her Enangars. For three days and nights after the tying of the Tāli both the girl and the Enangan, who tied the Tāli on her, are made to sit and sleep together in the same room—except in the cases of grown-up girls who are generally taken away from their male companions during nights. The Enangan who tied the Tāli on a girl is called her Manavālan (മാനവാലൻ=husband); he is made to cut asunder a piece of cloth in token of his divorce on the 4th day; and even in spite of such a divorce the girl has to observe pollution on the death of her Manavālan. In various other religious acts also such a woman is treated as a widow. For instance in performing srādha to her mother or other relations a woman whose Manavālan is dead cannot offer a Pinda, but must sprinkle the rice on the grass. Again when a Nambūdiri bride is brought to her husband's house i.e. on the occasion of the Grahapravēsanam (ഗ്രഹപ്രവേശനം) ceremony some Sudra woman are sent to meet her. No woman whose Manavālan is dead will be sent to meet the bride on such occasions. For the Brahmans regard them as widows.

Question 15.—It is also the general impression that if a Manavālan did not sever the cloth in the presence of the girl and her relations he shall remain as her husband in reality also. He is therefore invariably requested to do so.

Question 16.—Even after this he may form Sambandham with her by performing Putavamuri ceremony. The Manavālan of one of the nieces of Mr. K. R. Krishna Menon, the late Sub-Judge of Tanjore, has thus formed Sambandham with her subsequent to the cutting asunder of the cloth on the 4th day of her Tāli-kettu Kalyānam.

Question 17.—The whole of the above para has reference only to those Nayars in South Malabar who have Enangars—viz., Kiriya, Sudra, Pallihān, Vattakkādan, Attikurissi &c.

Question 18.—It is also amongst these classes that the mother sometimes ties the Tāli on the daughter where a Manavālan, whose horoscope agrees with that of the girl, cannot be had.

Question 19.—Tāli-kettu Kalyānam before the age of puberty is almost invariably the rule. Custom can alone be pleaded in justification of it. This restriction does not obtain among the Nambūdiris.

Question 20.—Putavamuri ceremony is necessary. The Kāranavan of the man in consultation with the Kāranavan of the girl and their friends and relations fixes an auspicious day for the performance of the ceremony. The bride-groom with his friends goes to the bride's house on the appointed night and gives her a few pieces of cloth in the presence of their friends and relations. These are the essentials of the ceremony although there may be considerable local differences in matters of detail. If the girl be of the same caste with the man his sisters go to her house and bring her to their Tarawād house.

Question 21.—None of these formalities are, as a rule, observed where the Sambanthakkāran is a Patter or a Nambūdiri.

Question 22.—As I have observed in my answer to the 20th question the essentials of the ceremony are the same in the North and the South, although there may be considerable local differences in matters of detail.

Question 23.—According to the present public opinion she may not have more than one husband at a time. But in some parts of Nedunganad and in the Northern parts of the Cochin State, it has been the custom for a woman to have more than one husband or Sambanthakkāran at a time. Polyandry of the Thoda type still prevails among the artizan classes and Tiyaars in various parts of South Malabar, Cochin and Travancore, and also, I am told, among some of the Nayars in Travancore. Kērala Mahātmyam also says that in South Kērala a woman may have 3 or 4 lovers at a time (vide sloka 26 ch : 49) but that in the middle country one woman may have only one lover at a time (vide sloka 5 ch : 50). The text and its English translation of both these chapters are given as an appendix. Although the practice of one woman having 3 or 4 lovers at a time has now become almost extinct among Nayars in South Malabar, and is fast dying out in other places and among other castes as well, yet its recent existence taken along with the allusion to it in Kērala Mahātmyam leads to the supposition either that at the time of the composition of Kērala Mahātmyam polyandry was very prevalent in South Kēralam, or that in order to support the Brahmans with puranic authority in their endeavours to force this custom on the Sudra section of the people of South Kēralam they invented this ridiculously absurd story of celestial houries (vide Appendix) and succeeded in the attempt. Be this as it may, according to the intelligent public opinion that now prevails polyandrous customs are strictly prohibited in South Malabar as well as Cochin and Travancore. In North Malabar the custom seems to have existed in no known time as is evidenced by Kerala Mahātmyam.

Question 25.—She may, according to the custom that now prevails.

Question 26.—There is hardly any sort of formality for dissolution of marriage worth the name.

Question 27.—Yes.

Question 28.—No.

Questions 29 and 30.—In North Malabar she mostly lives in her husband's house. In South Malabar it was formerly considered a disgrace to send a woman with her husband to his house. It was regarded in the light of a sale of her. But the present generation is now rapidly adopting the northern custom of wives living with their husbands in the latter's house.

Question 31.—According to the recognised custom the husband has to give his wife and children clothes and oil wherever they reside. As for their food they are to have it out of their own Tarawād so long as they reside in their Tarawād house, and out of her husband's Tarawād so long as they reside in his Tarawād house. In North Malabar as the wife always resides in her husband's house it has come to be considered that her food also is a quasi charge on his Tarawād. This is certainly a mistaken notion. There is really no difference in this respect between the North and the South.

Question 32.—If either party is determined to cease all connection with the other, there is no custom or law to prevent it.

Question 33.—Please see my answer to question 31.

Question 34.—There is no customary allowance made in such cases. But in justice to such an Anandaravan the Karanavan would make a more liberal provision for his necessities than usual. For it is only by conciliatory means that Karanavans can make an Anantharavan willing to work for the Tarawād.

The Anandaravars are often allowed to cultivate Tarawād lands for a rent and are permitted to deal with the surplus, if any, at their pleasure.

Question 35.—Wherever it is possible for the Anandaravars to earn anything they keep it for themselves.

Question 36.—With their earnings they support their wife and children and also their mother, sisters, and their children. They make provisions for all these relations according to circumstances, and whatever remains with them after all this lapses to the Tarawād on their death. The proportion of their earnings that go for the benefit of their wife and children is now gradually increasing to the detriment of their Tarawāds.

Question 37.—'Putrāvākāsam' as used by the people of North Malabar simply means the gift made to one's children as such, free from any claim to it on the part of those children's Tarawād. As similar gifts are generally made in South Malabar also, I do not think there is any distinction in this respect between the North and the South.

Question 38.—I do not see any objection to it. On the contrary a legally binding form of marriage is absolutely necessary in any society for the maintenance of a high degree of sexual morality.

Question 39.—I would prefer the former.

Question 40. (1) At present a man may have Sambantham with more than one woman.

(2) There is at present no restriction as to marriageable age.

(3) Consent of the Tarawāds of both the parties is necessary now, quite irrespective of their age, in order that those Tarawāds may recognize the union.

(2nd Proviso).—This proviso totally ignores the present custom as to consanguinity. It may be very shocking to the people and ought therefore to be taken away for the present at all events.

Question 41.—Nil.

- Question 42. (1) Adultery of the wife,
 (2) Abandonment by the husband for a reasonably sufficient period,
 (3) Unaccountable absence of either party from the other for a reasonably sufficient time,
 (4) Husband's forming a second Sambandham,
 (5) Loss of caste by either party,
 (6) Incompatibility of temperament and consequent mutual disgust, are now regarded to be reasonable grounds for a dissolution of Sambandham.

Question 43.—Please see my answer to question 31.

Question 44.—In clause (d) the Tarawad of the intestate is made only a contingent heir to his property. But in justice to his Tarawad, which had to maintain and educate him in his early days, and particularly to his mother and sisters and other near relations, I think this clause ought to be so altered as to entitle the intestate's Tarawad to a share of his property equal to the shares of his wife and children put together. The same remarks are applicable to the case of a woman dying intestate.

Question 45.—As a general rule men from the North are allowed to form Sambandham with the women in the South. Caste, as an obstacle to the formation of Sambandhams, exists only in British Malabar and the North of the Cochin State. In South Cochin and Travancore Sambandhams are permitted without any regard to the respective castes of the parties, provided both of them are Nâyars. Hence Travancorians and Southern Cochinites are not generally allowed to form Sambandham in the Northern division of the Cochin State and in British Malabar. The above remarks apply to the higher classes of Nâyars in these parts of Malabar.

APPENDIX.

A Translation of Chapters 49 and 50 of The Kêrala Mahâtmyam.

1. Subsequently the resplendent Rama came to Srimûlastânâ (Trichur) and thus addressed the Brahmans of the four and sixty villages.

2. "O best of Brahmans! I shall go to the Indra's world and come back." Taking leave of all the Brahmans he went towards Indra's world.

3. Seeing the approach of Bhargava (Rama) Indra speedily rose up and taking the "Arghya pâtram" (the vessel for taking water for washing the face) performed 'Pooja' to him (Bhargava).

4. Placing him on a magnificent seat Indra accosted him in a low and respectful tone: "O Son of Bhrigu! endowed with divine knowledge! tell me the cause of your coming:

5. Tell me O princely sage! what is it that you wish to have." Being thus accosted Bhargava said:—

6-7. "Hear O Lord of the gods! I shall tell you what brought me here. O beloved of gods! give me celestial houries for the sexual intercourse of the Brahmans who have settled in my land, and who are devoted to the exercise of religious austerities."

7-8.—Upon this Indra gave him three young, charmingly handsome, moon-faced maidens skilled in the art of copulation.

9. One of these was the beautiful daughter of Jayantha (Indra's son) called Subhaga. She was given to Bhargava with six maids.

10. Then was given to Bhargava a beautiful lady who was the daughter of a Gandharva with six maids.

11. And then a woman of the Râkshasa tribe also with six maids. Bhargava was much pleased with the lord of the heavens when

12. he received these three charming maidens with eighteen maids. Indrani (wife of Indra) gave him fruits of the

13. Indra-plantain (നീലമ്പഴ) and also their sprouts; a strange sort of Ur-varuka (cucumber) and the pepper seeds.

14. Then taking all this Rama started on his journey (back), when the celestial women addressed the son of Bhrigu thus:—

15. "Let us have male and female dancers and drummers and then we shall follow you along with them."

16. Thus requested the even-minded Rama informed Indra of it, and the Lord of the gods then gave him all this, viz.,

17. An accomplished dancer, a female dancer, and a drummer of the gandharva tribe with the pot-drum and cymbals.

18. Taking all this Bhargava took leave of the Lord of the gods and returned greatly pleased.

19. The King (Rama) brought all this to his own place.

20. Coming to Vrishadripura (Trichur) he saluted all the Brahmans assembled at the Mandapam of Srimûlasthânâ, and thus spoke to the learned Yogachariar (preceptor of the Nambudiris):—

21. I have brought from the celestial regions young and beautiful maidens for the constant sexual intercourse of all the Brahmans. O! Superior Brahmans

22. Such of you as are not householders may constantly have sexual intercourse with these beautiful woman for the sake of your personal enjoyment, as well as for the purpose of procreation."

23. Rama settled the Dêva woman with her six maids in the midst of the town of Vrishabhadri (Trichur) and gave them six houses to carry on their amorous dalliances

24. to the enjoyment of the Brahmans, saying, "May you all O best of Brahmans, with the exception of the eldest sons, constantly have sexual intercourse with

25. Subhaga and her maids so that no wicked Sudra may be born in my land.

26. The Brahmans may have their sexual cravings satisfied as (freely) as the Devas do in heaven, viz. one woman may be enjoyed by three or four persons in common.

27. And the Brahman shall not be amenable to the imputation of adultery; for are not the celestial beauties so enjoyable in heaven?

28. Hence no Brahman shall be guilty of adultery in my land. O! superior Brahmans! let all the Brahmans satisfy their sexual cravings.

29. Let the women lie superincumbent during the time of copulation; and let not the women have any cloth to cover their breast with.

30. And let the celestial women remain in my Kêralam land cohabiting with Brahmans according to their pleasure."

31. Thus the Brahmans began to live happily in the enjoyment of their sweet embraces. Bhargava then established

32. a daily festival in the Siva's pagoda at Trichur where the dancers and the drummers were to take part.

33. Thus ends the 49th chapter of the discourse between Garga and Yudhistira on the early history of Kerala in the Bhugola Purana.

1. Bhargava planted the sprouts of Indra-plantain (നെന്മുള) and sowed the seeds of pepper and cucumber, and then

2. proceeded (further in his work). Bhargava then settled the woman of the Gandharva tribe with her six maids in the town of Lakshmipuri (Taliparamba) (and proclaimed thus:)

3. "Let all the Brahmans accept (them) daily for their sexual enjoyment. Let the superior Brahmans (also) have sexual intercourse with these beautiful women.

4. Let these women remain for the enjoyment of Sâmanthas (subordinate chiefs), Brahmans, and even Brahmans of other countries. But these

5. women shall conduct themselves as they have been doing in the Gandharva regions—viz:—only one man shall consort at a time with a woman dwelling in the middle country. With the proud (or beautiful)

6. women of the Gandharva tribe let Sâmanthas and Brahmans have intercourse every day; and

7. let all the Brahmans enjoy them as they please, observing the rule of superincumbent embrace".

8. Then Rama settled the woman of the Râksliasa tribe with her six maids, who were in the prime of their youth, in Ambica's town (Moocambi) for the daily enjoyment of the Brahmans (and thus said):—

9. "Remain here for ever for the sexual enjoyment of Brahmans conducting yourself as you were used to do in the Râkshasa regions.

10. You may carry on your amorous dalliances with all the Brahmans except their eldest sons.

11. After the lapse of several years since the above mentioned three lovely ladies and their respective maids established themselves in Kêralam, the women of the Râkshasa tribe grew lusty and began to drink liquors and have intercourse with Brahmans every day.

12. Just then Bhargava observing all this thus cursed the inhabitants of the Northern country.

13. "O! You worst of Brahmans! You have become the source of ruin to my country through your wicked sons, living in your country.

14. I shall undergo an incarnation myself and annihilate the children of your Râkshasa tribe."

15. Thus saying he appointed a second subordinate chief to rule over them, and proceeded to

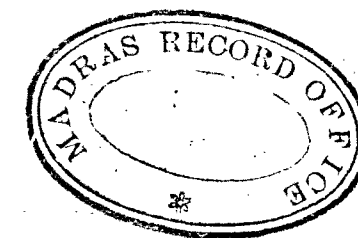
16. Srîmâlasthânam where he saluted the Brahmans and performed Pooja to the God of Vrishâdri (Trichur). This is the account of Parasu Rama's acts as I have heard.

Thus ends the 50th Chapter of Kêrala Mahâtmyam a discourse between Garga (Guru of Yadus) and Yudhistira (the eldest of the Pândus) in Bhugola Puranam.

SUMMARY OF THE 51st CHAPTER.

Rama gives the name of 'Nayakas' (Nayar) to the issue of these Deva and Gandharva women. The sons of the Deva women are allowed to cohabit with the daughters of the Gandharva women, and vice versâ. Their issue, the Nayakas, are enjoined to follow the Marumakkathâyam Law both in respect of inheritance and in respect of funeral ceremonies. He then arms these Nayakas, for the protection of temples and Brahman house, and establishes 'Kalaris,' or military schools, for the training of these Nayakas in the use of arms. And lastly directs the Nayakas and the Brahmans to do mutual services in all their (religious ?) acts.

(Signed) K. KRISHNA MENON.



Answers to Interrogatories

1.—Yes; except when the lower division is of a caste which does not strictly come under the denomination of Nayers, *e. g.* Vāniyans (oil-mongers) and Pallichāns in North Malabar; weavers (Chāliars); barbers called Nāsiyan, Nāviyan, or Valinchiyan in North Malabar, and (Velakathalavan) in South Malabar; washerman (called Vannathān in North Malabar, and Veluthēdan in South Malabar); and Potters (Kusavan or Antiyurān). In South Malabar the Vāniyan class is called by the name of Vattekat Nayar; and Nayers and other higher castes there, form Sambandham with this class, and also the classes known as Pallichān and Antiyurān.

2. No. But it appears that in the 7 amsams constituting the portion of the Ponnani Taluk known as Manapuram, women of higher divisions of Nayers, such as, 'kiriya' form Sambandham, of an informal character, with lower divisions, such as Pallichāns, Vattakāt, &c. But the wife and children, in such cases, do not partake of food prepared at the husband's house, nor is the husband allowed to touch the wife, or her female children, while taking their food.

3. Sambandham between different divisions is altogether prohibited when they are not divisions of the same caste, or of a higher and a lower caste, with the exceptions above noted. For instance, there are many Akathchārna and other subdivisions of Nayers both in North and South Malabar, whose relative social rank is a subject of dispute between them, each claiming superiority over the other, and is unsettled by the verdict of the superior castes; and, therefore, no intermarriage takes place among them. For this reason, there is no intermarriage between men and women of the Chārnat division with men and women of the Sudra division. So there is also no intermarriage between Menons of the Purathchārna division in Bettathnād, the Menons of the same division in Nedunganad, and the Akathchārna Menons.

The Purathchārna Menons of Bettathnād, as members of a caste devoted to the service of the extinct family of the Kshatriya Raja of Bettathnād, consider themselves superior to Akathchārna Menons, who are attached to the household of the Zamorin, and also to the Menons of the Purathchārna class in Nedunganad who are attached to the service of the 'karthākanmar' styled Nambiātiripad, and Nitingietiripad. There is another class of Purathchārna Menons in Calicut, who are so called simply on account of their position outside, or independent of, the domestic service of the Zamorin. They are admitted to be socially superior to the Akathchārna Menons, whose women they are allowed to marry. In their house the women of the Akathchārna division occupy a position of inferiority, without entering their kitchen or being admitted to take part in their social and religious ceremonies.

There is one class of 'Chārna' Menons in Choughat, who are devoted to the service of the Punnathur Raja. They give their women in marriage to the Akathchārna Menons, and also to both the classes of 'Sudras' known as "Pasu (cow) Sudras" and "Eruma (buffalo) Sudras." The Sudras, who are attached to the household of Vedic Nambūdiri Brahmans are known by the former name, while the 'Sudras' attached to the inferior Brahmans of the 'Pannayannur Gramam' in South Malabar, who are excluded from the study of the Vedas, are known by the latter name. Men and women of the class of the Menons above mentioned are not allowed to enter the kitchen of the 'Sudra,' or of the Akathchārna Menons.)

The "cow" Sudras are regarded as superior to the "buffalo" class, and are allowed to marry their women, who are not permitted to enter the kitchen of the former.

There is now a growing tendency in inferior divisions to look with disfavor on Sambandhams with any classes other than the higher class of Nayers known as 'Kiriya' in South Malabar, and 'Purathacharna' in North Malabar. The Vattakatt Nayers of South Malabar, who formerly used to give their women in marriage to Akathacharna Menons, now refuse to do so: they, however, still continue to form Sambandham with the 'Sudra' division.

The Pallichan and the Athikurishi class of Nayers in South Malabar form Sambandham with the 'Sudras' and the higher classes of Nayers, but not with the Vattakatt Nayers.

4. If the divisions stand on a footing of social equality, a Sambandham between them, though not customary, would not entail any serious consequences, such as excommunication, &c., on the parties. Such connexions would, however, be regarded by the orthodox members of the community as improper; but beyond the unfavorable comments they generally evoke for the time being, they are not visited with any practical displeasure of the society. When such a Sambandham takes place between a woman of recognized superior division and a man of an inferior division, it would, except in the cases above referred to, generally subject the parties to social ostracism.

I must here remark that in all parts of the country, caste restraints have, in recent times, been considerably relaxed by reason of the progress of education, the levelling proclivities of English-educated men, and the decay of the influence of Rajas and caste organizations. The people are, therefore, now-a-days more than ever inclined to tolerate and connive at social aberrations, except when they are of a very glaring character, as when a high caste man forms a connexion with a woman of a Tiyan or of a similar caste, which pollutes by approach or contact.

5. No.

6. The river known as Korapuzha.

7. The Nayers of South Malabar are not allowed to form and, therefore, do not form, Sambandham with those of North Malabar. But the Nayers of North Malabar form Sambandham with the women of South Malabar. A high caste Nayar of North Malabar is allowed to marry a woman of all Nayar castes in South Malabar, except certain chieftain families which generally give their women in marriage to Brahmans.

8. A Nayar of South Malabar is not allowed to form Sambandham with women of any division of Nayar castes in North Malabar, whether superior or inferior. The Nayers of North Malabar have been, at all times, regarded as socially superior to those of South Malabar, who practically admit their superiority by giving their women in marriage to them. This was probably due to the general laxity of morals and the polyandrous practices which, in old times, widely prevailed in South Malabar, and also existed, though in a diminished form, within living memory. As the paternity of these people thus came to be regarded, at least by the people of North Malabar, as a matter of uncertainty, their general social degradation as a class, it may be presumed, followed as a natural consequence.

No division or sub-division of Nayers, high or low, in North Malabar, would allow Nayers of any caste, however high, in South Malabar to enter their kitchen; and Nayar women of any caste or division in North Malabar would not partake of food prepared by a Nayar man or woman of the highest caste in South Malabar.

9. It is not customary for the Nayar women of North Malabar to cross the Korapuzha and to go to places beyond it. There appears to be in the present state of society, no valid or reasonable objection to their doing so. The practice has of late been, in a few instances, departed from; and there is a general feeling among English-educated men, and even among the orthodox Nayers, that this inconvenient custom ought no more to be adhered to.

10. The prohibition has existed from the earliest times, which accounts for the difficulty now felt to ascertain its origin with precision. In the absence of any known or ascertainable reason for the custom, there have necessarily been speculations of a more or less satisfactory character. One view is that the ancient Raja or Rajas of North Malabar, who were engaged in a long and continuous warfare with those on the other side of Korapuzha, interdicted the women of North Malabar from crossing to places beyond Korapuzha. Another version attributes the prohibition to the loose morals and polyandrous connexions which, at one time generally prevailed in South Malabar, and those who incline to this view consider it natural that the people of North Malabar, whose sexual morality and marital relations have always been of a very strict character, should have, with the sanction of their rulers, introduced the practice in question with a view of preserving the chastity of their women uncontaminated by intercourse with the people of South Malabar.

I am, however, inclined to think that these views, though ingenious are, as far-fetched as they are remote from truth. It seems to me that the prohibition to cross the Korapuzha, as in the case of all other large rivers, which could not be crossed except by boats rowed by Mappillas and fishermen, simply originated from reasons of caste. Thus it is well-known among old men and women, that the people of Calicut were, in old times, prohibited from crossing the Chaliyam and Katalvandi rivers; and I have known instances in which ladies in South Malabar, had, some 40 years ago, objected to crossing these rivers, and also the Korapuzha river. I knew a lady of South Malabar (my late mother-in-law) who was married some 40 or 45 years ago by the late Avinhatt Nayar, styled Muthavar, who was a chieftain, and was then residing in the palace of his father, the Raja of Katathanad. She had to cross the Korapuzha river on her way to the palace of the Kuttipuram Raja; and, as this violation of custom was due to the action taken by the junior members of the family during the illness of the Karanavan, who shortly afterwards died, the Karanavan had vowed, on his death-bed, that he would, if he recovered, avenge the injury.

I know as a fact that even now the poorer members of the Vattakatt caste, in South Malabar, who, like the lower orders in general, are great sticklers for old customs, religiously abstain from crossing to the North Malabar side of Korapuzha river.

The Nambudiri ladies even now avoid crossing the Chaliyam and Katalvandi rivers, by adopting circuitous methods of locomotion. The Valapatanam river in Chirakkal Taluk was always crossed by boats manned by members of the Pitaran caste, who were and are even now expert in rowing boats; and there was therefore no prohibition in the case of this river, which is the largest in North Malabar. There were no Pitārāns employed on the Kuppam river in Taliparamba, which is a pretty

deep and large one. Members of the 'Potuvál' caste in Payyannur, who are a sort of Nayars, would not even now cross this river.

The prohibition as to crossing the large rivers of which the Korapuzha is one, which arose from reasons of caste, was easily disregarded and disarded by the accommodating people of South Malabar, who readily adopted themselves to the spirit of the times and the progress of civilization; but the people of North Malabar, always conservative in their habits, blindly and tenaciously adhered to the prohibition, which therefore remains in force up to this day. Their complete isolation and the extreme absence of any connexion or communication with South Malabar in old times, enabled them to preserve this custom unaltered. It is only within the last 30 or 40 years, since North Malabar men began to be employed as public servants in South Malabar, that the custom was at all brought into prominent notice and its inconvenience felt.

The first man in North Malabar, who tried ineffectually to break through the custom was the late Kuvukal Keli Nayar, a late Sub-Judge of South Malabar. His son Kunhi Raman Nayar, who was also Sub-Judge of Calicut, too, failed in his attempt to take his wife to Calicut. The attempt of the father and the son, who were most influential members of the 'Urāli' caste, in North Malabar, would have been crowned with success, but for the extreme bigotry and conservatism of the class. Two or three ladies of the higher class of Nayars have since been taken to Calicut by their husbands; but the Urālis, as yet show no signs of relaxing their rigour.

In the face of these plain facts, the theories generally suggested seem to be unfounded and illogical. It does not stand to reason that the whole people of North Malabar had joined together to bring about a prohibition for which there was, in the early state of society, no reason or necessity.

11. Tāli-kettu Kalyānam is an institution common to all Marumakkatayam Hindus of Malabar. It consists, as its name imports, in tying the 'Tāli' round the neck of the girls on whom the ceremony is performed. Every girl of this class of Hindus in Malabar has to undergo the ceremony before she attains maturity, and the ceremony is performed at any time after the "rice giving" ceremony (which takes place or ought to take place, in the 6th month after birth), up to the age of 11 or 12, i. e., before the attainment of puberty. In North Malabar, especially in respectable families, the ceremony is performed only in the odd years from the 5th year up to the age of 11 at latest. It is now performed on many girls at a time, for reasons of convenience and economy.

There are strong reasons to believe that the Tāli-kettu kalyānam was originally the marriage itself, and that the real marriage ceremony, which is now performed, after 'Tāli-kettu,' under the names of 'Putamuri,' 'Sambandham,' 'Mangalam,' &c, did not exist in the earliest ages.

In the remotest ages when the Brahmans colonized the country, they must of necessity have introduced into it the customs and practices, which obtained among them and the other castes, which followed in their train. As the oboriginal inhabitants of the country, who are generally supposed to be the present Cherumars (slaves) and Paniyars (foresters) were, from their low and degraded condition, unsuited for the formation of matrimonial connexions with them by the Brahmans, they must have been, owing to the paucity of women in their own caste, in the course of time, reduced to the necessity of marrying women of the Vellāla (Sudra) caste. Such marriages were allowed by the Code of Manu, when a Brahman was desirous of

taking a second wife. "ശുഭദൈവമോളം ശുഭസ്യ സാധവസ്വവ വിശിഷ്ടത തൈസ്യാ ചൈവരാജാതം താമസാധാഗ്രജനം" "സവണ്ണാശ്ചൈവജാനീനം പ്രശസ്താദാ കമ്മണി കാമതസ്തു പ്രയത്നാനാമിമാന്യഃ കുമരോവരഃ" "a Sudra woman only must be the wife of a Sudra; she and a Vaisya, of a Vaisya; they two and a Kshatriya, of a Kshatriya; all these and a Brahmini of a Brahman." (Ver. 13. Ch. III).

"For the first marriage of the twice-born classes, a woman of the same class is recommended; but for such as are impelled by inclination to marry again, women in the direct order of the classes are to be preferred," (V. 12. Ibid).

Vasistha also says "The twice-born classes may marry a Sudra woman, but without Mantras".

("ചിജാതീനം മനുവർജ്ജിതം ശുഭാവിവാഹ മാഹ").

It may be assumed that the practice was, therefore, introduced of the eldest member alone of a Nambūdiri family marrying a woman of his class; and the marriages of the other members being treated as a second marriage in his family, they were directed to marry Sudra women. The introduction of this custom effectually removed the difficulty of finding wives for the Nambūdiri; but they were, at the same time, compelled to introduce also the Marumakkathāyam system of inheritance for Sudras to preclude the children of the Sudra women from inheriting their properties.

On the marriages of the Nayars and the other non-Brahman castes, which must have been, in the early times, solemnized before puberty, the Tāli-kettu ceremony was, therefore, performed in imitation of and as a substitute for, "the Mangalya-Sūtram" (wedding-thread with Tāli) which is tied in the case of all Malabar Brahman girls, on the first day of the marriage ceremony, by the father during or at the conclusion of a sacrificial right, which he himself performs. This 'Mangalya, Sūtram' is never removed from the neck of the Brahman woman even when bathing—except when it is found necessary to replace it by a new one; and it would be consigned to the flames along with the body of the woman on her death. As remarriage is customary in all classes in Malabar, except the Brahmans, the Tāli-kettu ceremony had not the same importance and significance as among the Brahmans; and it must have been introduced as a substitute with the object of consecrating the marriage.

The circumstance that the 'Muhūrtam', or auspicious moment for the Tāli-kettu ceremony, is even now ascertained and fixed by examining the horoscope of the girl as if for a marriage, and on rules regulating the ascertainment of 'Muhūrtam' for the marriage, supplies a strong piece of evidence in support of the position that Tāli-kettu ceremony was originally performed at the nuptials, and as a part of the marriage ceremony. After Tāli is tied, in some cases by the Brahman, in others, by the husband himself, the marriage ceremony, it may be assumed, was consummated by the Pudamuri or such other formalities as prevailed in different parts of the country.

The Pudamuri form of marriage must have been introduced in addition to the ordinary 'Tāli-kettu' at the time when the Brahmans began to form matrimonial alliances with the Nayars, in accordance with the directions contained in the Code of Manu, which says "A Kshatriya should, on her marriage with a Brahman, catch of Manu, which says "A Kshatriya should, on her marriage with a Brahman, catch of (instead of Pānigrahanam, or holding his hand) an arrow held in his hand; a Vaisya woman, on her marriage with a bride-groom of the sacerdotal or military class a whip (held in his hand); and a Sudra bride, marrying a priest, a soldier, or a merchant, the skirt of a mantle, (with which he covers his body)." "ശരഃ ക്ഷത്രിയയാഗ്രാ ഘ്നഃ പ്രതലൈ വൈശ്യതസ്യാ വസനസ്യഭരണാഘ്നാ ശുഭയോക്തൃ ഷ്ട വലഭൈ." (V. 44. Chap. III).

It is easy to conceive that instead of the bride seizing the skirt of the mantle, the delivery of the 'Puda' or cloth to her was prescribed as a more formal and dignified method of solemnizing the marriage.

It may therefore be safely assumed that the Tāli-kettu kalyānam was, as its name signifies, originally performed as the marriage ceremony: and that it has, in the course of ages, degenerated into an unmeaning and costly farce, entirely disconnected with and divorced from marriage. The reason for this bifurcation is not far to seek. As among the Malabar Brahmans, the rule that marriage must invariably be performed before puberty had in course of time to be departed from, owing to the extreme difficulty experienced among a limited class like Nambudiris, of securing husbands before maturity, the rule that 'Tāli-kettu kalyānam', or marriage among non-Brahman classes, should be celebrated before puberty had also to be infringed for similar reasons; and the practice of having the 'Tāli-kettu ceremony' performed by a Brahman before the age of puberty, even though a husband was not procurable at the time, was gradually established: and when a husband was available the ceremony of marriage was afterwards performed as a separate and distinct one under the names of 'Putamuri,' 'Sambandham' &c.

The peculiar position of Brahmans in Malabar and the numerous other peculiar customs which were consequently introduced among them, enabled them, when pressed by inevitable necessity, to set at naught, with impunity, the rule that marriages among Brahmans should be solemnized before the attainment of puberty; and it is easy to believe that their example and precept were obeyed and followed by the other classes under similar circumstances. When in process of time, the Tāli-kettu ceremony was degraded into a mere formal and unmeaning institution, the practice was gradually established of performing the 'Tāli-kettu' at the same time on a number of girls, of different ages, with the object of minimizing the expenditure of labor and money.

The above view regarding the original character of the Tāli-kettu ceremony derives great support from a similar practice with regard to marriage ceremony, which now exists among the Kshatriya families in Triponathara in the Cochin Territory. The marriages of Kshatriyas, like their other ceremonials, are similar to those of Nambudiri Brahmans; and it is the Nambudiris that perform their sradhams (funeral oblations) and other ceremonies. In the Royal family of Cochin, the Nambudiris marry the ladies in the same fashion in which they marry women of their own caste. It appears that they, however, do so in consideration of the large sum of Rs. 3,000 which is paid to them on the marriage, a pay of Rs. 8 per mensem which they subsequently receive from the palace and the social importance which they derive from the connexion. It is said that such Nambudiris are not admitted to sradhams &c. by the Nambudiris of British Malabar.

The absence of the advantages above noticed, and the attitude of the Nambudiris of British Malabar deter the Nambudiri Brahmans from marrying the ladies of the other Kshatriya families in Cochin, of whom there are said to be a very large number there. These Kshatriya families have, therefore, been driven to the necessity of employing a class of foreign Brahmans, known by the name of "Arya Pattars" (who, like the Nambidi Brahmans of Malabar, who have lately assumed the name of Nambudiris, are not entitled to study the Vedas) to marry their women, according to the established usage of Kshatriyas, by performing nuptial ceremonies which last for four days. On the 4th day, they are therefore compelled as in a regular marriage,

to allow the "Arya Pattars" who are invariably poor men hired to perform the marriage ceremony for a fee, to sleep with the girl. This marriage ceremony is generally performed before puberty, but it is said that sometimes, though very rarely, it takes place also after puberty; but in such cases, and sometimes on ordinary occasions also, the girl is taken away from the room by elderly ladies of the family, or the 'Arya Pattar' is dismissed shortly after being admitted into the room.

After the celebration of the marriage in this fashion, a Nambudiri is allowed to form "Sambandham" with these ladies, and the Nambudiri is changed, and another taken when such a course is found necessary. This strange custom saves the women from the social degradation which would attend the omission to celebrate the customary marriage ceremony, according to the prescribed rituals.

The 'Tāli-kettu kalyānam' of the Nāyars and other castes in Malabar, is thus a relic of marriage as originally performed by all castes in by-gone times; but, as it has now degenerated into an unnecessary and ruinous pageant, kept up simply by the tyranny of custom, there is no reason for its retention or preservation as a national institution. It might therefore be replaced by the marriages as now performed, the Tāli being tied by the husband himself.

As a relic of the old marriage, the Tāli-kettu ceremony is generally of four days' duration. On the first day the girl is made to bathe early in the morning and is then placed in the Patinyātta, the middle room of the house, which is considered the most sacred part, and she is not allowed to leave the room except for necessary purposes. The usual lighted lamp with a 'nāzhi' and 'edangali' measures, (made for the occasion, of Pāla wood) filled with rice and paddy, will be placed in the room.

In North Malabar the girl is made in some parts of the country, to sit on a blanket with a piece of newly washed cloth, specially supplied by the washerman for the occasion, laid on it. In some places the girl is not allowed to bathe for 3 days, and by the poor people and the lower orders for a day, as they generally finish the ceremony on the second day. Among the higher classes of people, on the evening of the 3rd or the morning of the 4th day, and among the lower orders on the evening of the same day or the next day, the girl is taken out of the room, bathed, and a pot of water consecrated by a Brahman in a pagoda or other sacred place, by the recital of 'mantras', and the performance of 'pooja', is poured over her head, and she is purified by the process. This ceremony is called "kalasam kulikal", or bathing by a pot of water. After this the Brahman ties the tāli round the neck of the girl at the appointed Muhūrtam, or auspicious moment, while she is seated on a plank newly made of "Pāla" wood. This is done in the Patinyātta room in some places and, in others, in the pandal, or pavilion, in the court-yard of the house.

There are two Tālis employed, one made by the gold-smith at an auspicious moment, ascertained by astrologers, and the other the ordinary Tāli, supplied by the gold-smith for a fanam. The first mentioned Tāli, called 'Muhūrta Tāli', is generally borrowed from the houses of Rajas and wealthy men, and certain pagodas. The Muhūrta Tāli would be tied only on one of the girls, and the other Tāli is tied on all the girls. In the case of the families of Rajahs, and a few families of the old chieftains or rulers of the country, such as the Tangal of Puthupanam and some Atiyōti families in Nadāpuram, the Tāli is tied by the Kshatriya Rajahs of Beypore, Parpanangadi and Kurumbranad.

After the Tāli is tied a woman of the Nambisa caste, wrongly called 'Brahmani', appears on the scene, and sings certain songs relating to Krishna's birth &c.

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for about an hour, while the girl is seated on a plank made of 'pāla' wood. This is done in the Patinyāṭṭa room and also in the pandal in the court-yard of the house in the morning and evening, sometimes for a day and sometimes for two days. In Tellicherry and places to the North of it, the girl is made to stand in the pandal for some time in order to enable all the friends and relatives of the family to tie round her waist a piece of new cloth called by the name of 'Mantrakodi.'

On the 4th day, the girl is taken in a procession to a tank in the neighbourhood, followed by a large number of servants and women. In the case of Rajahs, certain Nambudiris, and other persons of rank, the girl is carried in a palanquin. Here also the Brahmani sings in a whining tone her inevitable song, and the girl is made to break against a stone the bunch of a cocoanut tree. After returning home, the Brahmani's song is again repeated in the pandal and, at the close of it, a man of the Mārāyān caste ties a ring on the arm of the girl, which ceremony is called Kāppu Kettuka (tying the bracelet). In some places the ring is tied on the previous day and is untied in the pandal on the 4th day. After removing the ring he addresses her by the name of 'Akkamma' if she belonged to the class of certain high caste Nambiars, and 'amma' (lady) if she belonged to the other classes of Nayars. This ceremony is supposed to metamorphose the girl into a married woman, and the ceremony ends. I have necessarily omitted as useless and tiresome the minor and unimportant details of the ceremony.

In South Malabar, the ceremony invariably lasts four days. On the first day the girl is made to sit in the Patinyāṭṭa or any other room, on a plank of the 'pāla' wood; and a brass-pot with an arrow and a bunch of the cocoanut tree is placed before her, in addition to the nāzhis and edangalis containing rice and paddy; and she is also made to carry in her hand, until the tāli is tied, a looking-glass made of brass with a handle of the same metal. They are never allowed to stir out of the room except for answering the calls of nature. The Brahmani's song and the attendant ceremonies are performed in the room on the first day. It is repeated in the pandal on the morning of the second day, and again at night, and also on the morning of the third day. The 'Kāppu' here consists of a tender cocoanut leaf and is tied by the Brahman on the morning of the third day. The Tāli is tied in the pandal at the auspicious moment, on the third day, by members of the girl's caste in the case of Kiriyaṭhīl Nāyar, the Sudra, the Antūrān, Athikurishi, Vattakāt and some other castes, and by Nedungādis and Tirumulpāds in the case of Purath-chārna and Akath-chārna Menons. Among these classes also the tāli was in ancient times, tied by members of the Kiriyaṃ caste; but as difficulty was, in the course of time, felt to secure the services of these men, the custom of having the tāli tied by Tirumulpāds and Nedungādis for a fee, was gradually introduced. In the case of some Nayars of the chieftain class (Nāṭuvāzhis), who were rulers of portions of countries in ancient times, the Tāli is tied by Nambūdiri Brahmans. After the tāli is tied, the man who ties it is taken along with the girl into the Patinyāṭṭa room, and is made to sit by her side on the 'pāla' plank. After the offer of betel leaf, which is done, sometimes by the girl, and sometimes by the elderly women for her, he departs on receiving a fee of a Rupee or so for his services.

In South Malabar, the girls do not bathe for 3 days; and there is no purification by Kalasam, or pouring consecrated water over their heads, before tying tāli. The ceremony of going to the tank in procession, with a large number of attendants male and female, is also not performed here. The girls bathe only on the morning

of the 4th day; and, after this, they are taken in procession to the nearest temple to worship the deity. This is done as a part of the kalyānam ceremony in South Malabar; but in North Malabar the girls are by some classes, taken to the temple on the 4th day or shortly after, by one or two of her relatives; and the custom is not observed by other classes. Both in North and South Malabar, the Tāli is, after the kalyānam ceremony is over, delivered up to the nearest temple, except among the Ambalavāsi (pagoda-servants) class of Vāriyars, and Mārāns who continue to wear the tāli for some time, until it is melted for making other ornaments. Among these classes there are slight differences in the ceremonials. The girls, after bathing early in the morning are taken to the nearest temple for worship; and after returning home, in the case of the girls of the Vāriyar class, five Brahmans perform 'Punyāham' or purification ceremony by sprinkling water on them from a brass vessel. This ceremony is also observed in the case of the Rajahs. After this, the tāli is tied by a man of their own class. The girls are placed in the Patinyāṭṭa room, only after the tāli is tied; and the Brahmani's song and the other ceremonials are performed on the 2nd day in the room and in the pandal, the kāppu, or ring, being tied by a member of their own caste. On the 3rd day, the Brahmani's song takes place in the pandal, and this is followed by the "kulangara pāttu", or the procession to the tank, where also the Brahmani sings. On returning, the Brahmani sings again in the pandal, and the song is repeated also at night. After this the parties and relations of the girl tie the 'mantra koti' round the waist of the girl. Early in the morning of the 4th day, the girls are made to offer 'Gurusi,' water mixed with chunam and saffron, to the sun by pouring it towards the sun with their hands; and this ceremony is called 'ādityanē polikkuka', or offering to the sun. The girls are then made to sit in the pandal on a new cloth spread over the blanket, and the friends and relatives of the girls make money presents to them, according to their position and means. The kāppu or ring is after removed, and the girls are taken into the house, and this completes the ceremony.

Among the 'Nambisan' caste, who are another class of pagoda servants, the tāli is tied by the Karanayan, or the father, at the marriage, which is celebrated for 4 days with almost the same rituals, as among the Brahmans; such as the recitals, of mantrams, the performance of hōmans, the pānigrahanams (seizing of the hand), saptapadi (the seven steps) This class wears the sacred thread and has also the tonsure, Upanayanam and other ceremonies incidental to Brahmans.

There are also minor differences in ceremonials among the lower castes of Antūrān (Potter), Vāniyan (oil-monger), Vannathān (washerman), Chāliyan (weaver), and Nāviyan (barber).

In the first mentioned or Antūrān caste, the tāli is tied, as among Nayars, by the Brahmans; and though they are not recognized as Nayars, they sometimes call themselves as such; and the Nayars in some parts of North Malabar make use of butter-milk prepared by them.

The other castes above mentioned, and in some places in North Malabar, the Antūrāns also, pollute the Nayars by touch. The Vāniyan (oil-monger) and Vannathān (washerman) go to the Brahman's house, and the Brahman throws the tāli round the neck of the girls. It is then tied by the member of their own caste, who is eligible to marry the girls.

In the case of the Chāliyans, the tāli is tied by members of the family of the Urālans or trustees of the Ganapati pagoda, of which there will be one in every

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street inhabited by weavers. Among this class and Vāniyans, it is customary to perform the tāli-tying ceremony on all the girls in the street or the neighbouring amsams, at the same time. Among Chāliyans, the custom is to tie the tāli on 9 girls in one house in the street, of whom, there can only be one girl who is a member of the house, and one girl who is the daughter of the Karanavan of the house, the other girls, if any, of the house being taken and segregated in another house, along with girls of other families. The girls are collected generally in 9 houses in the street, and if need be more.

*Among Weavers there is a peculiar custom which requires each member of the houses of the trustees, who ties the tāli, to start for the girls' house from the Ganapati's pagoda. He first takes a cocoanut and a bundle of betel-leaves in his hand, places them on the door-stone of the pagoda, takes them back, breaks the cocoanut on a stone image outside the temple, representing the god 'Gulika,' and then standing before the pagoda, holds the bundle of betel-leaves with both hands over his head. About 40 or 50 men of the street, belonging to the houses of the girls, gather round him to assist him in his endeavour to take the bundle of betel-leaves in his hands to the particular house to which he is going for tying the tāli, while all the persons assembled numbering generally from 300 to 1000, rush against him for the purpose of seizing and carrying away by force the bundle of betel-leaves in his hands. A general and, often, a very vehement, scramble sometimes resulting in broken limbs, ensues and continues all along the way to the house of the girls; and by the time the house is reached, the greater part of the betel-leaves, except a few remaining in his hands, are snatched away by the mob. The house is finally reached, and the betel-leaves remaining in the hands of the man are thrown by him over the pandal in front of the house. He then ties the tāli, the tāli being delivered to him by the 'Potuvans' or barbers of the class. The consent of the assembly to tie the tāli is formally asked for and given in a chorus of vociferation. The money required for the ceremony is raised by contributions from the houses concerned.

Among the Vāniyans (oil-mongers) as among the Chāliyans, the Tāli-kettu ceremony is performed only once in 10 or 12 years. One of the well-to-do members of the community, in a part of the country, fixes a day for performing the ceremony of his girls; and all the other families in that part of the country take their girls to his house, a fee between 2 and 3 rupees being paid for each girl to the owner of the house. Thus it generally happens that the Tāli-tying ceremony is performed on about 200 and more girls, at a time. They are all marched to the house of the nearest Brahman, who throws the Tāli round the neck of each girl, the Tāli being tied by members of their own caste.

Among Tiyars, the ceremony is of a simpler kind. The custom of keeping the girl in a room for 2 or 3 days obtains among them also, as in all other castes. The tāli is tied in Tellicherry and places to the North of it, by a woman of the class of 'Tiyar barber, known as 'Kāvutian,' and by the mother of the intended husband of the girl, if any one is found to offer himself as such. It is the custom in these places, and in Katathanād, for the barber to call aloud in the pandal "if there was any man prepared to marry the girl?" and, if any such be present, the mother of the intending husband, in Tellicherry, and the man himself, or, in his absence, his mother, in Katathanād, comes forward and ties the tāli. In the absence of the intending husband, the tāli is invariably tied by a man of the barber (Kāvutian) caste in Katathanād.

In places to the South of the Murāt river, 3 miles to the South of Badagara, the paternal aunt of the girl or the niece of her father, or the mother of the intending husband ties the tāli. In the absence of the relations of the girls' father, a woman of a different house is made to perform the office. In these parts, it is not customary to call aloud for intending husbands, but the thing is done privately in consultation with the members of the girls' house.

There are certain castes below Tiyans following Marumakkathāyam, among whom also the tāli-kettu ceremony is observed. They are Paravans (stone masons), Kāvutians (barbers of Tiyans), Vannāns (washer-man of the Tiyans), Mukkuvars (fishermen by profession), and Vettuvans (stone-masons).

The practice of keeping the girls in a room for 3 days is observed among all these castes, and the tāli is tied after bathing on the 4th day. A woman of the Paravan caste, called 'Pāttamma', or songstress for the Kalyānam ceremony, ties the tāli among the Paravans, unless when an intending husband is forth-coming, when the tāli would be tied by his paternal aunt, or the wife of his Karanavan.

Among the Kāvutians, Vannāns and Mukkuvars, the tāli is tied by their barbers called 'Atuthavans'; and amongst the Vettuvans the tāli is tied by the eldest female member of the girls' father's house.

12. This question has been already answered in dealing with question 11. As to the question, who should tie the tāli? the answer must necessarily be that the husband is the proper person to do it. He is not now called by any particular name; but he was originally called by the name of Maṇavālan, a word which is in more frequent use in South Malabar, and is not unknown in North Malabar.

13. It is the custom in North Malabar for a number of girls to have their tālis tied at the same time and place, by the same man or woman, as above stated. This practice does not exist in South Malabar where each girl has a separate man to tie her 'tāli'.

14. No. The man who ties the tāli is simply regarded as a stranger, whose services, like those of so many others, are required for the purpose of performing the ceremony. He leaves the house directly after the tāli is tied, and is, except among the kiriyam and other classes of Nairs in south Malabar where a man of their own caste ties the tāli, altogether forgotten.

The man who ties the tāli acquires no marital rights thereby, and the ceremony is not now regarded in any sense as a marriage. He cannot be allowed to cohabit with the girl, unless and until he afterwards marries the girl in the customary manner.

15. Except among the Tiyans, and the other lower castes mentioned above, among whom the tāli is tied by their barbers, the man who ties the tāli is always of a superior caste or a member of the same caste. There is, in the case of the other castes, no objection or prohibition, on the score of caste, to his afterwards forming Sambandham with the girl, if he is, otherwise, considered as a proper and suitable husband.

16. No.

17. There is no pollution to the girl except in the case of the Kiriyam and other classes in South Malabar among whom the tāli is, as above remarked, tied by a member of their own caste. In such cases the girl observes pollution for 15 days.

18. Among Nairs the tāli is sometimes tied in South Malabar by the mother of very poor girls, when the child is below the age of one year.

Sometimes also the mothers of poor girls, who are unable to incur any expenses for performing the 'tāli-kettu,' tie the tāli on the girls on 'Onam' days or on the previous day, before 'Trikkarappan,' an earthen image of the king 'Mahā Bali,' which is generally made in all houses during the annual Onam feast.

19. Yes.

No. The Nairs and other non-Brahman classes have no rituals and no form of marriage prescribed by Sāstras. The tāli-kettu is, therefore, a conventionality purely arbitrary. Manu says (Ch. III. Verse 35) "അഭൂതവചനം പ്രാണാഹാരം വിശിഷ്ടം. ഇതരേഷാംതു വസ്ത്രാനാമിതരതരകാര്യം"

"The gift of daughters in marriage by the twice-born classes is most approved when they have poured water (into the hands of the bridegroom); but the ceremonies of the other classes may be performed according to their several fancies."

20. Yes. In North Malabar a ceremony which is regarded as a valid form of marriage, and known by the Sanscrit name of 'Vastradānam,' or gift of cloth, and the Malayalam name of 'Putamuri' (the delivery of a piece of cloth into the hands of the bride by the bride-groom) is invariably performed by all classes of Nairs, after the tāli-kettu ceremony, and as an indispensable preliminary to a girl being allowed to consort with a man.

The Putamuri ceremony is performed in North Malabar with due formality and pomp. On a day previously appointed, the horoscopes of the bride and the bride-groom are examined by an astrologer, and an auspicious day fixed for the celebration of the ceremony. It, however, seldom happens that an eligible husband is rejected in consequence of the disagreement of the horoscope.

The marriage among all classes, except among the Tiyans, is performed during the night, and the bride-groom, with a large number of friends and followers, ranging between 15 and 30 in the case of poor people, and 50 and 400 in the case of wealthy members of society, according to their social position and rank, arrive at the bride's house generally between 8 and 12 P. M., and sometimes later. In a recent case, the bride-groom who was a Rajah in North Malabar, was followed to the bride's house by upwards of 4000 men.

The marriage ceremony is performed before dinner, in the 'Patinyātta,' or middle room of the house. The bride is brought to the room by 2 to 12 ladies of her house, and while standing, she is made to make to two Brahmans the gift of a few annas, and these gifts are known by the names of 'Dānam' and 'Muhūrtam,' the latter gift being originally intended for the astrologer, who fixed the auspicious moment. The bride-groom then stands facing the bride and places in her hands two pieces of cloth, from among a large number (from 4 to 64), brought into the room, the bundle consisting of the other pieces, being left in the room. If the bride-groom is a Rajah or a chieftain, instead of the cloths, one or two pieces of silk and 4 gold bracelets would be placed by him in the extended hands of the girl; and the marriage is, in such cases, known by the name of "പട്ടം വളയം കൊടുക്കൽ" (Pattum Valayam Kotukal) "giving of silk and bracelet."

After this the bride and the ladies retire. After dinner the bride would be brought by one or two ladies of her house to the room in which the bride-groom sleeps. In Tellicherry and places to the north of it, some 20 or 30 women are sent

to the bride's house by the bride-groom's family, the next day, to take the bride to the house of the bride-groom. In Katathanād and places to the south of it, the bride is taken along with the husband and his party early next morning.

Among the 'Vāriyar caste,' though the marriage is known by the name of 'Putamuri,' no cloths are taken to the bride's house and none is delivered to her. But the husband merely pays some money into the hands of the bride, and this is intended to cover the expenses of the marriage ceremony. Among Nairs and the other classes also, some money is, in some parts of North Malabar, given, tied to the cloths.

There is also, as above remarked, no delivery of cloths among the Nambis-sans who performs 'hōmam' and other ceremonies, resembling those of the Nambu-diris in certain respects.

The Putamuri among the classes of Anturān, Vāniyan (oil-monger) and Vannathān (washerman) is almost the same as among the Nāyars. Among the 'Nāviyans' or barbers, it is the same, but before delivering the puda, or cloth, the bride and bridegroom are made to sit close to each other on a blanket with a new cloth laid on it; and while they are so seated, all the cloths, which generally consist of from 4 to 12 pieces, are placed in a heap over the thighs of both the bride and bride-groom: and in this position the bride-groom delivers some betel leaves and money to the bride. This done, they rise, and the cloths are then delivered by the bride-groom to the bride. Among all these classes, it is customary to give into the hands of the bride, not two pieces only, as among the Nāyars, but the whole number of cloths brought by the bride-groom.

Among the class of weavers, or Chāliyars, the marriage ceremony is known by the name of 'Pāni-kondu-varika'. The ceremony of marriage among them is peculiar, and differs from that of all other castes, high or low, in Malabar. The bride-groom does not go to the bride's house, but merely sends a few friends and neighbours, consisting of males and females, to fetch the girl. They go to the bride's house in the night, and are feasted there. The girl is brought into the 'Patinyātta' room, and some money is paid into her hands by the Karanavan, father, or other relative of the bride-groom. This completes the ceremony.

Among Tiyars the ceremony was till lately known by the name of 'Pen-vāzhcha', a name which has, in recent years, been almost superseded by the name of 'mangalam'. The ceremony is invariably celebrated in the day-time. There is a man called middle man (natakāran) among the Tiyars, who is called 'Tanjān' in places to the South of the Murāt river. The middle-man of the bride-groom and some of his relations go to the bride's house and, in consultation with the bride's middle-man and relations, appoint a day for the examination of the horoscope. The horoscope is then examined on the appointed day in the house of the bride, where the middle-men of both parties and some of the relatives and neighbours would be present. After this a sum of 11 fanams (about 2½ Rs.) is paid by the middle-man of the bride-groom to the Karanavan of the bride. This ceremony amounts to a formal betrothal, and is known by the name of "കെട്ടിക്കുറിക്കുക" (kettikurikkuka).

On the day appointed for the celebration of the marriage, the bride-groom attended by a 'changāti' or companion, and in some places, two of them, who would be dressed like himself, and by a large number of friends and relations, both male and female, proceed to the bride's house, where the marriage ceremony takes place.

The ceremony consists in the bride and bride-groom being made to sit close to each other on wooden 'palakas', or planks, in the middle room of the house, and rice being strewed over their heads by their relatives and the elderly men and women in succession. After this the middle man of the bride declares, in the hearing of the men present in the room, that, with the knowledge of the Tandân (middle-man) of the Tara (village) and the chief man, such a man marries such a girl. The bridal party, after being feasted, proceeds to depart; and before taking the bride with them, the kânam money is paid to the karanavan, or father of the bride. The old custom was to collect a sum of 2 fanams from each of the persons who had accompanied the bride-groom, and to pay the amount as kânam, or marriage fee, to the bride's relations. As this custom was found in practice to work inconvenience, it has lately been disposed of by payment of a fee of fanams 42 or 52 (Rs. 8½ or 10½) in a lump. But the old practice has not yet died out, and is even now adhered to by the poorer members of the community.

After payment of the kânam fee and before taking the bride out of the house, a further fee of 2 fanams is paid to her 'Machunan' (uncle's son), in full satisfaction of his prior and superior claims to the hand of the girl. The bride is then taken from the house, dressed in a cloth specially supplied by the husband, to the bride-groom's house, which is generally reached before sun-set. The next day in Telli-cherry, and, after a few days, in some other parts, the bride and the bride-groom, each with one follower, and, in some places, a larger number of followers, go to the bride's house, and stay there for the night, returning to the bride-grooms' house after breakfast, the next day.

The custom among the 5 other castes below Tiyaṅs, above-mentioned, differs in material respects. In all these castes the marriage is performed, as among Nayars, during the night, and no females accompany the bridal party. Among the caste of Paravans (stone-masons) the marriage is known by the name of 'Putamuri', and the name is true in its literal sense. The bride-groom takes with him a piece of new 'puḍava' or female's cloth to one end of which is stitched a new 'muntu' or male's cloth; and while the bride would be holding in her hand the 'putava', the bride-groom holds the 'muntu' and separates the 'putava' from the 'muntu' by cutting over the stitched portion with a knife. The 'muntu' is then handed by him to the bride, and a sum of 42 fanams (about Rs. 8½) is paid by the bride-groom's relations as kânam to the karanavan of the bride. This completes the marriage ceremony, and the bride is taken to the bride-groom's house the next day.

Among the 4 other castes above-mentioned, both men and women accompany the bride-groom to the bride's house. The other formalities are nearly the same as among Tiyaṅs; and the bride is taken to the bride-groom's house on the morning of the following day. Among the caste of 'Mukkuvans' (fishermen) and Vettuvans (stone masons), the marriage is known by the name of 'kôppu' (a feast) and not by that of 'mangalam'. But this word is also used by Tiyaṅs, and all other lower castes, to designate all feasts in general.

21. In North Malabar when a Nambudiri, or a Pattar, forms Sambandham with a Nayar lady, the same formalities are invariably observed as when the Sambandhakâran is a Nayar.

But when a Nambudiri forms Sambandham in the families of Rajahs, and a Nambudiri, or a Pattar, forms Sambandham in the families of the classes known as Ambalavâsis, or pagoda servants (Vâriar, Nambisans, and Mârân,) no formalities what-

ever are observed, the man being simply allowed to sleep with the woman on the appointed day.

In North Malabar the custom of giving Nayar ladies to Nambûdiris and Pattars in marriage is dying out, and has almost disappeared from the country. It still exists generally in the families of some chieftains, among whom the practice of forming Sambandham with Nambûdiris has existed from time immemorial, and who even now refuse to give their ladies in marriage to any Nayars other than those belonging to their own class.

Nayar women in North Malabar were seldom given in marriage to Pattars, and the practice of forming Sambandham with them has entirely ceased to exist. Sambandham with Pattars was, as a rule, not formed in South Malabar also, except by any low class Nayars. No Nayar families of any position would now-a-days form Sambandham with a Pattar, however great his official position or wealth might be. The low esteem in which Pattars are held as a class of foreign Brahmans, not always employed in dignified pursuits, accounts for the prevalent social feeling against them. The exclusion of Nambûdiris from matrimonial alliances in North Malabar appears to be due to a sense of concubinage which such a connexion engenders.

The Nambûdiris and Pattars have, therefore, been driven to the necessity of forming Sambandham with women of the Vâriar, Mârâyân, and Nambîsan caste.

22. The formalities attending the Sambandham are not the same, but differ materially in North and South Malabar.

The ceremony of Pudamuri, or delivery of cloths, as described above, is not performed in South Malabar; nor is the Sambandham, the name by which the ceremony is known in South Malabar, celebrated with such pomp and formality as in North Malabar.

In South Malabar the custom till some 10 or 15 years ago was for the man, accompanied by 3 or 4 of his friends and servants, to go to the bride's house, on the night of the appointed day, generally after taking their dinner; and without any ceremony or formality of any kind, the bride would be simply taken to the room in which the bride-groom sleeps. The friends who had accompanied the bride-groom, generally used to leave the house at night. The bride-groom would also leave the house before day-break.

In recent times the Sambandham is performed with greater publicity; the bride-groom is followed to the bride's house by a large number of men, from 10 to 50 or more; a feast is also prepared at the bride's house, at which all, or the great majority, of the friends and relatives of the bride's family would also be present. The bride-groom and his party take their food at the bride's house, and gifts or presents of money are made to the Brahmans present.

In South Malabar the wife is, as a rule, never taken to the husband's house; she lives in her own house where the husband visits her every night, or generally at intervals of a few days. The husband invariably gives to the wife the cloths and oil required for her use. He also defrays the expenses of her accouchement and makes half yearly presents of money to her on the festivals of Onam, Vishu and Tiruvâtira. It is customary to make a money present for Vishu, a present of new cloths for Onam; and of plantains for Tiruvâtira. It was till lately, and is even now in some places, the custom to regard the Sambandham as terminated if a husband omitted to send the usual presents on the days of feast above named. Though the custom is

strictly observed even in these days, the tendency to attach such extreme consequences to its breach is, owing to the progress of refined ideas and a better understanding of the marital relations, fast disappearing.

The formalities are the same throughout North Malabar, with the differences above referred to. In some parts of Tellicherry, it is not customary among Nayers to give money with the cloths, simple cloths being delivered into the hands of the bride.

The formalities are generally the same in South Malabar. In some parts, viz, in Calicut and some of the other Taluks, it is customary for the husband to leave a small sum of money underneath the bed on which he sleeps. Among Nayers in Vatakumpuram and Kizhakumpuram in the Calicut Taluk, the Sambandham is performed with greater formality. Some quantity of betel leaves, as in North Malabar is taken to the bride's house for distribution among the people assembled there, and the money would be delivered publicly to the Kāranavan, or some other member of the house.

Among the members of the Urāli class in the same places, it is customary to carry some new cloths, in addition to the betel leaves, to the bride's house as in North Malabar; but the bundle of cloths would be delivered to the female relatives of the bride.

In Palghaut, the marriage, which is known by the name of 'Kida-kora' or 'Kidaka Kalyānam' has always been celebrated with due publicity, almost in the same manner as in North Malabar. But there is no delivery of cloths, or any such formalities. The marriage here is not completed on the first day, and a ceremony called second 'Kidaka' is performed, in 3 or 4 days after the celebration of the Kidaka Kalyānam at which the husband, with 3 or 4 followers, go to the bride's house and stay there for the night. After the ceremony 4 or 5 women are sent by the husband to formally take the bride to his house. She afterwards returns to her own house. Unless this ceremony is gone through, the wife is not entitled to visit the family of the husband.

23. No. The practice of a woman forming Sambandham with more than one man at the same time, has never been heard of, or known to exist in North Malabar. The form of marriage known by the name 'Vidāram Kayaruka' or 'Uvam Porukka', which is even now, though not generally, practiced by the Nayers of North Malabar, do not seem to furnish any traces of polyandry. The word 'Uvam-Porukka' seems to be a corrupt form of 'Puyyan-Porukka', which means the visit of a husband, and does not appear to have any connexion with 'Uzham' or 'turn,' which might probably indicate the visit of a number of husbands by turns.

This is not exactly an independent form of marriage, but only a preliminary to marriage proper, which entitles a woman to cohabit with her husband in her own house. The marriage is invariably performed afterwards, before or during pregnancy, with all formalities, and the woman is then taken to the husband's house, as one who has acquired the status of a full-blown wife. This form of marriage was evidently introduced for reasons of convenience, as it created the relation of husband and wife, without recourse to the costly ceremony of 'Pudamuri'; and it is now generally resorted to by the poor members of the community, and well-to-do men who are desirous of having a second or a third wife.

Polyandry seems to have been largely prevalent in its worst form in South Malabar in the earliest times. Instances in which a woman had so many as 27 and 22 husbands, who visited her by rotation, are even now mentioned by some old men. Four to twelve men were in those days regarded as the ordinary compliment of a woman's sambandhakars. The practice had its origin in considerations of economy on the part of the men, and improved and greater chances of gain on the part of the women.

It is even now the custom among the 'Kammālars', or the artisan class in the South Malabar (Carpenter, Goldsmith, Blacksmith), who follow Makkathāyam, more especially among them in Nedunganād, for 5 or 6 brothers to have a woman as the common wife of all of them. Here again economy is the prevailing motive. As the brothers quarrel or disagree among themselves, or as they grow rich, one or more of them sometimes separate by taking a new wife. I have personally known of a carpenter woman in Calicut, named Nangili, who was the wife of five brothers. They were living in two or three houses, and the woman used to spend a month with each of the brothers, who were living separately.

Even among Nayers the practice of polyandry prevailed in Nedunganād Taluk and in some parts of Choughat till some 15 or 20 years ago. Owing to the influence English education and the spread of enlightened ideas, it has almost ceased to exist; but there are still to be found several families in Kavalapāra, and in the southern parts of Chowghat, where a woman has more than one husband.

There are strong reasons to believe that the introduction and the general prevalence of polyandry in South Malabar was due to the influence of the Nambūdiri Brahmans, whose sexual propensities are proverbial, and who in that part of the country form a powerful aristocracy owning the greater part of the landed property there. The Nayers were and are, with few exceptions, their tenants, and were and are, even now, to a very great extent, absolutely at their mercy. The custom among Nambūdiris which compelled all the junior members of their families to consort with Nayar women necessarily brought about a system of universal concubinage, and polyandry was its natural off-shoot.

It appears from the official account lately prepared of the Nambūdiri families in North and South Malabar, that while there are only 170 families in North Malabar, there are 838 families in South Malabar (vide page 119. vol. I, of Mr. Logan's Manual of the Malabar District). This circumstance, coupled with the fact that there are not more than 3 or 4 Nambūdiri families in North Malabar, who own any considerable landed property, furnishes the key for the proper interpretation of the state of things in South Malabar.

A recent instance, which was related to me by a Nayar Vakil of my court would be an illustration in point. A young Nayar girl of about 12 years of age, named * * * * living in * * * * in Walluvanad Taluk, about 6 miles from the Vakil's house in Cherpulsherry, was married some two years ago by a Nair named * * * * who is now about 30 years of age. A young Nambūdiri of * * * * in the neighbourhood, who was the Janmi (Landlord) of the girl's family, insisted upon being admitted as a co-husband of the girl, who is now 14 years old. The old husband naturally enough objected to the proposal, but the Nambūdiri, who is 20 years of age, was inexorable; and the Nayar husband had eventually to consent to accept the position of subordinate co-husband of his former, full wife, which he now fills, with what feelings it may be better imagined than described.

24. The practice is prohibited by enlightened public opinion, and also by the Code of Manu (V. 162. Chap. 5) “നാസ്ത്യാപ്തനാ പ്രജാസ്ത്രീഥ നവാപ്യന്യ പരിഗ്രഹേ. ന ചിതീയശ്ച സാധവീനാം ചാചി ജ്ഞൈ പരിഗ്രഹേ”.

“Issue begotten on a woman by any other than a husband, is no progeny of hers; no more than a child begotten on the wife of another man, belongs to the begetter: nor is a second husband allowed in any sâstra to a virtuous woman.”

25. Yes. She can do so.

26. No formality is necessary to dissolve the connection, except among the castes of Tiyans, and some of the castes below them.

Among these castes, dissolution of marriage cannot be effected by merely sending away the wife to her house, as is done by the higher castes. The Natukâran (or the middle-man) and the Kâranavan, or the father of the husband, accompanied by a few of the neighbours, go to the woman's house for the purpose of effecting the dissolution, which is known by the name of ‘ആചാരം കൊടുക്ക.’ (discharge the custom.) Any money dealings which might exist between the families of the parties, including the return of jewels given to the wife and all money presents made by either family on auspicious occasions, are first ascertained and settled, this process being called by the name of ‘കയ്യും കണക്കും നൊക്കുക’ (look into hand (transactions) and accounts). Sometimes if the dissolution was due to the fault of the woman, or in consequence of her refusal to return to her husband's house, the money received as Kânam on the occasion of marriage is returned to the husband. After the customary divorce has been effected in this formal manner, but not before, the woman is at liberty to take another husband. Until this formality has been complied with, no man could marry the woman.

27. Yes; according to the custom now obtaining both in North and South Malabar. The practice is, however, falling into disuse, in consequence of the general disapprobation with which it is now-a-days regarded. Respectable families now invariably refuse to give a girl in marriage to a man who is known to have another wife

28. There is nothing to prevent one, who may be so disposed, from having a plurality of wives.

29. In North Malabar in the house of the husband, and in South Malabar in her own house.

30. In South Malabar, the Rajahs, Chieftains and Nambûdiris of high position, the Government officials and Vakils invariably take their wives to their place of residence. But this is a deflection, arising from the necessities of the situation. The custom is thus different in North and South Malabar; and this difference, as might be expected, is not without its due share in bringing about the low standard of female morality which prevails in South Malabar.

31. In North Malabar the man is, according to the recognized custom, bound to support the woman and her children, during the subsistence of the marriage; but in South Malabar, the man is simply regarded as being under the obligation to supply them with cloths and oil.

32. In North Malabar, the general custom is to live as man and wife, until death, or the dissolution of the marriage, which takes place rarely, and generally for good reasons. There are, however, now and then to be found instances of unprin-

ciplined men abandoning their wives, with a large number of children, without any sufficient reasons, known to the outside world.

In South Malabar the tie of Sambandham is generally loose; and, in the generality of cases, resembles a state of concubinage. The fathers therefore, seldom have any real love or regard for their children, and their affection and sympathies are generally centred in the members of their own family, consisting of their sisters and nephews. In such a degraded view of the matrimonial relation, the Sambandham is necessarily frequently changed; but the position of affairs has of late undergone a marked improvement.

33. Yes; he does feed and clothe them, as above remarked; and the practice in such cases in South Malabar, is the same as in North Malabar.

34. No separate allowance of money or paddy is made, even in cases where Anandravans work for the Tarawâd; but in such cases, and in the cases of the comparatively few families in which the relations between the Kâranavans and the Anandravans are cordial, they get in addition to food, the cloths and oil required for themselves and their wives.

Anandravans rarely cultivate Tarawâd lands for rent. It is done only when they live separately from the Tarawâd, and have no other means of supporting themselves. In such cases they are, like other tenants, at liberty to use the surplus as they like.

35. Anandravans generally do not work for their Tarawâd, for the simple reason that the Kâranavan would not give them any allowance beyond food, oil and cloths, which every Anandravan is entitled to get from the Tarawâd, whether he works for it or not. They try to earn something for themselves, when they can find any honorable means of earning something, which unfortunately is but seldom available to them, in the present state of the society. The members of well-to-do Tarawâds invariably shun manual labour as beneath their dignity; and as they are not brought up to any trade or profession, they generally lead a most idle, useless, and miserable existence.

The lower and some of the middle classes earn something as clerks of Vakils, or as writers, or accountants of Mâpilla dealers, and as agents of Rajahs, wealthy Nâyars, and Mâpillars; but the members of the wealthy families are absolutely without any means of earning anything for themselves.

36. They support their wives and children with their earnings, and give no part of them to their Kâranavan.

37. The practice of making some provision for the wife and children of the Kâranavan of the Tarawâd by the gift of some immoveable properties, consisting of paddy lands and Parambas, according to the position and means of the family, generally prevailed among the Nâyars in North Malabar; and this was known by the name of ‘Puthrâvakâsam’ or ‘right of children’. Though Puthrâvakâsam was and has always been a gift pure and simple, its universal prevalence in olden times, made it to be regarded as a right inherent in the children, which accounts for the name. The children are not therefore entitled to any definite share in the Tarawâd property.

As recent decisions have rendered the junction of all the members of a Tarawâd necessary to validate the alienations of Tarawâd property, and as it is, in the present state of the strained relations between the Kâranavan and the Anandravans,

practically impossible to obtain the consent of all the Anandravans to a gift of property to the children of the Kāranavan, it may be said that this good old custom has, within the last 10 or 12 years, received its *coup de grace*.

(The custom is also observed by such of the Tiyan families of North Malabar as have, in recent times, become possessed of landed properties; but as Tiyan families possessed of landed properties were rare in old times, the custom is necessarily of recent growth among them.)

There is no practice resembling it in South Malabar, where the name 'Puthrāvākāsam' is unknown. It may be here remarked that in North Malabar, all gifts of self-acquired property, made by a father to his children, are still generally designated by the old name of 'Puthrāvākāsam' the word 'dānam' (gift) being a recent introduction by English-educated men.

38. A permissive marriage law for Nāyars is in my opinion a matter of absolute necessity. They present the unique spectacle of a civilised community without a legally valid marriage; and, if the institution of marriage is, by the verdict of mankind, held to be indispensable for the maintenance of civil society, it is incomprehensible how there can be difference of opinion among rational men as to the *raison d'être* of at least a permissive marriage law among any class of human beings. Those who oppose the measure from self regarding motives are painfully alive to the force of this argument; and therefore, try to escape from it by attempting to invest the skeleton of marriage existing among the Nāyars with legal flesh and blood. This is, to say the least, a piteous attempt at self-deception; as no one, really acquainted with the marriage systems of the Marumakkathāyam Hindus of Malabar, can for a moment honestly assert that the marriage tie creates any jural relation. The husband is not legally bound to maintain the wife and children; conjugal cohabitation is dependent on the sweet will of either party; inheritance follows not; and there is no obligation to chastity, for it is admitted that if a woman commits adultery with a member of the same caste, she is not excommunicated. In view of these stern facts the highest tribunal in the land has repeatedly and systematically characterized the sexual relation existing among the Nāyars as one of concubinage; but the advocates of the existing order of things would nevertheless maintain that their own view of the matter is of supreme importance. They are indeed constrained to admit that something is rotten in the state of Denmark; and the more reasonable of the opponents have therefore felt themselves compelled to give their assent to a qualified marriage law which invests marriage with all its obligations and none of its rights. They say that "you may legalize the marriage for the purpose of compelling a woman to cohabit with a husband whom she hates; of preventing her from taking a more acceptable husband; and of restraining her liberties to any extent, provided she and her children get no part of her husband's property." The absurdity of this position is so patent that it needs only to be stated.

It cannot be denied that the present marriage law, or custom, does not render adultery, or enticing any one's wife, punishable; that husbands, who dotingly love their better halves, are, therefore sometimes relieved of them by unscrupulous men; that cases are not infrequent of women with a large number of helpless children being abandoned by their unfeeling husbands, without making any provision for their maintenance; and that the law affords no protection in such cases. In what way, other than by a marriage law, can this state of things, which I take the liberty to presume that no opponent of the measure will maintain to be desirable, be remedied?

If public good ought to be the object of the legislator and general utility the foundation of his reasonings, I fail to see how, in these circumstances, the proposed marriage law can be impugned. That a law conformable to utility may happen to be opposed to public opinion is no reason against its introduction; and time alone can remove the ignorance and prejudice which surround every innovation.

Those who oppose the proposed enactment do not go to the extent of asserting that no marriage law is required for the Malayalis; but merely try to make out that they have already a marriage custom which is legally valid, and that a law is therefore superfluous. It may be true that they have forms of marriage which are regarded by the community as perfectly valid and sufficient for all practical purposes; but it is equally true that those forms of marriages have not been recognised by the state as legally valid, or as possessing the usual legal incidents of a valid marriage. This circumstance, however unpleasant, cannot be denied by any one; and the question, therefore, arises whether it is not better and expedient once for all to remove all doubts and difficulties by legalizing the marriages of all Marumakkathāyam Hindus? As a compulsory law on such a subject, cannot, for obvious reasons, be thought of, the only alternative is by providing an enabling marriage law of the kind proposed. As an infraction of liberty, every law must be distasteful in its nature; and it is not surprising that a law whose professed object is to restrain license, masked under the name of liberty, must be regarded as a positive evil by a large section of the community. The legislator has, therefore, only the choice of evils, as it is a fundamental principal of legislation that he has only to see that the evils which he undertakes to prevent are greater than those which he employs to prevent them. The evil in question is undeniably of portentous dimensions, as affecting a whole civilized community and is, besides, permanent in its character.

It has been, therefore, laid down by the highest legislators that antiquity, which is triumphantly held out as the main reason against the measure by its opponents, is no reason at all. It has been well said by a great authority that the rejection of innovation means the rejection of progress, and that it is impossible to imagine a body of positive law equally fitted for all times and circumstances. However suitable the marriage customs of Marumakkathāyam Hindus may have been found in a primitive state of society, they are certainly not fitted for the requirements of modern society, and should therefore be, by judicious remodelling, adapted to the progressive spirit and tendencies of the times. Since the dawn of civilization there has been no other enlightened community among whom inheritance is divorced from marriage, and no reason can be found for the further preservation of this relic of barbarism.

The first and principal reason urged against what is called a change of inheritance which the proposed marriage law is said to bring about, is the preservation of property which the Tarawād system favors. This assertion is erroneous both in theory and practice. As observed by Bentham, "there is no arrangement more contrary to the principle of utility than community of goods; especially that kind of indeterminate community where the whole belongs to each of the partners. 1st. It is the source of never-ending discord. Instead of being a state of satisfaction and enjoyment for all interested, it is a state of discontent and disappointment. 2nd. This undivided property always loses a great part of its value for all the partners. Subject on the one hand to all kinds of depredations, because it is not under the protection of individual interest, on the other it receives no repairs or improvements.

"Shall I risk an expense of which the burden will be certain, and which will entirely fall upon me while the benefit of it will be precarious and divided?"

(I need hardly say that these words of the great philosopher exactly represent the state of a modern Marumakkathayam Tarawád. Many a wealthy Tarawád has been totally wrecked by the incompetence and extravagant mismanagement of Karanavans, who were till lately the autocrats of the family, possessing absolute powers of alienation, and the apathy and powerlessness of the junior members. Even in recent times when the courts began to afford protection by the removal of Karanavans and the curtailment of their powers of alienation, it is well known that the junior members never interfered to prevent the destructive career of the Karanavans, until a very late stage, when the greater part of the property had been dissipated. The absence of individual interests of any tangible kind naturally prevented, even where the junior members had the means, the incurring of expenditure of which the burden was certain, while the benefit was precarious and divided.

I may state without exaggeration that scores of wealthy families in North Malabar have been reduced to poverty, owing to the extravagance and dissipation of Karanavans, and the apathy of the junior members, and that there are not now more than half-a-dozen wealthy Tarawáds which yet retain their ancient possessions; but even in these families the irrepressible causes of disintegration are slowly but surely beginning to work their way; and it is not too much to say that it is merely a question of time how long they will be able to withstand the destructive influences at work.

In the early state of society when the Náyars were engaged in the profession of arms, they did not lead a settled life, and were not fathers of families living with them, as they are now. If they formed any fugitive connexions their affections were not centred in their children, who remained in their Tarawáds under the protection of the Karanavans. The Marumakkathayam system was admirably suited for such a state of society; but the condition of things has changed. Every member of a Marumakkathayam family, as a rule, now marries and lives with his wife and children, either in the Tarawád house or apart from it, and therefore naturally comes to regard them as constituting his own family, instead of his brothers and sisters for whom he has no affection or sympathy to spare. In a favourable ground the law of nature takes root and flourishes, displacing the artificial and unnatural system of Marumakkathayam. The junior members, who are like the Karanavans, human beings, subject to the natural sympathies and antipathies of the race, perceive the folly of expecting the Karanavans to extinguish their feelings of love for their wife and children and to ignore their claims upon their protection; and at last come to regard the Karanavan's neglect of the interest of other's children, and the aggrandizement of his own children, with callous indifference and philosophic resignation, eagerly awaiting the arrival of the time when it will be their turn to enrich their wives and children at the expense of the Tarawád. In a Tarawád system like this, there is certainly no love lost between the Karanavan and the Anandravans (junior members); and the gradual destruction of Tarawád property is the inevitable result of such a state of eternal discord, and natural distrust. The assertion that the Tarawád system conduces to the preservation of property is therefore no longer true, and is now a mere fiction.

On the other hand, no one can deny the multiplication of wealthy families which individual industry calls into existence out of the division of property belong-

ing to a single family in the other Districts; though no doubt there may be cases in which imprudent members destroy their portion. This is a necessary evil attaching to the possession of property, and can form no argument against the possession of separate property. If the proposed law is impeached on the ground that it is calculated gradually to work a change of inheritance, it is on that ground all the more necessary, and the sooner the thin end of the wedge is introduced, the better it would be for the community. A close observer of the state of Malabar society cannot fail to see that the Marumakkathayam system is doomed, and that the work of destruction is only a question of time.)

It is universally admitted that the invariable practice of the country is to give a share, by no means insignificant, of one's self-acquisition to the wife and children. Why not then enact a law declaring them entitled to a definite portion of it in case of intestacy. It is the policy and the duty of the State to give legislative sanction to what promotes the true good of the community, and there can be no room for hesitation when the object intended has the unqualified approbation of the people.

Another objection which deserves to be noticed is the inconvenience which the existence of two systems of inheritance in one family is said to create. It is an evil which is a necessary concomitant of every measure of reform, which is gradual and permissive in its operation, and not revolutionary and compulsory. It is preposterous in the extreme to say that there ought to be no partial cure, which would gradually eradicate the disease, but that the remedy should be thorough and instantaneous, even at the risk of endangering life, or that there should be none at all. This is the logic of those who assert that if a change of inheritance is to be effected at all, it must be a sweeping and thorough paced one, amounting to a wholesale introduction of Makkathayam, or rule of sons, or there should be no change at all. The fallacy of such an argument is self-evident. Are we to leave a great and besetting danger totally unprovided for, because of the slight inconvenience which might be experienced in the working of the means employed to eradicate it. Even the inconvenience is more imaginary than real. When the law of succession as to self-acquisition, which any particular member or members follow is definitely known and ascertained, there can really be no inconvenience or difficulty in applying the law to the particular cases. There can be no more inconvenience than in the existence side by side in a particular locality of various unconnected and independent families governed by different rules of succession. It is utopian to think of assimilating the rules of succession governing such families, for the sake of uniformity, or convenience of those who may have to administer the law; and the argument on the ground of inconvenience therefore seems to me to be wanting in force. The objection that a Nayar who openly declares his love for the cause of sound morality or, as the opponents would say, for his wife and children by availing himself of the provisions of the proposed law, is not fitted to be the Karanavan of a Marumakkathayam Tarawád, is another instance of false logic; for surely a man who has the courage of his conviction is by far a better manager of common property than a man who, under cover of an assumed sympathy for family custom, works his designs in the dark and sucks the life-blood of the Tarawád unsuspected and unperceived.

The assertion that the general feeling of the people is against the proposed legislation is unfounded, as the result of the Commission is expected to prove. The Bill in its present form, containing as it does several unpalatable provisions, *e. g.*, those regarding registration, divorce etc., is certainly not acceptable to the people; but ex-

cepting a very small section who blame by sentiment, the people in general are in favor of a marriage law divested of its objectionable features. When the matter is clearly explained to them their apathy or prejudice is transformed into a feeling of delight at the prospect of having a marriage law which would deliver them from the difficulties which now beset them at every turn, and secure a sure means of support to their children. Several chieftains and influential men to whom I have explained the objects to be secured by a marriage law, have spontaneously desired me to send their petitions for submission to the Government and the Commission, which they promised to get signed by many hundreds of men. But I have always refrained from taking any part in such matters, being of opinion that such representations should proceed from the people themselves unprompted by persons in authority. As remarked above, the legislator has only to satisfy himself that there are real evils to be remedied, and he is not to be influenced by the bugbear of a popular out-cry conjured up by an interested minority. In the language of Bentham, "Are we to expect the people to possess sound knowledge while it is yet unattained by the legislators, by the wise men of the land."

I do not think it worth while to waste time by mentioning the other objections urged by the opponents of the measure, which are on their face frivolous and unworthy of serious consideration.

Before concluding my remarks on this subject, it may not be out of place briefly to touch upon some of the great disadvantages accruing from the absence of a marriage law. Every Marumakkathayam Hindu finds himself at present in a very awkward and undesirable position. He is distrusted by his wife and children on the one hand, and by his own sister and her children on the other. The former are perfectly aware that they have no right to participate in his earnings and property, which belong to, and are looked upon as theirs by his sisters and nephews: the latter knowing that his affections are or must be centred in the former mistrust him and cease to have any regard for him, if all his earnings are not scrupulously made over to them from time to time. He is not in truth loved by his own wife and children, who, having no common interest, do not co-operate with him for the common good, but try to get as much out of him as possible by all sorts of arts and blandishments, often supplemented by love drugs. Any disposition to be liberal towards his sister and nephews is regarded by them with jealousy resulting in ill-concealed estrangement, and it is needless to say that this is reciprocated by the sister and her children. The poor man is thus placed in a dilemma from which there is no means of escape. Often he tries to please both: but incurs their displeasure instead. If he favours one or the other exclusively, he often finds himself deserted in his old age, and repentance comes too late. Domestic happiness is in such a state of things a phantom. The shrewd man therefore tries to keep the whole of his property in his own hands; and he is punished by nature for his own narrow-mindedness in the eternal poverty of his children.

The necessity, which every Marumakkathayam Hindu is, under of supporting two distinct sets of families, consisting of his wife and children, and sisters and nephews, is generally insupportable, and especially so in the absence of any ancestral estate. The misery which every labourer and peon suffers from the intolerable burden of supporting too large families, without the assistance of any Tarawad property, is a heart-rending sight, and would alone furnish an irrefragable argument in favor of the proposed legislation. If every female member of the Tarawad, who in consequence of the death or desertion of the husband, now adds to the burden of

the labourer or the peon, were to bring with her a small lease-hold Paramba (garden) or some such property of her husband, or any allowance for maintenance, howsoever small, it would form a substantial nucleus of property for the protection of the family. In the case of wealthy families whose members would invariably be married to rich husbands, the addition to the wealth of the family would be enormous. I mention this circumstance simply to show that those who argue that the marriage law would be the means impoverishing the Tarawad by giving a share of a member's self-acquisition to his wife and children, lose sight of this prolific source of addition to the wealth of a family.

39. I would retain the customary forms of marriage and make registration evidence of its legal recognition. The solemnization of marriage before the Sub-Registrar, when he happens to be a member of a low caste, is opposed to usage and the feelings of the people, and cannot therefore be thought of. The proposed declaration "I (A) take thee (B) to be my lawful wife (or husband)," is also repugnant to the people and cannot therefore be recommended for adoption.

In order to effect registration of marriages I would propose for adoption one of the two following courses:—

(1) The parties or their guardians should sign a paper, in the presence of two witnesses, stating the fact of the marriage; and on receipt of this paper the Sub-Registrar should register the marriage.

(2) A marriage Registrar should be appointed for each village, or group of villages, and such Registrars should be appointed from the principal castes, such as Nayars and Tiyans &c. Each Registrar should keep a register which he should bring with him to the place of the marriage and the fact of the marriage should be entered in it, the signatures of the parties or their guardians being taken. He is to receive a fee of say Rs. 2 for each marriage; and the Sub-Registrar should register the marriage on receipt of an extract from his Register.

40 & 41 (1) Bigamy is now practiced, though rarely. The prohibition against it is therefore necessary.

(2) The condition that the man must have completed the age of 18 years and the woman age of 14 years is not now observed, and is desirable.

(3) The assent of the legal guardian when the man or woman is below 21 years, is not now an indispensable condition for a valid marriage. It may therefore be made a *sine que non*.

(4) Marriage is not now contracted within prohibited degrees of consanguinity or affinity. Recognized customs of the country and caste in such cases must be respected and upheld.

The 1st proviso would authorize marriages between a high and low caste; e. g. between a Brahman and a Tiyar, or a Nayar and a Mapilla. Existing customs as to caste should therefore be maintained.

The 2nd proviso would legalize marriages between cognates, which is objectionable, as being opposed to usage. In Malabar, marriages are not permitted between cognates, howsoever remote; and in North Malabar, even between the same 'vamsams' or tribes, between which there is no community of pollution. The proviso should therefore be so modified as to save the existing customs.

42. Unchastity, incurable disease, and incompatibility of temper, are generally considered to be reasonable grounds for dissolving a Sambandham, or marriage. Among the lower orders a woman is frequently divorced if she is found unwilling or unable to do the necessary house-hold duties. Among them physical fitness to perform the house-hold duties is regarded as an indispensable qualification for the position of a wife.

In practice marriages are now dissolved for no other reason than that the wives are not liked by the husbands; often an old wife is discarded to make room for a new one, who suits the fancy of the husband.

There have also been instances in which a wife who has borne a large number of children and has become a burden to the husband, has been put off as a good riddance.

In this connexion I may mention that the provisions of the proposed law regarding divorce, which make divorce attainable only through a decree of Court on proof of adultery, cruelty, &c., are distasteful to the people, and are opposed to their feelings, habits and traditions. They do not like the idea of being deprived of the freedom which they now possess in this matter, though they feel it necessary that its abuse should be prevented by such restrictions and safe-guards as may be deemed effectual. There is no reason why the English law of divorce, which has not been found the most perfect, should be imported among Marumakkathayam Hindus, who, in this respect, fortunately find themselves in possession of a law, which it is the tendency of modern civilization to attain, and which has the approbation of the greatest thinkers.

I would again quote Bentham on the subject. He says "Love on the part of the man, love and foresight on the part of the woman; the enlightened prudence and affection of parents,—all conspire to imprint the character of perpetuity on this alliance."

But what shall we think if the woman adds this clause "we shall not be at liberty to separate, though hereafter we come to hate each other as we now love"? Such a condition would seem an act of folly; it has something about it contradictory and absurd which shocks at the first glance. Everybody would agree in regarding such a proviso as rash, and in thinking that humanity requires it to be omitted.

But it is not the woman who asks, it is the man who invokes this absurd and cruel clause; it is the law which imposes it on both as a condition which cannot be avoided. The law comes in between the contractors; it takes them by surprise in the midst of youthful transports in those moments which open all the perspective of happiness; and it says to them "you form this connexion in the hope of enjoyment, but I warn you, you are entering a prison of which the gate will never open. I shall be inexorable to the cries of your grief, and though you wound each other with your chains, I cannot suffer them ever to be loosened." To believe in the perfection of the object beloved, to believe in the eternity of a passion felt and inspired, these are illusions which we may well pardon in two children blinded by love. If there were a law which forbade the taking a partner, a guardian, a companion, except on the condition of always keeping him, what tyranny, what madness it would be called! Yet a husband is a companion, a guardian, a manager, a partner, and more yet; and still, in the greater part of civilized countries, a husband cannot be had except for life.

To live under the perpetual authority of a man you hate, is of itself a state of slavery; but to be compelled to submit to his embraces, is a misfortune too great even for slavery itself. Is it said that the yoke is mutual? That only doubles the misfortune. When death is the only deliverer, what horrible temptation, what crimes may result from a position so fatal!

Divorce except by the decree of courts, is allowed in many civilized countries. In Sweden divorce is allowed for adultery on either side, which amounts to the same thing as permitting it by mutual consent.

Under the Code of Frederic the parties can separate at pleasure, and marry again after a year's desertion.

At Geneva, adultery is a ground of divorce, but it may also take place for mere incompatibility of character. As divorce is proclaimed in all the churches, it is rare; and the proclamation is a sort of public censure always dreaded.

Marriage in France has of late been made dissoluble at the pleasure of the parties.

So a Roman marriage was dissolved by divorce in the lifetime of the parties by the will of both or one of them.

I would therefore propose, as an effective check on capricious divorce, that divorce should take place only after a year's desertion, and that the party who wishes to effect the divorce should send to the other party a written notice setting forth the reasons and circumstances under which the dissolution is sought; and the notice should be signed by two relations of the man or woman, as the case may be. A copy of the notice should also be forwarded to the Sub-Registrar and should remain affixed to the outer wall of his office for the period of a year.

These safe guards, especially the necessity of securing the counter-signature of two of the relations of the parties, and the publicity which would result from the fixing up of the notice in the Sub-Registrar's office would constitute an adequate check upon capricious divorce. There is besides the probability of the parties being reconciled within the long period of a year, through the intervention of friends and relations; and, if no reconciliation takes place within the time, the case is decidedly a fit one for a dissolution of the marital relation.

43. The wives and children of Nayars are now invariably maintained by the husbands during their residence in the husband's house; and they generally live in the house of the husband. During their residence in their own Tarawad the husband only gives them clothes, oil, and some allowance of money for incidental expenses. When the family of the wife happens to be poor, the husband, if he has the means gives his wife and children everything required for their maintenance.

44. I agree in the justice and necessity of all the new rights proposed to be derived from a marriage as described under this question.

45. Sambandham is not customary between the Nayars in British Malabar and those living in Cochin and Travancore.

(Signed) A. C. KANNAN NAMBIAR,

District Munsif,

Badagara.

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MARUMAKKATHAYAM MARRIAGE COMMISSION.

ANSWERS TO INTERROGATORIES
BY

M. R. RY. T. GOPALAN NAYAR AVARGAL, B. A., B. L.
DEPUTY COLLECTOR,
COIMBATORE.

1. Amongst Nayers and higher castes, a man of a higher division may form Sambandham in a lower division except the last four of the 18 classes of Sudras, viz., Chetty (bazaar man), Châlian (weaver), Veluthêdan (washerman) and Velakkathravan (barber).

2. The same liberty is not generally accorded to a woman but instances are not wanting of such Sambandhams, even though during the Sambandham, the woman would not and could not take meals in her Sambandhakâran's house or taravâd.

3. Sambandham is not generally formed between divisions of disputed superiority. Sudra and Chârnata each claims to be higher than the other and there being no mutual agreement, no Sambandham generally takes place. The same is the case among Vattêkâdan, Pallichân and Athikurissi also.

4. The formality attached to a Sambandham against customary law is the excommunication of the woman where the difference in degree is very great, for instance a Nayar woman forming Sambandham with a Tiyan. The excommunication in cases of this sort, extends to the prohibition against the woman entering temples, touching tank and wells &c. When the difference in degree is not great, or where the man and woman are both of the fourteen upper classes of Sudras, and the casteman of the woman do not approve of the Sambandham, the woman is boycotted on all festive occasions, that is no one of the caste people would go to her for any ceremony nor would she be invited for any.

5. Such a Sambandham cannot be validated by any Prâyaschitham, but the penalty may be avoided by a denial or discontinuance of the Sambandham, and where the caste has a ruler (Raja or Nambudri) he has also to be propitiated.

6. The boundary between North and South Malabar is Korapuzha.

7. Nayers of North Malabar form Sambandham with women in South Malabar but not vice versa.

8. There is no legal prohibition against a Nayar of South Malabar forming Sambandham in North Malabar; but it is not practiced because of the prohibition against North Malabar women crossing the Korapuzha southwards.

9. Women of North Malabar may not cross to the South of Korapuzha.

10. The reason is this; The ruler of the Southern part of North Malabar was Porlâthiri (Raja of Kadathanâd). He was originally King of Calicut but was expelled by the Zamorin and driven northwards. The bitter enmity between the

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two Princes led to a mutual prohibition of intercourse; but the native sovereignty has come to an end, the prohibition is dying out, and has died out except in the case of North Malabar women.

11. The first part of the tālikettu kallyanam is അപ്പമംഗല്യം Ashta Mangalyam. This is a religious ceremony having no real bearing on the Kalyanam itself. The next is the tying of the tāli at the time named or specified by the astrologer (Kanisan). The tāli string is placed round the neck of the girl by the man, and it is actually tied by the girl's mother or other near female relations. The man lives as a bridegroom for the four days the ceremony lasts, except where the man is a higher caste man. The ceremony is an exact representation of marriage and the tāli is the recognized emblem of married life. The girls on whom this operation is to be performed, are taken to the place of performance by the male members of their tarawād, but those members are not allowed to touch them after the tāli is tied.

12. The man who ties the tāli is a Kshatria Tirumulpād, a Nedungādi, a Kiriyaṭhīl Nayar, or an Enangan. Various divisions have various arrangements about the man. The name of the man who ties the tāli is Manāla-pilla (literally bridegroom).

13. The same man ties the tāli round the necks of several girls at the same time and place except when he is an Enangan, in which case a man is required for each girl.

14. The man who ties the tāli does not thereby secure a right to cohabit with the girl. The only explanation I can find for it is that the original and borrowed signification of the ceremony is lost, and Kalyanam now remains an unmeaning and superfluous formality.

15. There is no prohibition against the man who ties the tāli, afterwards forming Sambandham with the girl.

16. I do not know of any such instances personally, but I have heard that this is practiced.

17. When the man dies, the girl observes pollution if the man belongs to the same caste as herself. Some carry the principle much further for instance the Nambidis of Chowghat perform marriages in pure Hindu form, but the woman are afterwards allowed to form Sambandham with Nambidis or Nambudiris. When the man who married the woman dies, the woman observes pollution and is also debarred from wearing jewels afterwards. She becomes a widow except as to shaving the head, but the Sambandham may continue.

18. Tāli, is sometimes tied round the neck of a girl by her mother in the presence of the earthen idol worshipped in every house at Onam. This is rarely done now and that only by very poor people.

19. Every girl should undergo the tālikettu ceremony before reaching the age of puberty. There is nothing but custom to justify the rule.

20. The representatives of both houses (the tarawāds of the boy and girl) meet and consult horoscopes. If a match is agreed on, a day is fixed. The bridegroom having taken the permission of his elders, formally proceeds with a number of followers to the house of the bride so as to reach there after nightfall. They

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proceed to the room of the bride and there the leader of the bridegroom's party asks the mother's permission for the bridegroom visiting the bride for six months. The bridegroom and party remain there that night and depart before day break. Another night the bridegroom goes again with a smaller following, and pays the bride a sum of money to secure her consent to the continuance of the visits and leaves the house before day-break. Then the woman of the bridegrooms' house go to the bride's and take her to his house on an auspicious day and the Sambandham continues.

21. Where the bridegroom is a Nambudiri or a Pattar, the consultation of horoscopes, is dropped. Suitability as judged thereby is made to give way to expediency.

22. In North Malabar, the chief ceremony is the gift of cloths, but that is not generally done in South Malabar on the first night. I understand that in parts of South Malabar, other than Palghat, the reference to the six months' term is dropped. If so I believe it is only due to the march of education.

23. There is no prohibition against a woman having Sambandham with more than one man at the same time; but except in parts of Walluvanad Taluk and of the Native States, I do not think it is now practiced.

24. There is no prohibition as stated in the answer to question 23.

25. A woman may terminate a Sambandham when she pleases.

26. I have heard that formerly a woman had to return the money she received on the 2nd night, (vide answer to Question 20) before she could dissolve the connection, but even that formality has now disappeared.

27 & 28. A man may have Sambandham in more houses than one at the same time, and there is nothing to prevent him from doing it.

29. During Sambandham the woman usually lives in her own tarawād and the Sambandhakkāran visits her there, except on festive occasions, when she has to go to the Sambandhakkāran's house (if allowable). The official classes are forced to violate the rule and those instances are becoming large.

30. I understand that a woman usually lives with her Sambandhakkāran in North Malabar.

31. The only liability of a Sambandhakkāran is to give the woman അപ്പമംഗല്യം bare maintenance, or എണ്ണയും തുണിയും oil and cloth. The woman and her children are fed by their tarawād and they get the extras such as oil, clothes from the Sambandhakkāran who has also to pay for the woman's confinement. It is doubtful if the courts would recognize even this.

32. Among the educated classes permanency of Sambandham is becoming the rule and among Nambudiris &c., the rule is the other way.

33. Sambandhakkāran feeds and cloths his wife and children when they live with him.

34. When Anandravars work for the tarawād the Kāranavan does not grant them any allowance on that account. They often cultivate tarawād lands for rent and the surplus is the self-acquisition of the Anandravan who makes it.

35. Some Anandravars work for the tarawād (rare) and some for themselves.

36. The earnings are not handed over to the Kāranavan but the acquirer maintains his wife and children and also maintains his own Tāvazhi (താവഴി).

37. Property is given in Putrāvākāsam in North Malabar, and the woman and her descendants take the property jointly so as to form a separate tarawād with respect to that property. There is nothing analogous in South Malabar.

38. I see no objection to a permissive marriage law being provided for Nayars, except two that I have lately heard. (1) The Nambudiris, and other aristocrats, who do not like to have any obstacle put in the way of the exercise of their unbounded license. (2) The permissive law may very soon ripen into a power in the land so that the people who do not follow it may be ashamed of themselves, and yet may not care to change the old custom. Both these are, I think, dog-in-the-manger objections.

39. So far as the form of marriage is concerned, I do not think any change is necessary. What is wanted is reliable evidence of the fact of marriage. Registration may be made compulsory to provide the best evidence possible. I do not see the fun of constituting the Sub-Registrar our marriage High Priest.

40. (1) This is new and not a part of the existing system, but the provision is necessary.

(2) There is no limitation of age now either way. Hence the provision is new.

(3) Now the rule is that Sambandham should be with the consent of the heads of both Tarawāds, either previously obtained or subsequently ratified. This provision to my reading makes the previous consent a *sine qua non* for the validity of the marriage.

(4) The condition does not differ from the existing system but the provisos do. The first proviso is a well devised attempt to do away with the existing difficulties of the inter-divisional marriages. I am entirely in favour of this proviso. The second proviso is a limitation upon the existing disqualifications. Now two members of a Tarawād cannot intermarry however remote their consanguinity or affinity is.

41. I have no additions to make to the above conditions but would suggest the following alterations. In (2) the marriageable age of the girl may be put down at 12 instead of at 14 (Scotch act). Girls very often attain full maturity when they are 12 or 13 years old. In (3) the age of 21 may be altered to the age of majority as prescribed by the Indian majority act. In (4) I would omit proviso 2 altogether for I do not think the time has come to split-up our Tarawāds to such an extent as to let a member of a branch marrying in another branch of the same Tarawād.

42. Adultery by the wife is the chief ground of a dissolution of Sambandham. Inequality of temper now suffices, or the inclination of either party to dissolve.

43. When a woman and her children live with the Sambandhakkāran of course they are maintained by him if he has funds of his own; or if not, if it pleases the Kāranavan to give the Anandaravar funds therefor. The woman and children cannot under existing law claim their maintenance from their Kāranavan either, for they live away from the Tarawād house.

44. I approve of the principles contained in (a) (b) (c) (e) and (f) but in (d) I would make a change. My proposal is this. "Where a man who has married under this form, dies intestate, his property should be divided, $\frac{1}{3}$ going to his wife and children jointly, $\frac{1}{3}$ to his tarawād, and $\frac{1}{3}$ to his mother and her descendants; on failure of any one class, the other two to take property in moieties, and where there is only one of the three classes, the whole property to go to that class. Where a woman dies intestate, her property should devolve on her children in equal shares." I do not think it necessary that the husband should be allowed any share in the property of his deceased wife, nor is it necessary to consider the claims of the Tarawād, for my reasons for making the suggestion as to divisions of property do not apply to a woman's estate.

45. Sambandham is allowable, and customary, between Nayars of British Malabar and those of Cochin and Travancore.

T. GOPALAN NAIR.

Deputy Collector
Coimbatore.

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MARUMAKKATHAYAM MARRIAGE COMMISSION.

ANSWERS TO INTERROGATORIES

BY

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RETIRED SUB-JUDGE,
WALLUVANAD TALUK.

1. Amongst Nayars and other high caste people, a man of the higher division can have Sambandham with a woman of a lower division.

2, 3, 4 and 5. According to the original institutes of Malabar, Nayars are divided into 18 sects, between whom, except in the last 2, intermarriage was permissible; and this custom is still found to exist, to a certain extent, both in Travancore and Cochin. This rule has however been varied by custom in British Malabar, in which a woman of a higher sect is not now permitted to form Sambandham with a man of a lower one. This however will not justify her total excommunication from her caste in a religious point of view, but will subject her to some social disabilities, which can be removed by her abandoning the sambandham, and paying a certain fine to the Enangans, or caste-people. The disabilities are the non-invitation of her to feasts and other social gatherings. But she cannot be prevented from entering the pagoda, from bathing in the tank, or touching the well &c. A Sambandham originally bad, cannot be validated by a Prâyaschitham. In fact, Prâyaschitham implies the expiation of sin, which can be incurred only by the violation of a religious rule. Here the rule violated is purely a social one, and not a religious one, and consequently Prâyaschitham is altogether out of the place. The restriction is purely the creature of class pride, and this has been carried to such an extent as to prevent the Sambandham of a woman with a man of her own class, among certain aristocratic families. For instance, a lady of the Zamorin's family is not allowed to consort with a man of Erâdi, Vellôdi, or Nedungâdi sect, although he is of the same sect with her. In like manner, amongst the Kiriya, Pallichân and Chârna sects who have attained some Edaprabhu-ship (middle lordship), the ladies are not permitted to consort even with men of their own sect. In the families of Pozhavâyi Nayar, Kavalappâra Nayar, Kôngât Nayar, Mannûr Nayar and those of other Edaprabhus, this rule is strictly observed, as they still think that it is more honorable to allow their ladies to be kept by Brahmans than being allowed to consort with the men of their own sect. This prohibition is somewhat similar to that obtaining among the Brahmans on the other side of the ghauts, where it is not customary for a man of Oadama sect to marry an Ashta Sahasrom girl, and vice versa. But when a marriage actually takes place between them, I do not think that the Law will go to the length of declaring the marriage invalid on that ground. It is true that the relatives will at first kick up a row, but they will become gradually cooled, especially when the married parties are influential.

6. Kôra river, which is styled "Ghâra" in Sanskrit, is the recognised boundary between North and South Malabar for caste purposes.

7 and 8. Nayers of North Malabar, usually consort with women of South Malabar. There are few instances of the Nayers of South Malabar consorting with women of North Malabar. For instance, the late Kârapally Sekhara Kurup, who was a native of South Malabar, married a lady of Palliyil house in North Malabar; and one Eroman Nayar, late Deputy Jailor and a native of South Malabar, married the daughter of the late Nazir of the Sub Court, Tellicherry, who is a native of North Malabar. I have heard 2 or 3 other instances also. The women of North Malabar are, as a rule, uneducated, and the men even in well-to-do families allow their women to work in the field, and in personal attractiveness and in refined manners, they are far inferior to their sisters in South Malabar, and they cannot cross the Kôra river. These circumstances account for the fewness of such instances. Mutual intercourse between them is expressly permitted by the following text in Kêrala Mâhâtmyam, viz:—*Translation of Slôka*—(The sons of Dêva and Gantharwa women may have mutual intercourse with the daughters of Gantharwa and Dêva females respectively, and vice versa in the country of Kêrala). In this passage, the sons of Dêva females are the Nayers of South Malabar, and the daughters of the Gantharwa females are the women of North Malabar, because according to this Mâhâtmyam, the country between Cape Comorin and Ghôra river was colonised by the descendants of a Dêva female and those of her six handmaids, and the country between the Ghôra river and Paysasini river in Kizhoor, at Kâsar-god, by the descendants of a Gantharwa female and those of her six handmaids, and the country between Payassini river and Ghôkarnam in North Canara, by the descendants of an Asura female and those of her six handmaids.

9 and 10. There is no caste or religious prohibition for a woman of North Malabar crossing the Kôrapuzha river; but tradition says that a political reason existed for the prohibition. When the Chirakkal Raja and the Zamorin were at war, certain ladies of North Malabar who came to the Zamorin's territory were ravished by certain Mapilla subjects of the latter, and the Chirakkal Raja then ruled that no female of his kingdom should come over to the Zamorin's territory. This appears to be the sole reason of the existing prohibition. As the reason of the rule has ceased, the rule also ought to cease.

11 and 12. Tâli-kettu Kalyânânam is not a marriage in any sense of the word as understood by the civilized world. The principle object of a marriage is sexual intercourse, and this idea never enters into the heads of either man or woman who goes through this ceremony. This is somewhat analogous to what a Dêvadâsi (dancing girl attached to pagodas) of other countries undergoes before she begins her profession. Among Royal families and those of certain Edaprabhus a Kshathriya, and among the Chârna sect, a Nedungadi, is invited to the girl's house at an auspicious hour appointed for the purpose, and in the presence of friends and castemen ties tâli around her neck, and goes away after receiving certain fee for his trouble. Among the other sects, the horoscope of the girl is examined along with those of the boys of her Enangan (a reconciled member of one's own clan) families, and the boy whose horoscope is found to agree with hers is marked out as a fit person to tie the tâli, and a day is fixed for the tâli-tying ceremony by the astrologer and information given to the Kâranavan of the boy's family. On the appointed day the boy is invited to a house near that of the girl where he is fed with his friends by the head of the girl's family. This feast is called "Ayanî Ūnu" and the boy is henceforth called "Manavâlan" or "Pillai." From the house in which the Manavâlan is entertained a procession is formed

preceded by men with sword and shield shouting a kind of war-cry. In the meantime a procession starts from the girl's house, with similar men and cries, and headed by a member of her Taravâd, to meet the other procession and after meeting the Manavâlan he escorts him to the girl's house. After entering the Pandal erected for the purpose, he is conducted to a seat of honor and there his feet are washed by the brother of the girl, who receives a pair of cloths on the occasion. The Manavâlan is then taken to the centre of the Pandal, where bamboo-mats, carpets and white cloths are spread, and seated there. The brother of the girl then carries her from inside the house, and after going round the Pandal three times, places her at the left side of the Manavâlan, and the father of the girl then presents new cloth tied in a Kambli to the pair, and with this new cloth (technically called "Manthravadi") they change their dress. The wife of the Kâranavan of the girls Taravâd, if she be of the same caste, then decorates the girl by putting anklets &c. The "Purohit" called "Elayath" (a low class of Brahmans) then gives the tâli to the Manavâlan and the family astrologer shouts "Muhoortham" (auspicious hour) and the Manavâlan, putting his sword on his lap, ties tâli around the girl's neck, who is then required to hold an arrow and a looking-glass in her hand. In rich families, a Brahmini sings certain songs intended to bless the couple. In ordinary families who cannot procure her presence, a certain Nayar who is versed in song performs the office. The boy and the girl are then carried by Enangans to a decorated apartment in the inner part of the house, where they are required to remain under a sort of pollution for three days. On the 4th day they bathe in some neighbouring tank or river, holding each others hands. After changing clothes they come home preceded by a procession, which varies in importance according to the wealth of the girls family—Tom-toms and elephants usually form part of the procession, and saffron water is sprinkled. When they come home the doors of the house are shut which the Manavâlan is required to force open. He then enters the house and takes his seat in the northern wing thereof. The aunt and other female friends of the girl then approach and give sweet-meats to the couple. The girl then serves food to the boy, and after taking their meals together from the same leaf they proceed to the Pandal, where a cloth is severed into two parts and each part given to the Manavâlan and girl respectively in the presence of Enangans and other friends. The severing of the cloth is supposed to constitute a divorce.

13. As already said, amongst Rajas, Edaprabhus, and Chârna sect, one and the same man ties tâli on a number of girls, and it seems throughout the whole of North Malabar the same custom prevails. But instead of a Kshatriya or Nedungâdi, a Brahman ties the tâli.

14. By tying tâli the Manavâlan obtains no right to cohabit with the girl. The reason is obvious because in going through the ceremonies the couple never intended cohabitation.

15 & 16. Like other persons he may form Sambandham with the girl. But for the purpose of cohabitation he derives no right from tâli tying. It is a separate right derived from Sambandham. I personally know but one instance of such a Sambandham.

17. Some say in ancient times the Kiriya and Sudra Sects observed such pollution, but in modern times none observe it.

18. When such number of boys as there are girls cannot be procured for the purpose of tying tâli, such tâlis are tied by the girl's mother; among the sects who require an Enangan for the purpose.

19. According to the custom, a Marrumakkathâyam girl in British Malabar must undergo the tálíkettu ceremony before she attains her puberty. Custom is the only thing that can be urged in support of this rule. In Travancore and Cochin this ceremony may be performed after the age of puberty, and in this respect they follow the Nambudri Brahmins more closely.

20 & 21. According to the approved custom, a Pudamuri, or Kidakkari Kalyanam should precede a woman's consorting with a man. But it is not always a prerequisite. In North Malabar, and in respectable Nayar families in South Malabar and throughout Travancore, a pudava (cloth) is given by the man to the woman, in the presence of his relatives and friends, and a feast is then performed. In ordinary families in South Malabar, and in all Nayar families in Cochin, betel leaves and nuts are given to the woman instead of cloths. In North Malabar, a Nambudri, or a Pattar, is also required to give the cloth as a token of Sambandham. But in South Malabar the Nambudries, being big Janmis, consider it beneath their dignity to descend to the level of an ordinary Sambandhakkâran and consequently they give no cloth or betel nuts. Even in forming Sambandham with Rânis (Princesses), they do not observe this ceremony, and in so far as they are concerned there is no ceremony at all. In the case of Pattars the pride comes from the side of the woman, and consequently in their case also no particular ceremony is observed in South Malabar.

22. The difference of formalities attending the Sambandham in North and South Malabar is not very great. In so far as I know, the difference pointed out in the preceding answer alone exists.

23. According to Kêrala Mâhâtmyam, which is invariably set up as the greatest authority in support of the Marumakkathâyam law, the liberty of having Sambandham with more than one man at one and the same time is allowed to a woman in the following words:—കുമാരന്മാരോടുകൂടി പലരായലായെ.

Here, one female may be enjoyed by three or four. But custom has now entirely destroyed Polyandry, except in some part of Cochin, and a few hamlets in South Malabar, which border on that State.

24. My answer to the preceding question will show that there is no authority for prohibiting polyandry, and a positive rule which is supposed to have the force of law, actually permits it.

25. A woman of the Marumakkathâyam family, according to the existing law, has a perfect right to put an end to the Sambandham. Her own dislike of the husband is a sufficient justification for the separation. Her omission to obtain the consent of her Kâranavan, brother, and other relatives, may be considered as bad manners. But, nevertheless, the separation will be perfectly valid, and her Kâranavan, or brother, has no right to force her to subject her person for conjugal purposes to a man whom she dislikes.

26. No sort of formality is necessary to dissolve Sambandham. The non-acceptance of the usual presents on the occasion of Onam, Vishu or Thiruvâthira on the part of the woman, or the non-sending of these presents on any of the above occasions on the part of the man, is considered as a justifiable ground for the dissolution, and no further overt act is necessary to enable the man, or woman, to seek for a different wife, or husband, respectively.

27 and 28. A man may have Sambandham in more than one house and according to the custom now observed there is nothing to prevent him from doing so.

29 and 30. During Sambandham, the woman, except in the case of her being a member of aristocratic family, sleeps and takes her meals in the house of her Sambandhakkâran. In South Malabar this was not the usual custom in former days. But for the last 25 or 30 years at least, the practice both in North and South Malabar in this respect is the same.

31. As long as the woman and her children live in the house of her Sambandhakkâran he is bound to maintain them according to the custom. But when they live in their own Tarawâd he is not bound to feed them; but he is simply to give them cloth and oil. If the Sambandhakkâran happen to be a Nambudiri, or Pattar, she seldom lives with him; but is usually visited by him in her own house. This is invariably the custom amongst the ladies of aristocratic houses, both in North and South Malabar.

32. As a general rule, Sambandham lasts until the death of either party, and changing Sambandham frequently, is considered disgraceful, especially in respectable families.

33. The father feeds and clothes his children.

34. No special allowance, as a rule, is allowed by the Kâranavan to an Anandaravan who works for the Tarawâd. An Anandaravan often takes lease from the Kâranavan of Tarawâd lands, and pays the usual rent to him. With the surplus, he deals as he pleases, it being considered as his self-acquired property.

35. An Anandaravan seldom works for the common benefit of the Tarawâd. If he works or not, he is entitled to maintenance; and consequently he is not particularly anxious to work for the common benefit—but tries to make property for himself.

36. He usually gives his earnings to his wife and children, and not to his Kâranavan.

37. What a Marumakkathâyam man gives to his wife and children as a gift is often called "Puthrâvakâsam" both in North and South Malabar. It is sometimes called "Kattil Stânam" in Palghat, and Temelapuram. Though styled Puthrâvakâsam (son's right) it does not impart any legal right on the part of the son to demand for it. A man lies under a moral obligation to support his wife and children, and this moral duty creates a corresponding right in those to whom it is owing and this gift is intended to satisfy that right—and the property so obtained is therefore called Puthrâvakâsam in contradistinction to property obtained from the Tarawâd.

38. There is not the slightest objection to providing a permissive Marriage Law for Nayars. On the other hand, the decisions of the Madras High Court in second appeal Suit No. 238 of 1868 (4 M. H. R. P. 203) and in Criminal Revision Petition No. 80 of 82 have decided that cohabitation of a man and woman under a similar system of law, which enjoins greater formalities in celebrating the union, does not constitute such a marriage as is contemplated in those sections of the Penal Code which provide for the punishment of offences against the marriage right. The security created by the customary law is thus shaken by the decisions of the highest court, and statutory law alone can now re-establish that security. A more extensive learning of law has enabled the young generation to discern that

the Sambandham does not amount to a legal marriage and that they can assail with impunity the rights supposed to have been created by Sambandham. Lately there have been many instances on the part of well-to-do men to carry off the wives of poor husbands, and consequently a law to give permanency to marriage has become absolutely necessary. Freedom of contract is one of the natural rights of a freeman, and none can deny that the most important contract which a man is capable of making is marriage, and every civilized Government is therefore bound to recognise in its subjects the right of contracting marriage. The proposed Law does not ask anything more than this privilege. It simply makes lawful for a Marumakkathayam follower to contract marriage. The law is thus purely optional and only seeks to revoke some restrictive law, which is opposed to good morals. This restrictive law is supposed to have originated from the selfish desire of a Brahmin ruler to preserve the importance of his own castemen. He ordained that the eldest son of a Brahmin family alone should marry, lest its property be split by division, and that the younger sons should consort with Nayar women. The Brahmins thus required Nayar women for their consorts. Again, the thirty thousand Brahmins whom he enrolled as soldiers for the protection of the country became disgusted with their new profession, and consequently returned to their sacerdotal avocations. He thus required Nayars for soldiers, and their women for the consorts of the younger sons of the Brahmins. He consequently prohibited marriage amongst them lest family affection may ever enter into the head of man, and lest women may have any scruple for being allowed to be kept by Brahmins. He expressly ruled that there should be no chastity among them (പാതിവ്രത്യവ്രതം, Pāthivrithya-vritham-māsthu) and that they should satisfy the lusty desire of the Brahmins. Even at the present day a Nambudri thinks that he has a right to have sexual intercourse with a Nayar lady whatever might be the position of her husband. The British Government having no desire to protect the importance of the Nambudris, and to make means for satisfying their carnal desires by compelling Nayar women to become prostitutes, is not only justified in removing the restriction but is absolutely bound to do so. The reason of the rule of the prohibition having now ceased to exist the rule should also go with it. Further the people have now attained such a degree of enlightenment and civilization as to enable them to discover the immorality and unreasonableness of their present custom, and are therefore longing for a change in their law of marriage and inheritance. Amongst the persons with whom I conversed on the subject, 99 out of 100 are in favour of the change. Most of the educated people are certainly in favour thereof and the opponents are usually found among the members of aristocratic families,—Anandaravans of rich Kāranavans, men of loose and licentious characters, and superstitious ignorant persons, who still labour under the idea that Brahmins are earthly Gods, and that it would be sinful to throw any obstacle in the way of their free sexual intercourse with their women. In the first three cases the objection arises from motives of self-interest and no need should consequently be paid to it, and in the last case they are to be pitied. The law is only permissive, and they need not therefore incur the sin.

39. I shall retain both the form proposed in the Bill, and also the existing form of Sambandham which the parties should be allowed to legalize by registration. Many well-to-do people object to go before a Registrar to solemnize their marriages and make him a sort of marriage priest. I would therefore propose that such people as would object to go before the Registrar may be allowed to legalize their Sambandham at some subsequent period. By allowing both the forms, those

that cannot wait may at once go and celebrate their marriage in the form proposed in the Bill, and those that are anxious to ascertain whether the union will be happy or not may legalize it by Registration at a subsequent period. The marriage should then take effect from the date of the Sambandham, and not from the date of Registration. In the fourth condition instead of the words "any law or recognised custom" I would substitute "Hindu law as observed in Southern India". Section 19 allows any other person to object to the proposed marriage.

It is true that the word "other" after the word "Guardian" implies a man of the same kind. But it is dangerous to have such dubious words in a special enactment, and consequently instead of the words "any other person", the words "any member of the Tarawād of either party, or his or her father if he be of the same caste with him or her", may be substituted.

40. The conditions of a valid marriage under the proposed Act differ from those of the Sambandham recognised in practice in the following respects:—(1) Under the proposed law neither party must at the time of the marriage have a husband or wife living; whereas under the existing practice the man may have a wife at the time, (2) The man must have completed the age of 18, and the woman the age of 14; whereas the age limit according to the present practice is 16 and 12 respectively, (3) if each party has not attained the age of 21, he or she must obtain the consent of his or her legal Guardian to the marriage; whereas Sambandham requires this consent even after the age of 21, (4) the relation of the parties must not be such in respect of consanguinity, or affinity, that according to any recognised custom, a marriage between them would be improper; whereas Sambandham recognises only the Hindu law for determining whether the connection would be improper on the ground of consanguinity or affinity. I approve of the first two conditions of the proposed Law. As to the 3rd, I would reduce the age of woman to 16; because at 21 she may become the mother of several children, and it is cruel to restrain her liberty in conjugal matters for so long a period. In point of consanguinity, instead of having the vague words "any law or recognised custom", I would like to substitute "Hindu Law as observed in Southern India"—Proviso 1. I would like to recast it in the following words:—No such rule of Hindu Law other than one relating to consanguinity or affinity shall prevent them from marrying. I shall strike out the 2nd proviso altogether as it would permit a marriage between the members of one and the same Tarawād which is repugnant to the feelings of the present generation. Under the proposed Act, a Tiyan may marry a Nayar woman and vice versa; which under the existing state of society is revolting to the feelings of every Nayar. To guard against such marriages, the consent of the Kāranavans, or of the majority of the members of the respective Tarawāds of the man and woman, should be made a condition for retaining his or her right of property in these Tarawāds.

41. I would not omit any of the conditions contained in the 4th Section of the Bill but would add the consent of the Tarawād evidenced either by the will of the Kāranavan, or by those of the majority of its subordinate members, as a condition not for the validity of the marriage, but for keeping-up the rights of Tarawād property of the parties to the marriage.

42. Adultery on the part of woman, or loss of caste of either party by conversion to another religion or otherwise, or refusal on the part of the woman to cohabit with her husband, or such permanent illness or disease as to incapacitate

either party for the exercise of conjugal rights, is now considered as sufficient reason for dissolving a Sambandham. The same grounds may be retained in the proposed law as valid reason for dissolving a marriage—but the process prescribed in the Indian Divorce Act should not be the sole means of dissolving the marriage. A Nayar would be the last person to go before a public court, and to ask for a divorce on the ground of his wife's adultery. His sense of honor will not permit him to do so—and considering the difficulties of dissolving the marriage, he may be slow in contracting it. It is therefore desirable in the interest of the proposed Law to remove the apprehension of this difficulty. The parties should therefore be allowed an opportunity of dissolving the marriage by a mutual agreement, without going before a public court for the purpose. At the same time, the permanency of the marriage should not be allowed to be disturbed by the mere caprice of either party. Under the prospects of having a richer husband, the woman or her relations are often induced to break off the Sambandham with a poor husband to enable her to marry the richer man. In such cases, the man's feelings are wounded—and under the impulse of the moment he might enter into an agreement for dissolving the marriage. To prevent such occurrences, it is advisable to allow the parties a certain period, say one year, to ponder over the matter of their disagreement. The party desirous of dissolving the marriage should give notice to the other of his or her desertion through the Registrar of the office in which their Marriage had been registered, and if the parties could not make-up their quarrel during a period of one year from the date of the said notice, they may then enter into a mutual agreement of dissolution and have it registered by the Registrar through whom the notice was served. This will have the effect of a divorce and save the parties from the disgrace of exposing their shame before a public court. If either party is still insisting upon keeping-up the marriage relation, he or she may go before the court. In that case, it is the deliberate intention of the party to go to disgrace and none would pity them.

43. As long as the wife and children remain with her husband, he and his Tarawâd are now under a moral obligation to maintain them. But when she and her children live in her own Tarawâd house, the Tarawâd feeds them and the husband supplies the wife with oil and cloth and other sundry expenses.

44. I approve of the conditions contained in clauses (a) to (f). But, as I already remarked, the consent of the Tarawâd to the marriage should be a condition to keep alive the rights of the wife and children to the property thereof. It can hardly be denied that the highest object of affection of a man is his own wife and children—and amongst all civilised nations the right of succession to a man's property is regulated by the degree of natural affection which he entertains for the heir. All over the world, the son succeeds to his father's estate as he stands foremost in his father's affection. It is the father who brought him into this world—and it can be hardly doubted that the responsibility for making provision for him ought to rest on the father. The great majority of the Marumakkathāyam people are in favor of giving their earnings to their children, and they even attempt to carve out secretly from their Tarawâd property something to enable them to make sufficient provision for their children. At the present day, it is the wish of every Malayâli to give his earnings to his children and by passing the proposed Law the legislature would simply make legal what every one observes in practice. The opponents of the proposed law urge two principal grounds against the change; viz., (1) the Tarawâd brought-up the man, and it is therefore just that he should make a return

for it, (2) that the members of the family perform the funeral rites—and that they should therefore take the heritage. As to the 1st ground, at least for the last twenty years, it is the father who usually brings-up and educates his children. The Kāranavan, as a rule, is unsympathetic and seldom educates the Anandaravars. He barely feeds them; because, by a positive rule of law he is bound to do so. Moreover it is only an element for consideration in determining whether the earnings of the person are his self-acquired property or not. If he acquired them with the aid of the Tarawâd, they become common property thereof and they would not in that case pass to the wife and children under the proposed law. But if it is once determined that the property is his self-acquisition, he has an absolute right in it and can dispose of it at his pleasure without making any compensation to the Tarawâd for having brought him up. The right of dispose is not merely a privilege accorded to him as it was the case with the ancient Romans before the time of the Emperor Justinian. After Justinian the property of a *Filius familias* descended to his personal heirs, and the Nayars at the beginning of the British rule had reached this stage of the Roman period although a few decisions of the High Court tend in an opposite direction. The property should therefore descend to his children as they would be his personal heirs. As to the second ground, the fitness of a person to make funeral cakes to the deceased is no doubt a condition of inheritance under the Aryan Law. But this is a peculiar doctrine of *Jemootha Vāhana* and his followers observed in Northern India. In the Southern part of India even the normal Hindus do not follow this doctrine. The *Mitākshara* the greatest authority on inheritance in Southern India altogether ignores the religious merit. Persons who confer no religious benefits whatever are admitted as heirs under this Law. In this part of the country the capacity to confer religious benefits is not the ground for regulating succession. Even if this capacity be considered as the paramount reason for regulating succession, the son should stand foremost among the persons who can present funeral cakes with any spiritual efficacy. Nayars are essentially Hindus in religion, and Hindu Sastras must be their authority for seeking spiritual benefits by performance of post obit ceremonies. Whomsoever the Hindu Sastras name to be the fittest person for the performance of such ceremonies for other Hindus, he must equally be the fittest person for Nayars also. That this person is the son, no Hindu can deny; and in fact he now performs such ceremonies and gets nothing from his father in return. It is true that there are some texts in "Manu," "Yātuyavalkya" and others to the effect that a Sudra, who does not know his father, may present oblations to his maternal uncle. If these texts are of any authority, they must be equally binding upon the Sudras all over India. They are found among the texts which recognise 12 sorts of sons and recommend a brahmin to make over his wedded wife to another to beget a son (പുത്രപ്രാപ്തി). They are now absolute and binding upon none. The Kerala Mābātmyam which is set up as a special authority for Malabar, also treats the father as the highest object of reverence and recommends the performance of uncle's funeral ceremonies as if one would do for his own father "മാതൃപുത്രപ്രാപ്തി സാക്ഷാൽ പിതൃപ്രാപ്തിയായ്" "Māthulānānja samskāram pitrunuddhisya jāthayah," and the promiscuous intercourse recommended in the previous chapter and the consequential inability of one to know his own father is the sole ground assigned for the rule. It will be thus seen that there is no force in the argument which some set up that the key of spiritual salvation amongst the Sudras is with the nephew and that the legislature cannot order the transfer of inheritance from the nephew to the son

without transferring such key also to the former. In fact, the key was never with the nephew if the Hindu religious works are to be believed. The 61st and 62nd rules of Anâchâram are not pretended to enact any new law. It is a mere codification of what had been already enacted by Parasu Râma—because, Marumakkathâyam system of inheritance had existed before Sankarâchâriar promulgated these rules of Anâchâram—and Kêrala Mâhâtmyam is thus the sole basis of the law—and we have seen there is not much in it in support of the argument. Under the Marriage system now proposed to be introduced, a Nayar would as any other Hindu, be certain of his father—and therefore there is no harm in changing the line of succession from the nephew to the son, as the sole reason given for the existing system will then disappear. If the nephew still considers that he is under a moral obligation to perform his uncle's funeral rites and does perform them, he will be only doing what the son has been hitherto doing without any remuneration. Even at the present day, the nephew does not invariably perform them—and as a rule, a distant member of the Tarawâd, who has no particular business to transact is told off to attend to them. The religious belief in the efficacy of the nephew's performing the ceremonies is thus already shaken, and indeed in practice the nephew does not as a rule now get the inheritance. The High Court thinking that the right of an Anandravan to hold incumber and dispose of his self-acquired property, is a mere personal privilege accorded to him, as it was the case to a *Filius familias* under the Roman Law before Justinian, has ruled that it should incorporate itself with the Tarawâd estate and pass to the management of the Kâranavan, who as a rule is a distant relative possessing no religious merit for performing the obsequial ceremonies with any spiritual efficacy even under the Kêrala Mâhâtmyam. For all practical purposes the Court-made law has thus already taken the heritage from the nephew, and the Legislature will only now make its devolution more natural and reasonable. As Tarawâd is a mere civil family and no religious element enters into its constitution it is an utter nonsense to talk of the key of Salvation being with the nephew. The two grounds urged are thus shown to be no valid grounds for not changing the line of succession and it is for this reason I approve of the proposed law. I however think that the maintenance of the mother of the deceased ought to be a charge upon his or her estate.

45. It is customary.

K. R. KRISHNA MENON,
Retired Sub-Judge,
Walluvanad Taluk.

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LETTER
AND
Answers to Interrogatories
BY
M.R.Ry. B. KAMMARAN NAYAR AVARGAL,
District Munsiff,
CHOWGHAT.

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(8b)

Answers.

1. Yes.
2. No.
3. It is regulated according to the custom involved in questions 1 and 2. The test of determining whether a man or a woman belongs to a higher or lower division seems to be this, viz., woman in higher division by being coupled with man in lower division loses her status, whereas, if she is so done with a man in higher division she neither loses her status nor improves her own. Therefore, if that class to which a woman belongs does not consider it a dishonour to form Sambandham with a man of another class, the former must be considered either as equal to or lower than the latter, so far as division or such caste, is concerned. This seems to me to be the fundamental rule, or idea, which form the basis of the regulation of intermarriages between different castes, or divisions of the same caste, throughout the whole Hindus. Hence, a Nair man of ചാർന (Chârna) division, which is lower, will not be allowed to form Sambandham with a woman of the തുട്ര Sudra Nair division.
4. It does in that the parties of the marriage, and their offspring, will not be allowed to intermarry or interdine with the members of their respective division.
5. No. Validation by Prayaschitham of a Sambandham not sanctioned by usage is unheard of.
6. Korapuzha.
7. Yes.
8. Yes to a very limited extent. The rarity of such occurrence is, I believe, on account of scruples and ignorance on the part of North Malabarians as to the relative social position of the several divisions of South Malabarian Nairs.
9. They cross it if they go on pilgrimage, but not otherwise.
10. I imagine the following is the cause of it. For centuries together the countries lying north of Korapuzha were ruled by Kolathiri Raja of Chirakkal, or by some chiefs paying homage to him. In the same way, those lying south of Korapuzha were under the rule of Zamorin of Calicut, or some relations or chiefs paying homage to him. These two parties were always belligerent with each other. The military of these two powers was wholly composed of Nairs, and these were very anxious to protect the honour of the women of one party from violation from the other party. In an age in which extradition law was unknown or impossible, necessity forced them, especially North Malabarians who seem to me to be of more orthodoxical turn of mind than their Southern brethren, to declare it a forfeiture of caste for any Nair woman of North Malabar to cross Korapuzha the natural boundary of these two Rajas.
11. Tâli kettu kalyânam is, in essence, a sham imitation of Brahminical ceremony of performing marriage of a girl before she attains her puberty. It is believed that the occurrence of puberty before Tâli kettu kalyânam works forfeiture of caste. But since the people most scrupulously guard against loss of caste such an occurrence is not within the memory of living men. Now to the description of cere-

mony. The form of ceremony varies among various Tarawāds and divisions of Nairs. I will confine myself to the ceremony in vogue among Tiyars following Marumakkathāyam in North Malabar, as my knowledge about that affair among Nairs is not as thorough as to be wished. An auspicious day and hour (commonly called muhūrtham) is fixed in consultation with the local astrologer, who is generally of Kanishan caste. The Muhūrtham (മുഹൂർത്തം) is none other than the one prescribed for marriage in Hindu Astrology. Because Tāli kettu kalyānam as understood and practised, among Marumakkathayam people is unknown to Hindu Law. Even if the Muhūrtham is fixed by a professional man of another caste, the Kanishan of the locality, who has some hereditary perquisites to be obtained on such occasions, must be present at the time of the ceremony. A pandal is erected and decorated in the front yard of the house. Four lamps are hung up at the four corners of the pandal and well lit up. A plantain tree, which has its bunch of plantains present on it, is placed in its natural position at the right hand corner of that side which is directly opposite to, and in a parallel line with, the side lying immediately close to the house. Before the ceremony in the pandal, which I may call the second part of the whole ceremony, is described, I will describe the ceremony performed in the room of the house. A barber-woman is invited to perform the ceremony. She, in fact, takes the place of Brahmin Purohit. Two neatly washed clothes are brought by washer-woman. One of these two pieces the girl is made to clothe with. A rectangular space is drawn with paddy, and in the middle of it brass-pot with water and rice (അരി) in it is placed. Seven grains of rice and seven flowers of Tumba (Nepeta Malabarica) are placed by the barber-woman in the hand of the girl, and she (girl) is made to place them in the water above-said. A round motion is given to the water by the barber-woman with her hand, before the grains of rice and flower are put in it. By the position of the flowers the women standing around prognosticate the future life of the girl. A virgin girl to whom Tāli Kettu Kalyānam was not performed is made to attend this girl, and she is, further, made to sprinkle water over the head of the girl under description, at a certain stage of the ceremony, and I will have to mention these two girls very often hereafter. I will call our subject of description senior girl, and the other, junior. This senior girl is made to lie on the second piece of cloth referred to above, which is spread over a blanket at a convenient part of the room generally close to a side-wall. The junior girl must attend her now. She cannot leave her till the whole ceremony is over. This part of the ceremony is called “കല്യാണകട്ടിയെ തിരുട്ടിവെക്കുക.” തിരുട്ടുക means to attain puberty, or to appear menses for the first time. So, തിരുട്ടിവെക്കുക (tirattivēkkuga) means to perform the usual ceremony consequent on the first appearance of menses. After a while, the senior girl is adorned with all possible ornaments and made ready for introduction to the open pandal in the presence of the public. Before that is done an elderly woman, generally the wife of the uncle of the senior girl, comes attended with 5, 7, 11 or 21 females in the pandal. She takes in her hand a board, which is generally used for sitting upon, and making 3 rounds in the pandal, accompanied with the women above-said, she places that board in the middle of the pandal and sits behind it. In the pandal also a rectangular figure is drawn by the barber-woman with paddy. This elderly woman is to sit down within that figure. Soon after, another elderly woman, from within the house, asks the astrologer thrice a formula to the following effect:—“പെരുങ്കണിയാരളെ കല്യാണകട്ടിക്ക പന്തലിൽ കിഴിവാൻ സംബന്ധമുണ്ടാകുമോയോ.” That is to say, “oh! chief astrologer! Is the auspicious time for the bride to enter the pandal and go through the ceremony of Sambandham come?”

On the astrologer's replying in the affirmative the senior girl, with her attendant the junior girl, is introduced into the pandal. She is further attended by the same number of females as above mentioned, and made to make 3 rounds in the pandal. After the usual rounds are made, she is made to sit down on the board which was, as mentioned above, placed beforehand in the pandal. Before sitting down, just when she finished the rounds, the elderly woman, who was first introduced and seated in the pandal, rises and receives the girl, and asks her to sit down. After this some elderly women sprinkle rice first on the fire in the lamp, and afterwards on the head of the girl. It is then the important ceremony of tying the Tāli is performed by the barber-woman with the permission of the elderly male members of the caste present there. Afterwards either father or uncle of the girl enters the pandal, and gives a new cloth to the girl. In fact he with his own hand, clothes the girl with it. Afterwards all the relations and friends follow the same. Some give clothes, and some, money. All these are considered as presents. While this girl was sitting there the attendant girl is made to go to mulla plant (Jasminum Sambac). Even if there is really no “mulla”, yet a spot which is a few paces from the pandal, is for the purpose regarded as the place of mulla plant, which is represented by an iron nail fixed on the ground and water is poured there. The attendant girl is next escorted back to the pandal. There, a covered brasspot in which three bundles (one composed of charcoal &c., another composed of rice and flower, and the third composed of gold and flower) had been deposited, is uncovered by the barber-woman and the senior girl is made to pick up one of them according to her choice. This is also to ascertain whether her future life is prosperous or not. After this a cooking vessel, a spoon, and a stone-grinder are brought to the pandal and the barber-woman holding the hand of the girl pretends to make her cook, grind &c., repeating certain significant formulas. When this is finished the senior girl is made to get up, and walk up to the plantain tree, adverted to in the beginning of this. She is made to cut down by one stroke the bunch of the plantain, and then escorted back to the house. Here the ceremony ends. The attendant girl is colloquially called കന്യാക്കലം (kanyikkalam) which is a corrupted form of the word കന്യാകലം (kannyākalam.) It is this attendant girl that is to bear the brass-pot (ഉരുളി) on her head, and bring it to the pandal. A similar virgin girl attends, that senior girl at her ceremony of the first appearance of the menses. I have thought it necessary to give such a minute detail of the ceremony, to show that this ceremony is nothing but an imitation or aping of the Vivāham (marriage) of Brahmans. In the case of the latter she and her offspring become the heirs of the husband, whereas in the case of the former, Marumakkathāyam Law does not allow that. Several incidents and formulas uttered in the several stages in the course of the ceremony coincide with those in the marriage-ceremony prescribed by the Brahmans. For instance, (1) fixing of the auspicious time in consultation of Hindu Astrologer, that is, according to Brahminical rules; (2) the presence of barber-woman in place of purohit; (3) sprinkling of rice to the fire which ceremony is emblematic of two things, namely, making an offering to the Fire-God and calling his attention and blessing to the ceremony just going to be performed; (4) tying Tāli in the open pandal which is called kalyāna-pandal (5) asking the astrologer whether the auspicious time for entering the pandal, and performing the ceremony sambandham, is come; (6) gifts of clothes and money by relations and friends; (7) going to a mulla-plant which is emblematic of rearing flowers for the better enjoyment of nuptial life; (8) to learn cookery, and proclaim the knowledge of it to the public, thus shewing that she is well up in all those branches of knowledge which are considered as indispensable for a

Hindu wife; (9) cutting down plantain fruit which is symbolical of giving birth to a child; (10) the present idea of dishonour and forfeiture of caste in case the menses appear before the performance of Tali kettu kalyanam just as the idea of the other Hindus of losing the caste of the girl in case she is not given in marriage before she attains her puberty—all these and several other minor things point to, in my humble opinion, nothing but that this Tali kettu kalyanam is an imitation of Vivâham, or marriage ceremony, prescribed according to the Brahminical rules. I may be here allowed to digress and say that this custom, as almost all the customs in the world are, is blindly followed in all its details without bestowing any thought upon its origin, or presence of several incidents in it. I may point out that that part of ceremony, which is performed in the room of the house with less publicity, and which goes by the name of തിരട്ടിവേക്കൽ (tiratti-vêkkal) and several undescribed minor parts, which exactly coincide with those of the ceremony performed at the appearance of the first menses of a girl, point to show that this first part is the remnant of that old Brahminical custom according to which a woman is given in marriage only after she attains her puberty.

12. As to who should tie Tali it is answered in the answer to the previous question. I do not know if there is any particular name for the tier of the Tali in Malayalam language.

13. Now it is the custom among Tiyars also. For formerly it was not so.

14. This question does not arise among Tiyars as it is the barber-woman that generally ties Tali. As to the custom among Nairs I do not know.

15. So long as Tali kettu kalyanam is the counterfeit of marriage I don't see there can be any just prohibition to the Tali tiers afterwards forming Sambandham with the girl. But whether there is actually any prohibition among Nair community, I do not know.

16. No.

17. I do not know. Such a thing is not even heard of in North Malabar.

18. Among Tiyars in North Malabar, Tali is sometimes tied on by the girl's mother or grandmother instead of by barber-woman.

19. Yes. Nothing but custom to be pleaded in justification of the practice alluded to in the question.

20. Yes. Formalities differ in different classes and localities. I will briefly describe the formalities obtaining in Tiyar community. When a man's marriage is intended his father, karanavan or other guardian, after finding the girl and getting the promise of the girl's guardian, fixes in consultation of the relations and friends of both parties an auspicious day for the celebration of the marriage. On the day fixed the bridegroom, with his best man, accompanied by a number of friends and relations, both males and females, go to the house of the bride. There they are received and fed at the cost of the guardian of the girl. In a selected room which is generally the middle one, both the bride and the bridegroom, with his best man, are made to sit down separately, the bride being at the left side of the bridegroom. A lamp is lighted and rice is sprinkled, first on the fire in the lamp and then on the heads and shoulders of the bride, bridegroom and the best man. Afterwards, the gôtram, or clan, of the two parties is proclaimed and a certain amount of money

which is chiefly contributed by those invited, is given by the guardian of the bridegroom to the guardian of the bride. That money is called kânapanam, കാണപ്പണം, that is, mortgage-money. In some places it is called the kanjipanam കഞ്ഞിപ്പണം, that is, the cost of the food given. After this, the bride, bridegroom, and the best man accompanied by several relations and friends go to the house of the bridegroom. The ceremony ends there. This is the essence of the ceremony. There are many minute details which I have omitted.

21 and 22. I have no knowledge.

23. There is no such a custom among Nairs or Tiyars in North Malabar. It is not even heard of as having existed at any time there.

24. See answer to Question 23.

25. Yes.

26. None.

27. Yes.

28. None.

29. The general custom is for the woman to sleep and take her meals at the house of her husband. But there is no objection to her remaining in her house also.

30. The above is the custom in North Malabar. As to the custom in South Malabar I have no personal knowledge.

31. So long as the woman and the children live in the house of the man, the latter is bound according to the recognized custom to support them, but not when she and her children live in her house. In the latter case she is only entitled to clothes and oil.

32. It is not the custom to change Sambandham frequently. To do so is an exception. For a man and a woman to cleave together as husband and wife for life is the rule. At least, it is so in North Malabar both among Nairs and Tiyars. There are thousands of instances of that custom.

33. He does.

34. If Anandiravars work for the Tarawad allowance is not invariably made to them by the Karanavan. Anandiravars sometimes do cultivate Tarawad land for rent. In such cases they are treated as ordinary tenants and permitted to deal with the surplus, if any, at their pleasure.

35. Anandaravars do not generally work for their Tarawad, unless all their expenses are met by their Karanavar.

36. Anandaravars use their private earnings as they like. It is seldom, I should say it is never, that they hand over their earnings to their Karanavan.

37. In North Malabar what is known as Puthrâvakâsam is nothing but an actual gift, by a formal deed, of property by father to his children. The incidents of such gifts are just the same as those in other communities. Only the self-acquisition is generally given as Puthrâvaksâam. If Tarawad property is ever given such a transaction is invariably set aside by law-suits by Anandiravars unless the latter ratify such gifts. I do not know whether there is in South Malabar any practice analogous to it.

38. None.

39. If legal sanction is to be accorded to marriage I would prefer to retain the customary form even without any registration of marriage at all. To preserve the evidence of marriage the fact that a marriage has taken place may be reported within a fixed date to some specified officer of the Government by the nuptial parties, or their guardians, or by both.

40. The conditions of a valid marriage mentioned in the margin of the question paper differ in the following respects from the Sambandham recognized in practice, viz:

(1). In Sambandham it is not compulsory that the man must, at the time of Sambandham, not have a wife living. But it is imperative in North Malabar that the woman should not have a husband living. That is to say, a woman cannot be the wife of more than one man at the same time.

(2). The limit of the age of the parties of Sambandham is simply discretionary with them.

(3). Neither party must, as of necessity, if he or she has not completed the age of twenty-one years, have obtained the consent of his or her legal guardian at the time of Sambandham. Generally, if not always, consent of guardians is obtained in such cases.

41. As to condition No. 1 in question 40, I would follow the ordinary Hindu Law, and Mahomedan Law, which allow plurality of wives; with provisos that the husband will be bound to maintain all the wives just in the same way as he could do if he had but one wife, and that on his marriage with a second wife, without a written consent from the first wife, she will be entitled by that simple reason, if she chooses, to get a divorce from him. If the first wife agrees to her husband's taking a second wife why should the law refuse him. If the first wife does not agree she must get her liberty. The law of monogamy is certainly excellent. But it is, in my opinion, too divine for man. Because, in life a thousand and one circumstances crop up which force a man for the sake of peace and happiness to seek a change of wife. A law for the guidance of man must neither be inconsistent with his human nature, nor such as he is, in the long run, more apt to break than stick to.

To condition No. 4 under question 40, I would add another proviso enabling a man to marry his deceased wife's sister. I think such a practice will considerably conduce to the happiness of both families, and especially of the children by the first wife.

42. Loss of caste of either party, or change of religion, or adultery or mutual misunderstanding, is considered as reasonable ground for dissolving a Sambandham.

43. See answer to question 31.

44. (a) I think the provision is consistent with nature. So, I would have it retained. The words "children born to him before or after such marriage" in this clause and clause (d) suggest indirectly that even those who live now as husband and wife may go through the ceremony of marriage prescribed according to the proposed Act after it comes into force. If so, it must be plainly expressed. The provision in clause (1) under question 40 is not explicit enough in this matter.

(b) As the Act is intended to be only a permissive one the retention by wife and children of their right to their Tarawad, property cannot but be provided for.

Further, it would appear by this provision that the children by the mere fact of their having been born in a wedlock sanctioned by this law do not fall under the obligation of performing their own marriage according to this Act. They are quite free as if they were otherwise, in other words, it is the form of marriage alone in individual cases which give birth to the new rights. Under this law a man may at once be the Karanavan (head) of his Tarawad, and be entitled to a portion of his father's property, and also be responsible to his wife and children, if he contracted his marriage according to this act. There also, as at present, the duty of a man as Karanavan towards the members of his Tarawad may conflict with his natural affection towards his children and wife. I don't think we can help it.

(c) and (d). I have nothing to say against these. I would here suggest a supplemental provision to the effect that the self-acquired property of one of the children of such wedlock, who dies intestate, must, if he has no wife or children surviving, be inherited by the surviving children and mother and not by the Tarawad. I am aware that the right *as between* brothers and sisters does not actually arise, according to the spirit of the proposed Act, from the marriage tie of their *parents*. But comparing the justice of the right of the Tarawad and of that of the surviving children to the property of the deceased, I am inclined to think that the provision suggested is not very wide of the scope of the Act.

(e) The words "sufficient" and "suitable" must be explained. It must be clearly made known whether the amount of maintenance which the wife and children are entitled to get from their Tarawad, will be taken into consideration in deciding whether the provision that is to be made from the husband's estate is sufficient or suitable.

(f) I see no objection to this question.

45. I have no knowledge on the matter.

CANNANORE,
7th May, 1891.

P. KUNHAMPU,
2nd Grade Pleader,
Munsiff's Court, Cannanore.

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MARUMAKKATHAYAM MARRIAGE COMMISSION.

ANSWERS TO INTERROGATORIES

BY

M. R. RY. T. KUNYAMBU, AVARGAL,

TAHSILDAR,

PONNANI TALUK.

(*Marumakkathayam Tiyan*).

1. Yes.
2. No. But I know that the practice exists in Manopuram.
3. As far as I understand, no line of distinction can be drawn as a rule. For instance in South Malabar a Nayar of a higher division can have Sambandham with a Nayar woman either of Vattékkād or Athikkurissi section. This is prohibited in North Malabar.
4. If the woman belongs to a higher division she would be excommunicated. If it be a man he is a man (and so escapes.)
5. No.
6. There are more than one boundaries. For instance, a Nayar of Kurumbranad Taluk cannot form Sambandham in Chirakkal. A Nayar to the South of Kōrapuzha can have no Sambandham in Kurumbranad. But those in Kizhakumpram and Vatakkumpram in Calicut Taluk are not prevented from forming Sambandham in Kurumbranad Taluk. Their females cannot cross to the South of Kallai river, nor can they have Sambandham with those to the South of Kallai.
7. Nayars of North Malabar can have Sambandham in South Malabar, but those of the latter place cannot do so in North Malabar.
8. Not customary. No other reason can be assigned.
9. The restriction is not limited to Kōrapuzha. There are several other boundaries mentioned in the answer to question 6. But in certain cases, Nayars of North Malabar have commenced to bring their wives to South Malabar with the permission of their respective Rajahs.
10. By mere custom which is likely to have sprung up from the dissatisfaction with which the Northerners have viewed the habits of the Southerners.
11. It supposes the celebration of a marriage before puberty. The ceremony so varies in different places and among different sections that it is difficult to give a definite description thereof. Almost all classes of Nayars in the South select for tying tāli a man of their own community whose horoscope favours an alliance with the girl. Three days previous to the tālikettu, the girl will not be permitted to move about in the house, but should remain in a room assigned for the purpose. On the day of tālikettu, the man proposed to tie the tāli will be received in a procession and brought in. After having gone round the pandal three times along with the girl, the man enters the pandal and takes his seat there with the girl on his left side. Where there are more than one girl to undergo the cere-

mony, their seats are so arranged in the order of their age that the junior sits on the left side of the senior with the respective male on the right. Subsequent to the performance of certain religious rites, each male intended for tying the tãli receives the consecrated ornament and ties it around the neck of the girl. The girl and the male who tied the tãli, then retire to a decorated room where they remain for four days. On the fourth day the girl and the man go to the tank, take their bath, perform devotion in the temple and return to the house where the girl serves the man his meals. After he has finished his meals, she sits at the leaf in which the meals are served and partakes of the remnant. In some places both sit together at the meals. The man next gives the girl a piece of cloth severed from a double one worn by him. This is an indication of the dissolution of the marriage tie. If it is the desire of the relations that the girl should have as her Sambandhakâran the man who tied the tãli, the cloth is not so severed. Whether the tie is dissolved as above or whether the man remains as the Sambandhakâran pollution is mutually observed on the occasion of death, either of the male or the female.

In the South, among certain sections of Nayars, tãli is tied by the Nambudiris, Tirumulpâds and Kiriyañil Nayars while there are instances in North Malabar of Nambudiris doing the same. These do not examine the horoscope nor do they observe the pollution.

In certain families in Kurumbranad tãli can be tied only by a Manavâlan Nayar.

Among those people to whom it is customary for a member of their own community to tie the tãli, the mothers generally tie the tãli around the neck of infant girls. This is usual with those who have no means of celebrating a formal ceremony. Among others, the tãli ought to be tied on by a Kshatriya.

The custom prevailing among Marumakkathâyam Tiyans also varies in different localities. In some places the tãli is tied by the caste barber-women and in others by the mother or other female relation. Where the girl is to be given in marriage at the pandal in which the tãlikettu is to be celebrated, the tãli is tied by the husband himself. The bridegroom elect will tie the tãli even if the taking home of the bride after marriage has to be put off for any reason.

12. Vide answer to question 11. Where the tãli is tied by a member of the same community, the man is called Manavâlan or Pilla (bridegroom.)

13. It is the custom for a number of girls at the same time and place, to have their tãli tied on; but each girl must ordinarily have a male for the purpose. In case of poverty a number of girls will usually have their tãli tied on by a limited number of males.

14. Not as a rule. As stated in answer to question 11, if (they) do not dissolve the tie by the severance of cloth, it is considered to be a Sambandham.

15. No.

16. No.

17. In South Malabar when the man who ties the tãli is of the same caste as the woman both mutually observe pollution. This custom prevails among those other than Chârnavar.

18. Vide answer to question 11.

19. Certainly. But this is not compulsory in Manapuram.

20. Yes. On the night of the day fixed for Sambandham, the bridegroom goes to the bride's house with his friends taking some betel-leaf, nut &c. Among certain classes, it is customary for the bridegroom to take a portion of the chewing material thus brought and leave it in a plantain leaf at the entrance to the room &c., for the use of the Kâranavan of the bride. No further ceremony is performed. In certain cases the bride's people, or those of both the parties, make presents, if they choose and if they can afford to do so, in money, to Brahmins, and in cloths to others. This form of Sambandham is known in North Malabar by the name of Ūzham Porukkuka or Vîdâram Vekkuka. But in addition to the form of Sambandham observed in South Malabar, the custom prevails in certain parts of giving money to the bride. The form known as Pudamuri is confined exclusively to North Malabar.

It is as described below. The bridegroom goes to the bride's house accompanied by a number of men and taking with him four double cloths at least and some chewing materials according to his means. After meals are taken, the bridegroom enters the bed-room and takes out of the cloth brought by him a single piece which he leaves with some money for the bride. If the bridegroom is a Nâduvâzhi, a pair of bangles and silk cloth are given to the bride. The bridegroom remains for the night and takes the bride next morning to his house accompanied by his attendants and by the wife of the Kâranavan and other females.

In South Malabar, if a woman wishes to go to her husband's house some female member of the husband's family should first go to the woman's house, take meals there and bring the woman with them accompanied by some female members of her family. These females return home after taking their meals. When the woman so brought goes back to her Taravâd, she should receive some ornaments according to the means of her Sambandhakâran.

The custom is different among the Marumakkathâyam Tiyans. A little before the auspicious hour fixed for the marriage, the bridegroom goes to the bride's house accompanied by his house people and by a number of other men and women regulated according to his position and circumstances. When the auspicious hour comes a lamp is kept lit in Padinyâttâ room (Sanctum Sanctorum) with certain other requisites, and the bridegroom takes his seat along with his companion serving as a witness on his right side and the bride on the left. What the bride then wears is one of the pieces of cloth brought by the bridegroom. The elders of both the parties pronounce blessing upon them, sprinkling uncooked rice. After this a middle-man ties a fixed sum of (പൊന്നുപണം) money with rice in a cloth, declares aloud the name of the respective Illams, or Kiriyañ, of the pair according to a certain formula, and hands over the amount to the Kâranavan of the girl.

21. Some affirm and others deny the existence of the practice of giving betel-leaf &c.

22. Vide answer to Question 20.

23. The custom prevails among the poor in certain places in South Malabar. This is strictly prohibited among all castes in North Malabar.

24. Vide answer to Question 23.

25. Yes. But not among Marumakkathâyam Tiyans. The male only is at liberty to do so.

26. Ordinarily, there is no sort of formality among the Nayars. In some places it is usual to send a piece of cloth called Mâttukacha. Among Marumakka-

thâyam Tiyaṁs, the connection is dissolved by the man who acted as middle-man on the marriage day and another, and, in the absence of the former, two other men going to the woman's house and formally signifying the intention.

27. Yes. Among Marumakkathâyam Tiyaṁs there is also the practice for a man to marry more than one girl.

28. No.

29. If the connection is only under the form of Sambandham, Vidâram Vekka or Ūzham Porukkuka, she sleeps and takes her meals in her own house. Otherwise it can be done in both the places. The wife generally lives in the husband's house in the case of Pudamuri or Kettikkonduvāral (marriage).

30. Vide answer to Questions 20 and 23.

31. Not necessarily. But if the alliance was contracted by Pudamuri or kalyānam and if the wife is brought to her husband's house it is incumbent on the man to maintain her and the children.

32. Both are prevalent. But the change is not frequent in many cases.

33. Certainly the man does.

34. Allowance is given or refused according as the Kāranavan and the Anandaravan of a Tarawād are on good terms or not. According to the old custom, the Anandaravars used to give their earnings to the Kāranavan who in his turn met the expenses incurred by the former. It is not usual to make a special allowance to an Anandaravan who works for the Tarawād.

35. They do both.

36. Both cases exist. Vide answer to question 34.

37. On the death of the husband when the wife is sent back to her tarawād it is usual for Nayers and Tiyaṁs of North Malabar to give her some furniture &c., under the name of Kattu stānam. When the gift is made to sons in the shape of landed property, the deeds are usually to the effect that the gift is made as Putrāvākāsam in North Malabar. The "Kattustānam" above mentioned is not customary in South Malabar.

38. I do not see any. Why is not this necessary for Marumakkathâyam Tiyaṁs?

39. I think it more desirable that the marriage should take the usual form and then be followed by an easy mode of registration.

40. (1) When a woman has a husband living whom she has not discarded she cannot have a second Sambandham except in certain places. The man can have.

(2) Not compulsory now.

(3) Do.

(4) It is so even now. The Tiyaṁs cannot marry from their own Gōtram.

1st Proviso. There are now caste restrictions upon marriage.

2nd Proviso. It exists even now.

41. I think it expedient to modify the third condition as follows:—

Each party must, prior to the marriage, obtain in writing the consent of his or her Kāranavan of the Tarawād or if he or she be the Kāranavan then the consent of two senior Anandaravans.

Proviso. Any marriage contracted by parties who are more than twenty-one years of age without obtaining the said consent shall not be regarded as invalid.

But the man who contracts the marriage without obtaining such consent shall forfeit all claims to maintenance from the Tarawād. In the case of a woman who does so, all claims to maintenance are forfeited. Her children too forfeit their claims to maintenance in the event of the mother becoming an outcaste by reason of such marriage.

I consider the amendment necessary for the following reasons:—

The man may be a member of a rich Tarawād without any earnings of his own, and may even hold the status of the Kāranavan thereof. In such a case he may marry a woman of a low caste thinking that he could maintain her and her children from the subsistence allowance received from the Tarawād or, could, if he be the Kāranavan, give them a share of the Tarawād income which is thus misappropriated.

In like manner a poor man of a very low caste may entice and marry a girl of a very rich Tarawād with the avowed object of subsisting on the maintenance given to the woman and children from her Tarawād.

There are further objections in respect to the woman. Even when the marriage takes place under this law, her children are the heirs of the Tarawād of her birth. Let us suppose that the woman belongs to a Nayar family of a very high status and that the man is a Mannān (caste washerman). It may eventually so happen that the Kāranavan of that Tarawād would be descended from a Mannān.

Under the circumstances, the well-being of a Tarawād will be greatly endangered. And in addition, marriages will take place wherein one of the parties is gained over by the other under a self-interested motive.

I doubt whether at the time Act 21 of 1850 was passed any consideration was given to the existence of a class of Marumakkathâyam people whose family was indivisible.

42. Adultery or misconduct on the part of the woman, and loss of caste are considered to be reasonable grounds for dissolving Sambandham.

43. According to the custom prevailing in South Malabar, a Nayar wife is to remain in her own house, and is as such entitled only to expenses other than food. The local usage does not make it compulsory to give anything to her children. In North Malabar the wife and children live generally in her husband's house and the man is therefore bound, I think, to provide them with food and clothing as long as they so live. This is also the case with the Tiyaṁs in N. Malabar.

44. (a) The right to become a legal guardian should be forfeited not only by reason of a change of religion but also by becoming an outcaste.

(b) The right of the wife and her children to be members of her Tarawād should be subject to the provision that she is not excommunicated by reason of her marriage connection.

The right to claim maintenance should remain,—

(1) In the wife, till her death, in case she takes no other man as her husband.

(2) In the daughters, till they are married, and

(3) In the sons till they attain the age of twenty-one years.

(d) In the case of the husband dying without leaving a will, half of his property should, I think, go to his wife and children and the other half to his Tarawād. I consider that all reasons are in favour of this and that there is not a single circumstance contrary thereto.

1st, A man's property should devolve in the same manner as he had inherited it. In the case before us, the man inherits the property of his Tarawād as well as

that of his wife. Hence his property should by right go to his Tarawâd and to his wife and children.

2nd, The wife and children are heirs to the property of her Tarawâd and to the property of the husband. Hence the husband's property should devolve alike on his Tarawâd and on his wife and children.

3rd, A man is entitled to claim maintenance from his Tarawâd but not so from the property of his wife and children. On a consideration of this circumstance it will be found, that a man's Tarawâd has more claims to his property after his death.

4th, A man is entitled to be brought up, maintained and educated at the expense of his Tarawâd and this is enjoyed by right. I do not at all think it reasonable that under the circumstance the Tarawâd should be held to have no right to any property whatever of that man.

5th, If the property of the deceased should devolve exclusively on his wife and children, they should have no other means of inheriting property. But this is not the case.

6th, The right of the wife and children to enforce maintenance from the husband may be lost. The husband's claims to maintenance from the Tarawâd do not cease and can be enforced by him. Hence it is not reasonable to say that the Tarawâd has no right to his property and that it should devolve exclusively on his wife and children.

I apprehend that a law which declares that no member of a Tarawâd is entitled to the property of one who has been brought up, maintained and educated exclusively at the expense of that Tarawâd will interfere greatly and for a long time with the education of those who have no other resource than that of the Tarawâd incomes to look to for the purpose, as well as that of the male issue from the marriage solemnized under this law. For it is very hard that the Kâranavan of a tarawâd should at its expense educate his nephews to promote the interests of another tarawâd. It is difficult for the Marumakkathâyam Malayâlis to entertain the same opinion as is formed by those observing pure Makkathâyam considering the circumstances that the former have an indivisible tarawâd and its property and that they have been brought up, maintained and educated at the expense of the tarawâd. Hence a father who observes Marumakkathâyam rule and who has a respect for the tarawâd in consequence of the personal benefits derived therefrom, will never desire to see his sons happy and his daughters as poor slaves. The effect of this upon those in affluent circumstances will be to create a desire in the mind of the father that his children should equally enjoy his earnings, and to desist as far as possible from educating his sons at a great cost in order to further the interests of another tarawâd. For he is not certain that his daughters will be married according to the form prescribed by the law. Under the circumstance above mentioned it will be difficult for him to have a greater liking for his son's daughter than his own. I think that this opinion can be understood by the Makkathâyakkar only after a very close scrutiny. This effect will continue as long as the present tarawâd system exists and can only cease with its extinction.

(e) When a woman becomes an outcaste by reason of her marriage, the husband should forfeit his right to make a will and his wife and children should in such case acquire the whole of his property. (Vide answer to question 41). Where one is competent to make a will there should be no restriction imposed.

45. The practice is known to exist.

(Signed) T. KUNHAMBU,
Tahsildar.

ANSWERS TO INTERROGATORIES

BY

M. R. RY. M. GOPALA MENON AVARGAL,
First Grade Pleader,
TELLICHERRY.

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MARUMAKKATHAYAM MARRIAGE COMMISSION.

ANSWERS TO INTERROGATORIES

BY

M. R. RY. M. GOPALA MENON, AVARGAL,
FIRST GRADE PLEADER,
TELLICHERRY.

NATIVE OF SHRIKRISHNAPURAM,—WALUWANAD TALUK.

1. Yes.

2. No.

3. Between members of Sudra and Charnata divisions Sambandham (or marriage) is not generally allowable. But I know two instances in which Sudra men had formed Sambandham with Charnata women; but I never knew anywhere a man of the latter division formed Sambandham with a woman of the former division. Between Charnata, Vattakatt, Athikurissi, Pallichan &c., inter-marriage is prohibited.

4. If Sambandham between prohibited division is formed, the woman is excommunicated by the authorities to which her caste is subject, and her kinsmen.

5. Such Sambandham cannot be validated by Prayaschitham. But the woman can be taken back into the society on her performing Prayaschitham.

6. Korapuzha is the recognised boundary between North and South Malabar for caste purposes.

7 and 8. Generally men of North Malabar marry in South Malabar, and I know a good deal of instances in which men of South Malabar have married women of North Malabar. Men of South Malabar, when employed in North Malabar, can freely take their wives with them to North Malabar, while North Malabar females do not generally cross the Korapuzha river and accompany their husbands to South Malabar, and therefore there is no necessity for South Malabar men generally to marry in North Malabar, while North Malabar men are obliged to marry in South Malabar. Further North Malabar women are far behind those of South Malabar in point of education, civilization, beauty and general accomplishments, and hence there are fewer instances of South Malabar men marrying in North Malabar.

9. I do not find any good and valid objection for North Malabar women crossing the Korapuzha river, and I have known some instances in which they have done it; but the majority consider it objectionable.

10. I think it was more on political grounds than on anything else that the objection, for North Malabar women crossing the Korapuzha river, originated, during the reign of the Zamorin and Kolathiri between whose territorial divisions the said river was the boundary. North Malabar people still keep up the objection though the reason no more exists, and they allege some religious and traditional reasons for the same.

11. *Tālikettu Kalyānam* or the ceremony of tying tāli is, I should think, from the customs even now observed, the ceremony intended as the real marriage. It is compulsory for every girl to undergo the ceremony before attaining puberty, and in case of non-performance of it, she is excommunicated. In all the divisions such as Kiriyaṭhīl, Sudra &c., except Chārnatha, a man from their own division is selected to tie the tāli (or a small neck ornament) and he is called Pilla, or Manavālan. An auspicious hour is fixed by the girl's guardians for the ceremony, after consultation with astrologer, and after examination of the horoscopes of the girl and the proposed bridegroom. The kinsmen and relations of both the parties are invited for the ceremony. Some hours before the time fixed for the ceremony, the girl's brother, or some one from her tarawād, goes with relations and friends with betel, nut &c., to invite the bridegroom formally, and he is taken to some place near the girl's house where he is to remain till the auspicious hour. Just before the actual time the girl's male and female relations with lighted lamps go to meet the bridegroom and he is taken in procession to the girl's house, and seated in a pandal or shed erected for the ceremony. The girl's brothers, or other male relations, wash the feet of the bridegroom. The tāli (ornament) is purified by making some pūja or sacred offering; the Brahmans are given presents. The girl's father presents new clothes to the bride and bridegroom and they are to wear them then. The astrologer notifies the auspicious time, and the bridegroom ties the tāli to the neck of the girl in the presence of relations &c., who put flowers and rice on the bridal parties and repeat some songs; there is feast to all present. The bride and bridegroom sit together in the same room, and on the same mat or blanket for four days, and on the 4th day they are taken in procession to a tank for bath where also there are certain ceremonies to be observed. After return the bride serves the bridegroom with his meals, and she is to eat the remnant of the same. There is feast to relations &c., on that day also. On that day, or the next day, the bridegroom takes leave of the bride and relations. He is considered the husband of the girl, and each of them is to observe pollution on the death of the other. *The notion even now obtaining among old people is that the girl cannot take anybody as her husband without his consent, and in order to justify her taking anybody else without his consent, the bridegroom cuts the new cloth worn by him into two pieces by which ceremony, it is believed, the relationship of husband and wife is severed between them.* Among Chārnata division it is always a man of Nedungādi caste that is to tie the Tāli and I am not aware that there is any more ceremony to be gone through after it. In N. Malabar it is Nambidi brahman who ties the tāli and there is no more ceremony among them.

12. I have answered the question (*Vide* the answer to Question 11).

13. Except among the Chārnata division, and in North Malabar, one man cannot tie Tāli to more than one girl at the same time and place. Each girl must have a separate Pilla, or Manavālan. Among Chārnata, and in North Malabar, it is the custom for the same man to tie Tāli to a number of girls at the same time and place.

14. The Pilla, or Manavālan, has the right to cohabit with the girl unless the cloth is cut into pieces, and unless the girl is unwilling to have him.

15. There is no objection to his forming Sambandham with the girl.

16. Yes. I know personally an instance of such Sambandham and that too in a very respectable family.

17. The girl has pollution among Kiriyaṭhīl, Sudra, Vattēkātt, Pallichān, Athikurissi, Ullādan and all others except Chārnata and Ambalavāsi divisions, and in North Malabar.

18. Yes. When the girl is very young, say below two years of age, or when there is no available man to tie the tāli, the mother does it.

19. Yes. I am not aware of anything other than the immemorial custom in justification of this.

20. Yes. There are some formalities. First the horoscopes are examined. Then the senior male member in the man's family makes the proposal to the girl's Kāranavan, and father, and an auspicious day is fixed. On that day the man presents betel and nut to all his seniors in the house, and takes their blessing, and then starts with his relation and friends for the girl's house, where they are received by her relations, to whom also betel and nut are presented. There is feast to all present, and presents to Brahmans and teachers of both the girl and the man. After meals both the bride & bridegroom are taken to the bed-room by their relations. Now a days there is also the practice of presenting clothes on the marriage day by the bridegroom to the bride, introduced among respectable families.

21. There were instances in which all the above formalities were gone through when Nambudiris and Pattars formed Sambandham; but I have heard also of instances where there were no formalities whatever.

22. There is some difference between North and South Malabar in this matter. In North Malabar it is called Pudamuri and invariably the bridegroom makes present of clothes and money to the bride, and the bride is taken to the bridegroom's house the very next day, or soon after that.

The formalities are the same throughout North Malabar, except in some minor details. The same is the case in South Malabar also.

23. *A woman can have sambandham with as many men at the same time as she pleases, though I know no such instance.*

24. No prohibition as far as I know of.

25. *A woman is at perfect liberty to terminate Sambandham according to her wish.*

26. *There is no sort of formality to be gone through in dissolving Sambandham.*

27. Yes.

28. There is nothing to prevent him.

29 & 30. In N. Malabar generally the woman takes her meals and sleeps in her husband's house. In South Malabar she generally does it in her house, except for a couple of months in the year, during which time she resides in her husband's house. But there is a vast change to be found in South Malabar also lately, especially among officials and men of private means.

31. I do not think that there is any recognised custom for the man to support the wife and her children in S. Malabar, though as I said before there is a thorough change in this direction also. But the man always gives her and her children oil, clothes &c. In North Malabar there is, I understand, the custom

recognised by the people, and by judicial authorities too to some extent, for the man to support his wife and children.

32. I know instances of Sambandham being frequently changed, and of one man and one woman being husband and wife for life living in perfect harmony. The majority is, at least during the present generation I should think, of the latter class.

33. If the woman lives with her husband and bears him children, he feeds and clothes them.

34. Allowance is made to Anandaravars by the Kāranavan if they work for the tarawād. In some families Anandaravars cultivate tarawād land for rent, and this practice is more common in Palghat Taluk and in North Malabar. The surplus, if any, is perfectly at their disposal, and they do take it for their own use.

35. In the majority of cases Anandaravars try to earn something for themselves, and this also is more common in Palghat Taluk and North Malabar.

36. They seldom hand over their earnings to their Kāranavan. They generally support their wives and children.

37. There is such a thing as Puthrāvākāsam. It is gift by the husband to his wife and children. In South Malabar also husbands do gift away properties to their wives and children. Both in North and South Malabar certain things used by the husbands, such as blanket, brass vessels &c., are given by his relatives to his wife and children. The practice of giving Puthrāvākāsam is more frequent in North Malabar.

38. There is no objection, as far as I can see, to providing a permissive marriage law for Nayers, though I should think that most of the evil now existing can be remedied by recognising the power of willing away properties.

39. I would prefer to retain the customary form of marriage. *In my opinion the present form is not at all insufficient, and registration is not necessary.* If it is deemed necessary to have any record as evidence of the marriage, I would be satisfied if the village authorities are enjoined to keep a register of the same, with the signature of the parties, or their guardians, and two respectable witnesses, a copy of which is to be sent forthwith to the Taluk Cutchery, where it is to be preserved and copy supplied to the parties on application.

40. (1) As I stated before (vide my answer to Question No. 27) a man having a wife contracts marriage with another now.

(2) I never heard of an instance of a man of Marumakkathāyam below 18 years of age marrying, but I know of instances of girls above 11 and below 14 being married.

(3) Generally it is with the consent of the guardians that Sambandham is formed now, even if the parties are not minors.

(4) No difference.

Provisoos. No difference.

41. I would add something to the very first clause to Question 40. As it stands now a Nayar may marry a washerwoman, or some woman of a lower caste

and he will have right to claim maintenance from his tarawād. Again a Nayar woman may marry a washerman, or a lower caste man and she notwithstanding will have right to claim maintenance from her tarawād. Therefore I think it is necessary to enumerate the different divisions between which marriage may be legalized.

42. Adultery, habitual disobedience, incurable and loathsome diseases and want of providing wife with oil, clothes &c., are considered, according to social usage, to be reasonable grounds for dissolving Sambandham.

43. The Nayar wives and children have no claim upon their husbands and father for maintenance but generally men of independent means support their wives and children.

44. (a, b, c). I have nothing to say against these.

(d) This clause requires in my opinion some alteration. I am not for giving the whole of one's self-acquisition to the wife and children. *I would give the wife and children only a third, and at the highest, half of a man's self-acquisition.* In many families boys are educated by the tarawād, and it would be rather hard upon the tarawād now to rule that the fruit of such education should be altogether lost out of it and the wife and children should get the whole. Further, aged parents are as much as, if not more than, wife and children, entitled at least to maintenance, and it will be harder still, I apprehend, upon poor parents in omitting them from the category of heirs. Similarly something might be said in favour of brothers and sisters. Again the wife and children have at present no legal claim, and progress should be step by step rather than by leaps and bounds. The bill, as it provides for the devolution of one's whole self-acquisition upon wife and children is taken by the public in Malabar as a revolution rather than a reform, and hence the apparent opposition to it.

(e) I have not only no objection but I think that *this is most urgently needed.* Want of such a provision is greatly felt by Malabar though our High Court has recently upheld Will to some extent.

45. I know of a good many instances of intermarriage between Nayars of British Malabar and those living in Cochin and Travancore.

In conclusion I beg to state that I was unable on account of my absence at my native place and my illness after return, to submit my answers within a week from the date of my receipt of the questions, for which, I pray, I may be excused. Further I wish to explain my answers a little more but I am afraid, I will be too long and therefore I refrain from doing it.

I beg to remain,

Sir,

Yours most Obediently,

M. GOPALA MENON,

First Grade Pleader,

Tellicherry.

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Answers to Interrogatories

BY

M.R.Ry. C. GOPALAN NAIR AVARGAL,

Tahsildar, Chirakal Taluk,

CANNANORE.

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Answers.

1. Ordinarily a man of a higher division can form Sambandham in a lower division, but there are exceptions to this rule. For instance a man of Chârna division is not *ordinarily* allowed to form Sambandham in Vattekkât division, though the former is superior to the latter.

2. No.

3. A Chârna Nair is not allowed to form Sambandham in Sudra Nair division and *vice versa*. A man of Chârna, or Sudra division is not allowed to form Sambandham in Kiriyañhil division.

There are so many divisions of caste, and Sambandham is forbidden between so many of these divisions, that I find it difficult to give the same here in detail.

4 and 5. The woman is not allowed to associate with her caste people if she contracts a Sambandham with a man of lower division. No prâyaschittam can validate such a Sambandham, but there are instances where the woman is taken back by her own caste people on the Sambandham being dissolved, and on her observing prâyaschittam.

6. I understand it is Korapuzha: even for ordinary purposes, the recognised boundary is Korapuzha. But I think am right in saying that there are men in Calicut Taluk who have Sambandham in Kurumbranad Taluk.

7 and 8. Ordinarily a Nair of South Malabar is not allowed to form Sambandham in North Malabar. I know however instances where South Malabar Nairs have formed Sambandhams in North Malabar. I do not see what reasonable objection there could be to such Sambandhams. The only question is whether there could be any objection with regard to the caste of the parties concerned, and if that agrees, the Sambandham could well be formed.

9 and 10. Nair women of North Malabar do not generally cross to the south of Korapuzha, but there are instances where they have done so. The tradition is that the Kolathiri Rajah, to prevent the inhabitants of his country from migrating to South Malabar, issued orders that no woman should, on pain of being excommunicated, cross the Korapuzha.

11, 12, 13, 14, 15, 16 and 17.

Among the Brahmans the Kalyânam *i.e.* mairiage, should be celebrated before the girl attains puberty. To satisfy the Sudras, the Brahmans who had then the upper hand in everything, invented an apology for marriage with which Sudras were to be content. There is a diversity of practice with regard to tying the Tâli. In the Sudra sub-division, an Enangan (എണങ്ങൻ) ties the Tâli. In some places Brahmans tie Tâli. The person who ties the Tâli secures no right to cohabit with the girl, but there is no objection to his forming Sambandham, provided he is eligible in other respects. I remember having heard of instances where the person tying the Tâli has formed Sambandham with the girl, but do not recollect the names of the parties. In some of the sub-divisions of Nairs, pollution is observed by the girl when the person who tied the Tâli dies.

13. I do not know.

19. Yes.

20. The same formalities as are to be observed in ordinary Sambandham.

The consent of the Kāranavan, or parents, of the woman being first obtained, a day is fixed when the man goes with his friends, and is feasted at the girl's house. The Sambandham is celebrated in different parts of the District in different ways.

21. I think so.

22. No.

I think the formalities are the same throughout North Malabar.

The formalities throughout South Malabar are the same.

23. Of course, not.

24. It is prohibited as such a thing cannot in decency be allowed.

25. Yes.

26. Yes. The man informs the Kāranavan of the woman's family the grounds for the dissolution of the Sambandham.

27. Yes.

28. No.

29. Ordinarily at the Sambandhakāran's house, except in cases of Vidāram kayaruka where the woman lives in her own house.

30. No.

31. Yes, when they are with him.

32. The Sambandham generally lasts for life.

33. He does feed and clothe them.

34 to 37.

38 to 44.

There is in my opinion no objection to providing a permissive Marriage Law for Nairs. I have consulted several persons on this point with the result that though some of them first raised their voice against what they call "Makkatayam Law," and against what Sri Parasurāma laid down centuries ago, they admitted that it is necessary that adultery should be made penal, and that one's children should get at least a share of the father's property. There is an impression in the minds of the people that the present system of Sambandham, Padamuri, or Vidāram-kayaruka is as binding as any legal marriage among other nations. They would not believe that the present custom has been, and would be, impugned in a court of Law; and if the people understand that there is no legal marriage now, I believe many would desire that there ought to be a Law legalising marriage. But I would not compel the people to adopt an entirely new form of marriage. I would prefer to retain the customary form and make registration of the marriage evidence of its legal recognition. By registration, I do not mean that the marriage should be solemnised in presence of the Registrar. I would suggest the following procedure.

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the bride and the bridegroom shall sign a declaration that one takes the other as her (or his) lawful husband (or wife) in presence of their guardians, and these guardians shall make a declaration before a Munsiff, a Magistrate, or a Registrar, or say the Head of the village, that the marriage has been duly solemnised. To such cases where the guardians do not consent, and where the bride and the bridegroom have attained majority, they must be allowed to appear before the Registrar and sign the declaration, always provided that such marriages, if between castes or sub-division of castes where Sambandhams are now forbidden, would entail on the offending party the penalty of not being allowed to associate with his or her other caste people *i. e.* if a woman of a high caste, or sub-division of caste, chooses to marry a man of a low caste or sub-division, there should be no objection to the marriage, provided they have attained their majority: and provided that the woman should not be allowed to associate with her Tarawad, or should forfeit her rights in the Tarawad. The declaration should be filed in the Registrar's office.

Under the present system of Sambandham, the man may have Sambandhams in more than one house; but the woman may not have more than one Sambandhakāran. It is necessary that the party should at the time of marriage have no wife or husband living. There is at present no restriction of age, and it is desirable that the man should have completed the age of 18 years and the woman fourteen years. "Each party must, if he or she has not completed the age of 21 years, have obtained the consent of his or her legal guardian or parents to the legal marriage." I add the word "or parents" as the legal guardian would, under the Marumakkatāyam Law of succession, be the Karanavan of the Tarawad, and there are instances where the Karanavan's consent need not be asked, say a Karanavan of the Tarawad may belong to a different branch altogether but would still be "legal guardian" in his capacity of "Karanavan." Clause 4 (Question 40) is a desirable condition, but with regard to the provisos, I find some difficulty. Referring to 1st proviso, I observe that a Tiyan may marry a Nair woman and *vice versa*, if the word "or caste" is not added after "affinity." I do not see any objection to such a marriage if the parties choose to do so, but then the provision (*vide* condition b Question 44) that "the wife and children shall retain their rights as members of the Tarawad" would be inconvenient, and would affect the purity of the caste system. An alliance with a lower caste is considered improper, and it is therefore necessary that provision ought to be made to the effect that the husband and the wife contracting marriages, which are now forbidden with reference to caste system, and the children born to them, should forfeit their rights as members of their Tarawad.

The 2nd proviso speaks of relationship traced through a common ancestor standing to each of the parties in a nearer relationship than that of great-great-grandmother." As it stands, a marriage is allowable if the relationship can be traced to a common ancestor who is the mother of the great-great-grandmother. In the eyes of people following Marumakkatāyam Law of succession, such a marriage is forbidden and is considered detestable. There are some houses in Malabar that have split up into so many branches, that one branch actually does not know that another exists. Yet if one were to propose a Sambandham between members of those very distant branches no one would ever allow it in Malabar. I would leave the question of relationship to be fixed in accordance with custom. No man can take a woman as wife and no woman can take a man as husband, if the relationship be such as falls within the prohibited degree under the Marumakkatāyam custom.

(Question 42). The reasonable grounds for dissolving a Sambandham are adultery on the part of the woman, and impotence on the part of the man. In considering the expediency of passing a Marriage Law, it is necessary to consider whether a divorce under a given state of things should be allowed, or whether the woman should suffer perpetual widowhood. The latter state of things (perpetual widowhood) cannot be allowed for obvious reasons—and then on what grounds and how can a divorce be effected. Adultery, ill-treatment, cruelty, desertion, impotence are the ordinary grounds on which a divorce may be effected. How is it to be effected? It is unpleasant (and, I do not think the proposal would be acceptable to the people) to resort to a court of Justice to effect a divorce. I would suggest that the party seeking a divorce should apply to the Civil Courts to constitute a Matrimonial Court, the members of which should be partly selected by the husband, partly by the wife, and partly by the Court. The members should be of the same community as that to which the parties belong, and their decision should be final.

About the maintenance of the wife and children, there is no doubt that the husband should be made liable for the same.

Referring to clause C. I find some difficulty. "She shall forfeit such right if she becomes a convert to another religion without the consent of the head of the Tarawad." Supposing that the wife becomes a convert with the consent of the head of her Tarawad, is she to continue to be the guardian of her children born to her *before* she became a convert? I would not have it to be so. Then again, suppose she loses caste by her contracting a marriage with one with whom marriage is forbidden, is she to be allowed to take her children, born to her during her first marriage, into her own guardianship? Clause *d* would do well—but in clause *e*, I would suggest that the specific share to be set apart for the wife and children should be shewn, as it will require the interference of Civil Courts to decide the sufficiency or otherwise of the provision made. There are several who desire that the law should lay down that a portion of the self-acquired property should be inherited by the nephews, or rather by the Tarawad. I think that it is better to make the acquirer to be the disposer of his own property. If he chooses to give anything to his Tarawad, he has the power to do so either during his lifetime or by a will. The question might be asked why the father could not similarly give his property to his sons, but I would answer that the sons are by nature heirs to the father's property and that a system of marriage implies inheritance also. A father would be reluctant to make a gift of his property to his children, as in case of the death of these children the property would devolve on the children's Tarawad, probably leaving him penniless. There is also the risk of the father being divorced by the wife, subsequent to the gift of the property. I would there recommend that the whole self-acquired property of a person should be inherited by his wife and children on his death, the testamentary power being sufficient to provide for Tarawad should the acquirer choose to do so.

CANNANORE, }
May 30th, 1891. }

C. GOPALAN NAIR,

Tahsildar, Chirakal Taluk.

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Marumakkathayam Marriage Commission.

Answers to Interrogatories

BY

M. R. R. B. K. MADHAVAN NAMBIAR AVARGAL,
TALUK SHERISTADAR,

1. Yes, but not without restriction as in answer to question 3 (*infra*).
2. No.
3. It is forbidden in all cases except in the case of a *man* of the first, or Kiriya, caste who is allowed to do it in all divisions of Nairs. No, neither.
4. It subjects the woman to degradation from caste.
5. No Prâyaschittham can validate such a Sambandham.
6. Korapuzha is the recognised boundary. Though intermarriages between recognised divisions on either side of the river up to Vâlusseri Kottai and Payyûr Mala are not uncommon at present.
7. Sambandhams between North Malabar men of recognised divisions and South Malabar women are very common. But the reverse is very rare.
8. No, not as a rule.
9. No, not allowed. The penalty being excommunication.
10. This prohibition must have had, I think, its origin in the difference of allegiance owed by the people on either side of the river.
11. *Tâli*, a woman's neck ornament, is the *sacred emblem* of her married life.

It is held so sacred by a Hindu woman that she never dares to wear it except when put on for the first time by her husband at the time of marriage, and then she never takes it out of her neck except on dissolution of marriage by his death. In fact, she begins her married life by the tying of her *Tâli* by the husband, and ends that life by breaking it off her neck on his death. Such a thing is the *Tâli*, and the phrase the *Tâli-Kettu Kalyânâ* is nothing more nor less than the ceremony of tying *Tâli* on to the neck of the bride by the bride-groom. There need be no doubt therefore as to what the ceremony really means. But my difficulty is to give a name to what is being now performed under that designation by Nairs. It is neither a marriage, nor even a betrothal ceremony, in as much as it does not involve a gift of the bride in favour of the bride-groom, either by *actual delivery*, or even by a *word of promise*. As it is, it is nothing but an empty ceremony resulting in no legal or moral consequence. At best I may call it a mock marriage, in which empty formalities are all present, but the vital element absent. There is no doubt that it once represented a perfect marriage, but that its vitality has since been robbed away purposely by the wily Nambudiri, with the evident object of serving his selfish ends at the expense of his ignorant and illiterate Nair slaves. The Nambudiri found that for the well-being of his Tarawâd, and for the permanent security of his property, marriage should be restricted to his eldest son to keep up the line, and that the younger sons

CALICUT:

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should be made to consort with Nayar females. With this end in view, he set himself to clear his way by introducing a change in the Nayar's law of Inheritance, first by stealing away the vitality of their marriage, and then by some of his own class setting an example by themselves following the proposed law. Thāzhakot Ammon of North Malabar is a remnant of the said innovators, and a living monument of Nambudiri villany.

The Nambudiri cared only for the vital element of the Nayar's marriage. He sanctioned the observance of all the empty formalities, either because he wished to dupe the Nayars perhaps for refusing to do away with marriage altogether, or because he knew that their observance would only be to his benefit at the expense of Nayars whom it was his avowed interest to put down for ever, in order to secure permanency to his own supremacy.

The empty formalities allowed by the Nambudiri, and observed strictly in practice to-day are:—

- i The fixing of an auspicious hour (Heaven knows for what!) by a ceremony called Ashtamangalliam (അഷ്ടമാംഗല്യം).
- ii The escorting in procession of Manavālan to the wedding Hall.
- iii The introduction of the girls to their seats in the Hall, by the side of their respective Manavālan.
- iv The announcement of the hour by the astrologer.
- v The response of the girl's guardians signifying consent and approval.
- vi The tying of the Tāli on to the necks of the girls by their respective Manavālan.
- vii The distribution of money presents to Brahmans assembled, in addition to the feasting of them from the day previous to the commencement of the ceremony and continued for 4 consecutive days during which the ceremony is to last.
- viii On the 4th day the Manavālan's rending of the wedding garment into two in token of a dissolution of their marital union, closes the ceremony.

Here I beg to ask what do the girls, or their Karanavans and fathers, derive by performing such a ceremony in which an only sacrament is done and undone at the same time? My surprise is even more when I find that in the performance of this empty ceremony large sums of money are expended and debts are contracted so as even to ruin the Tarawād. In fact the scale in which this ceremony is performed is taken as an index of the means and influence of the Tarawād. In order to allow its performance on the grandest possible scale, the ceremony is performed only once in 12 years in a Tarawād, and then all the girls who are then under age are made to go through it at the same time. Some gratitude is indeed due to the Brahman for performance of this ceremony in respect of any number of girls at the same time, or there would be practically no interval to clear off the debts in which a Tarawād must be involved in feasting and gifting the Brahmans on the occasion. The Brahman fills his pocket and stomach while the foolish and credulous Nayar loses his all and gets nothing. Such is the ceremony called *Tāli-kettu kalyanam* as performed in the present day.

12. The Tāli is tied by a person selected from among kinsmen, or Enangans, of the girl. But among aristocratic Tarawāds and among others claiming distinction

the selection is made from among Kshatriya Tirumulpads. The person tying the Tāli is called a Manavālan.

13. Yes; but the rule is that there should be one Manavālan for each girl separately. The Brahman (Nambudiri), whose pocket is untouched by the change, sanctions it, and the ignorant Nayar accepts and follows the sanction as the unquestionable authority.

14. No, not as a right.

I can only explain it by stating that it would be against the *public policy* of the day to allow him to claim it as a right, because the ceremony which creates that right would thereby be rendered perfect, and then the Nambudiri's interest might be jeopardized at least in the long run.

15. There is no prohibition whatever.

16. Yes. But I am afraid it does not in any way improve matters. Unless he is allowed to claim it as a right Kettu Kalyānam must be a farce.

17. A pollution is observed by the girl on the death of her Manavālan even though he was not her husband. This practice has reference more to locality than to divisions, I think.

18. Yes, the Tāli is sometimes (especially in North Malabar) tied on by the girl's mother. Even this fact is not sufficient to convince the Nayar of the unmeaningness of his ceremony. He spends more than he can afford, contracts debts so as to ruin his Tarawād, and not unfrequently runs, and is driven, into Criminal Courts for offences committed on still more frivolous grounds, all in the performance of his unmeaning ceremony.

19. Yes.

No, nothing but custom.

20. The formalities of a *Pudamuri* ceremony are always necessary. I may here remark that the desire never comes from the girl direct, but only through an understanding of her guardian or elders.

They are the formalities of what is called *Pudamuri* ceremony. This is a perfect marriage in the Gandharva form, which is one of the eight forms recognized by the Hindu Sāstras. It is founded upon mutual love and consent of the parties.

It is the gift of a number of cloths by the bride-groom to the bride, on an auspicious hour fixed with reference to the horoscopes of both parties, in the presence of relatives and friends on either side assembled for the occasion, generally in the house of the bride, after treating the guests assembled to a banquet and after distributing money presents among Brahmans.

In some cases a number of gold or silver coins are also presented with the cloths to the bride. These presents are generally made on a shawl, or mat, spread between unusually large lamps lit up for the occasion.

Among the conditions insisted on, may be mentioned the following:—

That the parties are not related to each other within prohibited degrees.

That the consent of the relatives (Fathers, mothers, uncles and brothers) and even of kinsmen of both parties are previously obtained, especially when the parties are minors.

21. Yes; there is practically no difference.

22. I do not think there is any noticeable difference.

I think the same.

I am not aware of any remarkable difference.

23. No. Never, except perhaps in Nedunganad and that among very poor orders, and even among them it is treated with contempt.

24. It is prohibited, and the prohibition is to be found in the treatment of it, where it exists, with abomination by people now and heretofore. It is regarded as beastly and opposed to humanity.

25. She can do so but not without the consent of her elders, in the generally accepted practice.

26. There is a sort of formality.

When the question is raised on her side on insufficient grounds, it is discussed and decided by the elders (father, uncles and brothers) as they think best.

27. Yes.

28. Nothing except the pleasure of his wife, and the difficulty to obtain the consent of the elders of the woman he seeks to obtain as 2nd or 3rd &c. wife.

29. In the accepted modern practice she sleeps and takes meals in her husband's house. But the wife remaining in her house and being visited there by the husband is also common, more among the poorer classes.

30. The rule I think is the same, but a laxity is allowed to a greater extent in South than in North Malabar.

31. Yes. But if the man is poor and the woman is rich, the order might be found reversed.

32. The rule is certainly for one man and one woman to cleave together for life. Frequent change is also not uncommon, but is only an exception. The fact that a man who changed his Sambandham on an unjustifying ground is viewed with distrust, and that he meets with difficulties in forming another, may be cited as an illustration. In fact unions for the life of the wife, unions for the life of the husband, and temporary unions are almost equally prevalent everywhere in the District. But the two former are to be found more among the well-to-do class, and the last among the poorer classes.

33. The wife and joint children while in the house of the father, are without exception fed and clothed by the father.

34. There are instances of both. I think it depends more on the means of the Tarawād than anything else.

Yes, but only in Tarawāds of limited means, Anandravans take lands on simple lease. Kānam and other superior tenures are common among Anandravans of well-to-do Tarawāds.

Yes.

35. In well-to-do Tarawāds the Anandaravan, as such, tries to earn something for himself. Otherwise in Tarawāds of limited means.

36. With their earnings they support their wife and children, and instances in which portions of earnings are made over to Karanavan for the benefit of the Tarawād are also not very rare. In well-to-do families wives and children of Anandravans are fed and even clothed by their Tarawād.

37. The gift by a father in favor of his children, which is common in South Malabar, may be regarded as analogous to it. In South Malabar fathers not unfrequently settle in favor of wife and children the whole or portion of their self acquisitions, and sometimes even portion of their Tarawād property defrauding their Tarawāds.

38. For my part I not only do not see the slightest objection but consider it high time that those who wish it at least must have it. I cannot find any reasonable objection though I have my fear that there will be strong and vehement opposition from bigoted, uniformed, unconsidering, and Nambūdiri-ridden portion of the community, and that they may be numerous enough to form an over whelming majority; but the permissive form in which the Bill has been framed may, it is hoped, help to minimize the opposition. For my own part I am not very particular as to the form though I would have it performed in any of the modes under the Hindu Law more than under any other. I would do away with a Registrar, or registration.

Marriage among other Hindus is not registered and this want is never considered a defect in law. Marriage under the Hindu Law is not only a contract but also a Sacrament, and as such registration like ordinary contracts does not commend itself to me.

I shall be content with a legal recognition of even the present form without its patent absurdities.

40. I do not see any material difference.

(1) This condition is not insisted on.

Proviso 1. That the bridegroom is of a caste equal or (recognised) superior to that of the bride is also a condition at present.

41. I would omit the 1st condition which so far as regards the husband is *un-Hindu* though equitable.

42. i. Mutual consent.

ii. Adultery.

iii. Cruelty.

iv. Change of Religion.

v. Caste degradation, and

vi. Relation within prohibited degrees. Desertion can only be allowed in case of loathsome and contagious disease, but not dissolution.

43. The father feeds and clothes his children suitably to his position and means during his life. He also educates his children. After his death however his wife and children will have to depend entirely on their Tarawād and on any property which may have been settled upon them by their father while alive.

44. I agree to all rights proposed except those noted below.

(c). After husband's death, the guardianship must pass jointly on to the wife, and wife's Tarawād Karanavan.

(d). I would have one half of my self-acquisition devolve on my wife and children, and the other half on my Tarawād. Otherwise the new system may lead to the annihilation of Tarawād institution which (with all its demerits as to marriage) must be admitted to have the power of saving all its members from abject beggary. I attribute to Tarawād institution the entire absence of beggars among Nayars.

45. Not uncommon with Cochin but uncommon with Nayars of Travancore.

(Signed) B. MADHAVAN NAMBIAR.

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MARUMAKKATHAYAM MARRIAGE COMMISSION.

ANSWERS TO INTERROGATORIES

BY

M. R. RY. A. CHATHU AVARGAL,
HUZUR SHERISTADAR,
CALICUT.

(Caste.—*Marumakkathayam Tiyan.*)

1. Yes.
2. No.
3. This is an intricate matter and I am unable to answer it correctly. Men of higher denominations, can contract sambandham with women of lower denomination, but not vice versa.
4. Yes. They and their offspring are forbidden to mingle with others. A sort of excommunication from society is the result.
5. I have not heard of such a case.
6. Kôrapuzha river at Elathûr.
7. North Malabar Nayars form sambandham with south Malabar women, but not vice versa.
8. No. The reason assigned is that the woman cannot be taken to the South and that in South Malabar many lower denominations not properly entitled to the appendage of Nayar or Menon do adopt it, thus making it difficult to ascertain their lawful social status.
9. The custom does not allow it, but I have known of 2 or 3 instances in which they have broken through the custom on plea of going on a pilgrimage.
10. On account of political reasons originated at a time when the Zamorin and Kôlathiri dynasties were on unfriendly terms.
11. This is ceremony preliminary to wedding and supposed to be an imitation of Brahman marriage. The ceremony must be performed before the girl attains puberty, or excommunication is the result. The details attending it are too numerous to be described, and vary in different places. This is believed to be a religious and holy ceremony, but the present generation cut short the ceremony by not observing many of the superfluous and antiquated adjuncts.
12. Only elderly females. No name for such in Malayalam.
13. Yes, and it is on grounds of economy.
14. Not amongst Tiyaars, the Tâli being tied by females alone. If ever a man ties the Tâli it is because the girl is betrothed to him, and he alone becomes her husband.
15. See answer to 14.
16. Yes. My own brother-in-law (Tharay Ramunni 2nd grade pleader, lately deceased) tied the Tâli of his wife and afterwards married her according to the usual ceremony.

17. Not unless the man is the girl's husband.
18. Yes, but generally by the elderly female relations.
19. Yes most certainly, but there is nothing but time-honored custom to be pleaded in justification of this.
20. Amongst Tiyars and Nairs the real marriage ceremonies are absolutely necessary. The formalities differ in different classes and localities. The points common to all are 1. examination of horoscopes. 2. proposal by the senior member of the man's family to the senior member of the girl's family. 3. betrothal: fixing an auspicious day for the wedding and 4. going to the girl's house on the appointed day with relations and friends, and after feasting and receiving blessing from all elderly persons, going home with the bride.
21. I do not know.
22. Amongst Tiyars there are differences not worth mentioning.
- Now it is the same; formerly there were in Cannanore some formalities unknown to Tellicherry, and vice versa but they are all obsolete now. I hear they are mainly the same.
23. Cannot. This is unheard of in North Malabar, but in South Malabar it once existed, but the growth of civilisation uprooted it I hear.
24. Custom prohibits it, but I am unable to quote authority.
25. Yes, but only for good reasons and with the knowledge and consent of the senior members of her, and her husband's family, and of mutual mediators.
26. Yes, the mediators go to the woman's house and apprise them of the fact. Amongst respectable families this is invariably done.
27. Custom allows it, but no respectable man of the present generation has been heard of having done so.
28. Nothing.
29. Generally in the husband's house. The exceptions are very few if any.
30. In South Malabar the opposite is the rule, but the wives of officials generally live with their husbands.
31. This is the established and recognised custom in North Malabar. If the woman and her children visit her Tarawâd house no separate maintenance is given by the husband, because it is considered unbecoming for him to do so and for the Tarawâd to accept it. The extra expenses, however, are always met by the husband.
32. To cleave together for life.
33. He invariably feeds and clothes them.
34. Nothing but maintenance of him and his family. Very seldom the Anandiravars, if they have no other field of enterprise, cultivate the Tarawâd land for a rent, and in such cases the surplus is their own.
35. If harmony exists between the Kâranavan and Anandiravars the latter work for the Tarawâd, otherwise they try to earn something for themselves and their near relations.
36. Anandiravars very seldom hand over their earnings to the Kâranavan now a days. They live in the Tarawâd house, only if they are in unity with Kâranavar. In this case the Kâranavan will not insist upon the Anandiravars

giving anything towards the support of their wife and children. If the Tarawâd is poor and the Anandiravars rich the latter do give a helping hand.

37. Any gift by a formal deed by a father to his wife and children is called Puthrâvakâsam.

38. No objections whatever. This law is wanted not only for Nâyars but also for Marumakkathâyam Tiyars of North Malabar. The present generation craves for it so far as I have ascertained.

39. I would prefer the customary form of marriage, making registration evidence of its legal recognition. Even persons who are eager for a reform in this respect shrink at the idea of having to appear before a public servant. Within a fixed date after the marriage the parties should be made to send a written notice to the Registrar, signed by them, by their guardians and two witnesses, attested if necessary by the Adhigari of the Amsam.

40. Differences are as below.

- (1) A man having a wife now contracts another marriage. A wife cannot do so.
 - (2) The man's age is correct, but the woman's age can be reduced to 12.
 - (3) In respectable families the consent is always obtained now, irrespective of the age.
 - (4) No difference.
41. I have nothing to add.
42. Adultery, loss of caste, ill-nature and incurable diseases.
43. If the Nayar wives and children live with the husband in the Tarawâd house they are maintained by the Tarawâd.
- (a) I agree.
 - (b) I agree. I understand that many approve of this as this is a sort of an alternative provision in case of the husband's death.
 - (c) I have nothing to say against this.
 - (d) This is reasonable and I agree.
 - (e) The words "sufficient provision" must be qualified by "consistent with the extent of his property or ascertained means."
 - (f) Quite so.

45. It is not objectionable though not customary I hear.

A. CHATHU,
Huzur Sheristadar.
Calicut.

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MARUMAKKATHÂYAM MARRIAGE COMMISSION.

ANSWERS TO INTERROGATORIES

BY

M. R. RY. K. P. KRISHNA MENON, AVARGAL,
BARRISTER-AT-LAW.

1 to 5. These five questions refer chiefly to the validity or otherwise of Sambandhams formed between different divisions of the Nayar community. There are roughly speaking 18 divisions of Nayars including the Velukkatharê (വെളുക്കത്തരേ നായര) and Veluthêdan (വെളുത്തടത്ത നായര). Touch-pollution (തൊട്ടാൽ കളി) is observed by the other Nayars at the contact of these two sects.

There is no strict rule forbidding inter-marriages between these divisions. The Nambudri Brahman is the law-giver in matters of caste, and in his eyes all these divisions are on the same level, as far as Sambandham is concerned. He does not object to a Chârnnat (ചാന്നത) man or woman forming Sambandham with a Sudra (ശൂദ്ര) man or woman.

Sambandham after all is only a form of concubinage. It creates no legal relations between the so-called husband and wife, and it can be broken off with as much ceremony as there was when it was formed. Formerly Sambandham was concubinage pure and simple, and the Nayar women were looked upon as the Dâsis (ദാസി) of the Tamil country or prostitutes, by the Brahmins. A Nayar lady could have more than one man as her so-called husband without any social disgrace; No, it was even thought as an honour to have more than one husband and to enjoy the embraces of as many Nambûdris as she could find. That being the case it was not necessary to enquire into the caste of a man who wished to keep a woman as his concubine, and thus we see inter-Sambandhams between these 18 sects allowed by the custom originally. But this state has to a certain extent altered in these parts (South Malabar). As Nayars advanced they began to look upon this system of pure concubinage as a disgrace to them; the Sambandham gradually began to acquire a permanent nature, and lose its character of pure concubinage. It became to be thought as a disgrace to have more than one man at a time as the husband; Sambandhams began to be formed with more publicity and ceremony. Then it became necessary to enquire into the caste of the parties, who wished to contract Sambandham.

In British Malabar a woman of a higher sect is not now permitted to form Sambandham with a man of a lower one. If she violates this recognised rule she is put to little annoyances by a system of boycotting. She will not be, in such a case, allowed to be present at any public social gathering, &c., and in some other ways she will be put to some social disabilities. But the moment she satisfies her clanspeople by paying some money as fine, this worrying her ceases, and she can keep to the man of her choice even if he be of a lower sect than herself.

Prâyaschitham cannot validate a Sambandham which is bad in the eyes of the customary Law. Prâyaschitham is religious in its character whereas Sambandham is not so.

6 to 10. "Kôrapuzha" is the recognised boundary between North and South Malabar for caste purposes. It must have been made so on political

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grounds. It is on historical record that the people of the South and the North were at war against each other; and that there were often feuds between these people. The Kôrapuzha being a river, naturally formed a convenient boundary between the two territories. The Northern people, who were not always victorious in their expeditions against the Southern people, must have thought that it was not safe for their ladies to cross the river and travel southwards in the enemy's country, where they stood the chance of being ravished by any caste man, as they would get no protection from the Nayers of the South, and the Northern people must have thought fit to make a general rule that any Nayar woman crossing the river was to lose her caste.

7 and 8. Nayers of North Malabar form Sambandham with women of South Malabar, but it is not so common that Nayers of South Malabar take women of the North Malabar as their wives. The reason in my opinion is that the women of South Malabar are, as a rule, more accomplished and fit to be better companions than their sisters of the North; and it is only natural that young men of North Malabar should seek their wives in South Malabar.

19. It is the custom in these parts (South Malabar) at least for Sudra Nayar girls to undergo the Tâlikettu ceremony before they attain puberty.

20. Generally speaking there is no formality required for a girl to consort with a man after the Tâlikettu ceremony—at least nothing of any religious character. But lately as Nayers have become a little enlightened, a certain form of social formality is observed. When a man wishes to take a woman as his wife their near relations, and Enangans, or clanspeople are informed, and the ceremony known as Padamuri, or Kiddakorai Kalyânam takes place. This ceremony varies in different parts. They generally have feast on that day, and betel leaves and nuts are distributed among the guests &c. This gives some publicity to the affair, and thus celebrating the event has become a fashion only very lately, and that only among the rising generation.

21. In South Malabar when a Brahmin forms Sambandham, the same formalities are not observed. The reason for this in my opinion is, that the Nambudri does not consider this connexion as any *bandham* (binding) at all. He looks upon the Nayers even now as he did in former days. Nayers may have changed their opinion now about their women, but the Nambudri has not.

He still looks upon them as prostitutes. He does not even like the idea of being known at large as the Sambadhakkâran of a Nayar woman. He makes it a point to pay his visits to his dear wife only late at night, when others in the house are supposed to be asleep, and he takes care to leave the house in the dark before dawn. He does not like his own children calling him father. What do all these show? It clearly shows that Brahmans regard this Sambandham as pure concubinage, and in forming such a connexion no formality or ceremony is required.

23. There is nothing to prevent a woman from having more than one sambadhakkâran at a time; but now such a state has begun to be looked down upon, hence it has become very rare now.

25. Yes. She can terminate the Sambandham if it pleases her to do so. No formality is necessary to dissolve the connexion.

27 and 28. A man can have Sambandham in more than one house and there is nothing to prevent him from doing so if he chooses it; but still it is not considered the right thing to do so, among the educated and respectable Nairs.

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29 and 30. Among the educated class, the woman generally lives with the Sambadhakkâran in his house. If she belongs to any aristocratic family she never quits her tarawâd.

31. In South Malabar there is no recognized custom which says that the man ought to support the woman and her children during Sambandham. What is required of the Sambadhakkâran is simply to find bathing oil, and clothing for the woman and her children; and nothing more. When she stays with her Sambadhakkâran, he will have to maintain her; but when she is in her own tarawâd she looks to her Kâranavan for her support.

32. As I said before Sambandham is beginning to lose the character of pure concubinage as the people are advancing; and now generally a man cleaves to a woman for life.

33. He as a rule feeds them; but there is nothing to compel him to do so.

34. There is no special allowance made to an Anandaravan for working for the common benefit of the tarawâd. If he takes a lease of any tarawâd lands he is regarded only as an ordinary tenant, and he pays to the tarawâd the usual rent.

35. He generally tries to earn something as his own property, and these earnings he spends on those who are dearest to him, and that naturally being his own wife and children.

38. I am strongly in favour of providing a marriage law for Nayers. Sambandham does not constitute a legal marriage. The ceremony of Podamuri does not create any new legal relations between the Sambadhakkâran and his so-called wife. In fact there is no marriage at all in the ordinary sense of the word; hence offences against marriage rights are not punishable. This is a state of affairs which is very injurious to the well-being of the society, and therefore the demands to remedy this I consider are very imperative.

39. I would leave it to the option of the parties. They may form Sambandham according to the usual custom now obtaining and then make it to be recognised by law by registering it; or (if they prefer it) they may solemnise it in the presence of a Registrar &c. according to the form subjoined in the margin of the question paper.

40. The conditions of a valid marriage widely differ from those of Sambandham now in practice.

41. To clause 2.—I would add "*and also she must have attained her puberty.*" There may be cases where a girl may have attained her 14th year but not puberty. During the time of the discussion of the "Age of consent Bill" we have heard enough to enable us to guard against the evils of allowing young married couples to live together before the girl had attained her puberty; hence I think the above words ought to be added at the end of clause 2.

Nothing seems to be provided for dissolving the marriage in the annexed form. I should like to see some provision for that.

I would have some sections framed on the following lines. Difference of temperament between husband and wife ought to form a sufficient ground for dissolving the marriage. If the husband were to say that "I cannot get on with my wife; I want the marriage dissolved" then a decree for dissolution ought to be given by the court, and each party must be at liberty to marry again. The same liberty must be accorded to women; if she were to say that she does not like her

husband, and that she wants the marriage dissolved, it must be allowed, and a decree given accordingly. The court need not look why they do not agree; it will be really difficult to find out the cause of disagreement. It may be owing to cruelty, on the part of the husband, of adultery on the part of either; and it will be only washing dirty linen in public by asking the party who wants a dissolution to prove the cause of disagreement to the satisfaction of a law court. But at the same time to prevent either of them from acting impulsively I would place this restriction on them:—

If it is the husband's wish for a divorce from his wife, he must be made to maintain her till she marries again. He must also provide for his own children if there be any. This burden of having to maintain a woman and her children would I think act as a check on a man, who has a tendency to change his wives often.

If the wife is desirous of dissolving the marriage, she is to get no maintenance from her husband, and the children if there be any ought to be in the custody of their father. If she is prepared to part from her children and also to support herself, let her by all means have the divorce from her husband whom she does not like and very probably detests.

These I think would act as checks on both parties from running to court and asking for a dissolution of marriage on any slight cause of disagreement or quarrel. I for one am opposed to placing many restrictions for the dissolution of the marriage. Even now with such ample freedom it is only seldom that we meet with instances of a Sabandhakâran having deserted his wife, or a wife her husband. Nayars need not I think sacrifice wholly the only advantage they possess for their present system. With the above restrictions for dissolving the marriage a sufficient guarantee for constancy is, I think, secured. On the lines shewn above I should like to see some sections framed and thus provide for divorce.

42. According to social usage adultery, desertion, or neglect on the part of either of the parties is thought a reasonable ground for dissolution of a Sambandham.

44. I approve of all the clauses except some parts of (e) which puts some restriction on one's testamentary power. Ownership is never complete without that power. A son may grow undutiful and disobedient to his father, if he knows that his father has no power to take away his right of maintenance.

[Marumakkathâyam is not strictly a rule of succession by nephew generally; for instance if an elder brother be surviving he succeeds to the self-acquired property of the deceased in preference to the nephew, although he performs no funeral rites, and indeed in no case the elder member performs the funeral rites of the younger and yet succeeds to his property. *Succession therefore does not depend on the performance of funeral rites*; and consequently the argument that the nephew saves the soul of the deceased has no force whatever. In fact among other Hindus in Southern India the fitness or otherwise to perform the funeral rites, is not the test to regulate the rule of succession. There is thus no objection in my opinion to the altering of the line of succession from the nephew to the son.]

45. It is customary.

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MARUMAKKATHÂYAM MARRIAGE COMMISSION.

ANSWERS TO INTERROGATORIES

BY

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HIGH COURT VAKEEL,

1. Yes, generally; but castes which in some places are regarded as higher are in other places regarded as lower.

2. No. A woman must always have her Sambandhakâran from among her own caste people or from among higher castes. She is never allowed to mate with one lower in caste to herself.

3. Generally a lower casteman is forbidden to have as wife a higher caste-woman, but if both parties are within the pale of the Nayar caste there is no violation of the religious principle, since according to the Kêrala Mâhâtmyam all Nayar castes beginning with Kiriyaathil and ending with Velakathalavan (barber) are Sudras, and therefore one section of the people. But in practice the social stigma is so great that women of higher castes do not cohabit with men of lower castes; the stigma being greater where the difference between the castes is very wide. I have known instances of Sudra males forming Sambandham with Chârna females in Cochin, but not vice versa. There is no caste restriction for inter-Sambandhams in some parts of Cochin viz., Eringalekuta.

4. In such cases the couple are not invited to social gatherings, and the caste heads generally extort a penalty from them by boycotting them from society.

5. I know of no distinct Prâyaschitham; but I know of such Sambandhams which have gone on at least so as not to attach any stain to the issue of such marriage. Also Prâyaschitham is a word of religious significance and it has no meaning as applied to expiating any social stigma which might arise from a Sambandham—a relationship which has nothing religious in it.

6. The Kôra river is the boundary.

7. Nayars of North Malabar form Sambandhams with the women of South Malabar subject to the caste restrictions as stated above in answers to questions 1 and 2. I have not known of any instance of Nayars of South Malabar marrying from North Malabar.

8. I do not see any reason why they cannot, subject to caste restrictions, but I do not know of any instance.

9. They do not cross over, and I am told such crossing over entails loss of status for them.

10. For the reason of such prohibitions we must look to the old territorial divisions. Kôrapuzha formed the boundary between North and South Malabar. The Raja of Kadathanâd, the nearest amsam to the North of Kôrapuzha, belongs to the family of Porlatiri, and it was by ousting this family from Calicut that the

Zamorin came to be Raja there. Hence the animosity between the two Princes was naturally very great, and since women are particularly liable to be harmed if they cross over to an enemy's territory, this prohibition might have originated.

11. A full description of Tālikettu Kalyānam is given in Mr. Logan's Manual of the Malabar District, and I need not detail the story of an unmeaning ceremony. It is not a marriage in any sense of the word, the primary object of marriage being absent from this ceremony. The so-called bridegroom, or Manavālan, does not derive any right for cohabitation; but there is no objection to his forming Sambandham like others, his right then arising from Sambandham and not from Tālikettu ceremony. I know of one instance of such Sambandham. Pollution is not now observed although it is said that was the case in former days among all except Chārna Nayars.

19. Every Marumakkathāyam girl must, as matters now stand, undergo the ceremony of Tālikettu kalyānam. Custom is the only guide.

20. A further ceremony known as Sambandham is performed. This ceremony is different in different places. Roughly speaking there are two forms, one in North and one in South Malabar. In South Malabar the Sambandham is negotiated and settled before hand, and on the day fixed the would-be Sambandhakāran with some companions proceeds to the house of the woman where a general feast takes place, and then betel and areca are distributed to all, particularly to the girls' uncle and nother. The would-be Sambandhakāran is then taken to the girl's room where the couple are left by the girl's sisters. At daybreak the now Sambandhakāran and his friends leave the house. On a near occasion a second visit with some formalities is paid and this completes the Sambandham, or the so-called marriage. This ceremonial also it may be remarked is wholly meaningless, and amounts in reality only to a casual connection between a man and a woman terminable at the pleasure of either party, without any ceremonial, or notice, whatever. This is no marriage proper as understood by the Hindus. The Nayars are Hindus in religion and a Hindu marriage creates certain relationships recognized at law, to wit the lordship of the man over the woman, makes her participator in all religious ceremonies auspicious or inauspicious, changes her gotra and creates pollution. In fact he is converted into a member of her husband's family. None of these incidents exist in a Sambandham and consequently it cannot be styled a marriage from a religious point of view. If it is regarded from a legal point of view it is still worse, as the Sambandham does not create any rights in property, or otherwise, as between them.

21. Such formalities are not observed when a Nambudri, or a Patter, forms such Sambandham. Feasting occasionally takes place and that is all.

22. The formalities as above described are much the same in both North and South Malabar, except that in North Malabar a present of some pieces of cloth by the Sambandhakāran to the woman is an important feature of the ceremonial, whereas this is absent in South Malabar.

23. There is no law to the contrary, but the practice of Polyandry is absent now. Even originally the practice was not known to have existed in North Malabar, but it obtained in some parts of South Malabar until a very recent date.

24. Polyandry is, according to Kērala Mahātmyam, prohibited in North Malabar, but is not so in South Malabar.

25. A woman is at perfect liberty to terminate any relationship of Sambandham in which she might have been living.

26. I do not know of any forms in terminating a Sambandham.

27 & 28. Plurality of wives is prohibited by custom as much as plurality of husbands. There is no authority, but the practice is not generally in vogue. It prevails to some extent in North Malabar, where it may be accounted for by the fact that women in North Malabar are less refined, and less educated than their sisters in South Malabar, and consequently being less independent, bear up with greater and grosser insults.

29, 30 & 31. In North Malabar a decision has been obtained recently by which a tarawād is declared liable to maintain the consorts of all the male members therein. In North Malabar the woman generally lives with her Sambandhakāran in such Sambandhakāran's tarawād. In South Malabar she lives occasionally at both places but more generally at her own tarawād. The contrary is gradually gaining ground. Here while she and children live in the Sambandhakāran's tarawād that tarawād feeds them; and while she lives in her own family, by that tarawād; but in all cases her clothing and other incidental expenses, except food, are always defrayed by the Sambandhakāran personally.

32. There is nothing to prevent a man or a woman from changing their consorts, but the practice of one sticking to the other is fast gaining ground.

33. The answer to this question has been incorporated in answers to questions 29, 30 and 31, to which refer.

34. Allowance is made to Anandaravans by the Tarawād though not legally bound. Tarawāds do sometimes let land on rent to Anandaravans, generally on a lower rate than when to strangers. This practice is very prevalent in Palghat. After paying the stipulated rent the Anandaravan is at liberty to take the surplus.

35. As far as I know they generally work for their own advancement, and seldom for the common benefit of the Tarawād.

36. Their handing over their earnings to the Kāranavan is very rare, almost non-existent. They give such earnings generally to their wives and children, or to their own sisters, or nieces, and almost never to the Tarawād.

37. There is nothing known as പുത്രാവകാശം Puthrāvākāsam, either in North or South Malabar *enforceable at law*. The courts do not recognize it as a right. But the name is applied to gifts by father to children. The practice of giving property to one's own children is much the same in North and in South Malabar, and I know of no difference in what is styled പുത്രാവകാശം Puthrāvākāsam.

38. I have not the least objection to a permissive law of marriage for the Nayars. On the other hand a marriage law is absolutely necessary, as the highest court of the country has already declared that cohabitation under the Aliyasantāna law, among whom Sambandham is celebrated with greater solemnity than among the Nayars, does not amount to a marriage. I would also suggest that a law giving a right to enforce partition should also be passed, since that would then obviate any evil that might arise from the administration of two different systems of law to one and the same class of people.

39. I would prefer legalization of any forms that may now exist, and make registration simply evidence of the marriage.

40. The chief differences, which I have been able to make out, from the Sambandham as now practiced and the section quoted under question 40 are:—

(1) Though persons sometimes form Sambandhams with others who are then living in a state of Sambandham, this is regarded as rather disgraceful and may be regarded as prohibiting such Sambandhams. Even when such Sambandhams take place the fiction is that the previous Sambandham relationship in which such person had been living has ceased, or put a stop to, by a mere act of the will. Therefore the proviso prohibiting bigamy may be justified.

(2) The question of caste is ignored by the section contemplated, *e.g.* A man of a lower caste, a Tiyan, marrying a Nayar girl is justifiable under the Act. This is against the present practice.

(3) There is no age limit in forming Sambandhams according to the practice now in vogue. The average marriage age as at present may be regarded in case of males at 20, and in case of females at 12.

(4) At present, even after attaining majority, males and females are bound to obtain the consent of the Kārnavan before forming Sambandham connections.

(5) In practice families which can trace descent from a common female ancestor are not allowed to intermarry.

41. I entirely approve of the proposed conditions and have nothing to suggest.

42. Adultery is the commonest ground for divorce. Extreme disagreement of temper also facilitates termination of Sambandhams. Practically where one party makes himself or herself disagreeable to the other by reason of adultery, or the like, the Sambandham gradually comes to an end.

43. See answer to questions 29 to 31.

44. I shall consider each clause separately.

(a) I approve of this clause in general, but want to suggest that the clause should go only to the length of declaring the right to guardianship in the father, and leave any reasons which might divest such right, to be determined by a court of justice, and abstain from enumerating any reason at all that would deprive him of such right. I would therefore suggest that the clause be framed in such a way as to declare the right of guardianship, while it should not at the same time oust the jurisdiction of courts in any case whatsoever.

(b) This proviso does not create a new right in so far as the right of the wife and children in their own tarawād is concerned. Since the right of any member of a tarawād can be lost by renunciation only, the mere fact of their undergoing a ceremony of marriage according to the provisions of a new Act, cannot divest their right and no court of justice would be justified in declaring the other way. The clause, so far as that right is concerned, is redundant, and is therefore unnecessary. As to their claim to maintenance I would suggest that the claim should not be made an actionable claim in the sense that all arrears could be claimed. For example suppose a wife and children had been living in her own Tarawād for a long time, and then all of a sudden sues the husband for the maintenance in arrears, it would be hard to compel such payment. I would suggest that the husband be made liable to pay only such amount as is clearly shown to have been actually expended by the wife. I would suggest that her claim should be made analogous to the claim of a coparcener's widow, for maintenance, against

the surviving members of the joint family. Again a husband ought not to be made liable to maintain a wife, who has abandoned him, or has refused to live with him although he is unable or unwilling to obtain a divorce. There are such objections to clause b which should be made sufficiently clear.

(c) I object to the guardianship failing the mother, reverting to the Tarawād. When any female of any Tarawād takes advantage of the new Act and obtains the property of her husband, that property is her and her children's own self-acquisition, and the Tarawād which represents the joint interest as opposed to individual rights, is not the fittest person to undertake the guardianship of minors who are left without either parent living. I would therefore suggest that the clause should say only this much—the guardianship failing the father shall vest in the mother, and in case she also fails as the courts shall declare in each case, as occasion arises.

(d) I approve of this provision. This provision simply legalizes and declares a custom now prevailing *i. e.* the practice of fathers endowing their children with their own self-acquisitions. This is the practice even when the relation between the sexes is only casual as at present; and when by the Act such relationship is made permanent the reason for this rule is more apparent. To people who regard this as an innovation and as declaring the right of the son to succeed instead of the nephew, I have to make the following reply. Firstly is it a fact that a nephew inherits the self-acquisitions of a deceased member? No. There are distinct rulings of the Highest Court of the country that it is not the nephew who takes the property as heir, but the *Tarawād*, the nondescript conglomeration of irreconcilables, who have nothing of blood relationship in common between them, but form only one of those monuments of barbaric usage surviving through the instrumentality of British Courts of Justice, even into the full timed and ripe civilization of the latter half of the nineteenth century. Next let me examine the position of the nephew, and the reason of the Marumakkathāyām law which this provision is said to have violated. In prehistoric barbaric usage, when neither the relationship between the sexes, nor ownership in property had become exclusive, all women, like the common ground on which the camp was fixed, were the property of the clan. No one claimed particular ownership neither to a woman nor to a pasture ground. Among other nations the first dawning of a right of exclusive dominion in property was coincident with a similar recognition of the principle of such a rights with respect to the women also. But among the Nayars two influences have warped this natural development. Firstly, the influence of the Nambudiris, who now appear on the scene, with their peculiar customs of allowing only the eldest male to contract legal marriage, while the others were at liberty to consort with women of other classes; and secondly the fact of the Nayars being a military people, whereby marriage and consequent domestic ties were looked upon as injurious to the stamina of the fighting races. These two causes conspired to keep the Nayar in the prehistoric type of promiscuous sexual intercourse, although he like other races advanced in all other respects. Property rights had as I said already generated, and in the absence of the recognition of the principle of *pater familias*, what then can be the only guide to ownership in such property. A mother always knows a person to be her child although its father cannot be ascertained, and hence as an inevitable result kinship through females, and the joint family system recognizing the woman as the unit, arose. The reason for the law has gone. Neither are the Nayars any longer soldiers, nor do

they in the present day fail to recognize their father. I would therefore ask why the law prevails when the reason has vanished. The son naturally takes his place as the fittest heir. All civilized nations have recognized him. He is nowhere among the line of heirs among the Nayers—a sure sign that the idea of sonship had never before dawned in their heads—and it is time when such ideas have taken firm root, that he should be given precedence as he has been given, among all civilized nations of the globe.

The Marumakkathayam or succession by nephew, line of descent can be recognized and upheld only on two different bases *i. e.* the civil and religious. I shall show that neither reason can hold good.

On a civil basis the law still holds good on the rule of enforcing custom. But it should be remembered that among other attributes a custom, to be recognized by law, should be not unreasonable. Now the children of a rich man go abegging, as it was in the case of Moya Ramen in North Malabar, while persons who are very distantly related to him are lolling in wealth. This is very unreasonable, and it is equally absurd that a man should be compelled to maintain persons for whose existence he is in no way responsible. In ordinary families under other systems of law a man can prevent the enlargement of his family by abstaining from marrying, but in a Marumakkathayam family it is not in his power to prevent such increase, and yet he is called upon to support the members thereof. From the above it will appear that the Marumakkathayam law is highly unreasonable and hence unfit to be enforced, and the sooner it is changed the better it will be.

Next as to the religious basis.—The opponents of this provision say that since the nephew performs the funeral rites he is entitled to inherit, and in support of this cite an obsolete text from some of the old Smritikars. If these texts are of any authority they are equally binding on all Sudras, including Sudras of provinces other than Malabar, and there are other texts in the same Smriti, which enjoin that a Brahmin when requested to let a wife for purposes of begetting a son should consent to it. The Sudras of other provinces do not observe this text as an authority, and there is no reason why the Nayar should be alone compelled to do so. Nor do the Brahmins observe the text about letting their wives. Also, as I said above, it is not the nephew who inherits but the Tarawad, and as its representative some cousin of the deceased man. It is therefore clear that the religious principle is entirely absent from the rule of inheritance in the law of Marumakkathayam. An elder member never under the Marumakkathayam usage performs the funeral ceremonies of the younger, but gets his property notwithstanding. Among the other Hindus also in Southern India, fitness to perform funeral rites is not the qualification to inherit, since the Mitakshara, the law administered in Southern India, ignores the religious principle altogether. While all other Hindus ignore this principle it is unreasonable that a Nayar alone should be compelled to observe it. Even if religious merit is regarded as a reason for inheriting property the son now performs it, if the father is of the same caste, and that he is the fittest person for it no Hindu can deny, and consequently it is only just and reasonable that he should be allowed to inherit the property also. There is therefore no civil or religious objection to the projected provision of changing the succession to self-acquisitions from the Tarawad to the son.

(e) I do not approve of the provision as to maintenance since it takes away a part from absolute ownership in property. A wife and children may have

their maintenance in their Tarawad in case the husband disinherits them, and the bill which provides for a form of marriage need not go out of its own way and clog a right which the people already have, *to wit*, free power of willing away property. The chief object of the new movement of which this bill is an outcome is to provide for a form of marriage which shall be permanent, and to avoid hardships which occasionally arise from the carelessness of husbands during their lives to secure property for their wives and children; and it is wholly unnecessary, therein, to fetter individual rights even to this extent. The power of willing away one's property if it now exists is not subject to any adverse rights of maintenance in the Anandaravans, and I for one, am against creating any new and unknown restrictions. According to the new Act the wives and children are foisted into the place of Tarawad and Anandaravans and I do not see any reason why the former should be given any right which the latter do not now possess.

(f) I have nothing to say as to this.

45. Yes, I know instances.

(Signed.) K. P. RAMAN MENON, B.A., B.L.,

High Court Vakeel.

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Answers to Interrogatories

BY

M.R.Ry. K. KRISHNA KURUP AVARGAL, B.A. B.L.,

HIGH COURT VAKEEL,

TELLICHERRY.

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AYNCHERRY,
10th May, 1891.

To

H. M. WINTERBOTHAM Esq., C.S.,
Collector of Malabar,
On Special duty.

Sir,

With reference to your two communications with respect to the proposals of the Hon. C. Sankaran Nair regarding Malabar Marriages and kindred subjects, I have the honor to state as follows:—

2. As to the first question contained in the former communication my answer is that I am emphatically of opinion that Malayalis should be given the right to dispose of their property by will to the same extent that they could alienate it by gift *inter vivos*. It may be a question whether they do not possess such a right now, but I shall, for the purposes of this letter, assume that they do not. The bill introduced into the Madras Legislative Council by the Hon. C. Sankaran Nair proposes to confer the power only on the husband and wife married according to its provisions. This, I think, is unfair. The absence of such a power is keenly felt by Malayalis now and will be equally felt hereafter, whether they are husbands and wives married under the act, or not. It is in the power of the legislature, and I think it is its duty, to confer the power on all, seeing that it is due to them in justice to do so.

3. There may be persons who have conscientious objections to enter into a marriage of the description contemplated by the bill. Some others may not be satisfied with one or more of its provisions, and they may not contract marriages under the act. Others, again, may be old maids and widows, who have little hope of securing husbands. There are here, as elsewhere, old men and old women, who have given up all idea of entering into any sort of marriage connection. Some of these have properties of their own and they wish to enjoy them till their death. They also wish to leave those properties from that time to some person or persons at their pleasure and in some instances in definite shares. The objects of such bounty, very often, are not the legal heirs of the possessors, and the shares they would determine upon, will not, in many instances, be what the law will allot even in the few instances in which it would proceed to a division.

4. A person may wish that the bulk of his property should, after his death, go to a charity, or to support some other benevolent institution. He is loath to give away now for, thereby, he may be exposed to much risk and no little inconvenience. The man, in consequence, puts off making the alienation to a day when he is sure he will not any longer want them for his use. But in some cases such time comes unexpectedly and carries away the man unawares and before he has had time to make the necessary arrangements, or, in others, it comes with indications sufficient to remind every one else that the end is near, but powerless to make the victim realize the fact; because he loves life dearly and would not therefore be persuaded to believe in time that it is drawing to a close. The man dies. The charity is left to take care of itself. The founders or managers of the benevolent institution bemoan the loss; and the property goes to the heir-at-law, who was perhaps a bitter enemy of the former possessor. Whereas, if he could have made a will, there would not have been matter for complaint from any quarter.

5. I think that I need not multiply instances of blighted hopes, or dilate on the desirability of conferring the testamentary power on any people who are above the level of mere savages, and who may have something of their own to bequeath. The want of such a power had been felt by all persons who had it not once; it is felt by all who have it not now, and it will be felt by all who will not have it hereafter. If, as everybody will admit, it is the duty of Government to prevent hardship of its subjects, where it is practicable to do so without letting in greater evil, I think our benevolent Government is bound to confer such a power on all Marumakkāyāṁ Hindus, whether they choose to marry under the Act or not.

6. Substantial benefits accrue to the parties from such a marriage as is contemplated by the Bill, and heavy responsibilities will have also to be incurred. These rights and responsibilities are the direct consequences of the marriage of the form proposed. A Sambandham is also a recognised form of union of the sexes in Malabar, but no rights arise from the connection, and no duties are incurred thereby. Ostensibly the Bill is meant only to provide a permissive Marriage Law for Marumakkathayam Hindus. It does not purport to do away with Sambandhams. The apparent intention of the framer of the Bill is to leave it entirely to the will of each couple to decide whether they will be united under one system or the other. If so, both systems ought to be left to them to choose between, and no advantage or disability, other than what directly flows from either, should be attached to either of them. Each system must be allowed to stand or fall on its own merits. The husband or wife, marrying under the Act, should not have the additional advantage of possessing the power of testamentary disposition of property. Such a power is not the necessary consequence of a marriage under the Act, and it is not inconsistent with the Sambandham as it now prevails. No valid reason can therefore be assigned to the withholding of a power to make wills from persons who are not legally married. In the struggle for existence both systems will not have fair play if one of them is to be hemmed in by extraneous disability.

7. What I would therefore propose is that all Marumakkatayam Hindus should be given the right to dispose of their property by Will to the same extent that they could alienate it by a gift *inter vivos*.

8. As to the latter question my answer is that, in principle, I fully approve of the suggestion to provide a permissive Law of Marriage for Malabar. But I cannot agree to the present Bill in its entirety. My objections in the main are set out here and there in this letter, and I think they embrace all the principal ones I have to make.

9. I shall now proceed to answer the questions put to me as per the second communication. A few of them I have not touched upon, because I know that I cannot do justice to them.

Question 1.—Yes. A Nayar male of a higher division can have Sambandham with a woman of any of the lower divisions,—Washermen, Weavers and such like excepted.

Question 2.—No. The woman loses the right to associate with all respectable Nayar divisions if she contracts a Sambandham with a man of a lower division. I have been informed that such Sambandham is not, however, uncommon in some parts of Native Cochin.

Question 3.—I know no instance of the kind referred to in the question in North Malabar.

Question 6.—The *Korapuzha* is commonly spoken of as the boundary.

Question 7.—The Nayar males of North Malabar do, occasionally, form Sambandham with Nayar women of the South. They, however, do not allow their females to form Sambandham with any Nayar of South, however high his caste and social standing may be. I know but one instance of a breach of this rule.

Question 8. There is no reason why a Nayar of South Malabar, as such, may not have Sambandham with a woman of the North. The existence of a custom prohibiting such a union cannot be denied; but as one of the essential conditions of a valid custom—namely that it ought to be reasonable—is wanting in this case, I would return an affirmative answer to the question.

Questions 9 and 10.—The general rule is that no Nayar woman of the North may cross the *Korapuzha*, and not that she may not cross to the South of the *Korapuzha*. That this is so is seen from the following, among other circumstances. There has been an instance in the family of * * * * of Quilandy of a lady of that house marrying a Kurup of * * * * in Calicut Taluk. I am informed that she came and went, from, and to her husband's house; but never crossed the objectionable river in passing, having on every occasion taken care to pass and repass higher up the stream, where it is no longer known by that name. The people of Quilandy seem satisfied; for, she—now a widow—like others, is permitted to take part in all caste observances and ceremonies in which the females of her house used to join in her pre-marriage days. None of the family, or its relations, have suffered in consequence of her going to and living in a place, which everybody knows is situated to the South of the offending stream. The origin of this prohibition is now well-nigh obscure. The absurdity of it had suggested itself to me more than once; and from the enquiries which I have made in consequence, I have been furnished with the following explanation which has an appearance of probability about it. In ancient times,—my informants cannot say at what time—when South Malabar was ruled over by the Zamorin, and the North by the Kolathiri Rajah of Chirakkal, there had been a grand ceremony in the palace of the former and, as usual, females from many parts of the country had been invited to go there to partake of the feast and enjoy the *thamāsa*. It seems that at that period the Zamorin had not a special class of dependants in his service, as some at least of the Nambudiri landlords and Nayar *Nāduvāzhis* (chieftains) had, and have even now. Some say that there was such a class, but that the members thereof were small in number and altogether inadequate to discharge the duties they had to perform. It seems that the Zamorin hit upon an effective though treacherous means to swell the number of his menials, and ordered the palace gates to be closed against the departure of his female guests. Such of the imprisoned, as did not belong to the dependent class,—and they were far the greater portion,—were out-casted by their Kinsmen. The Zamorin took them into service and married them into his dependent class. The original members and this subsequent addition in course of time became a homogeneous division, and are known in Malabar tribal history as *Akath chārṇna Nāyanmār* or more properly as *Akath chērṇna Nayanmar*, the literal meaning of which expression is the *Nayars attaching to the inside*. This class is now known as *Parisha-menons* or *Menons* simply.

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The *Kolathiri* Rajah of Chirakkal was informed, in due course, of the wholesale wrongful confinement that took place at Calicut. He was powerless—or at least was not then in a position—to chastise the Zamorin; and the only means he could hit upon to remedy the evil, or, at least, prevent its recurrence, was to enjoin that no female subject of his should thence-forward enter the Zamorin's territory. His words on the occasion are reported to have been somewhat to the following effect. "Into the territory of the Zamorin, who is guilty of such gross misconduct as this, let our women (subjects) not enter."

A later generation, who perhaps did not know, or were not informed of the reason for the prohibition, or, who, by lapse of time, and because no fresh instance of the kind took place in the South misparaphrased the Rajah's words into a prohibition to cross the Korapuzha—the Southern boundary of Kolathnad. Thus, by a not unnatural confusion of ideas, a prohibition to enter a rival King's dominions came to be construed to mean a prohibition not to cross the boundary line, which separates the two Kingdoms; and as seen from the instance of the * * * lady of the present generation, it would seem, would not object to Northern women going to and living in the South provided only that they would take care not to cross the Korapuzha. The tenacity with which the North clung to the prohibition, even after the shadow of a reason for its imposition had disappeared is, by some, attributed to the fear they entertained that the morals of their women would suffer by contact with their Southern sisters, who were then, and are now, considered to be deficient in many of the womanly virtues. These considerations, however, need not now prevent a Nayar woman from crossing the Korapuzha. The sovereign power of the Rajahs both of Chirakkal and Calicut have now become a matter of ancient history; and they may be sure that no such arbitrary and high-handed procedure will ever be had recourse to by the British Government, which is now master alike of the North and the South. The supposed deficiency in virtue in the woman of the South—at least to an extent greater than what may obtain elsewhere—is a myth and has absolutely no foundation in fact. The sooner the North leaves off this habit of making wholesale condemnations the better it would be for them. My answer to these questions is that it is not objectionable now for a Nayar woman of North Malabar to cross the Korapuzha, because the prohibition, that they should not do so, has no legs to stand upon but an unmeaning custom.

Question 11.—I leave it to persons of more experience than myself to give a description of a Tali-Kettu Kalyanam. I shall only give my opinion as to what it now is. The significance of many of the acts performed at this ceremony unmistakably shows that in ancient times, when it was instituted, it was meant to be the real marriage ceremonial itself. Among other Hindus, marriage, as a rule, is performed before the girl attains puberty, and the Tali-kettu kalyanam ceremony is also gone through invariably before that epoch. Here all similarity ends; and whether on account of the influence of Malabar Brahmanical usage which, most selfishly, prohibited the junior members of Illams to contract marriage in their own caste, and allowed them to form alliances with Nayar woman—and thereby brought about, or greatly contributed to the endurance of, that most unnatural system of the Marumakkatayam Law of inheritance,—or whether it was found impracticable to get suitable husbands in all cases, before the girl attained puberty, or for any other cause not necessary to be investigated now, a division of labour seems to have taken place. One person was proposed to tie the Tali, and another to perform the other offices

of a husband. The duty of tying the Tali on a woman, and its corresponding right to cohabit with her, parted company, and unlike what obtains among other Hindus, became vested in two persons, never again to meet on common ground unless, perhaps, the present Bill becomes Law.

So completely is the original meaning of the rite lost sight of in these days that one man is allowed to perform the same ceremony on several girls—often sisters and first cousins—on one and the same occasion and, what is more strange, even the girls' own mothers perform the ceremony on their daughters. But the observance, though devoid of sense, continues even without a single exception—for that maxim is, to a very great extent, false, which says, the reason for a thing ceasing to exist the thing will itself disappear. The expense it entails, the almost outrageous drain of family resources it causes, and the hardship to many an otherwise well-to-do Tarawad, it produces, require no comment here. My answer to the question is that the Tali-kettu kalyanam, whatever may have been its significance in ancient times, is at present only a shameful, expensive and unmeaning ceremony.

Question 12.—To the question as put I can only return the answer that a person other than the girl herself must do it.

"Who should tie the Tali?"

Among Menons Netungadis tie it, and among Sudra and Vattékatt Nayars their own caste people. With some Nāduvāzhis and the Rajahs, a *Kshathriya* man performs the service, and among the Kurups and Nambiars of the North a Nambudiri does it. I have been informed that a mother may, and does, perform the ceremony but I know of no instance of the kind myself.

So far as I am aware, the person who ties the Tali is not invariably known by a name. In some places of South Malabar he is called *manavalan*, which means bridegroom; but usually and generally he is known by his descriptive title only—such as the tali-tying *Netungadi*, *Enangan*, or *Nambudiri*, or otherwise as the case may be.

Question 13. Yes. It is.

Question 14. No. But it would seem that in some rural parts of the South, he is recognised to have a preferential right to form Sambandham with the girl, but this is so, I understand, only in theory, and I know of no instance in which the right, if claimed, was allowed and a Sambandham formed in consequence.

For more reasons than one, the persons who is now selected to tie the tali on a girl, should not be permitted to have the right to cohabit with her. None of the parties contemplate the accrual of such a right. The men are chosen simply and solely to tie a knot, and that done, they are *functus officio* and ought to remain as such. But if it be possible for us to revert to the olden state when Tali-kettu was symbolical of, and formed the most essential part of, marriage itself; if the man who ties the tali be chosen with that end in view, and what is as important as the foregoing, if the ceremony may be deferred to a time when suitable offers of marriage present themselves, I feel confident that every right-thinking man will only be too glad to accord to the Tali-tiers their marital rights, which would then doubly be their due.

Question 15. There is no objection. The man who ties the tali stands to the woman round whose neck it is tied precisely in the same position as any other person competent to marry her would be. There is no prohibition whatever such as is referred to in the question.

Question 16. I have not, however, known an instance of such a Sambandham.

Question 17. The usual pollution—which varies from ten to fifteen days—is nowhere observed. In the North, so far as I know, no pollution is observed at all. I am not aware what the custom is among the different divisions of Nayers in the South. It seems that, with respect to some at least, the practice is to have a full-plunge tank, or river, bath, as conveniently as may be, after the news is first broken to the woman—thus casting off a real or supposed *impurity*, and not terminating a *period of pollution* properly understood.

Question 18.—I have heard that it is, but know of no instance in which it was had recourse to.

Question 19.—According to general Hindu Law a girl loses caste if she be not married before puberty. Malayalis, therefore, think that Tali-kettu kalyanam (which as stated before was most probably the real marriage ceremony of ancient times) should also be performed before that period, and as a matter of fact all kalyanams are so performed. The penalty they ascribe to a breach of this custom is, likewise, loss of caste. But as Tali-kettu kalyanam has now lost its real significance and is at present only an expensive farce, I do not think that there is anything but blind custom which requires it to be performed before the girl is mature.

Question 20.—After Tali-kettu kalyanam, when a girl desires to consort with a man no further formalities are necessary (except of course the proposal by the man or his people and its acceptance by the woman or her people) in the sense that if they are not gone through the union would not be recognized by the relations of the families or their friends. But as a rule a great deal of further formalities and symbolical ceremonies are gone through before the couple is united. The nature, form, and manner of these formalities vary in different parts, and vary also with reference to the caste and position of the man and the woman.

Questions 23 and 24.—A woman of North Malabar cannot have Sambandham with more than one man at a time. Usage, and the now well-established custom of the place, prohibits it, and there has not, in consequence, been a single instance of Polyandry there, and none is reported to have occurred for a very considerable time beyond. I believe if ever polyandry existed in the North it has been given-up long ago.

The same cannot be said with respect to South Malabar. There polyandry existed to a considerable extent (more especially among the lower division of Nayers) and a few instances may be found even now. Public opinion there also, is very strong against such a practice, and we may rest assured that in about twenty years more there will not be a single instance of polyandry to be found there.

The prohibition can be found in the almost unanimous public opinion on the point, as evidenced by the usage now existing. That such a practice is sinful and therefore prohibited, is a lesson which may be gathered from many a Sanscrit work (such as the Mahabharatha) which have been translated into Malayalam or the substance of which have been rendered into that language. These works form almost the daily reading of Malayals, and have as much influence on their opinions, beliefs and conduct, as the originals have on other Hindus.

Question 25.—If a woman wishes to terminate the Sambandham she can do so—in the sense that society has given her the right to do so in case she feels the

righteous necessity for so doing. But in practice, this right is very seldom exercised, and its exercise, in the extremely few cases which have taken place, has been viewed with disfavour. Such viewing of the matter has, I think, sufficed at least in North Malabar, to restrain its women from casting away their old or less serviceable husbands, and seeking the company of other persons more favoured by nature or by fortune. The whole Malayali community is against the unrestricted exercise of such a right. It views almost all such cases with suspicion, if not with distrust; and has a shrewd idea that all is not right with a woman who throws her husband over board and, unless the contrary be proved, it concludes that she would not do so had she not a greater expectation of benefit in store for her, which she means to realise by such unfair means. But, at the same time, society is conscious that husbands are not such paragons of virtue as to admit of their wives being tied hand and foot, and left to their absolute control. It feels that there may be many causes which would render the married state of a woman miserable to her, if she were not allowed to put an end to it in an emergency, and it has thought fit therefore that the stronger sex should realize that there is a possible limit to the unpleasantness that may be caused to the weaker, and that there is a right and a power lying dormant in woman which if excited, can put an end to the marriage relationship, without her undergoing the expense the worry and the shame of a public enquiry into the cause of separation. My answer to the question therefore is that woman has the power to terminate the Sambandham; but that its undue exercise is prevented by strong public opinion, to the extent possible to do so without doing away with the power altogether.

Except separation in bed, with the intention in either or both to dissolve the connection thereby, no sort of formality is necessary to effect a divorce—in the sense, that if the same be not gone through the dissolution will be regarded as incomplete, or not to have taken place at all, and the married state considered to continue. If the wife be with her husband, or in his house,—and she has no business to be in either place except in her character of such wife,—to effect a divorce, she ought to be sent home, for the relationship will be presumed to exist in every case in which she is under his roof and control. If the wife be sent away to her house, or if she be already there and the husband does not visit her—and the sending away and the non visiting be in pursuance of an intention to dissolve the connection,—the same is thereby dissolved without any other formality. The intention with which the said acts may be done, or left undone, is a matter for inference of no great difficulty from the surrounding circumstances of each particular case; and even if there may have been some doubt as to the other party's intention in the beginning, lapse of time, not extending to more than a few months will always set at rest the mind of the rejected as to what that intention was, or at least is for the present. For—of the unavoidable circumstances and design to cheat apart—there are so many acts of social and friendly obligation to be performed by the parties in the course of a year or so, which every husband, however small his means may be, would not, on pain of extreme social disgrace, omit to perform, that the omission to perform them is rightly construed to indicate an intention to sever the connection. At any rate no difficulty is felt in practice, and I know no instance of a man or woman being left in doubt for any considerable length of time as to whether he or she continues to be and is regarded as the husband or wife of his or her partner.

Question 27.—A man can have Sambandham in more than one house at the

same time—i. e. he has the right if he is so inclined, and there is no social code to debar him from doing so. But polygamy is also viewed with disfavour by the society and the members of such connections are in consequence diminishing year by year.

Questions 29 and 30.—During Sambandham, in North Malabar, as a rule, the woman sleeps and has her meals in her husband's house, or at his residence. In the South she sleeps and has her meals in her own house. But a practice similar to that obtaining in the North is growing up fast and I think, before many years elapse, there will be found a very marked change.

Even in North Malabar there is a kind of Sambandham known as *Uvamporukkal* during the continuance of which the woman lives in her own house and is there visited by her husband. But this kind of connection is resorted to only as a temporary measure, and when it is not convenient, for the time being, to go through the more formal and expensive ceremony of *Pudamuri* or actual marriage, as popularly understood. This *uvamporukkal* state is not generally prolonged to any very considerable period, and cannot, by usage, be put off later than the *Pulikudi* ceremony in the fifth, or the seventh, month of the first pregnancy of the woman. At the latest *Pudamuri* should be, and is invariably, then performed and the woman taken to her husband's house.

Question 31.—In North Malabar the practice is for the husband to support his wife and children in his house if he has the means to do so; because they live there together and the responsibility of so maintaining would, under such a state naturally devolve upon and is not very unreluctantly taken up by, the man, who generally discharges it to the best of his ability.

In the South no such practice obtains generally. The wife and children usually have their meals in their Tarawad house. Their other wants are very often supplied by the man, if he is in a position to do so. But I should think that the duty is everywhere undertaken more as a matter of love and propriety, or at most as one of moral obligation, and that it is not in the contemplation of anybody that a corresponding legal right should be or is, created in favour of the wife or children. I think the practice wants this juristic element in it to regard the same as a recognized legal custom and, as an unwilling husband cannot be legally compelled to discharge the duty, I should return a negative answer to the question.

Question 32.—As a rule, Sambandham is not changed very often and the man and wife generally manage to "cleave together" for life. In the great majority of instances this is what is observed. In the absence of reliable statistical information, one cannot say, even approximately, what percentage of connections are subsequently dissolved. I believe that the tie is more permanent in the North than in the South, and divorces by the wife what is almost unheard of in the former contributes, to an appreciable extent to the total number of separations in the latter.

Question 33.—He does; if he has the means.

Question 34.—As far as I know, no special allowance is usually made to an Anandravan who works for the Tarawad. The Karanavan may in some cases do so and does occasionally do so to induce the turning-out of work to which he has no legal claim, and he generally allows him maintenance on a little more liberal scale than he would otherwise consent to adopt. It is very seldom in the North, that an Anandravan cultivates Tarawad lands for a rent. The practice is

different in the South where he often takes up big farms from his Karanavan at a fixed annual rent, and either cultivates them himself or lets them out to tenants. In such cases he is invariably permitted to deal with the surplus, if any, at his pleasure; but the Karanavan may have something to say with respect to such dealing; but this something is said only as a matter of advice, and not as a word of command. He, however may, and, in some cases, does resume the lands if he finds that his tenant Anandravan squanders his profit, or diverts it into channels he does not approve of.

Question 35.—Many Anandravans live idle. They really find it difficult to kill their time. They cannot help it and I think, in most cases, they are not to blame for it. They have no inducement to work for their Tarawad, for any increased income that may arise in consequence of their labour, does not generally come into their hands, and they have no claim against the joint-estate to anything more than maintenance, to which they and their do-nothing brothers and cousins, (to whatsoever degree removed provided that all belong to one Tarawad) are equally entitled. A Karanavan may and often does show some favour, pecuniary and otherwise, to his working Anandravan, and meets his wants a little more liberally than he would those of others. But such favour and such allowance is not, generally, if ever, a sufficient remuneration for the labour bestowed. Anandravans very naturally, therefore, try to pursue some independent calling, or set up in some business of their own and earn something for themselves if they can; and I know no instance of an Anandravan with some money in his hands and a fair share of pluck, ever living idly in the Tarawad house working for the Tarawad, if his own undertakings—he is sure to follow some—demand his full time and attention. My answer to the question is that, in a few instances, where alone it has been found practicable, Anandravans work for their own profit; that in a greater number of instances they half-heartedly work for their Tarawad and receive some remuneration for their own use over and above their allowance for maintenance; but that in the great majority of instances they do nothing at all to better their own condition, or to increase the common wealth of their Tarawad.

Question 36.—With their private earnings and with the amount allowed to them for maintenance from the Tarawad, Anandravans meet their wants, including the support of their wives and children. Such private earnings are never handed over to the Karanavan though they may occasionally assist him in cases in which the Tarawad requires such extraneous help. It is the practice in North Malabar to allow maintenance to the wives and children of Anandravans if the Tarawad can afford it, and in such cases their earnings are not devoted to their support though they may, and usually do, meet their other wants.

Question 38.—I am one of those who believe that a form of marriage such as the law will recognize is a necessity for Malabar. I maintain that Malayalis have an organized system of relationship between the sexes, (known in different parts of the country by different names, but the same everywhere in all essentials) that such relationship is as much respected as it is in other countries, and that our women are as chaste as any that can be found elsewhere. But no legal rights or duties flow from the said relationship, and, as I fully believe that this an enormous evil, I should feel extremely thankful if means can be devised to remedy the same, without, however, at the same time, giving up to any substantial extent the freedom we now enjoy in the matter of the said relationship. I believe that so long as that state continues the

wife ought to be under the legal guardianship of the husband. No will, but her own, should have the power to compel her to live separate from him. I believe that it will be a good day for Malabar which sees the law passed which says, that the self-acquisitions of a person dying intestate should go to his or her partner and the children. Such a law will, I feel confident, mark an epoch in the advancement of the Malayali race, and in time do away with the Marumakkatayam system of inheritance altogether. I believe also that it would be a great boon not to recognize as legal impediments to marriage the many mischievous and unreasonable prohibitions which now stand in the way of persons of different divisions and localities contracting marriage with each other. On all these and similar grounds I have my full sympathy with the worthy promoter of the Bill and his co-workers. But on one point and on one point only I cannot agree with them and, though my voice may be powerless, I feel bound to give expression to what I fully, conscientiously and after mature deliberation believe to be what is right and expedient with respect thereto. I do not—I cannot—support those sections of the Bill which relate to divorce, judicial separation, and restitution of conjugal rights. I believe that the husband and wife should each have the freedom, to put an end to their relationship when he or she finds that the companionship of the other is irksome and productive of a balance of misery, after making due allowance for any compensating good. I believe also that they ought not to be compelled to have recourse to a court of law, or any other tribunal, to obtain a divorce, or a separation. No man or woman should, in my opinion, be forced by law to remain in a state of sexual alliance with another against his or her will and I can characterise the connection which is the result of legal compulsion, by no other term than that of *legalized prostitution*. For, the union between the sexes ought by the law of nature to be the result of love; and as men are agreed in stigmatizing as prostitution the act of selling one's person at the bidding of a desire for money, or other lucre, this giving up of one's person to another at the bidding of law—when natural and healthy love is averse to any such proceeding—can be aptly designated by that expression, and only by that expression. I believe that an indissoluble tie—or, to speak more correctly, a tie which, in practice, will be found indissoluble, when regard is had to the conditions imposed upon the obtaining of divorce or separation, and the publicity a matrimonial suit entails and the shame to which it exposes the couple and other circumstances too many to mention—I give it as my emphatic opinion that such a tie will be productive of great misery to both the parties. It will be more so for the woman whom it ties hand and foot and delivers over to the keeping of a man who has ceased to care for her, and who naturally has other means of employment and pleasure to which he devotes his time and attention. To sit brooding over one's unenviable lot in the house of her protector—I had almost written *jailor* for that is nearer the truth—to eat the miserable meals reluctantly doled out to her, and to look after his affairs who perhaps has begun to hate her, is a combination of wretchedness too great to be endured. And the effect of indissoluble marriages in an appreciable number of cases, will be nothing besides. An eminent writer on social science has made the following observation on the point. "The irrevocable nature of the marriage contract and the impossibility of procuring divorce, lead to the most fearful evils. Mr. Hill shows this in his work on crime, telling us that the great majority of murders and brutal assaults now-a-days are committed by husbands upon their wives and showing that it is in the nature of all long and indissoluble contracts to cause similar evils. All contracts, binding

"two human beings together in an indissoluble manner for long periods are the fruitful source of crimes and miseries. So it was with the cumbrous machinery of apprenticeships, formerly prevalent in the trades, which is now being gradually abandoned. It is certainly a fearful and miserable anomaly that two persons who have ceased to care for—nay who have come to hate each other should be bound together with iron rigour in what should be bonds of love. Surely, it is a bitter satire upon love, and on the dignity and freedom of man and woman For all parties it is infinitely desirable that a divorce should take place Many are already in favour of a similar" (like what obtains in Germany) "alteration in the marriage laws of this country". The majority of our women are uneducated. They have not seen the inside of a court house all their lives. Most of them have no notion of what a judicial proceeding is. They do not know what is meant by collecting evidence or preparing a case for Counsel or Judge. The very thought of appearing in a court of justice will unnerve most of them, and they would rather put up with any amount of cruelty at the hands their husbands than go to a court of law and give evidence in support of their claim. They are very shy, at least in public, and would cut a very sorry figure indeed before a public tribunal. Most of them cannot stand even an examination-in-chief much less a cross-examination by an ordinary pleader. They generally are no match for men in any of those undertakings which are carried on outside the four walls of their house; and nowhere will their imbecility be more apparent than when they are pitted against their husbands in a court of law. Most of the persons, servants and others who should naturally be called to prove their case will be inmates of their husband's house, who are necessarily dependent on their good will even for their livelihood; and they will not except in very rare instances speak the truth that may tell against their masters. The divorce and separation clauses of the Bill will therefore be a dead letter to them, and even where they have a good case a court of law will not be in a position to afford them relief. The misery that the indissoluble tie entails on the man is also great. He is made the unwilling bearer of a burden which he would give worlds—if he has the power—to get rid of. Whether waking or asleep the detested creature is near him to make his life miserable, and turn which ever way he may in his house (no longer his home) his now abhorred one will pursue him with the steadiness of his own shadow. Indissoluble marriage makes hypocrites of those whose unhappy lot is not to be on loving terms with each other. They are obliged by consideration of propriety, decency or etiquette, to keep up appearances and to show a smooth surface outside, when all is ruffled or stormy below. They become mere actors playing their allotted parts and live in a realm of deceit and unreality all their lives. The evil effects of the continuances of such a disturbed union on the children are, perhaps, even greater than what they are on the parents. Other things equal, I can conceive nothing more unpleasant to them, nothing more contaminating to their morals, and nothing more unfitting them to entertain a feeling of benevolent sympathy for their fellow-creatures, than living with a father and mother whose temper is soured by mutual hatred which is constantly exhibited in their presence. To err is human; but to forgive is divine. And why should law divest itself of this divine attribute and not forgive a man or woman who has erred in choice, and why should it not allow them to make a second attempt when the first is found to have failed? This liability to err becomes greater when we consider at what period of life this leap in the dark in the region of matrimony is taken. The bill allows a marriage to be contracted if the man is 18 and the woman 14 years of age. This

is a period of life when passion is at the highest and persons are prone to do things without much regard to consequences. Character is not then fully developed. Either or both of the parties may not have had full opportunity to study the other with a view to determine calmly and rationally how far they are suited to each other and to what extent they may be able to pull on happily together. Bad indeed must be the lot of man if such a momentous undertaking, entered into at such a period of life and under such circumstances, cannot thereafter be undone unless at very great sacrifice. Barrenness in the wife is not one of the causes for which a divorce may be procured under the bill. Yet the desire to see the offspring of our loins, to fondle it, to educate and to leave to it our belongings, is a natural and healthy desire; and it may reasonably be asked whether it is one that deserves to be relentlessly discountenanced by the law. If not the only alternatives that present themselves are bigamy and divorce, and it requires no great sense of discrimination to choose between them. The history of the marriage laws teaches us a valuable lesson. It shows that with the advancement of civilization such laws have been, and are being, modified with a view to give greater and greater facilities to dissolve the connection. The Canon Law, like the Hindu Law, prohibited divorce on any ground whatsoever. The law of Protestant England allows it on the ground of proved adultery on the part of the wife, or proved adultery coupled with cruelty on the part of the husband. A later German Law permits divorce if the parties find that they are unsuited to each other. In some of the Swiss cantons, and notably in many of the states of the United States of America, a decree for divorce may now be granted for proved incompatibility of temper. I would ask why the Malayalis should be given a rigid divorce law when the teachings of history as exemplified by the practice of almost all civilized and progressive races of the globe show that the bonds of matrimony have, in their opinion, been tied too tightly in ancient times; and that they require unloosening in many parts to render them conducive to the welfare of those whom it binds. Once before during the administration of H. E. Sir M. E. Grant Duff a petition had been presented to the Madras Government praying for the enactment of a Marriage Law for Malabar on almost the same narrow lines as is proposed by the present Bill. The matter was shelved then and I have been informed, with what substratum of truth I cannot say, that His Excellency then observed that "the nations of the West are *fast drifting* into a system very much like what is obtaining among Malayalis, and I do not see why they should take this *retrograde step*." The italics are mine, and I concur in the opinion set forth above, and I am fully persuaded that by giving up this, almost the only, good social custom which we now possess, because of the individual instances of misbehaviour few and far between, we would in the last decade of the XIX century be taking a very long *retrograde step* indeed. I may also bring to the notice of the commissioners that many persons with whom I have conversed about this matter and who hail the bringing in of the Bill as a piece of good fortune, have confessed to me that they entertain a feeling of dissatisfaction with those portions of it relating to divorce &c. and some have gone so far as to declare that, in spite of all its attending goodness, they would not themselves contract, or allow those under their control to contract a marriage of the description contemplated by the Bill—i. e. one that can be dissolved only under the circumstances therein set forth. I am conscious that my answer to question No. 32 may be turned against me and I may be asked why I protest against the divorce clauses of the Bill when according to my own admission most of the marriages now celebrated continue permanent and, presumably therefore, the ruffled state of con-

jugal relationship which I apprehend, and for which I want a radical remedy, has no existence in reality? My answer is this. In the first place I think that the hardship of the remaining portion should not be lost out of consideration; and secondly I am of opinion that the said majority manage to cleave on together because—paradoxical as it may seem—they are not tied up unduly tight. A give-and-take policy will be pursued by both when either knows, and feels, that the other has the power to put an end to the relationship in an emergency. Neglect or inattention in either is, in such cases, more often attributed to want of ability, or inadvertance, than to wilfulness, and a tolerably happy and harmonious conjugal life is the result. But when this state of things is reversed, and the parties are tied to each other by indissoluble ties, the consequences are likewise those of an opposite nature. The weaker party, whether husband or wife, feels the neglect keenly and attributes the want of attention or other misbehaviour, to deliberate intention, or what is worse, unthinking heedlessness; and naturally jumps to the conclusion that such conduct is the result of a consciousness that the injured cannot place himself or herself out of the reach of the other. We have a proverb which says that a person does not feel hungry, who knows that there is enough of rice in his store-room. So also a married man does not feel the necessity for a separation when he knows that he can separate if he wants. I believe that this mental state assists materially in making the marriage relation in Malabar last long, and affords a striking illustration of the mental peculiarity observable in most persons that they do not long to possess a thing if they have the means of obtaining that thing. I am fully persuaded that a union, which ought to be one of love and love alone, should not be the creature of law. When such union is brought on by love, and when its permanence is secured by love, the law may engraft on it any accessories it may deem fit. It may clothe either party with any legal right. It may impose on either any legal disability. But it has no right to bring about the union. It cannot say that Mr. So-and-so shall marry Miss So-and-so. It has likewise no right to secure permanence to the union, where the tie of mutual love is broken as under. It should not say that Mr. So-and-so shall continue to be the husband of Mrs. So-and-so even though as a matter of fact the said Mister and Mistress have ceased to love and care for each other. My views on the question of separation partake of a similar character. I would leave it to the entire discretion of either of the parties to determine whether he or she shall live in a state of conjugal union with the other. As to restitution of conjugal "rights", I would never recognize such a right at all in man or woman. I can conceive nothing more mean, and nothing more unbecoming those noble attributes which distinguish man from the mere brute creation, than subjugating a fellow creature by superior force, or show of such force, to the carnal desires of another. Such a spectacle is too abhorrent to behold. Such a complete prostitution of love is too saddening to contemplate. The moral depravity of the being in human shape that would drag another into court to obtain the assistance of a perverted and unnatural law to bend that other to satisfy its (I can use no other personal pronoun) unholy lust, and the powerful arm of the law lending its aid to such a disgraceful proceeding, is too contemptible and wretched a state of things to contemplate with any degree of equanimity of temper, except to those who enter into it, and to those who lend it their assistance. I, for one, would put up with any amount of rigidity in the marriage tie, and I may even consent to making that tie indissoluble under any circumstances, but I cannot agree to a law awarding restitution of conjugal rights, and I cannot therefore, let this opportunity pass without entering my solemn, though feeble, protest against the morals of Malayalis being contami-

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nated by the plague of such a law. I would sit tamely under the reproach—if reason for reproach exists—that Malayalis have no legal marriage, and that the recognized form of union between the sexes among them is but systematic concubinage; I would forego the many benefits proposed to be conferred by the present Bill; I would brace myself to forget what an amount of inducement it gives to individual exertions, industry and thrift; I would even run the risk of leaving my wife and children unprovided for, though I have ample means at my command;—I would do all these and I would submit to all these if these benefits can be had, and if these evils can be removed only at the alternative of voluntarily submitting to a law of which a provision for restitution of conjugal rights forms an integral part. The following is a rough sketch of the scheme I would propose for marriage, divorce and judicial separation. I would, as my answer to question No. 39 will show, retain the customary form of marriage, and make registration evidence of its legal recognition. I will have the parties sign a declaration of marriage in the presence of two witnesses, and have it lodged in the office of the Sub-Registrar in whose jurisdiction either of the parties habitually resides. The Sub-Registrar after satisfying himself as to its *bona-fide* execution, is to register the same in a book called “The Marriage Register of Marumakkatayam Hindus.” He shall retain the original in safe custody, and give attested copies to the parties, and have a notice of such registration stuck-up on the outer wall of his office, where it shall remain at least for a month. I should deem these formalities sufficient, and necessary to constitute a valid legal marriage. Next as to divorce. If either party wants a divorce he (or she) should send in a written petition to the office of the said Sub-Registrar stating, without reasons, his or her desire to be freed from the union, and stating also what amount the petitioner claims, or is willing to allow the wife, for her maintenance after divorce. The Sub-Registrar on the receipt of the petition is to cause notice of the same (with copy of petition annexed) to be served on the opposite party, and communicate to petitioner that the petition has been received and registered in the “Marriage petition Register” kept for the purpose. From and after the dates of receipt of either the notice, or the communication, aforesaid, either party shall have the right, if so advised, to live separate from the other; but for all other purposes the relationship shall be deemed to subsist unimpaired. If after the expiry of six months from the date of receipt of the first petition a fresh written application is sent to the Sub-Registrar requesting him to take further proceedings in the matter, he shall, after satisfying himself as to its authenticity, make a note of the same in the petition register and forward the papers to the District Munsiff of the place. The receipt of such papers shall be tantamount to the institution of a suit, and all subsequent proceedings shall be regulated by the Civil Procedure Code. If the petitioner there also persists in obtaining a divorce a decree granting the same shall follow as a matter of course. Maintenance at a fixed rate shall be allowed to the wife—the same being determined by reference to the means of the parties and the surrounding circumstances of each case—and the same may subsequently be varied for good cause shown. The same procedure—with necessary alteration—may be adopted when the prayer is for judicial separation. Maintenance allowed to a divorced, or separated, wife may be reduced or stopped by order of Court, if she marries again and her new husband has private means of his own to support her, or if she is proved to be leading an unchaste and immoral life. The husband shall continue to be the legal guardian of the children even after separation and shall be bound to maintain them till they attain the age of 21 years, or until, being females,

they are suitably married earlier. They may be allowed separate maintenance if the father is adjudged incompetent to act as legal guardian, or for any other sufficient cause. All orders in matrimonial proceedings shall be subject to appeal and second appeal. A divorced couple may reunite after six months after separation, and a separated couple at any time they choose, provided they give notice thereof to the Sub-Registrar. I would by an express section disallow the right to institute a suit for restitution of conjugal rights; but the husband shall be permitted to institute proceedings to obtain possession of his wife and minor children, if they are illegally detained by any other person. The provision that six months ought to elapse between the first and second applications for divorce, and that the marriage relation shall be deemed to subsist in the interval, will I think greatly mitigate the evils now existing in Malabar and which are pointed out by the supporters of a rigid matrimonial law. *Firstly*;—it prevents haste, and gives time to the parties seeking divorce or separation to re-consider their action or heal existing breaches. *Secondly*;—adultery continuing to be penal in the interval it prevents the wife from leaving her husband with the immediate aim of joining her new admirer. *Thirdly*;—it prevents sudden elopements. It may be objected that the scheme propounded above does not materially alter the present state of things and that an absolute freedom of divorce is incompatible with the very idea of marriage. As to the first objection what I would reply is that change, as change, is not what is wanted; and that, in order that a fair proportion of marriages may be celebrated according to the form prescribed by the Bill, only such changes ought to be introduced as are proved to be absolutely necessary. As to unrestricted freedom of divorce being incompatible with marriage, what I have to say in the first place is that in my scheme there is no such freedom as is understood by the objection. The husband is the guardian by law of his wife, and he has the right to keep her under his control, and he may sue to recover her in case she is illegally detained by another. At least six months ought to elapse before a divorce can be obtained, from the time an intention to effect it manifests itself in plain terms. Though the determining cause of divorce or separation be the party's own will yet the actual untying of the Knot is done only by a decree of court. I maintain further that freedom of divorce such as I would allow may well co-exist with and form part of a sound marriage law. Among the ancient Romans the marriage relation could have been terminated at the free will of either party, yet nobody now says that they had no marriage. Among the Mahomedans it can be done away with at the mere will and pleasure of the husband without any formality worth the name. Yet the Law recognizes their marriage. The statement that absolute freedom of divorce is incompatible with the very idea of marriage is true only of such systems which regard marriage as a religious institution and not a civil contract. It was not so regarded by the Romans till the time of their conversion to the Christian faith. The law now administered in several parts of the United States of America regards marriage as a civil affair, pure and simple. I do not see why it should be anything besides with us, who are only now on the eve of obtaining a marriage law at the hands of the Legislature. According to the said American Law a divorce may be obtained on the ground merely of proved incompatibility of temper. And this is very much the scheme propounded by me. This incompatibility of temper, in the very great majority of instances is a matter of necessary inference from the mere fact that a divorce is sought to be obtained. The American law stops short of drawing the inference and requires it to be established by proof. To avoid scandal and to secure real domestic happiness, I assume the existence of such in-

compatibility in *all* such cases and allow separation or divorce, on the basis of such assumption. None have characterised the relationship of the sexes in America by any other name than that of marriage, and I do not see why a union which may be terminated in the manner suggested by me should not be similarly regarded. I hope that the Commissioners will find their way to recommend to Government the adoption of some such scheme as is set out above, and that at all events they will allow the marriage tie to be dissolved in all cases in which it is permitted to be dissolved in America and Germany.

Question 39. I would retain the customary form of marriage and make registration evidence of its legal recognition. But no marriage should, in my opinion, be deemed invalid because of the defect or absence of any form, provided there exists the registry to evidence it.

Question 40. The section as it stands allows a marriage to be solemnized between a Tiyan and a Nayar and between a woman of superior division of Nayars and a man of the inferior division. But it would be impossible to set out and set out correctly all such and similar restrictions as are now more or less recognized in practice in several parts of the country, and I do not consider it advisable to do so, even if it were possible. Custom and public opinion may be depended upon to prevent any very unusual unions till the time comes—and come it must—when such distinctions will be swept away. The section as drafted would, in practice, create no real difficulty, and will meet future probable contingencies.

Question 41. (1) I would add a third proviso to clause 4 to the effect that no marriage shall be solemnized between any two persons who are members of the same Tarawad having community of interest with each other. *Reason.* I know of many families, now living in commensality as Tarawads, some members of which are connected with one another through a common ancestress more remote than the great-great-grand-mother. A marriage between them cannot of course, be permitted. (2) I would add a proviso to clause 3 to the following effect. If the parties represent that they are 21 years old or more and the Sub-Registrar registers the marriage, the same shall not be deemed as invalid if it subsequently appears that either or both the parties were below that age, and the guardian has not given his consent to the union. *Reason.* Marriage is one of those undertakings in which what is done should not, if possible, be undone or nullified. It is desirable therefore to maintain the relationship in all cases in which it can with propriety be maintained, and in my opinion the above is one of those cases. Suppose a man and woman are married in the customary form and they wish to have their union legally recognized. The Sub-Registrar—a man of education and good social position believes their *bonâ fide* representation that they are of the age prescribed by law and registers the marriage. They grow rich and die intestate. Suppose in this state of events conclusive evidence is forthcoming that the mother was under age by a day, and that her legal guardian had opposed the union. Could it be endured that their children should be deprived of their birth-right because their parents and the Sub-Registrar fell into an honest error many years ago? (3) I would alter the wording of clause 3 as follows:—"The legal guardian of each party must, have consented to the marriage if such party has not completed the age of 21 years." *Reason.* The framer of the clause cannot have meant that the party who is under age should himself or herself have obtained the consent of his or her legal guardian, and that it would not be sufficient if the one obtained it for the other, or if some body else, a friend or relation obtained it for either. (4) I

would have it stated in express terms what all kinds of unions are to be deemed prohibited on the ground of affinity. *Reason.* I think that usage now prohibits marriages on the ground of affinity to a greater extent than is necessary or desirable. At the same time such usage is not uniform and some connections, such as the marriages of two sisters by two brothers, are prohibited in some parts and allowed in others. To marry a deceased wife's sister is considered bad throughout Malabar, though there have been some instances of such marriages in high quarters and though in reason, such a connection is in many instances the best that a widower can enter into. A sister-in-law is often one of the household, and is the fittest person to take care of her motherless infant nephews and nieces. The usage of some parts even goes to the extent of prohibiting a second marriage in the family of the late wife or husband, however remotely the deceased may be connected with the person with whom such marriage is sought to be contracted. Again; if it be not defined what sorts of connections are to be deemed disallowed on the ground of affinity a large door will be opened for perjury and for fraud to creep in, and interested parties will seek to have many marriages declared void because of some real or supposed prohibition on that ground. Difficult and hitherto undetermined questions as to what the "recognized custom" is, will now and then, have to be enquired into by the Courts and this state of things will continue until, as the result of many litigations in which many unions are declared void and several persons disinherited, the law becomes settled and yet not uniform. According to social usage the following are considered reasonable grounds for dissolving a Sambandham:—

1. The insanity of either.
2. Impotency in man.
3. Either party being subject to nasty and incurable disease.
4. Adultery, or well grounded suspicion of adultery, on the part of the wife.
5. Adultery coupled with cruelty on the part of the husband.
6. Cruelty alone on the part of either, and of such a character that a person of ordinary temper, patience and endurance will not put up with.
7. Incompatibility of temper to a degree rendering the union productive of misery to either.
8. Systematic disregard on the part of the wife of the expressed or otherwise well understood wishes of the husband concerning his honor or happiness.
9. A mutual understanding to separate.

Question 43.—*Vide* my answer to question No. 33 supra.

Question 44.—Clause (a) I agree to this clause, but, as it does not meet all contingencies, I would add to it the following:—"or if in the opinion of the District Court or High Court within whose jurisdiction either of them may habitually reside, such guardianship is injurious to the moral or material welfare of the children and their guardianship may be otherwise adequately provided for. Clause (b) I do not think that it is desirable to create legal liability in the father to maintain his children who are adults or who have settled themselves in life. So far as I know, no system of law imposes such an obligation on him, where he is not also the custodian of sufficient properties to which they have acquired a right by birth. I would also

substitute "shall not forfeit" for the words "shall retain" for, otherwise, the clause may be construed to mean also that they shall not have the power to renounce their rights on the Tarawad if they think it desirable to do so. I would also add "and father" to the end of the clause. I would therefore alter this clause as follows:—"The wife and children shall not forfeit their rights as members of their Tarawad and she and such children as have not completed the age of 21 years, and being females are not suitably married earlier, shall further be entitled to claim maintenance from the husband and father." Clause (c). I would alter this sub-section also on the same lines as are suggested in my remarks on clause (a) above. Clause (d) I fully agree to the sub-section as it stands being retained and have no suggestion to make to alter it in any way. Clause (e) For the last three words "wife and children" at the end of the first sentence of this sub-section I would, for reasons already given, substitute the following:—"wife and such of the children as have not completed their 21 years of age and, being females, are not suitably married earlier;" and for the same words in the next sentence I would substitute "wife and such children."

I have the honor to be

Sir,

Your most obedient servant,

(Signed) K. KRISHNA KURUP,
*High Court Vakeel,
Tellicherry.*

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Extracts from Answers to Interrogatories

BY

M. R. RY. K. RAMUNNI AVARGAL,

Pensioned Tahsildar,

Marumakkathayam Tiyan,

TELLICHERRY.

23. In South Malabar it is allowable while in North Malabar it is not.

24. That the Nayar women of Kerala need have no chastity is an immemorial precept. The reason of this is that among Kerala Brahmans only the eldest son is allowed to marry; the rest are to consort with Nayar women. Since there is no rule of chastity among the latter, and as they can accept as many men as they like, this custom has come to be regarded as if it were an institution.

38. There is no objection whatever.

44. I entirely agree with the provisions shown in the margin.

(Signed) K. RAMUNNI.

True Translation,

H. M. WINTERBOTHAM,

*Collector,
on Special Duty.*

CALICUT:

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EXTRACT FROM
ANSWERS TO INTERROGATORIES

BY

M. R. RY. K. V. CHAPPUNNI NAYAR, AVARGAL,
SHERISTADAR,
PONNANI TALUK.

19. Tālikettu ceremony must be undergone before the girls attain the age of puberty. It cannot be said that only custom can be pleaded in justification of this practice. It is in accordance with the custom obtaining among the Brahmins. It seems that in Manapuram (South portion of Ponnani Taluk) kalyānam ceremony is undergone after the girls reach the age of puberty. Among Malayali Brahmins marriage sometimes takes place after the age of puberty.

20. There are no formalities among Nayars. There is only the formality of fixing a day on which the Sambandham is to take place. This does not constitute a ceremony worthy of mention.

21. No. The same formalities are not observed. Generally they go to the bride's house with the consent of the members of the house and form Sambandham. Some Brahmins are in the habit of taking a quantity of betel and nut and leaving it in the bride's house.

22. There is difference between the formalities in North Malabar and those in South Malabar. In North Malabar Sambandham is known by the name of Pudamuri. In cases in which Sambandham is formed with a girl, who is too young to be taken by the husband to his own house, it will be in the form known as Ūvamporukka. In some places this form of Sambandham has been called Vidāram kūduga. The man, in company with a few persons, goes to the bride's house with betel and nuts. There will a feasting on a small scale in the bride's house. Sambandham is contracted on the day. With all these, the Pudamuri must be celebrated subsequently. This last mentioned ceremony is briefly described as follows:—

The style in which Pudamuri is celebrated depends upon the social position of the head of the house. The number of friends and other persons that accompany the bridegroom varies (it may be a hundred or more) according to the social status of the bridegroom. The quantities of betel and nut, and number of clothes taken to the bride's house, likewise depend on his rank. After the feasting is over the bridegroom is shown his way into a hall, with the betel and nuts and the clothes. There is also the custom of the bride and bridegroom's cutting cloth. An amount (Rs 64, 32 or 16) as the case may be such as the means of the bridegroom would allow, is tied to one of the corner ends of the cloth and left in the house. The next morning the bride is taken to the husband's house accompanied by the same persons as went with the bridegroom on the previous night. This is the general custom prevalent in North Malabar. There is a slight difference between this and that which obtains at Pallikunnath in Chirakal.

In South Malabar among some people the Sambandham is celebrated with a feast on a small scale, while among others the eating part of the ceremony

takes place in the bridegroom's house, after which the bridegroom proceeds to the bride's house. Here also betel and nut are taken to the bride's house; and the number of friends that accompany depends on the position in society of the bridegroom. If Brahmins happen to be present at the ceremony they receive presents from the bride's as well as the bridegroom's property. Those that carry betel and nut also receive presents from the bride's people in the shape of clothes.

23. Generally prohibited; but in Cherpulcherry in Walluvanad and Manapurath in Chowghat—both places in South Malabar—this custom was in vogue some time back to a great extent. I presume it is impossible to say that even now there are not rare instances of it.

24. This practice is not one which is based on any authority. Respect had to be paid to the commands of the rich land-lords and of the Malayali Brahmins, who were the Janmis of the land, and in paying this respect the practice had its origin. A precedent has been furnished by the Pāndavas and perhaps this may be cited as an authority for the practice.

25. There is no objection to it.

26. No formality is observed among Nayars. If, in South Malabar a person fails to send money &c., on any of the *Onam*, *Vishu* or *Tiruvāthira* days the presumption is that he has severed his connexion with the woman.

27. Yes. He can have.

28. There is nothing to prevent it.

29. In North Malabar as a rule in the husband's house. In South Malabar in the wife's own house except when she lives with the husband.

30. With the difference above indicated.

31. According to custom not the entire support. In South Malabar the feeding charges of the woman are met by the Tarawād and clothing &c., by the husband. In North Malabar on the contrary the wife and children are under the entire support of the husband.

32. In certain cases changes occur. Should the woman take care to preserve her chastity and fidelity towards her husband, they cling together for life.

33. He usually does feed and clothe them.

34. Not made as a rule, all his expenses are incurred by the Tarawād. Rare cases there are of Anandaravars cultivating Tarawād land for rent. They can deal with the surplus, if any, at their pleasure. But this is very rare.

35. In most Tarawāds they don't work but pass their days in idleness living upon what they can get from the Tarawād. Some, in a few instances, work for their Tarawād, and there are some that earn something for themselves.

36. Formerly they used to hand over their earnings to the Kāranavars; but now they reserve them for their own use.

37. In North Malabar among Nayars and Marumakkathāyam Thiyars some articles known by the name of കട്ടത്താണി (Kattathānam) and money for the expenses of the pollution ceremony are customarily sent to the widow on the death of her husband. There is also the actual giving of property as *Puthrāvākāsam*. Whereas in South Malabar only money is given for the expenses connected with the പുലുകുളി (Pulu-kuli=funeral-ablution) ceremony.

38. There is no objection whatever—such a law is highly desirable.

39. In addition to having the Sambandham celebrated in the customary way, it should be solemnised in the following form in the presence and hearing of the Adhikari of the amsam, or the neighbouring one, and of three witnesses:—

I (A) take thee (B) to be my lawful wife (or husband). This declaration should be registered by the Adhikari and sent to the Registrar's Office to be there filed. This is the form which I would prefer.

40. There is difference. It is confined to conditions 1, 2 and 3 in the margin.

41. The conditions are not very objectionable, but I would like to add some more.

(1) It is necessary that some conditions should be put in with reference to persons who have, and would retain two wives, and who at the same time like to enjoy the benefits of the proposed law. There are many persons of this description who, owing to the fact that they have two wives, labor under the disadvantage of not having their marriage legalised. If they would have marriage with one legalised, they would necessarily have to leave the other without a husband.

(2) The man must have completed the age of twenty-one years. It is only at that age that he gets a fair education and experience of the world.

(3) Whatever may be the age, the parties should have the consent of their guardians or Kāranavars, if they happen to be under their guardian-ship. Otherwise there is likelihood of members of the Tarawād becoming insubordinate and thus creating discord.

But if the parties are not minors and if their respective Kāranavars do not consent to his or her union with a member of a respectable family, the fact of his or her intention to marry and the particulars of the man or woman with whom the union is contemplated, should be intimated to the Kāranavan by means of a registered letter at least.

42. If either the male or female happen to suffer from any incurable or contagious disease, or be a lunatic, or if one of them be impotent, or commit adultery, it will be reasonable ground for dissolving the Sambandham.

43. Former custom was that given in answer to question 31. Respectable people in South Malabar now use to maintain their wife and children. In North Malabar the custom is the same as it was before.

44. Of the new rights proposed I am in favor of those shown as *a*, *b*, and *c* in the margin.

(*d*) The self acquisition should not devolve on the Tarawād. On default of proper heirs, the property of the man who died intestate should go to his brothers and sisters.

(Signed.) K. V. CHAPPUNNI NAYAR,

Sheristadar, Ponnani Taluk.

(True translation as near as may be).

H. M. WINTERBOTHAM,

Collector on Special Duty.

TO,

H. M. WINTERBOTHAM Esq.,

Collector of Malabar on Special duty.

I beg to acknowledge receipt of your order dated 8th April regarding the Marriage Bill.

1. I am fully of opinion that it is very desirable that, in the place of the so-called uncertain Sambandham now customary among the Malayali Hindus under the Marumakkathâyam, or Aliyasantâna law, a law (even though it be permissive for the time being) should be passed enabling such Hindus to contract a marriage such as the law will recognise.

2. And that the said Hindus should be given the power of disposing of their property at their pleasure by will.

The reasons why it is considered that marriage should be recognised by law are :—

(1) The form of Marriage now prevalent among the Marumakkathâyam Hindus in Malabar known as Sambandham, with its contemptible features, was originally a creation of the Malayali Brahmins to satisfy their selfish desires. It is not in accordance with any shâstra, or law, and is of a very miserable character.

(2) In the absence of any special custom imposing restrictions on the formation and dissolution of such a Sambandham, the males have the liberty of forming as many Sambandhams as they choose, and females in some parts of Malabar following the example of males take more husbands than one. This abominable practice has been, and is still, in existence under the Sambandham system.

(3) Under this foolish but immemorial custom of contracting Sambandhams, if a man of ordinary respectability disposes of his self-acquisitions before hand among the Anandaravans and wife and children, it gives rise to disputes between the two parties, each contending that the other had been given more, and the result is that between the nephews and sons the man is left neglected and uncared for.

(4) Sometimes it happens that a man who keeps his self-acquired property undisposed of during his life time, dies all of a sudden, and then the Anandaravans appropriate the property sparing nothing for the wife and children of the deceased.

(5) The Anandaravans thinking that they are the sole claimants to the acquisitions of the Kârnnavans, waste their days in idleness without doing any work. There are various other evil consequences traceable to the existing system of Sambandham.

The Necessity for giving power to dispose of property by will is shown by the following considerations :—

(1) Among the Marumakkathâyam Hindus there is a likelihood of the self-acquired property of a man passing after his life time into the possession of people who are not his proper heirs. Suppose a man following the existing Marumakkathâyam law has made a large acquisition of property. Now, if he dies suddenly, while he has his parents, brothers, wife and children still living,

all these properties, according to the above law, go to the Kârnnavan of the tara-wâd, who perhaps belongs to a totally different branch of the family. The near relations of the deceased are thus left to starve.

(2) The nature of deeds of gift, as they are at present, is such that it gives power to the party that got the gift to deal with the gift property at his pleasure irrespective of the wishes of the donor, thus rendering the donee too independent.

I beg to remain,

Sir,

Your most obedient servant,

K. V. CHAPPUNNI NAYAR,

Sheristadar.

(True translation as near as may be).

H. M. WINTERBOTHAM.

Collector on Special Duty.

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ANSWERS TO INTERROGATORIES

BY

M. R. RY. ONDEN RAMAN AVERGAL,

Sheristadar,

CHIRAKKAL TALUK.

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MARUMAKKATHÂYAM MARRIAGE COMMISSION.

ANSWERS TO INTERROGATORIES

BY

M. R. RY. ONDEN RAMAN AVERGAL,
SHERISTADAR,
CHIRAKKAL TALUK.

1. Amongst Nayers and higher castes a man of a higher division can have Sambandham with a woman of a lower division.
2. The above liberty is not accorded to a woman.
3. Nayar men of the Purathu Chârnathu (പുറത്തു ചാർന്നു) division can have Sambandham with women of the Akathu Chârnathu (അകത്തു ചാർന്നു) division, but no men of Akathu Chârnathu division can have Sambandham with women of the Purathu Chârnathu division.
4. If a man or woman form a Sambandham which is not customary, he or she will be subjected to the social penalty of excommunication from caste. But in the case of Nayar men, cohabitation with a woman of the higher class of Variar (temple-servant) down to a woman of the lower class of Châliar (weaver), the Malayalam phrase for it being “ചാരിയത്തറിക്കു ചാലിയത്തോളം” (from Variar to Châliar) is allowable and it will not subject him to any social penalty.
5. Prâyaschitham will not validate a prohibited Sambandham.
6. The boundary generally recognized for caste purposes between North and South Malabar is the Korapuzha.
7. Nayers of South Malabar cannot form Sambandham with Nayar women of North Malabar, but Nayers of North Malabar can form Sambandham with Nayar women of South Malabar.
8. It is very rare that a Nayar of South Malabar is allowed to form Sambandham with a Nayar woman of North Malabar. Interdiction for the Nayar females of North Malabar to cross to the South of the Korapuzha is the chief cause. The next cause is that it is usual for the lower classes of South Malabar such as Pallichân, Vânian, Valinjian, Velakatharaven &c., to add to their names the caste name of “Nayar” and therefore it is always a difficult matter to distinguish a lower class from a higher class of Nayers. Thirdly, the Nayers of North Malabar are always unwilling to give their women to men of other than their own community, or *yogam*.
9. The Nayar women of North Malabar cannot cross to the South of the Korapuzha.
10. The above prohibition was, in my opinion, more on account of military grounds than on caste considerations. North Malabar, as at present defined, less the southern portion of the Kurumbranad Taluk, formed formerly the kingdom of the Kolattiri dynasty. To prevent the migration of Nayers who formed the mili-

tia of the above kingdom, their women were prohibited from going beyond the boundaries of that kingdom on pain of losing caste. If the women are prohibited the prohibition must necessarily hold good also with men, because, they must be unwilling to leave one place to another without their women. The penalty of losing caste and that by women, was only intended to make the prohibition more effective. According to this, the correct boundary between North and South Malabar, for caste purposes, must be the Kottakadavu (Marat river) and not the Korapuzha, because, the country beyond the Kottakadavu and within the Korapuzha forms the Southern portion of the Kurumbranad Taluk, which did not form part of the kingdom of the Kolattiri dynasty. However it may be, it is the Korapuzha that is now generally recognised as the boundary between North and South Malabar for caste purposes.

11. *Tháli Kettu Kalyānam* is the ceremony of tying the marriage badge, or nuptial string. *Tháli* is a small, thin, gold, neck ornament, with a gold bead on either side of it, and attached to a string made of cotton-thread. *Thálikettu* is supposed to be an imitation of the marriage ceremony of the Brahmans. I do not feel competent to describe this ceremony which is customary amongst Nayars, and therefore my description of the ceremony given below relates to what is prevalent amongst Tiyars of North Malabar, especially, of Cannanore:—

(1) An auspicious day and hour will be fixed beforehand in consultation with the Kanisan, or Kaniyan, the local astrologer, for tying *Tháli*. *Thálikettu* is, usually celebrated in the odd number of years of age of the girl, namely, 5, 7, 9, and 11. No postponement is allowed beyond the age of 11 years.

(2) On the evening of the third day before the day fixed for tying *Tháli* the girl is bathed. Before bathing, the local caste-barber woman *കാപ്പിയാൾ* and the local caste washer woman *വെള്ളക്കാരി* must be present. The latter has to bring with her a *mattu* (a piece of washed cloth or *pudava*). The mother of the girl (*Kalyānakutti*) accompanied by 5 or 7 females, who carry with them a lit up lamp, a *niranāzhi* a cut tender coconut with beaten rice and plantains, comes to the court yard of the house on the east, with a plank used for sitting purposes, and a *Kinnam* or brass-dish, containing half a seer of rice. A *niranāzhi* is a quarter measure full of rice, placed over a *pudava* in a *kinnam*, or brass dish. The mother keeps the plank in the court yard, over which the *Kinnam* with rice in it is kept. In this *Kinnam* the washerwoman keeps the *mattu* brought by her, repeats some verses invoking the mercy of all the gods in favour of the girl, and then calls upon the mother to take the *mattu*. The mother takes the *mattu*, after giving betel and nut to the washerwoman, and carries it to the middle room *മധ്യമുറ* accompanied by the other females. The barber woman takes the *mattu* and dresses the girl with it, covering the body with one portion and the head with the other portion. The girl is then brought out into the court yard, accompanied by females always in odd numbers, and also by another girl who has not passed through the ceremonies of a *Tháli Kettu*. She is intended to be a companion to *Kalyānakutti* and is known by the name of *Kanjikkalam*. This girl carries with her water in a *Kindi* (കിണ്ടി) brass-pot. The girl (*Kalyānakutti*) takes her seat on a plank in the court yard where there will be provided water in an *uruli* (ഉരളി) brass pot, and all sorts of green leaves, such as, jack, mango, pepper, betel, &c., folded in the form of a spoon. There will also be three *Arayal* leaves (അരയൽ *Ficus religiosa*) folded and tied. This each female takes in turn, dips into a tender coconut, takes it three

times round the head of the girl and sprinkles the tender coconut water in it on her head. Then one of the other leaves folded in the form of a spoon is taken in which the water in the *uruli* is taken and poured on the head of the girl. In the water left in the *uruli*, which is kept in front of the girl, half seer of rice is put and shaken round when the girl puts in it some flower cuttings, usually *thumba* (thumba *Leucas Indica*). When the water stands still, the females gathered examine it. If the flower cuttings stands on the east it is considered a favourable sign. With the rice in the *uruli*, conjee is made and partaken of by all the females afterwards.

3. The girl is then taken inside the house. A separate place is prepared for her in a room other than the middle room, usually it is the *cháyippu* (ചായപ്പു) the room to the west of the middle room. There a white cloth over a calico (പെരുളയും കരിമ്പടവും) will be spread, under which at the foot of it will be thrown a handful of paddy, and on the head side the same quantity of rice. It is over this the girl sits or lies down in company with her *Kanjikkalam* during the three days she is kept apart from others. They cannot be touched by any body during these days of separation, and they cannot see any lower caste people, such as, Mapillas, Pariahs &c. This part of the ceremony is known by the name of *Thiretti Vekkal* (തിരട്ടി വെക്കൽ), the meaning of which is putting aside as if for the first menstruation.

(4). On the day fixed for *Táli kettu*, the first thing to be done is to take the girl to a tank for bath in procession, attended with music and accompanied by all the females invited for the ceremony, carrying a lit up lamp and *Niranāzhi* with them.—After bath, she is made to cut a coconut at the tank. She is then taken back to the house in procession. She is taken to the middle room where a *chēla* (Silk or coloured cloth) to be brought by the washerman, will be kept in the same way and with the same formalities mentioned above when the *Mattu* is brought by the washerwoman. But in the case of *Chēla* it should be accepted with lit up lamp and *Niranāzhi*, by 5 or 7 males and not females. This will be done when the girl is away for bath. The girl is then dressed in this *Chēla* by the barber woman, who is the master of the ceremony by the right, I think, of belonging to the *Kāvuthian* (കാവുതിയൻ-barber) caste who has the privilege of removing pollution of birth and death. The girl is decked with all sorts of ornaments. A *thālapoli* (താലപ്പൊലി) is then prepared, that is, in a *Kinnam*, or brass-dish, half seer of rice is kept and over which coconut flower and unbroken husked coconut, with the tuft of fibre at its end, which tuft will be wrapped in oiled cloth and lighted, will also be kept. This *thālapoli* the girl holds in her both hands.

(5). When thus prepared, the Aunt (uncle's wife) of the girl accompanied by 7 or more females in odd numbers, with lit up lamp and *Niranāzhi*, goes to the Pandal erected in the middle of the front courtyard with all sorts of decorations according to the means of the parties. The aunt carries in her hand a wooden plank decorated with yellow lines intended for the girl to sit upon. The aunt, with the other females, and plank in hand, goes round the above Pandal three times and enters the Pandal, in the middle of which there will be a rectangular space or *kalam* (കളം) made of 21 edangalies of paddy within which will be heaped a large quantity of rice over which the prepared plank will be kept by the aunt, who then takes a seat behind it upon a plank. Rice will be sprinkled over her by all the attendant females who go back to the house with the lamp and *Niranāzhi*. If there are more than one *Kalyānakutti* there will be so many number of Aunts

and prepared planks. After this, the barber woman calls out three times to the local astrologer whether the auspicious time for the *Kalyānakutti* to enter the Pandal is come. On his replying in the affirmative, the girl starts with the *thālapoli* in her hands accompanied by the *kanjikkalam*, or the companion girl, and other females. *Kanjikkalam* will carry with her, a new earthen pot containing half a seer of rice and a cocoanut, in which will be kept 4 plantain-leaf packets, one containing gold and flower, another containing rice and flower, the third containing charcoal (കരികുട്ട) and the fourth containing turmeric (മഞ്ഞ). The mouth of the pot will be covered with plantain leaf.

(6) All of them will go round the pandal three times and enter the pandal. The girl takes her seat on the prepared plank kept over the heap of rice. The earthen pot is kept on the east to the left, and the *thālapoli* is kept on in the right side of the girl. The girl is then sprinkled over with rice. The barber woman takes three betel leaves, and tears them away, before the face of the girl. After this the uncle, or father, of the girl takes the *Thali* from the hands of the astrologer to whom it will be given beforehand. The astrologer will have it in a plantain leaf with some rice in it and will be repeating some *Mantrams* over it. The *Thāli* is taken from him after giving him betel and nuts, and is given to the barber woman who calls out three times to the astrologer asking him whether the auspicious moment to tie *Thāli* is come. On his replying in the affirmative, the barber woman ties the *Thāli* round the neck of the girl. Now-a-days, the duty of tying *Thāli* is taken up by some female relations of the girl, but not the mother. If the girl is *affianced*, *Thāli* will be tied by the sister or the other female relations of the bridegroom, in which case the *Thali* will have to be provided by the bridegroom's people.

(7) After tying *Thāli*, all the female relations sprinkle rice over the girl by way of blessing her. She then gets up and all the female relations dress the girl with pairs of new cloths brought by them for the occasion as presents. These cloths are called *Mantra kodi* (മന്ത്രകുടി.) Best friends of the girl's family are also allowed to bring new cloths and dress the girl. By right the father is to tie the first pair of new cloths, which will be tied by his sister or other near relations. Then the uncle's which is tied by his wife. If the girl is *affianced* the bridegroom's people should tie it first of all. After tying all the *Manthrakodis*, the girl takes her seat. Superfluous cloths will be removed.

(8) The barber woman keeps in a sieve or *muram* (മുരം) in front of the girl three green plantains, each in a betel leaf, over which a lighted wick will be kept. The girl cuts these plantains into pieces and keeping her hand in crossways she shoves away the sieve with its contents. There will be four unhusked cocoanuts, kept in the four corners of the Pandal which the barber woman takes and keeps before the girl, who touches them with her hands and then touches her forehead by way of respect. After this, she is made to act in imitation of all sorts of domestic duties, such as, cooking rice for which an earthenpot and a ladle are put before her; grinding curry-stuff for which a grinding stone-roller will be provided, &c. &c. After this, the girl is taken to a plantain tree with its bunch which will be tied to the pillar on the South-east corner of the Pandal. She cuts the plantain bunch after putting rice on it, and touching it, and touching her forehead by way of respect. She is then taken to her seat and sprinkled over with rice. In front of her a brass-dish with some rice in it will be kept, in which all the female

relations put money, which forms part of the perquisites of the barber woman. After this *Kanjikkalam* under a canopy of red cloth, or silk, goes to the north-east corner of the Pandal and outside of it, with the earthen pot containing the packets and accompanied by 7 or more of females in odd numbers with lit up lamp and *Nirandāzhi*. This is called going to a jasmine plant. There the barber woman plants a knife on the ground in front of which three betel leaves are kept with a lighted wick in each of them. *Kanjikkalam* pours water around it, &c. sprinkles rice over it, and touches it and touches her forehead by way of respecting it. She is then asked to look up to see the gold, and the sun is pointed to her. Afterwards the knife is pulled out and all return to the Pandal with the covered earthen pot containing the packets of gold, rice &c. The earthen pot is kept in front of the *Kalyānakutti*.

(9) The next thing is to try the luck of the girl with the packets in the earthen pot. *Kalyānakutti* makes a hole in the cover of the earthen pot, dips her hand into it and takes a packet, the contents of which are examined. If the girl takes out one containing gold and flower, or, rice and flower, she has a happy and prosperous life before her. The packet containing charcoal, or turmeric, is considered to be unlucky, and if it is taken, the girl is made to try another chance. The girl is then sprinkled over with rice and taken to a cocoanut tree accompanied by females in odd numbers with lamp and *Nirandāzhi*. The girl goes round the cocoanut tree (accompanied by females) three times, pours water at its foot and touches it and her forehead by way of respect. She then goes to a jack tree where the same formalities are gone through. After this, the girl is taken directly to the house where she is served with sweet things. Of the new cloths received, some are sent to near female relations the next day. Those who receive them feed the bearers and make presents of money &c. Thus ends the *Thāli kettu* ceremony.

12. Amongst Tiyars, it is the custom for the local caste barber women to tie *Thāli*. She is not known by any particular name.

13. It is the custom for a number of girls to have their *Thāli* tied at the same time and place by one and the same person.

14. Amongst Tiyars, *Thāli* is tied by a female and therefore no answer is required as far as Tiyars are concerned. I do not know what is the custom prevalent amongst Nayars.

15. As far as Tiyars are concerned this question does not require an answer.

16. Ditto.

17. Ditto.

18. No *Thāli* is tied on by the girl's mother.

19. Every girl must undergo *Thālikettu* ceremony before reaching the age of puberty. There is nothing but custom to be pleaded in justification of this.

20. Amongst Tiyars, there is the marriage ceremony to go through, before the girl is allowed to consort with a man. Amongst Nayars there is the formality of a *Pudamuri* (പുടമുരി,) the ceremonies of which are very few. As other competent persons will give a description of the ceremonies attending a *Pudamuri*, I confine my description to the marriage ceremony prevailing amongst Tiyars which is as follows:—

It is always customary for a man to find out a woman for him. The duty of selecting a girl rests with his male relations. If a suitable girl is found, either the father or the uncle of the bridegroom, accompanied by a friend, goes to the girl's house, and moots the subject to the girl's father, or guardian. The girl's party asks for a few day's time to give a decided answer, and a day is fixed for that purpose. In the meanwhile, the girl's party makes enquires about the bridegroom, and consults their relations, friends, and neighbours about the proposal. On the day named the bridegroom's party goes to the bride's house. If the answer is favourable, they take their meals there and go away, after fixing a day for fixing the day on which the marriage ceremony is to be celebrated. On that day the father, or uncle, of the bridegroom, or both, accompanied by some friends, one of whom will be a *nadukāran* (നടുകാരൻ) or mediator. They bring a *kanisan* (astrologer) with them, and also some bundles of betel &c. The horoscopes of both the bride and the bridegroom will be examined by the astrologer, in the presence of persons from both sides. If the proposed connection is found to be suitable, an auspicious day will be fixed, and both the horoscopes are tied together. The *Kanisan* is then paid and sent away. Then the middle room is prepared with lit-up lamp and *niranāzhi*. There will also be kept some sweet things in a plantain leaf. Two planks will be kept there representing the bride and bridegroom. Rice is sprinkled over the lamp, and planks, by all those present. The uncle of the girl takes his position behind the planks, and the *nadukāran* after repeating the following sentence “കാരണവന്മാരോടും പങ്ങാതികളോടും ചോദിച്ചിട്ട് (mentioning the Illam) ഇല്ലത്തെ തീയ്യത്തിക്ക (mentioning the Illam) ഇല്ലത്തെ തീയ്യൻ നാലാൽ ഒരു പരിയം ചെയ്യുന്നു” and then gives 11½ or 21 fanams to the uncle of the bride. He accepts it. The meaning of the above sentence in Malayalam is “after obtaining permission of the Kāranavars and friends, the Tiyan of—Illam marries the Tiyathi of—Illam with one of the four things.” The four things are, I presume, Panam (money), Pudava (cloth), oil and rice. Here one of them is the Panam (money) of 11½ or 21 fanams paid to the uncle of the bride. After this is over, food will be served. Afterwards the bridegroom's party leaves the house taking the horoscopes with them. Before leaving, the bridegroom's party will fix the number of people to be expected with the bridegroom on the marriage day. If the number 50 is given, the bride's party is to expect a number not more than 100. If the number is 100, a number not exceeding 200 should be expected.

(2) On the day fixed for the marriage, all the friends and relations of the bridegroom are invited to his house. On their arrival, the middle room is prepared with a lit-up lamp and *niranāzhi*. The bridegroom enters it, with his best man, and they take their seats on the planks provided for the purpose, on the left side of the lamp, best man sitting on the right side of the bridegroom. Sprinkling of rice by way of blessing the bridegroom by all the relations, both male and female, then takes place. Some of them more closely connected make presents of money to the bridegroom according to their ability. Then all of them start for the bride's house with the bridegroom. No food is usually given at the bridegroom's house. After their arrival at the bride's house, water will be given in a *kindi* to the bridegroom and his best man, who wash their legs with it. The middle room is prepared with lamp and *niranāzhi*. The bridegroom enters the room, with his best man, and takes his seat, the best man taking his seat on the right side. The bride is then brought to the room, and made to take her seat on the left side of the bridegroom. Sprinkling of rice by all the male and female relations of the bride and the bridegroom then takes place. The bride is conducted to the seat by the wife of the

uncle. After this the girl will be dressed in a piece of new cloth called (ഉടുക്കുന്ന പുടവ) to be brought by the married sister of the bridegroom. A pair of new cloths called (വെക്കുന്ന പുടവ) should be brought by another married sister of the bridegroom, if he has any, or else it must be purchased by the father, or uncle, of the bridegroom. This *pudava* will be left on the cloth-line in the room to which the bride's close relations have a claim. After the sprinkling of rice, the uncle of the bride takes his position in the rear of the bride and the bridegroom, and the *Nadukāran* of the bridegroom's party stands in the front. The latter then repeats the following sentence “കാരണവന്മാരോടും പങ്ങാതികളോടും ചോദിച്ചിട്ട്—ഇല്ലത്തെ തീയ്യത്തിക്ക—ഇല്ലത്തെ തീയ്യൻ നാലാൽ ഒരു പരിയം ചെയ്യുന്നു” the meaning of which is “after getting permission of the Kāranavars and friends, the Tiyan of—Illam (lineage) marries the Tiyathi of—Illam with two of the four things”. Here the two things are money and cloth. The *Nadukāran* then hands over 42 fanams, which is called *Kānapanam* (mortgage money) in a piece of cloth to the uncle of the bride, and the uncle of the bride takes the money, saying, “കാണപണം വാങ്ങുന്നു”, the meaning of which is that he accepts the *Kānapanam*. After this, rice is again sprinkled and the bridegroom goes out with his bestman, and the girl is taken out from the middle room by the sister of the bridegroom. Afterwards all the guests assembled are fed sumptuously. After meals, the bride and the bridegroom are seated again in the middle room and sprinkled over with rice. The wedding party will then leave the place, taking with them the bride, who is conducted out of the house by the sister of the bridegroom. Some females, generally two, from the bride's house, will go with the bride, who will return on the very day after taking meals. On arrival at the bridegroom's house, water is poured over the feet of the bride and the bridegroom, by the sister of the bridegroom, before entering the house. The bride and the bridegroom with the bestman will be conducted to the middle room which will be prepared with lamp and *niranāzhi*. They take their seats, the best man on the right, and the bride on the left, of the bridegroom. Sprinkling of rice by all the male and female relations takes place here too. The ceremony is over. The bride and bridegroom stop that night in the bridegroom's house. The next day they go to the bride's house, and stop there for the night. The next day after meals they return. Afterwards the married couple are invited for dinner called *Salkāram* (സല്കാരം) by their close relations on both side. The first *Salkāram* must be that of the uncle.

(3.) There are two forms of marriage. In one form the *Kānapanam* is only 42 fanams. In the other form of marriage in addition to the *Kānapanam* (which will be only 11½ fanams) given by the *nadukāran* as described in the above para, an amount, equal to two fanams per head, for all the persons, both male and female, who accompanied the bridegroom and took meals at the bride's house, is also given. This amount is given after meals. The ceremonies are the same in both forms of marriage. There is a difference in the after consequences of these two forms of marriage. If one marries on a *Kānam* of 42 fanams, the husband has to incur all the expenses relating to the ceremonies of first menstruation, and first pregnancy, of the wife. In the other case, the wife's people will have to incur these expenses, and if the girl is with the husband while the first menstruation takes place, the girl's people will have to bring all the necessary things with them and perform the ceremony, but now-a-days they bring only money with them. So also for the first pregnancy ceremony. The first form of marriage has a touch of the custom of Makkathāyam about it. There is also another difference. In the case

of 42 fanams' marriage, nothing is to be paid by persons invited for the ceremony by the bridegroom. But in the other case all the persons invited by the bridegroom will have to pay two fanams each to the bridegroom, whose people collect the money, and pay it to the bride's people. This collection is done at the bridegroom's house before starting, and if the whole is not collected from there it is done also at the bride's before meals. These payments are recorded on a cadjan leaf with the name of the person and the amount paid. According to closeness of relationship, and friendship, large amount may be given, but none can pay a sum less than two fanams each. The payment of these fanams are recorded with a view of repayment which is to be made on the occasion of marriage or other ceremonies, taking place in the house of any of those persons who now pay.

21. I am not in a position to answer this question.

22. Amongst Tiyars, the formalities of a marriage necessarily differ on many points between North and South Malabar, because, the Tiyars of North Malabar follow *Marumakkathāyam* and those of South Malabar follow *Makkathāyam*.

With the exception of trifling variations, the formalities are almost the same throughout North Malabar.

In the South Malabar too different localities are known to have different formalities.

23. In North Malabar a Tiyar woman cannot have Sambandham with as many men as she pleases at the same time. A Nayar woman too cannot have such Sambandham. In South Malabar, especially in Ponnani, Ernad and Walluvanad Taluks, there were instances of Nayar women having as many Sambandhakār as they please at the same time. Amongst Tiyars in South Malabar it is usual for a single brother to marry a girl for all the brothers in the family. But this custom is dying out as the people grow in civilization. Amongst Nayars too the custom of having many Sambandhakār is dying out.

24. Amongst Tiyars it is only the custom that prohibits a woman from having Sambandham with many men.

25. If a woman wishes to terminate a Sambandham she can do so.

26. The formalities necessary to dissolve a Sambandham are simple and few. Among Tiyars, the *Nadukāran*, who effected the marriage, will have to go to the woman's house and say that *āchāram* (divorce) is given. Even if this is not done, it is sufficient if the husband does not go to the wife's house during the next Onam and Vishu holidays that may come after the wife is sent away to her own house. This omission on the part of the husband is considered to be sufficient ground for the wife's people to give her in marriage to another man, if they are so willed. If a female wishes to dissolve her sambandham it is not so easy a matter as in the case of husband. She will have to show sufficient grounds to satisfy her relations. Adultery on the part of the husband, and even taking another woman as his mistress, if pleaded by her, are not taken notice of by her relations, as long as she is supported by the husband. But in the case of a woman, very trifling causes are sufficient for the husband to drive her away. It is therefore that I consider it desirable that a law should be introduced to recognize marriage among Hindus who follow *Marumakkathāyam*.

I may be allowed to state here that although the dissolution of a sambandham is so easy an affair, yet it is very seldom that such dissolution takes place amongst Tiyars. After man and woman are made husband and wife, they live so till the one or the other dies, and enjoy all the happiness and pleasures of a wedded life.

27 and 28. A man can have sambandham in more than one house at the same time, and there is nothing to prevent it. But the formalities of a second sambandham are very few, and the wife stands in the position of a mistress. She will not be taken to her husband's house, where there is a legal wife, but kept in her own house.

29 and 30. Amongst Tiyars and North Malabar Nayars, the woman sleeps and takes her meals in her husband's house. In South Malabar among Nayars, the woman as a rule lives in her own tarawād house.

31. It is the recognized custom in North Malabar, that the husband should support the woman and her children during the Sambandham.

32. It is the rule for one man and one woman to cleave together for life.

33. If a woman lives with her Sambandhakāran in his house, and bears him children, he does feed and clothe them. If it is an undivided tarawād house, they are fed out of the income of the tarawād property.

34. If Anandiravar work for tarawād no allowance is made to them by the kāranavan. Anandiravar often cultivate tarawād land for rent, and in such cases they are permitted to deal with the surplus, if any, at their pleasure.

35. Anandiravar do not generally work for tarawād. They try to earn something for themselves, and for their near relations, such as, direct sister and her children.

36. If the wife and children of an Anandiravan live in the common tarawād house, they are supported out of income of the tarawād property. If the Anandiravan is an earning man he generally gives something to the Kāranavan for the support of his wife and children.

37. There is no such thing as പുത്രവാകാശം (Puthrāvākāsam) recognized in North Malabar. But whatever is given by the father during his lifetime, out of his own earnings, is allowed to be enjoyed by the wife and children. Property so given is always known as that obtained as *Puthrāvākāsam*. I do not know any practice analogous to it in South Malabar.

38. There is no objection to providing a permissive law for Nayars. I wish to provide such a law also for the Marumakkathāyam Tiyars of North Malabar. Although the marriage among them is as formal as could be wished, the abandoning of a wife is easier than for one to divest himself of the dress he has on. This is very deplorable.

39. I would like to retain the customary form of marriage as far as Tiyars are concerned, and make registration evidence of its legal recognition. Registration must be made as little inconvenient to the parties as is possible.

40. The Sambandham recognized in practice differ from all the conditions of a valid marriage given in the margin of question 40, except condition No. 4, and also portion of condition No. 1 as far as it relates to the woman, who cannot have a husband living at the time of marriage. With reference to proviso 2 it is pro-

hibited amongst Tiyars for a man and a woman to marry if they are known to belong to the same Illam (lineage) however estranged they might be, and no relationship of any kind could be traced between them. There are only 8 Illams, namely, (1) Thenankudi, (2) Padenkudi, (3) Nellika, (4) Manankudi (5) Payampayi (6) Ban—(7) Bangaleri and (8) Kannankudi. Whenever a proposal of marriage is made, enquires about the Illam are at once made and ascertained. However desirable a match may be if the Illam is the same, the proposal will simply be rejected. Each family is expected to know its own Illam.

41. I have no conditions to add to, or omit from, those given in the margin of question No. 40.

42. Adultery, ill-treatment and neglect to support, are considered to be reasonable grounds for dissolving a sambandham according to local usage.

43. I do not feel competent to answer this question.

44. The new rights proposed to be derived from a marriage as described in the margin of question 44 are good. The term "sufficient provision" in clause (a) requires explanation and some restrictions, and also "self acquired property".

45. I am not in a position to answer this question satisfactorily.

In conclusion, I beg to state that all my answers relate mostly to questions which relate to the affairs of Tiyars following the *Marumakkathayam* law in North Malabar.

ONDEN RAMAN,
Sheristadar,
CHIRAKKAL TALUK.

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Answers to Interrogatories

BY
M. R. RY. C. KANNAN NAYAR AVARGAL,
Pleader, PALGHAT.

1. Sambandham is allowed.
2. No.
3. In the following cases inter-sambandham is altogether forbidden :—

Between ;—

- (1) Chârnavan and Sûdran.
 - (2) Athikkurissi, Pallichchân, Vattékâtt and Anthûran.
 - (3) Akathu Chârnathu and Purathu Chârnathu.
 - (4) Several divisions of the Sudras themselves.
4. They will be excommunicated and will not again be admitted in society.
 5. Re-admission to society cannot be effected by any prâyaschittam.
 6. Korapuzha river.
 7. They do.
 8. They can.

9 and 10. They do not take their women South of the Korapuzha. I do not know the real cause. It is said that the custom is brought about by the animosity that existed in former days between the native Rajas North and South of that river. The cause no longer exists, and the effects should not continue.

11. Tâli kettu kalyânam is a ceremony that is calculated to bring disgrace on Nayars and work ruin to their property. It is said to have been introduced by men of other castes who were self-willed and tyrannical. The abolition of this ceremony will conduce to the welfare of the Nayars.

12. The general practice among Nayars is to get one of the girl's own parisha to tie the tâli. He who ties the tali is known by the name of manavâlan. In rare cases Nedugâdis are engaged for tying the tali.

13. In cases in which Nedugâdis are engaged as abovesaid it is usual to tie the tâlis to a number of girls at the same time and place.

14. No, he does not; for, any one without regard to his age, position or qualification is chosen to tie the tali which is removed on the 28th day. The Manavâlan does not therefore acquire a right to become the girl's Sambanthakkaran.

15. If, as regards the age &c. of the Manavâlan and of the girl, they as well as their kinsfolk agree, the usual Sambandham between them may be formed.

16. Yes; for instance one * * * * of Cochin tied the tali for a girl of * * * * . Subsequently a Sambandham was formed between them.

17. There is pollution if the Manavâlan happens to be a person selected from the girl's own parisha (caste people). This custom is observed among all Nayars.

18. Talikettu must be performed before attainment of puberty, or the girl would be excommunicated. I do not know that there is anything but custom to be pleaded in justification of this.

20. When the bride's and the bridegroom's Tarawads arrange the sambandham, two Désakars (men of the locality) are sent to the bride's house where they are fed sumptuously. On the day fixed for Sambandham the bridegroom, with his relations and Désakar, goes to the bride's house where they are feasted. Thambúlam (betel-leaf, nut &c.) is distributed among those present. They then return early the next morning.

21. In some places the same formalities are observed and in others not.

22. I do not know.

23. It is not permitted; but in some localities this brutal custom is shamelessly followed, I hear.

24. It is not warranted by any recognized principles. It is indulged in the fashion of brutes.

25. She can.

26. It is said, in former days 2 fanams were given when Sambandham was dissolved. Nothing of the kind takes place now.

27. Some persons do it against all propriety.

28. There is nothing to prevent it except moral law and propriety.

29. As a rule she resides in her own house, but sometimes goes and lives in her husband's.

30. I do not know.

31. All except meals, which she takes in her own house.

32. It is not the custom to change the Sambandham frequently. There are some unprincipled men who do it. There are others more honorable who cleave together for life.

33. He does, but it is not compulsory.

34. Anandaravars do generally cultivate Tarawad land for rent and appropriate the profits to themselves. They do not make over the profits to the Tarawad nor does the karanavan grant any allowance.

35. Both cases exist, but the practice of working for themselves is more general.

36. They don't hand over their earnings to the karanavan.

37. I don't know.

38. It is not only unobjectionable, but is very necessary. If the Hon'ble Mr. Sankaran Nayar's bill be passed with some modifications it will be beneficial.

39. A law which provides that the Marriage should be registered, or solemnized, before a Registrar, will not be quite acceptable to the people. Providing for divorce through the Courts of Law would equally be distasteful. Nowhere in India, is Registrar and registration had recourse to at Marriages; and it is undesirable

that the people of Malabar, small in number as they are, should have such a legislation. It is enough if the Marriage is registered by Amsam Officials the day after it takes place, and sent to the Taluk as they do the Birth and Death Register.

40. Both the bridegroom and the bride should be Marumakkathayakar, and neither of them should belong to castes between which inter-sambandham is prohibited.

Conditions 1 to 3 are not among the ordinances that constitute the present Sambandham and should be introduced. The 4th condition is at present observed.

41.

42. Dissolution is made at will and not on any principle.

43. Husbands meet all the requirements of the wives except meals. Some make no exceptions and even make gifts of property.

44. I am for (a) (b) (c) and (e).

(d) It is unfair to let the whole property go to the survivor and children of the deceased, and to leave nothing for his own thâvazhi (mother and sisters) and for the Tarawad. A legislation to the effect that $\frac{1}{3}$ of the property is to devolve on the deceased's own thâvazhi; $\frac{1}{3}$ to the Tarawad, and $\frac{1}{3}$ to the survivor and children would be beneficial.

Resolutions to this effect were passed at the several meetings held in Palghat in connection with the marriage bill.

45. I think it is.

(Signed.) C. KANNAN NAYAR.

(True translation as near as may be,

H. M. WINTERBOTHAM.)

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ANSWERS TO INTERROGATORIES

BY

M. R .RY. AMBU NAIR AVARGAL,
Sub-Registrar,
OF PONNANI.

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MARUMAKKATHAYAM MARRIAGE COMMISSION.

ANSWERS TO INTERROGATORIES

BY

M. R. RY. AMBU NAIR AVARGAL,
SUB-REGISTRAR,
OF PONNANI.

1. A man of higher division of Nayar can have Sambandham (സംബന്ധം) with a woman of lower division.
2. A woman is not allowed the same liberty.
3. Sambandham of a man of lower caste with a woman of higher caste is altogether forbidden.
4. Females who form Sambandham with men prohibited by caste are turned out of tarawâd, and are outcasted, and are refused maintenance from tarawâd.
5. No prâyaschitham is known among Nayar castes which will validate a Sambandham between prohibited persons.
6. Korapuzha (കൊരപ്പുഴ) river is the recognized boundary. Nayars of North Malabar form Sambandham with females of South Malabar, if the male is of allowable caste, but Nayars of South Malabar do not form Sambandham with Nayar females of North Malabar.
8. There is no valid reason why such marriages should be prohibited. People of North Malabar superstitiously stick to the old custom in not allowing their females to cross Korapuzha.
9. There is no valid objection, but, as a rule, they are not allowed by caste rules to cross Korapuzha.
10. There was some reason in ancient times when the South and North Malabar were ruled by rival native Rajahs. They were always at war, and there was no guarantee for protection to the subjects of rival chiefs. Though they are not now the rulers, they are even now considered heads of the caste system, and the Sambandhakâran (സംബന്ധക്കാരൻ) not being the recognized guardian of his wife, cannot take her to the South of Korapuzha without the consent of the Kâravanavan of her tarawâd.
11. Tâli kettu Kalyânam is a ceremony to take place before the girls attain maturity, and is considered among Nayars, to be the formal marriage of girls. The details of the ceremony are different in different parts of Malabar among different divisions of Nayars. All the girls of a Malabar Nayar tarawâd are placed on an auspicious day, selected by the astrologers, in the principal room of the house after they are purified by Kalasam (കലശം). Each girl should have an arrow (ശാലം) a Cheppu (ചെപ്പു) and a brazen plate called (പാച്ചു, സ്താടി). in her hand. They should be attended by a female of Nambiassan caste called brâhmani or

pushpōthi. On each day this female recites some sacred songs in the presence of the girls, and on the fourth day a tāli (താലി) is tied by a man of the same caste as the girl or by one of higher caste such as Nambudris (നമ്പൂതിരി) Kshatriyas (ക്ഷത്രിയർ), Elayath (എളയ്ക്ക) Tirumulpād (തിരുമുല്പാട) and Nedungādi (നെടുങ്ങാടി) and also men of Kiriyaṁ caste (കിരിയത്തിങ്കനായര). In cases where the tāli is tied by the girl's caste man, he stops with the girl and accompanies her to the temple and after returning, the girl takes food in the leaf in which the man who tied her tāli took his meals. He then leaves the house. If the man is of higher caste as described above, he leaves the house as soon as the tāli is placed on the neck.

12. A man, as described above, ties the tāli, and he is called *manavālan* if he belongs to the same caste as the girl.

13. As a rule, in cases where the tāli is tied by a man who is equal in caste to the girl, each girl should have a separate *manavālan*. Where the tāli is tied by a Brahman or Kshatriya, he ties the tāli, at the same time, for all the girls in a house set apart to undergo the ceremony.

14. He obtains no right to cohabit with the girl merely because he ties the tāli. But there is no special prohibition from his doing so if he is declared a sambandhakāran.

15. There is no prohibition to his forming Sambandham with the girl if the parties agree.

16. No instance of such a Sambandham is known to me.

17. In some cases, pollution is observed by the girls in South Malabar; Kiriyaṁ Nayar, Sudras, Vattēkāt (വട്ടേക്കാട്ട), Pallichān, (പള്ളിപ്പാൻ), and such other castes, where the Tāli is tied by their own caste men, observe pollution.

18. Mother, or any other female never ties tāli.

19. Every girl must undergo tālikettu ceremony before puberty. This is one of the Achārams (ആചാരം) recognized in Malabar.

20. Some ceremonies, next in importance to Tālikettu should be observed on the occasion of Sambandham. If a man proposes to form Sambandham with a girl, the consent of the Kāranavan and father of the girl, and also that of the Kāranavan and father of the man (bridegroom) should be obtained, if the horoscopes (ജാതകം) of the man and girl agree. A socially respectable man is sent to the house of the girl to fix the day of sambandham. In the evening of the appointed day, bridegroom, accompanied by his friends and attended by Mārān and Veluthēdan (washerman) proceeds to the girl's house with bundles of betel and areca nuts &c, and respectfully gives betel to the Kāranavans of the girls, and distributes money (dānam and dakshina) to Brahmans assembled. Bridegroom with his friends, and all assembled there are then feasted richly at the expense of the girl's tarawād. After meals, the bridegroom retires to the bedchamber, and the girl is conducted to the room by the matron of the house. This ceremony is, in north Malabar, called Pudamuri (പുടമുറി) Oovampurakal (ഊവ്വ പുറക്കൽ) and Vidāramkāral (വിടാരംകാരൽ), and in South Malabar it goes by the names of Sambandham Kūdal (സംബന്ധംകുടൽ) and Kidakkakayarāl (കിടക്കകയറൽ).

21. No formalities as described above, are observed on a Nambudri or Puttar forming sambandham with a Nayar girl. But the consent of the girl's tarawād is absolutely necessary.

22. There is some difference in the details of Sambandham in North and South Malabar. In North Malabar, in addition to the ceremonies described in the answer of question 20, some clothes and money are given to the girl on the night of Sambandham, and the girl is taken on the next day to the Sambandhakāran's house. This form of Sambandham is called *Pudamuri*. According to the other forms of Sambandham observed in North Malabar (Ūvam-porukkal and Vidāram-kayarāl) the bridegroom on the night of Sambandham gives some money to the girl, and the girl is left in her own house till she is formally taken to the husband's house. The Sambandham in South Malabar is the same as described in the answer to 20, but the girl is taken to the husband's house by the females of the husband some days after Sambandham, and she visits the husband's house only as a sojourner. The wife in South Malabar, as a rule, lives in her own house, while in North Malabar she lives in her husband's house.

23. A woman cannot have Sambandham with more than one man at a time.

24. More Sambandhakāran than one is, as a rule, prohibited in Malabar, but the rule is more strictly observed in North Malabar.

25. A woman is at liberty to terminate Sambandham when she pleases.

26. No formality is necessary for the dissolution of Sambandham.

27. A man can have more than one Sambandham at a time.

28. There is nothing to prevent it now.

29. In North Malabar, the wife lives at the husband's house, and in South Malabar, as a rule, in her own house.

30. Vide answer to 29th question.

31. The wife and children are supported by the husband during their stay at the husband's house.

32. Changing of Sambandham is comparatively frequent; but the rule is that one man and one woman are to cleave together for life.

33. Sambandhakāran feeds and clothes his wife and children if they live with him in his house.

34. If Anandaravars work for the tarawād, their whole expense including that of wife and children, is borne by the tarawād. They often cultivate the tarawād lands for rent, and the surplus in such cases is entirely at their disposal.

35. With rare exceptions, Anandaravars generally try to earn something for themselves.

36. Their expenses and those of their wife and children are met by their earnings, and the surplus, if any, remains as their self-acquisition.

37. In North Malabar, among Nayars, when a man dies, a reasonable sum of money is given to the eldest son for Pulakuli. (pollution ceremonies) and some

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house-hold furniture called Kattathānam (കട്ടത്താണം) is sent to the widow. In some cases documents relating to immoveable property are executed in favour of sons as *putrāvakāsam* (പുത്രാവകാശം). In South Malabar, a sum of money alone is given to the sons *after a man's death*.

38. There is no objection to providing a permissive law of marriage for Nayers.

39. I would prefer to retain the customary form and make its registration the evidence of its legal recognition.

The difference is as follows :—

40. (1) A man may have a wife when forming a Sambandham, but a woman should not have a husband at the time of marriage.

(2) The girl, according to the present custom, need not complete fourteen years in case she has undergone the tāli kettu ceremony.

(3) According to the present custom, sanction of the Kāranavans of the male as well as of the female, should be obtained before Sambandham is formed. Their age is not taken into consideration. A woman, however old she may be, has no option to form a Sambandham, except with the consent of her Kāranavan or father; but the man if he can manage without the help of his tarawād may have his own way.

(4) Not only custom relating to consanguinity or affinity is now considered the only criterion in forming a Sambandham, but a strict regard to the caste (caste should be equal or higher of the man especially) is also taken to be an important factor in the formation of Sambandham.

41. (a) When one marries another of a prohibited caste, he or she should be declared to have no claim over the tarawād property. Otherwise, a Nayar lady married by Tiyan or any pollutor caste man will have a right to enter the tarawād, and claim maintenance from it, and her children will have a right to become the Kāranavan of her tarawād, and this will be detrimental to the social happiness of the Malabar tarawāds.

(b) One should be allowed to marry again, during the life time of one's wife or husband, as the case may be, if the wife or husband should suffer from any incurable or contagious disease, or when she or he is insane, or becomes a convert to another religion. In such cases, men should be allowed to marry a second time without affecting a divorce.

42. Adultery, and habitual disobedience to husbands, are considered reasonable grounds for divorce.

43. In North Malabar, wife and children are generally maintained by the husbands for life, while in South Malabar they are maintained at the expense of their tarawād.

44. (a) The provisions contained in (a) are approved of by me.

(b) As regards (b), the wife and children shall retain their rights as members of their tarawād, but shall not have a right to demand maintenance from the tarawād as long as they live with their husbands, and they should be entitled

to maintenance from their tarawād during their stay at tarawād house, even during the life-time of the husband.

(c) There is nothing to be changed in (c) in my humble opinion.

(d) In case a husband dies intestate, his self-acquired property should be equally divided among his uterine brothers, sisters, and wife and children. In case of wife, her self-acquired property should go to her children, and failing these, to their tarawāds.

(e) In making wills, men should have full liberty to dispose of his self-acquired property, as he pleases. There should be no provision restricting the power of a man in dealing with his self-acquired property.

(f) I approve of the terms of (f).

45. Nayers of British Malabar make Sambandham with those in Cochin State.

E. AMBU NAIR,
Sub-Registrar of Ponnani.

From

E. Ambu Nair,
Sub-Registrar of Ponnani.

To

H. M. Winterbotham Esq., c. s.

SIR,

With reference to your Memorandum dated 8th April 1891, I have the honor to submit my humble opinion regarding the proposed Marriage Bill affecting the Hindus following Marumakkathayam Law.

2. I agree with the main principles of the bill introduced by the Honorable C. Sankaran Nair, and in my humble view, it is of important necessity that a permissive law enabling Hindus under Marumakkathayam law, to contract a legal marriage, should be passed, and that they should be given the power of disposing of their self-acquired property by Will.

3. Since the introduction of the Bill, criticisms of various nature found place in the leading newspapers, and one of the opponents went so far as to publish a pamphlet decrying the bill bodily; while Mr. Othéna Menon published an able pamphlet urging the importance of the bill being passed. I, a native of North Malabar was painfully obliged to dissent from those of the North Malayalis, who maintained their opposition, on the ground that they already followed a fixed form of marriage. It may be true that the Malayalis have some form of conjugal connection, but it is not founded on any fixed principle, nor does it deserve to be called a marriage among any civilized nation, as such connection is neither religious nor binding on the parties. What the educated Malayalis now desire, is that they should have a form of marriage which the Law will recognize. The Madras High Court has more than once declared that the present matrimonial relation among Malayalis is merely a concubinage. It cannot be recognized by law as it is dissolvable at the will of the husband or wife. The offspring of such connection has no claim to inherit the property. Even in this advanced age of civilization, the dissolution of marriages at the will of husband or wife or their relatives, is very common in Malabar, as there is no law at present condemning such wantonness, nor is a husband legally bound to maintain his wife and children. According to natural law a man is bound to help those whom he calls into existence till they can take care of themselves. It pains me to say that even this law is not applicable to Marumakkathayam population. Although we are under the blessed British Government, our children, (never mind legitimate or illegitimate) cannot claim maintenance from their father in a Civil or Criminal Court, nor are we at liberty to contract a legal marriage. Chapter 36 of the Criminal Procedure, relating to maintenance of wife and children, and Chapter 20 of the Indian Penal Code regarding offences relating to marriage, are declared as not applicable to us.

4. We cannot at present sue for adultery, nor complain against a man who seduces our wife, though, in fact, we maintain our wife and children at our house. Besides, supposing we set apart all our earnings for the use of our wife and children we are not in a better position, since we were born of Marumakkathayam parents.

5. Though we are called Hindus, none of the provisions of Hindu Law are now applicable to us. When we will away our property, the Hindu Law is levelled against us, and we are debarred from writing wills. It is very strange that this mischievous portion of the Hindu Law is held applicable to us, while all its beneficial provisions are kept aloof from us. If the power of disposing of our self-acquired property by wills be granted to us, Malabar will in course, rise in prosperity and independence. The acquisitions of a Junior member of a tarawâd now goes, not to speak of his children, to the Kâranavan of the tarawâd. According to the practice now prevalent, the wife and children are turned out from his house as soon as a man dies, and before his corpse is taken to the burial ground. His Junior Anandaravans perform his obsequies, while the Kâranavan inherits all his property. The uterine brothers and sisters of the deceased have only a right to maintenance along with their cousin relations in the tarawâd. His wish to provide for his children, uterine brothers and sisters, cannot now be accomplished, except by a gift of his property during his life-time. As he has no hold on his wife and children, and as the connection he formed with his wife is voidable at her will or of her relatives, he is afraid of giving his property till his last moment. I know several instances in which persons died a sorrowful death without accomplishing their wishes. In case he carries out his intentions, the gift is dragged before a Civil Court and there fought out between his Kâranavans and Donees and is at last thrown away on some technical ground or other. To remedy all these evils, it is highly desirable that we should be empowered to dispose of our self-acquired properties by will.

6. With due deference to the Honorable Sankaran Nayar I beg to make the following suggestions dissenting from him.

- I. The females of Malabar being averse to going to public offices, they should be allowed to have marriages registered in their houses by an officer empowered in that behalf, by payment of a small fee.
- II. The minimum age of a bridegroom should be fixed at 25.
- III. In contracting marriages the consent of the guardian, who maintains the girl, should be held sufficient for the purposes of the marriage Act. The Kâranavans, as a rule, do not maintain all the members of tarawâds, if the tarawâd property is insufficient therefor. The father, brother, or maternal uncle, or mother in the absence of these, should have power to give a girl in marriage.
- IV. The rules of divorce mentioned in the Bill appear to be too rigid, and are similar to those contained in the Christian Marriage act. In matters of divorce Marumakkathayam people have hitherto been enjoying liberties unknown to any other nation in the world. It is therefore desirable that an easy form of divorce should be substituted. As the marriage now treated in the Bill is a civil one, the parties should be allowed to dissolve their marriage on their executing a deed of divorce before the Marriage Registrar.

The Mohammadan rules of divorce, which are less severe than those contained in the Bill, might with judicious selection be substituted. Moplahs following Marumakkathayam law have some form of divorce which may also, with some

modification, be adopted for Malayalis. There is another form of divorce among Tiyaars following Makkathâyam. A Panchâyat of their castemen assembled for the purpose, hears the husband and wife, and according to their decision, a divorce is pronounced by the husband in their presence. Such a form of divorce with requisite modification may also be adopted. Any of the above form of divorce which will not drag the parties to an open court will be acceptable to Hindus following Marumakkathâyam.

I have the honor to be,

Sir,

Your most obedient servant,

E. AMBU NAIR.

Sub-Registrar Ponnani.

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Marumakkathayam Marriage Commission.

Answers to Interrogatories

BY

M. R. RY. P. KARUNAKARA MENON AVARGAL,

ESCHEAT DEPUTY COLLECTOR,

MALABAR.

1. Yes.
2. No.
4. Yes. The respective caste people out-caste them.
5. No.
6. The Elattûr river if any. (Note:—This is the Kôrapuzha).
7. A Nâyâr of North Malabar may, if he is otherwise eligible (*vide* Q. 1 *supra*). Some Nâyars of South Malabar may “marry” and have “married” in North Malabar.
8. *Vide* latter part of answer to the last question.
9. They *do* not. There is no reason why they should not.
10. It is a matter of conjecture. Probably because in olden days when the Kôlathiri Rajahs and the Zamorins were at war, the former wanted to prevent his fighting men from emigrating.
11. It is, in a word, a regular marriage as prevalent among other Hindus, minus its legal consequences.
12. Sometimes a man of the same caste and sometimes one of a higher caste. He is called a “Manavâlan”—a bridegroom.
13. Yes. Shame!
14. No.
No earthly reason why he should not, except that it is not the custom.
15. None whatever.
16. No.
17. I am told that “pollution” is observed in some parts of Malabar. Neither all divisions nor all parts of the District observe it.
18. I understand that in some divisions the Manavâlan would not tie the *tâli*, but would only hand it over to the girl’s mother, or other female relative.
19. Yes, though instances to the contrary have taken place, without any body being any the worse for the omission.
20. No formalities are necessary as I understand the word.
21. See last answer.

22. In North Malabar presentation of cloth takes place. In South Malabar even this is not necessary.

I believe so.

I believe so.

23. Certainly not.

24. The authority is the same as that which prohibits marriage between brothers and sisters, mothers and sons &c. &c.

25. She can.

26. I know of none.

27. Yes.

28. No.

29. Sometimes in her "husband's" house; at other times in her Tarawād.

30. The custom of wives living in their husband's houses is more prevalent in North Malabar than in South Malabar.

31. Yes.

32. Except among unprincipled people, the rule is for one man and one woman to cleave together for life.

33. He does-.

34. I believe so, or he won't work.

Yes.

Yes.

35. "Generally" they try to earn something for themselves.

36. The former is the rule.

37. Yes. What one gets from his father is called his Futrāvākāsam. It exists both in North and South Malabar though in South Malabar we do not hear the term much used. The thing is there, however, all the same.

38. None that I can see.

39. I would prefer it. But if the Legislature won't allow this, then I would accept the alternative.

40. Yes: e. g., in practice, (1) the man may have a wife living.

(2) The age bar does not exist.

(3) The guardian's consent is not necessary.

42. Unwillingness to continue the contract is enough.

43. Vide answers 29 and 31.

44. I agree to all except (e). I am not satisfied that "sufficient provision" is a wise provision. I would not on the one hand make the widow and children follow the property into Court or, on the other, compel the father to leave his everything to the widow and children, as I fear, he would have to do, unless his total acquisition amounted to something more than would "provide them with a suitable maintenance". I would give testamentary power in respect of (say) one half of a man's acquisitions.

45. Not customary except on the boundary between Malabar and Cochin.

(Signed.) P. KARUNAKARA MENON.

Marumakkathayam Marriage Commission.

Answers to Interrogatories

BY

M. R. RY. M. OTHENA MENON AVARGAL,

SUB-REGISTRAR

PAYYOLI.

PAYYOLI, 25TH APRIL, 1891.

FROM

M. OTHENA MENON,

SUB-REGISTRAR OF PAYYOLI.

TO

H. M. WINTERBOTHAM Esq., C.S.

Sir,

I beg respectfully to acknowledge the receipt of your letter of the 8th instant enquiring (1) whether it is desirable to pass a permissive law enabling Hindus under the Marumakkathayam or Aliyasantānam law to contract a marriage such as the law will recognise, and (2) whether it is desirable that the said Hindus should be given the power of disposing of their self-acquired property by Will. To both the questions, I beg to answer in the affirmative.

2. The first question assumes that there is no legally recognisable marriage at present among the Marumakkathayam Hindus of Malabar. If this assumption is correct, the necessity for a marriage law will be admitted by all. The opponents of the measure do not say that no legally recognised marriage is at all necessary, for if they do they must forfeit all claims to be considered a civilised race. They simply contend that there is already a socially recognised form of marriage in Malabar which the law must consider as valid. The question then to be considered is whether there is at present a legally recognised or recognisable form of marriage.

The essential part of the marriage ceremony of the Hindus, according to the several *Smrities*, is the performance of what is called the Saptapadi or walking seven steps before the consecrated fire by the bride and the bridegroom together hand in hand. Such a ceremony is certainly not observed by the non-Brahman Hindus of Malabar. Among them, before girls attain maturity, it is usual to celebrate what is called a *Kalyānam*. But though the word *Kalyānam* signifies marriage, it is practically a meaningless ceremony, Saptapadi not being a part of it, and the person tying the tāli (the emblem of marriage) round the neck of the girl being often a Brahman or a male relation hired for the purpose or as it sometimes happens the mother of the girl. *Kalyānam* is therefore not a marriage sanctioned by the solemnity of religion or by the authority of the *Smrities*. The real marital relationship with which the *Kalyānam* aforesaid has nothing to do, takes place under various forms in Malabar. In North Malabar some recognised form is frequently observed. It is called Potavamuri and is somewhat like this:—When a young man attains to a marriageable age, his father or maternal uncle looks out for a wife for him, and with the approval of the majority of the members of the family selects a girl from eligible ones. The father or uncle then goes in form to demand the horoscope of the girl which is given of course if the girl's family approve of the match. Subsequently the father or uncle sends word that he will call on a certain day to fix a day for the marriage and

on that day he accordingly calls with three or four respectable neighbours. An astrologer is also called to consult the horoscopes of the young man and the girl, and if they agree, a most convenient day is fixed for the celebration of the wedding. The father or uncle who has gone then gives in the presence of the witnesses, the expenses, according to means, of the marriage feast to the girl's father or uncle, and after meals which all partake of, departs. The young man has by this time invited his neighbours and friends, and on the appointed day having obtained the blessings of his elders and having received from his father or uncle a certain quantity of clothes and a sum of money, proceeds in procession at night to the bride's house. Having arrived there, the girl is brought to the principal apartment of the house and is presented with the clothes and the money in the presence of some old neighbours who have gone with the procession. After sumptuous meals all depart except the bridegroom who remains to consummate the marriage. The next day the bride is formally brought over to the husband's house. Such is the most accepted form, but I may at the same time note that it is very much reduced when the marriage is to take place a second or a third time or when the man is of a higher caste than the woman (for it must be observed that in Malabar a woman is allowed to consort with any one of a caste higher than her own). There are besides this, forms whereby a man and a woman become husband and wife without any ceremony whatever. Such are "Veetaramkayaruka" or "Uzamporukkuka" which mean literally "somebody coming into the house" and "living (with the woman) in his turn" respectively.

In South Malabar there is little or no ceremony like the above. If the man's and woman's families agree, the former proceeds to the latter's house and becomes a recognized consort of the woman who is not brought over to the man's house, unless he is the senior male member of the Tarawad. About Palghat however there is some formality observed. Four or five elders present on the wedding day recognise the relationship and pronounce this formula:—"If he likes or if he dislikes, let him come and go for six months." If within those six months either party reject the other, the elders will call the delinquent party to account. A relationship formed as above is not binding anywhere in Malabar with the exception of the six months' time allowed in Palghat.

The opponents of the proposed measure say that the forms of connection above referred to should be considered as customs having the force of law. I understand that only such customs as are *certain, immemorial and binding* on all its followers will be recognised as valid by law. If that is so, certainly the Potavamuri form as well as the others above mentioned are not valid customs inasmuch as they are not certain, and people may or may not follow the one or the other.

2. In paragraph 383 of Mr. Strange's Manual of Hindu Law which is considered to be an authoritative exposition of Malabar Law, it is distinctly stated that concubinage is the rule in Malabar. Mr. Mayne accepts this view and the Madras High Court, I understand, adopts the same.

3. Although the marital relationship is formed without any religious or civil sanction as shown above, yet it must be admitted that in the majority of cases the parties behave well. It must however be also admitted that the tempting privilege of cutting asunder the relationship is often abused. Passion interest or caprice on either side suggest frequent motives for a dissolution and the connection is often degraded to a transient society of profit or pleasure. In the absence of a binding force in the relationship, we now feel a certain amount of insecurity, a want of perfect

unity between the husband and the wife, which deprives us of a great deal of the sweet pleasures of "home."

4. Apart from the moral aspects of the question, regarding which I need not say anything here, it seems to me that our present advancement justifies, under the circumstances mentioned above, the passing of a permissive law as proposed.

5. As regards the second question: I beg respectfully to invite attention to the subjoined table. In it I shall compare the important districts of Tanjore, Tinnevely and Madura with Malabar in the number of wills and gifts of immovable property registered in the three official years 1887—88, 1888—89 and 1889—90. The figures are taken from the published reports of the Registration Department. The registrations in the other Districts of the Presidency are far less than in those mentioned above.

Districts.	Number of wills registered in			Number of Gifts registered in.		
	1887—88	1888—89	1889—90	1887—88	1888—89	1889—90
Tanjore	265	298	330	365	397	440
Tinnevely	97	126	138	228	278	304
Madura	122	94	107	126	173	217
Malabar ... { Tellicherry.	14	30	12	524	725	598
{ Calicut ...	27	48	47	144	177	172

The difference between the whole of Malabar and the other districts is noteworthy. In his Administration report for 1889-90 the Inspector-General of Registration says:—"The large number of gifts registered in the Tellicherry District is due to the operation of Marumakkathayam law." The Registrar of Tellicherry reports "Analysing the operations under this head performed in my office in the year 1888-89 when the largest number during the triennial period ending March last was recorded, and examining them minutely as regards the class of the community to which the donors belong and the relationship which exists between the donors and the donees, I find that out of 67 deeds registered, 23 were executed by Tiyars, 15 by Moplas and 24 by Nairs and other castes all of whom follow nepotism; and that the donors in 49 cases were the parents of the donees and in the remaining 18 husbands, brothers, sisters and uncles of the donees who had to be provided for. I have satisfied myself by a similar analysis that the deeds recorded in the remaining two years comprising the said period disclose the same truth. The same is the case as far as I have ascertained with respect to the transactions registered in the sub-offices under my jurisdiction, where the same law and the same customs having the force of law prevail." In the Calicut District where also the Marumakkathayam law prevails, however, the number of gifts (172) registered is less than one-third the number in the Tellicherry District (598) although the total number of documents registered in the former district is considerably in excess of the number in the latter. The Registrar of Tellicherry assigns the following reasons for the comparatively small number of deeds of gift registered in the Calicut District. (1) The Tiyars and the Mopla population in the Tellicherry District follow the Marumakkathayam law whereas the same classes in the Calicut District follow the ordinary Hindu and Muhamedan laws respectively. (2) In North Malabar married Nair women leave their Tarawads to live with their husbands, whereas in South Malabar women are

never allowed to leave their Tarawads. Moreover, although the Marumakkathayam law does not allow the members of a Tarawad to claim division of the family property as a matter of right, still such divisions with the common consent of all the members are of frequent occurrence in North Malabar, while in South Malabar divisions of Tarawad properties are very rare. Consequently the sense of obligation to provide for children is much stronger and the ability to do so greater among the Nairs of North Malabar than of South Malabar. The deeds of gift executed in the East Coast Districts relate mostly to property made over by Hindu donors to their daughters or sisters or to religious or charitable institutions.

6. The number of Wills registered in Malabar is insignificant and is useless for comparison as the executants are mostly Moplahs going to Mecca.

7. I have given here the above table and the extract from the administration report in order to show that there is an apparent tendency in Malabar for a change and I think it may safely be inferred from the facts set forth that the executants of those gifts would have preferred if they had the power, a testamentary disposition of property to an actual transfer by gift as people generally are unwilling to part with their property during their lifetime.

8. I understand that about a hundred years ago such a thing as a private or self-acquired property apart from the joint Tarawad estate was almost unknown in Malabar. Whatever a member of a Tarawad earned belonged solely to the Tarawad. He dared not alienate it without the consent of the rest of the family and if, as an exceptional case, love or gratitude prompted that the wife and children should be given a livelihood, it was given as a Putravakāsam by all the members jointly. But all that state of things has been changed by the present system of administration of civil justice, which recognises individuality in the members of a Tarawad. Not only the individuality but the individual acquisitions of each member of the Tarawad have also come to be recognised, but only till he breathes his last, after which they lapse to the joint Tarawad. If the policy of the present administration in recognising individuality in the members of a Tarawad is to be consistently pursued, I dare say they ought to be allowed the power of determining who and in what manner their own earnings should be enjoyed after their death. The inconvenience now felt is indeed extreme. To speak in the first person—I am an official and a Marumakkathayam follower, and mean to earn a moderate fortune. I have a wife and children who look only to me for support. Prudential considerations urge me to keep my estate in my own hands till I die. I may not make a will in favor of my wife and children, for, after my death it will be as valueless as a waste paper and I am even tormented by the thought that after my death my estate will go to my brothers and sisters and not a pie will be given to my wife and children. There is danger both ways. I must either part with my estate to my wife and children in my lifetime and sacrifice my independence and depend solely on their good will and affection for my future subsistence or retain it in my hands and leave my wife and children to the chance of my being able to execute and register a deed of gift on my death-bed. It is simply cruel to suffer me to remain in such an embarrassing position.

The necessity for a testamentary power is thus apparent.

I have the honor to remain,

Sir,

Your most obedient servant,

M. OTHENA MENON,

Sub-Registrar of Payyoli

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Answers

1. Yes.

2. Not in North Malabar, that is in the Taluks of Cherakal, Kottayam and Kurumbranad. In the other Taluks it is sometimes allowed. I personally know of some instances.

3. The main divisions of the Nair caste are (1) Kiriyaṁ (2) Purath charnatu (3) Akath charnatu or Sudra. There are besides these (1) Urāli, (2) Vyapāri or Rāvāri, (3) Pallichān (4) Vattakātan (5) Andiyur and (6) Chembu kotti. Kiriyaṁ is the highest, and males not females can have Sambandham in any of the others. Males in the Porath charnatu division can have Sambandham in any of the others except Kiriyaṁ. And males in the Akath charnatu division can have Sambandham in any of the others except Kiriyaṁ and Porath charnatu. In Akath charnatu there are many sub-divisions among whom Sambandham never takes place. In the last named six, intermarriage is prohibited.

4. Yes it does. The man however has nothing, but the woman and her children born in such Sambandham are never admitted into her division afterwards.

5. No.

6. Korapuzha.

7. Nair men from North Malabar form Sambandham in South Malabar, but Southern Nairs rarely if ever get females from the North. I know of only one such instance.

8. Not generally done. The reason I think is that Nairs of North Malabar are very strict observers of caste distinction and unless they know for certain the *Kulam* of a Nair he will not be allowed to enter the cooking apartment or to form Sambandham with women.

9. They may not. There is likewise a barrier in the north and east viz. the Kassargod river and a small stream in Wynad. There are a few instances however, of the rule being broken with impunity.

10. The story is that Parasu Rama got three females from Indra, an Asura, a Gandarva and a Deva. The first he settled at Gokarnam, the 2nd in North Malabar and the last at Trichur. The progeny of the three are prohibited from associating with one another. The real cause may be that Rajahs of Kolathnad made such a rule while they owned sway from Korapuzha northwards.

11. Tāli-kettu is a mock marriage ceremony which every girl before the 13th year of age must undergo.

In North Malabar. This is a four days' ceremony, on the first day the girl or any number of girls who have to undergo tāli-kettu are brought together before the Brahman who is to tie the Tāli. At an auspicious hour he does pooja to as many pots of water as there are girls and pours the water on their heads. Afterwards a Tāli is tied to the neck of each by the Brahman who then receives a gift (Dekshina) from the girls and departs. The second day is what is called Ra-Kalyānam or night marriage. The girls are brought to the marriage-pandal, where a woman of the Ambalavasi caste sing a song, the girls standing at the time with a vaseful of rice with a cocoanut in it. When that is done a Mārāyān ties a ring on the right arm of the girls. Then a Jassamine plant is planted and watered, not necessarily by the undergoing the ceremony but by some other girl on their behalf. The third

day is the Pakal Kalyānam or day-marriage. The woman's song as on the previous day takes place first in the pandal, then at the tank, then again at the pandal. That done, the Mārāyan unties the ring tied by him the previous day calling the girl for the first time "Amma" at the time. The bringing of Jassamine flower from the plant planted the previous day completes the major part of the ceremony. The fourth day is devoted to going to worship at a temple and the ceremony is then over. The above is the usual form, but in these days, in order to curtail the heavy expenses of four days' feast the Tāli-tying is done on the Ra-Kalyānam day. If the girl's family is too poor to provide even a three days' feast the girl is taken to a Brahman's house to tie the Tāli.

In South Malabar the form is different though the ceremony lasts for four days there also. In the Charnatu division it is a Nedungadi or an Erati that ties the Tāli; and one man is enough for any number of girls. In the other divisions for each girl a "Manavālan" is selected according to agreement of horoscopes. On the first day he goes to the girl's house, and presents a cloth to her; on the second day he ties the Tāli; does nothing particular on the 3rd day; on the fourth day he cuts into two the cloth given, one part being given to the girl and the other part taken by him. From the commencement of the ceremony until the cloth is cut, he is regarded as a duly married husband. The other minor formalities such as the song of the Ambalavāsi woman, the bringing of Jassamine flower and the worship at a temple are more or less like what prevail in North Malabar. In families in poor circumstances, it is usual for the mother to tie the Tāli on their daughters on Onam days; and in the event of a selected Manavālan being prevented from attending by illness or accident the Tāli is tied on his behalf by a Brahman.

12. The tāli should be tied either by a Brahman or by a male relation whose connection with the girl, if there was a valid marriage would be held unobjectionable. In North Malabar there is no name for the man. In the south if he is not a Brahman he is called "Manavālan."

13. Throughout North Malabar and among Charnatu division in South Malabar one man ties the tāli on any number of girls at the same time and place, other divisions in South Malabar have a separate Manavālan for every girl.

14. Certainly not in North Malabar. There is not the remotest idea that by the ceremony a marital relationship is meant. In South Malabar the theory is that the Manavālan has a right to take the girl as his wife. On the fourth day of Kalyānam the right is relinquished by cutting off the Kettu potava which is a cloth given by the Manavālan to the girl.

15. There is no prohibition.

16. Never.

17. Not in North Malabar. In South Malabar pollution is observed by the woman among Kiriya and Sudra. I am not sure about Charnatu.

18. Yes.

19. Yes.

Nothing.

20. Yes. It is called Potavamuri in North Malabar, Sambandham in South Malabar and Ketakkora about Palghat. In a Potavamuri the man's and woman's horoscopes are first consulted to see whether there is (ചൊരുത്തം) agreement. If there is, a day is fixed and a big feast provided. The man presents to the woman a certain quantity of clothes and a sum of money. In the Sambandham form, the man

goes to the woman's house with a few friends and sleeps there, thereby making it public that he is a recognised husband. Ketakkora is similar but there is greater publicity and more pomp attending it. In both of these last a present of clothes is not essential.

21. Yes, except that a previous consultation of horoscopes of the man and the woman and the tying up of the two together as symbolical of marriage, are dispensed with.

22. No. In North Malabar an agreement between the horoscopes is indispensable, and the ceremony is completed by the gift of clothes and money. These are not required in South Malabar.

No. Even in North Malabar, Sambandham without a gift of clothes takes place. That is called Vitāramkayaruka or Uzamporukkuka. In fact what Vitāramkayaruka is in North Malabar is Sambandham in South Malabar.

They are not the same throughout South Malabar.

23. Not in North Malabar and in South Malabar; the custom has almost wholly died out.

24. Prohibited only by the refinement of society. There is certainly no rule of law, neither Sankarachariya nor the reigning Rajahs of old having interdicted it.

25. Certainly she can.

26. Nothing.

27. Yes.

28. Nothing.

29. Either in her own house or in that of her husband.

30. No. In North Malabar a woman generally lives in her husband's house. But in South Malabar, unless the man is the senior male member of the house, the woman lives in her own house where she is visited by the man.

31. In North Malabar the woman and children are generally supported by the man but that is not the case in South Malabar where the woman's Tarawad protects them.

32. There are many instances where the union has subsisted happily throughout life but there are also innumerable instances where passion, interest or caprice has furnished motives for frequent changes.

33. Yes, he does.

34. No.

Sometimes they do.

Yes.

35. Anandaravar working for the good of the Tarawad is now a thing of the past. There is a host of Anandaravars who simply live at the expense of the Tarawad without doing anything either for themselves or for their Tarawad.

36. If they earn anything they certainly give that to their wife and children, nothing being given to the Karanavan.

37. Yes, but it is not a right which may be enforced by law. Well-to-do Tarawads give a paramba or paddy land to the children of a member of the Tarawad in the event of their being in poor circumstances. Such a gift is called Putravakāsam.

There is nothing like it in South Malabar.

38. None whatever.

39. I would have both. In respect to the prejudices of the people I would retain the prevailing forms and give validity to them by registration. There is no place where a marital relationship is formed without the knowledge of at least six persons. I would make the registration of this connection at any time during the lifetime of the husband and wife an evidence of marriage, the parties proving to the satisfaction of the marriage Registrar, that at the time of marriage they had duly fulfilled the conditions mentioned under question 44 *infra*. To meet exceptional cases the proposed form may also be adopted.

40. (1) This is not necessary in a Sambandham. One may now have any number of wives and contract again a recognised Sambandham.

(2) Now the man and the woman may be of any age.

41. In the second condition I would fix the age of the man at 21. Early marriage is of course to be put down as much as possible; and even at present marriage seldom takes place before a man is 25 years.

I would add another condition *viz.* "The man must have entered some profession, or have independent means of livelihood, or the woman must possess in her own right a fortune amounting to not less than Rs. 500."

I think such a condition is very desirable. We are relaxing caste-distinctions to a certain extent. In view of the difficulties which may arise from the exclusiveness of the ignorant section of the community who adhere to caste rules, I think it is necessary that the married couple should be able to lead independent lives. Moreover such a condition is to be found in the marriage law of some of the European countries.

42. Bodily infirmity, ill treatment and adultery.

43. In North Malabar the husband individually or the husband's Tarawad maintains the wife and children. In South Malabar the husband has to provide clothing and oil for the wife and nothing more.

44. (a) This is the most important provision. A transfer of the guardianship of the wife and children from the Karanavan to the husband is imperatively called for in Malabar. If a legislative provision is necessary for anything it is for that.

(b) This is too much I think. It will be consistent with usage if it be provided that during the continuance of the marriage the woman's Tarawad shall not be bound to maintain her and her children.

(c) Unobjectionable.

(d) Very good.

(e) The power to dispose of one's self-acquisitions by will is absolutely necessary. But the rule that the husband shall make sufficient provision for his wife and children and a right granted to the wife and children to obtain so much of the property as will provide them with a suitable maintenance are in my humble opinion most mischievous. They will tend to an enormous increase of litigation, which is already the curse of the country.

(f) Unobjectionable.

45. Yes.

M. OTHENA MENON,
Sub-Registrar.

Payyoli,
5th May, 1891.

Marumakkathayam Marriage Commission.

Answers to Interrogatories

BY

M. R. RY. K. KRISHNAN AVARGAL,

SUB-REGISTRAR.

CANNANORE.

With reference to your circular letter dated 23rd ultimo, I have the honor to submit my replies to the questions contained in the paper enclosed therein.

As a preface I may be allowed to say that any custom, hereinunder given, if not particularised as obtaining in a special locality, may be taken as prevalent in Kōlathunād *i. e.*, that part of Chirakkal Taluk where the Chirakkal Raja has caste jurisdiction. It is only to these localities that my experience is confined.

1. As a general rule it may be said that amongst Nāyars and higher castes, a man of a higher division can form Sambandham in a lower division. This rule is not, however, true of certain divisions; local customs have also made some exceptions. Divisions and sub-divisions among Nāyars in this Taluk alone, are so numerous that an enumeration of them, and a description of their caste rules would, I am afraid, be almost impossible.

2. The same liberty of forming Sambandham in a lower division is never accorded to a woman.

3. Of the two main divisions of Nāyars in North Malabar, Purathu Chārnathu and Agathu Chārnathu, the first happily has no sub-divisions, while the second has many sub-divisions. A Purathu Chārna Nāyar can form Sambandham in his own division and in all the sub-divisions of the Agathu Chārna division. The old saying "Wāriyath ninnu chāliyathōlam" (from the Wāriyar Caste to the Chāliyan Caste) though not practically put into force, sufficiently indicates the custom that a Nayar man is not excommunicated, if he cohabits with women of caste from the Wāriyar down to the Chāliyan caste. On the other hand, a man of the Agathu Chārna division is not at all allowed to have connection with the higher divisions of Purathu Chārna, nor in some cases, beyond the pale of his own sub-divisions, though he could form Sambandham with women of lower sub-divisions such as Kōlyān, Erumān, Urāli Nāyar etc. Unlike the case in South Malabar, all Nāyars will not form connection with Vāniar, Vannathān, Pallichān and Valinjiyan castes. These rules have been so very strictly enforced in times of yore, that any breach of them has been punished with nothing short of death. In olden time, such punishments have been meted out to those fallen women by their brothers, who deemed it their bounden duty to kill them and all their children in cold blood. This is instanced among other numerous traditions and stories by two prominent cases which form the burden of a "Thōttam" (a song recited at devil-dances) and of a Kunda-pāt or Thachōli-pāt. In the first case a female of Kadāngottu family, (Purathu Chārnathu) was erroneously

suspected of having had illicit intercourse with a Vāniyan (Vattekkāt Nayar of South Malabar); she and her children were murdered by her brother; she was since deified and even to this day a devil-dance (Tira) is performed as a vow in honor of her chastity, when females of a Tarawād do not bring forth female children. The heroine of the other song, Kunda-pāt or Thachōli-pāt was a member of the Māvila Illam (also of Purathu Chārna division); she formerly underwent Sambandham with a man of the Murikanchéry Illam of Akathu Chārna division, who, being then the head Kāriastan of the Chirakkal Raja, commanded great influence, but the caste elders were inexorable and the female was doomed to die in vindication of the honor of the Tarawād and clan. In these days, such a woman and her offspring are only excommunicated; they then inevitably form a separate lower sub-division, sometimes they merge into other sub-divisions and hence.

5. Such Sambandhams are never validated by a Prāyaschitham; the female and her children ever remain "outcasted" or "out claimed" as it were.

6. To say that Kōrapuzha or (Quilandy river as Dr. Gundert has it), is the recognized boundary between North and South Malabar for caste purposes, would be rather vague in the light of the customs obtaining in Kōlathunād; for aught I know, a Nayar female of the latter country is never heard of having formed connection with a man of Kurumbranad proper (the country between Kōttapuzha and Korapuzha); in fact, those of Kōlathunād generally form connection among their own community and with families generally known to them. Again pollution by touching Tiyan is observed among Nayars North of Kōttapuzha, while those to the south of it, observe pollution by approach. In these circumstances Kōttapuzha (Mūrat ferry) must be taken as a boundary for caste rules. This view is plainly supported by Dr. Gundert (see Kōttapuzha in his Dictionary) see also Gazetteer of Southern India published by Pharos and Co in 1855 pages 514 and 519 as regards Mappillas and Tiyan.

7. Nayars of North Malabar do generally form Sambandham with females of South Malabar but Nayars of South Malabar are not allowed to form Sambandham with females of North Malabar.

8. The reasons, that may be assigned for this custom, are I humbly think to be the following:—

(1.) The Nayars of North Malabar generally deem it derogatory to their Tarawād dignity to allow their females to be kept and treated as concubines, residing all the while in their own houses. They want that their females after Sambandham to reside in the houses of their husbands. Females crossing the Korapuzha river (see answer to question 9 *infra*) lose caste and hence they are not given in Sambandham to Nayars of South Malabar who have, of course, houses only to the South of Korapuzha.

(2.) They generally prefer females to be given in Sambandham to men of their own division to which men from the South do not at all belong.

(3.) Nayars from the South are indiscriminately styled Nayars, Nambiyars Menons, Panikkars &c even though they belong to Vāniyan (Vattekkāt Nayar) Vannathān (Veluthēdath Nayar) Valinjian (Vilakkathala Nayar) or bearer caste (Pallichan); they are thus naturally viewed with suspicion as really belonging to lower divisions, with whom it is not customary to allow Sambandham in North Malabar. Enquiries on the matter in the old days, when means of communications were few, entailed much labour, and perhaps some such connections had turned out to be of the prohibited type, inevitably bringing excommunication. These considerations

might have induced the Nayars of North Malabar, to make it a rule, not to give at all a girl in Sambandham to a Nayar from the South.

9. The Nayar women of North Malabar are not allowed to cross to the South of the Korapuzha river.

10. And I think the following reasons may be assigned for the custom. In the olden time Kolathunād extended up to Korapuzha and Kolathiri, who is said to have exacted feudal services (military) from thirty thousand Nayars under him, thought it wise to rule with a view to stop emigration of these feudal serfs, that to cross that boundary for a female of North Malabar (who is, of course only likely to propagate such serfs rightly belonging to his Swarūpam) was to entail excommunication.

11. Tāli-kettu kalyanam means the feast or ceremony of tying the Tāli, a small and flat gold ornament strung on a piece of thread with golden beads on each side. I am not personally acquainted with the formalities observed among the Nayars. The description of the ceremony hereinunder given is, therefore, of that obtaining among the Tiyan community of North Malabar, especially of Cannanore and Tellicherry. Even these formalities are not alike in all North Malabar, there being certain variations in their order, and even in their number. I may start with the presumption that the ceremony is, on the whole, an imitation of the Vēli or wedding ceremony of the Brahmans; it is therefore a mock wedding; the bridegroom elect is nowhere, but is feebly represented by a Brahman priest, in the case of Nayars, and by a female of the local caste barber, in the case of Tiyan. Girls should have the ceremony performed to them before they attain puberty. It is therefore generally performed at the 5th, 7th, 9th or 11th age of the girl. An auspicious day is fixed for the ceremony in consultation with the local astrologer. The day usually put down as propitious for the marriage ceremony among Brahmans, is invariably selected. Three days before such a day *i. e.* on the third evening before it, the girl is to undergo the preliminary ceremony of (Thirattivekkal). This is defined by Dr. Gundert as "putting her aside as if for the first menstruation." This is perhaps in imitation of the custom of Brahmans on the other coast to have the marriage ceremony performed before puberty, the contrary being an Anāchāram. This mock menses ceremony is performed as below. The girl, after being clothed in a Vannāthi mātṭu (cloth which removes pollution and brought by the local washer-woman), is made to sit down on a plank placed on some paddy and rice in the Eastern courtyard; water, in which some rice, (this rice is made into a Kanji on the same day and distributed among the women who had assisted at the water-pouring ceremony) will be steeped, is poured on her head by the elderly females of the Tarawād and of the Tarawāds of close relatives and neighbours, with spoons improvised with leaves of jack, mango and other trees, and of betel and pepper vines, and with halves of cocoanuts; she is then conducted inside and made to lie down, always in the room "Chāyippu" just west of Padinhāṭṭa, on another Vannāthi-mātṭu, now-a-days substituted by a grass-mat, under which the rice and paddy, over which she was sitting while the water was poured on her head, would be strewn at each end of it with the leaves above named, in the middle. During the next two days she is not to touch any human being just as in the same way as a woman in her menses. She is not to see any man during these days other than Hindus. She is however given a companion, always a girl, who has not undergone Tāli-kettu ceremony. This latter is generally called Kanya among Nayars, and its Thalbhavam, or corrupt pro-

nunciation, Kanyikalam, amongst Tiyans. She is to render all small service to the Kalyanam girl during her compulsory retirement. The Kalyanam girl is to abstain from meat and fish during these days. On the third day *i. e.* the day fixed (for the ceremony) she is taken to bathe in a tank in a procession formed of all the females invited for the feast. The procession is accompanied by an elderly relation carrying a lit-up-lamp and Nāzhi of rice with a folded cloth in a brass plate. This is generally known as Vilakku and Nira Nazhi. After bath, she cuts a cocoanut in twain perhaps in propitiation of the evil spirits in and around the tank. She is then clothed in a fresh pudava, or silk, and decked with all sorts of ornaments available. On the return home of the procession, she is forthwith conducted to the middle room. There, in the middle of that room, two rectangles one within the other, would be formed by the barber woman, the inner one with rice, and the other, with paddy. In the inner rectangle of rice, a plank with saffron lines on them, will be placed; on this she sits down; she then offers a Tālapoli to Bhagavati. It is done in this way. A brass plate in which a Nāzhi of rice and some flowers of areca nut tree are topped over by a husked cocoanut, whose fibrous tuft at its mouth is converted into a torch by rolling rags round it steeped in cocoanut oil. This torch being lighted, she is taken in procession to the Pandal, specially erected for the purpose, in front of the house just facing the Eastern middle door. An aunt of the girl, that is generally the wife of her Karanavan, precedes her with a sitting plank and places it in the inner rectangle of rice prepared in the middle of the Pandal, similar to the one inside the house, and takes her position behind it. This Pandal is more or less profusely decorated with leaves, flowers and festoons; each of the four pillars of it will have tied to it a bough of Mangalappāla tree (*Echites*), Eranhi tree (*Munies Elenji*) and mango tree and a plantain tree with a bunch of plantains. Before the procession enters the courtyard, the barber woman asks the astrologer whether it is time (Muhur-tam) for the Kalyanam girl to enter the Pandal. On his answering in the affirmative, the procession which is formed of the girl with Talapoli and 7, 11 or 21 elderly women, now enters the courtyard and goes round the Pandal three times. Some of these women carry in their hands the lit-up-lamp and Nira Nāzhi described above. On entering the Pandal she sits down on the plank kept for that purpose by the aunt, and places the Tālam (dish) before her. Then the sprinkling of rice, (Arinuri) takes place. This is done only by elderly females by throwing the rice taken from the Nira Nāzhi first on the lamp, and then on her head, in the way of blessing her. Here, the barber woman calls three times to the Kanisan and asks him whether the auspicious time for tying the Tāli is come; on his formally answering in the affirmative, she ties it round her neck. If the girl has been affianced, the duty of tying the Tāli devolves on an elderly female member of the affiancé. In my own family circle, there has occurred an instance of the affiancé, himself tying the Tāli at the Tāli-kettu, and wedding ceremonies were celebrated on the same day. I have known no other such instance after this. On the Tāli being tied, she gets up to receive the presents of new clothes and money from the invited guests. Relations are bound to make presents of clothes; friends may also do the same; the clothes are in pairs and are termed Mantrakoti. There is certain precedence observed in the order of tying these clothes round the waist of the girl, but in this, local customs vary, the first however, being in every case that provided by the head of the house. This pair of new clothes is called Muhūrtakoti. After removing the pile of clothes, she is bidden to sit down again and to open the leaf cover of an earthen pot in which three bundles have been already deposited by the barber woman (one containing rice and

flower, the second gold and flower, and the third charcoal and saffron). She is then asked to take out one of the bundles. If the first taken be the one containing gold and flower, or rice and flower, her future life would be a happy one. If the first taken contains charcoal and saffron, it forebodes evil to her. She is, after this, made to imitate the kitchen duties of a married woman; a grinding stone and a roller, and a pot and a ladle and a cocoanut scraper, would be presented to her who would pass them over by merely touching them. She then goes out of the Pandal by the Northern opening and being taken into the open compound, is asked to look at the sun, as if she is to prepare herself to bear the brunt of the hot sun in her future married life. Her companion, in the meanwhile, goes to a tree and pours water at its root, and pretends to collect flowers from a jessamine plant. This is called "Mullakizhil pōga". This is perhaps in token of her coming of age as if to prepare to enjoy the married life, jessamine being a flower generally worn by grown up women. This closes the mock wedding. The guests are then feasted. The rice and paddy used for the several purposes detailed above, are appropriated by the barber woman as her perquisites. In minor details I may have omitted certain trivial formalities; many of those are observed in certain localities, while in other places, they are totally left out. In fact no written code of these customs, with their proper sequence and time—one true of all parts of North Malabar—could be framed.

12. Among Tiyans in North Malabar, the Tāli is tied as said above, by the barber woman. Among Nayars generally the Brahman priest of the nearest temple ties the Tāli. Many well-to-do Tarawads among them, have hereditary Tāli-tiers. I do not know whether the man who ties the Tāli among Nayars, is known by any name in Malayalam.

13. It is a custom among Tiyans to have the Tāli tied by the barber woman to a number of girls at the same time. I do not know what the custom is among Nayars.

14. The custom among Tiyans, is for a woman to tie the Tāli. Among Nayars of North Malabar, it is not generally the custom to allow the man who ties the Tāli to cohabit with the girl. For, if the custom is otherwise, the same Brahman will have to claim the rights of cohabiting with a number of girls around the temple in which he performs the Pūja, or if he is, as is sometimes the case, hereditary Tāli-tier, he will have to claim the anomalous right of cohabiting with a number of girls in the same Tarawād.

15. In spite of all these, there is no objection, they say, to give the girl in Sambandham to a Tāli-tier afterwards, provided of course, that his Sambandham with that girl is not of a prohibited type on other grounds.

16. I have not known any instance of such a Sambandham.

17. In North Malabar, so far as I know, it is not at all the custom for any Nayar girl to observe pollution when the Tāli-tier dies.

18. Among Tiyans, Tāli is never tied by the mother of a girl. Whether it is a custom among Nayars, I do not know.

19. Every Marumakkathāyam girl should undergo Tāli-kettu ceremony before reaching the age of puberty at the risk of losing her caste, if the ceremony had not been performed before the first menses. Tāli-kettu ceremony being an imitation of the Vēli or marriage ceremony of the Brahmans, it may be presumed that this custom originated in the Brahman custom of out casting a girl, if she had not been married before she attained puberty.

20. Among North Malabar Nayars, when a girl is asked in marriage, two ceremonies are generally performed. They are called by the name of Pudamuri and Vettillakettu. The first is the real Sambandham or marriage ceremony performed at the house of the bride, by cutting a pair of new clothes by the bridegroom, and presenting it to the bride to wear. The second is the bringing home of the bride, when a number of betel leaf bundles are taken to the bride's house by the bridegroom's close female relatives. The details of these two ceremonies, I do not feel competent to describe. Among Tiyans of North Malabar, the further ceremony after Tāli-kettu kalyanam which a girl should undergo when she is asked in marriage, is called Mangalam. Following are the formalities attending the ceremony, so far as they have come to my notice; but before I describe them, I must preface my remarks with these qualifications, that the description is not an exhaustive one and that the several details are not the same in every part of North Malabar. When a girl has been chosen, a close relation of the bridegroom and a friend of his (commonly known as middle-man) Nadukkāran, repair to the house of the bride, and make a formal proposal of the match to the Kāranavan, or the father of the girl, as the case may be. He asks time to consult his relations especially those connected by affinity. If these latter approve of the marriage, the horoscope of the girl is sent over to the bridegroom's party who on receiving it, consult an astrologer whether the match would be a successful one. On his approving of the match, the parties arrange for an auspicious-day-fixing-ceremony (Mangalam kurikkal.) On that day, the close relations of the bridegroom, some nine or ten in number, go to the house of the bride where, a day is fixed for the wedding in consultation with the local astrologer. The horoscope of the bride and bridegroom are then tied up together and handed over to the bridegroom's party. In the meanwhile, a lit-up-lamp and Nira Nāzhi would be placed in the middle room with the sweet-meat offerings for Ganapati. On a plank, the Kāranavan of the girl would sit, just behind the lamp and other articles. The close relatives of the bridegroom's party sprinkle rice on his head etc. (Arinuri) and then hand over a sum, not less than 11 fanams, as if it is an earnest money, in token of the bargain being struck. The Astrologer is also to be paid by the bridegroom's party. The bridegroom's party is, after this, feasted along with those invited by the bride's party from the neighbourhood and from among their relations and friends. It is the duty of the bridegroom's party to invite all their friends and relations for the wedding. These assemble at his house early in the day fixed for it, and therefrom starting in procession to the bride's house, the bridegroom clad in a pair of new clothes, is conducted to the middle room where the ceremony of sprinkling rice with the usual accompaniments, is gone through. On their arrival in the bride's house, the first ceremony is again the sprinkling of rice on the head of the bridegroom. After this, general feast of all the guests invited takes place, and when it is over, betel nut &c, would be presented to the guests. The bridegroom is then again conducted to the middle room with his best man and then subjected to the same ceremony of sprinkling rice, but now with the bride seated on his left and best man on his right side. This being over, the middle man hands over the (Kānam) mortgage money which is usually 42 fanams in some parts, but in Chirakkal Taluk, excepting Cannanore Cantonment, invariably calculated at the rate of 2 or 1 fanam per each guest brought by the bridegroom. The formula recited by the middle man while handing over this amount to the Kāranavan of the Bride is different in several places. Dr. Gundert gives an instance which is as follows. തിരുൻ തിരു

തിരു 11½ പനത്തിന്നും പച്ചൊടത്തിന്നും പരിയംചെയ്തു കെട്ടും കിഴിയും കൊടുത്ത കൈപാ

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കിഴിയെന്നു" I must not omit to mention that the girl would be presented here by the bridegroom's party with a pair of new cloths; this present as a rule, should be brought by one of the married sisters, of the bridegroom; one of these would be cut and given to her for wearing forthwith, and clad in which alone, she is to accompany her bridegroom. The other piece is thrown over a cloths-line in the middle room, to be presented hereafter according to the local usage, to the wife of the Kāranavan of the bride or her father's sister. I may digress here and say that, if the mortgage amount is only 42 fanams, the bridegroom is to perform the subsequent ceremonies of Eruthu Kalyānam (first menses ceremony) and Pumsavanam (first pregnancy ceremony). After further sprinkling of the rice by the elderly male and female members of both the Tarawads, and of their friends, the bridegroom's party start for his house with the bride. Arrived at that place, the bridegroom's sister pours water over the feet of the bride as if in token of having accepted her in her Tarawād as her Enangathi (sister-in-law). The next day the bride, the bridegroom and the best man are again invited to the bride's house; they pass that night there; this ends the formalities.

21. I do not know whether the formalities observed when the Sambandhakāran is a Nambudiri or Pattar, are the same as those observed when he is a Nayar.

22. The formalities attending the Sambandham amongst Nayars are not the same in North and South Malabar nor are they the same amongst Tiyans of the same division. The description of a Tiyan's marriage given in the District Manual, differing as it is in many points from the description given above of a Mangalam in North Malabar, is of one that is usually celebrated among Tiyans of South Malabar.

22. The formalities among Nayars of North Malabar are the same throughout it; but amongst Tiyans, they differ in several localities.

I do not know whether the customs observed are the same throughout South Malabar.

23. Polyandry is never practised in North Malabar in any caste. In South Malabar amongst Nayars of Nedunganad, Walluvanād and Ernad the custom, I hear, still prevails, and amongst Tiyans South of Korapuzha, a single wife is married to all the brothers in a family. These absurd customs are however dying out.

24. I do not feel competent to answer the question.

25. In North Malabar a woman, if she wishes, can terminate a Sambandham both among Nayars and Tiyans by staying away at her Tarawad house and by persistently refusing to go to her husband's house after the repeated entreaties and pressure of her elders. I do not know what the custom is in South Malabar.

26. Among Tiyans in North Malabar, if either party wishes to dissolve a connection, each has to ask the middle man to go to the other house and announce the fact. This is called Achāram kodukkuga on the side of the male, and Achāram vanguga on the side of female. But if either party separate and stay away at his or her house without any communication or exchange of courtesies for two successive festivals of Onam and Vishu, she may be considered at liberty to form fresh connections. The marriage tie being thus very easily loosened, it is very necessary that there should be a law to make it more binding.

27. [A man can have Sambandham in more than one house at the same time. This custom is equally prevalent among Nayars and Tiyans of North Malabar.]

28. As said in the above answer, there is nothing to prevent a man to be polygamous if he chooses.

29. During Sambandham, it is generally the custom both among Nâyars and Tiyan of North Malabar for the woman to sleep and take her meals at the husband's. If the husband has more than one wife, it is the custom not to house them in the same building for obvious reasons. It is a custom among Tiyan that a kept wife or a concubine, would never enter the house of her husband, unless she undergoes the marriage ceremony in the way of ratification, on however small a scale; the avoidable condition in such a case being the bringing home of the wife by a sister or other close female relation of the husband. The above custom of taking the wife home, though generally prevalent among Nâyars also, is much affected by the peculiar circumstances of each case; for instance, if the husband is a Brahman, he does not like to take her to his Illam, where she cannot freely mix with the inmates of the house, and where she is wholly forbidden to enter the kitchen. In such cases, the well-to-do husbands have separate houses near their own, where they take their bed in the night, and where their wives and children generally live.

30. The above is the custom in North Malabar. In South Malabar I understand, the wives generally live in their own Tarawad houses except in the case of some public officials who take their wives wherever they go.

31. In Tarawads in North Malabar, it is generally the custom for the husband to support the woman and her children during wedlock. In exceptional cases, where the husband becomes very poor, the uncles take up the support of his wife and children. It is a custom so much binding on a man, that to neglect a wife and children (as is generally the case in South Malabar) is considered one of the greatest social delinquency. Further, in North Malabar, the expenses for maintaining them is considered a legitimate charge on the Tarawad property of the husband.

32. It is not the rule for one man and one woman to cleave together for life, but among many, especially public officials, it is considered a disgrace to have more than one wife, or to have a concubine, or to change Sambandham frequently. The description of the married life in Malabar, given by a writer in the Gazetteer already mentioned, so long back as 1855, so correctly portrays that life as it now is, that I am tempted to make the following long quotation from that book. "Though repeated change of the Bharthâvu (husband) is permitted, it is regarded as a disgrace to the woman and as indicative of licentious disposition that this should occur frequently and without sufficient reasons. Instances are by no means unfrequent of a fidelity through life worthy of the most perfect institutions."

33. See answer to Question 31.

34. No allowance is generally made by a Karanavan if an Anandaravan work for the Tarawad unless it be the usual supply of rice and curry at the appointed times, and the periodical supply of cloth, oil &c. in common with the other members of the Tarawad. Anandaravans do often cultivate Tarawad land for a rent. In such cases, they are treated as any other tenants, and are allowed to appropriate the surplus and deal with it as they please.

35. The custom that now obtains among the North Malabar Marumakkathayists as regards their work and earnings is as follows. If the man has been brought up by his father and put to some work, his earnings as an Anandaravan are for himself; he does not then generally work for his Tarawad. If on the other hand, a man on account of early death of his father, or on account of his father being a poor man is brought up at the Tarawad house at the expense of the Karanavan, the Anandaravan as a rule, works for the Tarawad, and hands over his earnings to the Karanavan.

The Anandaravans do nevertheless earn something for themselves by hook or by crook.

36. If the Anandaravan lives in the Tarawad house with his wife and children, these latter are supported by the Tarawad. In such cases the rule is to hand over however small a portion of the earnings of an Anandaravan to his Karanavan. But there are instances in which the Anandaravans try to evade this charge.

37. Putrâvakâsam in the general acceptation of the word in North Malabar is the property bought in the name of the children by a father out of his own money or property (always self acquired), given by a deed of gift, or by word of month, by a father to his children. The word Avakâsam is therefore a misnomer inasmuch as a son cannot claim as a right, any share from the father's Tarawad or self-acquired property after his death.

I do not know whether there is anything analogous to this in South Malabar.

38. I do not see any objection to providing a permissive marriage Law for Nâyars.

39. I would prefer to retain the customary form and make the subsequent Registration of the marriage evidence of its legal recognition. The solemnization of the marriage, in the form prescribed, in the presence of the Registrar, is objectionable on many grounds. (1) It is an innovation too radical in its nature to be imported in a society which is not, at present, sufficiently educated to receive it. (2) The parties to which the bride and bride-groom belong, let them be of any caste, would not like to have their marriage celebrated in the presence of a public functionary almost always a man of another caste or creed.

40. The Sambandham recognized in practice does not insist on conditions 1 and 2; the conditions 3 and 4 are always observed. To put into practice the first proviso to condition 4 (read with the first para of the section), is to subvert the whole caste system as it now obtains among Nâyars, and I am afraid, it would pull down the whole caste fabric in all Malabar, for under the section, it will be lawful for a Tiyan to marry a Nayar woman and *vice versa*,—a thing equally repugnant to both classes in the light of the present feelings of the public mind, though such a consummation is highly desirable on ethnological and other grounds. The second proviso to condition 4 is acted up to in the present Nayar Sambandhams and Tiyan marriages. In fact they go further in this matter inasmuch as they prevent connection with any of those who are of the same Illam or Gens such as Kalliyatan, Chenicherri &c, among Nâyars of North Malabar, Perumbilâvil, Chengalath &c, in South Malabar, Nellikka, Valayamkuti &c, among Tiyan in North Malabar. This innovation will not at all be viewed with much favour by the Malayalis.

41. I would retain condition 1 in the modified form as below.

Neither party must at the time of the marriage have a wife or husband living provided such husband or wife has not obtained a legal divorce in the manner herein provided. I would retain conditions 2 and 3 *in toto*.

I would do away with the first and second provisos altogether. My reasons for modifying condition No. 1 are obvious; if the words husband in condition I mean only those who live in wedlock, and not those who live separate as divorced, the modification suggested by me would not be necessary. My reasons for omitting provisos 1 and 2 to condition 4, I have given in answer to question 40. The innovations intended thereby to be introduced are rather unsuited to the time. It would be time enough to introduce them when the public mind is sufficiently educated.

42. Any trivial cause is considered sufficient and reasonable according to social usage to dissolve a connection between a man and his wife among Marumakkathayists,—the extreme facility in severing it, affording a broad field for the selection of a cause. Adultery on the part of the wife is now-a-days invariably punished with nothing short of divorce; and cruelty and neglect on the part of either are also fruitful causes of divorces.

43. The existing usage as to the maintenance of Nayar wives and children is that till the death of the father, they are maintained by him if they live in the Tarawad house, or in a house specially built for them by him. After his death, they generally go back to their Tarawads, and Tarawad of the deceased father has then, generally, nothing to do with them. This is the custom in North Malabar.

44. As to the new rights accruing from a marriage registered under the proposed Act I have no objection to retaining the rights mentioned in sub-sections a. b. c. I would apply right (d.) only to wives. To apply it to husbands under the Act is to hold out a premium to such young men as are now maintained out of the Tarawad fund and whose earnings hereafter are at present considered as of right to recoup and swell that fund, to disinherit as it were, the Tarawad of their earnings; the result of such a provision would be that the highly conservative Karanavans of fatherless Anandaravans will directly abandon their duty of educating, or properly bringing them up. This would be disastrous to a large portion of the Malayalis now receiving education in the College and Schools. It would be time enough to bring about this much desired reform, when a large number of educated Malayalis become in their turn, Karanavans. The wording of the right (d) should therefore be modified accordingly. I would have it as follows. "If a wife die intestate in respect of her separate or self-acquired property the said property shall devolve on her children born to her before or after such marriage (if any) in equal shares and failing them on the Tarawad," I would retain the right (e) minus the words and sentence from "provided" down to "husband." We will for the present consider that the testamentary right in respect of separate or self-acquired property conferred thereby on a man, would be sufficient to induce him to make a suitable posthumous provision for his wife and children. This, it must be admitted is a thin end of the wedge in uprooting the Tarawad system. Public opinion in Malabar is not at present sufficiently educated to recognise the solemn and natural duty devolving on a husband for making a provision for his wife and children so as to introduce the right (e) *in toto*. In speaking of rights (e) and (f), I would have the word "separate and self-acquired property" given an unequivocal and correct definition lest it may become a fruitful source of litigation. In this connection I may be allowed to remark here, that in the light of my opinion expressed above, the definition should be so framed as to make the expenditure incurred by a Tarawad in bringing up a man married under the Act, a legal charge on his self acquired property. Right (f) will have to be in these circumstances modified. I would have it in this wise. "Property devolving on a wife, or her children by Will shall be deemed to be their self-acquired property" or if an exhaustive definition of the words "separate or self-acquired property" be framed, this clause (right (f)) may be wholly omitted.

I may be allowed here to humbly make the following observations.

In the case of a divorce between a man and his wife married under the Act it should be laid down that it be effected in the simplest manner possible compatible of

course, with the solemn nature of the marriage-tie on the one hand, and eschewing the complicated procedure and undue publicity of the English divorce courts on the other.

The evils that attend the present marriage customs among Marumakkathayists in Malabar, evils that appear revolting to the civilized world, may be summarised as follows. :—

(1) They have a tendency to make polyandry a recognized institution in some parts of Malabar.

(2) That this custom has engendered in the females "aught but virtue of a feeble growth" and therefore an inclination in them exists to form promiscuous connection, if not practice open prostitution (Nayars are taunted with the opprobrious appellation "ten father's sons" see Dr. Gundert's Dictionary page 608 coloum 2 against the word Pathu. See also definition of Kulastri and Parastri.) Concubinage of Tiyan women by Europeans in North Malabar is also in point.

(3) That those who want to be monogamous, and who would therefore exact faithfulness and chastity in their wives, are rendered helpless, in case these latter yield to temptation, to get the adulterer, or the enticer, punished under the Indian Penal Code as a Marumakkathayam wife is one, whose marriage is not recognized by law.

(4) That the so called husbands do not consider it a duty naturally devolving on them to maintain their wives and children.

(5) That the Marumakkathayists are now debarred from making valid disposition of their self-acquired property by will.

The provisions of a legislative enactment framed on the lines indicated by me in answer to questions 40 and 44 would, I humbly hope, tend to remedy all these evils, while they would not go to the other extreme of revolutionizing the whole social system in Malabar that has been in existence for more than a thousand years.

"Slow" must be the watch word of every social reformer.

"Some certain mean in all things may be found.

To mark our virtues, and our vices bound"

45. It is not customary to give in Sambandham a Nayar girl of North Malabar to a Nayar in Cochin and Travancore. (Vide my answer to question 7.)

I do not know what the custom is in South Malabar.

K. KRISHNAN,
Sub Registrar.

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Marumakkathayam Marriage Commission.

Answers to Interrogatories

BY

M. R. RY. P. GOVINDA MENON AVARGAL,

DISTRICT MUNSIFF.

BETUTNAD.

1. Yes.
2. No.
3. In cases similar to that which is given as an example. Chárnathu and Sûdra.
4. The woman will not be allowed to associate with her caste people on equal terms. The woman's house-people will also suffer the same penalty, if they allow her to live and mess with them.
5. The woman and children can in certain cases, be readmitted to caste by the performance of a Prâyaschittam, or payment of a fine that may be imposed by their caste people.
6. I believe it was the Korapuzha.
7. Nayars of South Malabar do not generally form Sambhandham in North Malabar, but Nâyars of North Malabar do form Sambandham with South Malabar females.
8. There is no absolute prohibition as far as I know, provided the Nayar is equal or superior in caste to the woman.
9. There is not the least objection, though they do not do so generally.
10. By reason of immemorial custom whose origin I am unable to trace.
11. It is a substitute for the marriage ceremony obtaining among Makkatâ-yam people, but it creates no conjugal rights, or obligations, and is therefore a mere mockery. Its performance, however, before the girl attains puberty is compulsory, the penalty for nonperformance being the virtual excommunication, or boycotting of the family to which the girl belongs.

Talikettu Kalyânam means, as the term clearly indicates, the ceremony of tying the Tâli which is the symbol of marriage and wife-hood. It is introduced by the ceremony of Ashtamangalyam at which the "Muhûrtham," or auspicious hour for the principal ceremony, is fixed. On the appointed day just before the Muhûrtham, the Manavâlan (or the man engaged to tie the Tâli) goes in procession to the Pandal erected and decorated for the occasion, and is seated. Immediately afterwards, the girl is carried by her brother in his arms, and seated by the side of the Manavâlan. The local astrologer or Kanisan, who is present by appointment, is then called upon to announce the Muhûrtham, and on his doing so, the Manavâlan ties the Tâli round the neck of the girl amidst the vociferous shouts and applause of the assembled crowd. It is followed by the reading of some auspicious verses from the Râmâyana which is generally done by a man of the girl's caste. The portion selected for recitation is, as a rule, the marriage of Râma and Sîta, a benediction being pronounced in the end by wishing the married couple such a long course of marital bliss and prosperity as was enjoyed by Râma and Sîta. After this the couple are taken back to a particular apartment in the house, and treated to a sumptuous feast. The festivities continue for four days and on the fourth day, the girl is washed, bedecked and

taken to the nearest temple to worship. The pomp and splendour of the ceremony, as also of the feast which is a necessary adjunct, varies in degree according to the wealth and social position of the family to which the girl belongs.

12. In the case of some divisions of the Nayar caste, such as Kiriya, Sudra, Vattēkat &c, the ceremony is performed by a man of the same caste division. In the case of certain others, such as Agathu Chârna it is performed by Nedungâdis. In all cases the Tâli-tier is called Manavâlan.

13. It is not the custom as far as I know. But it is usual, at least in South Malabar, to have a number of girls tied at the same time and place, by *different* Manavalans.

14. No, all I can say is that according to custom (which, of course, has the force of law) no such right exists.

15. No prohibition whatever.

16. I can't remember any at present, though I have a vague idea that there have been instances of the kind.

17. My belief is, that in all those cases in which the Manavalan belongs to the same caste division as the girl, she observes pollution. I know, as a fact, that in Kiriya, Sudra, and Vattēkattu divisions, pollution is invariably observed by the girl.

18. I believe so. But the cases in which it is done are extremely rare, and take place only when the girl's family is too poor and helpless to perform the ceremony in her own house, and is therefore obliged to take her to a Dâyadi house on the occurrence of a Kalyanam there.

19. Yes. There is nothing but custom to be pleaded in justification of this.

20. No formalities are *essential*. As a matter of fact, however, it is usual for the proposed connection, or Sambandham, to be formed with the approval of the Karanavan and other members of the girl's Tarawad, and of their relatives. The horoscopes of the parties are first consulted and compared, to see if the match would prove happy. A day is then fixed for the Sambandham to take place. Friends and relatives are invited for the occasion, and a feast is held in the bride's house. The bridegroom goes to the bride's house at about 8 o'clock, or a little later in the evening accompanied by a number of his friends. There they are received and welcomed by the males and females of the house. After dinner the bridegroom is conducted to the principal hall of the house. There the bride is presented to him by her uncle's wife, or some other female relative. Thereupon the bridegroom makes her a present of cloths. This done the girl retires. After a while, during which the bridegroom and his friends amuse themselves with music and conversation, and after the distribution of betel leaves and perfumed sandal, the bridegroom is conducted into the girl's apartment and they retire. This completes the ceremony.

21. The formalities are generally the same, the only difference being, that the feast for the bridegroom and such of his attendants as cannot eat in the bride's house, is prepared and served elsewhere.

22. Not quite. I cannot say that the formalities are the same throughout North Malabar. As for South Malabar, I believe they are almost the same throughout.

23. I am not prepared to say that she can, or that in any respectable family she would be allowed to do so. On the other hand, I do not think, that by so doing, she would, or could, be excommunicated.

24. I cannot lay my hand on any rule of prohibition under a penalty.

25. She can.

26. None whatever.

27. Yes.

28. No.

29. Generally in her own Tarawad house in South Malabar.

30. No, in North Malabar the wife generally lives in her husband's house.

31. The maintenance (food expenses) should be paid by their own Tarawad. All extra expenses, namely, clothing, oil, betel &c, should be supplied by the husband.

32. It is by no means the *custom* to change Sambandhan frequently.

33. He does.

34. Not as a matter of legal obligation. Anandaravans often cultivate Tarawad lands for rent, and they need only pay the fixed rent to the Tarawad. They are at liberty to deal with the surplus if any, at their pleasure.

35. Formerly the tendency was greater to work for the benefit of the Tarawad, but latterly individual interest, is being more looked after.

36. They generally support their wife and children.

37. I have no idea about the custom of Tiya's on the point. Among Nayars of North Malabar, the word Putrâvâkasam is used to denote the property given by the father to his wife and children. It bears no other meaning. The word is used in South Malabar too in that sense, but I believe it was introduced from North Malabar.

38. None whatever.

39. I would retain the customary form and make registration evidence of its legal recognition.

40. The conditions differ in the following respects:—

(1). In regard to Sambandham the injunction does not exist that neither party must, at the time of marriage, have a wife or husband living.

(2). There is no limit of age in Sambandham.

(3). The consent of guardian is not essential in Sambandham.

(4). In addition to prohibited degrees of consanguinity there is, in the matter of Sambandham, a caste restriction which the Bill seems to lose sight of.

41. I would retain all the restrictions and provisoes contained in the Bill, and would add to them a clause prohibiting marriages between persons of different castes which are contrary to the existing custom.

42. Adultery in the case of either party, and neglect, and ill-treatment of wife by husband.

43. As long as the wife and children live in their own Tarawad-house they must be maintained (fed), and the children educated, by the Tarawad, the clothing and other expenses being paid by the husband. During their stay in the husband's Tarawad, they must be fed by his Tarawad. When they live with the husband in his separate house, he should maintain them, and neither his Tarawad nor the wife's Tarawad is liable to do so.

44. I fully approve of the provisions in the Bill in regard to the new rights proposed to be derived from a marriage.

45. It is not usual for Nayars living in British Malabar, to form Sambandham with females of Cochin, but it is seldom, if ever, that British Malabar females are married by Nayars of Cochin. Intermarriages between Travancorians and Malabarians are extremely rare indeed.

P. GOVINDA MENON,
District Munsiff.

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Marumakkathayam Marriage Commission.

Answers to Interrogatories

BY

M. R. RY. V. KESAVA MENON AVARGAL,
SUB-ASSISTANT INSPECTOR OF SCHOOLS,
CALICUT RANGE.

1. Among Nâyars and higher castes, a man of admittedly superior caste may have Sambandham with a woman of lower caste, except in an Urâli Nâyar family.
2. The same liberty cannot at all be taken by a woman on pain of excommunication.
3. Sambandham between different divisions is altogether forbidden in the following cases:—
 - (a). A woman of 'Kiriya caste' cannot have Sambandham with a man of Sudra, Chârna, Vattekkad, Pallichân, or Anthûrân, caste, but a man can.
 - (b). A woman of Sudra caste cannot have Sambandham with a man of Chârna, Vattekkad, Pallichân, or Anthûrân caste, but a man can.
 - (c). Neither man or woman of Chârna caste can have Sambandham with one of Vattekkad or Pallichân caste, or *vice versa*.
 - (d). No member of Vattekkad caste can have Sambandham with one of Pallichân, or Anthûrân, caste or *vice versa*.
 - (e). Urâli Nâyars will not admit any other Nâyar than their own castemen.
 - (f). No male or female of any Nâyar caste can form Sambadham with a Velakkathara Nâyar or *vice versa*.
4. Forbidden Sambandham will subject a man or woman to social excommunication; but a man will be pardoned if he discontinues such connection and undergoes a 'Prâyaschitham'.
5. In certain places among certain castes such Samhandham can be validated by a 'Prayaschitham'.
6. For caste purposes the recognised boundary between South and North Malabar is Kôrapuzha.
7. The men of South Malabar cannot form Sambandham with women of North Malabar, but the men of North Malabar can have Sambandham with women of the South.
8. No. Because North Malabar was once under Chirakkal Rajah who was an enemy of Zamorin, the Rajah of South Malabar. The dominion of the latter was overrun by Tippu Sultan in 1792, who converted many a Nâyar to Islam. The Rajah of Chirakkal then issued an order that no woman should cross the Kôrapuzha, lest she should be converted, and that no man of South Malabar should be admitted to a North Malabar family on the belief that all in South Malabar (including the Zamorin) had become converts to Muhammedanism.

9. Nayar woman of North Malabar cannot cross to the South of Kôrapuzh on pain of excommunication.

10. They are prohibited from doing so for no assigned reason except the suggested in para 8.

11. 'Tâli-kettu-Kalyânam' is a sham marriage ceremony, more or less on the lines of Hindu marriage ceremony performed according to the shastras, with this difference, that the person who ties the Tâli (the thread) does not become the husband of the girl. This 'tâli' is worn by the female for 27 days, that is, one lunar month and is broken on the 28th. The ceremony is not similar in form throughout Malabar although the design appears to be the same every where.

Before attaining puberty, that is, at the age of 10 or 12, it is customary, nay almost compulsory, for a Nayar girl to undergo this Tali-tying ceremony, so that this ridiculous but very expensive business takes place once in every twelve years. If some girls happen to flower before this ceremony is over, the fact is entirely concealed from the outsiders and the 'Tâli-kettu-Kalyânam' is performed with the greatest speed, followed immediately by 'Thirandu-kalyânam'. In a Nayar family there will be of course many girls of different age from 12 downwards, and all these will undergo the ceremony at one and the same time. The horoscope of the eldest girl alone is usually consulted, and whether it agrees or not, 'Ashtamangalyam' is fixed for a particular day, and on the next day is the 'Tâli-kettu-Kalyânam'. So far, North and South Malabar agree, I hear, in all respects.

In North Malabar the girls are seated under a pandal in a court-yard. A Nambudiri brings Kalasam (*i. e.* holy water) and sprinkles a few drops on these girls. Muhûrtham is pronounced by the astrologer, and instantly the Tâli is put round the necks of these girls. Tâli is put either by the princes, or by the Nambudiris. Formerly there were as many princes, or Nambudiris, as there were girls, but of late the number is reduced to one for many a girl. This is done with a view to reduce expenditure, as otherwise, all these men will have to be paid separately. The Rajahs or princes used to tie Tâli in the following families. (1). Pukkot Nambiar. (2). Nâluvitti Nambiar. (3) Pathillath Adiody. (4) Puthuppanath Vâzhunnavar. In all other families, the Nambudiri puts the Tâli, and the mother ties it on, and in a few others the mother ties the Tâli. Then comes a grand feast in which all people of the village, and other guests, are fed with a sumptuous meal. Hundreds of Nambudiris and Patters are also fed at an enormous cost, and the feast is generally continued for two or three days.

In South Malabar, however, Tâli is tied in the following cases.

1st. By the Nambudiris in the case of Sthânîs (men of title) and other great landed proprietors; one man is selected for many girls and is paid according to usage.

2nd. By Nedungâdis in the case of Charna caste. One man is brought for many girls and is paid according to usage.

3rd. By Co-castemen in the case of Urâli caste. The first two classes do not remain with the girls concerned on the days of the ceremony.

4th. By Manavâlan in the case of all other castes throughout South Malabar. This is most often resorted to. The Manavâlan must necessarily be a co-caste man. A Manavâlan is chosen for each girl separately according to the agreements of the Horoscope. He is not paid. He is brought fully adorned at the time of Tâli-kettu and

remains with the girl selected, for a period of 4 days, in a separate apartment assigned for these girls. This custom is not at all observed in North Malabar. The ceremony lasts 4 days, and great feasts are held on the first and the last day at enormous cost. In South Malabar, the Rajahs or princes do not tie Tâli as in North Malabar. In Palghat and other places, there is a ceremony on the 28th day called 'Trupathettam Kaliyânam' when the Tâli is either broken, or removed, from the neck of the girl and no vestige of it remains afterwards.

12. In North Malabar the Tâli should be tied on by a prince, or a Namburidi, or by the mother and by none else. The person who does it has no special name. In South Malabar it is done by a Nambudiri, a Nedungâdi, or a co-caste man. He has no special name in the case of the two former, but in the case of a co-caste man he is called a Manavâlan.

13. Except in the case of Manavâlan, or the mother, the Tâli is tied on a number of girls by one and the same man, and almost at the same time, devoting, say, one minute to each girl.

14. The man who ties the tâli does not thereby derive any right whatever to cohabit with the girl unless he proposes a real marriage (*i. e.* nuptial) ceremony with any one of the girls some time subsequently to the Tâli-kettu-Kalyânam. The prohibition may have originated from the following grounds.

First one man ties the Tâli to several girls. If he can cohabit with one he can as well cohabit with the rest, but they are all sisters and cohabitation is therefore forbidden. In some places Tâli is tied on by the mother.

Secondly. The girls are of such tender age, that is, from 1 month to 10 years, as to make cohabitation physically impossible.

Thirdly. There is often such a great disparity between the age of the girl and the Tâli-tying man that no match can fairly be contemplated, by the guardians of the parties concerned.

Fourthly. The Tâli tied by the man, is broken on the 28th day, so that another ceremony is rendered necessary for cohabitation.

15. There is no prohibition to a Manavâlan afterwards forming "Sambantham" with the girl on whom he tied the Tâli provided he is eligible in point of age, wealth and other external condition.

16. Yes. My sister-in-law is married to a man who was once her Manavâlan. But this practice is impossible in North Malabar and other places where "Tâli-Kettu Kalyânam" by a Manavâlan is not in vogue.

17. If a Manavâlan dies, there is pollution to the girl, but there is no pollution in any other cases. There is no pollution whatever in North Malabar; and in South Malabar, it is observed only among co-caste men by all the divisions of the Nâyars.

18. Tâli is tied on by the girl's mother in cases of all Tiyan families in North Malabar, and also in certain cases of Nayar families of North and South Malabar.

19. Yes. Every Marumakkathayam, girl must undergo the Tâlikettu ceremony. There is nothing but custom to be pleaded in support of it. Perhaps it is a symbol of marriage according to Shastras, but it has been reduced to a most ridiculous extent by the Nambudiris to attain their selfish ends.

20. Yes. Further formalities are necessary for cohabitation.—I shall quote the words of my friend.

"In North Malabar some recognised form is frequently observed. When young man attains a marriageable age, his father, or maternal uncle, looks out for wife for him and with the approval of the majority of the members of the family selects a girl from eligible ones. The father, or uncle, then goes in form to demand the horoscope of the girl, which is given, if the girl's family approve of the match. Subsequently, the father, or uncle, sends word that he will call on a certain day to fix a day for the marriage, and on that day, he accordingly calls with three or four respectable neighbours. An astrologer is also called to consult the horoscopes of the young man and the girl, and if they agree, a most convenient day is fixed for the celebration of the wedding. The father, or the uncle, who has gone there gives in the presence of the witnesses, the expenses, according to means, of the marriage feast to the girl's father or uncle, and after meals, which all partake of, departs. The young man has, by this time, invited his neighbours and friends, and on the appointed day having obtained the blessing of his elders, and having received from his father or uncle a certain quantity of money and clothes, proceeds in procession at night to the bride's house. Having arrived there, the girl is brought to the principal apartment of the house and is presented with the clothes and money, in the presence of some of the neighbours, who have gone with the procession. After sumptuous meals all depart except the bridegroom. The next day the bride is formally brought over to the husband's house. Some ceremonies then take place. Such is the most accepted form but it is very much reduced when the marriage is to take place a second or a third time, or when the man is of a higher caste than the woman."

All this is strictly observed in Palghat, and other places of South Malabar with this difference that the expenses of the marriage are not generally given to the girl's father, or uncle, and the girl is not invariably taken to the husband's house the next day. She will be taken either the next day or a few days subsequently. It is not the young man that invites his neighbours and friends, but some junior member of the Tarawad accompanied by a neighbour at the instance of the Kāranavan. In fact, the whole village is invited, that is, the village of the male as well as the village of the female. Every invited house in a village is bound to send a representative for the ceremony. The bridegroom starts to the house of the bride only after the distribution of betel leaves to the persons assembled, and the present of a few annas to each of the Brahmins who come there uninvited. The same ceremony, that is, the distribution of betel leaves and the present of money to the Brahmins is observed in the bride's house. In Palghat there is a further ceremony of pronouncing a certain formula by one of the elders present on the occasion, when the procession has reached the bride's house. "Let—the son of—Ammah go to—the daughter of—Ammah for 6 months." If within these six months either party rejects the other, the elders will call the delinquents to account. In no other parts of Malabar is this formality so strictly observed. In South Malabar, the clothes are not given to the girl on the wedding day, but a few days subsequently. There is the practice of giving 16, 32 or 64 fanams to the girl the next morning after wedding which perhaps answers to the North Malabar custom of the male's family defraying the expenses of the ceremony. The bridegroom should leave the house of the bride at about 5 in the morning, that is, before day-light, in the company of his friends and relations, to whom he should give Changātipanam, (i.e. a present of a few rupees) before they disperse.

21. In Palghat the same formalities are not observed when a Nayar lad forms 'Sambandham' with a Nambudiri or a Pattar. (a) The formula of 6 months

ceremony is entirely given up. (b) The presentation of money and clothes on the wedding day is not observed. (c) The formality of giving 16, 32 or 64 fanams to the lady on the next morning is not observed. (d) The lady is not taken to the house of the 'Sambandhakāran' as is most commonly done by the Nayars. (e) Horoscopes are not consulted and no feast given. In fact there is little or no ceremony except the mutual consent of the parties concerned and of the parents or the uncle of the girl. Some three or four men will generally accompany the Nambudiri or Pattar to the house of the bride and after the distribution of betel leaves they leave the place leaving the Nambudiri or Pattar in the bride's house.

The distribution of betel leaves and areca-nuts appears to be a *sine qua non* of a wedding ceremony in a Nayar family in South Malabar whether the Sambandhakāran is a co-caste man or one of higher caste.

22. I hear that the formalities are not the same in North and South Malabar.
(a) The formalities appear to be the same throughout North Malabar.
(b) But in South Malabar there is no uniformity.

23. A woman cannot have a recognised Sambandham with as many men as she likes.

24. It does not appear to have been prohibited; on the contrary, it appears to be a law of Parasu Rama, according to 'Kēralōlpathi' edited by the Missionaries.

25. If a man or woman wishes to terminate the Sambandham they can do so without any difficulty.

26. No formality is necessary to dissolve the connection.

27. A man can have Sambandham in more than one house at the same time. One * * * * has four women as his acknowledged wives; but in South Malabar it is not so openly done.

28. If he choose to do so, there is nothing to prevent for aught I know.

29. In North Malabar the woman in most cases lives with her 'Sambandhakāran' but in South Malabar the woman generally sleeps and takes her meals in her own house.

30. The custom is not the same in North and South Malabar as stated above.

31. In North Malabar the woman and her children are supported by her Sambandhakāran, but in South Malabar, it is not so done except in cases of great Jenmis and Officials.

32. It is not an invariable rule for a man and a woman to cleave together for life. It is left to the will and pleasure of each individual.

33. If a woman lives with her Sambandhakāran, he as a rule, feeds and clothes her.

34. If 'Anandaravans' work for the Tarawad, no special allowance is made to them by the Kāranavan. They sometimes cultivate the Tarawad land for a rent but in the majority of cases, they are not trusted, and Tarawad land is not given to them.

In case where the land is given, a certain pattom, (rent) fixed by the Kāranavan should be given, and the surplus, if any, may be dealt with at their pleasure.

35. Anandaravans do not generally work for the Tarawad. They try to earn something for their 'Mēchilavu' (extra expenses) which is not generally defrayed by the Kāranavan.

36. With their earnings they, of course, support their wife and children. They do not hand over their earnings to the Kāranavan.

37. In North Malabar, there is often a bestowal of landed property to the

wife and children during the life-time of the man. It is a gift. The property after his death goes by the name of 'Puthrāvākāsam

Even in South Malabar, landed property is given to the wife and children during the life-time of the man; but it is not generally as a gift. The property is generally purchased in the name of wife, or her brother, to avoid law-suits after his death.

38. So far as I have thought over the matter, there is not the slightest objection to providing a permissive marriage law. It will considerably improve the social, the moral and the intellectual condition of the Nâyars, and will remove the slur that is now cast on them.

39. I would prefer to retain the customary form and make registration of the marriage evidence of its legal recognition, unless a special marriage Registrar be appointed for each village.

40. The conditions of a valid marriage differ considerably from the 'Sambandham' recognised in practice.

According to present usage the marriage will be recognised:—

(1). Even if the man at the time of the marriage, has a wife living.

(2). Though the age of the woman is less than 14.

(3). The consent of the legal guardian, that is, Karanavan, is not very material to the recognition of the marriage if the parents arrange for the same, unless the Karanavan is a great man in the Tarawad.

41. I have nothing to add to, or to omit from, the conditions stated.

42. According to social usage, the following, as contained in a slokam, are believed to be the reasonable grounds for dissolving a Sambandham:—

"If a woman is of a quarrelsome nature, or steals her husband's property, is favourably inclined to or serves other men, or takes her food before her husband, or frequents another's house, she should be divorced even though she has borne ten children to him."

43. The Nayar wives and children are maintained by the Karanavan if there be family property. If not, they are left to themselves to eke out their livelihood in the best way they can. Even if there be family property, 'mélchilavu' (pocket money) is not given to them.

44. The new rights proposed to be derived from a marriage are calculated to do immense good to all the Nayar families. Children will be properly educated, the hereditary lethargy of the Anandaravans will cease. They will at once work for the wife and children; the condition of the wife will be improved; from a state of abject slavery and utter ignorance, she will rise to be a good housewife, a tender and careful mother and an affectionate wife; poverty will be greatly minimised. Discord and dispute now rampant in almost all Tarawads will cease, because the wife and husband will necessarily live apart by themselves; and litigation against the Karanavan will be greatly reduced after some time.

45. 'Sambandham' is customary between the Nayars in British Malabar and those living in Cochin and Travancore.

(Signed) V. KESAVA MENON,

Sub Asst. Inspector of Schools

Calicut Range.

Marumakkathayam Marriage Commission.

Answers to Interrogatories

BY

M. R. RY, K. DAMODARA MENON AVARGAL, B.A.

1ST GRADE PLEADER,

PALGHAT.

1. Yes.

2. No.

3. Between any two of the following divisions (1) Vattekat (2) Pallichan (3) Attikurissi (4) Andur and (5) Kolangara. It is also forbidden between Sudra (ശൂദ്ര) and Charnath (ചാർനത്ത്) divisions, and between Charnath (ചാർനത്ത്) and any other division excepting Kolangara (കോളംഗര). In these days, however, instances are not wanting in which some of the lower divisions have allowed their women to be taken as wives by men of the other divisions, especially when they happen to be rich men, or officials. There is another class of Nayars, who do not belong to any of the recognized divisions, but call themselves as belonging to one division or the other. They deviate from the ordinary rule according as convenience suggests.

4. Formerly such Sambandhams invariably subjected the parties to social ostracism, i. e. they were prevented from touching wells and tanks, entering temples, mixing with the rest of the community on all public occasions, and being deprived of the services of the village barber and washerman. In these days, especially in British Malabar, this punishment is not strictly enforced. In most cases they are not publicly noticed, and when they are, the punishment consists in the parties being expelled from the caste divisions i. e. they can't mix with their own caste people.

5. No. But the parties could be retaken into their respective caste divisions.

6. The Korapuzha.

7. Not as a rule. But there are instances in which Nayars of North Malabar have formed Sambandham with Nayar women of South Malabar.

8. No, probably because the women of North Malabar cannot cross to the South of the Korapuzha which they will have to do if Nayars of South Malabar are allowed to have Sambandham with them.

9. No.

10. I can't say in what this prohibition had its origin. I have however heard that when, during the time that North and South Malabar were under their respective Native princes, some of the women of North Malabar crossed to the South of the river, certain servants of the Zamorin then reigning in South Malabar dishonored these women, and when the matter was reported to their king, he ruled as their political and social head that thereafter the women of North Malabar should not cross

to the South of the river on pain of social ostracism, which was calculated to effectually prevent them from doing so. But whatever may be the origin, there is now nothing but blind custom to be assigned as its reason.

11. This is a ceremony performed upon a Nayar girl before she attains the age of puberty, or at all events before she forms Sambandham with a man. When a girl, or the eldest girl, in a Nayar house is about to attain puberty, an auspicious day is fixed for the ceremony, and the villagers, castemen and women, relations and friends are invited to it. According to the directions given by the village astrologer, a bridegroom is selected from her own caste division by villagers and castemen. He is brought down and kept in another house in the village. When the auspicious hour is about to arrive, the bridegroom is brought to the house, the girl is brought out and deposited on a heap of rice prepared in the pandal specially erected for the purpose, and at the auspicious hour the bridegroom ties the Tāli on the neck of the girl. This over, the bridegroom and bride are taken to the room specially reserved for them, and which is spread over with വെള്ള (new cloth) and കുമ്പളി (cumbly). The couple are generally to pass their time for 3 days in that room. On the 4th day, about noon-time, they are taken to the village tank in a grand procession and are brought back after bathing in the same manner. After this, comes the sumptuous dinner of which all present partake. At night, the couple are taken to the family kitchen which they were prohibited from entering during the 3 previous days, and there they take their meals together. This is called കലംതൊട്ടുകല്യാണം (Kalam thotta kalyanam). After this ceremony, the bridegroom is made to give the bride 2 fanams, or half a rupee in token of his having divorced her, and from that moment neither party has any claim upon the other. On the morning of the 5th day, the bridegroom and his party are sent back home with some presents. The Tāli is not removed soon after divorce, but remains on the neck of girl till the 28th day, when it is ceremoniously broken.

12. The Tāli is tied by a bridegroom selected from amongst the men of the same division of caste to which the girl belongs, except in the case of the Nayars of ചാന്നാ (Charnatha) division. In this case, and also in the case of certain aristocratic families, and families who have no Enangans, the Tāli is tied by a man of the Nedungādi caste or by a Kiriyaathil Nayar. The bridegroom is called in Malayalam മണവാളൻ or മണാർ പിള്ള (Manavālan or Manārpilla) which is a contracted form of മണവാളർ പിള്ള (Manavālarpilla).

13. Yes, in all cases in which the Tāli is tied by a man of a superior caste.

14. The man who ties the Tāli does not thereby obtain a right to cohabit with the girl, except perhaps for the 3 or 4 days that they are together in a room. But cohabitation does not as a rule take place, probably because the girl is then not fit for it.

On the night of the fourth day of the Kalyānam the man divorces the woman, and the reason is therefore plain why he cannot thereafter cohabit with the girl:

15. None.

16. Yes.

17. There is pollution. But it is not observed throughout Malabar. Nor is it observed in cases in which the Tāli is tied by a man who is outside the caste of the girl, i. e. by a man who is not an "Enangan."

18. Yes.

19. Yes, except in some parts of the Cochin State where it is only compul-

sory to have the ceremony performed before she forms Sambandham with a man. It may be after puberty.

None except that it was a ruse on the part of the Nambudries to have the business done before the girl was fit to love the man who tied the Tāli and cleave to him thereafter, and thereby defeat their object in introducing the divorce no sooner than the Kalyanam was performed, i. e. freeing the girl from the claims of another man.

20. Before she consorts with a man, the formalities of what is called "Sambandham" must be gone through. They are the following:—

The man, or rather the Karanavan of his Tarawad, sends two men from the village to the Tarawad of the girl to propose the Sambandham. If that is accepted, a day is fixed for the ceremony and the villagers come away. On the appointed day, the villagers are invited and out of them a decent number accompany the Sambandhakāran to the Tarawad of the girl, where the villagers of the girl await the arrival of the Sambandhakāran and party. After their arrival betel leaves, areca nuts and tobacco are freely distributed to one and all present. The Sambandhakāran and his companions are sumptuously fed, and after assembling in a hall, the companions of the man call to the hall the senior lady in the Tarawad, and one of them asks her formally "May not such-and-such a man have hereafter Sambandham with such-and-such a girl," or woman as the case may be, giving the names of the mothers, and the house names, of the parties. She answers "Yes". After this they leave the hall and retire to bed. Thereafter the ladies of the house visit the Sambandhakāran in the room, and after forming his acquaintance and enjoying a short conversation with him, they also retire leaving the man to await the coming in of the girl, or woman, as the case may be. After they come out they ask the girl or woman to go in, which being done they also retire to bed. After the girl goes in the man gives her what is called "സമ്മതപണം" (money to purchase her consent) which she accepts. Sometimes this is postponed to some other day. But in such cases the man is not allowed to remain in the house of the woman during day-time and he is not allowed also to take his meals there. Nor can the woman be taken to his house without giving the money.

21. When the Sambandhakāran is a Nambudiri or a Pattar, the Sambandham is not performed in a formal manner. He comes to the house of the girl, or woman, alone, or with some friends, on the day appointed in consultation with the member of the girl's or woman's house. The villagers need not know anything about it nor is it done ceremoniously. The only compulsory thing is that the Sambandham should take place with the knowledge of the girl's house-people.

22. No. But there are a good many things in common between Sambandhams in North Malabar and Palghat Taluk.

I don't know.

No. In some places in South Malabar it is done much in the same way that it is done when the Sambandhakāran is a Nambudiri or a Pattar.

23. Not in these days except in some parts of Malabar, viz, portions of the Walluvanad Taluk, Shoranore, Chelakara and Vengaloor in Cochin State &c.

24. This is not prohibited. On the contrary it was allowed in former days. Now-a-days Malayalis are becoming more and more humanized in this matter and the practice may be said to have almost gone out.

25. Yes.

26. The old rule is that the husband should go to the house of the wife with two villagers, call her out, give her two fanams and tell her she was no more his wife. Now-a-days even this formality is not observed.

27. Yes. But it is not considered quite proper and generally it is not done.

28. None except that it does not meet with approval from the public generally. It does not subject him to any penalty.

29. & 30. In North Malabar, the woman sleeps and takes her meals in the house of the Sambandhakāran during his life time. In South Malabar, there is no fixed rule. She may take her meals and sleep either in her own house or in the house of the Sambandhakāran. In the Southern part of the Cochin State she does not generally live with the Sambandhakāran in his own house. But she lives with him in her own house or in a house of his own where his Marumakkathayam relations do not live.

31. In North Malabar he should. In South Malabar, he is not bound to feed them except when they are in his own house. But he should give them all the other necessities. The rule in olden days was only to give them cloth and oil.

32. It is the rule for one man and one woman to cleave together for life.

33. He does feed and clothe them.

34. Yes; in proportion to the means of the Tarawād, and just enough to enable him to meet the expenses of himself and his wife and children.

Yes.

Yes.

35. Generally Anandiravans do not work for the Tarawād. They either take Tarawād lands on rent, or try to earn something for themselves otherwise.

36. With their earning they support their wives and children and also their nearest Marumakkathāyam relations. They never hand over their earnings to their Karanavan.

37. I don't know.

None that I know of.

38. None.

39. I would prefer the former provided that the formalities of a Sambandham obtaining in North Malabar, or Palghaut, are observed in all cases whether the Sambandhakāran is a Nayar, Pattar, Nambudiri, or of any other caste or division. If the latter is enforced, the Act will become practically a dead letter. The idea of saying to the husband "I take thee as my husband" in the presence and hearing of the Registrar and witnesses will be quite repugnant to the feelings of the women generally, and of the maidens in particular.

40. To begin with, a Sambandham can take place only (1) between parties both of them following the Marumakkathāyam law of succession, and belonging to the same division of caste, or divisions of caste between which Sambandham is allowed, or, (2) between parties of whom the woman belongs to the Nayar caste and the man to the Pattar, Nambudiri or other superior caste.

Condition (1) At the time of the Sambandham the woman must not have a Sambandhakāran living but the man could have a Sambandhakāri living.

Condition (2) There is no rule regulating the age of the parties. The only rule generally observed is that the man must be older than the woman.

Condition (3) Generally both parties obtain the consent of the Karanavan, and the other members of the Tarawād, whatever be their age. But instances are many in which the man forms Sambandham without the consent, and sometimes even going against the will, of the Karanavan and the other members of the Tarawād. In the case of women, such instances are rare. There is however nothing to prevent them from doing so if her nearest relations sympathise with her, or if the match is a proper one in other respects.

Condition (4) Sambandham cannot of course take place between persons related in the manner referred to in the 2nd Proviso. It cannot also take place between members of the same Tarawād, however removed they may be, and also between persons either of them belonging to a deceased husband's or wife's Tarawād.

41. (1) I am not for marriage being solemnized under the Act between parties who cannot according to the custom of the country form Sambandham between them. Because if marriage is allowed between any Marumakkathāyam Hindu and any Makkathāyam Hindu, a Nayar woman may validly marry a Tiyan or Chetty &c., or a Nayar man may validly marry a Brahman lady &c. This will be introducing quite a radical change in the customs and manners of the country which is calculated to hurt the religious and other feelings of the people, and to create a great deal of confusion in the families of the parties, and in the society to which they belong. I have, however, no objection to marriage taking place between parties both of them belonging to the Nayar class, 1stly because such Sambandhams obtain even now amongst Nayars in some parts of the Cochin State, and 2ndly, it is very desirable to break down the very thin barriers existing between the several divisions of the Nayar caste in view of a larger field being afforded for selection, and also in view of the fact that there cannot be any religious objection to it, or any other objection except local prejudice and party spirit.

(2) I am also not for marriage being allowed between members of the same undivided Tarawād however removed they may be, so long as the rule of impartibility of property lasts, because 1stly such marriage will be repugnant to the feelings of the Malayalis generally, and 2ndly if such marriages are allowed, there will be at one and the same time in the same Tarawād one's own wife and children, as well as Marumakkathāyam relations, and it will be simply impossible that they can pull on together amicably. Nor can we expect the man who has his wife and children in his Tarawād to treat all the Tarawād members with impartiality. Even now there are very few families where discord does not reign between the several branches, owing chiefly to the Karanavan (manager) favouring his own branch to the prejudice of the others. If one's own wife and children also happen to be members of the same Tarawād, it will be simply aggravating the already chaotic and unfortunate condition of Malabar Tarawāds. I may also mention here that there are now many undivided Tarawāds in which there are members who are not related to each other within degrees of relationship prohibited by the 2nd Proviso to question No. 40.

42. The only reasonable ground for dissolving a Sambandham is the adulterous conduct of the woman, or the man having formed another Sambandham. If the

Tarawád of the parties are at enmity with each other, it is also considered to be a sufficient ground. But this is gradually going out.

43. The man is invariably bound to give his wife and children all necessaries except food. But when the Tarawád of the wife and children is too poor to feed them, or when the wife and children are residing with him in his own house, the man is bound also to feed them.

44. Clause (b) I would add the following proviso to the clause:—"Provided that when they live in their own Tarawád they are not entitled to claim the feeding expenses from the husband."

Clause (c) Instead of the last sentence in this clause I would have the following:—"In such cases the guardianship shall vest, in succession, in the father, mother, the nearest adult male member, and lastly in the head of the Tarawád."

Clause (d) I am only for half of his or her separate, or self-acquired, property devolving on the survivor and children in equal shares, the other half devolving upon his or her nearest Marumakkathâyam relations in equal shares, the nearest in blood postponing the more remote, *i. e.*, upon his or her mother, brothers and sisters in equal shares, in their absence upon his, or her, nephews and nieces in equal shares and so on. In the absence of the wife, or husband, and children the whole property shall devolve upon nearest Marumakkathâyam relations in the manner described above, and in the absence of Marumakkathâyam relations, the whole property shall devolve upon the survivor and children.

I suggest the above modification in the devolution of property as regards Marumakkathâyam relations because, so far as my experience goes, the generality of Malayâlis are of this opinion, and I am not aware of a single instance in which a Malayâli, who has near relations in the Tarawád, has handed over his or her earnings to the Karanavan, or wished that they should lapse to the Tarawád on his or her death.

I may also observe here that the provision that the whole property shall devolve upon the survivor and children is likely to prevent many a Malayâli from solemnizing his or her marriage under the Act lest it should wound the feelings of, and estrange him or her from, those who according to the existing law and practice are the persons to benefit by his or her self-acquisitions, and whom he or she has learnt to regard from childhood with great affection. Changes must be gradual in order that they may be acceptable. The suggestion that I have made here is in accordance with the practice now generally obtaining among Malayâlis and it would simply legalize the existing practice.

Clause (e) I would add "and the wife for her children" after the words "wife and children" in the first sentence. I would also add the following to the whole clause:—"If the husband omits to make sufficient provision for his wife and children, or the wife for her children, for sufficient reason, which shall be stated in the will, it shall be valid."

45. It is customary between the Nayers in British Malabar and those living in Cochin.

K. DAMODARA MENON.

16th May, 1891.

MEMORANDUM

BY

V. A. BRODIE ESQUIRE, C. S.,

ACTING COLLECTOR,

SOUTH CANARA.

385 - 169 198
No. 2384.

SOUTH CANARA COLLECTOR'S OFFICE,
Mangalore, 19th June 1891.

FROM

V. A. BRODIE, ESQUIRE, C.S.,
Acting Collector of South Canara.

TO

H. M. WINTERBOTHAM, ESQUIRE, C.S.,
*On Special Duty,
Malabar Marriage Commission, Calicut.*

Sir,

In reply to your letter of the 11th April last, I have the honor to state, with reference to para 3, that (if made law for the District of Malabar alone) I cannot see how the proposed measure will in any way benefit, or prejudicially affect, any section of the people of this District, except the inhabitants of the Nileshwar division of the Kasaragod taluk (i.e., of that portion of the taluk South of the Chandragiri river which formed the traditional Northern boundary of ancient Malayala, and which, by custom, no Nayar woman is allowed to cross.) The inhabitants of this division are Malayalis, their language Malayalam, and such castes amongst them as do not follow the Makkatayam law observe the Marumakkatayam. Many of them have relatives and property in North Malabar also, and as the bill will affect the latter directly even if limited to Malabar, it will indirectly affect these Marumakkatayam inhabitants of the Kasaragod taluk. As the people of Nileshwar division have the same language and observe the same customs as the people of Malabar, not of the people of the rest of Canara, if the proposed measure is made law for Malabar it should therefore be made law for that portion of this district also.

2. In reply to para 4, I beg to state that symptoms of revolt are everywhere observable against the custom in question, not only amongst the educated, but amongst all classes following the "Marumakkatayam" and "Aliyasantana" laws, which in these respects resemble one another, and the custom is not only one of the principal sources (perhaps the chief source) of civil litigation in the District, but a fruitful cause of the gravest possible crimes against the person. A way of escape from these customs must consequently, it is clear, be welcome to the many, who now devote their energies to evading it, or suffer without hope of legal redress by it. On grounds of morality alone there are also many who consider measures of reform necessary.

3. In para 5 I have been asked for my views on the matter though I have not been favored with a copy of the proposed measure. I have however been recently able to get a manuscript copy, and what has struck me most upon a perusal of it is the extent to which existing custom is ignored and departed from, which is surely inadvisable as likely to render recourse to its provisions unpopular. The Hon'ble Mr. Sankaran Nayar desires to raise the status of the Marumakkatayam woman by enabling her to become something better than a mere concubine, to give the husband the right to exact chastity on the part of his wife; and to give the woman and her children a claim upon the husband and father for maintenance, and these are in every way most laudable desires and, I believe, objects against which the most bigoted conservatives would not raise any strenuous resistance, provided the parties to the

contract themselves were desirous that this should be so; but surely the most judicious method of effecting this is not to pose as a new lawgiver superior to and superseding Parashurâma, but, taking existing law and custom as he finds it, to modify it as little as possible and only where absolutely necessary.

4. Turning to the bill itself I am of opinion that the preamble is misleading for surely there is some kind of form of marriage now observed (in addition to the Tâli tying ceremony which of course is no marriage at all,) and it seems to me that it would be better, as the law has declared this not to amount to a valid marriage, to devise some way of legalizing it with the least possible change of ceremonial and custom than to prescribe an altogether novel marriage ceremony.

Again though a Marumakkatâyam wife is in the eye of the law only a concubine, under the general law of the land, both Civil and Criminal, which overrides all customs, I know of nothing to prevent her at present like any other concubine suing for and obtaining maintenance for her children though not for herself.

5. Sections 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16 and 17.—Surely these are all unnecessary, for no such formalities are prescribed in the case of Christians, Mahomadians and other Hindus. If it is intended that to make a marriage legal, notice must be given to the marriage registrar, surely it would suffice to declare that every Marumakkatâyam marriage shall be legal and the provisions of the Act applicable to the parties thereto, provided a notice of the marriage signed or marked by both parties, or their guardians where they are under age, (section 4 (2) I think unnecessary) and attested by at least two witnesses, is presented within one year of the marriage to the marriage registrar. Again where a wife leaves the Tarawâd house and goes as a wife to her husband's house, *ipso facto* this might be held sufficient evidence of the intention of the parties to constitute marriage as it is contrary to custom, and is more than was held sufficient until recently to constitute marriage in the highly Christian country of Scotland.

6. Sections 19 to 28—Section 22 is certainly far too great an innovation upon custom. Notice to the marriage registrar after 6 months absence on the part of the husband should suffice, in addition to whatever formality (if any) is now observed.

All these sections however appear to me to constitute far too great an innovation upon existing custom and more than is necessary to secure the 3 objects (which I believe are all the majority of the people want) which I have enumerated in para 3 as desired by Mr. Sankaran Nayar. If a Muhammadan can divorce his wife on repayment of her dower I would not make divorce more difficult among the Marumakkatâyam people, who are now much more lax in this respect. There are probably existing customs, or formalities, of some kind and it should suffice to modify them and not be necessary to devise a new Law. At the first at any rate I would not make it difficult for either party to obtain a divorce, and leave it to the growth of public opinion hereafter to demand greater stringency.

7. Sections 29 to 33. I should hardly think such provisions now demanded by the public. Divorce at the will of either party seems to constitute a sufficient remedy, nor does this seem a very immoral thing to allow, for the divorce laws of some of the States in the United States of America appear to be pretty comprehensive and it does not seem necessary to apply stricter laws than the laxest of these in this instance.

8 Section 34 (a). I would limit this to cases in which the wife and children live with, and under the protection of, the husband—not in the Tarawâd house. In the

latter case the law would lead to endless confusion. In the Tarawâd house the authority of the Kâranavan must remain as at present absolute, but a married woman may be allowed to leave her Tarawâd house (taking her children with her) for her husband's at any time, if she so desires, without losing her rights to maintenance etc. in her Tarawâd.

9. Section 34 (c) Should only apply to cases in which the widow is not living in the Tarawâd house.

10. Section 34 clauses (d) (e) and (f).—These seem to be unobjectionable, for, as a man and woman can during their lifetime do as they please with their own self acquired property, it would be no violent innovation upon custom to declare that a man and woman, who contract a legal marriage under the Act that may be passed, *ipso facto* express the intention of bequeathing their self-acquisitions to their wife or husband as the case may be, and their children in the proposed proportions. Family property of course would not be affected.

11. As to whether these reforms should be extended to the Aliyasantâna castes of this District I am certainly of opinion that they should, and believe that they are more desired by them than by the Marumakkatâyam people of Malabar, for, their customs are more consonant with Western ideas of "marriage" and the dictum of the High Court in Special Appeal No. 238 of 1868 (M. H. R. Vol. IV page 203) that the relation of husband and wife under the Aliyasantâna system "is in truth not marriage but a state of concubinage into which the woman enters of her own choice and is at liberty to change when and as often as she pleases" and although women in Canara do "in some instances live with their husbands, still there is no doubt that they do so of their own free-will and that they may at any time rejoin their own families" appears to have come upon the country as a surprise, and is by no means generally acquiesced in as correct by the people.

12. There appears too to be evidence of a more general inclination to revolt against the existing custom, for so long ago as 1869 a memorial numerously signed by members of the Aliyasantâna castes, was submitted to the Collector for transmission to Government (a copy of which is attached to the reply of Mr. Ramaya Punja to your queries) which went very much further than the proposed measure for Malabar, for what the memorialists desired was no modification of the Aliyasantâna system, but its complete abrogation and supersession by the Makkalsantâna system, or system of descent from father to son, on the ground the Aliyasantâna law was an obstacle to their "advancement and prosperity in life and a constant source of contention in families." This petition was not transmitted to Government by the Collector for, on referring the proposal through Tahsildars to 2069 Aliyasantâna members of society, 525 voted for the proposal, 465 were indifferent as to whether the proposal were adopted or the Aliyasantâna system retained, and 1079 voted in favour of the retention of the Aliyasantâna system. These figures were regarded by the Collector as proving the majority of the people opposed to the proposal, and on this ground he refused to transmit the memorial to Government. Whether or not the majority now in 1891 would be against the proposal I do not know, but even if it were, there can be little doubt it would be a reduced majority.

13. Between the custom of those who follow the Aliyasantâna law and those who observe the Marumakkatâyam—at any rate in South Malabar—there is a very considerable difference. The senior male member is not always the manager or

Ejamán of the family, as the senior male member is always Káranavan in Malabar, but on the contrary the Ejamán is more generally the senior female. There is a regular marriage ceremonial, and after marriage the wife leaves her own family house and resides with her husband in his, whereas in Malabar under the Marumakkatáyam system the wife does not usually reside with her husband but both parties continue to reside in their Tarawád houses, and the husband is only a visitor at his wife's Tarawád house. Till the death of the husband the wife and children live with him and join in the work of cultivating the fields of his family estate, like the other members of his family, and are maintained out of it by him; so that the death of the husband when the widow and children have to leave everything behind them and return to the family house of the widow, effect a much greater change in their position than in Malabar, where the wife and children, as a rule have, never left the Tarawád house and have all along been maintained, not by the husband, but by their Káranavan. Lastly a woman is presumed and in practice expected to go through some form of divorce, even in the lowest castes, before leaving her husband and taking up with another man, and even the re-marriage of a widow, or divorcee, is accompanied by some public ceremonial, viz., a feast to which the relations are invited and at which the couple sit side by side. Finally the children and widow observe pollution (Sūtaka) on the death of the man, and I am not sure that this is the custom in Malabar.]

14. The statement of the High Court in Special Appeal 238 of 1868 that the wife in Canara "in some instances" resides with the husband, has since been modified by it (I. L. R. VIII Madras 353) in *Devu versus Deyi* (Second appeal 322 of 1884) in which it is stated that marriage is not a legal institution though the women of Canara "unlike the women in Malabar often leave their family houses and reside with their husbands," and even this scarcely states the case correctly; for they do so almost invariably—it is not the exception, but the rule. For my statement that some sort of divorce is commonly gone through, and the marriage expenses, or at any rate the husband's gift at marriage ("Thirđochee") returned before a divorce is supposed to be complete, I rely upon the account given by Mr. Ramaya Punja B.A. B.L., of the Aliyasantána custom in this respect in reply to your queries, and would also quote 2 criminal cases that have come before me during the short time I have served in this District. In the first case the complainant—a fisherman, or very low caste man—complained of another for enticing away his wife from his house, and argued that he was entitled to redress under Section 497 of the P. C. as his wife had not returned first from his house to her family house, and his gift at marriage "Thirđochee" had not been repaid him according to custom. In the second a woman contracted a liaison with another and returned to her family house. Her husband and her uncle followed and demanded either the girl, or the marriage expenses, whilst the girl demanded that her marriage expenses should be repaid and she given in marriage to her paramour. In this case the parties were Billawars, or toddy drawers, and the girl's people never disputed the husband's rights, but as it was inconvenient for them to repay the marriage expenses, her uncle confined the girl for 3 days in stocks put up inside the house, in order to compel her to consent to return to her husband.

15. For my statement in para 2 that the denial of the legal rights of a husband to the Aliyasantána husband is a source of the gravest possible crimes against the person, instances without number could be quoted since the decision of the High Court in 1868 from the criminal records of the District, and I need only mention that this decision has been, directly or indirectly, responsible for at least 4 murders, or attempts at murder, during the short period—little over a year—that I have been in

the District. It is also productive of far more such crime than in Malabar: nor is this to be wondered at, for there the wife does not live with her husband but in her Tarawád house, and if she prove unfaithful she has the protection against her husband's vengeance, of the Tarawád. Then again the Tarawád is a protection to the husband as the wife is prevented by the fact of her living in a large household from committing adultery with men of other castes, or any man not recognized by and encouraged by the heads of the Tarawád, and lastly the Marumakkatáyam husband is not likely to feel infidelity on the part of his wife very severely, for they do not live together, and the rule of society is that she can discard him at any time. In Canara, however, in Aliya Santána castes the case is very different, for the wife lives with her husband and is maintained by him not her own family. Society, if not the law, recognizes her as his wife. She lives with him and serves him with her children in many cases in a house occupied by them alone: he has no protection that she may not be unfaithful not only with men of his own caste but of other and lower castes; and if she is unfaithful his shame is known to all, for his wife's family house is often at a distance and she rarely visits it except on important occasions whilst he lives. His wrongs at the hands of an adulterer appear therefore to me greater than those of a Marumakkatáyam husband, and can we wonder that he so often under these circumstances, having no redress at the hands of the law, takes the righting of his wrongs into his own hands, and either murders, or attempts to murder, his wife or her paramour, who is frequently a Mappilla, or man of another caste. If crimes of this kind are to be diminished in number and for the sake of morality, it is imperative that the law should recognize as marriage what society recognizes as such: nor is any great revolution necessary to effect this. It is sufficient to this end for the legislature to declare that when a man and woman observing the Aliya Santána law publicly contract to live together as man and wife, the contractual relationship thereby created between them shall be deemed to be marriage within the meaning of the Penal Code, and shall continue to subsist until the man divorces his wife formally, in accordance with custom, or the woman returns to her family-house, and publicly signifies her intention of divorcing her husband to the heads of her family, and in accordance with custom tenders her husband through them, or others as the case may be, the "Thirđochee", or his "gift at the time of marriage," or its equivalent in money where such gift does not consist of money. Such a rule would cover not only the case of a first marriage, when the "Thirđochee" is usually a present of Rs. 8 equal to two hoons, but also to second marriages in the case of which the bridegroom sometimes gives a cash present of Rs. 4 or Rs. 6, or at least a present of a "Sadi", or cloth. Until this is done we cannot hope that such crimes will become fewer, for, until this is done and so long as the law, whilst declaring the husband bound to maintain his wife so long as she continues to reside with him (Special Appeal No. 238 of 1868, IV M. H. C. R. 196) also declares that he has no legal right during that period to fidelity on her part, (which is surely unreasonable) we can only expect that the husband, if wronged, will take the law, in the absence of any legal remedy, into his own hands.]

16. Reform to this extent is imperative in the interests of morality; but I do not think it should stop here. As self-acquired property is at the absolute disposal of the acquirer during his lifetime, and it is human nature for a person to desire that his children should inherit his property in preference to others, there would be no hardship and I doubt if there would be even any complaint, were the legislature to declare that in Canara, even in the case of Aliyasantána families—self-acquired property should descend to the children in preference to the *santána*. Even as it is, it

has been held that a man may by Will bequeath his self-acquired property in Canara away from the *santāna* to his children, so that such a declaration on the part of the legislature would only amount to saying that a man is to be presumed to have intended to leave his property to his children, when he has executed no formal will regarding its disposition after his death.

17. If, further, the former method of getting over the difficulties of the system, *viz.*, freedom of partition, put a stop to by the decision of the High Court in Special Appeal No. 83 of 1862 (*Munda Shetty versus Thimmaju Hengasu* I. M. H. C. R. 380), were legalized, and it declared that whatever a member of an Aliyasantāna family obtained on partition should so far as that member was concerned be considered self-acquired property, the whole Aliyasantāna system would very rapidly die a natural death, and disappear altogether without any violent revolution such as that contemplated by the memorialists of 1869. Nor would this be a subject for regret, for had it not been for the conservative action of the High Court in 1862, I imagine the dissolution of the system would have been pretty complete by this time.

18. With reference to the second clause of para 5 of your letter I send you herewith the opinion of such Aliyasantāna gentlemen as have replied to a request of mine to be favored with their views. The letter of Mr. Ramaya Punja, B. A. B. L. District Munsiff of Mercara, a Bant by caste, deals very fully with the present customs of that caste, and inquiries made by me show that the customs described by him are *in all essentials* the same in all Aliyasantāna castes of the District.

19. In reply to para 6, I beg to refer you to the following.—

Buchanan's Mysore, Canara and Malabar, Vol. II pp: 213 and 214 of the edition of 1870.

Bhūtāla Pāndya's Aliyasantāna Law by T. Gopal Krishna Pillay (Late Huzur Sheristadar of South Canara): herewith forwarded (to be returned); and the following High Court decisions:—

1. Munda Shetti *versus* Timmaju Hengasu I. M. H. C. R. page 380.
2. Special Appeal 238 of 1868 IV M. H. C. R. 196.
3. Koraga *versus* Empress I. L. R. VI Madras 374.
4. Second Appeal 654 of 1883 I. L. R. VII Madras 575.
5. Second Appeal 322 of 1884 I. L. R. VIII Madras 353.
6. Second Appeal 73 of 1888 I. L. R. XII Madras 462.

I have the honor to be,

Sir,

Your most obedient servant.

(Signed) V. A. BRODIE,
Acting Collector.

167
397
MERCARA,
13th May 1891.

FROM,

A. RAMAYA PUNJA,*
Munsiff of Mercara.

TO,

V. A. BRODIE ESQUIRE,
Acting Collector of South Canara.

SIR,

[With reference to your letter No. 1573, dated the 24th April 1891, forwarding a circular letter, dated the 11th April 1891, from the Collector of Malabar on the subject of special legislation for regulating marriage, succession &c. among the people governed by the Marumakkathayam law, and calling for an expression of my views on the subject, I have the honor to submit the following.]

In para 6 of the circular letter the Collector of Malabar wishes to be informed of some Native work which would give information regarding marriage customs or sexual relation in the Aliasantana castes. There is a book called Bhutala Pandya's "Kattoo" (Law). It is supposed to contain the Aliasantana Law as laid down by Bhutala Pandya one of the Tuluva Kings that reigned over South Canara. It has been translated by Mr. Ramaswamy Naidoo, and also by Mr. Gopala Krishna Pillay. It explains the origin of Aliasantana Law. The authenticity of the book was doubted by Doctor Burnell.

2. It would not, I presume, be out of place, to give a brief account of the marriage customs, and of the sexual relation existing among Aliasantana people, before expressing my views on the proposed legislation.

3. Formerly Aliasantana men were as a rule married at an advanced age and the brides were generally majors at the time of their marriage. Now, too, many girls are ordinarily married after they attain puberty and are fully developed, though there may be instances, especially in the northern parts (Udipi and Cundapoor Taluks) of the District, of child marriage.

4. Persons who are descendants of a common ancestress through females are said to be of the same "Bali." Intermarriage among members of the same "Bali" is strictly forbidden, and the prohibition extends to some specified "Kudu" (allied) Balis. A person can marry his mother's brother's daughter and her descendants, or his father's sister's daughter and her descendants, as among Hindoos; but he cannot marry his father's brother's daughters, or their descendants.

5. After a match is privately settled the bridegroom's relations and friends proceed in a body with music &c. on an appointed day, to the bride's house, where they are given a grand dinner to which the bride's relations and friends also are invited. There, in the presence of those assembled, the Karanavans of the bride and the bridegroom solemnly promise that the bride would be given in marriage to the bridegroom and in token thereof betel-nut plates are exchanged, and betel and nut are chewed by both parties. This ceremony is known as "Ponna Pathera" (betrothal).

6. An auspicious day is fixed for celebration of the marriage at the bride's or the bridegroom's house according to convenience, and on that day the bride or the bridegroom as the case may be, is taken in procession with music &c. to the

*Note.—A South Canara 'Bunt' by caste.

marriage pandal. Friends and relations accompany the procession. The friends and relations of the family in whose house the marriage takes place are also invited to the marriage and a grand dinner is given to all the guests.

7. The bridegroom, who is well dressed and bedecked with ornaments, is made to sit on a stool, or a chair, and rice is sprinkled over his head by his relations and friends. After that the village-barber comes and shaves him. He bathes and again puts on good dress and ornaments. The same thing is done with the bride also. A new bench made of the "Halê" tree is placed in the marriage pandal. Now chairs are substituted where available. The village washerman spreads cloths round the seat. The bridegroom and the bride are then conducted to the pandal by their respective relations, or by the village head-man and his wife. They go round the seat thrice after which they are made to sit side by side. The bride's right-hand is placed over the bridegroom's right-hand. A vessel of silver or other metal is filled with water. A cocoanut is placed over the mouth of the vessel and the flower of the arecanut tree is placed over the cocoanut. The vessel which is known as "Dharê Ginde" is then placed on the hands so joined, by the parents and Kâranavans of the pair, in the presence of the village headmen who also touch the vessel. Then the joined hands of the couple, with the vessel on them, are waved up and down three times and the marriage union is declared. This is followed by benedictions from all those present who express their wish that the married couple should become parents of 12 sons and 12 daughters and lead a happy life. An empty plate and another filled with rice are placed before the married couple; and their relations, friends and the guests assembled, sprinkle rice over their heads and give small sums of money as presents. After this is over the bride is taken back in procession to her house.

8. That part of the ceremony which consists in placing the vessel over the joined hands of the married couple and waving them up and down, is known as "Dharê" (pouring or flowing) and is the principal part of the ceremony denoting the completion of the marriage. It is a token of the gift of the girl to the husband. It appears that in former days the parents and the Kâranavan of the bride used to pour water from the vessel over her hand by way of making a complete gift of her to her future lord. Hence it is known as "Dharê." But latterly the practice of pouring water has been discontinued in the Southern and Eastern parts of the District for the reason that the wife has no right to her husband's property and has to return to her mother's house on his death, her connection with her mother's house being not severed. A gift of the girl would imply a complete severance of her rights in her mother's family after marriage. But the practice of pouring the water still prevails in the Udipi and Cundapoor Taluks, and is observed in some houses in the other parts of the District. The "Dharê" ceremony ought to be performed in an auspicious hour.

9. After the marriage is over, but before the bride's procession leaves the house, the husband makes a present of some money to his wife which is known as "Thiridochee" money. Its amount varies according to the position of the parties. It has to be returned to the husband at the time of divorce if that event happens through the wife's misconduct.

10. A few days after the wedding, the wife is taken to her husband's house for consummation of the marriage. She must serve the husband with food when he makes a petty present to her in money. After that the marriage is consummated.

11. When the wife is in the family way, in the 5th, 7th, or 9th month, her pregnancy ceremony known as 'Bayakê' (desire) is celebrated in the husband's house. Her relations and their friends come in a body with music to the husband's house where they and the wife are sumptuously fed and she is presented by the husband with a valuable 'Sadée' (cloth) and a boddice. Ornaments also are sometimes presented on this occasion. After this she is taken to her mother's house for delivery.

12. Among Aliyasantâna people the wife lives with her husband in his family house where she and her children are fed and clothed at his family expense. They live there and work like other members of his family until his death. But on his death and after his funeral obsequies are over, she and her children have to pack-off to her mother's house. Whatever property he had given to them out of his self-acquisitions belongs to them.

13. A widow of the Aliyasantâna caste can marry again, but she can be married only to a widower; for a bachelor cannot marry a widow. Her second marriage is neither so grand nor so formal as the first, but is very simple. A dinner is given to caste people, and in the presence of the guests she and her intended husband are made to sit side by side being separated by a screen, so that they may not see each other's faces and their hands are joined. All the ceremonies observed in the first marriage are omitted in the second. A widow cannot, even after her second marriage, take part in any auspicious ceremonies.

14. Though widow marriage is permitted yet in practice it is resorted to in exceptional cases, such as, where the widow is young or has no issue. Cases of a widow with children marrying again are of rare occurrence.

15. Formerly mere disagreement between husband and wife was not sufficient ground for a divorce. If the wife was guilty of misconduct the charge had to be brought home to her in the presence of her relations and the headmen of the village, after which he could permit her to return to her mother's house and she had to repay the "Thiridochee" amount. It was only then that she could marry again if she pleased. But in these days, when liberty of action is asserted and social customs are more honored in their breach, the above formalities are not observed, and husband and wife abandon each other at will, for no other reason than mutual dislike and disagreement. Public opinion also is losing its hold upon such people, and society is powerless to exercise any influence on them. The people were under the impression that the marriage tie was of a more binding character than it has been pronounced to be by the Madras High Court. Of course the opinion of that Honorable Court may be correct in theory, but it is opposed to practice and is repugnant to the feelings of the people. The Tulu words for husband and wife are "Kandani" and "Boodathee" respectively. 'Kandani' is another form of 'Ganda' the Kanarese word for husband. "Boodathee" is a corrupted form of 'Boodalthee.' 'Bood' is another form of 'Veedu' which in Tamil and Malayalam means a house, and 'Alathee' means governess. The word 'Boodathee' therefore, means governess, or mistress, of the house. The derivation of the word shows that the wife was considered as the mistress of the house, a position which would never have been assigned to a concubine if she was such.

16. As the law now stands, Aliyasantâna husbands have no protection. Their wives may be ravished and seduced with impunity. What would be the feelings of a husband of self-respect and of good social position, who is also the father of

some children, if his wife is carried away by another? They can be better imagined than expressed. Yet such is the law by which thousands of Her Majesty's subjects are governed. Such a state of things cannot be endured under the benign and enlightened rule of the British Nation.

17. In days of yore when men's mind were steeped in ignorance, and had not been brought under the influence of English education, they did not perceive the pernicious effects of the custom. But now they have begun to feel the wretchedness of their situation. They are dissatisfied with the existing order of things. The Aliyasantāna Law runs counter to the natural feelings and promptings of a man. An Aliyasantāna man is a human being, and, like the rest of the human race, he has affection toward's his wife and children and a desire to enrich them, which no human law can suppress. The Aliyasantāna Law enjoins that a man's properties should go to his sister and her children. But there are numerous instances in which a man has given to his wife and children, by way of gift or otherwise, not only his self-acquired property, but, some portion of his family property as well. The latter is given clandestinely. The manager gives, though secretly, much of the family income to his wife and children, and the matter often comes before Civil Courts for decision. He is like a man with his legs in two boats, which he has to row side by side. On the one hand he has to discharge an onerous trust and administer the family estate for the benefit of the whole family; on the other hand he has an eager but natural desire to benefit his wife and children as much as he could. From this one can see in what a false position he is.

18. The above state of things has led to much litigation. There has been a steadily growing desire among Aliyasantāna people for a change of the existing Law. It appears from the translations of Bhūtāla Pāndya's book already referred to, that several castes are governed by Aliyasantāna Law. But now we find that Harishetties and Parivara Bunts have renounced it and now follow the ordinary Hindu Law. Goldsmiths, Blacksmiths and Carpenters, who till lately were governed by Aliyasantāna Law, now claim to be Panchala Brahmins, and wish to be governed by the Hindu Law, and I believe have openly asserted in several suits before the Civil Courts that they are governed by that Law. With those classes of people who do not own large properties, change of the law of inheritance is not very difficult. But it is otherwise with people who possess extensive properties.

19. About 23 years ago an attempt was made to submit a memorial to the Madras Government to change the Aliyasantāna Law of inheritance and give, in its stead, a system of inheritance from father to children. A printed copy of it is herein enclosed. A large number of people signed the memorial but, as might be expected, an equally large number opposed it; for, the proposed change would have affected rights to extensive properties. Sons who hoped to inherit the large fortune of their fathers, were in favor of the proposed change, while, on the other hand, nephews were opposed to it. Consequently, the matter had to be dropped, as Government might decline to act when there was such difference of opinion. The Honorable Mr. Muthusami Aiyar who is the President of the Commission, may be aware of the above fact as he was then Subordinate Judge of South Canara.

20. From the above it may be inferred that the people are not satisfied with the existing law and that they, or, at any rate, some sections of them, have been seeking for a change.

21. Your letter under reference was received by me at Mangalore shortly before my departure for Mercara. Therefore I was not able to sound the views of any large body of my castemen (Bunts) on the provisions of the proposed Bill. But the few whom I consulted said that it would be a desirable reform and would be quite acceptable to them. From my own personal knowledge of the feelings of my caste people on the existing system of marriage and inheritance, I venture to say that the proposed legislation will be welcomed by them.

22. The Honorable Mr. Sankaran Nayar's Bill only provides a permissive form of marriage. It does not attempt to bring under its clutches persons who do not wish to be governed by it. Those who wish to get their marriages legalized are permitted to do so. Therefore those who do not like or want a legal sanction are unaffected by the Bill.

23. When marriage is legalized so as to make adultery with the wife punishable under the Penal Code, it is but necessary that bigamy should be prohibited and that divorce should be restricted and regulated on recognized principles of morality and justice.

24. It is also equally necessary and just that the wife and children of a marriage contracted under the Bill, should pass from the guardianship of the Kāranavan to that of the husband. As already observed a man's affection towards his wife and children is natural and great. A Kāranavan has little sympathy for the members of his tarawād, and might not take the same degree of interest in their education and welfare, as their father could take. For instance take the case of a family consisting of numerous branches. The Kāranavan is expected to treat them all with equal consideration. If he educates one or some of the members of a branch, the other members are jealous of it and think that family funds are expended for the individual benefit of those members but to their own prejudice. Besides, the Kāranavan may be disposed to see his nearer relations advanced, in preference to other distant relations, who may be numerous and who have as much right to a beneficial enjoyment of the family property as they. In the interests of the children and the wife, it is necessary that they should be placed under the guardianship of the husband.

25. As regards the maintenance of the wife and children, the provision of the Bill is no innovation and falls short of the existing practice. For as already observed, according to existing custom, the wife and children live in the husband's house and are maintained there at the family expense. The members of the husband's family do not grumble as it, as the custom exists in every family. If a man wishes to see his marriage recognized by the Law, he must be prepared to maintain his wife and children. The provision that he should maintain them is therefore quite just.

26. Marriage is recognized in Bhūtāla Pāndya's book though not its incidents in the matter of succession to property. It is distinctly laid down there, that on a man's death his wife and children alone should observe "Sootaka pataka" (pollution &c.) of the deceased. This injunction is actually observed in practice even at the present day. This would go to show that marriage among Aliyasantāna people is something more than mere concubinage and that the right of inheritance is the only element wanting to make it a substantial union.

27. On the principles of general jurisprudence and equity, an Aliyasantāna man is like any other individual, at liberty to dispose of his self-acquired

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property as he pleases. That he could do so in his life-time is undoubted and there is nothing in principle, against his power to bequeath such property. The Bill in question goes only one step further and declares that where a person dies intestate, his self-acquired property should devolve on his wife and children. If it is his intention to disinherit them, or to give them only a portion of his property, he is at full liberty to do so. His omission to do so would lead to the presumption that his intention was that the property should go to his wife and children. I see nothing objectionable in this provision of the Bill.

28. One great merit of the Bill is that it does not affect the law of succession to Tarawad property, which will remain as it is, and will operate only on those that choose to come under its operation. This fact must disarm all opposition. If the Bill be passed into Law, its effect will be to introduce the thin end of the wedge. In course of time the people may of their own accord desire for a thorough and more complete change of their Law.

29. The present state of the marriage relation has an immoral tendency, the marriage tie being not binding on either party. Its effect on society may be easily conceived. The education of children is neglected for reasons already given. There can be no hope of reform in these directions without legislative interference. The people would be glad to find a way of escape out of the existing unnatural customs. If there are persons who are opposed to the proposed measure they will make known their views to the Commission either as witnesses, or by petition. The Bill may be published in the local gazettes inviting objections, if any.

30. The only point in favor of the Aliasantana family system is the indivisibility of family property, which keeps such property intact. But this is due to the prohibition placed on division, and not to the peculiar mode of succession from uncle to nephews. In all other respects the system of inheritance has proved ruinous to great and wealthy families and has been breeding nothing but mischief. The Yejaman of a family governed by the Hindu Law has the interest of his family at heart, and both he and his children have a common interest to improve and increase the family property. But in an Aliasantana family he strives his best to defraud his nephews and nieces, in order to enrich his wife and children. The result is that family property is encumbered with debts when there is no real necessity for them, and his sons join with him in destroying it as it is their interest to do so. The nephew are only entitled to maintenance and are therefore indifferent to the improvement of family property. If children are to inherit at least the separate property of their father, they would co-operate with him in its improvement.

31. Under the existing system, there is little scope for individual exertion and advancement. Even in wealthy families the junior members being only entitled to maintenance, possess no funds of their own, which they can utilize in useful undertakings. The system is not at all favorable to the material advancement of individual members. They cannot engage in commercial or other pursuits for want of funds of their own. It will be otherwise if they can inherit at least their father's separate property.

32. The only fear is whether the proposed law will turn out to be a fruitful source of litigation. The question whether a certain property belongs to the family or is the separate property of a member, will often arise before the Civil Courts. Such questions do arise under the existing Law also, but they may arise

more often under the proposed Law. Questions as to whether a property is the separate property of a member or the joint property of a family, arise in suits for partition between persons governed by the Hindu Law. Therefore objections on the score of increase of litigation ought not to weigh against the benefits which society would otherwise derive from the proposed change.

33. It must be understood that the foregoing remarks are confined to the Aliasantana law, and to the customs and usages obtaining among Aliasantana people of South Canara. I refrain from saying anything with regard to the custom of Malabar, as my knowledge of them is limited, and as there are men of light and leading in that District, who are better able to give an opinion on them.

34. I would have very gladly given evidence before the Commission. But the summer recess for the Munsiff's court at Mercara is over and I cannot go without leave from the Chief Commissioner of Coorg. I am willing to be examined on interrogatories if that course be acceptable to the Commission of enquiry.

35. As the members of the Commission may be desirous of obtaining all available information on the subject of the marriage customs and sexual relation as they exist in South Canara, I request that you may be pleased to forward my opinion and a printed copy of the memorial above referred to, which I have herein enclosed, to, the Commission of enquiry.

I have the honor to be,

Sir,

Your most obedient servant,

A. RAMAYA PUNJA,

Munsiff of Mercara.

To

HIS EXCELLENCY THE GOVERNOR IN COUNCIL,
MADRAS.

May it please your Lordship!

We, the undersigned members of the several classes of Natives of South Canara, who are governed by the Law of Succession, called Aliasantanam, under which inheritance descends from maternal uncle to his nephew, being dissatisfied with the said Law and being of opinion that the said Law is an obstacle to our advancement and prosperity in life and a constant source of contention in families, most respectfully beg that your Lordship in Council will relieve us from this baneful Law, and introduce a new one, under which hereditaments would be made to devolve from father to son, for the following reasons:—

2. The Aliasantanam Law had its origin in the caprice and selfishness of a despotic prince, called Bhūtālapāndya, who once ruled this Tulava country. The maternal uncle of this prince, by name Dēvapāndya applied to his wife for permission to sacrifice a son of his to a demon, called Kundōdara, of whom he was a devotee. But she naturally would not consent to it. But his sister agreed to give him her son, then called Jayapāndya and afterwards Bhūtālapāndya for the sacrifice. The demon Kundōdara is said to have been so pleased with this, that he commanded Dēvapāndya to disinherit his sons of wealth which he had brought in a ship, as also of the kingdom, and to bestow all on his sister's son, the said Jayapāndya alias Bhūtālapāndya. This was accordingly done. And since this prince Bhūtālapāndya inherited his kingdom from his maternal uncle and not from his father, he ruled that his own example should be followed by his subjects, i. e. that inheritance among his subjects also should, as in his own case, descend from maternal uncle to nephew, instead of from father to son; and it was thus that the so called Aliasantanam Law was established on the 3rd of Māghashoodh of the year 1 of the Shālivāhana era, called Ishwara, about A. D. 77.

3. This system of inheritance is opposed to nature; for nature has implanted in the heart of man an affection for his progeny and a desire to bestow on them all that he possesses, and to see them happily settled in life. But the Aliasantanam Law demands that a man shall love his nephew more than his own children, and thereby compels him to run counter to human nature. No positive Law, however stringent it may be, ever triumphs against nature, and the result, therefore, is that while the estates of Aliasantanam families are made over to the management of a single individual, he on his part is prompted by his natural inclinations to betray the trust reposed in him, in the interest of his nephews, which it was the object of the Law-giver to protect, and to press into his service perjury, forgery and other utterly demoralizing expedients to carry out his wishes the more effectually.

4. The Law of Aliasantanam or nepotism therefore has, ever since its introduction, been breeding nothing but mischief. And all courts of Justice in the district and almost every one conversant with Canara, are fully aware, how the Ejamān or Kāranavan of a family governed by the Law of Aliasantanam fraudulently contrives to bestow on his wife and children what fortune he can, at the expense of the property which by Law he is bound to keep and to bestow on his sister's son. Such Ejamāns are, however in one sense, not to blame, for they only

yield to nature, which the Law with little policy directs them to disown. And we believe much of the demoralizing litigation, that disgraces this district, can be traced to this revolting system.

5. This system of inheritance has proved ruinous to great and wealthy families. The Ejamān or the headman of a family, in which the son succeeds his father, has it generally at heart to improve and increase the property of his family, for he is sure to bestow it on his children, towards whom he has a natural affection. And even if such a headman should happen to encumber his estate with debt, his children think it their interest to redeem it. The same, however, is not the case with the Ejamān of a family governed by the Law of Aliasantanam. He would defraud his nephews, at present rightful heirs of all the property, real or personal, to provide his own wife and children with a suitable fortune; while his children also, who would otherwise have improved their father's property, join their father in destroying it; for they know they must make hay while the sun shines, and that when the property passes away from their father, they would lose all means of profiting by it.

6. His successor also does the same in his turn, for it is not natural that he should act otherwise. It is thus that great and wealthy families, sooner or later but surely, collapse and gradually dwindle into nothing.

7. The present state of Aliasantanam people compared with what it was several centuries back, shews that nothing but evil and ruin have come out of the change inaugurated by Bhūtālapāndya, and that the people are gradually going downwards in the scale of social advancement. Every one conversant with the habits of the Aliasantanam people, is aware what ruin this anomalous system of law has entailed upon them.

8. The habits of the people have, in many respects, outgrown the spirit of Bhūtālapāndya's legislation. Bhūtālapāndya has expressly forbidden division, and declares as compulsory a state of perpetual coparcenary liable to be put an end to only on the consent of the whole family. Still for centuries past, and during the preceding administrations, and also during the present administration, the habit of enforcing division at the choice of any female member has prevailed, and also been recognized by courts of Justice. It is but lately that the High Court have ruled that social necessities and expediency, although proper considerations for the legislature to amend the Law, are no reasons for courts of Justice to refuse to administer the Law as declared by the Law-giver.

9. Again Bhūtālapāndya intended that the females of an Aliasantanam family should live in their family mansions together with their uncles, and perhaps hoped that this joint residence would greatly put it out of the power of the Ejamān successfully to betray the trust reposed in him; but owing to the progress of ideas subsequent to Bhūtālapāndya's legislation, the tie of marriage is practically much more firm than that prescribed by Bhūtālapāndya, and for centuries past, the Aliasantanam females follow the domicile of their husbands, instead of remaining in their family mansions, as contemplated by Bhūtālapāndya, and as is the case in Malabar.

10. We have also to submit that the system of Aliasantanam Law, as conceived by Bhūtālapāndya, has no material connection with our religious habits and usages. Bhūtālapāndya himself declares that the sons alone are bound to observe "Sutika Putika" of the father, whilst the nephews are to take the assets

and liabilities of their uncle. We respectfully beg to draw your Lordship's attention to this circumstance in order to satisfy your Lordship that a change in the law would be no interference with our religious habits and feelings.

11. In the next place we have to submit that legislative interference is become necessary owing to a change of habits and ideas amongst the people since Bhûtâlapândya legislated. The family system as contemplated by him is that of a patriarch living with his nephews and nieces in the family mansion, and apart from wives and children, whilst according to present habits, the Ejamân lives in his family mansion with his wife or wives and children; on the other hand, the female owners of the property follow the domicile of their husbands, living often at a distance from their homes. The result is, that nature tempts the Ejamân to break his trust, his wives and children urge him to it, whilst the absence of the real heirs from the family mansion affords facilities for the Ejamân to make evidence to support his fraud, and this state of things renders it next to impossible for the former to discover the details of his fraud and much more to establish them to the satisfaction of a Court of Justice. Until 1862, the recognition of a right in each female member to elect a division formed an adequate relief in those cases, in which it was not in her power, from the circumstances already adverted to, to bring home malversation to the Ejamân, and although the law, as has recently been laid down by the High Court is as it stood at the date of Bhûtâlapândya, our habits, as already shewn, are not in few particulars contrary to the spirit of his legislation. For these reasons, we solicit the kind consideration of your Lordship, whether legislative interference is not necessary to check the evil arising, no less from the unnatural basis on which Bhûtâlapândya has legislated than from the change in the habits of the people which tends to bring out the worst evils of this strange system.

12. We beg also to bring to your Lordship's notice, that this is not the first move in the province to bring about the substitution of "Makalsantân" for the Aliyasantân. The matter has long been talked about amongst the people and been under discussion all over this district.

13. Inheritance among us was originally (before the introduction of the law of Aliyasantân) as among the rest of the Hindus and other nations, from father to son, and therefore the revival of the same would be not an innovation unacceptable to the people.

14. Your Lordship in Council will thus observe that the introduction of the Law of inheritance from father to son, will relieve us from the absurd and tyrannical law of a capricious prince, and give us one which is agreeable to nature and consonant with reason, whereby all inducement to resort to fraud and foul play, in order to do what is every way a just and natural duty of providing our children with a means of livelihood, will be removed,—many a great and wealthy family will not only be saved from an otherwise impending ruin, but a fair way for their prosperity will also be opened to them,—contention in families will be put a stop to, and peace restored to them: in short, all and every thing that is necessary to the wellbeing, elevation and prosperity of society itself will be firmly established.

15. We beg to add that not only we, but almost all the people governed by the Law of Aliyasantân are willing to re-adopt the system of inheritance from father to son. A few perhaps may not be willing through prejudice in favour of the long established and time honored Law of Aliyasantân, and a few others

through fear of loss of right to large estates of their maternal uncles to adopt a new system of inheritance, notwithstanding all the benefits they may derive from it hereafter. We therefore respectfully and earnestly beg leave to crave, that merely on account of these or similar difficulties the enactment and introduction of so beneficial a law as that of inheritance from father to son, may not be withheld from us, and to suggest, that its adoption be made binding upon all, except those who make their objections within a certain date that may fixed by your Lordship. We further beg to suggest that it may be enacted that every male and female member of every family shall have the same shares to which he or she is entitled under the present Law, in all the moveable and immoveable property of the family that may exist on the date the new system comes into operation, and that the share of each member shall thereafter devolve on his or her children.

16. Under all these circumstances we most respectfully and humbly pray

Hon'ble J. O. St. Clair.

H. S. Thomas Esq.

Red. H. A. Kaundinya

M. R. Ry. Muttuswamy Iyer.

" Shreenivas Rao

Mr. L. S. Rozario

" J. Ball

M. R. Narsimha Kamapurisarad Bangar of Nandavar.

" Konde Manjappashetty of Mudabidri

" Parshetty of Mudabidri

" Maramma Heggade of Yermal Bidu

" Padmuraja Karnantaya Ballal of Kulur Bidu

" Bail Subbaya Bandari

" Kantu Bandari of Adyar Guttu

" Sanku Punja

" Arasa

" T. Duma

that your Lordship in Council will be pleased to name a Committee to be composed of the gentlemen noted in the margin, who possess vast local experience of the District, as well as the rights under, and the practical results of the Law of Aliyasantân, to report upon the propriety of the enactment and introduction of the Law of inheritance from father to son, and on their giving a favourable opinion, to enact it into a law.

And your Lordship's Petitioners shall, as in duty bound, ever pray.

(True copy)

H. M. WINTERBOTHAM,

Collector on Special duty.

APPENDIX IV.

TO THE

REPORT

OF THE

MALABAR MARRIAGE COMMISSION.

(Depositions of 121 Witnesses examined before the
Commission, with List.)

List of witnesses examined before the Malabar Marriage Commission.

NOTE:—The asterisk shows that they have also sent in answers to the Interrogatories of the Commission.

No.	Name.	Taluk to which the witness belongs.	Amsam.	Description.	Caste.	REMARKS.
TELLICHERRY.						
1	*Kotieth Rámunni	Chirakkal	Puzhádi	First Grade Pleader, Tellicherry	Tiyan.	Answers printed
2	Mánikkóth Kélu Nambiyar	do.	Azhikód	do.	Nayar.	
3	*Kóroth Rámunni	Kóttayam	Tellicherry	Retired Vakíl, Municipal Councillor and Bench Magistrate, Tellicherry	Tiyan.	
4	*Kóroth Kannan	do.	do.	First Grade Pleader, Tellicherry	do.	
5	*Mádávíl Rámunni Vaidiyar	do.	Tiruvangád	Private individual, Junior representative of large Tarawád	Nayar.	
6	*Manakkádan Kunyambu	do.	Kadirúr	Senior Anandaravan of the Tarawád	Tiyan.	Answers printed
7	Chandroth Kunhi Chandu Nambiyar	do.	Paniyannúr	Manager of the Tarawád	Nayar.	
8	*Kizhuredam Kunhi Raman Vázhunavar.	do.	Veliambra	A Stháni, and Manager of the Tarawád	do.	
9	*A. Narayanan Nambiyar B.A. B.L.	do.	Nittúr	High Court Vakíl practising at Tellicherry	do.	
10	*Kallát Rámunni	Chirakkal	Anjarakkandi	District, and Taluk, Board Member	Tiyan.	
11	*Katheri Edathil Kolasheri Kunyi Kannan Nambiyar	Kóttayam	Nittúr	Tarawád Káranavan and Manager	Nayar.	Answers printed
12	*Ningaléri Kunyambu Nambiyar	do.	Kandankunnu	Adhigari of the Amsam, and Káranavan of the Tarawád	do.	
13	*P. V. Kunyambu	Chirakkal	Pinarái	Second Grade Pleader, Tellicherry	Tiyan.	
14	*Kanakathidathil Krishnan Vázhunavar.	Kóttayam	Gannavam	Stháni and Káranavan of the Tarawád	Nayar.	
15	*Panangadan Raman B.A., B.L.	do.	Tiruvangád	High Court Vakíl practising at Tellicherry	Tiyan	
16	Edachéri Kunnatha Krishnan Nayar	Kurumbranád	Payyóli	Second Master, Payyóli Mission School (Volunteer witness).	Nayar.	Answers printed
17	Chémbra Edathil Kanáran Nambiyar	do.	Maniyúr	Anandaravan managing Tarawád (Volunteer witness).	do.	
18	*Manakkádan Rámunni	Kóttayam.	Tellicherry	Petition writer, and Head of Tarawád	Tiyan	
19	*Kunyam Víttil Raman Nayar	do.	Sivapuram	Adhigari of the Amsam, and Káranavan of the Tarawád	Nayar.	
CANNANORE.						
20	*Manikóth Kélan	do.	Mailánjanmam	Astrologer, and an Anandaravan of the Tarawád	Tiyan.	do.
21	*Payanádan Kunyi Kannan	do.	Dharmatam	Káranavan managing Tarawád	do.	
22	*Puvádan Cheria Raman	do.	Mailánjanmam	Second Grade Pleader, Cannanore	do.	
23	*Kárái Krishnan	do.	Tellicherry	Sub-Registrar, do.	do.	
24	*Mámbeiyil Sankaran Márar	Chirakkal	Puzhádi	Second Grade Pleader, do.	Ambalavási.	
25	*Kunnatha Manayil Subramanian Tirumunbu	do.	Payyanúr	Marumakkatháyam Nambúdiri, and Káranavan of the Tarawád	Brahman.	do.
26	*Póthéri Kunyambu	do.	Puzhádi	Second Grade Pleader, Cannanore	Tiyan.	
27	*Áyillath Kuttéri Anandan Nambiyar	do.	Irivéri	Adhigari of Irivéri Amsam, and Káranavan of the Tarawád	Nayar.	
28	*Kotieth Kóran Vaidiyar	do.	Anjarakkandi	Native Doctor and Káranavan of the Tarawád	Tiyan.	
29	*Mayil Mánikkóth Kómar Nambiyar	do.	Kairalam	Adhigari of Kairalam Amsam, and Káranavan of the Tarawád	Nayar.	
30	Kandóth Cháthu Nambiyar	do.	Edakkád	Tarawád Káranavan and Manager	do.	do.
31	Arayatha Cháthu Nambiyar	do.	Chembilód	Adhigari of the Amsam, and Anandaravan of the Tarawád	do.	
32	Palliatha Chandu Nambiyar	do.	do.	Káranavan of the Tarawád	do.	
33	Vengapetta Appi	do.	Anjarakkandi	do.	Tiyan.	
34	*Véngayil Kannan Nayar	do.	Kuttúr	Janmi and Káranavan of the Tarawád.	Nayar.	
35	*Mánikkóth Krishnan Nambiyar	do.	Kuttiyatúr	Káranavan of the Tarawád	do.	do.
36	*Valiya Víttil Ráman Márar	do.	Malappattam	do.	Ambalavási.	
37	Koróth Víttil Krishnan Nambiyar	do.	Mundéri	Adhigari of Mundéri Amsam	Nayar.	
38	*Tirumáshi Rama Poduvál	do.	Taliparamba	Second Grade Pleader, Taliparamba	Ambalavási.	
39	Kányirangátta Shangunhi Menou	do.	do.	do.	Nayar.	
40	*Muthédatha Aramanakkal Kunyi Kélanpan Mannaná r	do.	Kányiléri	Stháni	Mannaná r (Tiyan).	do.
41	*Erambála Kanáran Nambiyar	do.	Kaliyasheri	Anandaravan managing Tarawád	Nayar.	
42	Kaliyát Cháthu Nambiyar	do.	Kaliyát	Anandaravan of the Tarawád	do.	
43	Edavan Chindan Nambiyar	do.	Ézhóm	Adhigari of Ézhóm Amsam	do.	
44	*T. V. Anantan Nayar B.A., B.L.	do.	Azhikód	District Munsiff, Shernád	do.	

No.	Name.	Taluk to which the witness belongs.	Amsam.	Description.	Caste.	Remarks.
45	Chória Kizhakképurath Kunyappa Vaidiyar	Kóttayam	Tellicherry	Vakil, Cannanore	Tiyan.	
46	TELICHERRY.					
47	J. L. Rozario B.A., B.L.	do.	do.	High Court Vakil practising at Tellicherry	Eurasian.	
48	*Tirumangalatha Krishna Kurup	Kurumbranad	Azhíyur	Nayar Janmi and Tarawád-Káranavan.	Nayar.	
49	*Eranjéri Dámódaran Nambúdiri	do.	Kártigapalli	Janmi	Brahman.	
50	*Manikkóth Kannan Nambiyar B.A.	Chirakal	Azhikód	Law-Student, Madras (Volr. witness)	Nayar.	Answers printed
51	*Arathil Kandoth Kannan Nambiyar	Kóttayam	Tellicherry	District Munsiff, Badagara	do.	
52	Manótha Paidal Adiyodi	Kurumbranad	Maniyúr	Tarawád Káranavan	do.	
53	Kléoth Kovilagatha Ráma Varma Shan-gara Adiyodi	do.	Vellúr	do.	do.	
54	Kurangótha Vannéri Komappan Nambiyar	do.	Kunnumal	Janmi	do.	
55	Paliyil Edathil Kungan Nambiyar	do.	Pálayád	Anandaravan of the Tarawád	do.	
56	CALICUT.					
57	*Kózhisséri Eréscha Menon	Ernad	Neduva	Second Grade Pleader, Shernád	do.	do.
58	*Pudhéri Velayudhan Nayar	do.	Nallúr	Janmi and Tarawád Káranavan	do.	
59	*Erambappalli Kunjunn Nayar	Calicut	Cheruvannúr	do.	do.	
60	*Edavalath Kakkát Krishnan B.L.	Kóttayam	Kóttayam	Subordinate Judge, Calicut	Tiyan.	do.
61	*Panikkót Karunagara Menon	Ernad	Tiruváli	Escheat Deputy Collector, Malabar	Nayar.	do.
62	*Perumpilávil Govinda Menon	Walluvanád	Múthedatha			
63	*Makkátta Vásudévan Nambúdiri	Calicut	Mádamba	District Munsiff, Betatínád	do.	do.
64	*Talakkódi Matam Kochu Kunyan Nedungádi	do.	Koduvali	Janmi	Brahman.	
65	*Cherukátta Raman Karunagara Menon	do.	Valayanád	do.	Nayar.	
66	*Perimbrayúr Ambalathodiyil Krishna Menon	do.	Paniangara	High Court Vakil	Nayar.	
67	*Bembaláshéri Kamáran Nayar	Walluvanád	Perumudiyur	First Grade Pleader, Calicut	do.	do.
68	*Váppálakalathil Cháppan Menon B.A.	Calicut	Kasaba	District Munsiff, Chávakád	do.	do.
69	*Nelléri Mákkáta Kunyunnan Nayar	Walluvanád	Kódhakurishi	General Duty Deputy Collector, Calicut.	do.	do.
70	*Tondiyil Koyithanári Ráru Kidávu	Kurumbranád	Méladi	Anandaravan of the Tarawád	do.	do.
71		do.	Palikkara	Janmi	do.	

69	*Cheruvillatha Cháthu Nayar	do.	do.	Malayálam Pundit, Govt. College, Calicut	do.	
70	*Pérúr Vásudévan Nambúdiri	Calicut	Kanniparamba	Tarawád Káranavan	Brahman.	
71	Kalpathúr Cháthappan alias Paidal Nayar	Kurumbranad	Kottúr	Anandaravan of the Tarawád	Nayar.	
72	Vazhótha Palliyil Unli Kutti Kidávu	do.	Naduvarannúr	do.	do.	
73	*Kómáth Raman Nayar	do.	Iringath	do.	do.	
74	*Kuthámballi Govindan Nambiyar	Ponnani	Iringapuram	First Grade Pleader, Calicut	do.	
75	*Changalath Kunji Ráman Menon B.A.	Calicut	Kasaba	Editor, "Kerala Patriga"	do.	
76	*Pulápré Góvinda Menon	Ernad	Azhinilyam	Janmi and Tarawád Káranavan	do.	
77	*Mádambath-Góvinda Menon	do.	do.	Second Grade Pleader, Shernád	do.	
78	*Ullanátha Kunyi Kóma Panikkar	Ponnani	Vengidanga	Janmi and Tarawád Káranavan	do.	
79	*Panikót Kandar Nayar	Ernad	Manjéri	Second Grade Pleader, Ernad	do.	
80	*Akkitatha Achudan Sómayájpád	Ponnani	Alangód	Anandaravan of the Tarawád and Vaidhkan	Brahman.	do.
81	*Móndambalath Náráyanan Mússad or Tinanjéri Elayad	Ernad	Arimbra	Tarawád Káranavan	do.	
82	*Malapurath Pára Nambi	do.	Kizhmuri	Janmi	Ambalavási.	
83	*Kuthámballi Krishnan Nambiyar	Ponnani	Iringapuram	Anandaravan of the Tarawád	Nayar.	
84	*Muttávil Vélappa Menon	Ernad	Neduva	Tarawád Káranavan	do.	
85	*Padipurakkal Nánu Menon	Ponnani	Madilagam	District Board Member	do.	
86	*Channazhi Krishnan Mússad	Ernad	Ponmala	Tarawád Káranavan	Brahman	
87	*Cháppunli alias Aiyápirabhu Karthávu	do.	Teniyipalam	Stháni and Tarawád Káranavan	Nayar.	
88	*Padinýárepátt Góvinda Váriyar	do.	Tiruváli	Tarawád Káranavan	Ambalavási.	
89	*Chirálam Pudhia Víttil Góvindan Nayar	Chirakkal	Eramon	Editor, "Kerala Sanchári"	Nayar.	
90	*Kolapuratha Velótré Tánu Panikkar	Ernad	Óragam Mélmuri	Tarawád Káranavan	do.	
91	SHORANORE.					
92	Kunnatha Kóru Nayar	Walluvanad	Cherupulashéri	Second Grade Pleader, Ponnani	do.	
93	*Varikamanjéri Iravi Nambúdiripád	do.	Panamanna	A big land-lord	Brahman.	
94	*Olapanna Mana Náráyanan Nambúdiripád	do.	Vallinazhi	Janmi	do.	
95	*Pathayingal Kovilagatha Nedungá-tiripád	do.	Valapozha	Káranavan of the Tarawád and Stháni.	Sámantan.	
96	*Kairátta Ichara Menon	do.	Kadambazhi-puram	Tarawád Káranavan	Nayar.	
97	*Panaugát Náráyana Menon alias Nánu Menon	do.	Cherupulashéri	Anandaravan managing the Tarawád	do.	

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No.	Name.	Taluk to which the witness belongs.	Amsam.	Description.	Caste.	Remarks.
97	Kolathūr Kelunhi Variyar	Walluvanad	Kolathūr	Anandaravan of the Tarawād	...	...
98	Pārakkāt Unnishnan Elaya Nayar PALGHAT.	do.	Kuruvambalam.	A Sthāni and Anandaravan of the Tarawād	Ambalavāsi. Nayar.	...
99	*Karumathil Achuda Menon	Ponnani	Chékōd	First Grade Pleader, Palghat	do.	...
100	Valia Kōnikal Edam Pangī Atchan	Palghat	Tarūr	A junior Anandaravan of the Palghat Rajah's family (Volunteer-witness.)	do.	...
01	Kongōt Tāpunhi Elaya Nayar	do.	Kōngōd	A Sthāni	do.	...
02	*Kizhakkumpuratha Kannan Unhi Nayar	do.	Mundūr	Second Grade Pleader, Palghat	do.	...
03	*Kunyanunhi Mannūr Munnām Nayar	do.	Tadukkashēri	A Malikhana-holder and Sthāni	do.	...
04	Elayātta Achuda Menon	do.	Pallamchāthanur	Anandaravan of the Tarawād	do.	...
05	Pollēkāt Kittunhi Nayar	do.	Kōttai	Tarawād Kāranavan	do.	...
06	*Vadavattē Tāppan Nayar	do.	Palatēri	do.	do.	...
07	*Kalamkandathil Govinda Menon	Walluvanad	Perūr	Second Grade Pleader, Tamalapuram	do.	...
08	*Chuvatha Krishnan Nayar	Palghat	Pālatulli	First Grade Pleader, Palghat	do.	...
09	*Kārāt Dāmōdara Menon	do.	Elapulli	do.	do.	...
10	*Maradhūr Gōvinda Menon	do.	Vadavanūr	do.	do.	...
11	*Nēdhillatha Gōpāla Menon	do.	Kizhakkētara	Janmi	do.	...
12	Kunnan Kumaratha Chāpunhi Menon.	do.	Panangātiri	Anandaravan of the Tarawād	do.	...
13	Panikath Nārāyanan Manādiyār	do.	Kizhakkētara	do.	do.	...
14	Vāniemparambatha Shangunhi Menon.	do.	Koduvāyūr	Second Grade Pleader, Temalapuram	do.	...
15	Kōthāndath Mānju Menon	do.	Padinjārētara	Tarawād Kāranavan	do.	...
16	Kāvissēri Vittil Rāmunhi Nayar	do.	Tarūr	do.	do.	...
17	*Kanūr Shekharan Nayar	do.	Chittalanjēri	Palghat Taluk Board Member	do.	...
18	Malamal Nānu Nayar	do.	Kāttushēri	Anandaravan managing Tarawād	do.	...
19	*Kōzhishēri Karunāgara Menon B. A.	Ernād	Nēduva	Sub-Editor to the "Hindu"	do.	...
20	*Kōdhanath Gōpālan Nayar	Palghat	Ayakkād	First Grade Pleader, Palghat	do.	...
21	Kōngōt Karunagaran Nayar	do.	do.	Tarawād Kāranavan	do.	...

Answers printed.

H. M. WINTERBOTHAM.
Collector on Special duty.

Witness No. 1.

KOTIETH RAMUNNI.

Am a Marumakkathâyam Tiyan, Age 39. Native place, Cannanore. Practising at Tellicherry as 1st Grade Vakeel. Question 18:—I have found lately that there have been instances amongst the Marumakkathâyam Tiyans of North Malabar in which a mother has tied the tâli. Question 22:—A Nambudiri or Pattar would not give silk and bracelets, I believe. Question 25:—My answer refers to Nayars as well as Tiyans. Question 32:—In many cases a Tiyan woman will remain in the Tarawâd house of her husband after his death.

The husband in North Malabar, is never called *Sambandhakâran*, but *Bhartâvu*. The woman is always called *Bhârya*. It is during the last 20 years that the practice of a man having more than one Sambandham at the same time, is gradually declining. It is now very rare amongst the respectable classes in North Malabar. Question 36. In my opinion the old custom was for a man's self acquisitions to go to his nearest female relatives, that is to his own Tâvazhi and not to the Tarawâd. It was in my opinion, Mr. Holloway's decision Vol. II. Madras High Court Reports, which changed the custom. Most of the Marumakkathâyam people in North Malabar live from hand to mouth. The Kâranavan is the legal guardian of every child in the Tarawâd. His obligation only extends as far as there is Tarawâd property. He is not bound to support any member of the Tarawâd by his own exertions. Some how or other every child is brought up, and I don't think our custom as to guardianship requires alteration. Even for adult Anandaravans, the Anandaravan has no voice in the selection of his wife. The Kâranavan selects a mate for him. If he is living separately he may of course follow his own inclinations. If an adult Anandaravan formed a Sambandham without his Kâranavan's consent, the Anandaravan would be turned out of the Tarawâd. He would, I think, have no legal claim to sue for maintenance. If a man marries into a Tarawâd and his wife dies, he can marry no second woman from the same Tarawâd. I have no objection to offer to conditions 1, 2, 3 and 4 and 1st proviso of Section 40. I have a child of my own under my guardianship from its birth. I know I am not its legal guardian. I am content with that position because I have no fear of the Kâranavan exercising his rights. If an Act is to be passed, I should insert proviso 1. of Section 40, but I object to any Act, providing a new form of marriage. Question 42:—Adultery on the part of the woman is, I might say, the only recognized reason for terminating a Sambandham in North Malabar. As between the Tarawâd and the wife and children, I would prefer that self acquisitions and separate property should go to wife and children, but I would sooner that half should go to wife and children and the other half to the tâvazhi, that is to mother and her children. If a law were passed legalizing the existing approved form of marriage ceremony in North Malabar, and maintaining the existing freedom of divorce, no one would object to it. I should wish adultery with a Marumakkathâyam wife to be made punishable. In Sambandhams between a man of a higher division and a woman of a lower division the ceremony called "Pudamuri" is never performed. The ceremony is then called "parisham châyiga."

Taken down by me in the presence of the Commission; read over to the witness who understands English and admitted by him to be correct.

Tellicherry,
21st May 1891.

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 2.

MĀNIKKŌTH KĒLU NAMBIYAR.

Nayar.—Age 41.—*Azhikōd amsam, Chirakkal Taluk.—1st Grade Pleader practising at Tellicherry.*

I received a set of interrogatories but I didn't answer them as I wished to be examined by the Commission. As far as I know there is no desire at all for a marriage law in North Malabar. I have talked to many respectable people and they are all dead against the measure. There is a marriage in North Malabar already. The people are not willing to have any change in the existing system. I have only consulted two officials and they are dead against it. The main objection is that there should be no check on the freedom of marriage and divorce. I would prohibit a man from marrying a second wife even for a sufficient reason. The *Tālikettu kalyānam* is indispensable. It is called in North Malabar *kalyānam*—not *pen-kettu-kalyānam*. I never heard of a case in which the ceremony was performed after the girl reached puberty. It is not a marriage in the sense in which marriage is understood on the other Coast. In some places, amongst Nayers, the father ties the *tāli*; the general rule is that a Brahman should tie the *tāli*. It is not intended that he should become the husband. It is a religious ceremony by which a girl attains the status of "Ammā." That is equivalent to "Madam" in English. By *Tālikettu*, she attains the capacity of forming *Sambandham*. On the first day of *Tālikettu*, the girl goes in procession to a temple, and there bathes in the tank. At the temple the priest pours consecrated water on her head. There the *tāli* is tied by the Brahman if the girl is of a poor family. If the *tarawād* is a rich one, the Brahman comes to the *tarawād* house and ties the *tāli*. He is then paid a fee. The ceremony should last 2, 3 or 4 days according to wealth. The father ties round the girl's waist a cloth called "*Mantrakodi*" that is on the first day. A *Mārayān* (Nayar *Purōhit*) ties a ring called "*kāppu*" on the upper right arm of the girl. Then follows the feast. At the night the girl comes to the *Kalyāna Pandal* (wedding booth) with other ladies; there one *Pāppini* sings religious songs. The washerman brings two *chēlas* (cloths). He sometime offers prayers for the prosperity of the girl. Immediately afterwards a washerwoman comes with a *māttu* (cloth) and she also sings some songs. Then a *Tiyan* (*sic*) brings the spathes of a cocoanut and a tender cocoanut and he prays for the girl. The second day the girl goes to the tank, wearing the washerman's cloth and carrying the spathe and tender cocoanut, and attended by the *Pāppini*. There the girl bathes and the *Pāppini* sings a religious song. Afterwards the spathe is opened there, and the number of buds is counted. The *Pāppini* predicts that the girl will bring forth as many children as there are buds. Then they return and the girl dresses herself in the *chēla* (cloth). She is again taken to the *pandal*. There the *Pāppini* sings another song. Then they adjourn to the *Padinyāttini* (western) room where the *Pāppini* receives a cloth and some fanams. Then the girl is taken to an inner verandal and the *Mārayān* takes off the *Kāppu*. Then the *Mārayān* cries out "*amma, amma, amma*," 3 times. Then follows the feast. Then the girl goes again in procession to the temple. There the priest comes forward and blesses the girl and is paid a fanam. The girl then puts a small silver coin into the temple treasury and returns to the house. The above refers only to the *Chirakkal*, and *Kottayam Taluks*. At the processions all the people should shout out "*ārppu ārppu*." I believe that means *āru*=six, and *ippōl*=now—meaning "even now she is a virgin," because the sixth sign of the Zodiac is a virgin. That is only my own idea. I think "*ārppu*" means that the girl is still looked on as a virgin. The *tāli* is removed from the neck of the girl on the fourth or fifth day. Sometimes she wears it for a week or so. In the processions the girl is not accompanied by the *tāli* tier. The girl's *kāranavan's* wife must go with the girl carrying a light and a plate of raw rice. Among some of the *Rajahs*, the *tāli* is tied by a *Koīl Tamburān*. In the *Chirakkal Kovilagam* after *tālikettu*, the *tāli*-tier is asked whether he wishes to be the husband. If he answers in the affirmative he becomes the woman's husband without further ceremony. If he answers in the negative he walks away, and then *Nambudri* is sought for. Generally a *Nambudri* will be the *Sambandhakkāran*, because he

gets an allowance. Regarding the other *Kovilagams* I can't state their custom from my personal knowledge. In "*Puda muri*" the offer comes always from the bridegroom's side. If the offer is accepted, a day is fixed for examination of horoscopes. If they agree an auspicious time is fixed. The bridegroom and his friends then come to the bride's house, with a new cloth (*puḍava*) also betel, areca nut and tobacco. The betel, nut and tobacco are distributed amongst the girl's relations, in token that they consent. The new cloths are taken to *Padinyātta* room, & each double cloth is cut into two. *Dakshina* is then given to Brahmins. Then the cloths and a few Rupees are given to the girl in the presence of his friends. Then the bridegroom and his friends are sumptuously fed and the ceremony concludes. The marriage is consummated the same night if the girl has attained her puberty. Sometimes this ceremony takes place before the girl arrives at puberty. I suppose that consummation in such cases is deferred. After *Pudamuri* the man and woman are called *bhartāva* (husband) and *bhārya* (wife). The connection is not terminated without justifying ground. There are two ceremonies of divorce. The husband divorces the wife when the wife is guilty of adultery, has lost caste, is subjected to incurable or loathesome disease, or on disagreement of temper. The wife can divorce for loss of caste and the above causes, excepting adultery. If the connection is dissolved arbitrarily, neither man nor woman loses caste, but Society would greatly disapprove. The form of divorce is that a husband should go to his wife's house with two friends, if possible two who witnessed the marriage. There should be four pieces of cloth and two fanams. In the presence of the relations of the wife, the husband should declare "My connection with so and so ceases from this date." Divorce is also effected by a husband absenting himself from his wife for one *Vishu* and one *Onam i. e.* for one whole year. If the wife wants to divorce her husband she communicates her wish to her *Kāranavan* through his wife. If the *Kāranavan* is satisfied, he sends a message giving permission. Then if the girl absents herself from her bed-room on three consecutive nights, the divorce becomes complete. The three nights' time is to give the relations an opportunity for mediation. All the above applies to *Kottayam* and *Chirakkal Taluks* only. I can't speak as to other places of my own knowledge. In North Malabar the wife generally lives with her husband, either in a separate house built by him, or in his *tarawād* house. If in the *tarawād*, she is fed at *tarawād* expense. If a man married without his *kāranavan's* consent, the wife would not be admitted into his *tarawād* house. The expenses of the *Simantham* ceremony, in 5th or 7th month of pregnancy, are shared between the wife's *tarawād* and the husband. Since Mr. Holloway's decision the *kāranavan* is the legal guardian. In fact, the mother is practically guardian while her children have not reached years of discretion. Before Mr. Holloway's decision, a father was considered the legal guardian of his children if they and his wife lived with him. Before Mr. Holloway's decision, the *kāranavan* would take charge of any children if he saw that their father was neglecting them. If the 'wives' of *Anandaravans* live in the *tarawād* house of the *Anandaravans*, the *Kāranavan* must provide for their maintenance. It is a general practice for the father to provide for his 'wife' and children by gift *inter vivos*. A major portion is generally left by him undisposed of for his *Tāvazhi*. The old practice was that a man's self acquisitions should go to his sisters and their children *i. e.* to his own *Tāvazhi i. e.* to his mother's issue. The want of power to dispose of self-acquired property by Will is acutely felt in North Malabar. A man cannot marry in his own "*Vamsham*" or "*Kulam*." A man cannot marry any member in his deceased wife's *tarawād*.

I would adhere to the custom of polygamy. I would reduce the marriageable age of a girl to 12. I object to any change of existing custom. If a man's self acquisitions go to his wife and children, the *tarawād* property would not be recruited, *kāranavans* would not educate *anandaravans*, children would not be submissive to *kāranavan*. Separate property of a last survivor in a *tarawād*, I would give to his wife and children. I do not wish adultery to be punishable as an offence. I am not the *kāranavan* of my *tarawād*. My *kāranavan* is my uncle. I don't think it is just that a man's self acquisitions should go to his *kāranavan*. I think they should go to his own *Tāvazhi*. If a *kāranavan* had

no tarawâd property, nevertheless by his own personal exertions, he would support the members. I affirm that a kâranavan is under a personal obligation to maintain his tarawâd members, even if there be no tarawâd property.

Taken down by me in the presence of the Commission; read over to the witness who understands English and admitted by him to be correct.

Tellicherry,
21st May 1891.

H. M. WINTERBOTHAM
Collector and Commissioner.

Witness No. 3.

KÔRÔTH RÂMUNNI.

Marumakkathâyam Tiyan. Age 80.—Tellicherry.

I have sent in my answers to the interrogatories sent to me. I was a Vakeel. I am now a Municipal Councillor and Bench Magistrate. Amongst Tiyan's tâli is sometimes tied by males. In such case the man is the intended husband. In other cases the mother or the sister of the intended husband is the person who ties. If no husband has been fixed on, either the mother, sister, or brother of the girl will tie the tâli. The relation of husband and wife is not created by the Tâli-kettu-kalyânam. That is created by the following ceremony called Mangalam which I have described in my answers. The Mangalam is performed even when the intended husband ties the tâli. The general custom here is for one man and woman to cleave together for life.

I think a permissive marriage law is very desirable for Marumakkathâyam people. All the respectable people desire it. It ought to be made compulsory I think. I should prefer that registration of marriage should be allowed after celebration of marriage in the customary form.

I agree that in case of intestacy the self-acquired property should go to wife and children. I would give no share to the Tarawâd. The wife and children should exclude Attâl-adakkakar. A man in consideration of the old Marumakkathâyam usage will rarely give part of his self-acquisitions to his tarawâd. I think the majority are in favour of leaving self-acquisitions to wife and children.

Now few know the Shastras, and on a small disagreement ignorant men will dismiss their 'wives.' People who know the Shastras will only divorce on ground of adultery. Stealing the husband's property is also regarded as a sufficient reason of divorce. A Tiyan woman if she leaves her husband without good reason would not be associated with. She would not be put out of caste. Her conduct would be considered reprehensible. This would apply equally to the 'husband' if he dismissed his 'wife' without cause. All his or her relations who supported the misconduct would be liable to the same inconvenience. The custom is that a man should only have one 'wife' at a time. Some men marry more than one. It is not proper in my opinion. In the case of barrenness of the first 'wife' a second marriage is excusable. Amongst Tiyan's the only division is into Makkathâyam and Marumakkathâyam. There are instances of intermarriage between Makkathâyam and Marumakkathâyam Tiyan's. There is no caste objection. Amongst Tiyan's, a man cannot marry in his deceased wife's tarawâd as far as I have seen.

Amongst Tiyan's a Kâranavan is not justified in spending Tarawâd property in supporting the Anandaravan's wife and children. If the Kâranavan is pleased with the exertions of the Anandaravan he will sometimes do so.

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A girl who had not the tâli-kettu performed before puberty would be an out-caste. The Kâranavan's consent is not indispensable to form a valid sambandham. Acting without his consent would be considered as insubordination.

I am the kâranavan of my tarawâd. There is only one tâvazhi.

Taken down by me in the presence of the Commission; read over to the witness and admitted by him to be correct.

Tellicherry,
22nd May 1891.

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 4.

KÔRÔTH KANNAN.

Marumakkathâyam Tiyan.—Age 44.—Tellicherry.—1st Grade Pleader.

I have sent in my answers to the interrogatories. The last witness is my father. I disagree with some parts of his statement. I am not in favour of legislation to provide a legal form of marriage. I would give Marumakkathâyam people the power to dispose of their self-acquisitions by Will. My father has given more than half his property to his children, including myself, by a gift which he cannot revoke. The 'wife' may terminate a Sambandham whenever she likes with her kâranavan's, father's, or brother's consent. I have not known of an instance of divorce without such consent. People would desire that the existing form of marriage should be legalized. In my opinion legislation is necessary for that purpose. Cases of polygamy amongst Tiyan's are rare. I think adultery and bigamy ought to be made punishable in case of Marumakkathâyam Tiyan's. The law of succession to self-acquired property should not be altered in favour of wife and children, but in favour of the Tâvazhi as against the Kâranavan.

The whole of my father's property is self-acquired property. He has only one paramba which is Tarawâd property.

At every marriage among Marumakkathâyam Tiyan's in North Malabar a sum of money called Kânam is paid by the husband to the Kâranavan of the woman. In case the woman terminates the cohabitation without reason this sum is recoverable from the woman's kâranavan. I have acted in several cases in which the Kânam has been so recovered by civil suit. The Kânam varies from 40 up to 500 fanams within my knowledge. I have taken my father's house-name because he protected and educated me. Two or three others of the leading families of Tiyan's have done the same. My mature opinion is that legislation to legalize marriage is desirable. I think it would be more just that the guardianship of children should vest in the father rather than in the kâranavan. I don't think it can be said that as a rule kâranavans love their Anandaravans as much as fathers love their children. Fathers will generally look after their children better than the children's kâranavan would. Cases are common in which several tâvazhis of Tiyan's live in the same tarawâd house under one kâranavan, who is a more distant relative to the junior members than a maternal uncle. Children who get property from their father often live separately from their Tarawâd. Such cases are rare, because there are not many fathers who have self-acquisitions to dispose of. Those who have self-acquisitions usually provide for wife and children by gift *inter vivos*. It is because such gift is surrounded with difficulties that I desire testamentary power. I should provide if I could for my wife and children, and for my own Tâvazhi.

Taken down by me in the presence of the Commission; read over to the witness who understands English and admitted by him to be correct.

Tellicherry,
22nd May 1891.

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 5.

MĀDĀVIL RĀMUNNI VAIDIYAR.

Tiruvangad amsam—age 24.

Am a private individual. I have submitted answers to the interrogatories of the Commission. The majority of the people are against the proposed legislation. One or two persons, that is I mean a few, may be in favour of it. I consider the present marriage in North Malabar to be sufficiently binding. As a 'husband' can turn away his 'wife' in case of adultery, I don't think adultery need be made punishable. I object altogether to registration of marriage. I object to divorce being rendered impossible except by a Civil suit. I desire testamentary power over self-acquisitions, because a gift *inter vivos* may lead to difficulties. In case of 'wife' and children who have received such a gift proving disobedient there is no way of re-calling it. In most cases in North Malabar the 'wife' lives with the 'husband' in his house or tarawād. This, no doubt, resembles the Makkathāyam practice.

What I have heard is that a girl who had not undergone tālikattu before puberty would be an outcaste. A man can never marry a woman in his deceased wife's tarawād, or any woman in his own tarawād however remote the relation. I never heard any one saying that legislation was necessary to legalize marriage, before the Honorable Mr. Sankaran Nair introduced his Bill. Nor did I ever hear any one say that he wanted testamentary power over self-acquisitions.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Tellicherry, }
22ND MAY 1891. }

H. M. WINTERBOTHAM,

Collector and Commissioner.

Witness No. 6.

MANAKKĀDAN KUNYAMBU.

Marumakkathāyam Tiyan—Age 62—Kadirur amsam, Kottayam, Taluk

I have sent in answers to the interrogatories of the Commission. I am the senior Anandaravan in my tarawād. There are 4 tāvazhis. Each tāvazhi is in a separate house. All the houses are tarawād houses. I have nothing to add to what I have recorded in my answers.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Tellicherry, }
22ND MAY 1891. }

H. M. WINTERBOTHAM,

Collector and Commissioner.

Witness No. 7.

CHANDROTH KUNHI CHANDU NAMBIAR.

Paniyannur amsam—Kottayam—age 32—Manager of Tarawad.

The ceremony called 'Puda muri' creates the relation of 'husband' and 'wife.' The custom is for the 'wife' to live with the 'husband' in his house. They generally cleave together for life. The grounds of divorce are adultery, or disobedience. I object to a form of marriage being provided by law. There will be confusion under two systems of inheritance. Self-acquired property will never come to the Tarawād. We have an example of the evils

among the Marumakkathāyam Mappillas. They are constantly involved in litigation from which the Nairs are free. The 'Puda muri' is the 5th of the 8 forms of marriage allowed to Hindus. There is no religious element in the ceremony. I have never heard of a North Malabar Marumakkathāyam woman leaving her 'husband' for any reason. Nor have I heard of a 'husband' sending away his 'wife' except on sufficient grounds.

Fathers generally provide for their children from self-acquisitions according to their pleasure. I am a Sthāni and a Malikhana holder. If a marriage law were made compulsory I should have no objection to it. However I don't want to turn into Makkathāyam.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct

Tellicherry, }
22ND MAY 1891. }

H. M. WINTERBOTHAM,

Collector and Commissioner.

Witness No. 8.

KIZHUREDAM KUNHI RAMAN VĀZHUNAVAR.

Veliambra amsam—Kottayam Taluk—Age 34.

Am a Sthāni and Manager of the tarawād, though I am not the Kāranavan. I now submit my answers to the interrogatories.

Kāranavan's consent is not necessary to enable a woman to terminate a Sambandham. There is no restriction on capricious divorce. That is true for both Nayars and Tiyan. There are many cases of polygamy and it is regarded as unobjectionable. I think there should be a marriage law made compulsory on every one; so as to avoid the confusion of two systems of inheritance in one and the same tarawād. I can't say how the majority would vote on the question of a permissive marriage law. Of those I asked, some favoured it and some were against it. In case of the marriage of a minor girl I should wish that her father should be regarded as joint-guardian with her Kāranavan.

In case of intestacy I should wish half the self-acquired property to go to wife and children and half to the deceased's own tāvazhi, not to the Kāranavan as at present. Most people would like the existing law to be altered so that self-acquisitions might go to one's own tāvazhi instead of the tarawād as at present. I would not do away with any existing caste or other customary restrictions on marriage.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Tellicherry, }
22ND MAY 1891. }

H. M. WINTERBOTHAM,

Collector and Commissioner.

Witness No. 9.

A. NARAYANAN NAMBIYAR, B.A. B.L.,

Nittur—Tellicherry—age 25—High Court Vakeel practising at Tellicherry.

I am not the Kāranavan of my tarawād. I have submitted my answers to the interrogatories. By 'marriage' in answer 20 I mean 'Puda-muri.' Polygamy is very rare now. There is no class of Marumakkathāyam people who wish for a permissive marriage law. If the act regulated marriage relation only I should have no objection. I am opposed to its interfering with inheritance. There is no necessity for a law of marriage. It is not necessary to restrict divorce. I consider that the father is the guardian of his children, and the practice of the country supports this. If the father is not the legal guardian of his

children the legislature ought to make him so. I think a judicial decision to this effect would suffice, if we could get it. It was a High Court decision which declared that the guardianship vested in the Kāranavan. If this cannot be set aside, I would resort to legislation to make the father guardian.

Taken down by me in the presence of the Commission, read over to the witness who understands English and admitted by him to be correct.

Tellicherry, }
22nd May 1891.

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 10.

KALLĀT RAMUNNI.

Marumakkathāyam Tiyān—age 50.

Native of Anjarakkandi, Chirakkal. Have resided at Tellicherry for nearly 20 years. Member of the District and Taluk Boards. Private individual. I have sent in my answers to the interrogatories. In regard to my answer to question 44, I wish to say that I would not fetter the power of testamentary disposition in any way. I don't find any person in favour of existing custom as to self-acquisitions. One party wants to leave them to wife and children. Another party wants to leave self-acquisitions to the Tāvazhi. Neither party likes the Kāranavan to get the self-acquisitions. The Marumakkathāyam Tiyans are only found between Kawai River and Kōta (or Murāt) river. Every where else the Tiyans follow Makkathāyam. A man can neither marry in his own tarawād nor his deceased wife's tarawād. I think most Marumakkathāyam fathers would like their self acquisitions and separate property to go to their wives and children.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Tellicherry, }
22nd May 1891.

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 11.

KATHERI-EDĀTHIL KOLASHERI KUNYI KANNAN NAMBIYAR.

Nittūr amsam—Kottayam Taluk—Age 49.—Manager of tarawād.

Am the Kāranavan. I have six children—3 sons and 3 daughters—living with me in the tarawād house. I have sent in my answers to the interrogatories. Answer 25:—If the woman and her Kāranavan agree, the woman can terminate Sambandham without any just cause. Answer 32:—I mean that the man and wife generally cleave together till death. I have heard many people express a strong objection to changing the old custom. The Kāranavan is the legal guardian of the tarawād children and I would have him remain so. I have heard no one express an opinion favourable to the proposed legislation. I have consulted about 50 Nayars. The sons of a Sudra have no right to offer pindas for their father at Tirunelli in Wynād. Anandaravans alone can offer such pinda. Nambudris form Sambandham with women in my division of caste. Sons do offer the pinda but they have no proper authority to do so. One of my daughters lives with her 'husband,' the other two are not yet 'married.'

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Tellicherry, }
22nd May, 1891

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 12.

NINGALĒRI KUNYAMBU NAMBIYAR.

Kandankunnu Amsam, Kottayam.—Age. 48—Adhigari of the Amsam.

Am Kāranavan of my Tarawād. I have sent in my answers to the interrogatories. A woman cannot effect a divorce without the consent of her Kāranavan and Bandhūs. The consent of the Bandhūs (relatives) is requisite. They would be displeased with the Kāranavan if their consent was not obtained. I have never known an instance of capricious divorce. If a woman terminated Sambandham without grounds, her people would not associate with her. She would be regarded as an outcaste and then she would not be allowed to enter the temple. Such a case has never happened so far as I know. Question 38:—What I mean is that in our caste bride and bridegroom could never go together to the Sub-Registrar's office. I don't want a law that would force us to go to court for divorce.

I have got one son. He is 20. I have educated him from his birth. There may be about 2,000 Marumakkathāyam people in my amsam. I have never heard any of them say that they wanted a marriage law.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Tellicherry, }
22nd May 1891

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 13.

P. V. KUNYAMBU.

Pinarāi amsam—Age 40—Tellicherry—2nd Grade Pleader—Municipal Councillor.

I have submitted my answers to the interrogatories. What Nayars call 'Pudamuri', we Tiyans call 'Mangalam'. It is not a binding marriage in the legal sense. Amongst Tiyans the union generally lasts for life. I want a form of marriage to be legalized by law. Polygamy is rare amongst Tiyans. I think it should be put a stop to by legislation compulsorily. I would have 'Mangalam' dissoluble on reasonable grounds. I should consider reasonable grounds to be (1) Adultery (2) incurable and loathsome disease (3) habitual disagreement of temper. See my answer 42. The practice is to reserve a portion of self-acquisitions for the tarawād. I believe it is thought a proper portion. My inclination would be to give the whole to wife and children, and that is the tendency among the educated classes I believe.

I would exclude the Kāranavan from guardianship altogether. Cases of interference by Kāranavan with the father's *de facto* guardianship are very rare. I never heard a case except one where the Kāranavan wanted to get the infant's property. I think for the last 20 years the majority of the educated Tiyans have been desiring legislation in the shape of Mr. Sankaran Nayar's Bill. Twenty years ago Mr. Churia Kanaran, deceased Deputy Collector, advocated a reform of this nature in communication with Mr. Robinson C.S. Some about 5 per cent of the respectable Tiyans are educated and enlightened.

Taken down by me in the presence of the Commission; read over to the witness who understands English and admitted by him to be correct.

Tellicherry, }
23rd May 1891.

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 14.

KANAKATHIDATHIL KRISHNAN VAZHUNAVAR.

Gannavam amsam—Kottayam—Age 60.

I have sent in today my answers to interrogatories. I am Tarawâd Kâranavan—Private individual. Amongst Nairs the Puda-muri union is a valid marriage. Most of such unions last for life. It is quite sufficient to leave things as they are. No legislation is necessary. Cases of polygamy are rarely found. Such liberty is necessary. No special ground is needed to justify polygamy. A woman should not have equal liberty with the man in this respect. Fathers customarily provide for their children from self-acquisitions. The relatives ought to be consulted in such cases. Some fathers provide for children without consulting relatives. Usage now freely allows a man to make Wills. No legislation is required to authorize it. I should wish my wife and children to have a share of my property in case I die intestate.

The wife should live where the husband wishes. If there is a conflict between husband and Kâranavan she should do what the Kâranavan wishes. I never heard of a Kâranavan claiming possession of children as against the father. I have never heard any Nairs or Tiyans express a wish for a marriage law. The Nambûdiris form Sambandham with women in my caste. They go through all the forms of a Puda-muri; I am a Sâmantan by caste. The females who form puda-muri with Nambûdiris, will not live with the Nambûdiri in his house. Generally our females form 'puda-muri' with Nambûdiris. When a Nambûdiri cohabits with a lady of a Kovilagam I don't know whether he does so by puda-muri ceremony. The 'puda-muri' ceremony is as binding on a Nambûdiri as on a Nair. When the Nambûdiri forms a union with a Sâmantan female the female and her children will live in her Tarawâd house, and the Tarawâd maintains the Nambûdiri 'husband.'

The term 'Kiriya' Nair is never used by North Malabar Nairs in speaking of themselves. Two main divisions are into Agatha Chârnava and Puratha Chârnava. There are Charnavar attached to each Kovilagam in North Malabar. The Nairs of North Malabar will generally consider that they are attached to one or other of the Kôvilagams. A man will say that he is âl-kâran (adherent) of such-and-such a Kovilagam. If a man is âl-kâran of a Kovilagam it is that Kovilagam which should settle all his caste disputes. The Kovilagams exercise that jurisdiction even now. The 'Madaran' division recognizes Nambûdiris as their Ejamânan. Nevertheless even in such cases the Kôvilagam has the supreme jurisdiction in matters of caste. Every Nair will be under the jurisdiction of one or other of the Kôvilagams in North Malabar. There are three Kovilagams—Chirakkal, Kottayam and Kadathanad, in North Malabar.

For the Tiyans the Chirakkal Rajah has appointed a man to exercise jurisdiction in caste disputes. His title is 'Mannanâr.' He has jurisdiction in Chirakkal, Kadathanad and Kottayam. Amongst Nairs petty caste disputes are settled by the Nâdu-Vâzhis (chieftains.) There is an appeal from them to the Kovilagam.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Tellicherry, }
23RD MAY 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 15.

PANANGADAN RAMAN.

Tiruvangâd amsam—Kottayam—age 37.—High Court Vakil practising at Tellicherry.

Am a B.A., B.L. I have submitted my answers to the interrogatories. In the eyes of the Law, the "Mangalam" of Tiyans is not a binding marriage. The 'husband' can divorce without

reason. The 'wife' now does not exercise this power. There is a suit for restitution of conjugal rights now pending in Tellicherry, the woman having refused to live with her husband while undivorced. Amongst Tiyans the union of a man and woman usually lasts for life. I am in favour of a permissive form of marriage being provided by Law. There are many cases of polygamy amongst the Tiyans. I have heard what the last witness (14th) has said about the "Mannanâr". As regards Tellicherry none of us would acknowledge the Mannanâr's jurisdiction. We look up to certain elders who are called "Caste Kâranavans". Certain tarawâds possess this right of Kâranavanship. There would be no dispute as to who they are. I don't myself know how many there are. There are some instances of a Marumakkathâyam Tiyathi (female) being given in marriage to a Makkathâyam Tiyani in South Malabar. There is generally some reluctance on our part to countenance such unions. We regard the Makkathâyam Tiyans of South Malabar as somewhat beneath the North Malabar Tiyans, not because they follow Makkathâyam but because their social position is considered inferior. I find that the general feeling amongst the Tiyans here is that self-acquisitions should go to widow and children. Gifts *inter vivos* are often deferred till a man is on his death-bed. It is then often too late and children are thus left unprovided for. Cases of persons dying and leaving self-acquired property undisposed of are numerous. I think the practice is for about one half of self-acquisitions to be given to the children by gifts *inter vivos*.

Our objection to inter marriage with South Malabar Tiyans, may be because in South Malabar Tiyans and Izhuvans are found and we are not sure which is which.

Taken down by me in the presence of the Commission, read over to the witness who understands English and admitted by him to be correct.

Tellicherry, }
23RD MAY 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 16.

EDACHÊRI KUNNATHA KRISHNAN NAYAR.

Age 21. 2nd School Master at Payyoli Mission School. I requested permission to give evidence before the Commission. Our "Pudamuri" I consider to be a valid marriage but the Law does not consider it to be so. I want a permissive form of marriage, but I object to some of the details of the Bill. I object to registration, and I would wish the present customary restrictions as to consanguinity and affinity to be entered in the Bill. In cases of intestacy not more than half of self-acquisitions should go to wife and children and the balance to the tarawâd. I should like to have a law of divorce which would not compel a resort to a court. The reasonable grounds of a divorce, I consider to be adultery, disobedience and contagious disease lasting for one year. I took part in the public meeting at Payyoli. The copy of the Proceedings of the Meeting now shown me is in my handwriting. I would prohibit polygamy. I am not prepared to suggest how divorce could be had without resort to a Court. I would wish the father to be the guardian of wife and children. That is all I have to say.

I don't at all want any part of the self-acquisitions to go to the Kâranavan. I think half of self-acquisitions should go to a man's own Tâvazhi. I have passed the Middle School Examination.

Taken down by me in the presence of the Commission; read over to the witness who understands English and admitted by him to be correct.

Tellicherry, }
23RD MAY 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 17.

CHEMBRA EDATHIL KANÂRAN NAMBIAR.

Age 29. I am an andaravan managing tarawâd affairs. I belong to Maniyur amsam, Kurumbranad Taluk. I wish to represent that the people of Maniyur want no legislative change in their existing customs. The proposed changes would promote quarrels between sons and nephews. They now get on together in a way, without inconvenience.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Tellicherry, }

23RD MAY 1891. }

H. M. WINTERBOTHAM,

Collector and Commissioner.

Witness No. 18.

MANAKKÂDAN RAMUNNI.

Age 56—Marumakkathayam Tiyan—Petition writer, Tellicherry.

What Nairs call "Puda-muri" the Tiyan call "Mangalam". It is not a valid marriage in law, but it is so according to social rules. I am in favour of a form of marriage being legalized. If a Tiyan has taken one woman to wife by "Mangalam" ceremony, he will not go through that ceremony with a second woman while the first marriage is subsisting. In such cases a second woman merely has the status of a concubine. I think a husband should be guardian of his wife and children and should maintain them. Personal attendance of the bride before the Registrar might be dispensed with, I think. Wife's father's brother's children, and wife's grand-father's brother's children are within the prohibited degrees. The Bill should recognize that all customary restrictions as to consanguinity and affinity should be retained.

The Tiyanis of South Malabar have no objection to form "Mangalam" with a Marumakkathayam Tiyan of North Malabar. The Marumakkathayam Tiyan of North Malabar may marry a Marumakkathayam Tiyan of South Malabar, but she ought not to marry an Izhuvar.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Tellicherry, }

22ND MAY 1891. }

H. M. WINTERBOTHAM,

Collector and Commissioner.

Witness No. 19.

KUNYAM VÎTIL RAMAN NAYAR.

Sivapuram amsam, Kottayam Taluk. Age 45. Adhigari and Karanavan of Tarawâd.

I have submitted my answers to the interrogatories. The Majority are opposed to legislation in the direction of Mr. Sankaran Nayar's Bill. A few persons may be in favour of it. I am opposed to any legislation even if permissive. I strongly object to any change in the old custom. The "Pudamuri" is I think a sufficient marriage. If that is to be legalized I have no objection. If marriage were legalized in such a way as not to interfere with the present rule of succession I should not mind. I am in favour of polygamy on

proper grounds. Divorce should not be allowed except on sufficient grounds. I have never heard of a capricious divorce in my amsam. The sufficient grounds are adultery, incurable disease, disobedience, lunacy. A woman cannot divorce without her Kâranavan's approval, nor can a man divorce without his Kâranavan's approval. I think the Kâranavan should be the guardian of all children in his tarawâd. If a Kâranavan sees that a father neglects his children, the Kâranavan will remove them to the tarawâd house. I can't give any instance of the Kâranavan having done this. The Kâranavan's right to take the children from the father should be maintained when the interest of the children require it. I consider that a Kâranavan is bound to maintain all the children in his tarawâd, even if he has no tarawâd property.

I have three male Andaravans living with me. All are married and two of them have children. They have no self-acquired property. I maintain all of them. My only niece and her four children are living with her husband in his house. This is in accordance with the general practice in North Malabar. Those who spoke to me in favour of the Bill are mostly Tiyanis, very few Nayars. I heard 14th witness' evidence. I agree with him that every Nayar is under the jurisdiction of one or the other of the Kovilagams in matters of caste dispute. It is only in important cases that the matter will be referred to the Kovilagam. In small matters the caste men of the locality settle the dispute.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Tellicherry, }

23rd May 1891. }

H. M. WINTERBOTHAM,

Collector and Commissioner.

Witness No. 20.

MANIKÔPH KÊLAN.

Marumakkathayam Tiyan.

Am an Andaravan in my tarawâd. Mailânjanmam amsam, Kottayam Taluk. Age 55. Am an astrologer. I have submitted my answers to the interrogatories. The few in favour of the Bill are mostly Tiyanis. Of the educated Tiyanis the majority are in favour of it i. e. a majority of those to whom I have spoken.

I would give one-third of a man's self-acquisitions to his wife and children if he died intestate. In general I would have the father guardian of his children, but I would maintain in the Kâranavan power to interfere in the interests of the wife and children.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Tellicherry, }

23rd May 1891. }

H. M. WINTERBOTHAM,

Collector and Commissioner.

Witness No. 21.

PAYANÂDAN KUNYI KANNAN.

Dharmatam Amsam, Kottayam Taluk—Age 47.

Am Karanavan managing tarawâd. I have sent in my answers to the interrogatories. Answer 44 (b):—I mean if wife and children do not live with the husband and father when he wishes them to do so, they ought not to be able to claim maintenance from him.

Answer 40:—I should wish all customary restrictions on marriage to be maintained otherwise I am in favour of the Bill.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Tellicherry,

23RD MAY 1891

H. M. WINTERBOTHAM,

Collector and Commissioner.

Witness No. 22.

PUVĀDAN CHERIA RAMAN.

Age 53—Marumakkathayam Tiyan—2nd Grade Pleader—Cannanore—Native Amsam is Mailanjanmam, Kottayam.

I have submitted my answers to the interrogatories today. I have read Mr. Logan's account of the marriage ceremonies of Tiyans at Pages 16 and 17 of Appendix I. I do not consider it accurate. I think there would be no diversity in marriage ceremony in North Malabar among Tiyans.

I say that the Tālikettu Kālyanam and the 'Mangalam' take place as one ceremony on the day of marriage in all cases where the future husband has been fixed upon. I don't know the term "Adayālam" as applied to the payment showing conclusion, of the bargain. I call that "Kānam" and I say the proper minimum amount is eleven fanams. The groom will not be accompanied by two men, but only by one man. What is stated about the uncle's son is correct. After the wedding-feast, the bride's party counts the guests, and the bridegroom's Tandān then pays the bride's Kāranavan a sum calculated at one or two fanams per head. This is called "Kanyī-Kānam" and will sometimes amount to a large sum. I know of suits having been brought to recover this Kanyī Kānam when the wife has deserted the husband without sufficient grounds. Such suits have always been dismissed. The amount, or part of it, is often recovered by arbitration amongst the caste people. There are variations as to the amount paid as 'Kānam' in the sense I use the word.

I am in favour of legislation to legalize marriage. I think a majority of the Tiyans both educated and uneducated are in favour of marriage being legalized. Those who have large tarawād property oppose it. I should say 70 per cent of the Tiyans are in favour of it. In the majority of cases the tāli-kettu takes place before a husband is fixed upon, because the tāli-kettu must be performed before the girl attains puberty. According to ancient practice the tāli would always be tied by a barber-woman. The practice of getting it tied by the proposed husband dates from about 30 years back, and was introduced by Mr. Churia Kanāran (Deputy Collector) supported by Karai Bāppu, merchant, and all the chief Tiyan officials. We Tiyans never term marriage as Mangalam. Mangalam is a new-fangled term. The proper word is "Pen-Vāzhcha". When we say Kālyanam, we mean Tāli-kettu-Kālyānam. Fathers possessing self-acquired property generally settle from $\frac{1}{4}$ to $\frac{3}{4}$ on their wife and children. Some persons give all their self-acquisitions to the wife and children. Some give all to the tarawād. The father in my opinion should be guardian of his children. *De facto* he is now generally the guardian. Where the father ill-treats his children I would reserve for the Kāranavan a power of interference.

If the new Act forbade polygamy, I should still wish for it. If adultery be made the only ground on which a wife can be divorced, I should still wish for it. The ceremony called "pen-vāzhcha" will never be undergone with a second woman while the first 'wife' is alive. If a Tiyan takes a second woman during his wife's life, she is never brought into the same house with the 'wife' and is merely regarded as a concubine. She is called Veippāti. The connection is called "Vidāram Kayruga". I think polygamy may be prohibited. In North Malabar a woman never at any time has been allowed to take two husbands

at once. The Tiyan wife in North Malabar customarily lives with the husband and the husband maintains and educates the children. She never lives in the tarawād except for tarawād necessity and with her husband's permission.

Adultery is the only reasonable ground of divorce. Some few consider that "bad temper" is a sufficient ground of divorce. The caste Kāranavans sometimes permit a divorce for incompatibility of temper. Sometimes a second 'marriage' is permitted where the 1st 'wife' has an incurable disease.

When the Kānam is paid at a wedding, a middle-man called Nadukāran proclaims "a youth (naming him) of such and such an Illam is hereby married to such and such a girl of such and such an Illam" The one form of marriage known as "Pen Vāzhcha" prevails amongst all North Malabar Tiyans as the only recognized proper 'marriage.' All I desire is that the approved incidents of marriage should be attached by law to our Tiyan marriage, in the simplest possible way.

I would retain the customary restrictions as to consanguinity or affinity. Marriages are never or very seldom contracted by an Anandaravan without the Kāranavan's consent. When a man divorces his 'wife,' his Kāranavan communicates the fact to the wife's Kāranavan in the presence of witnesses. This is called "Nyāyam Kodukka," or "ācharam tirkka."

Taken down by me in the presence of the Commission; read over to the witness who understands English and admitted by him to be correct.

Cannanore,

25TH MAY 1891.

H. M. WINTERBOTHAM,

Collector and Commissioner.

Witness No. 23.

KĀRĀI KRISHNAN.

Marumakkathayam Tiyan—Age 38—Tellicherry Amsam—Sub-Registrar of Cannanore.

I have submitted my answers to the interrogatories. I have heard Mr. Puvāden Raman's statement. I concur in his account of the Tiyans' usages. In all important respects I agree with his opinion as to the expediency of legislation to legalize marriage.

A woman can terminate a union by simply leaving, and stopping away from, her husband for a year—one Ōnam and Vishu. If the husband wants to get rid of his wife he simply sends her away from the house. I would make adultery the only ground for divorcing a wife. On decease of a wife intestate, I would have her self-acquisitions go to her children only and would thus prevent the possibility of the husband giving his share to offspring by a second marriage. I would have the power of making a will free of any restriction. In 1878 my father gave me and my sister some landed property representing about $\frac{1}{4}$ of his self-acquisitions. The rest went to the tarawād. People usually now leave from $\frac{1}{4}$ to $\frac{3}{4}$ to the children. Something is generally reserved for the tarawād. The present inclination of fathers is to give the whole of their self-acquisitions to their children. In case of a man being the last member of his divided tāvazhi I would have his property go to the attāl-adakkār and not to his children.

Taken down by me in the presence of the Commission; read over to the witness who understands English and admitted by him to be correct.

Cannanore,

25TH MAY 1891.

H. M. WINTERBOTHAM,

Collector and Commissioner.

Witness No. 24.

MÂMBEYIL SANKARAN MÂRÂR.

Age 32—Puzhâdi Amsam—Chirakkal.

Am a second Grade Vakeel practising in Cannanore. Am a Matriculate. I think legalization of marriage is generally desired by the Mârâr, Vâriyar, Pishârôdi and Nambishans (temple Nayars) and by Nayars generally, by such of them as are educated. I can't speak about the uneducated. I should say 20 per cent. of the above named classes are educated. I am the Kâranavan of my tarawâd. 'Puda-muri' is considered by my class, Mârâr, to be the proper form of marriage. When Nambudiris and Patters contract a union with a woman of the Mârâr, Vâriyar, Pishârôdi and Nambishan caste, it is by 'Puda-muri.' I cannot say whether our women would like to give up the present practice of consorting with Brahmans. The Brahman will call himself the "Bhartâva" (husband) of the woman. I think both Nambudiris and Patters would do so. Where a woman's consort is a Brahman she will generally live in her own tarawâd house. There is no objection to one of our women living with her Nambudiri consort in a Nambudiri illam. In such cases her food is given to her by the Nambudiri females, as she cannot enter the kitchen. Where a man is the last member of a divided tâvazhi, I think the claim of the attâl-adakkakâr should prevail over that of the children. In case of intestacy I think the self-acquisitions should go to children and tarawâd half and half. I would allow the Kâranavan's right of guardianship to prevail where a father abused his right by neglecting or illtreating the children.

I think adultery should be the only recognized ground of divorce. Desertion by either party for one year is now accepted as a sufficient divorce. I think it would be rather better to abolish this practice, and I believe that to be the general wish. I object to the provisions as to registration because our women object to go to public offices. To obtain the attendance of the Registrar entails expense and most of our classes are very poor. Speaking for the Mârâr, a man might marry into his deceased wife's tarawâd. I don't know about the other divisions. Marriages are generally contracted by a man with his Kâranavan's consent. As to divorce the Kâranavan is not always consulted. His assent is not indispensable.

Taken down by me in the presence of the Commission; read over to the witness who understands English and admitted by him to be correct.

Cannanore,
25th May 1891.

H. M. WINTERBOTHAM,

Collector and Commissioner.

Witness No. 25.

KUNNATHA MANAYIL SUBRAMANIAN TIRUMUNBU.

Age 50—Payyanûr Amsam—Chirakkal Taluk—Kâranavan of the tarawâd—Marumakkathâyam Nambudiri.

The marriage ceremonies of the Marumakkathâyam Nambudiris are just the same as of the Makkathâyam Brahmans. We only intermarry in our own Grâmam (villages). As all the people of the Grâmam live close together there is no settled practice as to the wife's residence. Sometimes she lives with her husband; sometimes in her own illam.

Our marriage ceremonies are the same as all the Nambudiri Brahmans observe. So far as marriage is concerned we are under the ordinary Hindu law. I have janmam property paying about Rs. 200 to Government. I have about 50 tenants, Tiyan and Nayar and Idayar. Our people require no new marriage law; nor do any of my neighbours of other castes. Some of my Nayar tenants can read and write. Few of the Tiyan tenants could do so. I can only speak for my part of the country. People here, at Cannanore, may want such

a law for all I know. Payyanûr is 24 miles from Cannanore. Amongst Nayars there may be rare cases of adultery on the part of the woman, but it is nowhere recognized in North Malabar that a Nayar woman should have two husbands at the same time. Polygamy is rare. There may be one case in a hundred marriages. I know of no instance now of a Nayar having two wives. I knew of a case some years ago.

Divorces may be brought about by a quarrel between the two families, or between husband and wife. There is no rule restricting divorce to any certain ground. Amongst the Nayars there is no caste enquiry or punishment if a woman has sexual intercourse with a stranger of an equal or higher caste with whom "Puda muri" might be contracted. In such cases most husbands would send the woman away. Some husbands might overlook it, for some reason or other. If a Nayar woman committed adultery with a lower caste-man she would be turned out of caste. I have never heard of a Nayar woman having to be out-casted in this way. Most unions among the Nayars last for life. Amongst the higher divisions of Nayars and amongst educated men, perhaps 5 per cent may divorce a wife. Amongst the lower sort, who indulge in liquor, perhaps 50 per cent change their wives. Nayar divorces are generally caused by litigation between the two tarawâds about land, by quarrels regarding non-contribution to ceremonies, adultery &c. After divorce the father sometimes still contributes to the maintenance of the children. Some of the grown-up children will occasionally remain with the father after the mother has been divorced.

Amongst the Marumakkathâyam Nambudiris, there is no objection to each of the adult males in a family marrying a Nambudiri female. Our males like other Nambudiris consort with Nayar females by "puda muri," and exactly the same ceremony is gone through whether the husband is a Nambudiri or a Nayar. We Nambudiris don't look on it as marriage, because there is no Mantram or Karmam (ritual.) Most of the Nayars in my locality do not settle any property on wife and children by gift *inter vivos*, because they regard their nephew as the proper heir. The number of cases in which the Nayar wife lives in her husband's house may be about equal to the number of cases in which the wife lives in her tarawâd house. All well-to-do people amongst the Nayars would have their wives living with them. Amongst the Marumakkathâyam Nambudiris the husband is not the guardian of the wife and children. The Kâranavan of the wife's natural tarawâd is the legal guardian. The wife can never be divorced, or marry again after becoming a widow. No doubt this raises great difficulty. There are many cases in which the wife's duty to her husband is in conflict with her duty to her Kâranavan. There is no help for it. Amongst us the Marumakkathâyam Nambudiris, the wife does not change her illam or gôtram by marriage. The husband and wife belong to two different gôtrams. The wife retains her mother's illam name. So do her children. Amongst the Marumakkathâyam Nambudiris, we have hardly any men with self-acquisitions. We have got plenty of debts. Self-acquisitions, if there were any, would lapse to the illam in case of intestacy, unless the husband made a gift to his wife *inter vivos*. We do occasionally get a Makkathâyam Nambudiri husband to marry a woman in our illams. He comes and lives in our grâmam, and is supported. It entails no disgrace upon him with his own family.

Amongst us the tâlikattu and the pânigrahanam both are necessary parts of Vivâham (marriage.) The tâlikettu takes place immediately before the pânigrahanam. The husband has no right to tie the tâli. The mother of the bride ties it. There is no pânigrahanam among Sudras. I think the Nayar tâlikettu was instituted in imitation as far as possible of the Brahman Vivâham. In the "puda muri" there is nothing of a religious nature—no religious element. It simply consists of the cloth giving, and gift of money. For the tâlikettu an auspicious hour must be fixed and this is a religious element. For the "puda muri" ceremony there is no necessary Muhûrtham. In the "Vidâram Kayruga" there is no cloth given. The "puda muri" should be celebrated if the union is to be regarded as respectable. I know of no case of a Nayar man going through "puda muri" with two women, but there is certainly no objection. In case of "Vidâram kayruga" the woman always is visited by the man at her house. The woman is still called "bhârya." She would never be called Veippâti or Concubine.]

The Kērala-Mahātmyam, I have seen as a grantham in Tāzhēkkāt mana. It is reputed to be the composition of Vyāsa Rishi. I am a Sanskrit scholar. I have never met any reference to the Kērala-Mahātmyam in any Sanskrit book. I have a grantham regarding the 64 Anācharam supposed to have been composed by Sankarāchāriar. There is no reference in it to Kērala Mahātmyam.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Cannanore, }
25th MAY 1891.

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 26.

POTHĒRI KUNYAMBU.

Second Grade Pleader Cannanore—Age 34—Puzhādi Amsam.

I have sent in my answers to the questions. I heard Mr. Puvādan Raman's evidence. I may say that I agree with him on all essential points. I should say that it is always the barber woman who ties the tāli at a Tiyan tāli-kettu. I think the details may fluctuate a good deal in different dēsam. I am an anandaravan in my tarawād. Am a Mātricate. There are more educated and influential Tiyans in the vicinity of Cannanore, than in the rest of the Taluk. Any new custom adopted by the Tiyan community in Cannanore is gradually adopted by Tiyans throughout the Taluk. I think a majority of the educated Tiyans are in favour of the proposed legislation—perhaps 50 per cent. may be. Of the uneducated some are in favour; others don't understand the matter and are neutral.

Taken down by me in the presence of the Commission; read over to the witness who understands English and admitted by him to be correct.

Cannanore, }
25th MAY 1891.

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 27.

ĀYILLATH KUTTĒRI ANANDAN NAMBIYAR.

Age 49—Irivēri amsam—Chirakkal—Kāranavan of Tarawād.

Belong to same tarawād as District Munsiff Chāthu Nambiyar, but to a divided tāvazhi. Am adhigari of Irivēri amsam, 8 miles north east from Cannanore. I have to-day submitted my replies to the interrogatories. People are satisfied with the existing state of things as to marriage customs, and want no change. I have consulted two or four persons and they were of this opinion. People say generally that there is no need of a marriage law. Both Nayars and Tiyans think so. I only speak of my own amsam. There are no people in my amsam who have studied English. The population of Irivēri is 3000 odd.

Some fathers provide for their children by gift *inter vivos*. Only a few do so. They will give half of their self-acquisitions to their children. A Nayar woman will never have two husbands at the same time. Cases of polygamy are very rare. I can't remember a single instance of polygamy in my amsam. I know of an instance in Māniyur amsam. There was no justification for it. Both wives lived with him in his own house. He united himself to both by 'puda-muri' ceremony. That polygamous union is still continuing.

The 'puda-muri' is dissoluble at will by the husband. The wife can't terminate the union except with her Kāranavan's and kinsmen's consent. The union of a man and woman, as a rule, lasts for life. I can't remember a single instance of divorce in my amsam. As adhigari I know about all that goes on in my amsam. Incurable disease, disobedience

disability on the part of the husband to maintain wife and children properly, adultery on part of either man or woman, are considered reasonable grounds of divorce. There are three tāvazhis in my tarawād divided 30 years ago. The three have now no community of interest. My tāvazhi now occupies three separate houses. We have, some of us, received gifts of property from our father. Our tarawād women live with their husbands. The males of my tāvazhi have all their wives living with them in three houses. The wife must leave her husband's house before his corpse is removed out for cremation. In my part it is invariably a Brahman who ties the tāli. When the wife is sent away from her husband's house on his death, the heirs present her with cloths and money according to their means. 32 fanams is the minimum. This is intended to be for one year's maintenance. After the 41st day after husband's death, his heirs will go to the widow and pay her a further sum and some cloths according to their means. The 41st day completes the funeral ceremonies. For the 41 days the son offers funeral cakes for the father on each day. So do the nephews also. On the 41st day a feast to Brahmans, kinsmen and friends is celebrated by nephews and sons. The nephews and sons each celebrate it in their respective houses. Sometimes the sons and nephews observe diksha for a twelve-month. In the case of death of a Rajah or Brahman father there is no diksha nor do the sons perform any funeral ceremonies. A Nayar's nephews are the persons bound to perform his funeral ceremonies, but the sons have also done so from time immemorial. I think the law should provide that half a man's self-acquisitions should go to his children in case of intestacy. I also desire the power of testamentary disposition of self-acquisitions. There is no religious element in our 'puda-muri' ceremony.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Cannanore, }
26th MAY 1891.

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 28.

KOTIETH KÔRAN VAIDIYAR.

Marumakkathāyam Tiyan—Anjarakandi Amsam—Chirakkal Taluk—Age 65—Native doctor—Kāranavan of the Tarawād.

I have no objection to a permissive marriage law if proper freedom of divorce be maintained. Misconduct, bad temper, incurable disease, should enable a man to divorce or to marry again.

Only half a man's self-acquired property should go to his wife and children. I would restrain a man's power of alienation of self-acquisitions to one half, the other half should go to the whole Tarawād, not to Tāvazhi. The act should define 'self-acquired property,' or there will be constant disputes. I would define self-acquired property as property of which the title deeds are in the husband's name. Females should be exempted from appearance before the Marriage Registrar. Polygamy should be abolished. It is usual for even adults to obtain the Kāranavan's consent to marriage, but it is impossible to prevent marriage if two adults determine on it. The Tiyans are divided as to the expediency of the proposed legislation. Most of those I have spoken to are for it. Anjarakandi is twelve miles from here. I have spoken to several, both in my amsam and in the neighbouring amsams. There are very few Tiyans in my neighbourhood who have studied English.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Cannanore, }
26th MAY 1891.

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 29.

MAYIL MĀNIKKOTH KÔMAR NAMBIYAR.

Age 51—Adhigari of Kairalam, Chirakkal Taluk.

Am Kāranavan of my Tarawād. I have sent in my answers to the interrogatories. I am in favour of the proposed legislation. Females should not be compelled to attend before the Registrar. The fee should be as low as possible. I approve entirely of section 44 of the Bill. Adultery is the only just ground of divorce for either man or woman. Capricious divorce would not now be tolerated in any respectable tarawād. In my amsam and the neighbouring amsams, most of the people with whom I have spoken are in favour of the Bill with the proviso that females should not be compelled to appear before the Registrar. The population of my amsam is 4,000 and odd. It is 16 miles from here N. E. The women in a Nayar family do not engage in discussion or talk with the senior males. Most of them know nothing. Those who are intelligent are greatly rejoiced at hearing about the Bill. I advocate their exemption from appearance before the Registrar, because the women with whom I have spoken so object to it. The Nayar women will not even generally speak to the senior males in their own tarawād except if there be special occasion. The elderly females may talk with visitors who come to the house.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Cannanore, }
26TH MAY 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 30.

KANDÔTH CHĀTHU NAMBIYAR.

Age 80—Edakkād amsam, Tarawād Kāranavan managing tarawād.

No one wants any change in existing custom. I don't want it; nor does any one else. I have not heard anything about the subject until 10 days ago. I live 4 miles from Cannanore. As far as my knowledge goes no one, either Nayar or Tiyan, desires a change in long established and revered customs instituted by Sri Parasu Rāma, when he created the land of Kēralam. I am representative of a chieftain family, holding land from Government at a favourable rate. I pay Rs. 700 odd to Government.

Taken down by me in the presence of the Commission.

NOTE.—This witness was very deaf and the nature of his evidence made it unnecessary to read over the deposition to him.

Cannanore, }
26TH MAY 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 31.

ARAYATHA CHĀTHU NAMBIYAR.

Age 40.—Chembilôd amsam, 5 miles East of Cannanore.

Am anandaravan in my tarawād—Adhigari of the amsam. I have not written replies to the interrogatories. In my neighbourhood the people are divided as to the expediency of

the proposed marriage law. The majority are against any change. Those in favour of change desire that their self-acquired property should go to their wives and children. My own opinion is that half a man's self-acquisitions should go to his children. That is what all those in favour of change would wish. Respectable females would consider it a great disgrace to be forced to appear before the Registrar. If the Registrar attended the marriage that would not be objectionable. Capricious divorce should, I admit, be restrained. Adultery, permanent sickness, are the usual grounds of divorce. I can't mention a single instance in which a Nayar has divorced his wife in my amsam. The population is about 4,000. I belong to a tarawād which formerly was a Nādu-Vāzhi (chieftain) family. We have ardha-māniam land and I pay about Rs. 200 Government assessment. There are four leading Nādu-Vāzhi tarawāds in Edakkād amsam, and mine is one of them. I think about 700 people in my amsam might be in favour of marriage legislation. Nayar ladies generally live with, and are maintained by, their husbands. Husbands *de facto* look after and maintain their children. The Kāranavan only interferes with the children when the father dies or is unable to maintain them. I have heard the people discussing the desirability of legislation to legalize marriage for the last 3 years. Most of the 700 in favour of legislation would be Nayars.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Cannanore, }
26TH MAY 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 32.

PALLIYATHA CHANDU NAMBIYAR.

Age 56—Chembilôd Amsam—Tarawād Kāranavan.

I agree with the last witness that half of a man's self-acquisitions should go to his wife and children in case of intestacy. The other half should go to the man's own tāvazhi, not to the distant manager of the tarawād.

Now the practice is for a Nayar to support his wife and children as long as he lives. If the new law is in accordance with this I see no objection. As far as I have enquired I should say that all the people in my amsam are against legislating to legalize marriage. Power of testamentary disposition over self-acquired property is certainly necessary. I pay over Rs. 400 as assessment to Government.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Cannanore, }
26TH MAY 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 33.

VENGAPETTA APPI.

Marumakkathayam Tiyan—Anjarakandi Amsam—Chirakkal—Tarawād Kāranavan.

My tarawād is called Kunathur. Vengapetta is my father's house name, which I have adopted. I heard what 28th witness Kōran Vaidiyar said and I agree with it. In Anjarakandi a majority of the people are Tiyan. I would not however fetter a man's power of alienating self-acquisitions. I think a majority of the Tiyan in Anjarakandi desire the proposed legislation. We have been discussing the matter for some time past. I took my father's

name because he gave me his property. The adoption of the father's name is a common practice amongst the Tiyans in North Malabar. They adopt the father's house name in addition to the Tarawâd name. I pay about Rs. 250 assessment to Government. My tarawâd is the wealthiest in my amsam. My father gave half his property to me. Half he divided between his younger brother's children and his attâl-adakkakâr. His property was partly ancestral and partly self-acquired.

Taken down by me in the presence of the Commisison; read over to the witness in Malayalam and admitted by him to be correct.

Cannanore, }
26TH MAY 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 34.

VENGAYIL KANNAN NAYAR.

Kâranavan of the Tarawâd—Age 52—Kuttûr Amsam, Chirakkal Taluk.

My Tarawâd pays a Revenue of about Rs. 5000. My tarawâd pays the highest assessment in my amsam. In my amsam and the neighbouring amsams I have about 5000 tenants. The majority of the people do not desire a marriage law. No one desires it either in that amsam or the neighbouring amsams. I have both Nayar and Tiyans tenants. They are about equal in number. I have spoken to many about this Bill. They are all against this Bill. 'Puda-muri' is considered a binding marriage. It is so both among Nayar and Tiyans in North Malabar. Divorce is rare. The union generally lasts for life. The population of my amsam is between 3 and 4,000. My amsam is twentyfive miles distant from here in the northern direction. Leprosy, incurable diseases, adultery are the usual grounds for divorce. I don't now remember any case of divorce in my amsam. The husband or wife must consult his or her relations and obtain their consent to effect a divorce. That is the usage of North Malabar. There may have been instances of divorce amongst poor people, but I don't remember an instance among respectable people. Fathers do in some cases give property to their children. Father not having members of Tarawâd, will give some share of his property to his children. If a man has property worth Rs. 10,000 he gives about 2 or 3000 to his children. He also gives something out of the income of tarawâd property to his children. The anandaravans do not generally object. It is only out of the income of the Tarawâd that any gift is made. Fathers give one fourth to half of their self-acquired property to their children. No respectable man will say that the present 'Puda-muri' is not a binding marriage. The permissive marriage law will create dissensions among Enangans, or caste men. Litigation would follow. Adultery with another man's wife ought to render the adulterer punishable. A man who entices away another's wife ought to be punished. If that is not the law, the law ought to be amended. Respectable people don't countenance polygamy. Anything which would be considered to justify divorce might also be considered to justify a second marriage, amongst the lower sort. A woman can divorce for any reason that would justify a husband in divorcing. No Nayar here takes a second wife without divorcing the first unless he is a "pokkiri" (disreputable character.) Bigamy is now a caste offence. It should be punishable under the Penal Code.

After the days of mourning are over, the heirs of a deceased husband go to the widow and tell her that as the man is dead the marriage is dissolved, and they pay her some money and cloths. Unless this ceremony was observed the widow would not consider herself at liberty to remarry. In case of rich people the sum thus paid by the heirs to the widow might amount to Rs. 200. Poor people would give 2 or 3 rupees. If a father die without providing for wife and children, it is the practice for his tarawâd to provide for his wife and children out of his self-acquired property. I myself have given part of my deceased Kâra-

van's self-acquisitions to his wife and children. If the widow and children are unprovided for, the deceased husband's Kâranavan will often maintain them in his house. The father is now the *de facto* guardian of his children. The Kâranavan very rarely interferes with them, although he has the legal right. I cannot now remember any instance of the Kâranavan interfering with the father's *de facto* guardianship. 'Tâlikettu' and 'puda-muri' are both old customs. In the Tâlikettu a Brahman pours consecrated water on the girl's head. In 'puda-muri' gifts are made to Brahmans, but there is no religious element in the ceremony. Marriage is forbidden in one's own or one's deceased wife's tarawâd. Nayar women would object to appear before a Marriage Registrar. As the marriages are celebrated with publicity in the presence of many respectable people, what other evidence is needed? In cases of intestacy it is not desirable to provide that self-acquisitions should go to wife and children. The Marumakkathâyam heir will always provide for them sufficiently. The caste people would insist upon it. No law to compel such a provision for children is therefore wanted.

Taken down in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Cannanore, }
27TH MAY 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 35.

MÂNIKKOTH KRISHNAN NAMBIYAR.

Age 64—Kuttiyatûr Amsam, 12 miles North-East of Cannanore.

Pay Rs. 120 and odd assessment. Am Kâranavan of Tarawâd. I have heard what the last witness has said. I see no necessity for a new marriage law, but I see no objection to legalizing the present form of marriage known as "puda-muri". When a Nayar dies intestate leaving self-acquired property it is the custom for his tarawâd to provide for his wife and children. It will only be a small share, according to the pleasure of the heirs. Some fathers provide for their children by gifts *inter vivos*. It is impossible to say what share is generally given. I can see no use in providing a law to legalize a practice already in vogue. If a law must be passed, I would give $\frac{1}{4}$ of self-acquisitions to wife and children in case of intestacy. I am not in a position to say what the feeling of the Nayars generally is. Mine is one of the big tarawâds in my amsam. The practice here is for the father to be the guardian and protector of his children as long as he lives. Then the Kâranavan will protect them. I know of no instance in which the Kâranavan has used his power as guardian against the father. The Kâranavan's consent is requisite in cases of marriage and divorce. Both man and woman should obtain their respective Kâranavan's consent. In a 'Vidâram Kayruga' marriage the only difference is that the wife remains in her own house and no cloth is given. The woman must have her Kâranavan's consent, and is regarded as a wife and is called "bhârya". If the wife is to be brought to the husband's tarawâd house the 'puda-muri' ceremony must be gone through in every case.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Cannanore, }
27TH MAY 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 36.

VALIYA VÎTTIL RÂMAN MÂRÂR.

Malappattani amsam, 16 miles East of Cannanore—Tarawâd Kâranavan.—Age 64.

I pay 70 and odd Rupees assessment. Most people are against a marriage law altering existing custom. If the existing customs are unaltered I see no objection to "puda-

"muri" being recognized by law as a legal marriage. People could not afford to pay the Registrar to attend a marriage. I suggest that the Adhigari and Menon should attend, and register the marriage in a book, which should be deposited in the Taluk at the end of each year. I know of cases in which Nayers have three, or even four wives at the same time. They are not generally respectable men. Personally I think, polygamy should be stopped. I should say the majority of the people are opposed to the proposed marriage law, but a minority desire it. Those who love their wives and children want the Bill; those who love their anandaravans don't want the Bill. Amongst those who desire the Bill, both educated and uneducated, Nayers and Tiyans, and persons who have studied English may be found. Adultery, disobedience and barrenness are the customary grounds of divorce and they should be upheld. The Kâranavan's consent is usually obtained for "puda-muri" and for divorce. If an anandaravan married or divorced without Kâranavan's consent, his maintenance would be stopped. The wife would not be allowed to reside in the husband's Kâranavan's tarawâd house.

If a man is the last survivor of his tarawâd and has no relatives possessing "Mudal Sambandham," I would let the property go to his wife and children.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Cannanore,
27TH MAY 1891.

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 37.

KORÔTH VITTIL KRISHNAN NAMBIYAR.

Mundêri Amsam, Chirakkal—7 miles from here North-East—Age 46.

Kâranavan of my Tâvazhi. Five or six Tâvazhis in my Tarawâd living separately, and enjoying property separately, but not divided in interest. I have been invited to attend. My Tâvazhi pays Rs. 170 to Government. The whole tarawâd pays about Rs. 270. I am the Adhigari of the amsam,—now on leave. The population of my amsam was over 5,000 in 1881. I think the number of Nayers and Tiyans would be about equal. The Tiyans are all Marumakkathâyam. It is the ceremony of 'puda-muri' which makes a couple man and wife. In tâli kettu a Brahman ties the tâli. This is not a marriage. There is no religious element in 'puda-muri' form of marriage. There is another form of marriage called 'Vidâram kairuga.' In that no cloth is given, but the parties live as man and wife. The woman has the same status as if 'puda-muri' was performed, but she is not brought into the husband's house. If she is to be brought into her husband's house she must go through the 'puda-muri' ceremony in full. I am not acquainted with the customs of the Tiyans. Many Nayers perform *Vidâram-kairuga* marriage first and 'puda-muri' with the same woman afterwards. The reason for preferring *Vidâram-kairal* is that it entails little expense. The *Vidâram-kairal* is not restricted to a man who marries a second wife in the life-time of the first. Virgins may be married by *Vidâram-kairal*. The only difference is that until 'puda-muri' she cannot be brought into the husband's house. In my opinion there is no objection to passing a permissive marriage law. I have been sick and on leave and I don't know what the public feeling is about the Bill. I have not considered what are the proper restrictions as to consanguinity and affinity. Fathers do generally give property to wife and children from their self-acquisitions. There is no rule as to the portion. Each man follows his own idea. If a man died intestate, half his self-acquisitions should I think go to his wife and children. When widow and children are left unprovided for, sometimes the father's tarawâd takes care of the orphans in the father's tarawâd house. No property will be given to them generally. Some tarawâds may give, if the deceased has left self-acquisitions. Gifts to the orphans from the property of their father's tarawâd are very rare. Wives generally

live with their husbands. Fathers are the *de facto* guardians of their children. I know of no instance of a Kâranavan interfering with the father's *de facto* guardian-ship. There are rare instances of polygamy. I don't remember any existing instance. Polyandry is an unheard-of thing in North Malabar. Disobedience, barrenness, adultery are the customary grounds of divorce. I have heard that there is no formality necessary. Anandaravan should not take a woman by 'puda-muri' without his Kâranavan's consent: neither should he divorce without such consent. I have never heard of a divorce brought about by a quarrel between the tarawâds of the husband and wife. Polygamy ought to be stopped, I think.

I object to brides having to appear before the Sub-Registrar. If the Registrar attends at the place of marriage I see no objection. I would retain the customary caste restrictions on marriage.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Cannanore
27TH MAY 1891.

H. M. WINTERBOTHAM
Collector and Commissioner.

Witness No. 38.

TIRUMÂSHI RAMA PODUVÂL.

Age 32—Taliparamba, 14 miles from Cannanore. 2nd Grade Pleader.

I am not the Kâranavan of my Tarawâd. I have submitted my answers to the interrogatories. I was educated at Cannanore, and am a Matriculate. I am in favour of a permissive form of marriage being legalized. A majority would probably object to 'puda-muri' ceremony being dispensed with. A majority would object to the bride having to appear before the Registrar. In cases of intestacy, I would have half the self-acquisitions go to the tarawâd and half to the wife and children. I agree to the other proposed rights as specified in section 44. I would retain the restriction on testamentary disposition. Wherever the Kâranavan's interference with the father's right of guardianship was for the good of the children I would give him the right of interference. I don't know of an instance in which on a man's death, his Marumakkathâyam heirs have made a payment to the widow equivalent to one year's provision for her and her children. I have heard that there is such a custom in some parts. In North Malabar, wives generally live with their husbands. If the husband has a separate house he maintains his wife. If he lives in his Tarawâd house his Tarawâd maintains her. I would retain polygamy on just grounds. I would retain customary marriage restrictions as to caste, consanguinity and affinity. I would retain the restriction of intermarriage between Nayers North of Kôrapuzha and Nayers South of Kôrapuzha. I attach no weight to the objection that the proposed law would create dissensions in families. The present union is dissoluble at the will of either party. It often happens that the husband divorces a wife. It rarely happens that a wife divorces her husband, though she has the power. In Taliparamba, I have witnessed 8 or 10 divorces amongst Nayers, Poduvâls, and Vâriars. Adultery, incurable and contagious disease, serious disobedience on part of wife are the usual grounds of divorce. I have known no instance of capricious divorce. I object to being obliged to resort to a court for divorce, but I am unable to suggest any alternative. I would not permit arbitrary divorce, but that is better than being dragged to court. I would have adultery, and enticing away a married woman made penal. The woman might be examined in such cases on commission. If a marriage law modified as I have suggested, were granted it would be popular with a majority of the people. At Taliparamba there are about 20 men educated like myself. I have only spoken to three or four about the Bill.

Two or three of them are in favour of it. I have spoken to some uneducated people and found some of them in favour of the Bill. I can't say approximately to how many I have spoken.

Taken down by me in the presence of the Commission; read over to the witness who understands English and admitted by him to be correct.

Cannanore,
28th MAY 1891.

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 39.

KÂNYIRANGÂTTA SHANGUNHI MENON.

Taliparamba amsam.—Age 46.—2nd Grade Vakeel.

Am Anandaravan in my Tarawâd. I can't speak English. I am in favour of a permissive marriage law. I have heard what last witness says and on most points I agree with him. I would not recognize the Kôrapuzha restriction. In case of intestacy, I would give only $\frac{1}{3}$ to wife and children and $\frac{2}{3}$ to tarawâd or tâvazhi. It would be better if the two-thirds went to the tâvazhi. I would postpone the tâlikettu till after puberty, and make that the valid marriage, doing away with 'puda-muri.' According to practice the man who ties the tâli does not cohabit with the girl, but he ought to be looked on as the husband. The meaning of the ceremony is that the man who ties the tâli should be the husband. In practice this is not now followed. I don't think registration should be indispensable. The present publicity should be sufficient as in the case of Makkathâyam marriage. If registration is indispensable, it might be performed before the Amsam Adhigari and Menon. Even if the Adhigari were a Mappilla, he might come to the house. Intelligent people think that the proposed legislation is desirable. I have spoken to 20 or 30 people on the subject. About half were in favour of the measure. The majority in my Amsam are uneducated. Even amongst them there is a difference of opinion as to the Bill. I have lived for 22 years in Taliparamba. My tarawâd is at Kottayam in Travancore and pays Rs. 500 assessment. I have not given up my domicile of origin. If I become Kâranavan I might probably return to Travancore. I married in Calicut.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Cannanore,
28th MAY 1891.

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 40.

MUTHÊDATHA ARAMANAKKAL KUNYI KÊLAPPAN MANNANÂR.

Marumakkathâyam—Mannanâr is a dignity conferred on my Tarawâd by the Chirakkal Rajah. It is hereditary—Age 34—Kanyilêri Amsam.

Our Sthânam is intended to afford a place of refuge to Nambûdiri females who have been turned out of caste for adultery with Nambudiris. I am the authority to decide disputes amongst Tiyanas. If my jurisdiction is invoked I exercise it, but otherwise I do not do so. If one side appeals to me that is enough to give me jurisdiction throughout North Malabar. Most fathers now provide for wife and children by gift *inter vivos*. Each man gives according to his pleasure. If he is the last member of his tarawâd, with no relative but attâl-adakkakâr, he will take care to give the property to his wife and children while he is alive. In cases of intestacy one-third might be a fair share to give to wife and children.

the balance should go to the deceased's own tâvazhi, not to the tarawâd Kâranavan, I believe the people wish to retain existing usages, so far as I know. I think an adulterer with another man's wife ought to be punished, but as existing custom does not permit it I have no definite opinion. Divorce is considered an adequate punishment for adultery. Amongst the North Malabar Tiyanas the wife lives with the husband, and he maintains her and the children. All the North Malabar Tiyanas are Marumakkathâyam.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Cannanore,
28th MAY 1891.

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 41.

ERAMBÂLA KÂMÂRAN NAMBIYAR.

Age 58.—Kaliyasheri, 8 miles from Cannanore.

Am anandaravan managing Tarawâd. I have sent in my answers by post last Tuesday (not received). I see no objection to a permissive marriage law for Marumakkathâyam people. Some say it is not necessary. A majority say so. Some amongst both educated and illiterate are in favour of the Bill. I pay Rs. 1,200 to Government. The number in favour of the Bill in my amsam will not be large. I would have $\frac{1}{3}$ of self-acquisitions go to wife and children in cases of intestacy, the $\frac{2}{3}$ to the tarawâd, not the tâvazhi. Even if there were only attâl-adakkakâr, I would let them have two-thirds. I would retain caste restrictions and the restrictions against marriage of North Malabar Nayar women with Nayars South of Kôrapuzha. Customary restrictions as to consanguinity and affinity should be retained. I object to registration of marriage before the Sub-Registrar. The present form of "puda-muri" is quite sufficient. If registration is indispensable, I would suggest that it be performed in a temple or before a pramâni (chief man) of the dêsam. Polygamy is rare. I don't know of any instance in my amsam or in the neighbouring amsams. I would stop polygamy. The husband should be able when necessary on just ground to divorce the wife and marry again. I don't know of any instance of a man divorcing his wife in my locality. Adultery, cruelty towards the husband are the customary grounds of divorce by a husband. I don't think husbands are cruel to their wives: I have known instances of wives being cruel to husbands. If a wife chooses to divorce her husband, she simply deserts him. There is no formality that I know of. The husband must always communicate to the wife's Kâranavan the fact that he has divorced his wife. The husband should obtain his Kâranavan's consent before divorcing. So the wife should obtain her Kâranavan's consent before leaving her husband. The marriage tie ought not to be dissolved except on reasonable grounds. It must not be left to the courts to decide whether the grounds are reasonable. Five respectable castemen or Enangars should decide the point. The court might select the arbitrators and the decision should be according to the opinion of the majority. This would be acceptable to the people. I would not allow divorce for disagreement of temper. I would allow divorce by mutual agreement of the husband and wife with the consent of their Kâranavans. If what I have suggested were made law, the new law would be generally accepted with approval.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Cannanore,
28th MAY 1891.

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 42.

KALLIYÂT CHÂTHU NAMBIYAR.

Kalliyât Amsam—20 miles East of Cannanore.—Age 45.

Am nephew of Kamâran Nambiyar, who is Kâranavan of the Tarawâd. He was too unwell to attend. I have read his answers to the interrogatories. I have no employment. I agree with my uncle that most people would be opposed to a marriage law, because it is opposed to long established custom. The present customary form of marriage is as good as a registered marriage. There is no one in my amsam who has more than an elementary knowledge of English, and but few such. The population is about 3,000, mostly Nayars.

I don't think it necessary that the children should receive any part of their father's self-acquisitions in case of intestacy. If a father dies without settling a gift on his children they should consider it their ill-luck. In such case if the wife and children were poor the husband's tarawâd would support them till their death in the tarawâd house of the husband. A respectable tarawâd would always support all the children of the male members, if the children required maintenance. Some fathers give about one fourth to their children; that is the highest fraction I have known of. Divorce is a sufficient check on adultery. The adulterer should not be punishable by the criminal law.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Cannanore.

28TH MAY 1891

H. M. WINTERBOTHAM.

Collector and Commissioner.

Witness No. 43.

EDAVAN CHINDAN NAMBIYAR.

Age 56.—Adhigari of Ezhôm.—12 miles North of Cannanore.—Anandaravan in Tarawâd.

I have heard the interrogatories read by the Revenue Inspector. By the census of 1891 the population of Ezhôm is over 8,000. There are many castes. Nayars and Tiyans are almost equal. Very few have read English. With modifications I think a permissive marriage law would not be objectionable to a majority. The Registration provisions should be altered. The bride could not appear before the Sub-Registrar. I would suggest registration in a temple, or before a panchâyat, or before the amsam officials. Then I think no one would object much. The great objection to the Registrar is that he may not be of the Nayar caste. One-third of self-acquisitions should go to wife and children as a minimum. I think two-thirds should be reserved for tarawâd. All customary restrictions should be retained as to caste, consanguinity, affinity and crossing the Kôrapuzha. I object to having to go to court for a divorce. I would retain the present custom. There is no divorce now without sufficient grounds. The caste men should decide whether the grounds are reasonable. Their opinion is now always asked by respectable men. Adultery and incurable disease are the grounds justifying divorce by a husband. Quarrelling and disagreement are not proper grounds for divorce. If the caste men found it was the woman's fault, the husband would be allowed to divorce after getting consent of the woman's Kâranavan. Divorce is not common in my amsam. I know 4 or 5 cases of divorce in my amsam. There was a proper enquiry by a panchâyat, and as we found the woman to blame the husband was allowed to divorce. I have not met an instance of capricious divorce. Even if an anandaravan be an adult he ought not to marry without his Kâranavan's consent. The absence of the Kâranavan's consent would not make the marriage bad, but the wife could not be brought to the tarawâd house of the husband. Besides 'puda-muri' the only other form of marriage is 'Vidâram Kairai'. The ceremonies in the latter are incomplete and the woman

can't be brought to the husband's house. 'Tâlikettu' must be performed before the girl reaches puberty. Polygamy is rare. There is no 'puda-muri' ceremony where the woman is of a lower division than the man. In such cases the woman is not termed 'bhârya'. There are instances of such cohabitation, but the practice is not frequent. In such case there is no formality. The man goes to the woman's house with a few friends and there is a feast there. The husband supplies the woman with oil and clothing, but no money. The woman is not looked down upon by her own caste people. In her tarawâd she and her children would be treated just like the sisters married by 'puda-muri' to a man of their own caste. I would stop polygamy. My tarawâd pays Rs. 300 to Government as assessment. I have nothing to complain of in the existing form of marriage. The legislation should retain all the present marriage rules. We Nayars of North Malabar do not consider our existing usages to be in any way disgraceful. It is only sons by 'Puda-muri' and 'Vidâram Kairai' who can perform their father's funeral ceremonies. If the woman is of a lower division than the man with whom she consorts, the man's tarawâd do not usually provide for the children after his death. If the father has left self-acquisitions and children by 'puda-muri' marriage unprovided for, the deceased's tarawâd will provide for them. There is no rule as to what share they should be given.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Cannanore,

28th MAY 1891.

H. M. WINTERBOTHAM,

Collector and Commissioner.

Witness No. 44.

T. V. ANANTAN NAYAR.

District Munsiff, Shernâd; Native place—Azhikôd Amsam, Chirakkal Taluk.

I have sent in my answers to the interrogatories. In my view "Vidâram Kairai" is not a marriage, because the wife does not get the full rights which a wife gets by "puda-muri." She can't even visit her husband's house, and does not attain the social status of "Ammal Sthânam." 'Vettillakettu' ceremony is the offering of betel leaves when the bride is taken to her husband's house. It takes place after "puda muri." This can't be performed in case of a woman who consorts with a man by 'Vidâram Kairai'. There is no "Dânam-Muhûrthan" to a Brahman in "Vidâram—Kairai." In Vidâram Kairai, the relatives are not invited to the feast by offering betel leaves. There is an intention in Vidâram Kairai to create the relation of husband and wife. It may be followed by "puda-muri" which would cure all defects. Consummation takes place at once in Vidâram Kairai if the girl has reached puberty. Vidâram Kairai is not considered to be concubinage. It is a defective form of marriage. It is largely resorted to especially by the poorer classes, to save the expense of the "puda muri." The children acquire no status in the father's Tarawâd. It is acquired if the mother is married by "puda muri." The husband will give the "Vidâram Kairai" wife oil, cloths, and "mêl-chilavu" (pocket-money.) The husband's Kâranavan will sometimes supply funds for the 'Vidâram Kairai' wife, not as a matter of obligation but as a matter of social usage. I can't say which is the more primitive form of marriage Puda-muri or Vidâram Kairai. I know of nothing which can be taken to indicate that "puda muri" is a newer form than the other, due to advancement in civilization. "Ūzham porukkuga" is not a form of marriage known in Chirakkal. It is used in Kadathanâd. Ūzham—in turn or by rotation—porukkuga—to live. The term would mean "to live in rotation." I don't think this points to a time when polyandry prevailed. In my opinion there is no foundation for believing that polyandry ever prevailed in Malabar. I can say positively that it is unknown in North Malabar. If a permissive Act is to be passed, I think Government should appoint a paid caste Registrar so that the bride may attend before him without scruple. There should be one for every

amsam or group of amsams. I think that people of North Malabar are averse to any change. Perhaps about 100 educated young men in North Malabar may be busying themselves to promote the proposed legislation. That is only a guess of mine. A majority of English educated men are in favour of recognizing the existing form of marriage as a legal marriage, if the law of succession is not interfered with. In lieu of 44 (d) I would make the maintenance of wife and children a charge upon the self-acquisitions, or I would give wife and children definitely one-fifth of such self-acquisitions. I should specify adultery, habitual disobedience tending to adultery, desertion for two years, loss of caste, incurable disease, cruelty such as to endanger health, as reasonable grounds on which a husband can divorce. The principle of reciprocity requires that the wife should be allowed to obtain a divorce if her husband commits adultery. I would establish a caste tribunal to adjudicate on cases of divorce. The existing courts might be invested with matrimonial jurisdiction in such a way that they should refer matrimonial disputes to a caste panchayat. I object to family scandals being made public. Or caste tribunals might be appointed for specified areas. Or the parties might be asked to nominate arbitrators, and if they omit to do so, the court might appoint. The caste tribunals should be honorary. I think fit men could be found to serve without remuneration. I would altogether omit the section permitting a suit for restitution of conjugal rights. If it is inserted I would have the decree enforceable by attachment of property only and not by imprisonment. I would prohibit polygamy, except where it is allowed by Hindu law in ancient smritis, viz for barrenness and production of female issue only. I consider that a Nayar requires a son to perform his funeral obsequies. The sons now are doing this in practice although they are not heirs. The nephews are the persons bound by custom to perform such ceremonies. If a man has none but attâl-adakkam heirs, I would still restrict the share of widow and children to one-fifth. If a Nambudiri marries a Tamburatti (princess) there is no "puda muri" ceremony in North Malabar. There is a feast at the Kovilagam, but of this I am uncertain. If a Nambudiri marries a Nayar lady (lower than a Tamburatti) the ceremony of "puda muri" is celebrated. In the former case the union is regarded as a marriage, although there is no ceremony and the union is dissoluble at will. There is no doubt that the Tamburatti can divorce the Nambudiri. I am not sure whether the converse holds good, as the Nambudiri receives a money allowance. Children of Nambudiri by a Nayar lady do not perform their father's funeral ceremonies. Malabar Brahmans and Pattars can contract a valid marriage with Sudra women. A Nayar can marry a woman of a lower division by "puda muri" ceremony. That has happened in my own family. The wife in such case has the same status as if she were of equal caste with her husband, except that she must not enter the kitchen or eat with the females of her husband's family. When North Malabar Nayars take a wife in South Malabar, the ceremony of "puda muri" is not gone through. When such a South Malabar woman comes to North Malabar, she would be received into her husband's tarawâd house, and would be treated as a lawful wife of a lower caste status. That is, she would not be able to enter the kitchen, or eat with the females of the husband's tarawâd. Where a North Malabar Nayar has married a woman in South Malabar, and introduces her to his tarawâd, the "Vettilla-Kettu" ceremony would not be gone through with. Instances of a South Malabar woman being formally introduced into her husband's North Malabar tarawâd are very rare. In the case of an alliance between a Nambudiri and a Tamburatti, there is no "puda muri," no "Vettillakettu," no "Dānam-Muhurtham," no wedding feast.

Ūzham may mean "a right or privilege" Porukkuga may be a corruption of "pārkuga." If so "Ūzham pārkuga" may be taken to mean "to wait for your privilege."

Taken down by me in the presence of the Commission; read over to the witness who understands English and admitted by him to be correct.

Cannanore, }
29th MAY 1891. }

H. M. WINTERBOTHAM,

Collector and Commissioner.

Witness No. 45.

CHŪRIA KIZHAKKĒPURATH KUNYAPPA VAIDIAR.

Native of Tellicherry—8 years' living in Cannanore—Marumakkathāyam Tiyan.

I have received the interrogatories, but have not answered them as they were in English. Most of the Tiyan's residing North of Kōttakadavu (Mūrat river) are opposed to any change in existing custom. Some say they want a change but I don't believe they are sincere. I know about 50 men in Kurumbranad, and about 6 or 7 in Cannanore Cantonment, and none outside who desire the proposed legislation. I should be very glad to have a law giving legal force to our existing marriage called "Mangalam" or "Pen Vāzhcha," but it must be consistent with the custom of Marumakkathāyam. In case of intestacy the children should certainly get half the father's self-acquisitions. If a man had only attâl-adakkakar I would give half the tarawâd property to the children. Adultery, and a constantly bad disposition should be grounds enabling a man to divorce his wife. Chapricious divorce I have not known an instance of. When there is a dispute between husband and wife, the Kāranavan and a chief man on each side who were present at the marriage discuss the matter and if they agree there is a divorce, and the wife's horoscope, kept by the husband, is returned to her. This has created no difficulty hitherto and the same procedure should be continued. By custom now the father is guardian of his wife and children during his lifetime, and after his death the wife's Kāranavan is guardian. The half of a man's self-acquisitions which do not go to his wife and children should not go to the Tarawâd Kāranavan, but to his own tāvazhi. It is very necessary that we should be given testamentary power over self-acquisitions.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Cannanore, }

29th MAY 1891. }

H. M. WINTERBOTHAM,

Collector and Commissioner.

Witness No. 46.

JOHN LEONARD ROZARIO.

Age 41.—Vakeel of the High Court practising in Malabar.—B.A. B.L.

Have been in practice 21 years. As far as the majority are concerned my information is that the people of North Malabar do not desire a marriage law. By marriage law I mean a law to regulate their marriage. The people in North Malabar most of them believe that they have already a legal marriage. In one case Mr. Reid, Sessions Judge, convicted a Mukkuvan (fisherman) of committing adultery with the wife of another Mukkuvan, all the parties being Marumakkathāyam. I know of no other instance in which the courts have recognized any rights or duties as attaching to the customary cohabitation of man and woman in Marumakkathāyam castes. The High Court have definitely held that the father is not the guardian. In theory the union is dissoluble at will. Until dissolution the union is considered as binding the woman to fidelity. Unfaithfulness on the part of the man would be perhaps readily excused, but the union would be regarded as binding both parties to conjugal fidelity except in instances of open, recognized polygamy. Polygamy is rare, and is looked upon as more or less disreputable. Whatever may be regarded as a justifying cause for polygamy is equally regarded as a justifiable ground of divorce. Divorce is very rarely heard of amongst Marumakkathāyam Hindus in North Malabar. The only grounds of divorce I know of are unfaithfulness and refusal of conjugal society on part of the wife. Incompatibility of temper is not regarded by Marumakkathāyam Hindus as a ground of divorce; nor is theft of the husbands'

property. I believe a great many or almost all the educated Marumakkathâyam Hindus would wish that their self-acquisitions should go to their wives and children. I can't say that a majority of the uneducated are in favour of this. All I have spoken to admit that the proposed change would be very small in as much as even now most of them settle their acquisitions on their wives and children by gift *inter vivos*. I have spoken to 20 or 25 uneducated men, who are persons of position. The majority leave no part of their acquisitions to the tarawâd. When they do so it is in the form of a gift to their own sisters, when they happen to be badly off. I know of two instances in which a man has failed to provide for his wife and children and in which his tarawâd has carried out his death-bed wishes and has provided for them. It is not my experience that most Marumakkathâyam Hindus reserve a share of their acquisitions for their tarawâd. I should say, that the only cases in which a man allows a part of his acquisitions to go to any one but his wife and children are those in which his own immediate female relatives are poor. I find a majority of the people in favour of their marriage being in some way legally recognized. Appearance before the Registrar is considered an objectionable provision. I would, if it be necessary, declare the present form of marriage to be legal. I don't think in the case of the poorer classes, there is any real difficulty in the way of the woman appearing before the Sub Registrar. Where necessary the Registrar might attend at the marriage where the parties chose to pay the prescribed fee. I don't think that interference with the present freedom of divorce would be acceptable, but nevertheless instances of divorce in North Malabar are very rare. I have not heard of any instance in which a Kâranavan has succeeded in making an Anandaravan put away his wife. I have known one instance of an unsuccessful attempt to do so. I have met with no instance in which an elderly wife has been divorced in favour of a younger rival. I have met with instances where an elderly wife, has been supplanted by a polygamous match. I question the expediency of attempting to regulate divorce by a permissive Act. If legislation be necessary I would make it compulsory. I don't think the suggestion to invest panchâyats with matrimonial jurisdiction is a practicable one. I would not attempt to deprive the courts of matrimonial jurisdiction. I have found that resort to arbitration in Malabar invariably necessitates a second trial. I don't think the time has arrived for doing away with existing caste restrictions on marriage. I would retain existing customary restrictions as to consanguinity and affinity. I am in favour of conferring testamentary power over self-acquisitions. I would retain the proposed restriction on that power in favour of wife and children as in Section 44 (e) in the Bill. A majority of the educated natives are not in favour of the Bill in all its details. They object to the assumption that the present form of marriage is not legal, and as to the necessity for providing a statutory form. There is no educated opposition as far as I know to other details, but most would object to any interference with present custom of marriage and divorce, and only desire to see self-acquisitions go to wife and children. They would also be in favour of the father being constituted guardian. A very small minority of the educated are Kâranavans. Even now I know hardly any instance of a Kâranavan educating a junior member. It is almost always the father who educates. The contemplated change in succession would in no way check education in my opinion. I should think it very probable that the proposed marriage law would introduce invidious distinctions between sisters married under the Act and those who are not. I have discussed the proposed legislation with persons from all parts of North Malabar. There is a growing tendency among the educated to get the Marumakkathâyam law changed in its entirety. I should say that about 15 per cent of the whole population might be considered as educated. That is merely a guess. Perhaps it would be safer to say between 5 and 10 per cent. The Kâranavan's desire to benefit his wife and children has been one of the main grounds of litigation between Kâranavans and their tarawâd. The present Marumakkathâyam usage is the cause of a great deal of litigation and the people are certainly not content with it as it is now administered. A woman's separate property now goes to the Kâranavan, whereas under the old custom it ought to go to her children. Also in my opinion the Kâranavan's position is an unworkable one unless his hands are strengthened more than they are at present. The Payyanûr Nambudiris who follow Marumakkathâyam law in its entirety, have a regular form of marriage exactly like other Brahmans. They adopt, from

the other Nambudiris, male members into one of the extinct illams so that marriage may be possible. There are now only three Marumakkathâyam Nambudiri Illams in which there are female members.

Taken down by me in the presence of the Commission; read over to the witness who understands English and admitted by him to be correct.

Tellicherry,
1st June 1891.

H. M. WINTERBOTHAM.

Collector and Commissioner.

Witness No. 47.

TIRUMANGATHA KRISHNA KURUP.

Age 61.—Azhiyûr Amsam—Kurumbranad.—Tarawâd Kâranavan.

Am a Nayar Janmi. I don't think it is proper to pass a permissive marriage law. That I find to be the feeling of the people. I never heard of any one wanting a marriage law, before this enquiry was set on foot. There is no custom of giving self-acquisitions except to the tarawâd. Some little might be given according to pleasure to wife and children. Disagreement of temper is the customary ground of divorce, and that is the usage. My tarawâd pays about Rs. 1000 assessment. "Ûzham-Porukkuga" is a known form of marriage in my part. It is just the same as "Vidâram Kairâl". There is no gift of cloth or of money. The woman is not brought into her husband's house. "Pudamuri" is the ordinary approved form of marriage. The other kind is not very common. It prevails amongst all classes of Nayars. As to the Tiyaṅs I am not sure. The Nambudiris marry Sudra females in the "Ûzham-porukkuga" form, not by "pudamuri". When a Nayar marries a Nayar woman of a lower Sub-division it is never done in the "pudamuri" form but by "Ûzham-porukkuga". The cases are rare in which husband and wife are not of equal caste. The Nambudiris are the persons who furnish bridegrooms to our Nâdu-vâzhi (chieftain) families.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Tellicherry,
1st June 1891.

H. M. WINTERBOTHAM,

Collector and Commissioner.

Witness No. 48.

ERANJÊRI DAMODARAN NAMBU DIRI.

Kurumbranad Taluk—Kartigapalli amsam—Age 57—Makkathâyam Brahman.
A Janmi paying Rs. 500 assessment.

None of the people in my part desire a permissive marriage law. I have spoken to about 500 people and all of them object to have existing customs interfered with. They were all quite unanimous. The Tâlikettu was instituted by Parasu Râma, an incarnation of the deity. I can't tell what its meaning is. Amongst the Nambudiris also the ceremony should take place before puberty. Circumstances have forced us to postpone it. Amongst the Nambudiris the tâlikettu ceremony lasts four days. During these four days the "pâni-grahanam", the seven steps, "Vivâha-hômam," "Asmârôhanam" are performed. Tâlikettu and the rest are all part and parcel of one continuing ceremony. This may be deferred, amongst Nambudiris, until the woman finds a suitable husband. Amongst the Sudras it is the practice to have tâlikettu before the girl reaches puberty. That is all I can say. Amongst Nambudiris the father, or if there is no father, the brother ties the tâli. The bridegroom does not interfere in it. Tâlikettu in the woman may be analogous to Samâvarthanam in the

man. When a Nambudiri consorts with a Sudra woman it is not by "Pudar uri". There is no ceremony necessary. Local customs may differ here and there. "Ūzham porukkuga" is a form of marriage resorted to save the expense of a 'pudamuri' wedding and with the intention of performing "pudamuri" in 5 or 6 months. When a Nambudiri consorts with a Sudra woman the union is generally for life. The Nambudiri does not generally divorce. He calls the woman his "Bhārya" (wife). She does not address him as "Bhartāvu" (husband). He is called Sambandhakāran. The children will not call their Nambudiri sire "father". The wife would refer to the Nambudiri as her "Bhartāvu" (husband). It is not the custom for a Nambudiri to bring his Sudra wife to his house. If she is poor the Nambudiri supplies her with oil and cloths. If the woman's family is rich they would not accept anything from him, because his property is regarded as "Brahmaswam". The Nāduvāzhis and Kovilagams regularly pay the Nambudiris who consort with their females. There are about 10 Nambudiri Illams in Kadathanad; about 60 or 70 families of Nambudiris in the whole of Kurambra-nād Taluk. There is no objection to a Nambudiri female remaining unmarried till her death. There is no objection now to the younger males in a Nambudiri family all marrying, each a Nambudiri wife. The old rule was that only the eldest Nambudiri son could marry. Even if a Nambudiri who has a Nayar wife, becomes the eldest male, he does not marry a Nambudiri wife, unless his deceased elder brothers have left no legitimate children.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Tellicherry
1st June 1891.

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 49.

MANIKKŌTH KANNAN NAMBIAR.

(Tenders himself for examination).

Age 25—Azhikōd Amsam—Chirakkal—B. A. studying for B. L.

I have sent in my answers to the interrogatories. Some old people, two respectable old Nayars, have told me that our system of inheritance is based on religion and that any one who followed the proposed law would be excommunicated. Some cannot perform father's funeral oblations unless the nephews authorize them to do so, by presenting them with a knife and lamp at the burning place. If the nephews withheld this authority I can't say how the sons would act. In a Malayalam translation of the Bhāratham, I have found a text saying that amongst Sudras the nephews should perform funeral oblations. There is no interdiction upon the sons' doing so. It is an immemorial custom for the sons to perform the fathers' funeral oblations in North Malabar. But few out of the few educated men in North Malabar are in favour of the Bill. In Madras at a meeting attended by 26 Malayālis, 16 were in favour of the proposed legislation. If the existing custom of marriage is legalized, if the proposals as to Registration be duly modified and if succession is not interfered with, then I should have no objection to a permissive marriage law. I would not insist on freedom of divorce. I am in favour of polygamy. I would have neither Kāranava nor father to be guardian. I think the mother should be guardian till her daughter is married or until her son is 16 or 18. I would grant freedom of testamentary disposition over self-acquisitions. I would limit the power to two-thirds—one-third should go to tarawād.

Taken down by me in the presence of the Commission; read over to the witness who understands English and admitted by him to be correct.

Tellicherry,
1st June 1891.

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 50.

ARATHIL KANDOTH KANNAN NAMBIYAR.

Age 42—District Munsiff of Badagara—Native place Tellicherry.

I have not yet sent in my answers to the Interrogatories. I have already written about 60 pages and will send in my completed essay in about a week. I have fully described the marriage customs of South and North Malabar. I have about ten years' experience of South Malabar. Among Nayars in North Malabar the approved form of marriage is called "Puda-muri". There are besides (2) Vidāram-Kairuga, (3) Ūzham-porukkuga, (4) among weavers "Pani Kondu Variga" (5) among Tiyans "Mangalam." Puda-muri entails the most expense: but it is not more expensive than Tālikettu. The Tālikettu in a middle class family would cost from Rs. 100 to Rs. 300. "Puda-muri" would cost from about Rs. 50 to Rs. 200. The caste called Paravar' (stone masons) below Tiyans, call their marriage 'Puda-muri.' 'Ūzham porukkuga' and 'Vidāram Kairuga' are two names for the same form of marriage. The ceremony is the same in both. The forms are applicable to all Nayars. 'Puda-muri' will follow when the wife becomes pregnant, or before. Until 'puda-muri' is performed the wife cannot be brought to the husband's house. Until then the husband gives cloths, oil and money for personal expenses. 'Mangalam' is the only form of marriage practised by Tiyans. In South Malabar the forms of marriage in use are 'Sambandham' and in Palghat 'Kidakkora Kalyānam.' This word, I think means 'Sleeping chamber.' Wives live invariably in their husbands' houses in North Malabar. In South Malabar the wives live in their own tarawāds except the husband be a Nambudiri of position, a Rajah, a Vakeel, or a Government official in which cases the wife lives with the husband. Occasionally the Kāranavan brings his wife to his house for a visit. She stays only a short time. Junior members never bring their wives into their tarawād, house. As regards maintenance, the husband supplies cloths, oil and money for personal expenses, but not food unless when the wife lives with the husband. In North Malabar the wives of Anandaravans living with their husbands are fed by their husbands' tarawād. In my opinion most Marumakkathāyam Malayālis are in favour of their marriage being legalized, and of provision being made for wife and children. They don't like the Bill in its present form. They would wish the father to be the guardian. They wish to be given testamentary power over self-acquisitions. I would restrict the power of testamentary disposition to one half of self-acquisitions. The other half should in all cases go to wife and children. I am strongly of opinion that in case of intestacy the whole should go to wife and children. Where a man has no heirs, but attāl-adakkakārs the property should go to wife and children. According to custom it is the Tāvazhi that ought to succeed to self-acquisitions. The law as administered makes the tarawād the heir. That rests on a recent decision of the High Court (Vol. II Madras High Court Reports.) The right of succession under Marumakkathāyam is not based on the funeral oblation made by the Anandaravan. There is no social obligation to perform funeral oblations. No one would be put out of caste for neglecting the duty. Some do neglect it. I know of very many instances in which funeral ceremonies are left unperformed. Some member or other of the tarawād must perform them. If the whole tarawād neglects the duty it would be excommunicated. Very few tarawāds perform the annual Shrādhm for deceased relatives. All Anandaravans observe pollution for 14 or 15 days on the death of a member of the tarawād. It is not a fact that the Marumakkathāyam law of succession has a religious basis. Neither 'puda-muri' nor any of the other forms of marriage has any religious element in it. Tālikettu is not now a marriage as practised. In some Kovilagams it was, I think, originally the real marriage but now according to my knowledge the tālikettu nowhere amounts to marriage. I don't know what is the practice in all the Kovilagams. I would retain all customary caste restrictions on marriage and all restrictions as to affinity and consanguinity. The 'Kōra puzha' restriction is gradually disappearing. I would not retain it. I object to the provisions as to registration because they are distasteful to the people. If registration could be effected without appearance before the Registrar there would be no objection. Men and women would alike object as a shock to their modesty. It would be repugnant to men as well as to women.

I would suggest that a respectable Nayar or Nambudiri should be appointed Registrar for each Dēsam or Amsam. He might be remunerated by a small marriage fee. They might keep a marriage register and should attend at the place and time of marriage. I would suggest a fee of Rs. 2. He should forward copy of the register to the nearest Registrar for formal registration. In theory and practice, divorce is now permissible at will of either party. It is not restricted to reasonable grounds. There have been many cases of arbitrary divorce in North Malabar but not so many as in South Malabar. Cases of arbitrary divorce are not uncommon. I would allow one year's desertion to be a sufficient ground of divorce. I am against a divorce through the courts. The party desiring a divorce should have to give a year's notice in writing to the opposite party (husband or wife). It should be countersigned by two relatives, and served upon the husband or wife who is to be divorced. A copy should be sent to the Sub-Registrar to be stuck up in his office for one year. At the expiration of one year both parties should be free to remarry without further impediment. All the people I have spoken to would like such a procedure as this. Amongst Marumakkathāyam Hindus, some divisions both high and low do not observe the 'puda-muri' ceremony. That is they present no clothes. Amongst the Marumakkathāyam Chāliar (weavers) the bridegroom does not go to the bride's house, but deputed friends to pay the bridal-gift of money and to fetch her. There is no ceremony except the payment of money. Where there is a feud between two tarawāds, it not uncommonly leads to a divorce. The Kāranavans would compel the Anandaravans to divorce their wives. It is also becoming a custom that when a tarawād accepts a wife for a member, the other tarawād should take a girl in exchange for one of its males. Shrādhm is essentially a religious ceremony.

Taken down by me in the presence of the Commission; read over to the witness who understands English and admitted by him to be correct.

Tellicherry, }
2nd June 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 51.

MANŌTHA PAIDAL ADIYODI.

Maniyur Amsam, Kurumbranad, Age 62—Tarawād—Kāranavan,

Pay Rs. 1200 assessment. I have heard Kannan Nambiyar's evidence. It is now the custom for the Marumakkathāyam people to give part of a man's self-acquisitions to his wife and children. I would give them one-third. Although the father is the *de facto* guardian, I would uphold the Kāranavan's superior authority over the father. The marriage should not be registered. The majority of the people are totally against any interference with existing customs, and want to be let alone.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Tellicherry, }
2nd June 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 52.

KĒLŌTH KOVILAGATHA RAMA VARMA SHANGARA ADIYODI.

Age 49—Vellur Amsam, Kurumbranad—Tarawād—Kāranavan.

Tarawād estates pay over Rs. 280; mostly in name of tenants. I am against any change in existing custom, and am therefore opposed to any legislation to regulate marriage.

I have not asked any body's opinion. If this new law is enacted the Marumakkathāyam tarawāds will be destroyed. It is by lapsing of self-acquired property to tarawāds, that the tarawāds are recruited. I would accord power of testamentary disposition over self-acquisitions. The father is now the *de facto* guardian while the children live with him. The tendency of Anandaravans now is to do nothing for the tarawād, and it is only by the lapsing of self-acquisitions to the tarawād that the tarawād can be kept alive. If self-acquisitions are to go to the children, there is an end of Marumakkathāyam.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Tellicherry, }
2nd June 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 53.

KURANGŌTTA VANMĒRI KOMAPPAN NAMBIYAR.

Age 60.—Kunnumal Amsam, Kurumbranad.

People are dead against registration of marriage. In cases of intestacy I think wife and children should get one-half or one-third of the father's self-acquisitions. Most people would be opposed to any interference with custom. Father should be guardian during his life. That is the practice now. Divorce should be left as it is, marriage being dissoluble at will. There should be no change in caste usage. I pay Rs. 700 assessment.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Tellicherry, }
2nd June 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 54.

PALLIYIL EDATHIL KUNGAN NAMBIYAR.

Pālayād amsam, Kurumbranad.—Anandaravan in Tarawād.—Tarawād pays Rs. 1000 odd.

If it is not compulsory I should have no objection to a permissive marriage law. I am strongly in favour of it. In case of intestacy half of father's self-acquisition should go to wife and children and half to his own *Tārazhi*. I think the father should be the guardian of his children.

The provisions as to registration are very objectionable. The attendance of bride and bride-groom before the Registrar must be dispensed with, and the affair managed through the elder brother or Kāranavan. All caste and other customary restrictions should be retained. North Malabar women should be allowed to go to South Malabar in company with their husbands. I live 8 miles North of Kōrapuzha.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Tellicherry, }
2nd June 1891, }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 55.

KOZHISSERI ERISHA MENON.

Age 46.—Neduva amsam.—Ernad Taluk.—2nd Grade Pleader, Shernad Munsiff's Court.

I have submitted my replies to the interrogatories. In my opinion there is now a binding form of marriage, and no legislation is desirable to make the marriage recognized by law. In South Malabar the wife generally lives with her husband either in his separate house or in his tarawād house. The children live with the father and he maintains wife and children while they live with him. Fathers give self-acquired property to wife and children: a share according to his pleasure. I don't know an instance of a father giving the whole of his self-acquisitions to wife and children. A half is the most that is given. The other half lapses to the Tarawād on his death. That I think is right and should continue. It ought not to go to the *tavazhi*. I am in favour of granting the power of testamentary disposition of self-acquisitions. In case of intestacy I would let the whole property go to the tarawād, giving nothing to widow and children. The relation of husband and wife created by *talikettu* is always dissolved on the 4th day by the Manavālan cutting in two the cloth on which the damsel and the bride-groom sit. They always sit side by side on a plank. The cloth is an "Ena-puda" (double-cloth). I don't think the Manavālan need say anything. The Manavālan takes one half of the cloth, and the bride's tarawād takes the other. I think the *talikettu* is a marriage dissolved as above on the fourth day. It is invariably performed before the girl attains puberty. I don't know of any instance in which the man who ties the *tali* has actually cohabited with the girl, without the subsequent formalities of Sambandham. Sambandham is the only form of marriage of which I have any knowledge. In South Malabar there is no gift of cloth. There is no religious element in Sambandham. As to usage I can only speak as to my amsam and the surrounding amsams. Polygamy is rare. I can only think of one instance. It is very rare. I don't know whether there was any special ground in that one case. I don't think the people would approve of the abolition of polygamy. I speak only for the males. Possibly the women might approve. I have been practising as Vakeel for 20 years. The objection to the proposed legislation is that it will interfere with *Mamakkathayam* custom, and will create two diverse systems of inheritance in the same family. It will prevent self-acquisitions lapsing to tarawād. I am opposed to any sort of change in old custom. I am entirely opposed to registration of marriage as unnecessary. I think adultery, enticing away a married woman, and bigamy by a wife ought to be punished criminally, and that this would be for the good of the people. I have no objection to legislation so far. I don't think the people would mind the father being guardian of the person of his wife and children, if the guardianship did not extend to their claims as members of their tarawād. When Nambudiris and Brahman's consort with our women, the union is as binding as if the husband is a Nayar. I have discussed this marriage Bill with many persons. Most of them object to it. I have never heard any one express a desire that our "Sambandham" should be legalized. In my answers I am only expressing my own individual opinion. I don't know how the law stands at present as to the liability to punishment of an adulterer with a Nayar "wife".

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Calicut,
5TH JUNE 1891.

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 56.

PUDHÉRI VELAYUDHAN NAYAR.

Age 36.—Nallūr amsam, Ernad Taluk.—Tarawād Kāranavan.—Janmi paying Rs 2000 assessment.

I object to the permissive marriage law, because it will ruin the tarawād. The junior members will do what they like. They generally don't care for the tarawād. I have spoken to many persons regarding the Bill. The Brahmans and Tiyaṅs who follow Makkathāyam say it is a good Bill. The new English-educated young men like the Bill. Such of them as are Kāranavans don't like it. I think a majority of even the educated are opposed to it. My house is close to the Ferok Railway Station and I come into contact with many persons from different parts of Malabar. I have about 1000 families of tenants. So far as I have ascertained, they are against the Bill. I think testamentary power over self-acquisitions should be granted. I would not give the wife a right of maintenance against her husband. I don't object to the father being constituted guardian of the persons of his wife and children. So far as their tarawād claims are concerned, the Kāranavan should be their guardian. Seven-eighths of the Anandaravans will give their earnings to their wives and children, and thus tarawāds will be ruined if the proposed Act is passed. My opinion is that if the proposed Act is passed, a majority of Anandaravans will follow it and the tarawād system will be ruined. I think both educated and uneducated Anandaravans will marry under the Act. I can't say that there are many instances of dissensions owing to Kāranavans giving tarawād property to their wives and children. I can't say that people have suffered any special inconvenience from the existing usage as to marriage. I have read the whole Bill. I have submitted my answers to the interrogatories.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Calicut,

4TH JUNE 1891.

H. M. WINTERBOTHAM,

Collector and Commissioner.

Witness No. 57.

ERAMBAPPALLI KUNJUNNI NAYAR.

Age 49.—Cheruvannūr amsam, Calicut.

Am Kāranavan by Court decree. Am a janmi paying Rs. 500 assessment. I have submitted my answers to the interrogatories. In my opinion there ought to be passed a permissive Act to regulate marriage. In case of intestacy half the self-acquisitions should go to wife and children and half to *tavazhi*. If the mother is alive she ought to get one-third and the remaining two-thirds should be equally divided half to her descendants and half to deceased's wife and children. Polygamy should be allowed where wife is barren, lunatic, or subject to incurable disease. Divorce should be allowed for adultery, habitual disobedience, neglect of conjugal duty, loss of caste, lunacy. Now capricious divorce is in practice as well. I would retain customary restrictions as to caste, consanguinity and affinity. I am the last survivor of my tarawād. After my death my property will go to the dismissed Kāranavan, or to my attāl-adakkakār. I have discussed the subject with many people. The majority of the intelligent people desire legislation with the modifications suggested in my answers. I have enquired of men from many parts their opinion. Well-informed men are in favour of the marriage legislation. I would not preclude divorce except by resort to court.

The caste m n should settle whether there is just ground for divorce in each case. If they find no just ground the divorce should not be allowed.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Calicut,
4TH JUNE 1891.

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 58.

EDAVALATH KAKKÂT KRISHNAN.

Marumakkathâyam Tiyar.—Kottayam amsam, Kottayam Taluk—Subordinate Judge of South Malabar—Age 49.

I have submitted my answers to the interrogatories. I have said in my answers that the proposed legislation will cause the destruction of tarawâds because there will no longer be self-acquisitions to recruit them. The loss will not be compensated by the gain that female members will obtain from their husbands, because such gain will only accrue to the tâvazhi of which each wife is the head. I am afraid the majority of the people are not in favour of the Bill. That in my opinion is true both of Nayers and Marumakkathâyam Tiyars. The educated portion of the community feel greatly the want of some law such as proposed. By educated I do not mean only such as are educated in English. The educated are in favour of the main provisions of the Bill, and of its principles. I would limit myself by saying that a section of the educated favour the Bill. I believe the fraction of persons in favour of the Bill in the whole of Malabar would be one half of the intelligent people. I should say 75% of the Marumakkathâyam Hindus are against the Bill and 25% in favour of its main principles. I am against registration as proposed in the Bill. I have explained in my answers the procedure I would adopt. I would give either husband, wife or wife's guardian the power to compel the attendance of the opposite party before the Registrar to register the declaration. My personal opinion is that the whole of the husband's self-acquisition should go to his widow and children. As a matter of expediency to satisfy conservative views, I should not object to a division being made so that the tarawâd should get half and the wife and children half. Most fathers do reserve part of their self-acquisitions for their tarawâd. I think the share is voluntarily reserved from a sense of duty to the tarawâd; not because a man is afraid to strip himself of all his property before his death. I would not retain the restriction on intermarriage between different divisions of Nayers. If caste restriction was ignored it is not unlikely that persons who so married under the Act would be excommunicated. I would accord full liberty of testamentary disposition over self-acquisitions without restriction. In North Malabar if a wife has separate property it is her husband, not her Kâranavan who looks after it. I believe the same holds good in South Malabar. I am in favour of the father being guardian of his children. I would allow the husband's right of guardianship to extend to his wife's property, she of-course maintaining her exclusive right to it. I would reserve in the Kâranavan a right to interfere with the father's guardianship, when so doing was for the interest of the wife and children. On mature consideration, I think matrimonial jurisdiction, must vest in the court, but I would invest the court with power to refer cases to arbitrators, or a caste panchâyat irrespective of the wish of parties. I approve on the whole of the English law of divorce; but I doubt if this would be acceptable to the majority of the educated who desire legislation. They would desire to retain the freedom of divorce. Cases of divorce are not very numerous. In North Malabar divorce is not at all common. It is more common in South Malabar. I do not think polygamy is common. I would abolish it as far as regards marriages under the Act. I know of no instance of polyandry in South Malabar. 'Sambandham' is the only form of marriage known in South Malabar as far as I know. In South Malabar the wife of the Kâranavan lives with

him. I can't say whether in South Malabar the wife generally remains in her tarawâd house. There are very many cases where the wife lives with the husband. This is generally so where the husbands have an income and can support their wives. I can't say what is the rule and what is the exception. I think there has been a great dissatisfaction among the respectable minority regarding the existing usages regulating the connexion of the sexes, even before the Bill was agitated. There is a strong desire and conviction on the part of the people that their self-acquisitions should go to their tâvazhi, and not to the Tarawâd Kâranavan. I believe the people have been disposing as far as possible of their self-acquisitions by gift *inter vivos* to their own tâvazhi, so as to leave none to the Tarawâd Kâranavan. If the general feeling of the people were respected, the law would pass self-acquisitions to the tâvazhi and this would destroy the existing tarawâds as effectually as if the whole self-acquisitions passed to wife and children, but would not interfere with the Marumakkathâyam law of succession. I think there is no ground to anticipate that the Bill would retard the progress of education. I would make no special provision for the mother. I should say that 90 % of the respectable Marumakkathâyam Tiyars have adopted their fathers' house names. When a man becomes Kâranavan of his tarawâd, he resumes his tarawâd name by tacking it on to his father's house name. I think the caste rules as to marriage are more closely observed in North Malabar than in South Malabar.

Taken down by me in the presence of the Commission; read over to the witness who understands English and admitted by him to be correct.

Calicut,
4TH JUNE 1891.

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 59.

PANIKKÔT KARUNAGARA MENON

Age 49—Tiruvâli amsam—Ernad Taluk—Deputy Collector on special Duty.

I have submitted my answers to the Interrogatories. I believe the educated and enlightened portion of the Marumakkathâyam Malayâlis, with few exceptions, desire a permissive marriage law. All of them do not approve of the Bill as it is. Rather than have no reform, several of us would take the Bill as it stands. Perhaps about 10 % of the educated in South Malabar would sooner take the Bill as it stands than have no reform. I should say between 20 and 25 per cent of the adult population men and women are enlightened in the sense I use the word. Several of the Nayar ladies whom I have spoken to understand the main features of the Bill and are in favour of it. I would leave all caste restrictions on marriage to be regulated by public opinion and not by the Bill. In my opinion there is no part of the so-called marriage in North or South Malabar which has any religious element in it. I have attended many "puda-muris" in North Malabar. I know two instances in which Nayar men of South Malabar have married Nayar ladies in North Malabar, without any social penalty. I know of one instance in which a Nayar lady of North Malabar has come to South Malabar with her husband without any caste difficulties being raised. I would make disobedience to a decree directing restoration of conjugal rights, a ground of divorce. I should say the tâli-kettu is a religious ceremony. I have no view as to its origin.

Taken down by me in the presence of the Commission; read over to the witness who understands English and admitted by him to be correct.

Calicut,
4TH JUNE 1891.

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 60.

PERUMPILÂVIL GOVINDA MENON.

F. A. District Munsiff of Betatnad—Age 43—Mûthedatha Mâdumba amsam, Walluvanad.

I have submitted my answers to the Interrogatories. I am in favour of a permissive marriage law. There is a good deal of opposition to it. The people in general do not desire it. Of the educated class, I think, 75 per cent desire it. I do not mean only such as have studied English. I took part in a petition signed by about 600 people at and near Tirur asking for a legal form of marriage. There is difference of opinion regarding details, but the main principles of the Bill are approved. The appearance before the Registrar is objected to. They are averse to resorting to court for dissolution of marriage. I think polygamy is generally deprecated. I would retain caste restrictions. I should think public opinion quite strong enough to maintain caste restrictions but the people would sooner see caste restrictions expressly recognized. I am quite certain that there is no valid objection to marrying into one's deceased wife's Tarawâd. I know a case of marriage with a deceased wife's sister. I would certainly prohibit polygamy. I can't say that a majority of the educated would share this opinion. If they knew that they could not get an Act sanctioning polygamy they would sooner have Section 40 (1) of the Bill as it stands than have no reform. I think polyandry is nowhere recognized at present in Malabar. If there ever was such a custom it is now obsolete. The present tendency, during the last ten or fifteen years, is for the wife in South Malabar to live with the husband in his house. About 50 per cent would live with their husbands, the others would remain in their tarawâds.

Taken down by me in the presence of the Commission; read over to the witness who understands English and admitted by him to be correct.

Calicut, } H. M. WINTERBOTHAM,
4TH JUNE 1891 } Collector and Commissioner.

Witness No. 61.

MAKKÂTTA VASUDEVAN NAMBU DIRI.

Age 35.—Koduvalli Amsam, Calicut Taluk—Janmi paying over Rs. 1000 Assessment.

I have submitted my answers to the Interrogatories. I and those I have spoken to would deprecate any change in existing custom as to marriage; but if the Act is permissive there seems no objection. That is the opinion of most people I have discussed the matter with. In cases of intestacy I think the wife and children should take one-third of the self-acquisitions and the tarawâd should take two-thirds. In Calicut Taluk about 50 percent of the Nayar wives live with their husbands. I think the right of guardianship should remain with the Kâranavan. The people desire to have the power of will over self-acquisitions. Customary caste and other restrictions should be retained. There is no difference in the formality of Sambandham whether the man be a Nambudiri or a Nayar. Divorce should remain unrestricted as at present. I am the eldest male in my family. There is no objection to the younger members of a Nambudiri Illam each marrying a Nambudiri wife. The rule is that only the eldest brother should marry. In South Malabar when a Nambudiri consorts with a Nayar woman, he calls her *Bhârya* (wife) and she calls him *Bhartâya*. He would admit that he was the woman's *Bhartâya*. The children would call him "father" till they grow up, and then they would cease to do so. The Nayar 'wife' will often dwell in the Nambudiri's Illam with him. When a Nambudiri consorts with a lady in a Kovilagam or Nâdu-Vâzhi family, there is no invitation of friends and relatives, no feasting, no presenting of betel or any other formality. There is no objection to a Nambudiri who has a Nambudiri

wife, consorting with a Nayar woman. In such cases the Nayar woman would never be brought to the Illam. Openly the Nambudiri would not call this Nayar woman his *bhârya* (wife).

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Calicut, } H. M. WINTERBOTHAM,
4TH JUNE 1891. } Collector and Commissioner.

Witness No. 62.

TALAKODIMATAM KOCHU KUNYAN NEDUNGÂDI.

Age 54.—Nayar, Valayanâd amsam, Calicut Taluk,—Janmi paying over Rs. 1000 Kâranavan of the Tarawâd.

I have sent in my answers to the interrogatories. I object to legislation in the form proposed by the Bill. Most of the people I have spoken to are of the opinion expressed in my answer. They would wish that something less than one-half of a man's self-acquisitions should go to his wife and children. Amongst the Nedungâdis the form of 'Sambandham' is the same as with other Nayars. When Tamburâns and Nâdu-Vâzhis form Sambandham with a Nayar woman, there is no formality of any sort. In South Malabar, most of the Nayar women remain in their own Tarawâd house after marriage. If their husbands have means and live at a distance they live with their husbands. I have houses in Walluvanad as well as in Calicut and what I have said applies to both Taluks. I have not heard any instance of polyandry.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Calicut, } H. M. WINTERBOTHAM,
4TH JUNE 1891. } Collector and Commissioner.

Witness No. 63.

CHERUKÂTTA RAMAN KARUNAGARA MENON.

Age 56.—Panigara Amsam, Calicut. Residing now in Madura.—Vakeel of the High Court.—Janmi paying between Rs. 300 and 400—Educated in Travancore and Madras.

I have seen Mr. Sankaran Nayar's Bill, and have read it carefully. I see no objection for passing a permissive marriage law for Marumakkathâyam Hindus. I don't approve of all the details of the Bill. First, I object to imitating the Brahmans and Parsis. I would advocate adopting the marriage law of ordinary Hindus as far as it can be made applicable. I would retain polygamy as an excusable institution. I would only bind the wife to fidelity as long as the marriage tie exists. I would retain freedom of divorce on justifiable grounds. The courts should alone decide what grounds are justifiable. The legislature should not decide what are justifiable grounds. That is a question of equity to be decided by the courts. I would make the father the guardian of the sons and the mother the guardian of the daughters. The Kâranavan should have nothing to do with it. I would accord unlimited power to dispose of self-acquisitions by will, subject to any restrictions now recognized by ordinary Hindu law. In cases of intestacy, I would reserve one-third or one-fourth for the Tarawâd and give the rest to the wife and children. I have only stated my individual opinion. I object to borrow even reasonable

improvements from the Brahmō or Parsi Acts because Brahmōs and Parsis are not Hindus and belong to another nation. As regards the Marumakkathāyam people, they do not understand anything about it. Some desire marriage, some do not desire it. The old people are against change being highly conservative. The younger people say under 50, both males and females are what I should call the new class. About 50 per cent of the new class would be in favour of marriage legislation. I have spoken to several persons from different parts and that is the opinion I have formed. When the subject is explained to Janmis in the interior and when they understand that the new law is only to be permissive, I find that they do not object. As to the official and educated classes they are as a body in favour of legislation. I should suppose this would be about 10 per cent of the population. The educated portion of the Nayar ladies are in favour of the proposed legislation. I have spoken to a few on the subject. I would retain all caste restrictions on marriage. The Bill is chiefly obnoxious on account of a tendency to ignore them. I do not regard the Kōrapuzha as a caste restriction. It was a state restriction. Whenever the husband has the means to support his wife, she as a rule lives with her husband, in the husband's Tarawād. I think a majority of Nayar wives in South Malabar live with their husbands. This has been the case for a hundred years at least and the practice is the same in both North and South Malabar. The common practice is for husbands in South Malabar, who have the means, to give property to their wives and children *inter vivos*. The Kudiravattatha Nayar, a great Janmi in South Malabar, owes his estate to a gift by his father a former Zamorin. The ancient kingdoms of Kadathanād and Nilēswarem were kingdoms established by a gift of the Chirakkal Rajah to his sons. In my opinion there is a Marumakkathāyam marriage existing according to social usage but I think a declaratory Act to remove the doubts cast on its validity is necessary. I think it is the Marumakkathāyam system of inheritance which has made the marriage very loose. The Marumakkathāyam Nambudiris and the Kshatriya Rajahs (Cochin, Parappanad, Kottayam, Beypore, Kodungallūr) have all a regular marriage attended with the uttering of Vedic texts. Nevertheless they are Marumakkathāyam. The Marumakkthāyam Mappilas afford another example, for the validity of their marriage has never been questioned. The whole aristocracy follow Marumakkathāyam. The people will dislike registration. The husband and wife wishing to marry under the Act, should draw up a written declaration to that effect at the time and place of marriage and get it attested by witnesses. Registration of the declaration would involve official interference and is therefore objectionable. In case of dispute the genuineness of the declaration should be decided by the court. The declaration might be registered at option of either party. Divorce is not very common, but it is permitted at pleasure of either party. I can't see any way of restricting the right of divorce upon anything but the pleasure of either party. The Bill proposes to enact the Christian law of divorce to which I object as making divorce practically unattainable. Respectable Marumakkathāyam Society would recognize adultery and cruelty as the only reasonable grounds of divorce. I would leave arbitrary divorce to be checked by Social opinion. 'Sambandham' is the only Marumakkathāyam form of marriage except among the Kshatriya Kovilagams. Tāli-kettu is not a marriage. It gives the girl only a marriageable status. I don't consider it to be religious. The Tāli is brought from the temple and tied and over it a second tāli is tied and the first tāli is then taken back to the temple. The Sambandham has no religious element in it. I regard it as a contract.

Taken down by me in the presence of the Commission; read over to the witness who understands English and admitted by him to be correct.

Calicut,
5TH JUNE 1891.

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 64.

PERIMBRAYUR AMBALATHODIYIL KRISHNA MENON.

1st Grade Pleader, Calicut—F. A.—Perumudiyur Amsam, Walluvanad—Age 36.—Have been practising for 10 years.

I have submitted my answers to the interrogatories. I would accept the Bill as it is if the Government will not grant any other form of legislation. I object to the provisions regarding registration, divorce through the medium of the courts and ignoring of caste restrictions. In cases of intestacy, I would give half of self-acquisitions to wife and children and half to the *tāvazhi*. I would leave the testamentary power unfettered. I am Secretary to the Kērala Sabha which is an association which was formed in 1878 in Calicut by certain educated Nayars, with the sole object of reforming the marriage system obtaining amongst the Marumakkathāyam people. The association was originally called Kēraliya Sudrāchāra Parishōdhana Sabha. The Sabha requested Mr. Krishna menon, Sub-Judge of Mangalore, to draft a marriage Bill for submission to Government. The active members of the Sabha left Calicut and the object of the Sabha was not pushed on. The numerical strength of the Sabha was 300 or 400 of whom 30 or 40 were at Calicut. For the last 3 or 4 years the Sabha has not been working. It became in 1881 a political association and that prevented the officials from taking part in the meetings. I would appoint the highest Marumakkathāyam caste man available as Marriage Registrar and would appoint one such Registrar for each Amsam or group of Amsams. The other suggestion is that a declaration should be made in writing by the bride and bridegroom. It should be in duplicate, in a prescribed printed form and might be sold by the Stamp Vendors who should endorse upon each form the purpose of the purchaser in purchasing it. I would retain freedom of divorce and not regulate it in any way, otherwise the proposed Act will be unpopular. The permissive law should not be one which will remain a dead letter. It should be one which the people will welcome. If the divorce provisions are retained I fear that very few people will avail themselves of the form of marriage provided by the Act. On mature consideration I think the Act might prohibit polygamy altogether. I do not regard the Kōrapuzha restriction as a caste restriction. The consent of the Kāranavans can be dispensed with where the intending bride and bridegroom are adult. They generally obtain the Kāranavan's consent. I would place no obligation on the Kāranavan to support the wives of the Anandaravans. On the death of a male, when his widow is sent away from his house a present of money will generally be made to her by the deceased's tarawād heirs for mourning and other expenses. In 1881, a deputation requested the District Judge Mr. Wigram to address Government requesting that the legislature would grant to Marumakkathāyam Hindus the power of disposing of their self-acquisitions by Will. Mr. Wigram wrote a letter to Government accordingly but no action was taken upon it. I think this power should be granted to the people irrespective of any marriage legislation.

Taken down by me in the presence of the Commission; read over to the witness who understands English and admitted by him to be correct.

Calicut,
4TH JUNE 1891.

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 65.

BEMBĀLĀSHĒRI KAMARAN NAYAR.

Age 44—Kasaba Amsam, Calicut—District Munsiff of Chāvakkād.

I have submitted my answers to the interrogatories. If Government declines to relax the restrictions on divorce I would gladly accept the Bill as it stands, rather than have

no reform. I would give the courts matrimonial jurisdiction with power to refer the matter to a caste panchayat. In case of adultery by a wife the people would wish that the husband should be able to marry again, without putting away the adulterous wife, the latter of course losing her right of maintenance. Adultery and cruelty are the only reasonable grounds of divorce. If the Bill is to be acceptable to the people at large the amendments should be:—

- (1) The existing form of 'Sambandham' should be legalized,
- (2) Self-acquisitions of the husband should be divided half and half between wife and children and the deceased's tãvazhi,
- (3) The provisions as to registration by Sub-Registrar should be omitted,

The Act might permit a document to be drawn up as evidence of the marriage, and make it a subject of compulsory registration within the usual time prescribed. Two years might be given within which to register "Sambandhams" formed before the Act.

- (4) Customary restrictions as to consanguinity should be recognized.

There are now no restrictions as to affinity except that a man cannot marry his deceased wife's daughter or mother. I would reduce the age of majority to 16 or 18: beyond that age the guardian's consent should be unnecessary. I would place no restriction on the right of testamentary disposition over self-acquisitions. At Shernâd a few days ago about a dozen representative men (Nayars) were discussing the Bill with me. A Nâdu-Vâzhi (Chieftain) was dead against the Bill. The rest were unanimously in favour of a marriage law. Some wished that in cases of intestacy $\frac{1}{2}$ should go to wife and children, $\frac{1}{4}$ to tãvazhi, $\frac{1}{4}$ to tarawâd. There is a great misconception abroad that the Bill is to turn people into Makkathâyam. It is nicknamed the Makkathâyam Bill. When the object of the Bill is properly understood, all accept it as unobjectionable in principle. I practised as a Pleader in North Malabar. In my time, strife and litigation between Kâranavans and Anandaravans were even more frequent in North than in South Malabar. As soon as a man becomes Kâranavan his thought is how he can benefit his wife and children at the expense of the tarawâd. In North Malabar the tarawâd is really composed of the male members and their wives living with them. In South Malabar among the masses, the general rule is the other way, that the wives remain in their own tarawâds and are there visited by their husbands. In South Malabar husbands who have independent means of supporting a wife, generally get their wives to live with them. In South Malabar in respectable tarawâds, Anandaravans having no independent means, are generally allowed to bring their wives into the tarawâd house as in North Malabar. Calicut Taluk follows North Malabar practice generally. The practice of wives living with their husbands in the husbands' tarawâd house has inclined Kâranavans to alienate tarawâd property to their wives and children and this has been one fruitful source of dissension from which several rich tarawâds have been ruined. This tendency is growing.

Taken down by me in the presence of the Commission; read over to the witness who understands English and admitted by him to be correct.

Calicut, }
5TH JUNE 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 66.

VAPPÂLAKALATHIL CHAPPAN MENON.

Kôdhakurishi Amsam, Walluvanad—Age 34—B. A. Deputy Collector on General duty.

I have submitted my answers to the interrogatories. I would rather have the Bill with all its imperfections than no marriage law. In my answer to Question 39 I have made my suggestions as to the alternative to appearance before a Registrar. Previous public notice of marriage is not indispensable in my opinion. I think divorce must be restricted to reason-

able grounds. I don't think a caste panchayat as a tribunal is a feasible suggestion. I can see no alternative to investing the regular courts with matrimonial jurisdiction. Where a wife was divorced for incurable disease, the husband should be compelled to provide for her maintenance. The uneducated people have no idea of what is proposed. The majority of the educated people favour it. I have made no enquiry as to the state of popular feeling as to the proposed legislation. During my tours through my Taluk I have found the ignorant people against the Bill. They are under the misapprehension that the object of the Bill is to change Marumakkathâyam into Makkathâyam at once. The Nambudiris and some Janmis are against the Bill. Of those I have spoken to, about 10 % are in favour of the Bill and about 40 % are against it. The 40 % would include the Nambudiris, Sthânis and big Janmis. All of those in favour of the Bill desire legislation in another form than that which the Bill contemplates. I would prohibit polygamy. In Calicut the majority of Nayar ladies live with their husbands. I don't think that this practice operates to induce Kâranavan husbands to alienate tarawâd property to their wives and children. The largest number of branches that I have known in a tarawâd is four. Each branch would be in age 4 or 5 generations. As a general rule, Nayar husbands have not separate houses. Such men as can afford it provide themselves with separate houses. In many cases the Anandaravans have separate buildings attached to the tarawâd house, live in them with their wives, and mess in the tarawâd all together. Generally there is detached building called the Pathâyapura having several rooms, which are allotted amongst the Anandaravans, where they live with their wives. The term tãvazhi is loosely used to indicate a branch of a tarawâd enjoying either separate property, or tarawâd property set apart for it. I know one tarawâd which occupies 13 or 14 separate houses each under separate management, but all nominally under control of one Kâranavan. The Nayars as a whole, I am afraid, are not improving in material prosperity. There are not, I should say, more than 50 tarawâds in the whole District that are not involved in heavy debts. I should say that about 60 % of the Nayars can get two meals a day from their tarawâd income. A large number of the young Nayars now live in indolence, relying on their tarawâd for food and refusing to do any work. Intermarriage between certain divisions of the Nayar caste, even though prohibited, would lead to excommunication from their division, but would not be regarded as an irregularity by the Nambudiris (because they regard us all as Sudras) and therefore there would be no exclusion from the temple or the temple tank.

Taken down by me in the presence of the Commission; read over to the witness who understands English and admitted by him to be correct.

Calicut, }
5TH JUNE 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 67.

NELLËRI MÂKKÂTA KUNYUNYAN NAYAR.

Age 41.—Anandaravan in tarawâd paying over Rs. 300 assessment. Mëladi Amsam. Kurumbranad.

I received the interrogatories but have not sent in my answers. I see no objection to a permissive marriage law being passed. The people would accept such a law, if there was no appearance before a Registrar and no necessity of a resort to court for a divorce. Restrictions as to caste and consanguinity and affinity should be retained. I think one-third of self-acquisitions should go to wife and children, one-third to brothers and sisters, and one-third to tarawâd. Most of the people I have spoken to, would approve of this. If the deceased had no wife and children I would give the whole of his self-acquisitions to his tãvazhi restricting their power to alienate, so as to save the tarawâd claim. Divorce can now be had at will of either party. I think it should be restricted to incurable disease, change of religion, adultery, impotence, separation after disagreement for one year. Some tribunal should be found to

settle whether any of these grounds was present. I have not been able to devise a fit procedure. Perhaps resort might be had to arbitrators. Kâranavans sometimes give part of the tarawâd income to their wives and children. This occasions dissension sometimes.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Calicut,
5TH JUNE 1891

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 68.

TONDIYIL KOYITHANÂRI RÂRU KIDÂVU.

Age 49.—Pallikkara Amsam, Kurumbranad.

My tarawâd estates pay Rs. 500. I have not received any interrogatories. The people in my locality desire a marriage law. I have seen what was published about the Bill in the Kêrala Patriga. I think a majority of the people around where I live would not object to the proposed legislation. The forms of marriage in use in my locality are 'Puda-muri' and 'Uzham porukkuga.' Caste restrictions on marriage ought to be retained. The Kôrapuzha restriction ought to be retained. I think that the North Malabar Nayar women should be allowed to come to the South of the river. I would not allow South Malabar Nayars to marry a North Malabar Nayar woman. The people object to bride and bridegroom going before a Registrar. I am not prepared to suggest any proper form of procedure as an alternative. I think half of intestate self-acquisitions should go to wife and children and half to deceased's own tãvazhi. The just grounds of divorce are incurable disease, adultery, habitual disobedience. Wives are not divorced in North Malabar except on such sufficient grounds. I would compel persons requiring a divorce to go to court. There will be great injustice if a panchâyat were resorted to. Even if a woman be adult, the consent of her Kâranavan to her marriage is and ought to be indispensable. Where the male is adult the Kâranavan's consent is not indispensable.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Calicut,
4TH JUNE 1891.

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 69.

CHERUVILLATHA CHÂTHU NAYAR.

Age 36.—Pallikkara amsam—Kurumbranad—Anandaravan in Tarawâd—Tarawâd pays nearly Rs. 200—Malayalam Pundit, Government College, Calicut.

I object to the proposed permissive marriage Bill, as it now stands. It will not root out the evils from which Marumakkathâyam Society is suffering. The legislation should be compulsory. The people must be made to like it. Only a minority will accept the Bill and it will remain a dead letter as regards the majority. There is now no valid marriage. In case of intestacy I would give one-third to wife and children and two-thirds to tãvazhi i.e. mother, brother and sisters. That is a division of which most people would approve. I am quite against polygamy, though it is a privilege accorded by Hindu law. Polygamy is now common in North Malabar. 60 per cent. of the people have more than one wife in Kurumbranad, without any sufficient ground whatever. I know instances in which a man has formed 'Puda-muri' with two or even three wives. I know an instance of a Nayar who has three

wives, all married by 'Puda-muri', living with him. Customary caste restrictions ought to be retained. The people don't like that bride and bridegroom should have to appear before a Registrar. I agree with what Mr. Krishna Menon (64th witness) said as regards registration and divorce. There ought to be freedom of divorce. If the law were a compulsory one I would submit to any restrictions which Government thought necessary because it would be for the public good. I am the author of a novel called 'Micâkshi'. In it to the best of my ability I have drawn a true picture of social life in Malabar.

Taken down by me in the presence of the Commission; read over to the witness who understands English and admitted by him to be correct.

Calicut,
5th June 1891.

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 70.

PÊRÛR VÂSUDÊVAN NAMBU DIRI.

Kanniparamba Amsam,—Calicut—age 42—Tarawâd Kâranavan.

I pay Rs. 300 odd assessment. I have submitted my answers to the interrogatories. I have heard that polyandry existed here and there, but I know of no instance myself. I think it unobjectionable that a man should have more than one wife. No wife shall have more than one husband. My anandaravans have consorts among the Ambâlavâsi Nayar women. If it becomes a custom for a Nambudiri to take a Nayar woman as his wife and to make him liable for the maintenance of her and her children, I should have no objection. In some cases the Nambudiris bring their Nayar consorts to live in their Illams.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Calicut,
5TH JUNE 1891.

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 71.

KALPATHÛR CHÂTHAPPAN alias PAIDAL NAYAR.

Age 47.—Kottur Amsam, Kurumbranad Talûk. Anandaravan in Tarawâd—Tarawâd pays Rs. 3000, odd assessment.

I see no objection to the passing of a permissive law regulating marriage. I can only state my own opinion. I can't say what my neighbours think of the subject. I have not asked them. There is nothing like self-acquisition in my Tarawâd. If any one has any self-acquisitions let him do what he likes with it.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Calicut,
5TH JUNE 1891.

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 72.

VAZHÔTHA PALLIYIL UNHIKUTTI KIDAVU.

Age 43.—Naduvannur Amsam, Kurumbranad.

My branch of the Tarawâd pays about Rs. 1300 assessment. I am the second member in my branch. I see no objection to a permissive marriage law as far as I am concerned.

Almost all the persons I have spoken to, and I have spoken to many, are dead against any legislation because they are under the mistaken impression that the purpose of the Bill is to change them from Marumakkathayam to Makkathayam. None of my neighbours knows English. All the persons in my locality are staunch conservatives. I was educated at Calicut and am a Matriculate. The people object to what they think to be customs of divine origin being interfered with. Although the Bill is to be at first permissive they think it will be eventually made compulsory.

Taken down by me in the presence of the Commission; read over to the witness who understands English and admitted by him to be correct.

Calicut,
5TH JUNE 1891.

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 73.

KOMATH RAMAN NAYAR.

Age 42.—Anandaravan in Tarawad paying Rs. 3000 assessment.—Iringath Amsam, Kurumbranad.

My opinion and that of my neighbours is adverse to legislation to regulate marriage. They object to the Bill. They object to any marriage before a Sub-Registrar. Old customs should be retained. In case of intestacy one-third might go to wife and children and the rest should lapse to Tarawad. I have not seen the interrogatories. I see no objection to father being guardian of his children. I regard him as joint guardian with the Kāranavan. The Kāranavan should be the supreme guardian. There is no objection to the wife and children being declared to have a right to maintenance from husband's self-acquisitions, but such a provision seems to me quite unnecessary.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Calicut,
5TH JUNE 1891.

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 74.

KUTHAMBALLI GOVINDAN NAMBIYAR.

F. A.—Age 41.—Iringapuram Amsam, Ponnani.—1st Grade Pleader practising at Calicut.

I have submitted my answers to the interrogatories. My Tarawad pays between Rs. 600 and 700 assessment. I object to any law restricting the freedom of divorce. I think polygamy is an institution which must continue. There are many instances in which it is highly desirable. I strongly desire legislation legalizing the present form of Sambandham. I would let the father be guardian of the person and separate property of the wife, but I would reserve for the Kāranavan a right to interfere for the benefit of the wife or children. In cases of intestacy my mature opinion is that the best plan would be to divide self-acquisitions as follows:— $\frac{1}{3}$ to wife and children, $\frac{1}{3}$ to Tarawad and $\frac{1}{3}$ to deceased's own *Tuvazhi*. The few persons I have discussed the matter with favour this. When a wife visits her Tarawad house with her husband's consent, the law should provide that the Kāranavan is bound to maintain her. I share the common objection to the personal appearance of the bride before a Marriage Registrar. As regards caste restrictions, I would leave it to public opinion to maintain them. The Bill should uphold all customary restrictions as to consanguinity or affinity. I think that at marriages a declaration in duplicate might be signed by the parties and their guardians when guardians are necessary, and be attested by witnesses, and thereafter be registered like an ordinary document. I would have the registration compulsory. I would have no restriction on the testamentary power over self-acquisitions. Where a divorce was

contemplated, I would make the party seeking a divorce give some notice of it in such a way as to be beyond dispute. I would fix a term of 3 years and if the notice was not revoked the marriage should become dissolved at the end of that period. I would not punish the husband for marrying again in the interval of probation. If the woman married again in the interval of probation she ought to be punished for bigamy. I should have no objection if the husband were made equally punishable with the woman. I know of one Tarawad which consists of over two hundred members under the nominal control of one Kāranavan. As a fact there are several branches each managed by a junior member. Polygamy would be strongly objected to by the women. I think the Act should not recognize caste restrictions on marriage. In South Malabar Sambandham is the only recognized form of marriage. There is no religious element in it, unless the presents to Brahmans to invoke their blessings, may be considered so. There is no religious rite performed in the ceremony. The connexion of husband and wife creates no obligations as to the performance of funeral ceremonies. Sons, daughters, nephews, and nieces now all customarily perform funeral oblations. Thus there is a double set of oblations. I never heard of nephews authorizing sons to perform the funeral rites of the latter's fathers. I have been in practice as a pleader for 15 years. The Tālikettu has all the incidents of a formal marriage but the union is dissolved by cutting a cloth. I do not mean to say that the tāli tier would have the right to cohabit if the cloth-cutting ceremony were omitted. Throughout South Malabar, as far as I know, the cutting of the cloth is part of the tāli-kettu ceremony. I do not see any religious element in the ceremony of Tālikettu. I have sons but no daughters. In Choughat the man who ties the Tāli (the manavālan) and the damsel are supposed to live together for 4 days. The fiction is that they ought to pass the night together. They eat together. On one occasion I have myself acted as Manavālan and I did pass the night in the same room with the girl for 4 days. On the 4th day the cloth was torn in two and my relation as Manavālan ceased. I don't know what becomes of the torn cloth. The Tāli-kettu invariably takes place before the girl attains puberty. The impression is that the omission to perform Tālikettu before puberty would entail loss of caste on the girl. I have discussed the Bill with the local members of the Bar in the Library. The Nayars would number about 15. All of them were agreed that marriage legislation in some shape was necessary. Some of them were prepared to take the Bill as it is, if they could get nothing more acceptable. Three or four were of this opinion. The others wished various modifications, mainly in accordance with what I have above suggested. They had all received an English education. One, a native of Cochin, was against any sort of marriage legislation. I don't believe polyandry has entirely ceased to exist, but I don't know of any instance myself. Walluvanad is said to be the locality where it survives. The official classes of Nayars have mostly cast off all caste restrictions and objections as regards taking refreshments whether in office, at Railway Stations, or at home. As regards marriages the old prejudices maintain their ground. My personal opinion is that caste restrictions should not be recognized by law, but I recognize it as being impracticable to abolish caste by law at any rate for half a century or so. I have practised as a Pleader at Tellicherry for 12 years. I don't believe that more than two or three cases of polyandry could be found in the whole of Malabar. I am a member of the Kērala Sabha. The last meeting took place in 1887. I know of only one literary society of Hindus in South Malabar out of Calicut. That is at Ponnani. Amongst the respectable classes in South Malabar, 'Sambandham' usually lasts for life. Not one husband in five divorces once in his life-time. Cases of capricious divorce would not exceed 5%. I have myself never known of 5 instances. The freedom of divorce at will operates as a sufficient check upon the exercise of that freedom. Social opinion also acts as a very strong check upon any divorce. Polygamy is more common in North Malabar than in South Malabar.

Taken down by me in the presence of the Commission; read over to the witness who understands English and admitted by him to be correct.

Calicut,
6TH JUNE 1891.

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 75.

CHANGALATH KUNJI RAMAN MENON.

Kasaba Amsam.—Calicut.—Age 32.

Am a Member of the District Board. B. A. Am the Editor of the *Kerala Patrika*. Have been so for 6 years. I have not sent in my answers to the interrogatories. I am prepared to accept the Bill except in the matter of the bride's appearance before the Registrar. Where the Registrar happened to be of the same or higher caste, than the bride and bridegroom, and if he attended at the marriage free of cost, there would be no objection. The statutory form of marriage might be retained and the existing form 'Sambandham' might likewise be legalized.

As a concession to public opinion I would allow a part of intestate self-acquisitions to go to a man's *tavazhi*. The majority of the people would wish half to go to wife and children, and half to the *tavazhi*. No part should go to the Tarawād Kāranavan. The people wish the 'Sambandham' to be legalized. There are cases where man and woman cohabit without formality and without the consent of their guardians. There are several such cases. If the man and woman are of equal caste, such unions entail no social penalty. Such cases occur when young persons fall in love, and their guardians oppose their union. I personally know of about ten such cases and have heard of others. This procedure is generally followed where guardians oppose the union of a young couple who love each other. Amongst us, we don't call such unions clandestine. In the case of such unions the girl has generally been below the age of 20. There is also no formality where the husband is a Nambudiri, a Tamburān (prince) or a Nādu-Vāzhi (chieftain). The Nambudiripads in Walluvanad dislike that it should be known that they consort with Sudra women. They obtain the girl's Kāranavan's consent, and visit the girl without any sort of formality. The Nambudiripad is generally the big land-lord of the place and by his influence he can generally get the consent of any of his tenant-Kāranavans who are Nayars to visit the girls of their tarawāds. Some of them esteem his visits an honor. Of late Nayar husbands in South Malabar who have independent means, always bring their wives to live with them. The rule still is that the South Malabar wife resides after marriage in her own tarawād, unless she is wife of a Kāranavan. Anandaravans now lead an idle life. I think if the proposed legislation becomes a law they will have an incentive to work for their wives and families. The women of Malabar, as far as I can judge, view the proposed legislation with favour. In Palghat there is a form of Nayar marriage, "Kidakkura." I think the etymology is 'Kidakka=lying, or cohabitation and 'Mura'=turn—turn of cohabitation. The custom in Palghat is for a friend of the bridegroom to say to the senior lady in the bride's house "Let this youth come and sleep and go for 6 months."

There is no such formality as this except in Palghat. The meaning is that the six months should be a period of probation. It does not influence the conduct of the parties, for they can separate before six months if they choose. The "Kidakkura" union sometimes lasts for life. In the majority of cases 'Sambandham' does not last for life. It is only amongst respectable people that it does so. In North Malabar the union is more binding than in South Malabar. In many cases the man and wife cleave together for life. The *tāli kettu* is not a marriage. I find it exactly corresponds with the ceremony the dancing girls go through in Madras, and I believe that the Nambudiris introduced it to put the Sudra women on a level with dancing girls. This view is supported by the account given in the *Kerala Mahātmyam*. The book is a lecture in Sanskrit by Garga Rishi to Yudhistara Maha Rajah. I don't know anything about the authorship. The ceremony of *tālikettu* is socially regarded as a ceremony giving a girl marriageable status. I would not recognize caste restrictions, and I approve of the provisions of the Bill as to consanguinity and affinity. The law should not interfere to support caste restrictions. I do not regard proviso 2 in Section 4 of the Bill as an interference with caste customs. I approve of the principle that the legislature should not interfere with caste customs. If a high caste man chooses to marry a low caste woman contrary to rules of caste, I think the law

should not pronounce such marriage to be invalid. It is only a permissive law and would not interfere with social usages in my opinion.

Taken down by me in the presence of the Commission; read over to the witness who understands English and admitted by him to be correct.

Calicut,

5TH June 1891

H. M. WINTERBOTHAM,

Collector and Commissioner.

Witness No. 76.

PULÂPRÉ GOVINDA MENON.

Age 37.—Azhinyilam Amsam, Ernad Taluk.—Tarawād Kāranavan.—Janmi paying Rs. 3000 assessment.

I have sent my answers to the interrogatories. My view is that no change in existing custom is advisable. Most Malayālis are of opinion that our 'Sambandham' is a valid marriage. There is no other form in Ernad Taluk. Many people have expressed to me their objection to any change. My tarawād has about 700 tenants, of whom over 100 are Nayars. I have discussed the matter with people of my amsam and of the surrounding amsams. I fear the new law would increase litigation. I think it would be injurious to the Marumakkathāyam custom. There are a few English educated men in my amsam. They share my opinion. My amsam is 8 miles South East of Calicut. Wife and children ought to get a share of the father's self-acquisitions on his death in estate. I think they ought to get half. The other half ought to go to the Tarawād, not to *tavazhi*. Fathers now make provision for wife and children by gift *inter vivos*. I am in favour of according testamentary power over self-acquisitions. Most Nayar wives live with their husbands. They always do so if their husbands can afford to maintain them and the children. Most junior members of tarawāds have no separate means wherewith to support a wife. In such cases the wife remains in her own tarawād. I think the wife's Kāranavan is the proper guardian of the wife and children. If she lives with her husband, the husband ought to be the guardian subject to the Kāranavan. If the wife lives with her husband in her husband's tarawād then the husband's Kāranavan ought to be guardian. I see no anomaly in a person having 3 guardians according to his or her place of residence. A junior member will not bring his wife into the tarawād house without the Kāranavan's consent. In most cases the Kāranavan's previous consent to the marriage is obtained. A Nayar may not marry his deceased wife's sister or any member of her *tavazhi*. If the deceased wife's tarawād has more than one *tavazhi*, there is no objection to marrying a female in one of the other *tavazhis*. Polygamy is rare, and I think it should be prohibited. Divorce is not common. Sambandham usually lasts for life. I know of 4 or 5 cases of divorce on sufficient grounds. Adultery is the proper ground of divorce. Occasionally when a man takes a fancy to another woman, he divorces his first wife. I have never heard of an instance of a Nayar woman divorcing her Sambandhakāran. I have never heard of an instance of a woman having two Sambandhakārans at the same time. In my life I have never heard of a case of polyandry. Now either the wife or husband can divorce arbitrarily. Such conduct would be disapproved, but it would incur no social penalty. Such conduct being improper, I would not object to a law restraining capricious divorce. I think adultery and incurable disease are the only reasonable grounds of divorce. I have not heard of an instance of a quarrel between Kāranavans leading Anandaravans to divorce their wives. Even amongst the lower classes of Nayars, who are labourers, it is not common to change Sambandham. The head of my sub-division, which is "Menon," is the Zamorin. I am of the Agathachārna division. It is the Zamorin who should settle all caste disputes among us. Other sub-divisions are under other Rajahs and Prabhūs (chieftains). In Walluvanād the Walluvanād Rajah has caste jurisdiction. The caste heads should settle caste disputes according to recognized usage. If the Zamorin directed us to disregard the established usage as to Sambandham, he would not

be obeyed. Caste disputes are only referred to the Zamorin by courtesy. We Nayers are not bound to refer to any body's opinion in caste matters. I have had my attention drawn to my answer 25. It is a fact that by custom the woman can terminate a Sambandham at her pleasure. I and Mādambath Govinda Menon (77th Witness) have discussed this subject and are of one opinion. We therefore sent in similar answers to the interrogatories. A tarawād has generally only two or three *tāvazhis*. By a *tāvazhi* I mean a branch with separate management, but not formally divided. I don't remember more than 4 *tāvazhis* in any case. Where a tarawād has many members there may be internal dissension but not so as to injure the family. When wives of junior members are brought into a tarawād, they generally get on with the family in harmony. Mine is one of the well conducted tarawāds. I have no family-tree in my tarawād. Except when a family-tree is required for the purposes of a suit it is not the local custom to prepare one. What I have said in my answer to question 40, is the fact, namely that there are many Nayers who belonged to the same tarawād, who now do not mutually observe *pula*, because the relationship is distant and only rests on hearsay. There is only one period of *pula* for all Nayers, viz 15 days, no matter how distant the relationship of the deceased. After two or three generations *pula* is not observed. In such cases the relationship can only be known by tradition.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Calicut,
8TH JUNE 1891.

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 77.

MĀDAMBATH GOVINDA MENON.

Age 51.—Azhinjilam Ansam, Ernad Taluk.

Am Tarawād Kāranavan, and Pleader in Shernād District Munsiff's Court. My tarawād pays about Rs. 500 assessment. On some points I don't agree with Pulāpré Govinda Menon (76th witness). A man should either dispose of his self-acquired property by gift or by Will. If he neglects to do so, the whole should go to his tarawād and no part to his widow and children. In my opinion it is not proper for a man to marry in his deceased wife's tarawād. I say that polygamy is already prohibited by public opinion. There are some people who set public opinion at defiance. No law is wanted to stop what public opinion disapproves. There is nothing like capricious divorce practised now: therefore no law is required to restrict divorce. As long as Marumakkathāyam stands, the wife's Kāranavan, not the father, should be guardian of wife and children, even if wife and children live with the father. In my locality the Nayar wife generally lives with her Anandaravan husband, in the Anandaravan's tarawād house, if the Anandaravan's Kāranavan approves of the marriage. Wives will live part of the year with their husbands and part of the year in their own tarawāds. The period will depend on their husband's pleasure. I think probably that in the majority of cases the wife lives with the husband in his separate house, or in the husband's tarawād house. The Nayar husband will not set up in a separate house in more than 5 cases in a hundred. I would vote against any legislation as regards marriage. I would accord an unrestricted power of testamentary disposition over self-acquisitions. That is the wish of such people as I have discussed the matter with.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Calicut,
8TH JUNE 1891.

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 78.

ULLANĀTTA KUNYI KŌMA PANIKKAR.

Age over 60.—Vengidanga Ansam, Ponnani Taluk.—Tarawād Kāranavan.

My tarawād pays Rs. 7000 odd in British territory. Have land paying Rs. 1000 in Native Cochin. I have sent in my answers to the questions. In case of intestacy half of self-acquisitions should go to wife and children and half to tarawād. Testamentary power over self-acquisitions should be granted, with the restriction that wife and children must be provided for. Husbands who can maintain their wives generally have their wives to live with them. If the husband has not the means to support the wife, the wife stays in her tarawād house and is there visited by her husband. If the Kāranavan consents, the Anandaravan will bring his wife to the tarawād house. At Chaughat there are many cases in which the Nayar husband has set up a separate house for himself. I should say that in 30 cases in a hundred, the Nayar husband would live with his wife in a house set up by himself. In many cases the tarawād lands are scattered, and there will be separate form-houses (Kalams) in which the Anandaravans live with their wives. In the 30 % living separately I include such cases. Perhaps in 5 or 10 % of the marriages the husband may set up house from his own self-acquisitions. It is a common practice for the Kāranavan to lease out scattered lands to the Anandaravans, and the Anandaravans take the surplus over the rent as their self-acquisition. There are a great number of Nayers in my locality who work for hire. Their wives do not generally work for hire, except at harvest. Amongst such working classes the wives generally remain in their own tarawād houses. In my part there are few Nayers who have studied English. I think it is the father who should be the legal guardian of his wife and children. Where the wife lives in her own tarawād there will be difficulties, but somehow the Kāranavan and the husband will agree. Caste restrictions and those on consanguinity and affinity should not be interfered with. Females should be exempted from appearance before a Marriage Registrar. I suggested a caste panchāyat as a tribunal for matrimonial cases, but I don't think it will work satisfactorily. I made the suggestion in deference to the common objection to resorting to Court for a divorce. I can't make any other suggestion. I have consulted many people on this point, about one hundred. Last year we got up a petition in Vengidanga Ansam and sent it to Government. 1015 people signed it. I signed it first and a number of the petitioners met together and signed it before me. Signatures were also obtained through trustworthy agents. I feel sure the signatures are all genuine. That is the petition and that is my signature now shown to me. Where the Nayar wife is of a lower division than the husband, the sons will nevertheless perform the fathers' funeral ceremonies. There is an exception where the father is a Brahman. His sons by a Sudra woman do not perform his funeral ceremonies. As soon as a Nayar dies, if his widow and children are living with him, they are sent out of the house before the corpse is removed for cremation. Sons incur no social penalty if they neglect their father's funeral ceremonies. Nephews so neglecting would incur a caste penalty. They would not be associated with. I have heard of cases of polyandry. I may have known of 5 or 10 in my lifetime in my locality. There are no such instances now.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Calicut,
8TH JUNE 1891.

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 79.

PANIKÔT KANDAR NAYAR.

F. A.—Age 29.—Manjêri Amsam, Ernad Taluk,—2nd Grade Pleader practising at Ernad District Munsiff's Court.—Tarawâd Assessment Rs. 100.

I am in favour of a permissive marriage law, but I strongly object to provisions of the Bill regarding registration. I think the Ūrâlans of a temple in each amsam might be appointed to register marriages. There are temples in every amsam. The Ūrâlans might be allowed to depute their powers. I do not know of any instance of polyandry of my own knowledge. I believe it has disappeared within the last 20 years. I wish to retain the present caste and customary restrictions on marriage. I would permit divorce for adultery and incurable disease, and would not allow it capriciously. I would vest matrimonial jurisdiction in courts of justice, because I see no other alternative. The people would not like it. On reconsideration I would give half of intestate self-acquisitions to wife and children, and half to the Tāvazhi. I would make the father the guardian, and if he has no means, he should work and earn something. It should be the wife's duty to live with the husband. I think the people would like it. I would retain the restriction on the power of testamentary disposition in favour of wife and children. I have only discussed the subject with two or three persons. Until six or seven years ago, the Nayar women of the labouring classes used to work in the fields in Ernad. I don't see them doing so now. I don't think the bulk of the Nayars are increasing in material prosperity. I would prohibit polygamy.

Taken down by me in the presence of the Commission; read over to the witness who understands English and admitted by him to be correct.

Calicut,

8TH JUNE 1891.

H. M. WINTERBOTHAM,

Collector and Commissioner.

Witness No. 80.

AKKITATHA ACHUDAN SÔMAYÂJIPÂD.

Age 43.—Alangôd Amsam, Ponnani Taluk.—Anandaravan in Tarawâd—Tarawâd pays Rs. 450 Assessment—Makkathâyam Brahman.

I have sent in my answers to the interrogatories. I understand the Bill to be intended to change Marumakkathâyam into Makkathâyam. As a marriage the only ceremony the Sudras have is the Tâli-Kettu Kalyânam. It is a Vivâham ordained by Sankarâchariyar. So I have been told. Whether it existed before Sankarâchariyar I don't know. I don't know whether Tâlikettu is one of the 64 Anâchâram of Malabar. Here we don't speak of them as Anâchârams but as Âchârams prescribed by Sankarâchariyar. Amongst Nambudiris the father ties the Tâli. If after tying Tâli and before Pânigrahanam the bridegroom were to die, the Nambudiri (Antarjanam) could not marry again. At least that is my belief. I have never known such a case. I regard the Tâlikettu amongst Sudras as the Vivâham. It does not create the relation of husband and wife. It creates the capacity to form Sambandham. The Sambandham does not create the relation of husband and wife. Brahman women are alone under any obligation to chastity. I can't quote any authority for this position. A Nayar may consort with his deceased wife's sister. I don't know what the Nayar usage on that point may be. A Nayar cannot marry in his own Tarawâd. I am the manager of my Tarawâd. Some of the men of my Illam consort with Nayar women. In some such cases the union lasts for life. In such cases the Nambudiri would not be pleased if the woman proved unchaste. If she said "Parasu Râma's decree allows me to be unchaste," he would not agree with this. In the majority of cases the union of Nayar man and woman lasts for life. I am not aware

of any instances of polyandry existing at present. I don't know which is the older work, the Kêralôpathi or Kêrala Mâhatmyam; nor do I know anything about their authorship.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Calicut,

8TH JUNE 1891.

H. M. WINTERBOTHAM,

Collector and Commissioner.

Witness No. 81.

MÔNDAMBALATH NÂRÂYANAN MUSSAD or TINANJÊRI ELAYAD.

Makkathâyam Brahman—Age 57—Arimbra Amsam—Ernad Taluk.

Am the Kâranavan of my tarawâd, paying over Rs. 1000 in my own name. My tenants pay Rs. 4,000 or 5,000. I have sent in my answers to the questions. Although my opinion is that a permissive marriage law is unobjectionable, the public in my locality object to the proposal. They think the new law will create family dissensions which will ruin tarawâds, and that it will create two different rules of inheritance in the same tarawâd. The provisions making the wife heir to her husband's self-acquisitions may even tempt wives to poison their husbands. Some disapprove of meddling with a usage which has prevailed ever since the creation of Malabar. In my answer 14, I don't mean that the man who ties the tâli can cohabit till he forms Sambandhâm. So far as I have enquired every one objects to the proposed Bill. I have about 2,000 tenants. I have asked very many of them and they are all against it. It is common for a Nayar girl to be given in Sambandham to her mother's brother's son (first cousin).

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Calicut,

8TH JUNE 1891.

H. M. WINTERBOTHAM,

Collector and Commissioner.

Witness No. 82.

MALAPURATH PÂRA NAMBI.

Age 61—Kizhmuri Amsam,—Ernad Taluk—Marumakkathâyam Nayar Janmi.

My tarawâd pays about Rs. 500 but my tenants pay about Rs. 10,000.

I would support compulsory legislation to regulate marriage and have therefore no objection to a permissive marriage Bill. Most of the country people don't understand the proposed measure. Those who understand it are in favour of it. The majority oppose the Bill, because they fear any sort of change. They think the new law is intended to convert them to Makkathâyam. I have spoken to about 50 men at Malapuram who are in favour of the Bill. They are persons who have had the intention of the Bill explained to them. I don't know what alternative to propose in place of registration before a Marriage Registrar. For the last 5 or 6 years I think polyandry has ceased. There are many cases of capricious divorce. This is especially found when Brahmans consort with Nayar girls. In about 5% of the total number of marriages a capricious divorce will take place. Adultery is the only proper ground of divorce. Incurable disease in the first wife will justify a man in taking a second wife. I think that divorce should be regulated. I would invest the Courts of justice with matrimonial jurisdiction. Perhaps a panchâyat would answer. In case of intestate self-acquisitions, if the deceased be an Ananda-

ravan the whole should go to wife and children. Self-acquisitions made after acquiring the post of Kāranavan should be divided half to wife and children and half to tarawād. Husbands who can afford to support their wives, generally have their wives to live with them. Kāranavans always do so. It is very rare that Anandaravans can support their wives.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Calicut,

8TH JUNE 1891

H. M. WINTERBOTHAM,

Collector and Commissioner.

Witness No. 83.

KUTHĀMBALLI KRISHNAN NAMBIYAR.

Age 52—Iringapuram Amsam—Ponnani Taluk.—3rd member of the Tarawād.

My tarawād pays a revenue of Rs. 600. I did not sign a petition to Government about marriage law. I am in favour of a permissive law of marriage for the Marumakkathāyam people, provided that it would not in any way interfere with the prosperity of Marumakkathāyam Tarawāds. The majority of the intelligent and well informed among the people generally are also in favour of such a law. I have spoken to many people on the subject. Only a few spoke against it. The majority of the people of all classes are in my opinion in favour of legislation and they also wish that the law should be so framed as not to clash against the Marumakkathāyam law. I think that not less than one half of the property of a person dying intestate should go to his children and the remainder to his own Tāvazhi. This is also the wish of the people in my part of the country and others to whom I have spoken. I should like that we should have testamentary powers of disposing of our property without any conditions attached to them. I would make the father the guardian of the children. When the wife lives in tarawād house, she is not entitled to claim her maintenance. She is still entitled to get oil and cloths when she lives. I would retain caste and other customary restrictions. Polygamy prevails to some extent. In certain circumstances such as barrenness, incurable disease, polygamy may, I think, be permitted. In such cases I should think the first wife would consent. I have not heard of polyandry among Nayars. The customary form of marriage may be retained. I do not think registration before Registrar desirable. I think some respectable men of Nayar or higher caste in each amsam may be appointed as Marriage Registrars before whom marriages may be solemnized. Disagreement between the husband and wife, ill feelings between the Tarawāds of the husband and wife and adultery are good grounds for divorce. I should think that 6 per cent may be said to be the average number of divorces on marriages among Nayars. I have not known cases of arbitrary divorces whether in my part of the country or elsewhere. I am a Kiriya caste. Our caste disputes are settled by the chief Tarawāds in our own caste. Tālikettu ceremony is not marriage but is one of the *Samskārams* or religious ceremonies which girls undergo before they attain puberty. If the husbands are very wealthy the wives live in husbands' tarawād. Among the poorer classes such as earn their livelihood by cooly work, the husband and wife live together and labour together for their livelihood. In respectable houses when the Kāranavan and Anandaravans live in harmony, the wives live in the husband's house. In other cases the wives live in their own tarawāds. In my opinion the number of cases in which the wives live with their husbands will be 50 per cent. About one half of that percentage will be cases in which the wives live with their husbands in their husband's own house, separately from the husband's tarawād. Usually the Nayars give property to their wives and children. Some part of their self-acquisitions is always reserved for the tarawād. I cannot mention any definite share in which they give property to their children or reserve for their tarawād. Any law of divorce which does not necessitate the parties to resort to Court to obtain it, may be passed. I would have freedom of divorce. If either party wishes for

a divorce, he or she shall have it one year after the date of a notice to be given to the opposite party announcing his or her intention to divorce. This period is given in order that the parties may be reconciled within that time through mediation of friends &c., and to prevent a hasty divorce on sudden provocation &c. I have learnt English.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Calicut,

9TH JUNE 1891.

O. CHANDU MENON,

Commissioner.

Witness No. 84.

MUTTĀYIL VĒLAPPA MENON.

Neduva Amsam—Ernad Taluk—Age 56.

I am the Kāranavan of my tarawād. I pay a revenue of Rs. 130. The people generally are against the Bill. They say that if it is passed two systems of inheritance will prevail in the same tarawād. I have no objection to a law which would not interfere with the Marumakkathāyam system of inheritance. This is the popular opinion in 4 or 5 of my neighbouring amsams. 90 per cent. of the people think so. I would give the whole of the property of a man dying intestate to the Tarawād. The Kāranavan ought to be the guardian of the children and not the father, for 90 per cent of the wives live in their tarawād houses. Even in cases where the husband has self-acquired property and the wife lives with the husband, I would have the guardianship in the Kāranavan. There should be no right vested in wife and children to ask for maintenance from their husband and father respectively. Generally wives and children are not maintained by the husband and father respectively. I have myself given Rs. 5,000 worth of property to my wife. My wife lives with me in my tarawād. But a husband should not be made liable to pay maintenance. I would not restrict polygamy. I agree with the last witness Kuthāmballi Krishnan Nambiyar in his suggestions about divorce. As to caste and other restrictions of marriage and registration, I agree with the witness. I belong to a caste which is *Chārna* to Parappanad Rajah. We settle our caste disputes among ourselves. Tālikettu is a preliminary ceremony to marriage. At the end of the Tālikettu Kalyānam (4th day) the Manavālan cuts a double cloth and puts one piece on a plank and takes the other piece for himself. The person who ties the tāli and the girl do not sleep together during Kalyānam. Any Enangan or casteman ties the Tāli and this ceremony takes place always before puberty. Among Nayars the ceremonies for the spiritual benefit of the deceased are the funeral ceremony, the Shradham and the Amāvāsi. Neither the wife nor the children take any part in these ceremonies. When the father is a Nayar his sons of whatever caste being a Sudra may perform the father's *Shradha*. A religious Nayar bathes in the morning, says his prayer and reads his religious books. In the evening he bathes again. On special days he goes to the Temple. Each house has a tutelary deity. The wife generally makes all arrangements to enable the husband to offer his prayers. In the absence of the wife any other woman might do this. The people generally desire that there should be no provision changing the succession of self-acquired property of a Nayar according to Marumakkathāyam.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Calicut,

9TH JUNE 1891.

O. CHANDU MENON,

Commissioner.

Witness No. 85.

PADIPURAKKAL NĀNU MENON.

Kāranavan of the Tarawād—Age 40.—District Board Member.

I pay Rs. 3000 as Revenue. I am in favour of legislation conformatory of the existing usage. I am against the Bill in its present form. I have read the Bill. The people agree with me so far as I know. The wife and the children should be entitled to maintenance out of self-acquisition if the husband dies intestate. What I stated in my answer paper on this point is a mistake. The remainder of the property after providing for maintenance of wife and children should go to the Tarawād. When the wife lives with the husband the husband should be the guardian. In other cases the Kāranavan is the guardian. In the majority of cases, the wife lives with the husband in his Tarawād house, or, in his own house. I am a native of the Southernmost amsam in South Malabar. Ordinarily the wife is maintained by the husband's Tarawād when she lives in the Tarawād house. I would not create an obligation in any husband to maintain his wife and children, because all good husbands maintain their wives and children. A law on this point is therefore unnecessary. I am for unrestricted testamentary power being given to Nayers in respect of their self-acquired property. No registration is necessary because marriages are celebrated now with sufficient publicity. I would recognize Sambandham as marriage and attach to it rights and liabilities prescribed by the law. The present practice of divorce should be retained. If it is to be restricted it might cause husbands to poison their wives and *vice versa*. There is no objection to divorce being regulated according to the suggestions of the 83rd witness Krishnan Nambiyar. Polygamy should not be done away with. I have heard of one or two cases of polygamy. I would not make the husband liable to pay maintenance to wives because they do maintain now.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Calicut, }
9TH JUNE 1891.

O. CHANDU MENON,
Commissioner.

Witness No. 86.

CHANNAZHI KRISHNAN MUSSAD.

Age 41.—Makkathāyam Brahman—Ponmala Amsam, Ernad Taluk—Tārawād Kāranavan.

Tarawād pays Rs. 300 assessment. Has also about 500 tenants, mostly Mapillas, who have puttahs. I have sent in my answers to the questions. I do not think any marriage legislation is necessary. I have given my objections in my answer 38. It will introduce family dissension. Kāranavans will be tempted to misappropriate tarawād property. There will be two diverse systems of inheritance in the same family. Nephews will neglect to perform *Shrādha* (funeral obsequies) if self-acquisitions cease to go to them. Where the wife is of a lower division than the husband, if the husband falls sick, neither she nor her children can nurse him, and his tarawād relations will have no motive for taking care of him. Marumakkathāyam is a divine institution which ought not to be meddled with. In my locality most Nayar wives live after marriage in their own Tarawāds. If the husbands have property the wives will live with them. This is not proper according to old usage. I do not say that the Nayar women should be forbidden by law to live with their husbands.

As to whether they should be allowed to do so, the supreme authority must decide. Old usage ought not to be departed from.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Calicut, }
9TH JUNE 1891.

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 87.

CHAPPUNHI alias AIYĀYIRAPRABHU KARTHĀVU.

Age 29.—Tenyipalam Amsam, Ernad Taluk.

Marumakkathāyam Tarawād. Tarawād pays directly about Rs. 200 as assessment. My tenants pay about Rs. 2500, as assessment. There are about 500 or 600 tenants. About 100 or 150 are Nayers. 'Sambandham' is the customary form of marriage amongst Nayers. I would wish to see enticing away a married woman, and adultery made punishable. I would wish a woman to be punished who took a second Sambandhakāran without properly getting rid of the first. Seven-eighths of the Nayar women in my locality live with their husbands. Their husbands do as a fact maintain them. I would not pass a law giving the wives the right of maintenance during their husband's lifetime. If the husband died intestate I admit that his widow and children have a claim to maintenance. I would give half of his self-acquisitions to the wife and children, and half to the tarawād. That is only my own view. My tenants are poor people who don't know anything. So I have not consulted them. I think testamentary power should be accorded. I also think the power should be subject to wife and children's claim to maintenance. I think the father is the proper guardian of his wife and children. It is only rarely that the wife and children would reside in the wife's tarawād. I should object to registration of marriage. As regards divorce the Nayers of both sexes now do what they like. I admit that that is objectionable. Capricious divorce should be restricted. It might be made compulsory that one party should give the other six months' notice by registered letter, within that time they would somehow arrange the matter between them. Out of my Nayar tenants I think about 100 husbands have their wives living with them. I think my tenants holding puttahs would pay about Rs. 5 or 6 as assessment on the average. I should be in favour of permissive legislation in accordance with my above sentiments.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Calicut, }
9TH JUNE 1891

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 88.

PADINYARĒPĀTTA GOVINDA VĀRIYAR.

Age 61.—Tiruvāli Amsam, Ernad Taluk.

Am Tarawād Kāranavan. Tarawād pays Rs. 300, tenants pay about Rs. 40 besides. I have sent in my answers to the questions. I object to appearance before a Marriage Registrar. Something ought to be devised which would not compel a bride to appear before a Registrar. I see no objection to passing a permissive marriage law. Capricious divorce is not

common. I admit it should be restricted. I object to restricting divorce by law. I admit there is no objection to a law which provides that a wife shall not be divorced except on reasonable ground. Divorces are very rare, and capricious divorce does not take place. If divorce takes place it is for adultery on the part of the wife. The wife and children have a just claim to maintenance from a deceased husband's self-acquisitions. I would give them a share according to their necessities and the balance should go to the tarawâd. Testamentary power over self-acquisitions should be granted. If a husband has means, he will have his wife to live with him. Otherwise she will remain in her tarawâd. There are very few cases in which a wife will live the whole year in her husband's house. A Kâranavan cannot generally leave his estate and therefore his wife generally lives with him. Anandaravans can leave their houses, and therefore can visit their wives at their own tarawâd houses.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Calicut,
9TH JUNE 1891.

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 89.

CHIRALAM PUDHIA VITTIL GOVINDAN NAYAR.

*Native of Eramom Amsam, Chirakkal—Permanent resident at Casergôl in South Canara.
Age 34.—Editor of the 'Kerala Sanchârî' Malayalam Newspaper, for two years.*

I have read the proposed Bill. I have discussed its provisions with many people. The paper had 900 subscribers, but the number is now reduced owing to the manager requiring pre-payment. A majority of the people object to a permissive marriage law. It is the English educated minority who, some of them, desire legislation. Of those I have consulted *i.e.* about 50, a majority are against the Bill. I have received many contributions on the subject for publication, but have not published them all. Of those who oppose, a majority are not opposed to legislation regarding marriage, but they have strong objections to details in the Bill. They object to registration before Sub-Registrar. They would have men of their own caste appointed as Marriage Registrars, one for each amsam. If a Brahman were appointed he would do for all castes. As to intestate succession, no one thinks the wife and children should take the whole. Some would give them $\frac{1}{4}$, some $\frac{1}{3}$, some $\frac{1}{2}$. All people would give them some share. The balance they would give to the deceased's *divazhi*, not to the tarawâd. All think that the customary restriction as to consanguinity should be maintained: so also customary restrictions regarding affinity. They would retain the Kôrapuzha restriction forbidding South Malabar Nayers to intermarry with North Malabar Nayar women. Most people say that the consent of the Kâranavan, and also of the father, is necessary to marriage whatever be the age of the parties. The father and Kâranavan would seldom disagree. 95 out of 100 are of opinion that the present freedom of divorce should continue. I have not ascertained the opinion of the women on this point. I have resided in Calicut for ten years. I believe that divorces are rare. So far as I have heard divorce is not resorted to without sufficient grounds. Adultery, gross disobedience are generally accepted as proper grounds. I have heard that polygamy is practised in rare instances. In cases where 1st wife is barren, a lunatic, subject to incurable disease, it is unobjectionable for the man to marry again. I have heard that polyandry is practised very rarely in parts of South Malabar bordering on Native Cochin and in Native Cochin; never in North Malabar. There is a unanimous desire for testamentary power over self-acquisitions. People would wish the father to be guardian during his life, and his wife's Kâranavan to be guardian after his death. This refers chiefly to North Malabar. In South Malabar opinion is divided. Some would wish the father and the Kâranavan to be joint guardians; some would wish the father to be guardian; some would have the Kâranavan to be guardian. A majority would not invest the wife and

children with a right to maintenance against the husband. The husband does now generally maintain the wife and children. If this practice were turned into a right it would give rise to litigation between husband and wife. There should be no suit for restitution of conjugal rights.

Taken down by me in the presence of the Commission; read over to the witness who understands English and admitted by him to be correct.

Calicut,
9TH JUNE 1891.

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 90.

KOLAPURATHA VELÔTRÊ TÂMU PANIKKAR.

Age 41—Uragam Mēlmuri Amsam,—Ernad Taluk.

Am Tarawâd Kâranavan. The tarawâd assessment is Rs. 80. My tenants pay about Rs. 1000 as assessment. I volunteered to lay my opinions before the Commission. If a marriage law is passed it should not be permissive, but compulsory. I think a compulsory law is necessary and that a majority of the people are in favour of it. In all classes there is a desire for testamentary power over self-acquisitions and all classes wish that a share of self-acquired property should go to widow and children in case of intestacy. Marriages and divorces should be registered, but I would suggest that the duty of registration should devolve on the Revenue Inspectors who are now responsible for keeping up birth and death registers. I object to the registration procedure proposed in the Bill. Intestate self-acquisitions ought to be divided equally, half to widow and children and half to brothers and sisters. Wife and children should have a claim against the husband and father for maintenance. If there were a difference of opinion between Kâranavan and father as to whether a child should go to school, the Kâranavan's will should prevail. In my locality most Nayar wives live with their husbands. In such cases the husband should be the sole guardian of his wife and children. I would make guardian either the Kâranavan or the father according as one or the other were the better qualified by wealth &c., to further the child's interests. In my part most Nayars live with one wife for life. I would restrict capricious divorce. I should consider misconduct, incurable disease and adultery to be reasonable grounds of divorce. By misconduct I mean habitual disobedience. In cases where relatives couldn't settle divorce disputes between husband and wife, I think the Courts should be invested with the necessary jurisdiction. I don't think respectable people would object to this. My amsam is 30 miles from Calicut. I wish to say that the Tâlikettu ceremony as now conducted is a useless and expensive ceremony, and that a change ought to be effected so as to make it the real marriage. I think the man who ties the tâli should be the real husband of the girl. The Tâlikettu according to usage should be performed before puberty. Neglect of this should entail forfeiture of caste by tradition. I have never seen an instance of this. As a fact the 'Sambandham' ceremony now often is performed before the girl reaches puberty. Most of the people I have spoken to consider that it would be a desirable reform that the *tâlikettu* should be postponed till after puberty. In most cases in my locality Anandaravans bring their wives to live in their tarawâd. As they work for the tarawâd the Kâranavan generally raises no objection. Quarrels between Kâranavan and Anandaravans have been on the increase for the last 15 years. Where the Nayars are very poor the wife lives with the husband and they both live by daily labour. Where the husbands are rich, they have their wives to live with them. Where the tarawâds are neither rich nor poor, the Anandaravans do not have their wives to live with them, but the wives stop in their own tarawâds. I sent in my application to be examined in the beginning of May last. I have one younger brother. His wife lives in my Tarawâd house. I had a separate house for my own wife. I would abolish 'Sambandham' and

'puda muri' as separate ceremonies and would have the husband tie the tali and make the talikettu the real marriage ceremony. The talikettu is a religious ceremony.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Calicut,
10TH JUNE 1891.

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 91.

KUNNATHA KÖRU NAYAR.

Cherupulashêri Amsam, Walluvanad Taluk.—Age 36.—2nd Grade pleader practising at Ponnani.

I have read Mr. Sankaran Nayar's Bill. In my opinion there is no objection to passing a permissive marriage law, but the Bill requires some modifications. A majority of the educated and well-to-do people at both Ponnani and Cherupulashêri are of this opinion. I should say 40 % of the Nayar population of the localities I am acquainted with are either educated or well-to-do. I have no idea what is the Nayar population of South Malabar. If a Tarawâd pays Rs. 50 or more, as assessment, in their own name or in the name of tenants, I should call it well-to-do. I have practised as a pleader ten years. Before that I was a Local Fund School Master in Cherupulashêri, Angadipuram, Alathur, and Chaughat. About 10 per cent of the two lakhs of male Nayars in Malabar I should suppose to be educated. I mean by 'educated' such as have studied English and can speak and write it. About the same percentage would prevail in Travancore and Cochin. In most well-to-do Nayar families there will be one or two educated men and their views have produced a desire for reform in the other members. Most of the educated men are Anandaravans, not Kâranavans. I have no personal knowledge of any case of polyandry during the last 20 years. By hearsay I have heard that it prevailed in portions of Walluvanad and Ponnani. I have heard of 8 or 10 cases. My latest information is that it has ceased to exist. I have heard of one or two cases of a woman having seven or eight husbands, one after another. I don't think on an average an ordinary Nayar woman changes her husband more than once. In about 60 per cent of women they stick to one man for life. I should say that in South Malabar the ordinary term for marriage is 'Kidakka-Kalyânânam.' 'Kidakka' means 'bed.' The Kâranavans of both parties arrange the match; horoscopes are examined; the bridegroom and his friends go to the girl's house with betel leaf; there is a wedding feast; the betel leaf is distributed; and the bride and bridegroom then retire for the night. Every time a woman changes her Sambandhakâran, the ceremony will be repeated but not on so grand a scale as on the first occasion. When a union is dissolved, the husband sends a messenger to say that he has dissolved the union and he generally sends a present of cloth called 'Mâttukachcha' or a small sum of money varying from 2 fanams to Rs. 4. If the woman dissolves the union there is no sort of formality. Sometimes the man's first intimation of it is that the woman is living with somebody else as his wife. It is generally the wife's Kâranavan who brings about the change. It is seldom that the woman terminates a union of her own pleasure. I have never heard of a woman divorcing her husband except with the consent of her Kâranavan. In rich Tarawâds, the union lasts for life in 4 cases out of 5. In well-to-do families the women live with their husbands in their husbands' houses for about ten months in the year. In other families the wives visit their husbands' houses, off and on, for about 2 months in the year. I should say 20 per cent of Anandaravans have self-acquired property in Walluvanad and Ponnani. They get property either from gifts made by their parents, or from cultivating Tarawâd lands for a fixed rent. There are most Nambudiri families in Walluvanad, Ernad and Ponnani Taluks. They are Janmis, and the majority of Nayars hold under them as tenants on Kânam or Verumpât-tam. In South Malabar *Enangans* tie the Tali in all divisions of Nayars except the *Chârnatha* divisions. It is very common here for Nambudiri junior members to consort with Nayar

girls. The number of Nambudiris is small and the number of Nayar girls who have consorted with a Nambudiri will not be 5 in 100. The union of a Nayar girl with a Nambudiri is only a casual one and will very seldom last for life. The Nambudiris do not observe the formalities which I have above described as attending "Kidakka-Kalyânânam." The Nambudiri expresses his wish to the girl's Kâranavan and cohabits with the girl with his consent, without any further formality whatever. There are Ambalavâsis (temple Nayars) here with sub-divisions called Vâriyar, Pishârôdi, Mârâr, Podhuvâl, Nambishan and Ambalavâsi Mûssads. There are also Brahmans called Mûssads. These Ambalavâsis generally intermarry in their own division. They may consort with Nayar women of lower divisions. When they do so, they go through the ordinary formalities of a Kidakka-Kalyânânam as described by me. The two highest castes of Nayars, outside Ambalavâsis, are Kiriya and Sudra. In Ponnani I know of one instance of a Nayar gentleman having three wives. There are very few instances in which a Nayar marries more than one woman at a time. Fathers generally make a gift of self-acquired property to their children. They seldom give more than one half and often not more than one-fifth. The balance goes to the mother, sisters, and sister's children and brothers. The procedure is not so often by gift as by purchasing property in their name.

The desirable modifications in the Bill are:—

- (1) Omit the provisions regarding registration.
- (2) Do not force people to go to court for a divorce, but provide some easier form.
- (3) Half of self-acquired property in case of intestacy should go to wife and children, and half to Tâvazhi i. e. to mother, brothers and sisters and in their default to Tarawâd.
- (4) Customary restrictions as to consanguinity should be retained. There is no objection to a man marrying into his deceased wife's Tarawâd. Nayars do not generally do so, but the law ought not to render such marriages void if they take place.
- (5) I would either retain caste restrictions on marriage or would provide that the parties to a marriage which violates caste rule should lose their rights in their respective Tarawâds. I am in favour of the father being constituted guardian of his wife and children. My opinion is that no one will marry under the Act unless he has the means to support his wife and children. I should wish the father's right of guardianship to vest in him only when he has self-acquired property. There is a general wish that testamentary power over self-acquisitions should be accorded. I should wish the existing form of marriage to be legalized.

I have heard that in Palghat Taluk formerly there used to be an announcement that the man and woman took each other for six months certain. There is no such thing now. At the 4th day of Talikettu the brides are made to serve meals to their respective Manavâlans. After the Manavâlan has eaten part, the bride pretends to eat the remainder. Each party then takes hold of the end of a cloth (Kachcha), and the Manavâlan cuts it in two, as a symbol that he dissolves the connection. This is practised in Walluvanad and Ponnani. I can't answer for the usage elsewhere. Polyandry, that is a plurality of husbands where the woman arranges for their connubial intercourse with her with the knowledge and consent of them all, prevails in Native Cochin and is I believe, not unknown in those parts of Palghat, Ponnani and Walluvanad, which border on Cochin. As a matrimonial tribunal I would suggest a caste panchâyat. The grounds of divorce should be stated in the Act. They should be:— (1) Unchastity, (2) Insubordination, (3) Incurable disease, (4) Leprosy, (5) Mutual Agreement. I think the panchâyat should be nominated by the parties without reference to a court of justice. I would altogether stop polygamy. If the Bill be passed in its present form I do not think 5 per cent of even the educated would marry under it. Personally I would not do so, and I do not know any one who would, amongst my acquaintances. The petition now shown me dated July 1890 signed by 164 inhabitants of the Ponnani Taluk was got up

by me. I have signed it and I got signatures to it. There was a meeting in the Vakeel's room at Ponnan of about 30 of the signatories. All the 164 persons who signed the petition did so in my Vakeel's room in my presence. Two copies of the petition were circulated and 93 signatures were obtained. This was after the Hon. Mr. Sankaran Nayar had asked leave to introduce his Bill. All the persons who signed the petition are men of some position.

Taken down by me in the presence of the Commission; read over to the witness who understands English and admitted by him to be correct.

Shoranore, }
12TH JUNE 1891. }

H. M. WINTERBOTHAM,

Collector and Commissioner.

Witness No. 92.

VARIKAMANJERI IRAVI NAMBUDIRIPAD.

Age 67.—Panamanna Amsam, Walluvana Taluk.

Am a big landlord. Have about Rs. 3,000 assessment in my own name, and about Rs. 7,000 or more in my tenants' names. I have not studied the Sanskrit language. I have written my answers to the interrogatories and kept them at home. I will send them on my return. There is a ceremony called *tali-kettu* amongst Nayers. It has existed since the time of Sri Parasu Rama. I have never heard of any book of which he is supposed to have been the author. I have not heard of any treatise describing the *talikettu* ceremony either in Sanskrit or Malayalam. The customs of Nayar, I have heard, are founded on the Védās; but I have no personal knowledge that such is the case. I don't know of any granthams relating to Sudra usages. Sri Parasu Rama is believed to be an incarnation of Vishnu. After him, for Malabar Hindus, Sankarāchāriyar is the greatest recognized religious teacher. I have heard of a book called the "sixty four āchāram" said to be by Sankarāchāriyar. I have never read it. I am not aware whether there is a grantham called "Kērala Mahātmyam". I have seen a grantham called Kēralōlpathi and have read a line or two of it. I am not in a position to explain the Slokās quoted by the Zamorin. The Zamorin probably referred to me because I am a friend of his and he thought I could collect the information. I have a great number of Nayars who call themselves my "ādiyāns" (slaves). They only obey me as a landlord is generally obeyed. I don't know whether there is any connexion between religion and succession to property. With us Nambudiris the son performs the father's funeral ceremonies, but the father's self-acquisition goes to his elder brother or elder brother's son as the head of the illam. I don't think it is proper that the Nayars should be changed from Marumakkathāyam into Makkathāyam. That I understand is what is intended. (NOTE—It was here explained to the witness that such was not the intention of the proposed Act and that the intention was simply to provide a permissive form of marriage). No marriage law will work in Malabar, however much you punish. Amongst respectable Nayars I should say that the parties to a Sambandham consider themselves bound to conjugal fidelity while the union lasts. Amongst the poorer classes the practice may be lax. In many cases the union lasts for life. I think in the majority of unions this is the case amongst respectable classes. The respectable people are in a minority. By respectable men, I mean, men who respect truth. Amongst Nambudiris, the Nambudiri women do not generally have their 'tali-kettu' performed until after puberty. If the Sudras chose to follow the example of the Nambudiris in this respect, I should not say that any *dōsham* (harm or penalty) would accrue to them. A few Sudras here and there now do not perform the 'tali-kettu' until after the girl reaches puberty. Such cases, however, are not numerous.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Shoranore, }
12th June 1891. }

H. M. WINTERBOTHAM,

Collector and Commissioner

Witness No. 93.

OLAPANNAMANA NARAYANAN NAMBUDIRIPAD.

Age 54.—Vallinazhi Amsam.—Welluvana Taluk.

Our illam has extensive estates, but I can't tell the amount of assessment. My Kāranavan sent me here to represent our illam. I have heard what the last witness has said. In my opinion the Sudra *talikettu* is not a purifying ceremony, but is a real marriage. If a Nayar girl dies before *talikettu* the death pollution is only the same as birth pollution. After *talikettu* if the girl dies, the pollution to her family is a real death pollution. Amongst Nambudiris the *tali* is tied on by the bride's father. Amongst Sudras it is the tying of the *tali* which makes the relation of husband and wife. I don't know what to make of the practice of the mother sometimes tying the *tali*. We have often wondered at this practice, and questioned its propriety. I have studied the Sāstrās. I have a copy of the Kērala Mahātmyam. I have not read it carefully. Amongst Nambudiris youths have to undergo a ceremony called Samāvarthanam. That is to be performed at time of marriage. If it was not performed the Nambudiri would be out-casted, and it is an essential preliminary to the marriage. The suggestion that the *Talikettu* in case of a Nayar girl is analogous to Samāvarthanam in the case of a Brahman boy seems to be reasonable. If the Sudras copied the Nambudiris, and postponed the *talikettu* until after the girl attained puberty, there is no *dōsham* which would result from it. The Nayar girl would not in such case be turned out of caste. I think the Ūrālans of a temple are the authority in each case to decide whether any person should be forbidden to enter the temple. I don't think that inter-marriages between sub-divisions of Sudras who do not usually intermarry would entail the penalty of exclusion from the temples. In the Cochin Rajah's Kovilagam the ceremony equivalent to *talikettu* is called *Vēli*. In the Zamorin's palace it is called *talikettu*. The Cochin royal family is a Kshatriya family. In the *Vēli* which they celebrate, there is *Pānigrahanam* and *Saptapadi* and a Nambudiri accepts the bride's hand. The *Vēli* is performed with all the Vedic rites except that wife does not change *gōtram*, and there is no pollution to the survivor in case of death of husband or wife. In the Zamorin's Kovilagams the *talikettu* is the only ceremony constituting marriage. Sambandham in his Kovilagams is attended by no sort of formality. There is no ostentation or publicity. In the Zamorin's Kovilagams it is a member of the Kodungalur (Cranganore) Rajah's family who should tie the *tali*. One man may tie the *tali* on several sisters. It gives no right to cohabit. As he is a Rajah the Tamburāttis can consort with Nambudiris only. I don't know the practice in other Kovilagams except Kadathanād where the practice is the same as in the Zamorin's Kovilagam. Kottayam Kovilagam is a Kshatriya Kovilagam and its practice is the same as Cochin Kovilagam. The Nambudiri may be put away at the pleasure of the Tamburātti. That I see is the practice, though there is no law to justify it. The Zamorin's family has no equal caste, with which they usually intermarry. There are some higher caste families such as the Cranganore family with which the Zamorin's family might intermarry. When a Tamburān (male member of a Kovilagam) consorts with a Nayar woman there may, or may not, be some formalities. There is no rule. In my locality (Walluvana) there is no formality observed when a Nambudiri consorts with a Nayar girl. The girl's Kāranavan's consent is generally obtained; how else could the Nambudiri find access to the girl? Sometimes the Kāranavan is not informed till afterwards. They don't call each other husband and wife. (Last witness here interrupts and says the opposite.) The cohabitation of Nambudiris with Sudras is not according to ancient pramānams. It is only for sexual enjoyment. Some Nambudiris give a part of their self-acquired property to their Nayar consort and her children. In a few cases Nambudiris bring their Nayar consorts into their illam (house); but this is regarded as a very objectionable practice. They will never associate with the Nambudiri Antarjanams (women). The Antarjanam sometimes

speaks to them, and asks them to do some work. I believe, and many people say, that there ought to be no departure from existing usage as to marriage.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Shoranore,

12TH JUNE 1891.

H. M. WINTERBOTHAM,

Collector and Commissioner.

Witness No. 94.

PATHAYINGAL KOVILAGATHA NEDUNGÂTIRIPÂD.

Age 81.—Kâranavan of Tarawâd—Tarawâd lands pay Rs. 50 or 60.

I am the Ūrâlan of the Cherupulashêri Dévaswam. Valapozha is my Amsam. Walluvanad Taluk. I received the questions but have not sent in my replies. It is difficult to believe that any good can arise from altering the existing customs as to marriage. People are divided in opinion as to the Bill. Most of them think it will be hard to work. The objection is that the nephews may be left without any protector while the Kâranavan is looking after his wife and children. I see no objection to legalizing the existing form of marriage, and giving a share of self-acquired property to wife and children. I think one-fourth of self-acquisitions should go to wife and children in case of intestacy. A majority of the married Nayar women remain in their own Tarawâds after marriage. There are some instances of arbitrary divorce in my locality, but not many. Adultery is the usual ground of divorce. The woman sometimes terminates the Sambandham. The cause alleged is that the husband does not give her property enough. Kâranavans don't interfere. The parties are left to do as they please. The people ought to be made to like a law which makes adultery by husband, or by wife, the only ground of divorce. In most cases the Sambandham lasts for life. I don't know any instance of a woman having had during her life-time more than 2 or 3 husbands, one after another. I don't know of any case of polyandry in my vicinity. I hear that it survives in two or four Tarawâds. The men in such cases don't like it, but they submit from affection to the woman. Nambudiri Anandaravans do occasionally persuade the wives of their tenants to accept them as husbands. I only know of 2 or 4 such cases. In such cases the Nayar husband is put away. I know of no instance in which a woman has two husbands at the same time. Where a husband has self-acquisitions and his wife lives with him, he ought to be the guardian of his wife and children. Where the husband has no separate property, and where the wife lives in her Tarawâd, the Kâranavan ought to be the guardian.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Shoranore,

12TH JUNE 1891.

H. M. WINTERBOTHAM,

Collector and Commissioner.

Witness No. 95.

KAIRÂTTA ÎCHARA MENON.

Age 54.—Kadambazhipuram Amsam, Walluvanad Taluk.

Am Tarawâd Kâranavan. Tarawâd pays Rs. 700. Have about 40 tenants with put-tahs in their own names. About 30 of them are Nayars. There would be about 200 Nayar Tarawâds in the Amsam. Mine has the most extensive property. I have sent in my answers to the interrogatories. I am in favour of a permissive marriage law. I think one is necessary. I think the children should get a share of their father's self-acquisitions. Capricious

divorce ought to be checked. This is the opinion of most of my respectable neighbours with whom I have spoken in my amsam and the surrounding amsams. There are very few Nayar Tarawâds in my locality that are well-to-do. Some Anandaravans take land on rent and can thus earn something for themselves. They rent lands from Jaumis and others, outside their own Tarawâds. If the husband can maintain his wife, he generally brings her to live with him. Such cases in my locality are few. All wives will live with their husbands for 2 or 3 months in the year, for the rest of the year most of them live in their own Tarawâd. About 50 Tarawâds in my locality perhaps have Anandaravans who earn something for themselves by trade in paddy, and money lending. Most of them desire to provide for their wives and children. This tendency has been growing for the last 20 years. It is difficult for me to offer an explanation as to how this tendency originated. When the wife and children live with the husband, the husband is the *de facto* guardian. When the wives and children live in their own Tarawâds, the Kâranavan supplies them with food. When the father can meet the expenses of educating his children, he generally does so. Where the father has no means, the Kâranavan educates the children. Where the father has no property, the Kâranavan is the fitter guardian, if he has property. If the Kâranavan has no sufficient Tarawâd property, I think the responsibility of maintaining children should be put on the father. The custom of the locality is that the Kâranavan must support all the members of his Tarawâd even if there is no Tarawâd property. Even if the father had property, the Kâranavan would be blamed if he neglected to supply all the members of his Tarawâd with necessaries. If a Kâranavan said to his Anandaravans, "I have no Tarawâd property. I can't support you as I have a wife and children to support. You must work and maintain yourself," his conduct would be socially viewed with disfavour. I think $\frac{2}{3}$ of intestate self-acquisitions should go to wife and children. I can't give any particular reason for fixing on that fraction. I know ten or twelve Nayar women in my amsam who have changed their Sambandhakârans five or six times. Divorces are not very frequent. I can remember fully fifty instances in my amsam. It is generally the husband who puts away the wife. It is very rare that the wife puts away the husband. I don't personally know of any instance of polyandry. I have heard of the practice in many places. By polyandry, I mean, a woman publicly having more than one Sambandhakâran at the same time. I have never heard of a woman having more than two at a time. I presume both the Sambandhakârans are parties to the arrangement. I would stop polyandry, and regulate divorce. Husbands now sometimes put away their wives simply because they take a fancy to another woman. I think divorce should not be allowed except for (1) adultery, (2) habitual disobedience, (3) incurable disease, such as leprosy. Respectable people now only divorce on these grounds. I would not adopt the Bill as it is. I would omit the provisions as to registration. We can't go to court for a divorce; some other method should be devised. I can offer no suggestion. These are the principal objections that occur to me. The form of marriage prevailing here is called 'Sambandham' or 'Kidakkura.' Kidakkura is a term used in Walluvanad Taluk. In Palghat the ceremony is sometimes accompanied with a declaration that the union is to last for six months. I understand that this declaration is now rare, though formerly it was in frequent use. The declaration does not necessarily mean that the union must terminate in six months. It is a mere form. I would retain all customary restrictions as to caste, consanguinity and affinity. Cases of polygamy are very rare. It is improper and I would stop it. The union of a Nayar man and woman by 'Sambandham' or 'Kidakkura' generally lasts for life.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Shoranore,

13th June 1891.

H. M. WINTERBOTHAM,

Collector and Commissioner.

Witness No. 96.

PANANGÂT NARAYANA MENON *alias* NANU MENON.Age 44.—*Cherupulashêri Amsam, Walluvanâd.—Anandaravan managing Tarawâd.*

My Kâranavan is the Tahsildar of Ernad. My tarawâd pays over Rs. 600 assessment. Lands are mostly held on Kânani. Am a member of the District Board. I have sent in my answers to the questions. In my opinion the proposed marriage legislation should either be compulsory or should not take place at all. If the Bill is permissive there will be dissensions in families. Some will marry under the new law, some will not. They will quarrel together as to which is properly married. It may happen that there is only one adult male as Kâranavan. If he gives all to his wife and children, his nieces and nephews will have to starve. If the law of guardianship is altered Kâranavans who marry under the Act will lose interest in their tarawâds and the tarawâds will become extinct as tarawâds. I have known of many instances, going back for 50 years, in which fathers have made proper provision for their wives and children. What then is the advantage of a permissive law? If a law is passed at all it ought to affect all classes equally. We may divide the persons interested in the Bill into three classes:—

1st Class.—Nambudiris, Rajahs, Sthânis wholly object to change.

2nd Class.—The respectable class of tarawâds, including public officials and English educated classes. This class I would subdivide into two. One subdivision is the public officials, English educated people and those who imitate them. They have their wives and children to live with them and think it unnecessary to look after their tarawâds and think that is proper. The other subdivision follows the Rajahs and Sthânis (chief men) and conservatives who object to change. They say "we can now give away our self-acquired property to our wives and children, and no law is required."

3rd Class.—The poorer classes are as a whole opposed to the law, because they think that the whole responsibility of supporting their wives and children (from which they are now free) will fall upon them. It is seldom that the poorer Nayers have their wives living with them.

Where a man has not many members in his tarawâd, he will have his wife to live with him. Some people think that the new law will create difficulties with reference to the observance of the rules of pollution (*pula*). It may make it difficult to perform funeral ceremonies, because perhaps the wives will not be able to visit their tarawâds on the death of a tarawâd relative. According to custom the women of the tarawâd should be present at the tarawâd in case of a death. I do not go so far as to say that the attendance of the women is then indispensable. The women should take part in the 15 days *pula*, under the guidance of the Athikurissi who officiates on the occasion. The poorer classes of Kânamdars and tenants, who hold under Rajahs, Nambudiris, and Temples will be afraid of their land-lords and from this fear will be deterred from following the new law. Anandaravans who have been educated by their Kâranavans, and who by means of that education are rolling in wealth, may say, "It is the Government Order. There is no obligation to support brothers and sisters, uncles and aunts." Thus near relatives in the tarawâd may be left to starve by an Anandaravan educated from tarawâd funds. The new law will create litigation and ruin tarawâds. Kâranavans who marry under the Act, will cease to educate their Anandaravans. At least this is what Kâranavans will apprehend. Personally I am not altogether opposed to legislation. It will not hurt me. However I think that all that is needed is testamentary power over self-acquisitions. I only beg that all the difficulties may be fully considered, and that if any legislation be resolved on, it may be made compulsory. I have heard that polyandry pre-

vailed once. I don't know of any instance now. My tarawâd falls under the 2nd class above described, holding lands under the big Nambudiri land-lords.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Shoranore,

13TH JUNE 1891.

H. M. WINTERBOTHAM,

Collector and Commissioner.

Witness No. 97.

KOLATHÛR KÊLUNHI VARIYAR.

Age 53—I am an Anandaravan in my tarawâd—*Kolathûr Amsam—Walluvanâd Taluk.*

My tarawâd pays Rs. 3000 assessment direct. We have about 400 tenants, most of whom have puttahs. I think about 200 of the tenants are Nayers. I am Adhigari of the amsam. The population of Kolathûr amsam is 4,000 and odd. There may be 200 tarawâds of Nayers in the amsam. My Kâranavan has sent in his answers to the interrogatories. Those are his answers now shown me (No. 258). My own opinion is that there is no objection to passing a permissive marriage law. In Kolathûr amsam some favour and some oppose the Bill. I think 50 % would be in favour of legislation. There are no educated people in Kolathûr. They would not like the Bill as it stands. I have spoken to only ten or twenty persons about the Bill. From information given by them I guess that the number in favour of the Bill may be 50 %. The necessary modifications are:—

- (1) Omit provisions as to registration.
- (2) There must be no resort to Court for a divorce.
- (3) Not more than half of intestate self-acquisitions should go to wife and children.
- (4) The other half should go to the man's own Tâvazhi, not to the Tarawâd Kâranavan.
- (5) Father should only be guardian if his wife and children live with him.
- (6) Caste and customary restrictions ought not to be violated.

I have heard of instances of polyandry in my amsam ten years ago. I have not heard of any instances recently. I don't know of any instance in my amsam of a Nayar woman having changed her Sambandham more than twice. Divorces are few. I can remember 8 or 10 cases of divorce. One or two only have been arbitrary. The reasonable grounds of divorce are:—(1) adultery on either side, (2) habitual disobedience of wife, (3) scolding the husband, (4) misappropriating the husband's property. Matrimonial causes should be decided by a caste panchâyat. Persons qualified to serve should be nominated in each amsam. It would be unnecessary to pay them. To the best of my knowledge the majority of Nayar unions last for life. I don't altogether agree with my Kâranavan's views. I did not tell him that I meant to express views differing from his. My Kâranavan is 59 and is my direct elder brother. It was at his request that I came. I think testamentary power over self-acquisitions should be granted.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Shoranore,

13TH JUNE 1891.

H. M. WINTERBOTHAM,

Collector and Commissioner.

Witness No. 98.

PÂRAKKÂT UNNISHNAN ELAYA NAYAR.

Age 45—Kuruvambalam Amsam—Walluvanad Taluk.

My elder brother is my Kâranavan. Our tarawâd pays about Rs. 2,000 assessment. We have also about 400 tenants who have separate puttahs. I have not sent replies to the interrogatories. My Kâranavan has done so. Those are his answers now shown me (No. 265). Personally I see no objection to passing a permissive marriage law for Nayars. There may be 100 tarawâds of Nayars in my amsam. 75 per cent. are opposed to the proposed law. The population of the amsam is between 3,000 and 4,000. Those who favour legislation object to registration of marriage. They object to having to go to Court for a divorce. Caste and customary restrictions ought to be retained. Half of intestate self-acquisitions ought to go to wife and children; half to tarawâd, and not to the tâvazhi. Father should only be guardian of wife and children when they live with him. Nayars who can afford it keep their wives with them in their houses. In a majority of cases the wife does not leave her tarawâd house. Testamentary power over self-acquisitions should be granted. I would retain the restriction making it compulsory on the testator to provide for his wife and children. I have heard of rare cases of polyandry in my amsam. I can't say that it has ceased to be practised, but it is rare. In most cases the Sambandham lasts for life. I know of about ten or twelve cases of divorce during my lifetime in my amsam amongst Nayars. It would be good to have a law to stop capricious divorce. A caste panchâyat should be the tribunal to decide divorce cases. I mean what I have said viz that in my amsam all Nayars who have formed Sambandham have kept their wives for life except in ten or twelve cases so far as I know.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Shoranore,

13TH JUNE 1891.

H. M. WINTERBOTHAM,

Collector and Commissioner.

Witness No. 99.

KARUMATHIL ACHUDA MENON.

Age 35.—Chêkôd Amsam, Ponnani—1st Grade Pleader practising at Palghat.

My tarawâd pays Rs. 150 assessment. My elder brother is the Kâranavan. I have sent in my answers to the interrogatories. I think a permissive marriage law is highly desirable. I should like to see some modifications in the Bill, but I would accept the Bill as it is rather than have no reform. The modifications I desire are as follows:—

- (1) I should wish the law to sanction divorce by mutual agreement.
- (2) I think in cases of intestacy half the self-acquisitions should go to wife and children. The other half should be divided in equal shares between the tarawâd and the tâvazhi.
- (3) I would restrict the right of the wife and children to claim maintenance from the husband to those cases where she lives out of the tarawâd house with or without her husband's consent.
- (4) As a matrimonial tribunal I would suggest a panchâyat of castemen. The Government might order it to be presided over by a Judge if they thought fit; or the suit might be filed in Court and might be referred to arbitrators by consent of parties or at the discretion of the court.

(5) As to registration, I would have a formal declaration executed at the time of marriage, and the subsequent registration of this should be compulsory. The declaration should be signed by bride and bridegroom and by their guardians and witnesses. The declaration should be to the effect that the parties elect to marry under the Act.

(6) The husband should be the guardian of wife and children in all cases.

In South Malabar the wives generally dwell after marriage in their own tarawâd, unless the husband is an official, a Vakeel, or an English educated person having means to maintain the wife. While the wife lives in her tarawâd the Kâranavan supplies absolutely nothing but food. The Kâranavan in Palghat generally accumulates the tarawâd income for his own wife and children. In Ponnani he will generally only give a portion to his wife and children. In Palghat he generally tries to give the whole. Often at the time of marriage the husband is an impecunious Anandaravan. He lives the major portion of the year with his wife in her house and is maintained there. He creates discord in the wife's family, by criticising the conduct of the Kâranavan. Litigation will then ensue, and the wife's tâvazhi property will be dissipated or they incur debts. When he becomes Kâranavan of his tarawâd, in his turn, he tries to make things straight by giving tarawâd property to his wife and children. I could mention many instances of this. This is specially conspicuous in Elappalli, Kâvalpâd, Chittalanjêri, Agathêtara. There may be between 200 and 300 tarawâds in an amsam on an average. Out of 30 or 40 respectable tarawâds in Agathêtara, more than ten have been injured in this way. The general practice in Palghat Taluk in many of the respectable tarawâds, is for the Nayar husband to live in his wife's house. He is fed there. I have been practising at Palghat since the establishment of the Sub-Court here in 1884. I have personally been engaged in not less than 20 suits between Kâranavans and Anandaravans of the sort above described. The Kâranavans are powerless to forbid the women to have their husbands in the house, because if they did forbid it the women would worry the Kâranavan with suits for maintenance. At present there is nothing to restrict capricious divorce. The ordinary form of union here is called Kidakkura. The union is intended to last for life and often does so. I should say 60 or 70 per cent. of the 'Kidakkura' unions last for life. Arbitrary divorce is not very common, but there are many cases. I could mention 70 or 80 instances. Most of them are the result of mere whim. If the woman can find a better match she changes her husband. Generally it is the wife's mother who brings about divorces of this sort. Social opinion is no check on this, though such conduct is disapproved. If the second husband is a rich man the wife's status is improved and she is in no way looked down upon. As the Nayar marriage is in no way a religious matter, and is only a contract, I should like to see it dissoluble like other contracts by mutual consent. (1) Adultery on the part of the wife, (2) Misconduct on the part of either, (3) Intemperance on the part of the husband (the women are rarely addicted to drink), (4) Lunacy, (5) Loss of caste, are reckoned as reasonable grounds of divorce. I have known of instances of a Nayar woman having changed husbands six or seven times. It is not the custom for the Palghat Nayars to have more than one wife at a time. I know of rare instances in which a Palghat Nayar has two wives. In such instances no ceremony is performed at the union with the second woman, and she is merely regarded by the husband's tarawâd as a concubine. She would not be allowed to come to the husband's tarawâd for any ceremony. After 'Kidakkura' the wife is always brought to the husband's house for a visit, and it is then that the husband presents her with clothes. At the Kidakkura when the wedding guests are assembled, one of the bridegroom's party says to the mother-in-law in the hearing of all "Let the son of such a woman visit so and so (giving the name) for six months." To this the girl's mother replies, "Let him come and go as long as he lives." The idea is that the dêsam people of the bridegroom undertake that he will not dissolve the union for six months. Generally husbands are bound to supply their wives with clothing twice a year. I think the period of six months was probably fixed with reference to these half yearly periods. This declaration is always made when the 'Kidakkura' ceremony is gone through. There are many cases in which the man and woman cohabit without any ceremony, and the connexion ripens into marriage by the man acknowledging the woman as his wife. If the man acknowledges the

connexion by his conduct, the woman is considered to be his wife. No social stigma attaches to either the man or the woman in such cases. The formalities of Kidakkura are usually gone through in the case of most unions. The cases in which 'Kidakkura' is dispensed with would not exceed 2 or 3 in a hundred. In Ponnani the union of man and woman is called 'Sambandham.' So it is in Walluvanad, so far as my knowledge goes. I practised for four years as a pleader at Ottapalam in Walluvanad, and never heard the term 'Kidakkura' used there. I believe polyandry is extinct in Palghat. I have heard that it prevailed in Ponnani and Walluvanad some 40 years ago. I would retain caste restrictions, and restrictions as to consanguinity and affinity. In Palghat the Nayers try to arrange marriage so that the husband and wife may be of equal caste. It is common in Palghat Taluk for Pattar Brahmans to consort with Nayar women. I don't know whether they go through the Kidakkura ceremony. There is a general desire that power of testamentary disposition over self-acquisitions should be granted. I would restrict the power by declaring that the wife and children should get a specific fraction. The general opinion of the people is that there should be some reform in the direction of getting a marriage law. All Palghat Nayers would admit that a share of self-acquired property should be given to wife and children, and the general wish would be that the balance should be inherited by the tãvazhi, instead of by the tarawâd. Even amongst the lower classes such legislation as I have suggested is desired. I was one of the signatories to the petition now shown me (Current No. 53—Legislative Department.) A meeting was convened by me. About 100 Nayers attended, and it was resolved to submit a petition to Government. The petition was drafted and circulated for signatures. All the local Nayar officials took part in it. I produce a book in which the Proceedings of the Meeting are recorded. Nos. 1-2-5-6-8-23-24-27-28-30-31-32-33-34-35-36-38-39 and 40 are either respectable janmis or tenants of large farms. There is a general desire amongst the Nayers of Palghat that the members of a tarawâd should have a right to demand partition, where a majority of them wish it. I can't give the etymology of the word 'Kidakkura'.

Taken down by me in the presence of the Commission; read over to the witness who understands English and admitted by him to be correct.

Palghat,
15TH JUNE 1891, }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 100.

VALIA KÔNIKAL EDAM PANGI ATCHAN.

Age 33.

I am one of the junior members of the Palghat Rajah's family. There are about 50 male members of the family senior to me. I desire to express my opinion on the proposed legislation. I think it is desirable, and I concur with the last witness as to the modifications which are necessary. I heard his evidence. I don't know what the Valia Rajah's opinion is. I know that he gives all his property to his wife and children and lives with them. I have discussed the matter with 5 or 6 members of my Tarawâd and they concur in my opinion. I have separate Tãvazhi estate which are under my direct management. I pay Rs. 200 and odd assessment and have 20 or 25 tenants. In ordinary Tarawâds the wives live with their husbands if the husbands can support them. The male members of the Palghat Rajah's family have their wives to live with them. In the majority of cases the Nayar wives live in their own Tarawâds and their husbands visit them there.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Palghat,
15TH JUNE 1891, }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 101.

KONGÔT TÂPUNHI ELAYA NAYAR.

Age 68.

I am not the senior in my Tarawâd. We are 10 or 20 houses, all originally of one Tarawâd, and the eldest member gets the Sthânam (title). I am the eldest member of my branch. The family has 300 or 400 tenants. The assessment is all paid by the tenants. My branch has only 3 or 4 tenants. It was the Valia Nayar who sent in answers to the interrogatories. I have not heard anything about the proposed legislation before today. Our family could not accept any marriage legislation. I don't know what the people think about it. In our family Nambudiris consort with the females. The Nambudiris receive an allowance from our family for their necessities for visiting the Tarawâd. Sometimes the Nambudiris will give presents to their Nayar consorts. Sometimes they give property, but it is very rare. My Kâranavan the Valia Nayar asked me to attend here to represent him as he was sick. He did not tell me what I should say for him.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Palghat,
15TH JUNE 1891. }

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 102.

KIZHAKKUMPURATHA KANNANUNHI NAYAR.

Age 35.—Mundur Amsam, Palghat—2nd Grade Pleader practising at Palghat for 10 years in Munsiff's Court.

I heard the 99th witness Achuda Menon give his evidence. I agree in most that he said. I think however that the Nayers do not desire a right of partition of Tarawâd property. At present officials and Vakeels give part of their self-acquired property to their wives. Kâranavans in like manner give portions to their wives and children, but it is from the Tarawâd property. This does lead to dissension. There is dissension in nearly all the big Nayar families in Palghat Taluk from this cause. Anandaravans can sometimes earn property by taking lands on rent. When they do so they provide for their wives and children from what they earn. They usually give the whole to their wives and children. Personally I think a Nayar's self-acquisitions, if he die intestate, should be divided into three— $\frac{1}{3}$ to wife and children, $\frac{1}{3}$ to deceased's tarawâd, and $\frac{1}{3}$ to his own tãvazhi. Generally the Kâranavan is a distant relative, and to keep alive his interest in his Anandaravans, $\frac{1}{3}$ should be given to the tarawâd. One-third should be given to tãvazhi in recognition of the natural love to mother, brothers and sisters. I think the father should be the guardian of wife and children in all cases. It would be a great encouragement to him to work. Under the influence of the tarawâd system Anandaravans have no incentive to work and become lazy. Anandaravans except in towns, have no scope for employment except in agriculture. The majority of the Nayar tarawâds in Palghat Taluk are certainly poor, but they are better off than most of the Nayar tarawâds in the other taluks of South Malabar. The Nayers generally desire testamentary power over self-acquisitions. In my opinion the power should not be subject to any restriction. The fear lest the wife should desert the husband operates to prevent the husband from giving wives property *inter vivos*. It is generally the girl's mother who selects the husband, and she is chiefly influenced by the amount of property that the man has. I would wish the girl to exercise her own choice of a husband even if she were only 14 years old. The Kâranavan cares nothing for her; her mother thinks of nothing but money; and her father has no claim over her. As long as the mother lives the daughter's attachment to the tarawâd will

be strong. I think that all the Nayars should be allowed to intermarry as one caste. I should be glad to see the Bill recognize intermarriage between all divisions of Nayars. I would go so far as to abolish by law the prohibition of intermarriage between sub-divisions of Nayars. I am a Matriculate. Polygamy should be prohibited. There are now four Nayars reading in England. One of them is my brother. He is reading for the Civil Service in London. Two are reading for Medicine. One is reading for the Bar. Three are from Palghat and one is from Ponnani. I am paying for my brother's education in England. My tarawād pays Rs. 350 as assessment, and the tenants pay Rs. 80 in addition. I manage the tarawād affairs with the consent of my elder brother. When the Pattars here consort with Nayar women, they, most of them, have already Brahman wives of their own. They don't go through the ceremony of 'Kidakkura' when they consort with Nayar women. The derivation of 'Kidakkura' is I think, Kidakka+paraga. Paraga means to ask—to ask permission. Thus the phrase means to ask permission for cohabitation. In Palghat even if Anandaravans marry with their Kāranavan's consent it is not usual for the Kāranavan to support the Anandaravan's wife in his tarawād, except in the case of well-to-do tarawāds. Anandaravan has a right to have his wife with him in the tarawād house if he has the means to support her. He would do this irrespective of the Kāranavan's wishes. In almost all the tarawāds the Kāranavans and Anandaravans are fighting. The Anandaravans are not so submissive as they were formerly. Kāranavans call the Anandaravans impertinent and disobedient. In most tarawāds the number of members is quite beyond one man's management. If the Kāranavan's hands were strengthened the whole tarawād would be ruined. Kāranavans always have their wives to live with them. In most cases, the Kāranavans are very old and infirm men.

Taken down by me in the presence of the Commission; read over to the witness who understands English and admitted by him to be correct.

Palghat,
15TH JUNE 1891.

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 103.

KUNYANUNHI MANNUR MÜNNĀM NAYAR.

Age 44.

I have a separate Malikhana of 900 fanams a year. Nine persons altogether in my family receive Malikhana from Government. My amsam is Tadukkashêri, 12 miles West of Palghat. As far as I have enquired the majority of the Nayars in my locality desire a marriage law, on the lines indicated in my replies to the questions. I have spoken about the matter to about 15 people; and about 10 of them were in favour of legislation. I knew nothing about the matter till I got the questions of the Commission. There are about 100 Nayar tarawāds in my amsam. I think divorce ought to be regulated. Barrenness, incurable disease, mutual disagreement are supposed to be reasonable grounds of divorce. But after divorce the woman must be maintained by the husband. Our tarawād is now divided into five smaller tarawāds, each having no community of interest with the rest. The 5 tarawāds live in seven houses. The number of members would be about 40.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Palghat,
15TH JUNE 1891.

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 104.

ELAYĀTTA ACHUDA MENON.

Age 49.—Pallamchāthanūr Amsam.—Palghat Taluk.

Am Anandaravan in my Tarawād. Tarawād assessment is about Rs. 3000. Our tarawād is divided into three branch tarawāds, and I am the head of my branch. Each branch has separate property, and there is also joint tarawād property. My branch assessment is about Rs. 1000. I took part in the meeting held at Palghat last year in which it was resolved to petition Government to give a Bill about marriage. I don't remember what was settled at the meeting, but I know I did not agree with the meeting. I think if we get a marriage law, the tarawāds will cease to prosper, as no property will lapse to the tarawād. I don't know what my Nayar neighbours think. There are but few Nayar tarawāds in my locality. They are divided in opinion, and I don't know what the opinion of the majority is. The Kāranavans and Anandaravans in all the important tarawāds are in a state of hatred and dissension. The Kāranavan treats the joint property as if it was his own property. He will be the head of his own branch, and will have no affection for the members of other branches. He will want to benefit his own wife and children. It is usual for fathers to give some part of their self-acquisitions to their wife and children. I think testamentary power over self-acquisitions should be granted, and that that power would suffice. I would uphold existing law as to succession in case of intestacy. Brahmans and our own caste people consort with our women. I wish to say that Tāvazhi property should not lapse to the tarawād. Tāvazhi property is property acquired by Anandaravans. They get property by trade in paddy, by cultivating tarawād and other lands on lease. The females get property from their husbands. That is Tāvazhi property.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Palghat,
15TH JUNE 1891.

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 105.

POLLĒKĀT KITTUNHI NAYAR.

Age 60.—Kottai Amsam. Palghat Taluk.

I am the Kāranavan of my Tarawād. The tarawād lands pay about Rs. 230. I have not had any interrogatories sent me. I find that people are divided in opinion as to marriage legislation. I have not discussed the matter with many people, and I can't say what the majority think. There may be about 300 houses of Nayars in Kottai. My tarawād pays the most assessment of any in the Amsam. I don't think a marriage law would be objectionable. I have not studied the subject. There is dissension in every respectable tarawād in my locality. When our Anandaravans grow up and form Sambandham they complain that the Kāranavan does not supply their wants. They refuse to work for the tarawād. Some form Sambandham with, some against, the wish of the Kāranavan. Sometimes a tarawād has five or six tāvazhis, and the Kāranavan will only feel affection for his own tāvazhi. Some Kāranavans dispose of the tarawād property as if it were their own.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Palghat,
15TH JUNE 1891.

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 106.

VADAVATTE TAPPAN NAYAR.

Age 48.—Palatēri Amsam, Palghat—Tarawād pays an assessment of Rs. 100.

I pay about Rs 300 assessment in my own name. I am the Kāranavan. I have sent in my answers to the questions. I have no objection to a marriage law being passed. I have discussed the matter with many people in my amsam and in Palghat. Many people desire the law. Some who are uneducated object to it. A majority of the people are well-informed. There are about 300 tarawāds in my amsam. The Sthānis don't want the Bill. A majority of the middle class people wish for it. I think that partition of Tarawād property should be obtainable if and when a majority of the members desire it. I believe a majority of the Nayars would agree with me. There is now no end to strife between the Kāranavan and the junior members. In case of intestacy I would give half of self-acquisitions to wife and children. The other half should be divided equally between the tarawād and tāvazhi. Testamentary power over self-acquisitions should be granted and should be unrestricted. The father should be guardian of his wife and children. Even now it is the father in most cases who actually looks after them. He often does so even when they remain in the tarawād house of the mother. I would not have the law render void intermarriages between any sub-divisions of Nayars. If a woman married a man in a lower Nayar division, she should lose the right to enter her tarawād, but should have a claim to separate maintenance from her tarawād. In Chaughat there are many instances of a Nayar woman marrying in a lower division. All I ask is that if intermarriages between Nayar sub-divisions now prohibited are hereafter contracted the law should not make them void. I would retain the restrictions on consanguinity. I would not prohibit marriage with a deceased wife's sister. In the Palghat Rajah's family this procedure is freely followed. Other Nayars do not generally marry in their deceased wife's tarawād. The prohibited degrees amongst all Nayars are the wife's lineal female ancestors or descendants. I would restrict divorce. A caste panchāyat appointed by the Court should be the tribunal in divorce cases. The grounds of divorce should be adultery and habitual disobedience only. In case of barrenness or incurable disease a man should be allowed to marry a second wife, making proper provision for the maintenance of the first. I have 4 or 5 Anandaravans. Some means should be devised, if possible, to prevent the necessity of the bride and bridegroom appearing before a Registrar to register marriage. I was formerly the Kariastan of the Palghat Valia Rajah. He still occasionally consults me. I spend a good deal of my time at Palghat. I have a nephew who is a B. A., B. L., I don't know any instance of Nayar in Palghat who has two wives. There are many difficulties in the way of making provision for wife and children by gift *inter vivos*. The wife may die, or may desert the husband. I know an instance in which a man gave all his property to his wife; she died, and he was then not allowed by her relatives even to enter the tarawād. I know of 4 or 5 instances in which wives who have received gifts of property from their husbands, afterwards deserted that husband for a wealthier man. Divorces by husbands are very common.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Palghat,
15th June 1891.

H. M. WINTERBOTHAM,

Collector and Commissioner.

Witness No. 107.

KALAMKANDATHIL GOVINDA MENON.

Age 36.—Pérur Amsam, Walluvanad Taluk.—2nd Grade Pleader practising at Temalapuram.

I hold a puttah for nearly Rs. 100 in my own name. I am an Anandaravan in my tarawād, but I am the manager. The tarawād assessment is about Rs. 30. I have sent in my answers to the interrogatories. I am in favour of a permissive marriage law. I wish for some modifications in the Bill. In case of intestacy I would give half of self-acquisitions to wife and children, and half to the tāvazhi, and not to the tarawād. The father should be guardian of his wife and children. I desire testamentary power over self-acquisitions, and would not place it under any restriction. The man should be bound to maintain his wife and children. I approve of this obligation being imposed by the law. Either man or wife can now divorce at will. I would restrict the right of divorce. Adultery on the part of the wife, and habitual disobedience should be the only grounds on which divorce should be granted to the husband. Adultery and polygamy should be the grounds on which a wife should be granted divorce. Cruelty, and habitual neglect to provide necessaries are not sufficient reasons for a wife to demand divorce. There may be some cases of cruelty in which the law ought to allow divorce. Marriages should be registered, but the bride and bridegroom need not appear before a Registrar. A document might be drawn up at the time and place of marriage, and the husband or witnesses might get it registered afterwards. The present caste restrictions should not be ignored but should be upheld by the Act. The law can be hereafter modified if the Nayars desire that existing restrictions on intermarriage should be relaxed. I would retain the provision in the Bill limiting the prohibited degrees of consanguinity to the 5th degree. I do not think that a marriage beyond the 5th degree would be objected to. The custom is that a man shall not marry in his own tarawād. I have practised for 12 years at Temalapuram. It is 14 miles South West of Palghat. There are no Nambudiri illams in the Palghat Taluk. The tāli-kettu ceremony is not a real marriage. It gives no right to cohabit. It is invariably performed. If neglected the girl would be considered an outcaste. I never heard of the performance of tāli-kettu being neglected in any case. It is part of the ceremony that the Manavālan should tear a cloth on the 4th day in token that he dissolves the connexion. The term 'Sambandham' or 'Kidakkura' are used indiscriminately to denote marriage. I have attended eight or ten weddings in Pérur and the neighbourhood, and at Temalapuram. I have never heard a friend of the bridegroom declare "Let so and so visit so and so (naming the girl) for 6 months" I have never heard that such a declaration is ever made at weddings. I have been discussing the Bill with my friends and neighbours for the last three months. I have discussed it with about 100 persons. The major portion of them were in favour of marriage legislation. There may be about 100 Nayar tarawāds in Pérur, and about 50 in the Amsam where I now live. The majority of them are poor tarawāds. 20% may be rich tarawāds. If a tarawād has an income of 5000 paras of paddy (or Rs. 1500) I should class it as a rich tarawād. In almost all tarawāds, rich and poor, the Kāranavans and Anandaravans are quarrelling together. I can vouch that this disagreement dates from at least 20 years back. It arises from the partiality shown by Kāranavans to their own tāvazhis. In some cases the Anandaravans misbehave. Kāranavans refuse them pocket-money (Mēl-chilavu). Kāranavans misappropriate the tarawād property, and alienate it, in favour of their wives and children. The Anandaravans misbehave, are disobedient and will not work. This state of things is common throughout all Malabar. I believe this evil is inseparable from the Marumakkathāyam system. I think that education, and the practice of Kāranavans' bringing their wives and children to live with them in the Kāranavans' tarawād may have had something to do with this. Attachment to wife and children is growing stronger amongst Nayars, both of rich and poor tarawāds. I would propose to give half of a man's self acquisitions to his tāvazhi out of fear of public opinion. As the system actually exists, we must do something for it. I did not attend Achuda Menon's (99th witness,) meeting last year, nor did I sign the petition to Government. I am not a member of the Kērala Sabha. Tem-

lapuram where I practise, is in a corner of the District. In these parts Nayar women generally remain in their own tarawâds after marriage. I should say about 33% of Anandaravans get some self-acquired property, either by gifts from their fathers, by cultivating tarawâd and other lands, and occasionally by trade. There is a class of the Nayars who earn their living by daily labour, chiefly as agricultural labourers. In this class also the husband does not generally have his wife to live with him. In almost all cases a tarawâd will have some land held on Kânam or Verumpâtam. The average number of persons in a tarawâd will be 10 or 15. The largest number will be 100 or 120 members. Capricious divorces are numerous. Divorce suits I should wish to be determined by a panchâyat appointed by the Court. In my opinion, I should say that as a body the Nayars are not in a flourishing condition, but are degenerating. Formerly Anandaravans and Kâranavans cultivated their lands by their own joint labour. Now the Kâranavans have generally leased out their lands to yearly tenants. The practice has increased of the last ten years and is growing.

Taken down by me in the presence of the Commission; read over to the witness who understands English and admitted by him to be correct.

Palghat,

15TH JUNE 1891.

H. M. WINTERBOTHAM,

Collector and Commissioner.

Witness No. 108.

CHOVATHA KRISHNAN NAYAR.

Age 38.—Pâlathulli Amsam.—Palghat.

My Tarawâd pays Rs. 180 assessment. I am an Anandaravan. Am a first Grade Pleader, practising at Palghat. I have sent in my answers to the questions. I am in favour of the proposed legislation. I would modify the Bill in some respects. I would register a declaration to be made by the parties at the marriage, in place of making the bride appear before a Registrar. Personally I do not object to resort to Court for a divorce I see no alternative. The people generally object to it. I should desire the law to recognize divorce by mutual agreement. In case of adultery I would allow divorce through a Court whether the adultery were by wife or husband. I would have cruelty by husband, and desertion for 2 years by either party, to be grounds for divorce. I would accept proviso (1) in question 40 as it stands. A majority of the people would not go with me. I agree to all the new rights proposed by the Bill. So far as I know the Nayars of Palghat would, most of them, wish to give all their self-acquisitions to their children. I have been practising for 14 years at Calicut and Palghat. I was the Secretary of the Kârala Sabha in Calicut. My connection with the Sabha ceased 5 years ago. I took no part in drawing up any Bill. I left the Sabha about the time that it became a political association. I agree with what last witness says as to the unsatisfactory way in which the Marumakkathâyam system is now working, and as to the dissensions generally prevailing in tarawâds. I think this state of things is general throughout South Malabar, but dissensions are specially ripe in Palghat Taluk. I was in Calicut for 12 years as a pleader. When I first knew it, the state of things in Calicut was not so bad as at the end of the 12 years. From the cases coming before me from Ponnani, Ernad and Walluvanad, I judged that dissensions were general in those taluks. 30 or 40 suits for maintenance by junior members against Kâranavans came before me during 11 years, and these form the basis of my opinion. I often visited Ponnani, Ernad and Walluvanad in criminal cases.

Taken down by me in the presence of the Commission; read over to the witness who understands English and admitted by him to be correct.

Palghat,

16TH JUNE 1891.

H. M. WINTERBOTHAM,

Collector and Commissioner.

Witness No. 109.

KÂRÂT DÂMÔDARA MENON.

Age 54.—Elapulli Amsam.—Palghat Taluk.

Am Anandaravan in my Tarawâd. It pays over Rs. 100 as assessment. Am 1st Grade Pleader practising at Palghat since beginning of this year. Practised before at Calicut for two years. I have sent in my answers to the questions. I should object to resort to Court for a divorce. I would suggest that for the trial of divorce cases a caste Panchâyat should be appointed, two members by husband, two by wife and one by the Court, and the decision should go according to the majority. I have discussed this marriage question with a large number of persons in Palghat. Most of them would approve of marriage legislation on the lines which I have in my answers indicated. I think the grounds of divorce should be (1) adultery on part of either, (2) cruelty on part of husband, (3) continued disobedience on part of wife, (4) desertion by husband for one year, desertion by wife for three years, (5) continued absence, without either party hearing of the other, for 5 or 7 years.

I don't know what the opinion of the general society is as to the reasonable grounds of divorce. I would allow the husband to marry again, if the 1st wife were suffering from incurable disease. If the husband were suffering from incurable disease, the wife should have the right of divorce. I have heard that polyandry still exists in parts of Walluvanad. Certain parents in Walluvanad 3 or 4 years ago asserted to me that polyandry was customary. I know personally of no instance. In Palghat a woman rarely changes her husband more than once. When she attains middle age she will scarcely ever change husbands. Instances of women divorcing men are very few. There are a pretty large number of cases in which the men change Sambandham.

Taken down by me in the presence of the Commission; read over to the witness who understands English and admitted by him to be correct.

Palghat,

16th June 1891.

H. M. WINTERBOTHAM,

Collector and Commissioner.

Witness No. 110.

MARADHUR GOVINDA MENON.

Age 32.—Vadavanûr Amsam.—Palghat Taluk.

Am Anandaravan in my Tarawâd. My Tarawâd pays Rs. 80 and odd as assessment. 1st Grade Pleader practising at Palghat for seven years. I have sent in my answers to the questions. I am in favour of marriage legislation, with the modifications set forth in my answers. The law should place no impediment on intermarriage between subdivisions of Nayars. The law should recognize such intermarriages if they take place. The law should prohibit marriages between Nayars and others of different castes not being Brahmans or Kshatriyas. Adultery and habitual disobedience on part of the wife should be grounds of divorce. Cruelty on part of husband should be the wife's ground of divorce. I would appoint a caste panchâyat to try divorce cases. The Court should appoint. The Panchâyat should sit at the locality where the parties reside. The Panchâyat should not be bound by any rules of evidence. I would allow the parties to be represented by Pleaders. I think such a panchâyat would deal equal justice between husband and wife.

Taken down by me in the presence of the Commission; read over to the witness who understands English and admitted by him to be correct.

Palghat,

16TH JUNE 1891.

H. M. WINTERBOTHAM,

Collector and Commissioner.

" Witness No. III.

NĒDHILLATHA GOPALA MENON.

Age 42.—Kizhakkētara Amsam.—Palghat Taluk.

Kāranavan in my Tarawād. Tarawād pays Rs. 800 odd. There will be 100 members in the Tarawād. It is one of the largest tarawāds in the Amsam. I have sent in my answers to the questions. I am in favour of a permissive marriage law. I would stop polygamy. Most of the people in my amsam and in the Tara of Kollangōd favour the legislation. There are more than 100 Nayar houses in the Tara. I have discussed the subject with various people besides those in the Tara. I am only the Kāranavan of my branch. The tarawād is divided into five tāvazhis. My tāvazhi pays Rs. 800. The whole tarawād pays Rs. 2000, which is divided between the five tāvazhis. About 15 years ago my Kāranavan (since deceased) sued to recover all my tāvazhi property from my tāvazhi. He succeeded as to a part of the property. The view of the majority of the people is that a part of self-acquisitions ought to go to the tarawād. They would wish more than one half to go to wife and children. The practice now is for the father to look after his children. The Kāranavan merely gives them food. The expenses of education and all else they require is supplied by the father. I would make the father the guardian. Such is the practice even where the wife lives in her own tarawād. The Kāranavan has no affection except for his own wife and children. The women simply get their food from the Kāranavans, and look to their husbands for everything else. I would have the husband-father to be guardian of wife and children in all cases. In 75 % of tarawāds the wives live in their own tarawāds for the greater part of the year. They will live in their husband's houses for 3 or 4 months of the year. The remaining 25 % will live with their husbands. Almost all the big tarawāds have one or two Kalams (outlying farm-houses) where the Anandaravans live with their wives. At present there is no disagreement between me and my Tarawād Kāranavan. My Kāranavan is now litigating with one of the tāvazhis. The tāvazhi is suing him for maintenance. My Kāranavan has paid my branch nothing for maintenance for 15 years. The present Kāranavan is seventy years old. I don't know what his opinion is about the Bill.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Palghat,
16TH JUNE 1891.

H. M. WINTERBOTHAM,

Collector and Commissioner.

Witness No. 112.

KUNNANKUMARATHA CHĀPUNHI MENON.

Age 59.—Panangātiri Amsam.—Palghat Taluk.

I am the senior Anandaravan. Tarawād pays over Rs. 800. I have not received any interrogatories. I manage the affairs of the Tarawād with my Kāranavan's consent. He is my direct elder brother. There is only one tāvazhi in our tarawād. In my Amsam the people desire a marriage law. My tarawād is a Sthāni tarawād, and only Brahmans can consort with the females. So we cannot accept the law. For the last 4 months I have been discussing the matter with my neighbours. Most of them think that the expensive tāli-kettu and the following Sambandham ceremony should be consolidated into one. I think the ceremony of marriage should only take place when the bride and bridegroom are really united. It is the custom to celebrate tāli-kettu before puberty. The belief is that if tāli-kettu were not performed before puberty the girl would be an outcaste. I wish

the law would reduce the tāli-kettu expenses. There is a general wish that the wife and children should inherit half of intestate self-acquisitions. Divorce ought to be regulated. The people, including the women, desire this. Adultery and aversion should be grounds of divorce if husband seeks it. Cruelty and neglect to maintain should be the grounds on which a wife may divorce. In case of dispute in divorce cases the Court must settle it. There are Nayars of equal caste with my family, but it has never been the custom for our women to accept any but Brahman consorts. The head of my tarawād must have been a Dēsa-Vāzhi under the Zamorin. My Kāranavan received no notice to attend here. I don't know what his opinion is. He lives in a detached house belonging to us with his wife and children, a call's distance from the tarawād house. The invitation was sent to me because it is I who am virtually attending to all business connected with the tarawād. I desire testamentary power over self-acquisitions.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Palghat,
16TH JUNE 1891

H. M. WINTERBOTHAM,

Collector and Commissioner.

Witness No. 113.

PANIKATH NARAYANAN MANADIYĀR.

Age 33.—Kizhakkētara Amsam.—Anandaravan in Tarawād.—Tarawād pays Rs. 600 and odd.

I have not received any interrogatories. I manage the affairs of the Tarawād under my Kāranavan. He is my mother's elder sister's son. So far as my knowledge goes the people have no objection to a permissive marriage law. Some are anxious for it. More than half desire it. In cases of intestacy the people would wish that a share of self-acquisitions should go to wife and children. One-third should go to wife and children, $\frac{1}{3}$ to his own tāvazhi, $\frac{1}{3}$ to his tarawād. There ought to be a law to restrict capricious divorce. Adultery, habitual disobedience should be grounds on which the husband may divorce. I think the Court must decide divorce cases. Probably the people will dislike this. Perhaps arbitrators might be appointed to settle divorce cases. The arbitrators might be appointed by the Nādu Vāzhis (local chieftains) or by the Court. The latter way would be the best. I have not seen my Kāranavan since receiving the notice. He was living in his wife's house six miles away. He is 38 years old. Nayars are now writing Wills, so they don't want a power which they have already got. I am a Nayar by caste.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Palghat,
16TH JUNE 1891.

H. M. WINTERBOTHAM,

Collector and Commissioner.

Witness No. 114.

VANIEMPARAMBATHA SHANGUNHI MENON.

Age 36.—Koduvayur Amsam, Palghat.—2nd Grade Pleader practising at Temalapuram.

Have practised there for 10 years. Before that I practised for two years at Tirur. I received no interrogatories. The people here desire a marriage law. Two meetings were held here last year, one presided over by Mr. Krishna Menon, late Sub-Judge, the other by Mr. Gopalan Nayar, Deputy Collector. I attended both. Both Meetings resolved that there

ought to be a marriage law. I was in favour of the resolutions. I don't remember the date of Meetings. At the 2nd meeting about 200 persons attended. I don't recollect what the resolutions were. I would give out of intestate self-acquisitions $\frac{1}{2}$ to wife and children, $\frac{1}{2}$ to tãvazhi and $\frac{1}{2}$ to tarawâd. The divorce tribunal should be a caste panchâyat. Adultery, habitual disobedience, incurable disease are the proper grounds of divorce. Father should be guardian. Testamentary power should be granted, subject to no restraint. Out of the persons who are named as having taken part in the proceedings of the second meeting 14 were officials and pleaders, 22 were non-officials.

Taken down by me in the presence of the Commission; read over to the witness who understands English and admitted by him to be correct.

Palghat, }
16TH JUNE 1891. }

H. M. WINTERBOTHAM,

Collector and Commissioner.

Witness No. 115.

KOTHÂNDATH MÂNJU MENON.

Age 57.—*Padinyârâtara Amsam, Palghat—Kâranavan of Tarawâd.—Tarawâd pays no assessment.*

I pay Rs. 300 on my own separate property. Rs. 60 is the assessment of my tãvazhi. Rs. 240 is the assessment of my own self-acquired property. I have not received any interrogatories. There would be about 100 tarawâds in my amsam. Five or six pay more assessment than I do. I don't understand the details of the proposed marriage legislation. The form of marriage in my amsam is called 'Kidakkura'. At the time of the ceremony, a declaration is made by the senior male, or chief male, of the bridegroom's party to the senior female of the bride's tarawâd that the union should continue for six months. She answers 'so be it. Let him come'. I have attended many weddings. This declaration is invariably made. It is an old practice. The bridegroom is not tied down for six months. He may give up the girl when he likes. I never heard of a case of the senior woman replying 'let him come for ever'. I never heard of this being the form of reply anywhere in Palghat Taluk. The 'Kidakkura' ceremony is intended to unite the man and woman as husband and wife for life; but either party may terminate the union at pleasure. I should not object to have this 'Kidakkura' recognized by law as a legal marriage. The Nayers are divided in opinion. The persons who object to the Bill want to be able to act according to their own inclinations. I have not discussed the matter in my amsam, nor have I heard it made a subject of discussion there. The people would like a law which in case of intestacy would give a man's self-acquisitions to his widow and children. Some would like to give half only. They would give the other half to their own tãvazhi. They would give nothing to the tarawâd. Why should anything be given to the tarawâd? No one would have joy in giving a portion to the tarawâd. A man's love only extends to his wife and children, and to his own tãvazhi. The whole self-acquisitions should only be given to wife and children, if it is determined to change Marumakkathâyam into Makkathâyam. In the majority of cases the Nayar wives live with their husbands, in the husband's own house or in his tarawâd house. Usually the Anandaravans' wives only visit their husbands' houses. What I said above only refers to Kâranavans' wives. Anandaravans' wives will generally not visit their husbands' houses for more than one month in a year. If they are pregnant they stay for about two months. I can't explain the reason. There are not many cases in which Anandaravans have self-acquired property. There may be 2 or 4 such tarawâds in my amsam. They get property from their fathers, or their tãvazhi relations, or by their own exertions. They take lands for cultivation on lease. It won't fit in with the Marumakkathâyam system if the father is made guardian of the wife and children. He can't be guardian if Marumakkathâyam is retained. Testamentary power over self-acquisitions is desirable. I would retain the proposed restriction in favour of wife and child-

ren. The wife should have a right to claim maintenance from her husband, while the Sam-bandham lasts, from his self-acquired property only. The children should have a right of maintenance against the father. The wife should not at the same time have a right to claim maintenance from the tarawâd. If the wife lives in her own tarawâd the husband should provide everything but her food, i. e. cloths, oil, betel and anything that the children may require. I think the average annual expenditure of a husband on his wife, in my class of tarawâd, would be about Rs. 30 a year. Each child below 10 years of age would require about Rs. 5 in addition. There are children who would require Rs. 30 a year each. There would only be 5 or 6 tarawâds in my amsam in which the Anandaravans could give on this scale. In other tarawâds they can only give according to their means. In most cases the union of a man and woman lasts for life. About 25 % of marriages will be followed by a divorce. There are few cases in which the wife terminates the union. In most cases it is the husband who brings about the divorce. Divorce just depends on the will of the parties. They will not openly state what the reason is. Social opinion is no restraint on divorce. Respectable men would not divorce capriciously, but no one who wanted to divorce would listen to their opinion. Women do suffer from this state of things, because they cannot get other suitable husbands. There have been instances of capricious divorce in my amsam which have inflicted hardship on the woman. I can't say how many. A remedy to check capricious divorce is necessary. It is for Government to provide the way. I can't suggest the way. I would prohibit intermarriage between sub-castes of Nayers where such prohibition is now in force by custom. The custom of prohibitory degrees as to affinity depends on whether there is pula (pollution) between the woman and the deceased wife. A man cannot marry a woman between whom and his deceased wife there was pula (observance of pollution on her death). There are not more than 2 or 4 instances in my amsam where a woman has had as many as 4 husbands in succession. Polyandry is unheard of in Palghat. I have never heard of it in Walluvanad, Ponnani or in the Cochin State. (Note—The meaning of polyandry is explained). I know of no instance of a Nayar having two wives at the same time. The 'Kidakkura' formalities are observed in full each time a man or a woman remarries. My experience is limited to my own neighbourhood. There are some Nayar women in my amsam who have Pattar consorts. There are one or two tarawâds who only take Pattars for their women. Pattars do not go through the form of 'Kidakkura', when they consort with a Nayar woman. There are some instances in my amsam where a Nayar man and woman cohabit without formality. Such cases are clandestine. If the man is of an equal or higher caste than a woman such connections involve no social penalty. If a woman became pregnant and the father could not be ascertained, she ought to be turned out of the tarawâd. If a man being of equal or higher caste acknowledged the paternity, there would be no further difficulty. Acknowledged cohabitation with a girl by a man of proper caste should be pronounced by law to have the same effect as a legal marriage. If paternity were proved to the satisfaction of all the caste, even if the man denied it, the law should proclaim him to be the legal husband of the girl. Dissensions in tarawâds are the rule and not the exception. This is so in my amsam. Ever since I can remember the Kâranavans have had their wives to live with them, unless the wife's tarawâd is very close by. I am not conscious of any change in the custom as to this. I have three daughters, one son, and three nephews and five nieces in my tãvazhi.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Palghat, }
17TH JUNE 1891 }

H. M. WINTERBOTHAM,

Collector and Commissioner.

Witness No. 116.

KAVISSÉRI VITTIL RAMUNHI NAYAR.

Age 63.—Tarur Amsam.—Palghat.

I am Kāranavan of my Tarawād. It pays Rs. 500 and odd. I have not received any interrogatories. I have heard all that last witness (K. Mānju Menon) has said. I am in favour of a permissive marriage law. The people in my locality are divided in opinion. I have been sick and do not go out much. I can't say how the majority would vote. Well-informed people desire the proposed legislation; the others are apprehensive of change. I have only discussed the matter with such people as came to my house. Testamentary power over self-acquisitions is very desirable. I would have it unrestricted. In case of intestacy I would give half to wife and children. The other half should certainly go to the tāvazhi, and not to the tarawād. The father should be the guardian of his children, and should be responsible for their education and for everything except the food, if they live with their Kāranavan. It is for the Government to decide how to make this fit in with the Marumakkathāyam system. If there are ten members in a tarawād, perhaps one will work for the tarawād: the other nine will learn how to bring suits, and their aim will be to get something out of the tarawāds. They and the Kāranavan fight together, and the result of this is that most of the tarawāds round Temalapuram and Palghat have been ruined. I should wish capricious divorce to be restricted. Adultery on either side should be made the ground of divorce. I can see no alternative except to decide divorce cases by the ordinary procedure in Court. Registration of marriage before the Sub-Registrar is objectionable. People would prefer that the Adhigari or some four chief men should be appointed to register in each amsam. I would keep the customary form of 'Kidakkura' and have the Registrar to be present at every marriage. Or a declaration might be made before the Pramānis that a 'Kidakkura' had been celebrated, and the Pramānis might forward the declaration to the Sub-Registrar for registration. Customary restriction as to caste, consanguinity and affinity should be retained. There is no polyandry in Palghat. I don't like to be questioned regarding polyandry. No one likes to be forced to say that it prevails anywhere. Respectable men do not form 'Kidakkura' with more than one woman at a time. I think polygamy should be prohibited. It is only within the last 15 or 20 years that the members of tarawāds have been fighting with their Kāranavans. The fashion was introduced from Tellicherry of Anandaravans bringing suits to remove Kāranavans. There were no suits to remove Kāranavans till within the last 20 years. Some suits by junior members against Kāranavans proved successful, and then other junior members were thus encouraged to bring suits. There are many schools now. The boys only receive imperfect education. This is another cause of dissensions in tarawāds here. The wives of the Kāranavans do not generally live with their husbands for more than 2 or 3 months at a time. Then they return to their own houses. The practice is just the same with the wives of the Anandaravans. The Kāranavans have no advantage over the junior members in this respect.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Palghat,
17TH JUNE 1891.

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 117.

KĀNŪR SHEKHARAN NAYAR.

Age 62.—Chittalanjēri Amsam, Palghat.

My Tarawād pays between Rs. 600 and 700 as assessment in 5 or 6 Amsams. My tarawād is split into four branches. It is my branch which pays between Rs. 600 and 700. I should object to any change in old custom. If any change is affected it should be after consultation with all the castemen. I have not received the interrogatories. The people in my locality don't understand what are the details of the Bill, and so they don't know whether they are for it or against it. I should like to see the details of the Bill before I expressed my opinion.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Palghat,
17TH JUNE 1891.

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 118.

MALAMEL NĀNU NAYAR.

Age 57.—Kāltushēri Amsam. Palghat Taluk.

My Tarawād pays about Rs. 300 as assessment. I am Anandaravan managing Tarawād. My Kāranavan is my uncle in another tāvazhi. I received no interrogatories. My Kāranavan knows I have come here. His age is 65. I have heard what the last three witnesses have said. I think the passing of a marriage law is desirable. I agree with 116th witness Ramunhi Nayar, except that I would only give $\frac{1}{4}$ of self-acquisitions to wife and children, $\frac{3}{4}$ should go to the tarawād, and not to the tāvazhi. Father should be guardian. Testamentary power should be accorded over self-acquisitions. Divorce should only be allowed for adultery on part of wife. Mere adultery by the husband should not give the wife the right of divorce. I would have divorce cases decided by chief men appointed by the Court. Customary caste and other restrictions on marriage should be retained. The above represents my own opinion and the opinion of most of those whom I have consulted. I have consulted about 30 people. There are about 40 Nayar tarawāds in my amsam. Dissension is general amongst them. The cause is that the Kāranavans waste the tarawād property. They think they can do what they like being Kāranavans. The bad feeling in tarawāds has come into existence within the last 20 years. I can't explain the reason. My Kāranavan and I live together. He knows what opinion I was going to give.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Palghat,
17TH JUNE 1891.

H. M. WINTERBOTHAM,
Collector and Commissioner.

Witness No. 119.

KOZHISHĒRI KARUNĀGARA MENON.

Age 28.—Neduva Amsam, Ernad Taluk.

Am a B. A. Sub-Editor of the "Hindu" Newspaper. I am the author of the pamphlet now shown me entitled "Observations on the Malabar Marriage Bill." I am of opinion

that there is no necessity for legislation on any basis. I have had opportunities of ascertaining the feelings of people on the subject from various parts of Malabar. The people (as far as I know) are against any legislative interference on the subject of marriage. Three or four or five officials have desired, and do desire, a marriage law; and a few English educated men support them. I have consulted 31 graduates and out of this number 24 were wholly opposed to legislation, and 7 approved of the principles but disagreed as to details. In these 24 graduates are included several High Court Vakeels, a distinguished Statutory Civilian and others holding responsible situations. The seven in favour of the Bill disagree with each other as to details. In Calicut there are a few officials in favour of legislation, and some pleaders. In Tellicherry there may be a few Tiyar gentlemen who approve of legislation; of Nayers I think there are hardly any who approve. At Palghat I hear the measure has a larger support. The men who support the measure are the educated, the officials and their adherents. Even in Palghat all the educated do not support the Bill. Nayers not educated in English are as a body opposed to legislation. A few officials amongst these not educated in English support the Bill through fear of officials. The impression is very general that certain native officials have been using their influence to secure support to the Bill. A District Munsiff, B. A. told me that he had been requested by a chief supporter of the Bill to secure signatures to a petition in support of the Bill. I think that was very wicked. He told me he refused to do so. I have formed no idea as to what percentage of the educated classes desire the proposed legislation. As far as I know no Nayar woman is in favour of a permissive marriage law. The Kerala Sabha was started in 1880, and though I was not a member, I regularly attended its meetings for a year. I never heard anything said about a marriage Bill in that Sabha. The Sabha subsequently, in 1883 I think, presented an address to Sir M.E. Grant Duff, the Governor. No request was made in that address for marriage legislation. Nothing was heard of a marriage law until the Janmi and tenant Commission sat at Calicut. The two Malayali Members requested the two European gentlemen to draw up a marriage Bill. Sir Madhava Rao told me that he had nothing to do with the Bill and that he had no hand in it. It should not be supposed that Sir Madhava Rao as President of the Commission approved of the Bill. He published a letter in the Madras Papers of which I produce a copy.—

(Note—The following is the letter to which the witness refers appearing in an issue of the 'Hindu'

Malabar Marriage Reform:—The custom in question has been in operation for thousands of years. Its roots are spread deep and wide on that coast. It is a natural and ancient growth. It involves life, manners, morals and the interests of liberty and property. Don't hastily tamper with it. Duly consult with your elders and especially with your females who are most interested in the matter. Far better would it be for individuals to arrange especially for their own happiness than to revolutionize the whole nation. The custom you are condemning and trying to upset has been useful in two important respects namely:—

First—It has preserved property and prevented its dispersion.

Secondly—It has ensured the peaceful operation of the great principle of natural selection.

Take care that your reform does not enable inferior men in other parts of India to carry off your fair women and leave you a nation of dry bachelors!

A NATIVE OBSERVER.)

Sir Madhava Rao himself told me that he wrote that letter. Some native gentlemen of Betatnâd told me that they regarded the proposed legislation with the same feelings that the Malayâlis regarded the invasion of Tipu. The general feeling is hostile to the Bill. The tâli-kettu is a marriage ceremony which does not create the relation of husband and wife. The tâli-kettu is the religious part of the marriage. The tâli-kettu is a religious ceremony. Apart from it there are certain social forms of marriage, Puda-muri, Vidâram-kairâl, Ūzham porukkâl, Sambandham, and Kidakkura. Those are the only five forms of

marriage I know of. Each of these forms has something religious element in it. I can only speak as to 'Sambandham' and 'Puda-muri'. In 'puda-muri' there is a lamp lighted, and the meaning is that the Goddess of Agni is invoked as witness. I do not know whether Agni is a God or Goddess. I consider that the examination of the horoscopes as to the agreement of the Stars is religious. The third religious element is the distribution of *dakshina* to Brahmans. In 'Sambandham' a lamp is lighted, and it has the same import as in 'puda-muri'. The other religious elements also exist. Also betel leaf is given by the bridegroom to the bride. The analogous ceremony among Brahmans is the 'Nischayatâmulam,' when the girl is promised in marriage by her parents. If there is a proper Sambandhakâran available at the time of tâli-kettu, he ties the tâli and becomes the real husband. Consummation takes place without further formality. On the 4th day in such cases, the cloth-cutting, emblematic of divorce, is not performed. I am not sure as to this last point of my own knowledge. In my own case I was present at the tâlikettu of my wife, and might have tied the tâli myself if I had chosen. Consummation followed 2 years afterwards when my wife attained age without any further formality except fixing a Muhûrtham and distributing *dakshina*. I declined to tie the tâli and a Manavâlan tied it. I don't know whether he cut the cloth as a symbol of divorce. If tâli-kettu is a marriage, I must admit that it comes to an end by a divorce on the 4th day, by cutting the cloth. The Attâladakkam right carries with it the obligation to make the funeral offerings. I can mention no authority in support of this. Amongst Attâladakkam heirs those who perform funeral oblations in addition to pollution are by custom preferred as heirs to those who only observe pollution. A Kalari is a place of martial exercise, where religious worship is held by all the descendants of a common female ancestor. Every old and respectable tarawâd has one. If there be property attached to that Kalari, the senior male member of all the cognate tarawâds taken together holds it. The system of succession as regards Kalari property is the same as in the case of other Marumakkathâyam property. This also shows that the Marumakkathâyam system has a religious basis. In the whole of South Malabar I only know of one case of polygamy. I would not punish a polygamist. I do not think that testamentary power over self-acquisitions need be granted. If granted, it should be carefully safeguarded so as not to lead to litigation. I would not give a man power to deal by Will with more than $\frac{1}{4}$ of his self-acquisitions; $\frac{3}{4}$ should devolve by law on his tarawâd. In case of intestacy the whole of self-acquisitions should lapse to the tarawâd. There is no necessity for any legislation. There should be no change in my opinion in the existing usage. If there is to be any legislation I am of opinion that it should not be permissive only. If the customary forms of marriage are legalized people would not object to it, but I would retain polygamy as it is sanctioned in Hindu law in deference to public opinion. As to divorce there should be no resort to a Court of justice. A notice from either side with a certain period of probation during which the kinsmen may bring about a compromise, is the only form which commends itself to me. As regards the right of maintenance I would take care to see that the wife does not claim maintenance from the tarawâd when her husband is actually maintaining her. The new law should interfere in no way with the right of succession. These remarks are made subject to my general assertion that the proposed legislation is unnecessary and is not desired by any section of the people. I have no objection to the practice of Nambudiris consorting with Nayar females, so long as they are unmarried in their own caste. I regard the Nambudiri as the husband of the woman, and I allege that in forming the union he observes the same formalities as when the husband is a Nayar. No respectable tarawâd would allow a married Pattar to consort with one of the girls. As to the custom of the Nambudiris, I can only speak to the practice in my own neighbourhood at Chêrnâd. If amongst Nayars, a man and woman cohabit without going through the 'puda muri' ceremony or 'Sambandham' ceremony, I should call the woman a concubine. It is the formalities attending the 'puda muri' or 'Sambandham' ceremony which make a woman a wife instead of a concubine. Under certain circumstances I maintain that the Nayar wife has now a right to be maintained by the husband, while she lives with him. By 'right' I don't mean legal right. I deny that the right of capricious divorce exists. It is not tolerated, and ought not to be tolerated. In South Malabar Sam-

bandhams where cloths are not presented, betel leaf is presented by the bridegroom to the bride. As to Agni, I merely said Goddess by a slip of the tongue. Agni is of course masculine. In the 64 Âchârams, the 61st lays down that funeral ceremonies should be performed in honor of an uncle. The 62nd declares that the right of inheritance goes towards nephews. This will show that any law interfering with the right of inheritance will interfere with religion. I would also mention that when Nayars go on a pilgrimage, and perform the Shrâdha ceremony at Gaya, they perform that ceremony in honor of the ancestors of the tarawâd for 21 generations. In Tirunelli in Wynad, nephews alone are entitled to perform Shrâdha ceremony. Every body knows it.

Taken down by me in the presence of the Commission; read over to the witness who understands English and admitted by him to be correct.

Palghat, }
17th June 1891.

H. M. WINTERBOTHAM,

Collector and Commissioner.

Witness No. 120.

KÔDHANATH GOPALAN NAYAR.

Age 45—Ayakkâd Amsam, Palghat Taluk.—Kâranavan of Tarawâd.

My Tarawâd assessment is over Rs. 300. On my separate property I pay nearly Rs. 300 assessment. 1st Grade Pleader practising at Palghat for 2 years, before that for nearly 8 years at Calicut, before that for nearly 6 years at Tellicherry. I think a permissive marriage law for Nayars is absolutely necessary. I am in favour of the Bill, but desire some modifications. If I can't get those modifications I would take the Bill as it is. I would accept the Bill as to guardianship and maintenance. As to succession to intestate self-acquisitions I would give half to wife and children and the other half to the tâvazhi. This is my mature opinion since submitting my answers. I would place no restriction on the testamentary power over self-acquisitions. When living with her husband the wife and children should have no right of maintenance from the tarawâd. The husband should be the guardian except in cases where the wife lives in her own tarawâd. In such cases the Kâranavan should continue to be guardian of the woman and her children as at present. Wherever the husband has self-acquired property, and is able to support his wife and children, he ought to be the legal guardian. If property cannot be made a condition of guardianship and if it is a question between the Kâranavan and the father, I would have the father's right of guardianship to prevail. In the majority of cases the Anandaravan-husbands have no independent property. In South Malabar the wives generally remain in their own Tarawâd houses at present. The converse is the case in North Malabar. In all cases Anandaravan-husbands should supply their wives with cloths, oil and pocket money when the wives live in their own Tarawâds. Anandaravans must get the money for this by their own labour, or from the Kâranavan. A wife will cost in this way from Rs. 25 to Rs. 100 a year. Kâranavans make a money allowance to the Anandaravans either annually or periodically according to their pleasure. There is no fixed custom. In North Malabar the wives live with the husbands, but the wife's Kâranavans are the guardians in law. No inconvenience arises from this state of the law. I wish for the change of guardianship to the father, because as an educated man I think the father should naturally be the guardian of his own children. I know no instance of friction between the Kâranavan and the father in North Malabar, on the question of guardianship. The sons and nephews of Nayars both perform funeral ceremonies. The sons are the proper persons to perform the ceremonies under Hindu law, and I should not object to release the nephews from the obligation. The Marumakkathâyam system of inheritance in my opinion has no religious basis. I can quote no work as authority for this opinion. By tradition there are said to be 64 Anâchârams in Malabar. I believe they are handed down only by oral tradition. I have never heard of them in the form of a grantham. In my opinion they have no religious authority. The belief of

the majority of the Malayâlis is that Parasu Râma is an incarnation of Vishnu and that the Marumakkathâyam system was ordained by him and is therefore of divine origin. A majority of Marumakkathâyam Malayâlis would object to any change of succession on the ground that the system is instituted by the deity. Adultery, incurable disease, and cruelty by the husband should be the only grounds of divorce. I would vest the matrimonial jurisdiction in Courts with power to refer divorce cases to caste Panchâyats at the request of either party. I think the Panchâyats might be trusted to do justice, if care were exercised in selecting the members. The Nayars think that unrestricted freedom of divorce is bad, but they object to resort to Court and would prefer the Panchâyat as a tribunal. I should wish the Bill to permit inter-marriage between all sub-divisions of Nayars. I would prohibit marriage between different castes, such as Nayars and Tiyaans. In Palghat, Ponmani and Walluvanad, a majority of Nayars of all classes desire a marriage law. I don't know what the general feeling is elsewhere.

Taken down by me in the presence of the Commission; read over to the witness who understands English and admitted by him to be correct.

Palghat, }
18th June 1891.

H. M. WINTERBOTHAM,

Collector and Commissioner.

Witness No. 121.

KONGÔT KARUNÂGARAN NAYAR.

Age 57.—Ayakkâd Amsam, Palghat Taluk.—Tarawâd Kâranavan.

My Tarawâd pays Rs. 800 odd as assessment. I have not received any interrogatories. I see no objection to a permissive marriage law for Nayars. A majority of the Nayars who are respectable and well-informed in my amsam, are in favour of such legislation. There would be about 100 Nayar Tarawâds in Ayakkâd, of which about 40 are well-to-do. About 50 % would be in favour of a marriage law. Divorce is now at the pleasure of either party. It ought to be restricted to reasonable grounds. Reasonable grounds of divorce are adultery, incurable disease on part of wife, cruelty and neglect to maintain her on part of husband. In case of intestacy, half of self-acquisitions should go to wife and children; the other half should go to his own Tâvazhi, or if there be no members in the Tâvazhi, then to the Tarawâd. Existing restrictions as to caste &c. should be maintained.

Taken down by me in the presence of the Commission; read over to the witness in Malayalam and admitted by him to be correct.

Palghat, }
18th June 1891.

H. M. WINTERBOTHAM,

Collector and Commissioner.

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APPENDIX V

TO THE

REPORT

OF THE

MALABAR MARRIAGE COMMISSION.

APPENDIX V.

Statement shewing the Marumakkathayam Castes and Sub-castes in Malabar, compiled from Table VIII B, Vol IV of the Census Report for 1881.

Serial No.	Names of Castes.		Population.	
	English.	Malayalam.	Males.	Females.
1	Achchan	അച്ചൻ	20	15
2	Akattara Nayar	അകത്തറനായർ	80	82
3	Alakkukāran	അലക്കുകാരൻ	15	25
4	Ambalakkāran	അമ്പലക്കാരൻ	15	12
5	Ambalavāsi	അമ്പലവാസി	538	469
6	Do. Atiyoti	ടി- അടിയൊടി	3	4
7	Do. Nambissan	ടി- നമ്പിള്ളൻ	23	13
8	Andi	ആണ്ടി	274	290
9	Annūttān	അണ്ണട്ടാൻ	84	85
10	Anthiyān Kusavan	ആന്തിയാൻകുടവൻ	11	5
11	Anthūrān	ആന്തൂരാൻ	1,454	1,466
12	Arūrān Kurup	ആരൂരാൻകുറുപ്പ	1	2
13	Athi Kurissi	അത്തികുറിശ്ശി	976	1,050
14	Do. Mārayān	ടി- മാറയാൻ	3	1
15	Atikal	അടികൾ	22	27
16	Atiyōti	അടിയൊടി	65	70
17	Attukāran	ആട്ടുകാരൻ	11	13
18	Chakkān	ചക്കാൻ	2,199	2,340
19	Do. Nayar	ടി- നായർ	2	4
20	Do. Vāniyar	ടി- വാണിയർ	3	10
21	Chakkingal Nayar	ചക്കിങ്കൽനായർ	23	25
22	Chāliyan	ചാലിയൻ	10,689	10,877
23	Do. Kāvuthiyan	ടി- കാവുതിയൻ	7	5
24	Do. Poduval	ടി- പൊതുവാൾ	13	10
25	Chankan Nayar	ചങ്കൻനായർ	10	12
26	Chārna	ചാൻ	11	12
27	Do. Panikkar	ടി- പണിക്കർ	2	7
28	Chākkīar	ചാക്കിയാർ	17	21
29	Chāya Kurup	ചായകുറുപ്പ	11	11
30	Chēla Kurup	ചെലകുറുപ്പ	6	13
31	Chembōtti	ചെമ്പൊട്ടി	86	179
32	Chenda Pothuvāl	ചണ്ടപൊതുവാൾ	1	...
33	Chettiyān	ചെട്ടിയാൻ	5	6
34	Erādi	ഏറാടി	82	109
35	Erumān	എരമാൻ	1,790	1,913
36	Kachchāri Nayar	കച്ചാരിനായർ	9	10
37	Kalam Kotti	കലക്കൊടി	...	2
38	Kallāri Kurup	കല്ലാരികുറുപ്പ	5	5
39	Kallāt Kurup	കല്ലാട്ട കുറുപ്പ	94	85
40	Kārinkal Nayar	കാരിങ്കൽനായർ	108	153
41	Kāra Panikkar	കാരപ്പണിക്കർ	6	4
42	Karthāvu	കർത്താവു	73	78
43	Kathili Nayar	കത്തിളിനായർ	4	9
44	Kāvil Ambalavāsi	കാവിൽഅമ്പലവാസി	11	35
45	Do. do. Virāti	ടി- വിരാടി	46	20
46	Kidāran	കിടാറൻ	107	103
	Kiriyam Nayar	കിരിയന്നായർ	14	15

APPENDIX V—(continued)

Serial No.	Names of Castes.		Population.	
	English.	Malayalam.	Males.	Females.
48	Kolayān	കൊലയാൻ	2,561	3,018
49	Kolangara Nayar	കൊളങ്ങരനായർ	3	8
50	Kōlpād	കൊൽപ്പാട	6	3
51	Māla Pothuvāl	മാലപൊതുവാൾ	21	20
52	Mannātiyar	മന്നാടിയാർ	15	9
53	Mārayān	മാറയാൻ	2,077	2,337
54	Do. Ambalavāsi	ടി- അമ്പലവാസി	8	7
55	Matayan	മടവൻ	208	250
56	Mēnoki	മെന്നൊക്കി	12	9
57	Mēnon	മെന്നൊൻ	46	36
58	Mukkuvan	മുക്കുവൻ	2,835	2,805
59	Mullu Tiyan	മുളുതിയൻ	13	7
60	Mūppan Tiyan	മൂപ്പൻതിയൻ	1	...
61	Mūthān	മൂത്താൻ	3,357	3,444
62	Mukkuvan Kāvuthi	മുക്കുവൻ കാവുതി	30	29
63	Do. Paniyan	ടി- പണിയൻ	8	5
64	Nambiyar	നമ്പ്യാർ	191	191
65	Nambrāth Nāyar	നമ്പ്രാത്തനായർ	4	3
66	Nātuvāzhi Nāyar	നാടുവാഴിനായർ	12	8
67	Nāyakan	നായകൻ	945	854
68	Nāyanār	നായനാർ	2	...
69	Nāyar Nambi	നായർനമ്പി	2	2
70	Nāyar	നായർ	1,51,944	1,63,276
71	Do. Yāvāri	ടി- യാവാരീ	21	32
72	Nedungādi	നെടുങ്ങാടി	344	402
73	Nūl chāliyan	നൂൽചാലിയൻ	4	6
74	Odavan	ഓടവൻ	10	5
75	Orayan Nayar	ഓരയൻനായർ	3	2
76	Otath Nayar	ഓടത്തനായർ	27	19
77	Otathavan	ഓടത്തവൻ	12	9
78	Ottakāran	ഓട്ടുകാരൻ	2	...
79	Pālathu Nayar	പാലത്തുനായർ	1	3
80	Pallichchān	പള്ളിച്ചാൻ	177	118
81	Panikkar	പണിക്കർ	113	113
82	Pārāmbi	പാറാമ്പി	5	6
83	Parappūr Nāyar	പറപ്പൂരനായർ	119	104
84	Pathiyār	പതിയാർ	236	207
85	Perimpur Nayar	പെരിമ്പൂർ നായർ	3	9
86	Pishārōdi	പിഷാരൊടി	645	669
87	Poduvāl	പൊതുവാൾ	1,684	1,841
88	Pulian Nayar	പുലിയൻനായർ	482	434
89	Pumāla kettunnavan	പുമാലകെട്ടുന്നവൻ	2	4
90	Punambi	പുന്നമ്പി	20	25
91	Pushpagan	പുഷ്പകൻ	53	44
92	Do. Ambalavāsi	ടി- അമ്പലവാസി	22	24
93	Rāja	രാജാ	31	5
94	Rāvāri	രാവാരീ	236	279
95	Sāmantan	സാമന്തൻ	566	561

APPENDIX V—(continued)

Serial No.	Names of Castes.		Population.	
	English.	Malayalam.	Males.	Females.
96	Sāmanthan Erādi	സാമന്തൻ എറാടി	4	10
97	Do. Karthār	ടി- കർത്താർ	3	10
98	Do. Nambiyar	ടി- നമ്പ്യാർ	13	16
99	Do. Nāduvāli	ടി- നാടുവാഴി	...	1
100	Do. Nedungadi	ടി- നെടുങ്ങാടി	99	107
101	Do. Smarthan	ടി- സ്താത്ത്ത്	25	32
102	Sāmanthan Tirumulpād	സാമന്തൻ തിരുമുല്പാട്	61	71
103	Do. Vallōdi	ടി- വള്ളൊടി	4	6
104	Sāmpila Nambiyar	സാമ്പിലനമ്പ്യാർ	1	...
105	Sudra	ശൂദ്രൻ	3,546	3,709
106	do. Nāyakan	ടി- നായകൻ	12	9
107	do. Nayar	ടി- നായർ	626	633
108	do. Poḍuvāl	ടി- പൊതുവാൾ	4	8
109	Tarakan	തരകൻ	2,684	2,717
110	Theyyadi Nambiyār	തെയ്യാടിനമ്പ്യാർ	2	5
111	Theyyambādi	തെയ്യമ്പാടി	141	131
112	do, Kurup	ടി- കുറുപ്പ്	8	2
113	Tiyan	തിയ്യൻ	1,08,639	1,11,806
114	do. Kāvuthiyan	ടി- കാവുതിയൻ	623	631
115	Tirumulpād	തിരുമുല്പാട്	78	67
116	Thunnakkāran	തുന്നക്കാർ	30	46
117	Ullāttil Nayar	ഉള്ളാട്ടിൽ നായർ	6	6
118	Unithiri	ഉണിത്തിരി	93	95
119	Ūrāli	ഉരരാളി	372	336
120	do Nayar	ടി- നായർ	176	174
121	do. Kusavan	ടി- കുശവൻ	75	60
122	Valinchiyar	വളിഞ്ചിയൻ	301	294
123	Vāniyan Nayar	വാണിയൻ നായർ	6	8
124	Vannathān	വണ്ണത്താൻ	84	67
125	Vāniyar	വാണിയർ	16,198	16,282
126	Vāniyan	വാണിയൻ	7	7
127	Vāriyar	വാരിയർ	2,265	2,383
128	Vattekāden	വട്ടക്കാടൻ	2,617	2,679
129	do. Chakkān	ടി- ചക്കാൻ	8	6
130	Vatuka Nayar	വട്ടുക നായർ	3	2
131	Veluthēdan	വെളുത്തേടൻ	3,132	3,410
132	Velakkathalavan	വെളക്കത്തല വൻ	2,687	2,868
133	Vellōdi	വള്ളൊടി	63	67
134	Vaithiyar	വൈത്ത്യാർ	51	57
135	Yāvāri	യാവാരി	1,227	1,409
136	do. Nayar	ടി- നായർ	10	17
137	Yōgi	യോഗി	264	296
138	do. Gurukkal	ടി- ഗുരുക്കൾ	234	236
Total...			3,34,630	3,51,761

APPENDIX VI

TO THE

REPORT

OF THE

MALABAR MARRIAGE COMMISSION.

(Extracts from Diary).

DIARY OF THE COMMISSION.

CALICUT,
18th May 1891.

The Commission on the Marumakkathayam Marriage Bill assembled to-day at Calicut.

PRESENT:—1. The Hon'ble Mr. T. MUTTUSAMI AIYAR, C.I.E., Judge of the High Court,—*President*.

2. H. M. WINTERBOTHAM, Esq., Collector of Malabar.
3. RAMA VARMA TAMBURAN AVARGAL, Parappanad Kovilagam.
4. The Hon'ble C. SANKARAN NAYAR, B.A., B.L., High Court Vakil.
5. M.R.RY. O. CHANDU MENON AVARGAL, District Munsiff.
6. M.R.RY. M. MUNDAPPA BANGERA, B.A., B.L., District Munsiff.

PALGHAT,
18th June 1891.

The President proposes that, before exchanging ideas and entering upon discussion, each Commissioner should draw up a rough memorandum of the views independently formed by him up to date on the following questions:—

- (1.) What are the customs connected with Marumakkathayam marriages in Malabar?
 - (2.) Have they any connection with the religious observances of the people?
 - (3.) Are the proposed changes desired by the majority of the classes subject to Marumakkathayam law?
 - (4.) Are they essential for the protection of the minority?
 - (5.) Is the proposed marriage legislation expedient?
 - (6.) If so, what form should it take?
- Chief points for notice—
- (a) Conditions of a valid marriage.
 - (b) The form that ought to be recognized.
 - (c) Registration as evidence of an agreement to be governed by the Act.
 - (d) Divorce: Grounds of divorce: Tribunal.
 - (e) Rights and obligations to be attached to the legal form of marriage.
- (7.) What will be the effect of the measure on Native Cochin, Travancore, and by those governed by Aliyasantana law, and on Nayers living outside Malabar?

Carried unanimously.

Resolved that the Commission assemble at the Calicut District Court on Monday, June 22nd, at 3 P.M., to read and discuss the memoranda.

CALICUT,
22nd June.

The Commissioners assembled at 3 o'clock. The five Commissioners read their memoranda to the President. The Commission is unanimously of opinion that no change in their marriage customs is desired by the majority of persons following Marumakkathayam. Four out of five are of opinion that legislation is desirable to meet the needs of the educated and progressive minority. Mr. Chandu Menon, the dissenting member, considers that legislation is not only not desired by the majority, but that it is also not necessary for the protection of what he considers to be a very small fraction of the population. He considers, however, legislation to be necessary in case the Courts refuse to recognize the existing social marriages as legal and binding marriages, creating the rights and obligations described by him in his memorandum.

The President elects to reserve his opinion until he has had time to fully analyse the evidence and the replies to interrogatories.

Resolved that the Commission do proceed (on the assumption that legislation is expedient) to a discussion of the details of the Bill under the following heads:—

- (1) Whether the Bill should be adopted in its present form, or whether it should be modified?
- (2) If modified, what modifications are necessary?
- (3) Form of marriage.
- (4) Conditions of marriage.
- (5) Provisions relating to divorce.

CALICUT,
23rd June 1891.

The Commission assembled at 3 P. M.

The President proposes the following resolution:—

"That the Bill as it stands requires modification," and expresses it as his opinion that unless modified, legislation on the lines contained therein is not likely to be acceptable even to a majority of the educated and official classes.

Mr. Sankaran Nayar has no objection to modify the Bill, but if the Bill as modified is not approved, he would wish the Bill to pass as it is.

Mr. Chandu Menon is of opinion that there should be no legislation at all, unless or until the Courts hold that the social marriages prevailing in Malabar cannot be recognized as marriages; and even if they are not so recognized, the Bill in its present form is open to several grave objections and that it should be so modified as to bring it into conformity as far as possible with the usages prevailing amongst the Marumakkathayam classes.

Rama Varma Tamburan Avargal considers that a permissive marriage law is highly desirable, but that the scheme contained in the Bill is objectionable as ignoring customary restrictions as to caste and consanguinity and that unless it is modified on these points there should be no legislation.

Mr. Mundappa Bangera is of opinion that a modification of the Bill is desirable, but that if the modified Bill is not approved of by the Government, the Bill as it stands should be passed in its entirety.

Mr. Winterbotham is of opinion that the Bill requires modification in detail, and is not fit to be passed into law as it stands.

2. The President proceeds to unfold a scheme,—which commends itself to his mind, as being both practicable and in consonance with the desires and feelings of a majority of Marumakkathayam Hindus,—by which the customary social marriages may receive legal recognition.

The Commission agree that the scheme be elaborated after discussion, with a view to its submission to Government as an alternative form of legislation.

The Hon'ble C. Sankaran Nayar is requested to embody the President's idea in the form of a rough draft of a section, or sections, to take the place of Section 4 of the Bill.

The conditions qualifying the parties to marry are discussed and agreed to.

CALICUT,
25th June 1891.

The Commission assembled at 3 P. M.

Mr. Sankaran Nayar proposes that all the depositions be printed in full.

Carried unanimously.

June 25th and 26th.

Commissioners occupied in discussing the details of the President's scheme.

The conditions of marriage are drafted and agreed to.

The conditions of registration are drafted and the substance is agreed to.

CALICUT,
27th June 1891.

The Commission assembled at noon.

1. The Divorce sections, as suggested by the President and as drafted by Mr. Sankaran Nayar, are considered.

2. The President proposed that it be suggested, as an alternative, that if Government considers the procedure for divorce not sufficiently strict, the provisions of the Indian Divorce Act may be adopted with a modification in the shape of a provision to the effect that the Court may be enabled to refer the questions in dispute for trial to a caste panchayat, either on the application of one of the parties, or of both, or on its own motion.

If both the parties agree, then the Judge *shall* refer the matter to such panchayat.

In every suit tried under such Act the case shall be tried with closed doors.

Mr. Chandu Menon is of opinion that the Court should be bound to refer in all cases where either of the parties wishes it.

The President, Mr. Sankaran Nayar, Mr. Mundappa Bangera and M.R.Ry. Rama Varma Tamburan Avargal agree to the proposal.

Mr. Winterbotham doubts the expediency of referring these divorce cases to a caste panchayat for trial, and therefore does not agree in the proposal.

3. The sections drafted by Mr. Sankaran Nayar relating to maintenance and guardianship are considered. The President and Mr. Chandu Menon agree to these provisions.

Mr. Winterbotham would agree to these provisions in so far as they are consistent with his view that the father should be the sole legal guardian.

M.R.Ry. Rama Varma Tamburan Avargal agrees to these provisions.

Mr. Mundappa Bangera agrees to the provisions relating to maintenance, but thinks that the father ought to be the sole legal guardian of his wife and children.

Mr. Sankaran Nayar does not object to these provisions.

4. Whether the whole of intestate self-acquisitions ought to go to wife and children, or only a share, and if so, what share?

Mr. Chandu Menon thinks that no share ought to be given.

The President thinks that the whole ought not to be given. M.R.Ry. Rama Varma Tamburan Avargal also thinks that the whole ought not to be given.

Three consider that the whole property ought to go, viz., Messrs. Winterbotham, Sankaran Nayar and Mundappa Bangera.

5. All, except Mr. Chandu Menon, think that the share to be allotted to wife and children ought not to be less than half.

6. Whether the property should descend to the wife and children as Tāvazhi property to be enjoyed by them as members of a Tarawād?

M.R.Ry. Rama Varma Tamburan Avargal thinks that the properties should not be enjoyed as Tāvazhi, but should be divisible among them, as it came to them according to the Makka-thāyam rule.

Mr. Winterbotham, Mr. C. Sankaran Nayar and Mr. Mundappa Bangera are of opinion that it ought not to be enjoyed as Tāvazhi property, but ought to be divisible.

The President and Mr. Chandu Menon are of opinion that it ought to be enjoyed as Tāvazhi property, and ought to be impartible.

7. Mr. Winterbotham states as follows:—

In my opinion the Commission (in considering what form legislation should take) should have regard to the standard of morality upheld in the various Marriage Acts, denominational and undenominational, which have already received the assent of Government.

Marumakkathāyam rests on the supposed divine precept that there is no virtue in chastity. The institution of marriage is inconsistent with this principle, and a plan for engrafting a lax marriage law upon people wedded to the Marumakkathāyam system is, I think, unlikely to find favour with the legislature.

The Commission ought, therefore, in my humble opinion, to consider whether it is possible to frame a Marriage Act on lines upon which it will be possible for Government to legislate, and which will satisfy the educated few whose moral standard is in accordance with that which Government must uphold.

There is a minority of intelligent, educated, independent Marumakkathāyam Hindus who can earn a living and are able to support a wife and family.

They wish for the institution of marriage, in the sense that they are willing to bind themselves, for life, to one woman; and that they view the guardianship and education of their children as a sacred and paramount obligation inseparable from the relation of husband and wife.

These are the leaven which will leaven the whole lump, and in their interest I beg to propose the following resolution:—

"In case the form of legislation recommended by the President does not secure the approval of Government () out of the six Commissioners, believe that Mr. Sankaran Nayar's draft Bill may be so modified as to be acceptable to educated Marumakkathāyam Hindus, without materially diverging from the lines of legislation which Government has hitherto followed."

The chief objections urged against the Bill by the persons interested in it, are the following:—

- (1) The prohibition of polygamy, Section 4 (1).
 - (2) Objections to the appearance of the bride before a public officer, Section 14.
 - (3) The ignoring of caste restrictions, Section 4, 1st proviso.
 - (4) The ignoring of consanguinity beyond the 5th degree, Section 4, 2nd proviso.
 - (5) The restrictions on divorce at will.
 - (6) The hardship of not being able to obtain divorce, except by resort to Court.
 - (7) The altering the law of succession as regards self-acquired property in cases of intestacy.
- On (1) and (7) we have already recorded our opinions.

To meet the other objections, where possible, I would suggest the following modifications:—

For Section 14, I would submit as an alternative, the procedure suggested by the President for the registration of marriages.

(3) I would add to 1st proviso:—"But if the difference of caste between husband and wife be such that social usage renders either or both liable to caste excommunication, the husband or wife so liable shall lose his or her right of entry into, or of residence in, his or her Tarawād dwelling-place or dwelling-places, and the husband shall, at the option of his Tarawād or of any adult member thereof, forfeit his right of holding, or succeeding to, the office of Kāranavan of his Tarawād."

(4) Section 4, 2nd proviso:—I would explain the strong feeling against the relaxation of existing restrictions, and would suggest the omission of this provision.

(5) I would recommend that desertion, without reasonable excuse for two years or upwards, be made a ground of divorce. In other respects I would adopt the provisions of the Indian Divorce Act with the necessary alterations in Section 10.

(6) I regard the Divorce Court as a necessary evil and cannot suggest any alternative.

There are a number of minor details in which the Bill is, in my opinion, susceptible of improvement, but it is not necessary to discuss them now, and with these remarks I would ask for the votes of the Commissioners on my resolution.

The President states that in the event of the scheme approved by the majority not commending itself to Government, the question whether he would recommend a law which would be acceptable only to the educated few would depend upon whether such educated minority was in his opinion sufficiently large to warrant Government in the conclusion that legislation was desirable for their protection.

On that point, with reference to both schemes, the President reserves his opinion.

Mr. Sankaran Nayar and Mr. Mundappa Bangera support the resolution.

Messrs. Chandu Menon and Rama Varma Tamburan Avargal reserve their opinion.

The resolution is therefore carried.

The President draws attention to the fact that the proposed addition to 1st proviso, Section 4, would probably be irreconcilable with Act XXI of 1850. After some further discussion, the Commissioners agree that the time is come when they may separate.

The Commissioners agree that each shall draw up a memorandum embodying his views.

The President and Mr. Sankaran Nayar undertake to elaborate the President's scheme and to embody it in a draft Bill.

Mr. Winterbotham undertakes to prepare the statements required by the President, to superintend the translation and printing of the necessary papers, and to draw up a draft report.

After compliments, the Commissioners separate.

(True Extract.)

H. M. WINTERBOTHAM,

Collector of Malabar,

Member, Malabar Marriage Commission.

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GLOSSARY.

Âchâram	= Established custom: dues.
Âchâram-thîrkka	= (To pay the dues). To divorce, generally applied to Tiyan divorces.
Adhigâri	= The head of the Amsam, or parish.
Adima	= Feudal dependency of a Nayar upon his patron. Slavery.
Adiyân	= A Slave. The Sudra-Nayar Sub-Division term themselves the adiyâns of their Nambudiri landlords.
Agathu Chârnathu	= A large sub-division of the Nayar caste. Adherents of the Rajahs: formerly employed in household service.
Agatha Vekkuga	= (Agathu=Inside, Vekkuga=To keep). A preliminary part of the Tâlikettu ceremony, during which the girl is kept apart in a room as if unclean.
Aliya-santânam	= (Aliya=nephew, and Santânam=descent) Sister's issue. Inheritance in the female line. Canarese equivalent of Marumakkathâyam.
Ambalavâsi	= (Dweller in the temple) The name embraces the many sub-divisions of Nayars who are temple servants.
Amâmman	= Uncle. Kâranavan.
Ammâyi	= Kâranavan's (generally uncle's) wife.
Amsam	= (Share, shire). Part of a Taluk. Village. parish.
Anâchâram	= Irregularity established by Custom—applied to certain practices observed by Nambudris and eschewed by other Brahmans.
Anandaravan	= (He who comes after). Next relation, successor, heir.
Antarjanam	= (Antar = Inside, Janam = person). A term applied to Nambudri women who live in seclusion.
Ânthûrân	= A sub division of Nayars, potters by hereditary profession.
Arappura	= Closet. Treasury.
Arayâl	= Ficus religiosa.
Ârppu	= Shouting—acclamation. (at the Tâlikettu procession.)
Arthadannam	= An expiatory ceremony performed among the Nayars of North Malabar to remove the taint brought on a family by a mésalliance.
Ashtamangalyam	= The eight auspicious articles offered to a bride or honoured guest. There is much uncertainty as to what they are. Probably rice, cloth, money, fire, milk, ghee, cocoanut, and a weapon: or symbols of these.
Athâzham, Athâzham Uttu	= Supper. The feast on the evening of the 1st day of Tâlikettu.
Athikurishi	= One of the sub-divisions of the Nayar caste, who remove defilement after death or birth.
Attâladakkam	= (Taking when extinct). Remote relationship. Right of succession (by virtue of distant relationship) to a divided branch of a tarawâd when that branch becomes extinct.

Ayani Ūnu	= Feasting of the Manavālan (bride-groom) before he ties the tāli. (badge of marriage.)
Bali	= Sacrifice. Offering; chiefly obsequies performed by heirs.
Bandhu	= Relation. Kinsman.
Bharthāvu	= (He who supports) husband.
Bhārya	= (She who has to be supported). Wife.
Bijam	= Seed. Semen.
Bijapāraparyam	= (Bijam=seed, and pāraparyam=succession) succession from the father.
Brāhmini	= (Feminine of Brahman). The name by which the Nambissan females are called, who sing at the Tālikettu Kalyānam of Nayars.
Chāliyan	= (Jālikū=spider). Name of a caste of Marumakkathāyam Sudras whose profession is weaving.
Chārnathu	= A main sub-division of the Nayar Caste. Adherents of the Rajahs.
Chāyippu	= An enclosed veranda behind the Padinyātta (western) room.
Chēla	= A cloth worn by women.
Cheppu	= A small round box with a lid.
Dakshina	= Gift of money to Brahmins on festive, or solemn, occasions.
Dānamuhūrtam	= An auspicious hour to make a gift (of a virgin to a man.)
Dāyādi	= A relative. The plural embraces every member of the family however remote.
Dēsakār	= People of the same clan in a dēsam.
Dēsam	= Sub-division of an āmsam.
Dēsa-Vāzhi	= The chief man of a Dēsam. An hereditary local authority subordinate to Nādu-Vāzhi. (Now obsolete).
Dharmam	= The law and its observances. The natural state. The chief virtue, Charity (Gundert).
Dīksha	= Mourning and ceremonies for a deceased person,—usually continued for one year.
Dōsham	= Evil. Sin. Taint.
Edaprabhu	= A petty chieftain.
Ejamān	= Master. Canarese term for the head of an Aliya Santānam family: equivalent to Kāranavan.
Elayathu	= An inferior class of Brahmins who act as priests for Sudras in performing funeral obsequies &c.
Enangan	= (Properly Inangan from Inanguga=to agree). A Kinsman. This is a hard word to define. Sub-Judge Mr. Krishna Menon defines it as "a reconciled member of one's own clan." Of one's own clan some may be friendly, some not. The former are Enanganis. The division line is apparently drawn by tradition.
Ērādi	= (Ēr=A bullock, yoke of oxen). Cow-herd. A Sub-division of the Sāmantan sub-caste, formerly ruling in what is now the Ernād Taluk. The Zamorin dynasty belong to this caste.

Ezhavan	= Properly Īzhavan. A large section of the Tiyan Caste in Palghāt Taluk. They follow Makkathāyam, and do not inter-marry with the Tiyans.
Gāndharvam	= A love-marriage without ceremonial.
Gōtram	= Tribe (especially of Brahmins).
Grahapravēsanam	= (Graham=house, Pravēsanam=entering.) The ceremony of taking the wife for the first time to her husband's house.
Grahini	= House-wife.
Grāmam	= Village. In Malabar the word especially applies to the 64 Nambudri colonies, who are supposed to have divided the land between them.
Gunadōsham	= (Gunam=good, and dōsham=bad.) One of the terms used in Malabar to denote the tie between a man and the woman with whom he cohabits.
Hōmam	= A sacrifice: oblation to the god Agni.
Illakār	= Persons of the same Illam, or lineage.
Illam	= A Nambūdri's house, or family. The Marumakkathāyam Tiyans and Mukkuvans also speak of their illam, meaning lineage.
Janmam	= The Malabar free-hold proprietary right.
Janmi	= Land-lord.
Kalam	= A pot with wide mouth.
Kalam	= A farm-house: Granary.
Kalari	= A gymnasium. A place of martial exercise, generally dedicated to the goddess Bhagavathi.
Kalasam	= Consecrated water.
Kalasakumbham	= A brass vessel in which water for purification is kept.
Kalyānakutti	= The bride. The girl undergoing the Tālikattu ceremony.
Kalyānam	= Marriage.
Kānapanam	= The term used by North Malabar Tiyans to represent a sum of money paid by the bridegroom to the bride's uncle. Should be returned if the woman deserts the man, or misconducts herself.
Kānisan	= An astrologer. A sub-caste of the Tiyans, who monopolize the astrological business in Malabar.
Kanyikalam	= (Etymology uncertain) A girl at her first menstruation.
Kāppu	= (From Kākkuga=to protect) a bracelet, bangle. A charm, or amulet, tied on the girl's arm at Tālikettu. What it symbolizes seems uncertain.
Kāranavan	= Senior male in a tarawād, and therefore its head and manager.
Kattilsthānam	= (Bedstead-belongings). Furniture and moveables sometimes given to a Nayar "widow" and her children, by the heirs of her deceased "husband."
Kāvuthichie	= Barber woman of the Tiyan Caste.
Kēralam or Kērala	= The Western coast from Gokarnam to Cape Comorin, comprising Travancore, Cochin, Malabar and part of South Canara.

Kêrala-Mahâtmyam	= A mythical history of Kêralam in Sanskrit verse—never printed—authorship unknown—probably 150 or 200 years old.
Kêralôlpathi	= A history of Malabar in Malayalam—author unknown—about 200 years old—one version printed by the German Mission—several versions extant.
Kettikurikkuga	= Betrothal ceremony among Tiyan of North Malabar, at which some fanams are paid by the bride-groom's party to the bride's Kâranavan.
Kettiyaval	= She who is tied. Wife.
Kettiyavan	= (Kettuga=to tie) He who ties, and is tied; hence husband.
Kidakkura	= A term for "Marriage" amongst the Nâyars of Palghât and parts of Wallawanâd. Its etymology is disputed. Probably a corruption of Kidakka+mura=right of cohabitation.
Kidâran	= A small sub-division of the Nayar Caste whose profession is to work in leather.
Kindi	= A water-vessel with a spout, generally of bellmetal.
Kinnam	= A small metal plate turned-up at the rim.
Kiriyam	= (Tadbhavam from 'graham'=a house) The name of the highest Sub-division of the Nâyars.
Koil Tamburan	= A nobleman of Travancore of the Kovil-pandâla Caste, with whom the Ranis of Travancore Maha Raja's palace may consort.
Kolathiri	= A title of the Raja of Chirakkal.
Kôrapuzha	= A river flowing into the sea seven miles, North of Calicut, and forming the traditional boundary between North and South Malabar.
Kôttapuzha	= A river between Quilandy and Badagara in the Kurumbranad Taluk.
Kovilagam	= Palace, Dwelling place of the Malabar royal families.
Kshêtrapâraparyam	= (Kshêtram=field, and pâraparyam=succession) succession through the field i. e. in the mother's line.
Kshêtram	= Ground; field. In modern use it means a temple.
Kulam	= Clan, family: race; tribe.
Kulangara Pâttu	= (Tank-bank-song) Part of the Tâli-Kettu (or mock-marriage) ceremony in which a procession is made to the tank, where the bride bathes and the Brahmini sings songs.
Machambi	= Brother-in-law; fellow Caste-man (used in Travancore.)
Madavan	= The name of a Sub-division of Nâyars in North Malabar.
Madham	= The house of a Pattar (East Coast) Brahman. Also applied to out-houses of Nayar families, allotted for the use of Brahmans where they can eat without defilement.
Makkathâyam	= The ordinary law of inheritance from father to son.
Makkathâyê	= One who follows Makkathâyam. A coined word used by the people of Cochin and Travancore.
Malayâli	= A native of Malabar, used of all whose mother tongue is Malayâlam.
Mana	= (Manu=to live.) The residence or mansion of a Nambûdripâd.

Manâlanor Manavâlan	= (Manam=wedding) Bridegroom. The name given to the mock-husband at the Tâli-kattu mock-marriage.
Manâlapilla	= Same as Manâlan or Manavâlan.
Mangalam	= Marriage. Matrimony. A term used by the Tiyan of North Malabar.
Mangalyam	= Auspicious. The marriage token.
Mangalya Sûtram	= (Auspicious thread.) The Tâli and thread by which it is tied round the neck.
Mannân	= Tiyan washerman.
Mannâthi	= Tiyan washerwoman.
Mantram	= A mystic verse or incantation.
Mantravadi or Mantrakodi	= New unbleached cloth with which girls undergoing Tâlikettu Kalyânam are invested at a certain part of the ceremonies.
Mârân, Mârâyân, or Mârâr	= Drummers. A class of temple Sudras, the higher section of which perform purification for Brahmans, and the lower perform menial services in temples.
Marumakkathâyam	= The law of inheritance through the female line.
Marumakkathayee	= One who follows Marumakkathâyam. A coined word used by the people of Travancore and Cochin.
Maryâda	= Custom. Proper behaviour.
Mâttu	= A cloth brought by the washer-woman, in which the bride is clad after the days of her seclusion, at her Tâli-kettu.
Mâttu-kacha	= (Mâttuka=to change, to put a stop to, and Kacha=cloth.) Cloth sent to a woman by her husband as symbolical of divorce.
Mêlchilavu	= Pocket money. Allowance for extras besides food and clothes.
Menon	= (From Mên=what is above superior.) A title conferred by the Zamorin on some of his agents and writers. All the males of the Agatha Chârna Nâyars now adopt the title. In Malabar the Village Curnam is called Menon.
Muhûrtam	= The propitious moment determined by astrologers.
Muhûrta-Chârtu	= A piece of cadjan (palm-leaf) on which the Kanisan, or astrologer, inscribes the Muhûrtam, or auspicious time.
Muram	= A fan, or winnow, to sift grain.
Mûthathu or Mûssad	= A class of Brahmans in Malabar, inferior to a Nambudri.
Nadukkâran	= (Nadu=Middle) Middleman. The bride-groom's best-man at a Tiyan wedding in North Malabar.
Nâduvâzhi	= (Nâd=country and vâzhuga=to govern) Governor of a province. Name given to petty chiefs under the old Rajahs.
Nâlukettu	= A quadrangular building with an inner courtyard.
Nambîssan	= A class of temple servants whose business it is to make garlands, and perform ceremonies for Sudras.
Nambûdiri or Nambûdri	= The Malabar Brahman.
Nambûdiripâd	= A head Nambûdiri. The affix pâd denotes superiority in rank wealth and influence.

Nāyar	= The Sûdras of Kêrala. The word is akin to Naik and Naidu, and signifies a leader, a soldier.
Nedungâdi	= A class of Sâmantans formerly ruling in Nedunganâd (south part of present Walluwanâd Taluk.)
Nêtyâr	= An honorific title of the ladies of certain high Nāyar families.
Nirachu-veppu	= Measure full of paddy, or rice, placed in front of lit lamps on the occasion of ceremonies.
Nira-nâzhi	= (Full-nâzhi.) The same as nirachu-veppu. The Nâzhi is a small local measure $\frac{1}{16}$ of a para.
Nira-para	= (Full para). The same as Nirachu veppu. The para is a local measure.
Nyāyam kodukkuga	= (Nyāyam=right, kodukkuga=to give) A term used for divorce among the Marumakkathāyam Tiyaṅs of North Malabar.
Ōnam	= The national feast on the New-moon of September, when Parasū-Rāma is said to revisit Kêrala
Padinyâtta	= The western room in a house generally considered holy, and only used as a bed room at weddings etc. The sanctuary of ancestors. (Gundert.)
Pallichân	= A class of Nāyars, hereditary palanquin-bearers of the Rajahs.
Pandal, or Kalyāna Pandal	= Wedding booth.
Pānigrahanam	= Taking the virgin's hand in marriage. Part of the Brahman marriage ceremony.
Pāppani	= A female of Nambissan caste, same as Brahmini. The women of this caste are engaged to sing at Nāyar weddings.
Parisha	= A set, or class, of people: generally applied to the Agathu Chârna division of Nāyars.
Parisham Chēyga	= (To form connection). A term for marriage used by the Marumakkathāyam Tiyaṅs of North Malabar. 'Parisham' is the Tadbhavam corruption of the Sanskrit 'sparsam' = connexion (Gundert).
Pāttamma	= (Pattu=song and amma=woman). A songstress, applied to the Brahmini who sings at the Tālikettu-Kalyānam.
Pattar	= The name given to foreign Brahmans. There is a great colony of them at Palghāt.
Pattum Valayum Kodukkal	= (Gift of silk-cloth and bracelet). Name of the ceremony gone through when a Rajah forms an alliance with a girl.
Penkettu	= (Pen=woman, and Kettuga=to tie (tali)). Same as Tālikettu.
Penvāzhcha	= Marriage. A term sometimes used by Tiyaṅs of North Malabar.
Pillai	= The term used for Manavālan (bride-groom) in some parts of South Malabar. A caste name of certain Nāyars in Travancore.
Pinda	= A rice-ball offered to the dead. Oblations to the deceased.
Pinnam	= Funeral cake.
Pishārôdi	= A class of temple servants.
Poduvâl	= A class of temple servants.
Porlâtiri	= A title of the senior Rajah of Kadathanâd (north of Kôrapuzha.

Pôtti	= A patron or protector. The term by which the Nambûdris are called by Nāyars in some parts of Malabar.
Pramānam	= Authority.
Pramāni	= A chief, head-man; influential person.
Prāyaschittam	= Atonement, or expiation for breach of caste rules (by paying a fine or otherwise.)
Pudamuri, or Pudavamuri	= (Pudava=woman's cloth, and muri=cutting). A "Marriage" ceremony performed among the Nāyars in North Malabar. The signification of the term "cloth-cutting" is obscure and disputable.
Pula	= Pollution by the occurrence of a birth or death.
Pulasambandham	= Relationship such as to entail pollution on the occurrence of a birth or death.
Punyāham	= Consecrated water; holy water; Purification of wells, tanks persons etc. (Gundert).
Purāna	= A legend. Old history.
Purathu Chârṇathu	= A Sub-division of the Chârṇa division of Nāyars. Rajah's followers, not engaged in menial service.
Pûrnakumbham	= (Purnam=full and Kumbham=vessel). A vessel filled with holy water.
Pushpagan	= A Sudra class of temple-servants, who supply flowers and garlands to the temple.
Pushpâthi or Pushppini	= (Pushpam=flower). One of the many names of the women of Nambissan caste who make garlands for temples, and assist at Nāyar ceremonies.
Putrāvākāsam	= (Putran=son and avākāsam=right). A term applied in North Malabar to that portion of a man's self-acquisitions which his tarawâd on his death sometimes allows to his children.
Rāvâri	= The name of a sub-division of Nāyars whose profession is trade. (Corruption of Vyâbâri).
Sadâchâram	= Good old custom; courtesy.
Salkâram	= Invitation. Invitation made to a newly "married" couple by their relations after wedding. Used among Marumakkathāyam Tiyaṅs of North Malabar.
Sâmantan	= A title adopted by a few high and wealthy families, who claim to be above the Sudras, and to be a separate caste between the Sudras and the Brahmans.
Samâvarthanam	= A ceremony which should be performed by Brahman students on completion of their studies preliminary to entering on a family life.
Sambandhakâran	= The Nāyar equivalent for "husband."
Sambandham	= (Lit: connexion). The term used by the Nāyars of South Malabar to denote that a man and woman are united.
Samskâram	= Consecration. Initiation.
Saptapadi	= (The seven steps). Part of the Brahminical marriage ceremony on completion of which the marriage is irrevocable.
Sêshagâr	= (Sêsha=Remaining). Survivors.
Sêshakriya	= Funeral obsequies.

Shrādha	= Offering to the manes.
Shrudi	= (Hearing). Holy text, generally applied to the Vedās.
Simantham	= A ceremony performed in the 4th, 5th, or 6th month of pregnancy. (North Malabar.)
Smrithi	= (Remembered.) Tradition.
Sthāni	= A man of rank, or office.
Sudhabhojanam	= (Purifying meal). Same as Ardhadannam.
Sūdra Nāyar	= A Sub-division of Nāyars, dependents of Nambūdris.
Swarūpakkār	= A class of Nāyars in Travancore.
Tālam	= A large brass dish.
Tālappoli	= A feast or offering to Bhagavati, when girls march in procession and offer a plate of rice. Now applied to a procession of girls carrying a plate of rice and a lighted wick, on any auspicious occasion.
Tāli	= A neck ornament worn as the badge of marriage.
Tāmbūlam	= Betel generally presented to elders and friends on occasions of marriage etc.
Tandān	= A head man of Tiyan appointed by the Raja to direct their marriages, funerals, feasts etc.
Tantram	= (Gesticulations) ritual ceremonies.
Tarawād	= A Marumakkathāyam family consisting of all the descendants in the female line of one common female ancestor.
Tāvazhi	= (Tamil Tāyi=Mother, and vazhi=way or line.) A branch of a family consisting of a mother and her issue.
Thekkē muri	= Southern room of the house.
Thiruvāthira	= A fasting day for females in the month of Dhanu (December-January.)
Thorassēri puzha	= Identical with Korapuzha.
Thumba	Phlomis, or <i>Leucas Indica</i> . A plant sacred to Siva.
Tiratti Vekkuga	= Part of the ceremonial preliminary to Tāli-kettu. Placing the girl in seclusion as if menstruating.
Tirumalpād	= A Sub-division of the Sāmantans.
Tiyan	= (Islander). A numerous caste below the Sudras whose hereditary profession is toddy drawing. Immigrants from Ceylon—supposed to have introduced the cocoanut palm.
Trikkākarappan	= An idol of mud, made in the shape of a cone and placed in front of houses on the occasion of the Ōnam festival.
Ūrālan	= Trustee of an endowed temple.
Ūrāli	= A Sub-division of Nāyars whose profession is to cut laterite stones. Stone-masons.
Uruli	= Caldron to boil 4 or 5 measures of rice, generally made of brass or bell-metal.
Ūzham porukkuga	= (Ūzham=turn, and porukkuga=to cohabit.) The name of a form of "marriage" obtaining in parts of North Malabar.

Vaidīgan	= One who is versed in the Vēdas.
Vālāyma	= Defilement by a birth: also by a death of a very remote relative.
Valinchiyan	= Name by which barbers, among Nāyars, are known in North Malabar.
Vāliseri kottai	= A celebrated temple situated in Calicut Taluk about 10 miles North East of Calicut.
Vāl-kannādi	= A circular bell-metal looking glass with a handle which a girl undergoing Tāli-kettu kalyānam holds in her hand.
Vamsham	= Clan; tribe; lineage.
Vāniyan	= A class of sūdras whose profession is to manufacture oil.
Vannān or Vannathān	= Washerman. The former is generally used for the washerman of Tiyan and other inferior classes, and the latter for the washerman of Nāyars.
Variyezhutha	= Preparation of an estimate of Tālikettu expenses by caste-men (South Malabar.)
Vastradānam	= (Vastram=Cloth, and dānam=gift.) Gift of cloth. Modern name for the 'Puda-muri' ceremony.
Vattēkāt or Vattēkādān	= A Sub-division of the Nāyar caste whose business is to supply oil to the temples.
Vēli	= Brahman marriage before the holy fire: applied only to Brahman and Kshatriya marriages.
Veluthēdan	= (Veluppikkuga=to whiten.) Sudra Washerman for Brahmans temples and Nāyars of the higher divisions.
Verumpāttam	= Simple lease.
Vettila-kettu	= (Betel-bundle.) The ceremony, observed by the Sūdras of North Malabar, in taking the bride to the bridegroom's house for the first time after "Pudamuri".
Vidāram kairāl	= (Vidāram=house Kairāl=entry.) A form of "marriage" in North Malabar.
Vilakkathalavan	= Sudra barber for Brahmans and the higher division of Nāyars.
Virunnu	= Visit.
Vishu	= The Malabar Hindu New year's day.
Vivāham	= Marriage of Brahmans.
Vāriyar	= (Sweepers). A Sub-division of the Ambalavāsīs or temple-servants.
Yāgam	= Sacrifice.
Yāvāri	= (Corruption of Vyābāri) see Rāvāri. A class of Nāyars who are traders.
Yōgam	= An assembly.

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