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# MADRAS RECORD OFFICE

Government of Madras.

*Public* DEPARTMENT

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| Dated 29-11-1937 |                 |

Not to be folded or roughly handled

*P*  
20.11.37

To

THE SECRETARY TO THE COUNCIL OF THE GOVERNOR  
GENERAL FOR MAKING LAWS AND REGULATIONS,  
CALCUTTA.

Sir,

Your letter, dated the 23rd February last, No. 35, together with the " Bill to

The Hon. the Judges of the High Court,  
The Hon. the Advocate-General,  
Mr. G. A. Ballard,  
" G. L. Morris,  
" J. I. Minchin,  
" H. S. Thomas,  
Right Rev. Dr. Tissot,  
Rev. Dr. Caldwell,  
Hon. V. Ramiengar,  
T. Muthusami Iyer,  
V. Krishnama Chariar,  
A. Seshaya Sastri.

legalize Marriages between certain Natives of India not professing the Christian Religion," having been referred to the gentlemen named in the margin, for any observations they might desire to offer, I am now directed to transmit to you the replies received.

2. The gentlemen referred to, with the exception of Messrs. Ballard and Morris, who do not allude to the Schedule of prohibited degrees, and Mr. Thomas, who found no objection raised to it, are unanimous in considering that the Schedule should be omitted.

3. The Judges of the High Court, Mr. Ballard, and the Rev. Dr. Caldwell consider the Bill a desirable one. Two of the Judges would modify Section 8 of the Bill as follows:—

" If any person who shall have been married under this Act shall, during the lifetime of his or her wife or husband, contract any marriage without having been lawfully divorced from such wife or husband, such second marriage shall be void by reason of its taking place during the lifetime of such wife or husband." Mr. Thomas would add a Section declaring that all persons taking advantage of the Act would be entitled to the protection offered by Section 1 of Act XXI. of 1850. Dr. Caldwell does not think it desirable that parties about to be married should be required to make a public declaration, as prescribed in Clause 1st of Section 2 of the Bill.

4. The Honourable Mr. Norton, Messrs. Morris and Minchin, the Right Rev. Dr. Tissot, S. Muthusami Iyer, V. Krishnama Chariar, and A. Seshaya Sastri do not approve of the Bill, and do not consider any legislative measure necessary to legalize Hindoo marriages. The Honourable Mr. Norton has entered very fully into the matter, and it will be seen that the native gentlemen who have been consulted have, for the most part, concurred in the views expressed by him. The Governor in Council entirely endorses these views, and he would invite the special attention of His Excellency the Governor-General in Council to the following paragraphs:—

" 24. This Act is likely to be productive of far more harm than good.

" 25. Independently of awaking suspicion, fear, and prejudice where there is no necessity for it, on which I have already enlarged while endeavouring to show the importance of the measure, the little good that may accrue to the Bramo-Somaj is but a poor set-off against the harm to be created, by calling in question the legality of marriage founded upon custom, or celebrated by any other ceremonial than the ' orthodox' religious Hindoo ritual.

" 26. I have only one remark to make with regard to the details, and even that is superfluous, since the Honourable Mover of this Bill has suggested that the table of prohibited degrees shall be expunged. I will only say that it is very unsuited to this Presidency. In some instances it widens, and in others it narrows, the existing

limits of prohibition. No marriages are more common here than those between a man and his mother's brother's, or mother's sister's daughter. Such marriages are perhaps among the most approved among the Soodras. The same may be said of marriage with the father's brother's daughter, or father's sister's daughter; or with the daughter of a brother. All these would have been excluded by the proposed table.

" 27. In conclusion, I would earnestly suggest a re-consideration of the two statements upon which the Bill is founded. First, whether the Bramo-Somaj sect cannot find a properly-binding ceremonial of marriage among the Vedaic forms which they can practise without injury to their conscience, and whether a perfectly-binding Hindoo marriage cannot be effected without any ceremony at all other than that of Supthapathi; and secondly, whether the exposition of law is correct, that a Hindoo marriage cannot be valid unless it be celebrated according to the 'orthodox' rites of that religion; or whether the validity of many—perhaps the majority of Hindoo marriages—in the present day does not rest on custom, and not on observance of orthodox rites.

" 28. Again, I would earnestly invite a re-deliberation as to the propriety of the proposed remedy whether anything more can be requisite than the legalization, by a short declaratory Act, of such form of marriages as the Bramo-Somaj may adopt; whether if they be desirous of availing themselves of our European marriage machinery through the instrumentality of a Registrar, this Act ought not to be confined, in the first instance, to the Bramo-Somaj sect, with power to apply it to any such sect or sects as may hereafter desire to bring themselves under its operation."

5. It will be seen from the replies transmitted that there are no sects in this Presidency who observe a form of ritual which places them under the same disabilities as the Bramo-Somaj.

6. With reference to paragraph 6 of your letter under reply, I am to state that the views of the Madras Government regarding Act XXI. of 1850 were given in a letter to the Secretary to the Government of India, Home Department, dated the 30th June 1850, No. 76, and the Governor in Council has nothing to add to the observations there recorded.

FORT SAINT GEORGE,  
29th October 1869.

I have the honour to be,  
Sir,  
Your most obedient servant,

*Chief Secretary.*

Ed. J. Wright.

From

The Honorable John Bruce Norton  
Advocate General  
Madras.

To

The Honorable R. S. Ellis Esq  
Chief Secretary to Government  
Fort St George  
Madras

Sir

With reference to the order of Govern-  
ment, calling for any observations I may  
desire to offer on the proposed "Native Marriage  
Act" 1868. I beg to submit the following  
opinion, the result of the best consideration  
I can give this very important measure.

2 I think that it is unnecessary  
impolitic and likely to be productive of far  
more harm than good.

3 It is unnecessary.

This

Govt. of 1869; 20th Nov.

PUBLIC.

To

THE SECTY. TO THE COUNCIL OF THE  
GOV. GENL. FOR MAKING LAWS AND  
REGULATIONS.

Dated October, 29th.

Recd.

End.

G. O, 29th October 1869, No. 1480.

OCTOBER.  
Nos. 120-122.

Communicating, with remarks, the observations  
of certain gentlemen on the "Bill to legalize  
Marriages between certain Natives of India not  
professing the Christian Religion."

4 This Bill appears as if gathered to have originated in a request preferred by the members of the recently formed Bramo Somaj, who stated a conscientious difficulty felt by them in conforming to the Hindu ritual of marriage, because it compelled them to idolatrous observances, They further fortified themselves with an opinion of the Advocate General of Bengal to the effect that a Hindu, not renouncing Hinduism can only contract a valid marriage by observing the orthodox rites prescribed by the Hindu religion for the celebration of marriage.

5 As to the allegation that the Bramo cannot contract a marriage according to the forms of the Hindu Law without being constrained to the practice of idolatry I believe it is unfounded in fact.

6 I am of opinion that according to Menu there are some forms of marriage practised

2  
1

practised even by the Braminical Caste, which are complete without any recourse to the worship of idols. I would especially refer to Sections 30, 35, 37, 38, 43-44 of Menu's Chapter on Marriage. It is true that according to the Hindu Law gives, these several forms of marriage ~~as~~ to their efficacy in redeeming ancestors and descendants from sin. But that is a matter of no importance to the Bramos since they have renounced these notions. The only point that concerns them is, to take care that the form of marriage is such as shall legitimize their issue, and secure to them the benefit of the law of Hindu inheritance which the Sect has not renounced."

7 Again in Mr Justice Strange's manual. Sec. 25, it is stated that the  
"binding

binding circumstances essential to the  
completion of a marriage are gift and  
acceptance of the girl, and the performance  
of the ceremony termed "Saptapathi" or  
"Seven Steps. This is performed by the bride-  
groom placing the bride's foot successively  
on seven lines drawn on a platter. The  
ceremonial in question accomplishes the  
the marriage. The other ceremonies observed  
including Sacrifice by fire (Homam)  
are of minor significance," and see the  
Case of Doe dan Suggoonchun Mulliah  
and others v. Sauncomer Do and others  
4231 Sir Hyde East's Notes of Law -  
reported in 2 Morley's Digest p 45

8 If this be as I believe it  
is, a true exposition of the law, it appears  
to me that the Brama may reject or omit  
all

all idolatrous ceremonies, without in the  
least impelling the validity of Marriage.  
But then, what becomes of the alleged  
offence against a tender conscience? mani-  
festly, it falls to the ground; and with  
it the whole basis of the proposed legis-  
lative remedy.

9" Then, as to the opinion of the  
Advocate General of Bengal; I should be  
sorry to criticise it without seeing both his  
opinion in extenso and the case to which  
it was a reply. It may be that in Bengal  
there is only one uniform marriage ritual  
for all castes, which is regarded as orthodox.  
But certainly as far as this Presidency is  
concerned, that is not the condition of things.  
Here, though some of the Vedic classes may  
strictly

strictly follow the orthodox ritual, it is  
notorious, that among the non-Hadace-  
claves, by far the more numerous, great  
varieties of marriage ceremonies prevail;  
the legality of which has never been questioned,  
provided that such ceremonies are sanctioned  
by the Custom of the particular caste or  
sect. Questions are constantly coming  
before me on this Subject, in connexion  
with Sepoy marriages, on references by the  
military authorities to know whether they  
are legal, and if the children can be  
acknowledged as "heirs" in the Regimental  
Registers, and as recipients of pensions  
prize money, medals, &c. I have always  
advised that if such marriages have  
been performed in accordance with the  
customs of the particular caste or sect

or

114  
or Subject, as the case may be, they are valid.  
I believe such marriages have always been  
recognized in our Courts of Law; and it is  
manifest, therefore, that in this Presidency,  
at least, some marriages rest on custom,  
and not on the performance of orthodox ritual

10 The present Bill is for all  
India, not Bengal alone and to hold  
as the Preamble does, that marriages not  
solemnized in accordance with the rites  
(orthodox) of the Hindu religion are illegal  
would bastardize perhaps eight tenths of  
the whole Hindu population of Madras

11 This result was of course never  
intended, but it comes of making the alleged  
grievances of an infinitesimal fraction of  
the Hindu community the basis of general  
legislation for the entire population; instead  
of confining remedy to the specific evil  
if indeed the alleged evil has any real  
existence

existence

12 If this evil should be thought by others to have an existence, and that the Brahms cannot select from the Hindu forms of marriage one which he may celebrate without the performance of idolatrous rites, (though for my own part I think even a Brahminical marriage would be perfectly valid and legal without any idolatrous ceremony) nothing would be easier than to legalize, by an Act, any such form as the Brahms Sect might adopt; confining it of course to that Sect; or if the Sect is satisfied with and would prefer a Civil marriage before a Registrar, as the present Bill proposes them I think that the enactment, instead of being general, ought to be confined to the

13 5  
to the particular sect, a provision being perhaps inserted for applying the Act to such other sects, as may hereafter be desirous of availing themselves of its operation.

13 If there really be no form of Hindu marriage which the Brahms can celebrate without offence to his conscience, on the score of idolatrous observances legislation would no doubt be necessary to give legal efficiency to any form which the sect may adopt, for they could not rest its validity on Custom, which must be of certain antiquity, whereas they are a new sect and would then have a new form marriage.

14 The validity of marriages by Custom rests, as I have shown, on its being the Custom of the Sect or Caste. Now the Sect or Caste has existed from time immemorial

immemorial, its members are all born in it. they follow the custom of their ancestors. With Brahm Samaj. the case is very different. Any one, a Mahomedan, and I presume a Christian, may at any time be adopted into it. by conversion. It is not like the caste or sect homogenous. It is a heterogeneous body composed of members having no one common marriage custom; but as many different forms of marriage as the religions in which these members happen to be born. They could not establish any common custom, and therefore Legislation could alone at any rate for a very long time to come, give validity to such a ritual as the sect might agree on adopting.

15 I admit most fully the soundness of the principle that every reasonable facility ought to be given to all

156  
all classes for the celebration of their marriage. But I deny that the admission of this principle justifies or warrants the introduction of a measure of universal applicability, when but a very scanty portion of the community (whatever the Brahm Samaj may become hereafter) makes any complaint against or raises any difficulty in complying with the existing law.

16 The measure is impolitic.

17 It appears to me that the present Bill is exactly one of those instances of unnecessary legislation, which many whose opinions from their experience are entitled to respect, have regarded with grave alarm. I believe that if the opinions of the enlightened and educated Hindus could be taken, it would be found heavily to preponderate against proceeding with the measure. I am  
Dear Sir

certain that it will be viewed with very grave suspicion and dislike by <sup>uneducated</sup> or in other words by far the greater number of the hundred million Hindus under our rule. I think they will regard it as a premeditated blow at their institution of Caste, and however conscious we may be that we have no such intention in passing the proposed Law, I am by no means prepared to say that it may not have that effect.

18 I very much question the advisability of introducing for Hindus the machinery of our civil marriages before a Magistrate. We are accustomed to such a form, though many, perhaps even the majority among ourselves, regard it with an inherent dislike. But it would be something perfectly novel among the Natives, with whom marriage is a Sacrament; and who might not  
unreasonably

unreasonably look upon a form deprived of all religious Ceremonials as a degradation of the marriage rite. I am, too, not at all sure, but that among uneducated races religious rites are not of grave importance, inasmuch as they endow the marriage with a Sacred Character, and are likely on that score to be regarded as far more obligatory than any merely Civil Contract before a Registrar.

19 Further, I regard the introduction of this machinery as an example of our aptitude to look at Indian affairs through English Spectacles to conclude that whatever is adapted for us must necessarily be also adapted for the Natives; or at any rate, that if they are not satisfied, they ought to be. But the question from a legislative point of view is in my humble judgment

Judgment is not whether they ought to be  
but whether they are satisfied. And I  
think further, that in such a matter  
as this affecting, as it does, Native religions  
and Social Customs, I should only legislate  
in spite of any general dissatisfaction -  
where the omission to legislate endangers  
the maintenance of decency and public  
order. I cannot think that it is either  
necessary or wise to legislate generally, where  
the evil is at the most specific. I do not  
go along with the idea of placing Natives  
as nearly as possible on the same footing  
as Europeans, though the instrumentality  
of a Marriage Registrar, where the great  
body of the Natives do not desire, but on  
the contrary would repudiate it. I  
cannot consent to designate the present  
measure

measure, as "timely" legislation.

19  
20 Further, I think that the Natives  
will regard this measure as one aimed  
at the destruction of Caste by weakening  
or widening the limits within which marriage,  
as the Law now stands, can be performed  
between different Classes. Lastly, I think  
it most impolitic to call in question,  
as the Preamble does, the validity of the  
bulk of existing marriages (in this Presidency)  
and the legitimacy and rights of inheritance  
of the offspring of such marriage.

21 The legality of such marriages  
the legitimacy and capacity of the offspring  
to inherit have never been denied: on the  
contrary, they have been, and are daily  
recognized and upheld and acted on, in our  
Courts.

It

22

It may be said that the legality of such marriages already existing may easily be saved by the introduction of a few words. But my objection goes far deeper. I join issue with the truth of the Preamble. I say its accuracy could not and cannot be proved. By whom has it been 'held' that these marriages are illegal, and the offspring bastards? Not by the Courts; but it is only to <sup>judicial</sup> settle doubts, or to correct the effect of judicial decisions, that the Legislature ordinarily interferes in this way. It is the Legislature itself that has held these marriages illegal &c. I presume, in the absence of any judicial decision, that it must be so. But upon what data, and on what evidence has the Legislature so 'held'?

As

As far as I can see only on an inference or deduction from a general opinion of the Advocate General of Bengal, not given in his official capacity, but simply as Counsel upon a "Case" submitted to him by the parties seeking to set the Legislature in motion.

23

I know not whether he was asked to consider the state of the law in any other Presidency than that of Bengal; or whether any of the facts stated in this paper were ever placed before him for consideration. I doubt very much whether the Advocate General would hold the doctrines asserted in the Preamble, if the case were fully and specifically put before him.

24

This Act is likely to be productive of far more harm than good.

Independently

25

Independently of awaking  
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 is no necessity for it on which I have  
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ought not to be confined, in first instance,  
to the Brahm Samaj Sect, with power to  
apply it to any such sect or sects as may  
hereafter desire to bring themselves under  
its operation.

I have the honor to be  
Sir

Your most obedient servant

John Wilson Norton

Advocate General

Mumbai  
11<sup>th</sup> Aug. 1869.

Public - 1864 - Sept.  
From Pro. 29. October 1869  
The Advocate General. Madras.

14/11/80.  
of 11th  
Received 16th August 1864.  
No 1911

Submit his opinion on the  
"Native Marriage Acts"

M. K. M. S. S. S.  
P. S. S. S. S.  
P. S. S. S. S.

No 80 Residents Office  
Travancore 18th September 1869  
From  
G. A. Ballard Esquire  
Resident in Travancore & Cochin  
To  
The Honorable R. S. Ellis Esq.  
Chief Secretary to Government  
Fort San + George

Sir,  
Adverting to the proceedings  
of Government dated 2nd April last No 418  
I have the honor to submit several me-  
moranda which have been sent me by  
native gentlemen in reply to references  
on the question of the "Bill to legalize  
"marriages between certain natives of India  
not professing the Christian Religion."  
The most elaborate of these is  
the one from Sir T. Marava Row Esq. S.D.  
Dewan of Travancore. Whilst recognizing  
the abstract soundness of the principle  
of the Bill he very ably sets forth the  
objections that would in his opinion  
be urged by an "average Hindu" so his  
feelings against the Bill, it is represented  
would be exceedingly strong. He points  
out how largely the religious element  
enters into a Hindu's ideas of the mar-  
riage rite; and considers that these feelings  
would

would be outraged by the legalization of a form of marriage between persons continuing to profess Hinduism in which marriage Hindu Law is to have no controlling power.

I do not feel called on to discuss the arguments, - but I have no doubt that the feelings of orthodox Hindus whose attention is directed to the subject will be very much as the Dewan represents them.

3. The Dewan of Cochin seems to think that though distasteful to the generality of Hindus the bill may be passed. But he wants apparently omit the portions relating to consanguinity.

The Principal Sadr Amin of Tellicherry and the Sheristadas of Malabar generally advocate the Bill whilst the Principal Sadr Amin of Calicut condemns it.

4. I believe opinion and practice as to the correct Hindu ritual differ in different parts of Hindustan. Unless the Hindu ritual is defined by law, under the Advocate General's recorded opinion legal objections to the validity of a Hindu marriage might be raised that it would be most difficult to meet, especially with the growing tendency to sectarianism manifested in these days. It can hardly be expected that

Shunsoory Menon  
(Mysor)

\* Krishna Menon  
(Mysor)

\* Upot Rannan  
(Sayan)

\* Idi Roman Nayor  
(Mysor)

correct religious forms for each sect should be prescribed by law.

31.  
The attempt would probably excite greater irritation than the passing of the present bill.

5. My own opinion is that the law will be theoretically extremely distasteful to the mass of orthodox Hindus. But practically it will probably be some time before the masses who would be inclined most vehemently to oppose it will have their attention particularly attracted to it. Time will lessen opposition. The arguments in favor of the bill seem to me unanswerable and even at the risk of exciting the suspicion of the ignorant and more or less serious opposition from the bigoted, I think the Bill should be passed into law.

6. Adverting to para 5 of the letter of the Secretary to the Council of the Governor General for making laws and Regulations to the Chief Secretary of Madras I am not aware of any sect in the Presidency that come under the disabilities of the Brahma Samaj but it will be seen that the Memoranda enclosed all allude to the effect the bill if passed may have in reference to the peculiar social customs prevailing amongst

amongst the Nayers of Malabar in respect to marriage and inheritance.

The rite of marriage, as understood in most civilized countries may be said to be unknown amongst the Nayers.

Ancestral property is transmitted not from father to son, but through the females of a family. Each female forms a more or less fugitive connection with a male of her own or higher caste but her de facto husband has no concern with her family property, nor has the issue any concern with the family property on the father's side, which is transmitted to his sister's sons, or other relations on his mother's side through aunts, sisters or other female relatives.

Practically in respectable families, and especially in North Malabar, the connections now a days between males and females are almost as permanent as amongst classes where the marriage laws are defined and binding. In many a Nayar family husband and wife have lived long and faithfully together, and reared their children with the natural affection usually borne by parents to their offspring. The feeling against the system of fugitive connections, and nepotismal succession

33  
succession, has certainly gained ground of late years and there is an increasing desire that some steps at any rate should be taken to facilitate progress towards a better state of things.

It was my earnest desire when Collector of Malabar to assist progress in the right direction, and I have often discussed the question with those most interested. It is a delicate and difficult subject, and I was so convinced that it could only be approached successfully with extreme caution that I refrained from taking any overt steps in the way of proposing legislation. I urged those favorable to action to take the initiative. But the fruit was hardly ripe and was not of a nature to bear forcing.

8. The introduction of a form of civil marriage was the first step that I looked forward to see taken. The writers of the Memoranda enclosed do not generally anticipate that the law now contemplated will be taken advantage of to any great extent on the western coast as it does not affect inheritance.

The Bill did not contemplate questions of inheritance and of course no provision regarding them could be called for.

This

This point is of extreme importance with regard to the peculiar customs prevalent in Malabar as above said and I am inclined to think it may form a subject of very careful legislation at a future period. But I think that any measure that assists the introduction of a more healthy feeling on the question of marriage relations, - that tends to define and establish them, will go far towards increasing a desire for judicious legislation with regard to inheritance, and easing the way for its application hereafter. And I should be inclined to await some spontaneous indication from the people of Malabar (which I am not without hopes may be looked for shortly) before legislating on the inheritance question, rather than perhaps excite opposition by forcing matters too hastily.

I am sanguine therefore that highly beneficial results on the Western Coast may attend the passing of the present Bill.

I have the honor to be,

Sir,

Your most Obedt. Servant,

C. S. S. S.

F. P.

Resident.

deposited 8/1/69 with 10  
orig. Reports & 6 copies of  
each of the Reports by Messrs  
Norton & Ballard to

Calcutta

N. 1480.

The Secretary to the Council of the  
Governor General for making Laws  
and Regulations.

Calcutta

Sir,

Your letter dated the 23<sup>rd</sup>  
February last N. 35, together  
with the "Bill to legalize Mar-  
riages between certain Natives  
of India not professing the  
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I am now directed to transmit  
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2. The gentlemen referred  
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The Honble the Judges of the  
High Court:  
The Honble the Advocate Genl.  
Mr. G. A. Ballard.  
" G. L. Morris.  
" J. J. Minchin.  
" H. S. Thomas  
Right Revd Dr. Tissot.  
Revd Dr Caldwell.  
Honble. V. Ramisagar  
S. Muthu Senni Saper.  
M. Krishnamma Chariar  
A. Lechaya Sastri.

*[Signature]*

copy to the Honble  
Secy. 12.

Right Revd Dr. Tissot  
Honble the Advocate Genl.  
Mr. G. A. Ballard  
to the Secy of the  
Govt. of Bengal  
for the purpose of  
transmitting the  
Bill to the  
Legislative Council  
for their consideration  
on the provisions  
of the Bill to legalize  
Marriages between  
certain Natives of India  
not professing Christianity.

do not allude to the schedule of prohibited degrees, and Mr. Thomas who found no objection raised to it, are unanimous in considering that the schedule should be omitted.

3. The judges of the High Court, Mr. Hallard, and the Rev. Dr. Caldwell, consider the Bill a desirable one. Two of the judges would modify section 8 of the Bill as follows:-

"If any person who shall have been married under this Act shall, during the life time of his or her wife or husband, contract any marriage without having been lawfully divorced from such wife or husband, such second marriage shall be void by reason of its taking place during the lifetime of such wife or husband."

Mr.

Mr. Thomas would add, a section declaring that all <sup>39</sup> persons taking advantage of the Act would be entitled to the protection offered by section I of Act XXI of 1850.

Dr. Caldwell does not think it desirable that parties about to be married should be required to make a public declaration, as prescribed in clause I of section 2 of the Bill.

4. The Honble Mr. Norton, Messrs. Morris and Minchin, the Rt. Rev. Dr. Liot, S. Muthu Sanni Iyer, N. Krishnama Chariar and A. Seshaya Sastri do not approve of the Bill, and do not consider any legislative measure necessary

necessary to legalize Hindoo Marriages. The Honble. Mr. Norton has entered very fully into the matter, and it will be seen that the Native gentlemen who have been consulted have for the most part, concurred in the views expressed by him. The Governor in Council entirely endorses these views, and he would invite the special attention of His Excellency the Governor General in Council to the following paragraphs:—

"24. This Act is likely to be productive of far more harm than good.

"25. Independently of awaking suspicion, fear, and prejudice where there is no necessity for it, on which I have already enlarged while endeavouring to show the importance.

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importance of the measure, the little good that may accrue to the Bramo. Somaj is but a poor set-off against the harm to be created, by calling in question the legality of marriage founded upon custom, or celebrated by any other ceremonial than the "orthodox" religious Hindoo ritual.

26. I have only one remark to make with regard to the details, and even that is superfluous, since the Honourable Member of this Bill has suggested that the table of prohibited degrees shall be expunged. I will only say that it is very unsuited to this Presidency. In some instances it is evident, and in others it narrows the existing limits of prohibition. No marriages

marriages are more common here than those between a man and his mother's brother, or mother's sister's daughter. Such marriages are perhaps among the most approved among the Soodras. The same may be said of marriage with the father's brother's daughter, or father's sister's daughter; or with the daughter of a brother. All these would have been excluded by the proposed table.

27. In conclusion, I would earnestly suggest a reconsideration of the two statements upon which the Bill is founded. First, whether the Bramo-Somaj sect cannot find a properly binding ceremonial of marriage among the Vedic

Vedic forms which they can practice without injury to their conscience, and whether a perfectly binding Hindoo marriage cannot be effected without any ceremony at all other than that of Suptapathi; and secondly, whether the exposition of law is correct, that a Hindoo marriage cannot be valid unless it be celebrated according to the "orthodox" rites of that religion; or whether the validity of many, perhaps the majority of Hindoo marriages, in the present day, does not rest on custom, and not on observance of orthodox rites.

28. Again, I would earnestly invite a re-deliberation, as to the propriety of the proposed remedy whether anything more

more can be requisite than  
the legalization, by a short  
declaratory Act, of such forms  
of marriages as the Bramo-  
-Somaaj may adopt; whether  
if they be desirous of availing  
themselves of our European  
marriage machinery through  
the instrumentality of a  
Registrar, this Act ought not  
to be confined, in the first  
instance, to the Bramo-  
-Somaaj sect, with power to  
apply it to any such sect  
or sects, as may hereafter  
desire to bring themselves  
under its operation."

5. It will be seen from  
the replies transmitted that  
there are no sects in this  
Presidency who observe a  
form of ritual which  
places

places them under the same  
disabilities as the Bramo-

-Somaaj

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6. With reference to para-  
-graph 6 of your letter, under  
reply I am to state that  
the views of the Madras  
Government regarding  
Act XXI of 1850 were given  
in a letter to the Secretary  
to the Government of India,  
Home Department, dated  
the 30 June 1850. No 46,  
and the Governor in Coun-  
-cil has nothing to add  
to the observations there  
recorded.

Fort St George  
29 Oct 64.

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22-3-11 ✓

of 1869 India.  
Public  
to the Council of the  
Governor General for making Laws  
and Regulations  
Oct. 29.  
O. 29 Oct. 1869, No. 122  
Nos. 120, 122.  
g, with remarks, the ob.  
of certain gentlemen  
"Bill to legalize Marriages  
between certain Natives of India  
and persons professing the Christian Reli.  
" "

22/10.  
1869