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MADRAS RECORD OFFICE

GOVERNMENT OF MADRAS

Public DEPARTMENT

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GOVERNMENT OF MADRAS.

PUBLIC DEPARTMENT.

READ—the following papers :—

From the President, Hindu Sabha, to the Chief Secretary to Government, dated Trichoor, 2nd November 1884.

The Remarriage of Hindu Women.

I have the honor to submit, for the consideration of Government, my views on this subject—

1*st*.—The religious sense of the Hindu community is against a woman thinking or having a memory of more than one person as her husband, however readily the animal feelings may in practice overcome the religious sense in individual cases.

2*ndly*.—The Brahman, who is only a Hindu of religious culture, is honored for holding the animal feelings in subordination to that religious sense.

3*rdly*.—The agitation against infant marriage and enforced widowhood proceeds from persons, who, by reason of their western education, or of their scepticism, or of their desire to check immorality and infanticide, cannot appreciate the religious sense of the Hindu, and particularly of the Brahman community. This community consists of thousands of families unknown to Government, and are not represented by the agitators and officers known to Government, but by the practising priests.

4*thly*.—It will be a clear and unwarrantable violation of Her Most Gracious Majesty's Proclamation to bring official influence to bear upon the religious beliefs and practices of the people, and particularly upon the institution of marriage which is one of if not the most sacred sacrament of any creed or church.

5*thly*.—Freedom to marry girls and widows at any age is not denied now and was not denied at any time, and the agitators are not just and even honest in interfering with those who do not religiously or socially approve of that freedom. I myself belong to the agitator class, but should be ashamed to call it *persecution* if those who do not believe and act with me disown me as their relative or casteman.

(Signed) A. SANKARIAH, B.A.,
President, Hindu Sabha.

From the Chief Justice of Travancore, to the Chief Secretary to Government, dated Trivandrum, 13th December 1884.

I have the honor to acknowledge the receipt of G.O., dated 18th ultimo, No. 2480, Public department, directing me to state my views on the suggestions made by Mr. Malabari, of Bombay, in connection with infant marriage and enforced widowhood among Hindus; and to submit the following observations.

2. The existence of the evils of infant marriage and enforced widowhood, graphically depicted by Mr. Behramji M. Malabari, cannot be denied. There are now two conflicting and diametrically opposite opinions upon the religious obligation of a Hindu girl to be married before she attains age; and to remain a widow, irrespective of her age, at the time the greatest of misfortunes befalls her. The conviction of a large

number of educated native gentlemen—that the Shastras do not prohibit the marriage of girls after puberty, and the remarriage of widows, especially where they happen to be virgins—might warrant the interference of the Government, in some shape or other, in *furtherance* of the policy which led to the passing of Act XV of 1856. But I entertain serious doubts as to the success of the measures proposed by Mr. Malabari to check the evils in any appreciable degree, so long as a very large majority of natives of both sexes are either opposed to any reform, or are indifferent to it. I may, without fear of contradiction, add that the orthodox element still represents not less than 99 per cent. of the native communities; that nearly 90 per cent. of those who are convinced of the reasonableness of, or the necessity for, the reforms, are not likely to act up to their convictions for several decades to come.

3. I shall first consider the proposals made by Mr. Malabari to check infant marriages. They are, firstly, that no married student shall be eligible to go up for the University Examinations; secondly, that no married man shall be eligible to enter the public service; thirdly, that the price paid to the parents of a girl should, by a legislative enactment, be declared to be the property of the girl; and fourthly, that the marriage of a boy with a girl older than himself in age, should by law be declared null and void. I take it to be the cardinal principle of all Government action that it will promote the happiness of its subjects. In my humble opinion these proposals of Mr. Malabari will aggravate the evils without materially promoting happiness. The number of young men who educate themselves for University Examinations is and will ever be a very small fraction of the juvenile population of India. Those who look to, or depend upon, public service would never exceed 1 in 5,000. With the existing belief that a girl should be married before puberty, the consequence of the ruling that no married man shall appear for examinations and enter public service would be to multiply the evils of early marriage by inducing parents to marry their daughters to comparatively uneducated youths, and to those whose prospects of earning their own bread are gloomy. Experience shows that in respectable families the birth of females preponderates over that of males. To quote the words of Mr. Malabari, "the area of selection is so narrow where society is split up into numerous castes and sub-castes that practically Hindu parents have to make Hobson's choice of it, to accept the first boy available or to buy one who comes the cheapest, all things considered." In other words, already a scarcity of competent bridegrooms is keenly felt. The rule proposed would, in my opinion, convert it into famine. The expenses of the marriage of daughters in respectable families is now unbearable, if not ruinous. The proposed rules would make them absolutely ruinous; as no promising young man could be found willing to give up the prospect of academical honors and lucrative professions, unless the father of the bride pays down such a price (vara datchana) as would induce him to marry, foregoing all the educational and professional advantages. I cannot better conclude this part, than in the following words of an illustrious personage with whom I had the honor of conferring on the subject: "The result of the proposed rules will be the Government will get a crop of raw and thoughtless servants; and the Indian girl, the stupidest husband."

4. It may be argued that in the same way in which many a superstition has ceased to exercise its influence, in the face of necessity, the Hindu community will tacitly give its consent to the postponement of marriage of girls until such time as properly qualified bridegrooms could be had. Those who advance this argument forget that the exploded superstitions had no bearing upon the unions of sexes in marriage. It cannot be denied that the social progress of Hindu society is arrested wherever a woman has to be consulted. None could be so cruel as to refuse a voice to the mother in the marriage of her daughter. Women in all countries are more conservative than males. In India, the ignorance of the generality of the fair sex makes the matter worse. Neither the priest nor the matron of the family could be induced to consent to postpone the marriage of a girl beyond the period of puberty by any amount of explanations upon the difficulties of the situation. They, with their notions, nay convictions of *predestination*, could not be made to see the utility of giving the girl in marriage to one whose future prospects are comparatively bright

than those of one whom they would select with the sole object of fulfilling the requisites of religious usage. An attempt to set at naught the time honored priests, elders and matrons of the family, disturbs domestic harmony and peace, and fails in consequence of a thousand cases. As it is, the life of the father of a girl in a respectable family is full of anxieties and trials. The proposed rules would only make it unbearable.

5. So long as infant marriages are not legally prohibited, I do not think it wise to meddle with the existing state of things and make rules, the effect of which would certainly be to hold out a premium to ignorance and incompetency; to multiply the evils and the expenses of marriage on the bride's side, and thereby add to the poverty and misery of India; and to bring about unions more deplorable than those now contracted.

6. The law declaring that the price paid to the parents of a bride, by the bridegroom, is the property of the girl, would be a dead letter. It may grace the statute book, but it would be honored only in the breach of its provisions. The misappropriators of this money being parents, the girl as well as her husband would be most reluctant to take any legal steps to compel its proper application. Generally those who sell their daughters in marriage are poor; and they do not really stand in dread of decrees that may be passed by the Civil Courts who are bound by law not to *imprison an insolvent*. The denunciations of Manu against the usage of receiving money in consideration of giving a daughter in marriage, and the explicit and unanimous declarations of Rushies that a girl who is given in marriage by her parents in consideration of money, does not become patni (wife) but she is a dasi (concubine); and that her gotra does not change by such marriage, have had no effect in checking the abominable practice which, I regret to say, is on the increase.

7. I have seen in the Northern Circars of this presidency so much of the evils of the parents receiving money to give their infant daughters in marriage to men who, by their character, age, social position, and physical strength, are utterly unfit to marry, that I feel it to be my duty to propose legislation to prohibit the marriage of males *after* the age of fifty. The evils are so faithfully and graphically described in a Telugu drama entitled "Brahmya Vivaham," by K. Veerasalingam of Rajahmundry, that I cannot resist the temptation of inviting attention to it. The legislation I propose has the support of the Shastras, for, according to them, none who is more than 50 years old should marry. It will in a measure reduce the chances of widowhood with its train of evils. The plea of religious necessity which many an old and sickly man puts forward to justify his marriage with a girl fit to be his great-granddaughter, rather than his partner, is perfectly untenable; for the marriage of a widower is not a religious necessity, and Sri Rama, than whom there is no higher Hindu authority, performed many aswarnada yagoms, with the gold image of his departed wife (Seetha) to supply the place of a wife in such ceremonies. I would not raise my voice against the marriage of an old man to an infant, if he marries under a *real* conviction of religious necessity, *i.e.*, to keep agnikotram (fire), but not one in a hundred old men who marry ever dreams of keeping agnikotram, and much less keeps it.

8. It may be argued that the legislature will not be justified in prohibiting the marriage of old men, for by doing so, it will act contrary to the laws of all nations. In countries where marriage is a matter of contract, and the bride has the right of choosing her own partner in pleasure and in sorrow, there will be no necessity for placing any restriction on the right to marry, but in India, the *protection* of the *interests* of minor *girls* who are often victims of the caprice and sometimes of the avarice of their guardians, renders it necessary that some restriction must be imposed.

9. The practice of marrying boys to girls older than themselves seems to be confined to a very small section of low classes in certain districts among whom marriage after puberty is not prohibited. Marriage of girls being compulsory, and the difficulty of procuring husbands of proper age of the same caste as that of the girl seem to be the sole reason for the existing practice. So long as caste system exists, I doubt not that legislative prohibition of such marriages would be considered as a serious grievance.

The propriety of passing such a law is very questionable, as among the civilized communities of Europe such marriages are of daily occurrence.

10. I will next proceed to consider the proposals made by Mr. Malabari to mitigate the evils of enforced widowhood. They are (1) that no Hindu girl who has lost her husband or her betrothed, if she is a minor, shall be condemned to life-long widowhood against her will; (2) that arrangements may be made in suspected cases, to ascertain whether a widow has adopted perpetual seclusion voluntarily, or whether it has been forced upon her; (3) that every widow of whatever age shall have the right to complain to the authorities of social ill-usage (*over and above* excommunication), and that proper facilities shall be afforded her for the purpose, such as gratuitous service of Counsel, exemption from stamp duty, attendance at court and so on; and (4) that the priest has no right to excommunicate the relations and connections of the parties contracting second marriage, besides excommunicating the principals.

11. As a rule, widowed girls are allowed until they attain the age of 15 or 20 to retain their locks, wear jewels and flowers, and to have meals, as their more fortunate sisters under coverture. But the strong but silent disapproval with which society looks upon these innocent enjoyments of the unfortunate young widow, and the example of others in her position, make her seek the miseries of widowhood, in preference to the comforts allowed to her by her loving parents and relatives. It is, as a concession to the young widow's repeated entreaties, that the parents and relatives often consent to the performance of the most melancholy rite of tonsure. I do not deny that there are bigoted men, who, in their religious fervour, has subjected girls of 7 or 8 years old to all the miseries of perpetual widowhood. But their number was never large and is now dwindling. I may even say that such men are now very rare phenomena. It is not, in my opinion, expedient to put the machinery of legislation to do what is now being done without it. The laws now in force contain adequate provisions for the protection of a widow. If against her will, she is compelled to go through the melancholy ceremony of tonsure, the offenders will be liable to prosecution on charges of assault, causing hurt, using criminal force, &c., under the Indian Penal Code. Ample provision is made in Act XV of 1856 for the marriage of widows and for the protection of their civil rights. She is also protected from wanton insults, resulting from the offensive and unnecessary publication of bulls of excommunication, by the judgment of the Madras High Court in Empress *versus* Sri Sankaracharya Swami. If widows have *unredressed* grievance, its existence is entirely due to their reluctance to bring them to public notice. Courts, civil or criminal, cannot, of course, take cognizance of cases not duly submitted for their decision. So long as people, either by ignorance or indifference, do not avail themselves of legal remedies to which they are entitled, no law, however elaborate and stringent, can help them. The social ill-usage to which Mr. Malabari refers is always of a *negative character*, such as refusal, direct or indirect, to associate with a married widow or her husband, or her active sympathizers, in meals, religious ceremonies, and in social gatherings. No legislature of the nineteenth century would attempt to make friends and unmake enemies by its laws. Even if the power of priests to excommunicate married widows, their husbands, relatives and friends, be taken away from them, there will be nothing to compel the priest or the unwilling society to associate with the remarried pairs and their connections, in meals, religious ceremonies, and in social gatherings. I must here add that Mr. Malabari has no objection to the priest excommunicating the principal parties to the second marriage. From what has recently passed in Madras, in connection with the bulls of excommunication issued by one of the leading Muttadipathies, one might legitimately infer that priests will, in the long run, be not disposed to exercise the power of excommunication, if by the exercise of it they would lose a large number of their wealthy disciples.

12. In conclusion I may state that the complaint of the Widow Marriage Association of Rajahmundry, under whose auspices a dozen widow marriages were performed in Brahman and Vishya families, is not that the laws are defective, but that they could not command necessary funds to pay the expenses of marriage and maintain such of the married pairs as are unable to support themselves. The

possible aid which the Government can give seems to me to be periodical donations to the Widow Marriage Fund upon such conditions as would not encourage idleness. I need hardly add that both the widow who remarries and her husband will, for a long time to come, be deserters of their families, and that they would therefore require State support until the innovation becomes popular.

(Signed) K. KRISHNASWAMY RAO,
Chief Justice of Travancore.

From His Highness the Maharaja of Travancore, to the Chief Secretary to Government, dated Parpanangudi, 10th December 1884.

I am with much pleasure I learn that the Madras Government has requested certain leading members of the Hindu community to express their opinion on infant marriage and enforced widowhood, two terrible evils of that community. While I applaud the laudable attempt of the Government to put down, if possible, these two bad practices, I do not for a moment doubt but that the majority of those sensible men now consulted will express their decided opinion against these horrible causes of much misery and "biting afflictions" to their poor sisters and daughters. I would have written to you earlier on the subject, but my eyes were not well, and I was under treatment.

(Signed) RAMA VARMA.

From the Subordinate Judge of Madura, to the Chief Secretary to Government, dated Madura, 17th December 1884.

In obedience to the order of Government contained in G.O., No. 2480, dated 18th November 1884, I have the honor to submit my views on the questions raised and suggestions offered by Mr. Malabari of Bombay, in connection with the infant marriage and enforced widowhood among Hindus.

2. The evils arising from infant marriage and consequent widowhood have been too well known to Government to need any discussion from any Hindu. From my experience of twenty-three years of several districts in the presidency, I am in a position to assure the Government that in spite of the liberal education and a painful consciousness on the part of the educated men of the evils of all sorts arising from it, infant marriage has become more numerous than ever, and I should say it has become the mania of the people at large. Even graduates of the University and educated men generally have been disposing of their infant girls of two or three years by marriage simply from an apprehension that they could scarcely get rich boys or sons of rich men at a future time.

3. The fashion of the day is that infant girls of rich men are forced upon the sons of rich men with dowry of great value, and that in a competition of this kind the boy's parents choose the infant who brings them the largest sum as dowry. That a reform in this direction is certainly needed has been admitted on all hands; but nothing can be done and will be done by the Hindus if they be left to themselves even for a century to come. A few of the educated Hindus no doubt take real interest in effecting a reform in this matter, but their exertion is not enough to override the powerful opposition of the masses under the influence of their priests. To substantiate my assertion, I would respectfully ask the Government to ascertain if there is to-day any graduate or educated man who, as father of infant girls, has not got them married while they were infants; or if there is any graduate or educated man who has had the moral courage of keeping his daughter unmarried till she had attained her puberty and then getting her married. No one will come forward to say that he has done so. This will show clearly that no good in this direction can be expected from the joint action of the educated Hindus or Hindus generally. The graduates and educated men

generally who become widowers by the death of infant girls betrothed to them have not had the moral courage of marrying at least infant widows who have become of puberty and setting an example to the masses at large. Educated men instead of coming forward as leaders wish to be followers.

4. If infant marriage can be stopped by any means direct or indirect, re-marriage of widows may not demand much attention. But the suggestions offered by Mr. Malabari such as restricting the admission to University honors to unmarried boys, heads of departments in the various branches of the Government service preferring unmarried to married candidates, and the Government ruling by legislation that money obtained for an infant girl married to an old man is her own money, and should safely be deposited in her own name, appear to me to be quite impracticable and not at all calculated to produce the desired effect, for they are restrictions which would not affect the whole community. All those that pass the Matriculation Examination do not aspire to University honors.

5. I beg to be excused for submitting here that the Government, while conscious of the evils arising from infant marriage and sincerely evincing a desire to remedy the evils by some means or other, have been unconsciously abetting and encouraging it. I say so, because the courts created by the British Government so far back as 1805, without thoroughly investigating into the question when raised, and without acquainting themselves with the forms and ceremonies constituting infant marriage, but relying upon the statements of the old priests, whose prejudices in those days were deeper than the prejudices of the orthodox Brahmans of the present day, having condescended to recognise in a betrothed infant girl the status of a widow and all the incidents of property appertaining to a widow under the Hindu law, was an incentive to infant marriage, and the Government have been pleased to recognise it as the law of the country. Before applying the rights of a widow to an infant girl it was for the British Courts at the commencement of its rule to have ascertained upon thorough investigation whether a betrothed infant girl attained the status of a widow by the death of the boy to whom she had been betrothed, or whether the term widow in the Hindu law applied only to a married girl who lost her husband after the true consummation of the marriage. If an inquiry into this question be now instituted, I feel sure that it can be shown to the satisfaction of the Government that the term widow has through misapprehension, error and ignorance become perverted from its original signification so as to apply even to a babe in the arms of her mother. I shall now refer to a few facts which I believe will convince the Government that even among the Brahmans of all classes no marriage was considered complete before the actual consummation, and that they now in giving effect to this rule make the infant couple pass through a form of symbolic consummation forgetting altogether the reason of it.

6. As Sub-Judge I have had experience of Ganjam, Vizagapatam, Cocanada, Bellary, Pálghat, Calicut and Tellicherry, and I have attended innumerable marriages. Pálghat is noted for its Brahman population consisting of nearly 8,000 houses of Tamil Brahmans and some of them have settled themselves at Calicut and Tellicherry on employment and trade. The Pálghat Brahmans though called Patter Brahmans do not form an isolated class of Brahmans, but at one time they belonged to the community of Tamil Brahmans inhabiting the East Coast and districts of Tanjore, Madura and Tinnevelly and migrated into Malabar and settled themselves permanently at Pálghat. The Pálghat Brahmans and the Brahmans of the East Coast do perform the tale tying (தாலி) ceremony and Saptapathee on the first day, and on the fourth night they make the infant couple sleep on one mat in a room which is only a symbolic consummation or a symbol of actual consummation which is essential to the completion of a marriage. The same practice is observed even to this day by all the Brahman families of Travancore and Cochin and in some of the Brahman communities of Tanjore, Madura, and South Arcot districts. Among the Telugu Brahmans of Northern Circars, Masulipatam and Bellary, on the fourth day of the infant marriage the infant couple are made to sit on one mat and they are made to exchange betel and nut and chew, which is only a symbol of consummation; whereas it is not done on the first day. I call it a symbol

because the first thing that a husband and wife do on the date of actual consummation of marriage as soon as they retire into the bed chamber is to exchange betel. This practice is observed invariably on the fourth day of marriage by all classes of Brahmans.

7. Let us ask the Bombay Brahmans who do not fail to make the infant couple sleep on the fourth night on one mat what it stands for and what it is required for. They do not know the reason of it. It is for the enlightened Government and for the enlightened members of the community who should co-operate with it to understand correctly what it represents. As I have already stated, it is only a symbol of consummation without which no marriage is complete. I have been carefully observing the forms and ceremonies of marriage, and as the result of my experience I have alluded to the above-mentioned fact at page 4 of my introduction to the Manual of Malabar Law published last year in the following words:—The (Nambudries) nuptials invariably take place on the fourth night of the marriage, a circumstance which shows that without consummation of the marriage there can be no marriage. Even among the non-Malabar Brahmans, with whom child-marriage is the rule, the infant couple are made to sleep on one bed in the room on the fourth night of the marriage. And this is done in compliance with the requirements of the Shastras as essential to the completion of the marriage, but the Brahmans in whose view reasoning and attempt to know the reason of every ceremony are symptoms of a tendency to desert one's religion and become an outcaste, have by long custom forgotten the reason of such mock consummation on the fourth night." This mock consummation proves beyond doubt that child marriage which was not so common is only a later graft on the ancient marriage after puberty. No British Court has gone into these questions up to this day. But it would appear to have merely assumed that a betrothed infant girl attained the status of a widow, or, in other words, that actual consummation was not necessary to entitle a betrothed girl to be considered in every respect a wife.

8. If the Judge of the Madras Sudder Dewanny Adawlut had availed himself of the opinion of the Pandit Venkatesa Sastree to the effect that a woman with whom marriage was not consummated would have no claim to inherit her husband's property and foreseeing the evils arising from holding otherwise, held a thorough investigation into the question and declined to recognise the status of a widow in a betrothed infant girl, by this time infant marriage would have received a check and the chances of widowhood occurring at least before attaining puberty would have been reduced to a minimum. Instead of doing so, the Judge in spite of the Shastree's opinion himself observing, "I know of no distinction made by the Hindu priests between consummation and non-consummation; she is in my opinion entitled to be considered in every respect as a wife," held that a betrothed girl was entitled to be treated as a widow. This opinion was only an assumption and not based upon any expressed text or evidence of custom. Likewise the Adawlut Court of Bombay, it is to be regretted, failed to take into consideration the opinion of Nurchayram Sastree and Wulubhram Sastree to the effect that betrothment was liable to be revoked for sufficient reasons such as disease, bad conduct in man, both girl and boy belonging to the same gotram and the like which distinctly implied that betrothment alone did not complete the marriage and that actual consummation was necessary. I shall here quote the opinions in their own words:—

Madras.

Sudder Dewanny Adawlut—

"A Hindu employed in the army dies leaving at his death a betrothed wife with whom consummation had not taken place, together with concubines and both adopted and illegitimate children, and with respect to property, a pension payable to his heirs. Who are in this case his heirs?

Answer.

"The adopted children are entitled to the pension subject to the obligation of maintaining the concubines. It is so held in Vivandabangarnava on partition of patrimony. But it is not said that women with whom marriage has not been consummated, and illegitimate children, have any claim to inherit."

(Signed) VENKATESA SASTREE.

Remark.

"If what is here called betrothment be the first or real marriage (for the fetching home of the bride at the age of puberty, commonly called the second marriage, is merely the solemnization, not the celebration of the rite) the woman cannot be married again (except in some castes, where custom supersedes the law), and *as I know of no distinction made by the Hindu priests between consummation and non-consummation, she is, in my opinion, entitled to be considered in every respect as a wife.*

"In a late case before the Sudder Dewanny Adawlut of Madras, where a marriage had been interrupted by the death of the husband subsequent to betrothment and before consummation, the young woman who survived claimed to inherit to the deceased as his widow, or to be entitled at least to maintenance out of his assets. But the suit was compromised—Venkataram *vs.* Venestasoobormell."

Bombay.

Broach—Court of Adawlut, September 6th, 1811—

"In the case of Kulyan who first betrothed his daughter to Pranwulul, the brother of Ruseek, and afterwards to Vesoo on complaint the custom of the caste having been ascertained, by assembling witnesses from Broach, Oklesum and Hansit, it appears that where the first betrothment has been accompanied with presents, it is conclusive, and it appearing in this case that the one in question was accompanied by the delivery of a sum of money, as part of the pulla, or bridal presents, we are of opinion that as well according to the custom of the castes as the law, the first betrothment ought to be established and have its effect, it being ordained in the Mitakshara, that a girl shall only be betrothed once, unless the betrothment that has taken place be liable to be revoked for sufficient reasons, such as disease, bad conduct in the man and the like.

(Signed) NURCHUYRAM SASTREE.
(" ") WUMMUM SASTREE.

Bombay.

Broach—Court of Adawlut—

The father in this case having betrothed his daughter in consideration of a sum of money stipulated, the betrothment is asura vivaha, and, on payment of the money, it cannot be set aside, otherwise it may.

Ibid.

The betrothment in question cannot stand, the Mitakshara declaring that those only whose gotra are not the same may be betrothed to each other. And whatever bridal presents may have been given by the boy's father or family to the father or family of the girl must be returned.

(Signed) NURCHUYRAM SASTREE.

9. Manu and Mitakshara do not deal with a betrothed infant girl as a widow, but on the contrary it is clear from the annotations in the Mitakshara that, the term widow is restricted to a woman whose nuptials have been completed. In the annotation on section 7, chapter I, of the Mitakshara it is said, "Unmarried signifies one whose nuptials have not been commenced; married whose nuptials are begun." The meaning of the passage cited from Manu is "a young woman betrothed, but whose nuptials have not been completed and who is consequently a maiden, since she is not yet become the wife of the intended husband."

10. In the beginning of the last year the question whether actual consummation was essential for the completion of a marriage was raised and argued before the Honorable Justice Kernan in a suit brought by a woman as widow of one deceased Krishnamah who was a Brahman by birth and who had after betrothment of the woman according to Hindu law, but before consummation of the marriage, become a convert to Christianity and married a Christian wife; after his death the betrothed Brahman

woman as widow of the deceased claimed his property under the Hindu law. The question was argued at great length, and the Judge had reserved his judgment; but how the case was disposed of I have no means of knowing.

11. Let me now look from a religious stand-point. A woman and no other accomplishes religious ceremonies, or, in other words, religious ceremonies are accomplished by means of "pathni" or lawfully wedded wife. In practice even to this day it is ruled that a betrothed girl is considered unfit and unqualified to accomplish religious ceremonies or join her husband in the performance of it before actual consummation of the marriage takes place. A sastree of 50 years old becoming a widower and physically unfit to be a husband marries an infant girl believing in the Vedic rule that a wife is necessary to help him in the performance of religious ceremonies, without which he could not hope to enjoy bliss in the next world. He knows that the girl he marries is unqualified for it till she attains her age and the marriage is consummated. To render a gift made by a Brahman valid his wife should sprinkle water on the betel which her husband passes to the donee. During the performance of religious ceremonies his wife is required to stand by touching him with a holy grass. During the performance of yogam or sacrifice of sheep, cow, &c., one end of the husband's cloth and one end of the wife's cloth are knit together and they both move together wherever and on whatever purpose they may move. For all these purposes a betrothed infant girl is considered unqualified till she attains her puberty and her marriage is actually consummated. These facts which may be ascertained upon due investigation also tend to show that a marriage is not completed before consummation.

12. It will very naturally strike any foreigner why the Brahmans, in spite of their consciousness of the infant marriage proving a permanent source of misery, create it by betrothing their infant girls even in their childhood. There are three causes sufficiently accounting for it. Apart from the unfounded notion that a girl attaining puberty before betrothal loses her caste, the difficulty of obtaining young boys suited to the girl as regards age and position at a future time as the girl grows as old as 12 or 13, engrosses the attention of the parents, and they begin to negotiate for the boys from the very moment of birth of the girl. The boy's parents receive thousands of offers of the kind with rich dowries and they choose. If the betrothed boy dies, the parties feeling the misery and evil consequence of looking upon and treating an infant girl as a widow are her parents. If we go to-day to a college in any district we can hardly find unmarried Brahman boys of 12 or 13 years.

13. The next thing that encourages infant marriage is the cursed astrology in which the uneducated women and the educated men alike confide. The credulity of the Hindus is too well-known, and this is evident from the present mania of the educated Hindus for Theosophy. Their minds are now too fully occupied by it to pay any attention to social reforms. Astrology has spoiled the country making the people inactive, indolent and indifferent to improvement of any sort or kind; for every one believes that the country will get on as preordained by Brahma. The Hindus generally, and the Brahmans especially, and even the educated men to this day believe that all the incidents of one's life have been preordained, and the coming good or evil can be ascertained by means of astrology which, they therefore believe, can reveal whether an infant male child will be lucky or otherwise, whether or not an infant girl will get a good husband and lead a happy married life, and whether she will become mother of children, and so forth. No Brahman betrothment takes place without an astrologer's opinion of the coincidence in every respect of the horoscopes of the infant boy and girl to be betrothed, and the chief thing that the Astrologer is asked to ascertain is that the girl will not lose her husband and become a widow. If the Astrologer says that the horoscopes agree, the parents of the girl think that they have made the best selection imaginable. If any sensible person intercede and suggest postponement of the betrothment at least till the girl attains her twelfth year, so that she might escape the chances of widowhood till then, the strong argument of the people against it is that the fate of the boy and girl and the mode of life they have to lead in this world have been preordained by Brahma or written on one's skull, and that astrology has been intended by the Rishees to give the people to a certain extent

foreknowledge of such future life, and that nothing could alter one's fate. The females are uneducated, superstitious and filled with deep prejudices, and the males are not less so, and though a few of them be otherwise, they have to humour their women in every respect. Having such faith in the doctrine of fate and events of the future, which astrology is believed to reveal, they argue that a girl destined by fate to become a widow will become so at any time, whether she is married while an infant or married at a later stage of life, and that therefore they might be married at once. The influence which the doctrine of fate and astrology exercise over the Brahmans and Hindus generally is paramount, and I would not acquit of this folly even the graduates of the University who have received liberal education. It is to be very much regretted that this faith is not shaken a bit, even when they see the funeral ceremonies of bridegrooms following in several cases very closely the ceremonies connected with betrothment and when many infants become widows in cases where Astrologer pronounced coincidences of horoscopes and predicted married life without interruption Astrologer's own daughters do not escape such fate. Such failures are invariably attributed by the people and the very Astrologer consulted, to some thing wrong in the horoscope itself, viz., that the star of the infants had not been correctly jotted down by the people who were present at the time of birth; that in calculation of figures certain figures were added instead of being subtracted, and the like. The Astrologer further justifies his blunder by saying that Brahma misleads him in some cases lest people escape their fate predestained by him, and the people believe in such excuses. The parents of an infant girl when they hear the death of her husband, cry and mourn over the event and console themselves with the thought that the inevitable fate or karma, meaning the result of good and bad actions of the former life, could not be evaded by any amount of human precaution. Palmistry by which gipsies in England indulge in fleecing young girls by predicting their future, is made a criminal offence, and astrology has been breeding more mischief in this country.

14. The next and the strongest of all the inducements to infant marriage is the certainty which the decision law of the country affords, that an infant girl on losing her betrothed husband becomes entitled to suitable maintenance from the boy's ancestral property if the boy be an undivided member, and to inheritance if he dies a divided member, and that she would not be a burden upon the parents. In consequence of this Judge-made law, the parents of an infant girl do not ask for any settlement either of money or property on the girl at the time of betrothal as a provision for her maintenance in case of her becoming a widow. In rich families no money is paid for the girl, but on the contrary presents are made by the parents of the girl to the boy. In the case of the people of ordinary circumstances which constitute a great majority of the mass, a certain sum of money is received for the girl which is appropriated by the parents, and as they know that the girl's maintenance is recognised as charge upon the property of the boy's parents, they do not feel the necessity of asking for any settlement for this purpose at the time of betrothal. If the decision law had been otherwise, the parents of the girl would insist upon some settlement of property being made at the time of betrothal to which the parents of the boy would never consent, and this would have had the effect of postponing betrothment at least for a few years. The parents of the girl now think that by betrothment alone they settled their girls in the world, and that they need have no more care or anxiety about their future. If betrothment was not treated as complete marriage and if the courts declined to recognise the status of a widow in a betrothed infant girl losing her husband before consummation or nupitals, and declare that such infant is entitled to be treated as a maiden of her parents, infant marriage will soon die out, and upon its result we can think what further improvements can be effected in this direction.

15. The belief that a girl attaining puberty before betrothal or marriage loses her caste and ought to be treated only as an outcaste, has no legal basis. To show that it is so, I have to refer to the community of Nambudri Brahmans of the West Coast among whom infant marriage is rare, and I should say never takes place. A girl is permitted to lead a life of celibacy if she chooses to do so; she is permitted to marry at any time after attaining puberty. In any illom or house of a Nambudri having

such unmarried girls, the Patter Brahmins of Palghat as well as their brethren of the East Coast sit in line with Nambudries and take meals which are prepared by such girls. It is true that they are purdinashins, still the meals touched by them is not treated by the Brahmans as polluted by the touch of an outcaste.

16. I beg to submit that it is high time for the Government to interfere in the matter of such an importance. It is for the Government to gather evidence as to the facts I have above stated in connection with the form of infant marriage observed in this presidency, and if it be proved that, with a view to render the marriage complete and binding, the infant couple are made to go through some form of mock consummation, it would be evident that the decision law in this respect has been the result of misconception and erroneous assumption. Should this be so, I would respectfully suggest that a simple prospective legislation be passed providing that a betrothed infant girl losing her husband before consummation of the marriage or nuptials, shall not be considered a widow and shall not be entitled to claim the rights of a widow under the Hindu law, but shall be treated as maiden of her parents having all the rights as such under the Hindu law. By such legislation the Government do not declare that infant marriage is illegal, nor do they prohibit it. This kind of legislation will indirectly have the effect of preventing the parents from disposing of them during their infancy and before they attain puberty. No Hindu father will seek after a girl for his boy offering to make a settlement upon her. I would further suggest the revival of the old Hindu law now considered by the Hindus as obsolete, that a boy should marry after passing through the period of studentship, which in the olden time was from 20 to 22. Considering the present state of the education, the Government can fairly fix upon the 16th year by which time a boy can be expected to acquire a certain amount of knowledge, the average age at which a boy matriculates being the 15th or the 16th. At the 16th a boy under the Hindu law attains his majority. If it should be considered impolitic to legislate against Hindu boys marrying before they attain their 16th year, the effect of such a legislation might even otherwise be obtained. I would improve Mr. Malabari's first proposal by suggesting that admission in all the Government colleges and grant-in-aid schools be limited in the case of boys of 16 years and under only to unmarried boys after 6 or 7 years' notice from the date of the order. A majority of boys are Brahmans and infant marriage is greatly among them and to a fearful extent, and this vice has been copied by other caste people who try to imitate them in every respect. The restriction I propose will indirectly have the effect of rendering boy market very dear, and postponement of infant marriage will become unavoidable. No parents, especially the Brahman parents, who are under any circumstance interested in getting their sons employed in Government service by making them obtain academical honors, will prefer marriage to it. This may be done by Government without any legislation.

17. The existence of a class of people called dancing-girls, it is well known, was an immemorial institution forming a part of the religious endowments in India. The continuance of such a class used to be encouraged by the society, and the temple authorities, even when the temples were under the management of the Government, through their officers even by adoption of infant girls bought from others for the purpose. The British Courts recognised such adoptions as valid as adoptions of boys in ordinary Hindu families carrying with it all rights of property. The decision law conferred on the adopted girl of a dancing-girl the status of a son under the Hindu law. But since the introduction of the Penal Code such adoptions and even a dancing-girl dedicating her own daughter while an infant to a temple having been treated as penal offences punishable under sections 372 and 373 of Act XLV of 1860, this class of people is becoming fast extinct. The Government have very prudently interfered with a religious institution with a view to prevent open immorality.

18. Before Act XXI of 1850 was enacted, a Hindu male or female by becoming an outcaste or by becoming a convert to Christianity or Muhammadanism, lost his or her right to property under the Hindu law. This disqualification has been removed by legislation which entitles even a widow to hold her husband's property throughout life even after she had changed her religion. I allude to them only as instances to justify the interference of Government in the manner I have above suggested if the

matter of infant marriage. I again repeat that a prospective legislative declaration to the effect that a betrothed infant girl shall not be treated as wife till the marriage is actually consummated, and that such a girl losing her husband before consummation shall not be considered a widow and also an order of the executive Government in the Educational department restricting the admission generally to unmarried boys only under sixteen in all the Government and aided schools, will do no violence to the religious sentiments of the people, but on the contrary it will have the effect of checking early marriages. The legislation I have above proposed will have the immediate effect of putting a stop to the most cruel and heart-rending scene of every day's occurrence, viz., taking the betrothed infant girl losing husband to the burning ground on the first day and again on the tenth day making her wear all her jewels, good clothes, and deck her hair with flowers and ornaments as the last day that she can use them or enjoy such luxury in her life, while all this time the unfortunate child is unconscious of the significance of the ceremony; such a girl has nothing to do with burning of the body which is done in a great majority of cases, by the brother or father of the deceased. Such a girl, however young she may be, being denied the privilege of mixing with the betrothed girls of her age in singing, wearing ornaments, &c., and in doing all that married girls are required to do on occasions of marriage or auspicious ceremonies at home and elsewhere, such an infant girl being denied the privilege of going to temples on festive occasions and enjoying the sight of a festival as other married girls of her age do; the most melancholy scene of all is the so-called widowed infant girl not knowing the reason of her exclusion, asking her parents how she had offended them or others, and why she was not treated as a married girl, and the parents then beginning to weep over the misfortune of the girl. The above description, I hope, will enable the Government to picture to themselves the misery of a betrothed infant girl losing her husband, and the misery of her parents, and feel that nothing short of Government interference, at least in the way I have suggested, would effectually remedy the evil arising from child-marriage.

19. If the Government by legislation decline to recognise such an infant girl as a widow, from that very moment of such legislation, no parents of such a girl would submit her to the cruel treatment I have above described, but on the contrary would begin to look upon her as a maiden still marriageable. The legislation will also discourage people spending large sums of money upon infant marriages.

Remarriage of Widows.

20. As I have already observed if infant marriage be checked by some means or other, the marriage of Hindu widows need demand very little attention. If people begin to marry their girls after puberty, it would very naturally occur to them as a matter of no consequence how long after puberty they are married. The girls would by that time attain their age of discretion, and might very naturally claim the option of choosing husbands, and the parents will have to yield to their wishes. When betrothed infant girls who may have lost or lose their husbands either before or after the proposed legislation see the change, they will naturally be tempted to negotiate for remarriage through their parents, and boys of proper age would come forward to marry them and prefer them in fact to infants that may be selected by their parents. This course will, I believe, effect in a decade or two perceptible reformation in this direction.

21. Even now there are young widows who have inherited their husband's property quite willing and anxious to remarry, provided that such remarriage would not interfere with the right which they would otherwise have of holding their deceased husband's property throughout life. In this direction no alteration in the Act can be suggested. But section 2 of Act XV of 1856, which is an enabling Act, has now the effect of encouraging rather a life of immorality than chastity which was intended by the Act. For the recent decision of the Calcutta High Court, I regret to say, has had the effect of neutralizing what little good was calculated to be done by the passing of the Act. When a question arose whether a Hindu widow forfeited her right to hold possession of her deceased husband's property by reason of unchastity of which she was guilty after the property had vested in her, the Calcutta High Court held

that unchastity incurred after the vesting of the property was not a disqualification disentitling her to hold possession. Mr. Justice Dwarkanath Mittar dissenting from the Court's opinion recorded his minute to the effect that unchastity was a positive disqualification. This decision was, however, confirmed by the Privy Council, and it has since been followed by all the courts in this country. The decision law allows a Hindu widow to lead with impunity a life of open prostitution retaining possession of her husband's property, while the hallowed ties of matrimony entails forfeiture of property according to Act XV of 1856. This is certainly an anomaly which ought to be remedied. It must be enacted that adultery on the part of the widow is a positive disqualification to hold property inherited from her husband.

22. The criminal law of the country should also be amended so as to make open excommunication, by priests and gurus and others, of those that contract second marriage and their relations a penal offence. They should also be protected from exclusion from public temples and public tanks and rivers. At present they are looked upon as outcastes, and are denied admission into public temples and prevented from using public tanks and rivers and choultries as Hindus generally do. I would, therefore, suggest that Act XV of 1856 be so remodelled as to afford all such protections, facilities, and inducements to such of the Hindu widows and men as may really desire to remarry.

(Signed) C. RAMACHANDRA AIYAR,
Subordinate Judge.

From the Third Judge, Appellate Court, Ernacollum, to the Chief Secretary to Government, dated Ernacollum, 5th January 1885.

I beg to submit, for the perusal and consideration of His Excellency the Governor in Council, a memorandum stating my views on the subject of Mr. Malabari's paper touching infant marriages and enforced widowhood.

2. Although I have not had the honor of being formally asked by the Government for opinion I have ventured to lay my views before them in the hope that an expression of opinion on an important subject affecting the well-being of my countrymen may not be altogether unwelcome.

3. I have been in the service of His Highness the Maharaja of Cochin as a Judge of the highest Court of Appeal, and in this capacity have had opportunities of studying the wants and feelings of the Hindus.

4. The importance of the subject is my only excuse for venturing to submit my views, and I beg you will be pleased to lay the memorandum before the Government.

(Signed) C. SUBBARAYA AIYAR, B.A., & B.L.,
Third Judge.

MEMORANDUM.

Mr. Malabari has addressed the Government of India on the subject of infant marriages and enforced widowhood, and suggests that certain measures be adopted by the Government with the view of checking the evils complained of. Although I am not one of those whose opinions on the subject have been invited by the Government, still I have no doubt that in a matter like this, affecting as it would do the social well-being of a large section of the population of India, the Government would be anxious to secure the opinion of gentlemen other than those specially mentioned for consultation so as to allow of the utmost possible light being thrown upon the subject in all its bearings. For this reason I venture to beg the Government for permission to lay my views and suggestions on the matter before them trusting that an expression of opinion on this important question will not be altogether unwelcome.

Mr. Malabari's remarks, divested of all poetical varnish with which it is surcharged, amount to an assertion that infant marriage has been the bane of the country leading to discord and misery among the married couples in after-life. In his opinion it has a most demoralizing influence upon the social well-being of the people. As a remedy for the evil he suggests the expediency of the Government holding out inducements to those young men who come in contact with it by showing preference in the distribution of official patronage and academic honors to unmarried young men.

The Government I am sure could not have failed to notice that recently there has been a movement set on foot under the auspices of enlightened and liberal minded [illegible] gentlemen for the purpose of bringing about a reform in the existing marriage institutions of the Hindus and for the emancipation of Hindu widows from the tyranny of customs which prohibits the remarriage. Gentlemen like Dewan Bahadur Ragoonada Rao and Chentsal Rao [illegible] may remark labor with commendable zeal and earnestness in furtherance of the cause, and by the publication of tracts and pamphlets have endeavoured to convince their countrymen that the union effected between a boy and a girl by the marriage rites does not operate as an indissoluble tie until after its consummation, and that therefore where the girl loses her husband before she comes of age he cannot be considered as having become doomed to perpetual widowhood and consequently become ineligible for remarriage. The propositions laid down by them are supported by texts from the Smritis. But against this opinion there is a formidable array of persons who maintain and quote texts to show that a Hindu girl should be married before she attains her puberty, and that postponement of marriage till after she attains her discretion entails forfeiture of caste. The remarriage controversy, however, has gone so far as to have led to the solemnization of a number of remarriages according to the Vedic ritual in the northern districts of this presidency. A good beginning has thus been made although unreasoning orthodoxy looks upon it as an innovation unsupported by the sacred writs and as an act subjecting the parties to the ban of excommunication. And advantage can be taken of this by giving additional facilities and by remodelling the provisions of Act XV of 1856, as I will show further on.

This is not the place for discussing questions of this kind in their religious aspect, and my object in referring to the subject is merely to show that, in the opinion of the orthodox, who, by far, form the majority of the people, the shastras make it imperative that the marriage of a girl should take place before she attains her puberty, and that there can be no postponement of the ceremony without incurring the risk of social degradation and forfeiture of caste. The caste rules are characterized by a degree of bigotry and intolerance that marriage of a girl of one caste with a boy of another is not permissible. Each caste is again sub-divided into so many sections that the field for selection of brides and bridegrooms is really very limited. Among Brahmans there are many sub-divisions, and the members of one division are not permitted to step out of the limits of their social circle in quest of boys and girls. So is the case with the non-regenerate classes of the Hindu population.

Referring to the Census statistics of 1881 it will be found on a comparision of figures that the custom of early marriage is prevalent specially among the Brahmans. To quote from the Census report "some are married before 7, and nearly all are married before 10."

The figures suggest that between 6 and 7 is the average age of marriage for females among Brahmans. This has the natural result of a high percentage of widows, and we find that nearly one-third of the Brahman women are widows. Out of every 15 Brahman women of all ages 3 are not yet married, 7 are married and 5 are widows, and widows past remedy. There are proportionately 50 per cent. more widows among Brahmans than among other castes, and this surplus may be wholly attributed to the greater extent to which infant marriages occur among Brahmans than is the case with other castes. Certainly one-third, probably a larger proportion of the number of Brahman widows, are widows owing to this custom. That is to say if Brahmans do there would be nearly 60,000 fewer unhappy women in their caste. The total figures show countenanced infant marriage only to the extent that other castes that there are 80,000 widows under 20, and the foregoing remarks suggest that Brahman custom is responsible for three-fourths of this." From this it will be seen that out of a total of 80,000 widows under 20, 60,000 belong to the Brahman caste and 20,000 only to other castes. When the proportion of Brahmans to the entire Hindu population is considered, it will become patent that among Brahmans alone infant and early marriages are celebrated in a reckless manner, and that the non-Brahman classes are not much addicted to the custom.

The restrictions which religion as at present understood or more properly caste rules impose upon the marriage institutions of the country naturally tend to circumscribe within very narrow limits the field for selection, and leaves the parents no option in the matter but to select at the earliest opportunity the best girls available for marriage to their boys. The narrower the field the keener the competition, and hence infant or rather early marriages are brought about.

Whatever may be the effects of such unions in a physiological point of view, I do not think the statement is true that such unions result as a rule in misery and poverty. In the course of my experience I have seldom come in contact with a couple who felt unhappy merely because their union was brought about in their young ages.

Early marriages brought about under the discriminating and fostering care of Hindu parents have not failed to lead to happy unions securing to the married couples social and domestic felicity.

The Hindu mind is so much imbued with traditions and feelings as regards the efficacy of ceremonies for his spiritual benefit after death that he always has a hankering after (what to him is a blessing) the birth of sons and daughters. He seldom pauses to determine the economic consequences of a married life, and seldom bestows a thought upon his capacity to sustain the

increasing cares and the growing needs of a large family. He must have a son or else he is tormented in his sleep by dreams of the tortures of the hell called "puth."

As I have already observed the miserable condition of ill-assorted pairs, is not to be attributed to the fact of their having been married at an early age. I have heard from many of my European friends that even in England and other civilized countries, where freedom of choice and liberty of action are enjoyed in the highest degree by the contracting parties, marriage is a lottery in which more blanks are drawn than prizes. The reason of the unhappy condition of some married couples is to be sought for in a consideration of the imperfections of human nature such as incompatability of temper, diversity of tastes, congenital deformity and the like.

Real reform in the marriage laws of the Hindus must be initiated by the Hindus themselves, and no amount of extraneous pressure can have the effect of disabusing the minds of the orthodox of the inveterate prejudices and religious sentiments with which they are saturated. Mr. Malabari does not advise legislation with reference to early marriages, for it would compromise the policy of neutrality which the Government has avowedly maintained with respect to religious matters. By requiring the people to discard popular and long cherished notions and religious sentiments by passing an Act, the Government would certainly be violating the pledge to which it stands committed by the wisdom and far-seeing sagacity of British statesmanship, that the Government shall be neutral in religious matters.

Mr. Malabari's suggestions requiring the Government to show favor to unmarried natives in its executive capacity will not have the desired effect. Those that compete for University honors and Government service form an infinitesimal portion of the Hindu population, and the form in which the inducement is proposed to be held out by the Government can hardly have any effect upon the inertia and apathy with which the masses look upon such matters. It would in fact create a division or chasm in the camp, and cause an estrangement of the really intelligent section of the community from the masses—a state of things which in itself is not desirable, and must tend to frustrate the benevolent intentions of the Government. Those that have been watching the signs of the times can hardly fail to be struck with the spirit of inquiry which has been awakened in the minds of the people by the agitation of the Widow Remarriage Association and its branches. The spread of education and dissemination of knowledge cannot fail to assail the inveterate prejudices of the masses, and the Government cannot do better than watch and wait in such matters till public opinion has been educated up to the pitch requisite for the initiation of reforms.

The Government has established girls' schools and afforded a thousand facilities for a dissemination of knowledge, and these coupled with the philanthropic action of voluntary Associations must in course of time bear fruit and bring about the desired reform. If the Government were induced to give its executive authority a stretch in the direction suggested by Mr. Malabari, there would be no limit to interferences of the kind in question, and the Government might find itself confronted by questions of an embarrassing nature.

I will illustrate what I mean by giving examples. The peculiarity of the features of Malabar law makes it a unique system of law the principles of which are incomprehensible to foreign writers. The customs and manners of the Malabar people have been misunderstood so much so that the want of permanence in the marriage tie has been held to be the result of polyandrous practices; speculative writers on the subject have gone so far as to assert that the so called polyandry of the Nairs affords an instance of that type of which promiscuity is an essential feature. Taking this as the primoidial type, and as the normal condition of men in their primitive state, they think that its development must have gone through successive stages leading eventually to monandrous practice. The Thibetan polyandry is stated to be of a type which allows a woman to be the wife of several persons related to each other by blood. The two forms of polyandry have led to two different laws of succession. In the one succession follows in a line to be traced to female kinship, while in the other it depends upon male kinship. The case of the five Pandava Princes, as recorded in the Mahabarata, is quoted as an instance to show the prevalence of polyandry of the Thibetan form in India in ancient times. The practice of polyandry was, however, too gross and repulsive to retain its place among the social institutions of any nation on its onward march in the path of civilization, and is supposed to have been displaced by a form known by the name of the Levirate. This is a practice according to which the widow of a person is married by his surviving brother, and among the Hebrews it is considered to be a pious duty due to the memory of the deceased brother. Even according to Hindu law the practice seems to have had the sanction of the rishis and sages, and an obsolete text of the law authorizes the procreation of children upon the body of a wife by her brother-in-law. This practice has fallen into desuetude, leaving monandry as its relic. This theory of the development of marriage institutions was worked out by the late Mr. McLennan, who regarded the whole as a process of evolution that has eventually led to monandry. Other original thinkers, such as Lubbock and Herbert Spencer, suppose that the various practices have been more or less connected with the rights of property, and do not attach much weight to the development theory.

However this may be there is not the slightest warrant in the actual facts of the case for the position that the Nairs are addicted to polyandry in any form. Polyandry is not an established institution of the country, and whatever derelictions the want of permanence in the marriage tie

and inflict hardship upon them, the Act XV of 1856 ought to be remodelled so as to afford additional inducements to such of the Hindu widows as may really desire to break caste rules and remarry.

Cocanada, 7th January 1885. (Signed) C. SUBBAYYA AIYAR.

From S. SUBRAMANIA AIYAR, Vakil, High Court, to the Chief Secretary to Government, dated Madras, 5th January 1885.

I have the honor to acknowledge the receipt of your letter, No. 2480, asking my opinion on the memoranda of Mr. Malabari on infant marriage and enforced widowhood. I extremely regret I was not able to reply to it earlier. The subject has been so fully discussed in all its aspects and so often that I do not think it necessary to enter into any lengthy disquisition. To be brief, Mr. Malabari has not exaggerated the evil effects of the pernicious practice of marrying boys and girls before they attain proper age now obtaining among a large section of the Hindu community. The most orthodox cannot deny that the evil is a real evil having a most degenerating influence on the social, moral, intellectual and physical well-being of society. It is however gratifying to find that there is a strong reaction in the minds of the educated classes in this matter, and the percentage of such marriages is on the decrease.

2. There can also be no question of the vast miseries caused by enforced widowhood, but it is hard to believe that, that an order of things affecting a considerable portion of the female population should have been the outcome of mere caprice of the stronger sex.

3. It is indeed very desirable, nay necessary, to see from time to time what measures ought to be adopted to minimise these evils if not to eradicate them. But it is not desirable that the peculiar circumstances of this community should be lost sight of, and popular opinion, however unreasonable it may be considered to be by the go-a-head reformers, rejected in a consideration of these questions, and that changes entirely out of harmony with the feelings and even with the prejudices of the people should be suddenly introduced. Direct legislative interference on such socio-religious question, if I may use such a term, will not be viewed with any favor by the masses, and such interference is more calculated to retard than promote progress.

4. Holding these views I must prefer improvement from within to interference from without.

5. Already signs are visible that the attention of the people is being directed to these questions, and I have no doubt that in course of time a satisfactory solution of these difficulties will be arrived at. I do not think the Government will be well advised to interfere actively with such usages by legislation. At the same time I do not see any objection to indirect encouragement on the part of Government.

6. I certainly think with Mr. Malabari that the restriction to confer University honors to unmarried men, will have a deterrent effect on early marriages. I would even go a little further and recommend that no boy under sixteen be allowed to appear for any University or public examination if he is already married. This restriction will go some day to minimise the evil. As to the question of enforced widowhood I must confess I am not in a position to suggest anything radical which would ameliorate the condition of widows. I think everything would have been done to minimise the evil if the suggestion for indirectly enforcing the postponement of the marriage of boys till after sixteen is adopted. It is unlikely that grown up boys will be married to "*infants*," and it may safely be asserted that in course of time the chances of young girls becoming widows would be considerably reduced. The thing first to be attended to is how to educate public opinion in this country to recognise (as it did once) the propriety of marriages of girls after puberty among the classes where such marriages are now disallowed.

7. Alienation by will by a Hindu coparcener of his undivided share to provide for his wife, daughter, and sister, is, I believe, not legal, and I think the aid of the legislature can be sought for to legalise it. This rule will much tend to improve the

position of women by making them far less dependent on their male relatives than they are now.

8. The modification which has already been introduced by decided cases in respect of alienations by coparceners is so great that the granting of testamentary power recommended will not be looked upon as an undesirable innovation.

9. It only remains for me to say that personally I cannot take any serious exception to the suggestions of Mr. Malabari in his second memoranda, but it is doubtful whether they are likely to be availed of in the present circumstances of the society.

10. I must apologise for more for the delay and also for the shortness of the reply.

(Signed) S. SUBRAHMANYA AIYAR,
Vakil, High Court.

FROM P. CHENTSAL RAO, Superintendent of Stationery, to the Chief Secretary to Government, dated Madras, 15th January 1885.

With reference to G.O., dated 18th October 1884, No. 2270, Public, I have the honor to submit the following observations on the proposals of Mr. Malabari in the matter of infant marriage and enforced widowhood in India.

2. Mr. Malabari has sent me a supplemental note containing revised and amplified suggestions on the subject, which I beg to enclose.

3. I do feel that infant marriage and enforced widowhood are evils and serious evils too, but I do not see my way to advising the Government to interfere in the matter directly or indirectly. While any such interference can be productive of no beneficial results, it is sure to shake the confidence of the people in the neutrality of Government in religious matters and create a reaction in favor of the very evil which it is our wish to repress.

4. In order to discourage infant marriages, Mr. Malabari proposes that no married student should be eligible to go up for the University examinations. In the first place the number of persons that would come under this rule will be exceedingly small, and even if it were considerable, it is extremely doubtful whether the result would be a benefit to the country. According to custom which is regarded, I think, erroneously, as the law, every girl has to be married before she attains her puberty, and if she is not so married she loses her caste. Girls in this country usually attain puberty at 12 or 13 and sometimes even so early as 11, so that the latest period up to which a girl can be safely kept unmarried is 10. If within that period she cannot get a suitable bridegroom, she will have to be given to such a one as could be had at the time. So far, therefore, as women are concerned, the rule proposed could make very little difference, it being of very little consequence whether a girl is married at 8, 9, or 10. In regard to boys, however, the effect of the rule will be that they will have to marry girls of 9 or 10 when they are 21 or 22, the age at which they usually take their degree, instead of their marrying girls of 8 or 9, when they are 16 or 17 years old as they do at present. This, no doubt, puts off the consummation of marriage, so far as males are concerned, from the ages of 20 and 21 to those of 25 and 26, but I am not sure whether, in a climate like that of India, the change will prove a real blessing. In my humble opinion it is far better that a boy of 16 or 17 years marries a girl of 8 or 9, than that a youth of 22 or 22 years marry a girl of 9 or 10.

5. Mr. Malabari suggests that heads of departments should devise means similar to those above mentioned. He evidently means that employments should not be given to married men when unmarried men, duly qualified, are to be found. This, as I have pointed out in the preceding paragraph, cannot result in any appreciable good, while the arrangements will simply give room for people to look upon Government with suspicion, as anxious to interfere in an indirect manner with our religious and social institutions. I think that if Government is to interfere at all, it must do so openly and by legislation, and not by such indirect methods.

6. As regards marriages of infant girls with old men, I certainly think it is a matter in which Government can interfere without provoking the slightest suspicion

[illegible] known cases in which girls of 8 or 9 years [illegible] 60 years, but such cases [illegible] Government is hardly called for. If Government [illegible] by legislating that such marriages are illegal.

[illegible] money from persons to whom they give their [illegible] certain classes of Brahmans, but I doubt [illegible] such rule as that suggested by Mr. Malabari, or [illegible] If payment is declared illegal, it will be made secretly.

[illegible] in the advancement of civilization.

[illegible] part of the country, there are but very few cases in which older girls [illegible] younger men, and the matter hardly calls for legislation. I have heard of such marriages only among the Goundens of Coimbatore.

As regards widows, Mr. Malabari makes five suggestions—(1) that arrangements be made to ascertain whether a widow has adopted seclusion voluntarily or not, and facilities be afforded to her to complain if she undergoes any social ill-treatment; (2) that the priest be deprived of his right to excommunicate the relations and connections of the parties contracting second marriage; (3) that the marriage ceremony be made as inexpensive as possible by ruling that two or three declarations before a registrar may constitute a marriage; (4) that the Government be pleased to make an annual grant for a few years to the widow marriage fund; and (5) that special educational facilities be afforded to widows. With reference to these suggestions, I beg to note that widows in this country do not receive any such ill-treatment as they cannot get rid of without any special aid from Government if they chose to do so, nor are marriage rites so expensive as to prevent widows from marrying. The 1st and 3rd proposals therefore seem to me to be unnecessary. The real difficulty is the fear of excommunication, which not only degrades the man excommunicated in the eyes of his fellows, but also puts him to very great inconvenience, since he cannot easily get caste servants and priests for the performance of ceremonies which cannot be given up without loss of caste. If the priest can somehow be deprived of the power to excommunicate parties marrying a second time or at least their friends and relatives who support them, the advantage will, no doubt, be very great; but I do not see how Government can interfere in the matter. It would be contrary to all principle for Government to tell the priest that he ought not to advise his followers to do what he himself thinks to be right for his spiritual welfare. No doubt grants of money to the widow marriage fund will, to some extent, remove the hardship of excommunication and encourage poor men to come forward and support the reform, but it is highly doubtful whether Government would be justified in spending money raised by general taxation on such matters as these. Education imparted to widows may also be productive of some good, but in the present state of society I do not think that widows will avail themselves of any facilities which may be created for their education. The only chance of success lies in the perfect neutrality of Government, and it is for the people and the educated classes in particular to try and emancipate their sisters from the misery which the usage of the country has imposed upon them.

(Signed) P. CHENTSAL RAO,
Superintendent of Stationery.

From the Deputy Collector on General Duties, Madura, to the Chief Secretary to Government, dated Madura, 15th January 1885.

In obedience to the order contained in G.O., No. 2480, Public, dated 18th November 1884, I beg respectfully to submit my views on the suggestions contained in Mr. Malabari's notes for mitigating the evils arising from "Infant marriage" and "Enforced widowhood."

2. The orthodox Hindus, who are attached to the existing institutions, and who view innovations as sources of danger, may hold a different opinion, and I believe that any Hindu, who has had liberal education and whose heart is not hardened by custom, must admit the "Infant marriage" and "Enforced widowhood" as serious social evils,

requiring the attention of any one that is interested in the well-being of the Hindu society into which his lot has been cast. The hardest heart has felt the evil of the widowhood but it has yielded to custom—a cruel and inhumane custom—that prevails in the caste. I have known instances of respectable men, who were ornaments to the Hindu society, having met with premature deaths, broken-hearted and unable to bear the misfortune that befell their beloved daughters. A Hindu family with a young widow is in perpetual misery and gloom prevails in it.

3. One of the ingenious, though cruel, arguments adduced in favor of enforced widowhood is that it checks over-population. It is surprising that any argument is ventured in support of the custom. The idea of depriving for life a helpless young girl who happens to lose, what people chose to call, her husband of even the ordinary innocent pleasures of life is monstrous, and the practice has to be put a stop to in the cause of humanity, if not on any other ground. The other evils attending on perpetual widowhood have been fully described by the author of the notes, and there can therefore be no question about the enforced widowhood being a serious evil to the society. It is gravely asserted by the orthodox Brahmans that a woman becomes a widow by the result of her karma in the previous births, and that it is a sin to allow her to marry again. This is something like misers preaching it to be a sin to help the indigent, who, by the result of their karma, have been destined to be poor. No amount of argument can convince these men, even if they are really serious.

4. One of the main causes of the existence of an unusually large number of these unfortunate creatures among the Hindus is early marriage. Infant marriage is largely practised more among the Brahmans than in other castes. Komatties and high caste Vellalas have followed this example of the Brahmans. Early marriage is, however, almost unknown to the low caste Sudras, among whom remarriage of widows is also permitted. It therefore follows that the number of widows among the Brahmans is larger than that among the Komatties and high caste Vellalas, and that the number among the latter bears a larger percentage to that among the low caste Sudras. This is borne out by the results of the census of 1881.

5. When 9 per cent. is the average of widows in the European countries, 21 is the percentage obtaining in India, and 31 the percentage among the Brahmans. The widows among the Brahmans are comparatively more than treble those in the western countries. It is argued by some that though the widows in India are more than double those in Europe, yet the unmarried women in the latter are nearly double those in India, and that it therefore follows that a large number of women will remain without husbands in all countries, with this difference that in India, some of these continue in widowhood instead of remaining unmarried. I must ask these gentlemen to consider the difference between the conditions of women leading lives of celibacy of their own accord, enjoying all the innocent comforts and pleasures of life, and those of the Hindu widows, who are looked down as inauspicious sinful creatures, destined to live miserably without the comforts and pleasures of life. Enforced widowhood must therefore be admitted to be an inhumane institution incompatible with progress of civilization, irrespective of the other evils resulting from it.

6. Early marriage is supported by some with more plausible reasons than those adduced in support of perpetual widowhood. It is said to suit the Hindu youths who are precocious and who may otherwise go astray, unable to gratify their precocious wants by a legitimate course. There may be some truth in this, but the good derived from the system is more than counterbalanced by the evil produced by it. I have known many a student who had their betrothed wives at home, but would not consent for the consummation of the marriage until they finished their collegiate course and graduated themselves. To force marriage on such young men is creating an unnecessarily premature temptation for sexual pleasure. Instances are not wanting where young men have been spoiled by early marriage. Many have given up their studies unable to find time for the same, having been burthened with the cares of conjugal life. They lose their spirits and are bound down to their houses, and, in fact, become less useless to the society than they would otherwise be. Early marriage is therefore

an obstruction to the progress of the society. I have heard a highly talented candidate for the University examination tell his friends that he would have answered some of the questions better, had he not been anxious about the condition of his sick child. If this is the case even with grown up men, a raw youth married early and blessed with children must feel worse under the circumstances. Besides, early marriage affects the general health of the married couple and their progeny, and the result is we have a weak and imbecile nation. The most serious of all the evils arising from the institution is the creation of an unusually large number of infant widows and widows past remedy. The miserable condition of these unfortunate creatures must melt the stoutest heart, and the present system of infant marriage must be given up solely for the purpose of obviating this greatest of all the social evils, if not on any other ground.

7. Again, marriage is a solemn contract made between the husband and wife. Religion is connected with it in view to make the ties of marriage as strong as possible in the eyes of man and God. It is absurd that such a contract, which is intended to secure happiness to the couple during their lives, should be made by their parents or guardians without their consent or knowledge. But custom is so strong that it is seriously contended that freedom of choice can be accompanied with no better results. An orthodox Hindu further asserts that conjugal happiness is better secured by leaving the choice to the parents and guardians than to the contracting parties themselves. In many instances the husband and wife were bound by ties of consanguinity, knew each other from infancy, and were often playmates. Even when this is not the case, the tie of marriage creates a strong mutual attachment between the couple, who are contented with their lot and live happily. The well-intentioned control exercised by the parents or guardians over young men and women in this matter has saved them from falling victims to the intrigues of wicked people. The young man secures a wife, who is obedient to his mother and the mistress of the house, and this is a necessity for the promotion of happiness in the present state of the Hindu society. The woman is contented with her lot and why should we then interfere?

8. There is a good deal of force in all these arguments. But there are degrees of happiness in married life. A man feels pleasure occasionally even in the company of the illiterate. But the pleasure he derives in that of an intelligent man is superior. Ignorance is the cause of this apparent happiness. A better happiness can be secured by effecting marriage after the couple attain proper age. Infant or child marriage cannot be supported on these grounds. The social evils of the system have already been pointed out.

9. Having noticed some of the main arguments adduced in favor of early marriage and perpetual widowhood, I beg to say a few words about the authorities quoted in support of them. Though I have not made myself acquainted with the Hindu sastras on the subject by studying the original texts, yet from the translations and extracts published by some philanthropic Hindu gentlemen I find the authorities on the subject to be contradictory; those against early marriage and in favor of remarriage of widows preponderating.

10. The days of faith in the divine origin of these authorities are fast vanishing. They are being believed to be human laws and marriage a human institution. If any sastra, which is intended for the promotion of human happiness, does not produce that end, but is, on the other hand, found to be productive of evil, it may well be revised and a better law, calculated to secure that end, may be substituted. Whatever may be the laws prescribed by the ancient lawgivers regarding the marriageable age of the girls or the remarriage of widows, they may be overlooked, if they are found to be productive of serious evils to the society, for the benefit of which they are intended.

11. The following facts may, I think, be traced from the sastras. In earlier days marriages appear to have been performed after women attained puberty or discretion, and remarriage of widows was an orthodox institution. Marriageable age for women was then reduced to 12, 10 or 8, and an attempt at stopping the remarriage of widows was made by holding them hopes of heaven, if they continued unmarried and lead a virtuous life after the death of their husbands. This was probably found to be not a

sufficient inducement to prevent remarriage of widows. It was then restricted first, to childless widows and then to virgin widows, and finally absolutely prohibited and even death with her husband was prescribed. Even after all this widow marriage appears to have been practised. But the married couple occupied an inferior position in the society.

12. Early marriage and prohibition of remarriage of widows have now become the Sishtacharam (established good custom) of the high caste Hindus. Many a reformer, that attempted to mitigate the evil of perpetual widowhood of innocent virgins, appears to have failed, as the custom was too deeply rooted to be destroyed. At present an attempt at breaking it is repugnant to the feelings of the orthodox high caste Hindus, who prefer the existing state of things, and the majority of the widows themselves being ignorant and illiterate would not, I believe, think of marrying a second husband.

13. It has already been shown that infant marriage and enforced widowhood are prominent more among the Brahmans than among the other castes. Though the Brahmans are, as a rule, more intelligent than the other caste people, yet unfortunately their feeling against a violation of any of the existing customs is very strong, and more especially of that regarding marriage or caste.

14. The Brahman character is peculiar in this respect. He is prepared to overlook the commission of the greatest of sins and the heinest of offences, but would not brook his daughter or sister marry after she attains puberty, or see her married, even if she becomes a widow when an infant, and *he* is the cause of her misfortune. He associates freely with a Brahman murderer, dacoit, a perjurer, forgerer, an adulterer, or a whoremonger, a drunkard or eater of animal food, provided the latter is liberal and opens his purse freely; but the Brahman will not associate with one who marries a virgin widow or a girl who has attained puberty, though she may be his kith and kin, in whom all his hopes are centered. He has no scruples to live with a Brahman woman who may be known to be unchaste, but he will not admit into his society the unfortunate virgin widow who chooses to marry herself to a second husband. I have mentioned this anamolous state of things in order to show the strong prejudice that unfortunately exists against the introduction of the remarriage of widows among the most intelligent and powerful section of the Hindu community. I have observed many an orthodox Brahman asserting before me that a Brahman girl, who is married after she attains age, loses her caste, and that he views a remarried widow as a common whore. The prejudice of an orthodox Brahman is so strong that he is deaf to all arguments in favor of these helpless creatures. If a rich Brahman marries a widow, some of the orthodox Brahmans may probably be disposed to mess with him on account of his money. But wealthy men never experience difficulty in getting young virgin wives. A man approaching the grave can easily secure a girl of 9 or 10 years for his partner, provided he makes up his mind to pay a handsome price for the creature. A leper can in the same way easily secure the hands of a fair maid for money. Therefore the chances of wealthy men marrying widows are very remote. The majority of the Brahmans being orthodox, widow marriage is not at all likely to be supported by them.

15. As regards the educated men, I mean the University Graduates and persons who have received liberal education, many may be in favor of the reform. But even these are wanting in moral courage. This is probably due to the peculiar circumstances under which they have been placed. Fully alive to the evils of the custom, they leave the college with confidence of effecting some reform in the society. But when they enter the world they find that they are unequal to the task and succumb to the opinions of their friends and relations, on whom they have to depend much, and who assail them as rash youths or miscreants. Having to look for their subsistence, they find themselves unable to devote sufficient attention to social and other questions unconnected with the profession which they have adopted. They thus become gradually passive, and some of them may even be not disposed to interfere with the existing custom. The opinion of the educated classes is not therefore so strong as to counterbalance or even match that of the other classes. I therefore doubt whether the Government will not be acting against the feelings of the orthodox population by adopting any direct repressive measures, which may be construed to be inconsistent with their declared policy. I do not think the Hindu community to be prepared to accept any law prohibiting infant marriage; the law, even if passed, will, I am afraid, remain a dead letter. It may declare all marriages between minors to be null and void. What would be the result? Betrothal will be performed as usual, and the public will regard the girl to be married who will, however, be left to the mercy of the person to whom she is connected by the betrothal; he may abandon her, though she cannot abandon him. The law may probably work more mischief to the sex for the benefit of which it may be intended.

16. The best course, therefore, for effecting the reform is to create a sufficiently strong public opinion in favor of it, and all that Government can render is indirect aid.

17. Mr. Malabari's suggestions on this point are excellent. The Government may advise the Universities and heads of schools to decline to admit married men for University examinations and in the schools three or four years hence. I feel assured that such a course will attend with greater success than any other.

18. It is well known that caste and custom are the bane of the Hindu society, and that the Government have already succeeded in weakening the caste prejudices to a certain extent by indirect acts. The Government first introduced all castes into the public service. The high caste Hindu grumbled for a few days at the apparent injustice done to him by making him work with a chandala, but would not give up the service on that account. He now works with a Pariah without the least compunction in the same office. A Brahman boy would not read with a Pariah boy. But the Government have left their institutions open to all castes. The high caste Hindu was at first reluctant to send his son to a school, where he had to sit down side by side with a low caste man, and even withdrew his son for some time from the institution. The Government were firm and insisted on keeping their schools open to all castes. The high caste man then found it prudent to sacrifice his prejudices for the benefit of his son, and the Brahman and the Milacha boys have become accustomed to sit down side by side on the same bench without fear of pollution in the least. Railway affords another glaring instance of the high caste man giving up his scruples for convenience. He travels here, miles and miles, side by side, sitting down on the same bench with a low caste man, whom he shuns in his village. If the Government prohibit married men (including betrothed men) from attending any school or appearing for any of the University examinations, no Brahman would be imprudent enough to forego the various splended opportunities, which University honors afford his sons to distinguish themselves in this world, but would prefer keeping them unmarried till they pass their examinations.

19. The heads of offices may also discourage early marriage by refusing to entertain young men who may have got themselves married in their early age: but it will be difficult to persuade them all to adopt such a measure.

20. Female education appears to me to be the most effective of all the measures that can be adopted for the remedy of the evils under notice. The woman must understand her present unfair position in which she has been placed by the stronger sex; and she will then defend her cause. At least she will readily co-operate with any man who may sympathize with her. At present Hindu women are the real obstacles to any social reform. They are the greatest enemies of their unfortunate widowhood sisters. It is their taunts, censures, and prejudices that are more unbearable by the helpless widows that may be inclined to marry again, than the bull of the priest or the curse of the sastry or the mandate of a tyrannical parent. The moment a widow thinks of remarrying, she is a marked woman and treated as an adultress or a prostitute by the other women. Under these circumstances she, very naturally, feels averse to conjugal life after she loses her husband. This dread of social ignominy, added to the horrors of hell, &c., created by the priest-craft, is enough to deter the most courageous of the fair sex from thinking of a second husband. In the case of child widows, the parents or guardians are undoubtedly the sinners, and are answerable for the lot of their unfortunate children. In the majority of cases, the widowhood cannot be said to

be really "enforced." It has assumed the appearance of a voluntary act on the part of the sufferers. The present miserable state of the widows is due more to the ignorance of women than to want of sympathy on the part of men. The minds of the women have, therefore, to be enlightened in order that they may understand their position and the great injustice done to them. The other courses suggested by Mr. Malabari may also tend to encourage remarriage of widows. But education, education alone, will be the most powerful and effective course for improving the status of the woman.

21. The agencies for effecting the social reforms are the educated classes, who may bring about these and other social improvements more easily than any amount of legislature which may render the Government unnecessarily unpopular. Unfortunately the reforms are only in the lips of the educated men, but not in their acts, for the reasons already given. If they choose to sympathize and co-operate with the Brahmans, who have effected reforms in the north, they can do more good for their sisters and daughters than by any amount of preaching. What we want is men to set examples—more Rajagopalu Charloos and Seshyengars.

22. There is, however, one point in which the Government interference will not, in my opinion, go much against the feelings of the people. They may pass an Act prohibiting the priests from excommunicating a widow who may choose to remarry, and her husband and others who may sympathize or associate with them. I do not see how the priests, who have been permitting marriages between persons within the degree actually prohibited by the Smrities, *i.e.*, marriage between a man and his sister's or paternal aunt's or maternal uncle's daughter, can claim any right to interfere with widow marriages in favor of which authorities are not wanting. The widows can thus be relieved by Government of one of the several fears and causes of anxiety they have at present.

(Signed) M. TILLAINAYAGAM PILLAI,
Deputy Collector.

From the Deputy Collector of Madras, to the Chief Secretary to Government, dated Madras, 23rd February 1885.

I beg to acknowledge the receipt of G.O., dated 18th October last, No. 2270, Public, and to submit the following as my opinion on the questions raised by Mr. Malabari:—

1. Infant marriages and enforced widowhood are not sanctioned by the Hindu sastras, nor were they in use in India a few hundred years ago.

2. On the contrary, the marriages of undeveloped girls are in a way prohibited by them, and widows are recommended by the Vedas and Smrities to remarry.

3. As infant marriages and enforced widowhood are not prescribed by the sastras, and as they have been found to encourage immorality and crime, the Government are bound, I think, to prohibit infant marriages, as they have already abolished enforced widowhood. I am sure the Government would not sanction anything against Hindu law, if they prohibit marriages of girls of less than 10 years old, and encourage those of developed maidens.

4. The sastras of the Hindus do not sanction marriages of elder women to younger men. Government may prohibit such marriages also.

5. Mr. Malabari proposes "that no Hindu girl, who has lost her husband or her betrothed, if she is a minor, shall be condemned to life-long widowhood against her will." What he means is not quite clear to me. No woman *can* be condemned *against* her will to life-long widowhood, nor is it clear to me what he means by "a minor." I think if the provisions of the Hindu law be enforced, all evils, which Mr. Malabari wishes to remove, will be entirely swept away. No girl, who is a minor, that is, who has not attained the age of discretion or an age which entitles her to express her consent to cohabit with a man, viz., 10 years (*vide* Indian Penal Code, section 375), can, according to the Hindu law, be *married*. There can therefore be

no widow who is a minor. The same law lays down that a widowed virgin can be remarried as if she were unmarried, and as such she is not entitled to the estate of her first husband. If this principle of the Hindu law receives the sanction of the British legislature, I am certain that there will be no virgin widows in India.

6. Mr. Malabari proposes further that arrangements may be made to ascertain, in suspected cases, whether a widow has adopted perpetual seclusion voluntarily or whether it has been forced upon her. I do not think that there is any need to make any such arrangements. Moreover, any such arrangement will be unpopular, and in the long run will do no good but may do harm. Act XV of 1856 enables any widow to cease to be a widow at her pleasure.

7. Nor are the facilities proposed to be given to widows in the third proposal of Mr. Malabari necessary or expedient. So far as I am aware no widow has been compelled to continue a widow for want of a gratuitous service of a counsel, or from want of exemption from stamp-duty, or for fear of attending the courts.

8. Mr. Malabari wishes that it should be laid down that the priest has no right to excommunicate anybody acting in accordance with Act XV of 1856. This question at first puzzled me a good deal. At last I have come to the conclusion that the priest's excommunication is nothing more than the exercise of his private undoubted right, and to interfere with it would be illegal. The best remedy against excommunication of the priest is to show contempt openly, and neglect it. If men of common sense and education would do this, there would be an end to the priest's tyranny.

9. Sympathy of men of influence, whether Europeans or Natives, will, no doubt, tend to soften down the rigour of the priest's excommunication, and an association like the one proposed by Mr. Malabari may do good.

10. I beg to send six copies of a pamphlet which dwells on the aforesaid evils, and shows what remedies are necessary.

(Signed) R. RAGOONATH RAO,
Deputy Collector.

From T. PATTABHIRAM, Head Sheristadar, Trichinopoly Collectorate, to the Chief Secretary to Government, dated Trichinopoly, 5th March 1885.

As directed in G.O., No. 2480, 18th November 1884, Public, I beg to submit my views on the questions of "Infant marriage" and "Enforced widowhood" discussed by Mr. Beheramji Malabari in his papers which were read in G.O., No. 2270, Public, dated the 18th October 1884.

INFANT MARRIAGE.

2. Infant marriage is indeed a great evil and a source of social grievance. It is, however, a practice that is confined to Brahmans alone. In the Madras Presidency the Komatties, a very small section of the community, also follow the practice. Mr. Malabari's statement that "amongst the illiterate mass early marriage obtains most widely" is not borne out by facts which fell within my own personal observation. Nor do the census returns of 1881 support it. Among Brahmans, the only section in which infant marriage is the rule, the proportion of widows to the total female population in that class is 31 per cent.—*vide* census report of 1881, vol. I, page 94. In no other section of the Hindus this large proportion of widows is noticeable in the census returns, as it must be if Mr. Malabari's statement is correct. Among all castes of Hindus other than Brahmans and Komatties, infant marriages are rare and exceptional and not the rule. I do not deny that young men in India get themselves married earlier than those in the European countries; and so are the Muhammadans and Christians in this country. That is because of the climatic and other influences; and it cannot, I think, be successfully counteracted by any rules.

3. To make any attempt at putting down infant marriages among the Brahmans and Komatties can be of no earthly use until the restrictions of caste, the great stumbling block in the way of the progress of the Hindus, are annihilated, or at least so much

slackened as to admit of the introduction of such social improvements and reforms as may from time to time be considered by the leading members and by the educated section of the community as most essential to the happiness and comforts and morals of the nation. The high education which the Government have been at so much pains and expense to impart, the rapid spread of western ideas, the introduction of railways, the admission of educated Hindus in the circle of high principled and highly educated Europeans, the sympathy of the governing Englishmen for the natives of this country, and their anxiety from the highest of motives to promote the weal of the subject millions, are all combining to influence the feelings of natives and to counteract the restrictions of caste. They are all doing their good work in different directions. The prejudices of caste are gradually wearing away. The higher caste Hindus travel in the railways seated side by side with the lowest and non-caste people in the same compartment without evincing disgust or dissatisfaction as they are wont to do; and the sense of pollution by the touch of the lowest caste is dying away. The prejudice is giving way to necessity. In the railway platform there is neither room nor time for people to remember the scruples of caste. All are in great haste when the train arrives, and in the bustle the people have to elbow out their way in the moving crowd little caring for caste and its scruples. The educated higher class natives do not generally respect the restraints of caste, and they break through them whenever they are able to do so without offending the feelings of their own parents or their female relations. Their example is followed by the all-daring students of colleges and higher class schools. Those of moderate education who come within the influence of these are catching the contagion. The educated section of the Hindus may therefore be fairly said to be in a transition state. The seeds for the destruction of the influence of caste are sown in all directions, but they are just terminating and striking root. They are yet to grow, and it will be long before they could bear fruit. The non-education of the females is a great drawback. The influence of mothers, wives, and sisters is unspeakable at home. It acts like a spell even with the highly educated Hindu of the present day, whether young or old, and he finds it most difficult to break through the charm, and carry out his liberal notions. Times are, however, changing, female education is finding favor among all sections and castes of the Hindu community. The encouragement that is now being given to it both by the Government and by the Local and Municipal Boards and also by the Mission Societies is conferring immense benefit on the Hindu community. But this is only a millionth part of what yet remains to be done. It is, however, a question of time, and the most zealous of reformers must have patience. "Rome was not built in a day." Our mothers, wives, sisters, and daughters have to be taught to think and argue as we do before we can hope to disentangle ourselves from the fetters of that great bane of our society—the caste. The influence of the (மடாதிபதிகள்) matathipathis and of the educated orthodox Hindus over the higher caste society is another great social evil which has to be combated. That influence, however, I am happy to say is not now as all-powerful as it once was. It has been much curtailed during the past quarter century. Powerful and worthy reformers have come forward and are working away nothing daunted. It will, however, take a long a very long time before the evils of caste disappear. But it is not a matter for a just and humane Government to interfere with. The educated orthodox men and the illiterate mass of population who are guided by them will take it ill. They would look upon it as an interference with their liberty. Such an idea is but natural. The task of destroying the influence of caste should be left entirely to the leading members of the community and the spread of education and civilization. Until caste becomes a thing of the past, there is no hope of preventing the marriage of girls before years of discretion among Brahmans.

4. The most enlightened and the most influential Brahmans are themselves fighting the cause of infant widows. Although I for one feel convinced that the present system of binding Hindu females to be true to one love, is most conducive to the happiness and comforts of a wedded life, yet I fully sympathize with, and have actually joined, the party which advocate and encourage the remarriage of infant widows ever since its formation. For it is impossible, as I stated above, to hope to put a stop to infant marriage among Brahmans as long as caste is respected. If the practice now in vogue among other castes of Hindus of marrying females after years of discretion could be adopted among Brahmans, it would be a great victory achieved in the cause of civilization. But even the most sanguine of the Hindu reformers cannot but despair of such a change for many many years to come.

5. Mr. Malabari's suggestion for the interference of Government to put restraints on the marriages of students of colleges until they graduate themselves does not commend itself to me. It would, I am afraid, go to work in an unwatched direction and most mischievously. Early marriage with all its evil consequences has this one very great advantage, viz., keeping the educated young men, the flower and hope of the Hindu community, uncorrupted by immoral tendencies and temptations, and rendering them the guardians and protectors of female honor and chastity; for their marriage is consummated between 17 and 20 years of age, and this keeps them from any necessity for going astray. This most important advantage, in my humble opinion, far outweighs all the evils and disadvantages traced to it by Mr. Malabari in vivid and rather exaggerated colors. The interference of Government to check early marriages by preferring bachelor candidates for University examinations and for Government employments would not only deprive both the Hindu community and the Government the aid and influence of men of superior intellect and of very high principles, character, and qualifications, but also would seriously and disastrously check the improvement of the best intellect of the community and give a death blow to all morals among educated young men. I have thought out the subject and it is clear to my mind that as long as the marriage of infant females continues in vogue, interference of Government to put down early marriage among males would simply lead to doleful disasters and miseries to the Hindu community. How can young men, restrained by Government to wait long for their marriage, find their match among females in age, health, and temperament, to all of which some weight should be attached? How could the community or Government benefit when highly educated young men, thus tempted to wait, have to be wedded to young girls of 9 or 10 years old? Taking 22 as the average age at which a young man graduates himself in arts, he has to wait another two years, perhaps three to graduate himself in the law; and if he in his 24th or 25th year be wedded to a girl of 10 years old, the oldest girl that could be had, he will have to wait another four or five years before the marriage could be consummated. In India, generally speaking, 20 to 35 is the best age for conjugal enjoyments among males, and 15 to 30 among females. Thus the youth who took pains to cultivate his mind at great self-sacrifice, finds at last that the interference of Government has deprived him of two-thirds of his best age to enjoy conjugal life. It cannot be far from truth when I say that such angelic young men as would deny to themselves the pleasures of love, most natural in that age, must be few and far between. The generality of them would either take to harlots and contract loathsome diseases which might continue to make them miserable to the end of their lives, or offend honest families. Once steeped in this immoral and wicked habit the young men cannot well get out of it, even after their marriage. Morals will then be at a great discount even among the highly educated. The present high moral tone of the educated Hindus would be quite a contrast with Mr. Malabari's hopeful young generation.

6. The Government may prohibit, by a legal enactment on the score of humanity and justice, marriage under certain age both among the Hindu males and among the females. The presiding priest and others who assist in such marriages might be punished heavily. There will be a decided advantage in this over the proposed restraint to would-be graduates and public servants; for it would better secure the growth and health of both sexes, and save the community the shame and misery of infant and youthful widowhood. If the Government have scruples to such a measure as one interfering with the right and liberty of the subject, then the proposed restriction to the students of colleges and candidates to public service, is one that should be objected to ten times more strongly. I devoted my best thought on the subject, and the interference of Government to check early marriage among males in the way

proposed by Mr. Malabari, is, my humble opinion, would be one of doubtful policy, since it cannot in the least benefit either the community or Government.

7. "Impossibility of exercising free will on the part of those most concerned, the unhappy consequences of any physical defects or moral taint on one side or the other, and hopeless disparity of temperament or total or partial absence of physical adaptability" are enumerated as resulting from infant marriage. I need hardly say that those who care to give some thought to the above cannot come to the conclusion that those evils should result from early marriage only and from no other causes.

8. I, for one, do not much believe in young men or in young women being always happy in their choice. Choice after all is a blind guess, and is always more tempted or governed by symmetrical make and personal grace than by any insight into the quality of the mind and attachment of the heart. Nor is the latter a thing that could be correctly estimated by even the very superior and gifted intellects. If men of so much above the usual average run of mankind as Lord Byron, &c., fail in their choice, and in a society which allows free scope for many a private talk and personal intercourse between the young lovers, can there be any meaning in the high sounding phrase liberty of choice? Young men and young women, however shrewd they may be and however deeply piercing their power of testing the worth of the inner persons may be, and how much sobriety and patience soever they may use in making the selection, they are apt to be mislead, seduced, or taken in from their youthful impetuosity and madness of love. It is the personal appearance that at first captivates youngsters; the quality of mind and attachment of heart and other accomplishments the imagination of the lovers readily supplies. If in European countries where this liberty to youngsters is so much professed, parental control and direction is found most desirable and even necessary, what harm could there be in less civilized India to leave the selection to the more experienced eyes of the parents.

9. Castes and sub-castes limit the area of selection it is true. But how can the axe be laid at the root of castes, and how can infant marriage serve as an excuse to break the law of caste. Is the annihilation of caste so easy? No, the spread of high education and high principles among both males and females has to do the work, and it will be long, very long before the object can be realized.

10. The rest of the evils enumerated are more or less prevalent in the most civilized countries, and they need not necessarily be the result of infant marriage. Old men marrying young girls is an every day occurrence in England and other European countries with the results portrayed by Mr. Malabari. "The breaking down of health by too early nuptials, the boy-husband giving up studies, the birth of sickly children, the necessity of feeding too many mouths, poverty, dependence, &c.," are all true. But these, it must be remembered, are only exceptions and not the rules; for the proportion of such cases, even taking them very liberally at 20 per cent., is about one in a hundred of the Hindu population, because the Brahmans bear the proportion of $\frac{1}{20}$th to, or 5 per cent. of, the whole Hindu population. The picture is too darkly painted by Mr. Malabari, and his pen appears to have been carried away by his zeal for the amelioration of his countrymen. He speaks as if there are 40 million Hindu widows, while, according to the latest census, the figures is only $16\frac{1}{3}$ [16, 117, 135] (census of 1881, vol. I, page 88).

11. Mr. Malabari then believes in over-population in poverty in India, and argues if it is not the duty of Government to interfere to check this overgrowth, treating the question purely as one of economy. But he has not proved his case. Over-population in poverty in the sense he puts it, has no actual existence. The figures of the late census do not bear him out. Infant marriages, as I stated before and as admitted on all sides, is confined to Brahmans. Now the Brahmans bear the percentage of 4·94 to the whole population of India as detailed in the margin. The Brahman female population for the whole of India is 6,606,000. Of this 31 per cent. or 2,047,860

Census Report, vol. I, page 308.

Madras Presidency	.. ..	3·94
Bombay do.	.. ..	4·83
Bengal do.	.. ..	6·06
	3)	14·83
		4·94

are widows; $21\frac{2}{3}$ per cent. or 1,436,805 are unmarried. Thus both the unmarried and widowed females of the Brahman class come up to $52\frac{2}{3}$ per cent. of the female Brahman population, while in Europe the single and widowed females come up to 57 per cent. of the total female population there or $14\frac{1}{3}$ per cent. more (Census Report for 1881, page 94, vol. I). The result therefore is that even in that caste of the Hindus, where infant marriage prevails and in which there are the largest number of widows or rather spinsters, they (the widows) fall short by $14\frac{1}{3}$ of the percentage of spinsters and widows in Europe. Why should the misery of the infant widows of the Brahmans be more appalling than that of their sisters in Europe who take to celibacy? And how can over-population in poverty result when more than 31 per cent. of the female population of that section (the highest percentage known in the whole world) remain widows and unproductive. In the paper on the enforced widowhood Mr. Malabari rather inconsistently advocates remarriage of widows against his own theory of over-population in poverty. The total number of widows under 20 years of age is 60,000 (Census, vol. I, page 102). It is therefore of these 60,000 infant widows that Mr. Malabari's remarks refer, not to 40,000,000 as he has stated. These widows bear but the proportion of $22\frac{1}{3}$ per cent. to the total Brahman female population, and therefore they bear a proportion of only 40 per cent. of the spinsters in Europe who are 57 per cent. of the total female population there. Even when virgin widow remarriage (thanks to Messrs. Dewan Bahadur Ragunath Rao and Chentsal Rao), which has fairly commenced, becomes an established custom in the country, I am sure very very few would avail themselves of the license for many many years to come.

12. The details of the marriage ceremonies among Brahmans in the Vedic and Smriti periods are exhaustively and lucidly dwelt upon in a most thoughtful paper on widow remarriage by the Hon. Mr. Justice Muthusami Aiyar. When the circumstances of the state of society among the Brahmans in the Smriti and the Puranic periods are taken into consideration, one cannot but come to the conclusion that in the lawless state of the country at the time (when the rule, that might is right, was exercised recklessly and with a libertine spirit) the patriarchs considered it desirable to secure a guardian and protector to the girl before she bloomed into womanhood. While the future husband was certain of the virgin-purity of his girl-wife, the girl herself had the double protection of both her father and husband's families against seduction or mistakes which will embitter and poison her wedded life. Subsequent to the Vedic period (a period when the female had enjoyed the privilege of giving herself away to any young man she chose after her years of discretion) the patriarchs would seem to have introduced the rule of marrying girls before puberty, in view to keep the blood pure and eliminate all impurities from the Brahman stock. Whatever may be the present disadvantages (I freely admit there are many) of such a rule to the parties most concerned, it cannot be denied that it has had the advantage of purity of blood to which the patriarchs however mistakenly and selfishly appear to have subordinated the rest of the merits of that class and all their comforts and conveniences of life. Weak as the Brahman class is in physique as compared with the other classes of the Hindus, the superiority of their intellect as a class is most prominent and noticeable. This, I believe, is mostly due to the old patriarchal rule which kept their blood and stock pure and untainted. This, however, I speak subject to correction. The anxiety for the remarriage of virgin widows is confined to the highly educated and enlightened Brahmans. The orthodox would not encourage the idea. These men, who also carry the mass of population with them, put it down as unchaste and against sastras. Others are indifferent, although they feel that the reform will be an advantage and a step in the right direction.

13. The remedy of educating public opinion and setting it to cope with the evil and work the reform, Mr. Malabari condemns as almost useless on the ground that after so many years of toil a very small portion only of the Indian population have received elementary education, and that the influence of caste is too powerful even for men of enlightened and broad views to act up to their convictions. This is true. But how could caste be broken? What consolation is there in store for those who venture to

break it? They are cut off from their society directly they outstep the bounds of caste, and an end is thus put to all their good intentions to work the reforms and serve to benefit the society of which they were once the respected and highly esteemed members. Sir Comarasamy of Ceylon, Mr. Muthukrishna of Madura, Mr. Sabapathi Aiyah of Hyderabad, and his brother Meenatchi Aiyah of Bangalore are all so many instances of enlightened men acting up to their convictions and losing all chance of ever serving their community. The best remedy, in my humble opinion, is the education of public opinion, and I am glad to say it is working fast among the very class where infant marriage is the rule. They are the highest castemen and, they have been and continue to be the guides of the rest of the Hindus. The best educated and enlightened of them have to combine and work unanimously. And this is being done at present.

14. Mr. Malabari next refers to an obnoxious custom of the parents benefiting in the shape of lump sums by consenting to give away their daughters in marriage to old men. This inhumane practice, I am sorry to say, is also prevalent among certain sections of the Brahmans (Kaniyalars and Aiyangars) in the Madras Presidency. Money is usually demanded from the bridegroom, whether young or old, as a present to the bride on account of jewellery. It is usually demanded in so many seers of gold. If the bridegroom happens to be an elderly person the rate is doubled, trebled, and quadrupled according to the would-be husband's age, wealth and social status. Rich families of course are so many exceptions to the rule. When the bride's parents are too poor to bear their share of the marriage expenditure, that has also to be paid by the bridegroom. I quite agree with Mr. Malabari in thinking that a ruling, such as he suggested, is very desirable. An enactment laying down a rule that money received from the bridegroom, save and except that which is paid for the marriage expenditure, should be safely deposited in the bride's name and exclusively for her use, will, I believe, not only be a great boon to the poor infant victim, but will also serve as a wholesome check against inhumane parents thus sacrificing and selling their female children for their own benefit. It is a fit subject for the interference of Government.

ENFORCED WIDOWHOOD.

15. I fully sympathize with the feelings given expression to by Mr. Malabari in his paper on the enforced widowhood. The evils that he has put forward are not untrue, although they exist rarely and exceptionally only among the Hindus as among all other nations. But the remedies he has proposed cannot be of any avail although the Government may give effect to them. They will all remain a dead letter as indeed does Act XV of 1856 to this day remain.

16. The first rule he proposes is "that no Hindu girl, who has lost her husband or her betrothed, if she is a minor, shall be condemned to life-long widowhood against her will." In the first place I ask what is it that condemns a Hindu girl to life-long widowhood against her will? It is her caste. Then until caste is done away with no Hindu girl could ever think of coming forward to express her inclination to be remarried; and therefore the introduction of this rule is rather too premature, in the present state of Hindu society, to be of any use whatever. It is a thing to be left entirely in the hands of the Hindu reformers. The reformers at Madras have succeeded in bringing about the remarriage of infant widows in many instances. They have commenced fairly well, and they had better be left to work out their reforms themselves.

17. His second rule is "that arrangements may be made in suspected cases to ascertain whether a widow has adopted perpetual seclusion voluntarily or whether it has been forced upon her." I ask whether this is possible. What is the status of a Hindu widow according to the Hindu law as it at present stands? If she is the widow of a divided member, she has the sole management of her property. If she is the widow of an undivided member, she is entitled to maintenance from the family funds. In the former case if she means to remarry (I speak of widows whose marriages have once been consummated) whom is she to marry? Her own caste man will refuse to

marry her. But if he does marry, both of them will be excommunicated. So they lose caste and with it the sympathy of the community to which they belong. This cannot be helped. She has her property and the love of her second husband secure for what she may lose. When a widow resolves, in spite of loss of caste, to remarry, she is at liberty, even now, to choose a husband who is willing from any section of the community. The real difficulty of marrying her own caste man lies (1) in finding one who is willing to marry a widow, and (2) in getting Brahmans to solemnize the marriage according to the rites of her caste and religion. All the mantrums (Vedic or Smriti phrases) and ceremonies have as yet to be modified and fitted up for widow marriage. As it is, she may have to change her religion and adopt one which readily permits and solemnizes remarriage of widows. To a Hindu caste widow who makes up her mind to resume her married state at the risk of caste, religion and the affection and society of her relations, there now exists no obstruction to marrying a caste Hindu if she succeeds in finding one who is willing, or a Christian or a Muhammadan. In the case of a widow of an undivided member, if she chooses to remarry, she loses her right for maintenance. In her secluded state it is true that she could hardly be able to select a match for herself, or even give expression to her desire to be remarried. How could the Government help her out of the difficulty? Can the proposed rule mend matters. In my humble opinion it cannot, but be a power for abuse with the authorities.

18. His third rule is "that every widow of whatever age shall have the right to complain to the authorities of social ill-usage (over and above excommunication), and that proper facilities shall be afforded her for the purpose, such as the gratuitous services of counsel, exemption from stamp duty, attendance at court, and so on." What social ill-usage can she complain of? If she is not asked to dinners, and if her caste people refuse to dine with her, how can the Government punish such acts? What other social ill-usage is meant here such as could be prosecuted under criminal law, or sued for damages under civil law, I do not understand. If the right of the society to excommunicate is admitted, nothing that can be called social ill-usage can be punishable. She will have to purchase society and its sympathy as indeed she must do her other comforts and conveniences.

19. His fourth rule is "that the priest has no right to excommunicate the relations or connection of the parties contracting second marriage besides excommunicating the principals." If the right of a priest to excommunicate is recognized, with what consistency can the Government declare that the right should be exercised only in such cases and not in others. The authority of the priest over the society is a matter of moral and religious obligation on the part of the members of the society. They may obey or disobey such an authority as they choose. There is no legal obligation. Parties who are unwilling to obey the priests or matathipathis can do so without the interference of Government in the matter. Parties contracting second marriage against the conventional rules, are, by their own act, getting out of the pale of the authority of the priest and the community. I therefore do not see what necessity there is, in the interest of the parties contracting second marriage, for the Government to interfere with the authority of the priests which has already been set at defiance by them without the aid of Government. In my humble opinion there is no necessity for the proposed rules and the community cannot hope to benefit by them as explained above.

(Signed) T. PATTABHIRAM,
Head Sheristadar, Trichinopoly Collectorate.

ORDER—dated 24th September 1885, No. 2249, Public.

Ordered that the following letter be despatched to the Government of India:—

(Here enter No. 2250, dated 24th September 1885, Public.)

(True Extract.)

W. WILSON,
for *Chief Secretary.*

Exd. A. Aubert.

Govt. of Madras. (1885)

PUBLIC.

Issued

Read. Encl.

G.O., 24th September 1885, No. 2249.

SEPTEMBER.

Infant Marriage and Enforced Widowhood.

Communicating to the Government of India the opinions of this Government and of certain Native gentlemen who were consulted, on the subject of —

Memorandum.

Mr. Ilbert's address to the Government of India on the subject of infant marriage and enforced widowhood suggests that certain measures be adopted by the Government with the view of checking the evils complained of. On the importance of those evils the opinions of the gentlemen consulted by the Government will throw much light. I have no doubt that in a matter like this affecting as it would do the social well being of a large section of the population of India the Government would be anxious to secure the opinion of gentlemen other than those specially mentioned for consultation so as to obtain the fullest possible light bearing thereon upon the subject in all its bearings. For this reason I venture to beg the Government

[illegible] for persons desirous to bring
forward and suggestions on
the matter before them trusting
that an expression of opinion
on their part would be
not be altogether unwelcome.

Mr Mallaby remarked
that of all protected varnish
on the Market at discharge of
amount to an assertion that
infant marriage has been the
bane of the Country leading to
divorce and misery among
the married Couples in after
life. In his opinion it had a
most demoralizing influence
upon the Social well being of
the people. As a remedy for
the evils he suggested the stop-
page of the Government —
holding out inducements to
those young men who Come
in Contact with it by showing
preference in the distribution
of official patronage and
academic honors to unmarried

young

young men.

The Government Servants
could not have failed to notice
that recently there has been a
movement set on foot under
the auspices of enlightened
and liberal minded native
Gentlemen for the purpose of
bringing about a reform in
the existing marriage institutions
of the Hindus and for the
emancipation of Hindu widows
from the shackles of Customs
which prohibits the re-marriage
Gentlemen like Dewan Bahadur
Ragoonada Rao & Sheridan
Rao Saheb remark labours
with Commendable zeal &
and earnestness in furtherance
of the Cause & by the publication
of tracts and pamphlets have
endeavoured to convince
their Countrymen that the
union effected between a
boy and a girl by the marriage

rite

however has gone so far as to have led to the Solemnization of a number of re-marriages according to the Vedic ritual in the Northern Districts of the Presidency. A good beginning has thus been made although re-marrying orthodox looks upon it as an innovation unsupported by the sacred texts and as an act subjecting the parties to the ban of excommunication. And no advantage can be taken of this by giving additional facilities by remodelling the provisions of Act XV of 1856 as would show further on

This is not the place for discussing questions of this kind in their religious aspect and my object in referring to the subject is merely to show that in this opinion

opinion of the orthodox, who, by far,
form the majority of the people,
the Shastras make it imperative
that the marriage of a girl
should take place before
she attains her puberty and
that there can be no postpone-
ment of the ceremony without
incurring the risk of social
degradation and forfeiture
of caste. The caste rules are
characterized by a degree
of bigotry and intolerance
that marriage of a girl of
one caste with a boy of
another is not permissible.
Each caste is again subdivided
into so many sections that
the field for selection of brides
& bridegrooms is really very
limited. Among Brahmins
there are many subdivisions & the
members of one division
are

are not permitted to step out
of the limits of their social
circle in regard of boys & girls.
So is the case with the non-
Aryan or degenerate classes of the
Hindu population.

Referring to the census
Statistics of 1881 it will be
found on a comparison of
figures that ~~amongst the~~
~~Brahmins~~ the custom of early
marriage is prevalent specially
among the Brahmins. To quote
from the census Report "Some
are married before 7 and
nearly all are married before
10. The figures suggest
that between 6 & 7 is the
average age of marriage
for females among Brahmins
This has the natural result
of a high percentage of widows
and we find that nearly one-

are one-third of the Brahmin women are widows. But of every 15 Brahmin women of all ages 3 are not married, yet married & are widows - and widowhood is remedy-less. There are proportionately 50 per cent more widows among Brahmins than among other castes. This surplus may be wholly attributed to the greater extent to which infant marriages occur among Brahmins than in the other castes. Of the other castes certainly one-third, probably a larger proportion of the number of Brahmin widows are widows owing to their custom that is the law of Brahmin's countenances infant marriage only to the extent that other castes do there would be nearly 60,000 fewer unhappy women in their caste, the total figures show that there are 80,000 widows under 20 & the foregoing remarks suggest that Brahmin custom is responsible for three-fourths of this. From this it will be seen that out of a total of 80,000 widows under 20 - 60,000 belong to the Brahmin caste & 20,000 only to other castes. When the proportion of Brahmins to the entire Hindu population is considered it will become patent that among Brahmins alone infant & early marriages are celebrated in a reckless manner & that the non-Brahmin classes are not much addicted to the Custom.

The restrictions which the religion at present under-lies or more properly caste rules impose upon the marriage institutions

of the Country naturally tend to
prevent and to restrict within
narrow limits the field for
selection and leaves the
parents no option in the
matter but to select at the
earliest opportunity the best
girls available for marriage
to their boys. As a result over the
whole the Hindu Community
and hence unfortunately early marriages are brought
about. Whatever may be
the effect of such unions
on physiological points
of view, I do not think
the statement is true that
such unions result as a
rule in misery and poverty.
In the Course of my experience
I have seldom come in Contact
with a Couple who felt unhappy
merely because their union
was brought about in the
Young

Young ages.
Early marriages brought
about under the discriminating
& fostering Care of Hindu
parents have not failed to
lead to happy unions securing
to the married Couples social
& domestic felicity.
The Hindu mind
so much imbued with tra-
ditions & feelings as regards
the efficacy of ceremonies
for their spiritual benefit
attendeth that he always
has a hankering after what is
termed a
blessing) the birth of sons
and daughters. He seldom
fancies to determine the
Connubial consequences
of married life and seldom
does it occur to him
distinctly to sustain the
increasing cares & the growing
needs of the large family. He
would have a son or else he

[illegible] recommended by decree
of the Lawgiver of the Folk called
Paths. [illegible] Slaves already obtained
the unalterable Condition of
their adopted Parents to which
he attributed the Fact
of their having been married
at an early Age. Short Leave
from Service, Loss of Wages
Friends Parents Guardians
and other Persons Concerned
where Freedom of Choice
and Liberty of Action are
enjoyed in the highest degree
by the Contracting Parties
marriage is a Lottery in which
more Blanks are known than
Prizes. The Reason of the
unhappy Condition of some
married Couples is to be
sought for in a Consideration
of the imperfections of human
nature such as incompatibility
of

temper Adversity of Taste
Congenital deformity and the
like. A real reform in the
marriage laws of the Hindus
must therefore be initiated by the
Hindus themselves and no
amount of Legislation however
wise can have the effect
of disabusing the minds
of the adherents of the inveterate
prejudices superstitious religious
sentiments with which they are saturated. Mr Malabari
does not address legislation and
early marriages
with reference to for it would
compromise the policy of
neutrality which the Govern-
ment has avowedly maintained
with respect to religious
matters by regarding the
people's cherished popular
and living religious sentiments
as

sacred

[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]
up to the present [illegible]
the principles of [illegible]

The Government have established
Girls' Schools and [illegible]
a Thousand [illegible]
to determine [illegible]
and these Conjointly with the
Philanthropic action of
Voluntary associations
must in [illegible] of time lead
to a total [illegible]
desired before. If the
Government pursued [illegible]
to give the necessary authority
& direct the [illegible]
suggested by Mr Malabari
there would be no [illegible]
interference of the State in
any question & the Government
might find itself confronted
by questions of a [illegible]
nature.

Unless I misstate what
I mean by saying we are
the Guardians of the figures
of Malabar Law and Custom &
practice & Law of all the
Universities of which are
incompatible to foreign
Rulers the Customs and
Manners of the Malabar
people have grown into
stood so much so that the
want of permanence in
the marriage tie has been
held to be the result of
polyandrous practice or
speculative writers on the
subject have gone so far
as to assert that the so called
polyandry of the Nairs affords
an instance of that type of
society in its
[illegible] nature. Taking
these as the [illegible] types
and as the [illegible]

[illegible] ancient times the practice
of polyandry was however to
some extent in force among the
[illegible] inhabitants of Ceylon on
the eastward marches in the path
of early civilization and is supposed
to have been displaced by a
form known by the name of
the Levirate. This is a practice
according to which the widow
of a person is married by his
surviving brother and among
the Aborigines it is considered
to be a moral duty due to the
memory of the deceased
brother even according to
Hindu Law the practice
seems to have had the sanction
of the Rishis & Sages and
in this the text of the Law
authorizes the procreation
of children upon the body
of a wife by her brother-in-law

This

[illegible] the nature of the
[illegible] the marriage
[illegible] to, where can be
[illegible] that constancy of
[illegible] conjugal fidelity
[illegible] virtues. So much respect
[illegible] honored among them
[illegible] among any other nation.
But to return from the
[illegible] the intelligent
[illegible] section of the
[illegible] community have set
[illegible] a movement to effect
[illegible] change in the marriage
[illegible] laws of Malabar. But the
[illegible] so great that
[illegible] before a jewible giving
[illegible] the chair wife a distinct
[illegible] station in the family of her
[illegible] husband. Should the
[illegible] reformers seek the
[illegible] of the Government in the
[illegible] manner suggested by
[illegible] Malabaric will the Government
[illegible] prepared to counteract the

[illegible] the

[illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible]

for College for general education in matters relating to the natural economy of our Province in the suggestions offered by Sir Swabbart for discouraging unfortunate marriages are unpracticable, & if carried out are more likely to inflict hardships upon the educated and intelligent section of the Community & to leave untouched prejudices.

But as they are enforced much will depend upon something may be done. If none of these already been made in this direction by the framing of the Widows Remarriage Act XV of 1856 which now and Enabling Act. But the Act has hitherto been a dead letter & has fallen short of its object. The decisions of the Indian Courts have

I regret to say had the effect of neutralizing what little good was calculated to be done by the passing of the Act.

In every solitary & inconsiderate marriage question arises as to whether a Hindu widow forfeits her right to hold possession of her deceased husband's property by reason of unchastity and of which remarriage is one. The property she was guilty after the has vested in her the intention Such Court decided that unchastity incurred after the vesting of the property was not disqualification to hold possession and this decision was not concurred in by the late Justice Dwarakanath Mitter in whose opinion it was a forfeiture disqualification It was confirmed by the Privy Council (vide Indian Law Reports vol v 778 Calcutta Series Lord Hobhouse since been

been followed by a petition of the County of Dublin praying for a more stringent and effectual provision for the maintenance of deserted wives and children, and for the punishment of aggravated assaults on women by their husbands. The Act of 1856 was passed in accordance with the prayer of this petition, and it has undoubtedly had the effect of checking to some extent the practice of wife desertion. But it has failed to reach the root of the evil, which is to be found in the fact that the husband has the power to squander his wife's property, and that she has no power to protect herself against him. The Act of 1857 was passed to remedy this defect in the Act of 1856, and to enable a married woman deserted by her husband to obtain a protection order for the benefit of herself and her children, and to secure to her the earnings of herself and her children, and any property she may become entitled to, after the desertion, against her husband or his creditors, or any person claiming under him. The Act of 1857 has been found to work well, and to afford a protection to deserted wives, which they much value

3/55

what I have said I think it would be unreasonable & impolitic on the part of the Government to show partiality in the distribution of patronage to unmarried young Men, that such a course would only affect the educated & intelligent section of the Hindu Community & unfitted hardship upon them. The Act XV of 1856 ought to be remodelled so as to afford additional inducements to such of the Hindu Widows as may really desire to break caste rules and re-marry

I have &c
Chandra Mohun Chatterjee
Calcutta
1st January 1885.

33

34 52 P.

Social, moral, intellectual & physical well being of the society. It is however gratifying to find that there is a strong reaction in the minds of the educated Classes in this matter & the percentage of such marriages is on the decrease.

There can also be no question of the vast miseries caused by enforced widowhood, but it is hard to believe that that an order of things affecting a Considerable portion of the female population should have been the outcome of mere Caprice of the stronger sex.

It is indeed very desirable, nay, necessary to see from time to time what measures might be adopted to Communise these evils if not to eradicate them. But it is not desirable that the peculiar Circumstances of this Community should be lost sight of & popular opinion, however unreasonable it may be Considered to be by the go-a-head Reformers repeated in a Consideration

of

35

35 5 11

of these questions & that changes entirely out of harmony with the feelings & even with the prejudices of the people should be suddenly introduced. Direct legislative interference on such socio-religious questions, if I may use such a term, will not be viewed with any favour by the masses & such interference is more calculated to retard than promote progress.

Holding these views I must prefer improvement from within to interference from without.

Already signs are visible that the attention of the people is being directed to these questions & I have no doubt that in course of time a satisfactory solution of these difficulties will be arrived at. I do not think the Government will be well advised to interfere actively with such usages by legislation. At the same time I do not see any objection to indirect encouragement on the part of Government.

I certainly think with Malabari that

36 30 54 P

that the restriction to Confer University honors to unmarried ones will have a deterrent effect on early marriages. I would even go a little further and recommend that no boys under sixteen be allowed to appear for any University or public examination if he is already married. This restriction will at one blow remove the evil. As to the question of enforced widowhood I must confess I am not in a position to suggest any thing radical which would ameliorate the condition of widows. I think every thing would have been done to minimise the evil if the suggestion for indirectly enforcing the post-ponement of the marriage of boys till after sixteen is adopted. It is unlikely that parents of boys will let Married to "infants" It may safely be asserted that in Course of time the chances of young girls becoming widows would be Considerably reduced. The thing first to be attended to

a Hindu to execute public opinion in the Country to recognise (as it did once) the propriety of marriages of girls after puberty among the classes where such marriages are now disallowed. Alienation by will by a Hindu Coparcener of his undivided Share to provide for his wife daughter and sister is I believe not legal and I think the aid of the Legislature can be sought for to legalise it. This rule will much tend to improve the position of women by making them far less dependent on their male relations than they are now.

The modification which has already been introduced by decided case in respect of alienations by Coparceners is so great that the granting of testamentary power recommended will not be looked upon as an undesirable innovation.

If only remains for me to say that personally I cannot take any serious exception to the suggestions of Mr. Malabari in his second Memoranda

Nicaragua, but it is doubtful whether
they are likely to be available for the
present circumstances of the Society.

I must apologise for the liberty
of the delay and also for the shortness
of the reply.

I have the honor. to be

Sir

Your most. obedient servant

S. Salmon

Pueblo

From Salamanca Key

Yakul H.C.

SECRETARY

S.S. 1.05

H.F. 1.85

Patent Applied for

Specification in such
Marriage & Inspired Widowhood

Public

No. 62

To The Secretary to the Government of Madras

Sir,

I am directed to invite attention to the communication marginally noted,* and to request an early reply thereto.

I have the honour to be,

Sir,

Your most obedient Servant,

F Dawkes

Under Secretary to the Govt. of India.

Madras, 15th January 1885.

To,

The Chief Secretary to Government.

Sir,

With reference to G. O. dated 18th October 1884; No. 2270, Public, I have the honor to submit the following observations on the proposals of Mr. Malabari in the matter of infant marriage and enforced widowhood in India.

2. Mr. Malabari has sent me a supplemental note containing revised and amplified suggestions on the subject which I beg to enclose.

3. I do feel that infant marriage and enforced widowhood are evils and serious evils too, but I do not see my way to advising the Government to interfere in the matter, directly or indirectly. While any such interference can be productive of no beneficial results, it is sure to shake the confidence of the people in the neutrality of Government in religious matters and create a reaction in favor of the very evil which it is our

Mr Malabari proposes

4. In order to discourage infant marriages Mr Malabari proposes that no married student should be eligible to go up for the University Examinations. In the first place, the number of persons that would come under this rule will be exceedingly small, and even if it were considerable, it is extremely doubtful whether the result would be a benefit to the country. According to custom which is regarded, I think erroneously, as the law, every girl has to be married before she attains her puberty and if she is not so married she loses her caste. Girls in this country usually attain puberty at 12 or 13 and sometimes even so early as 11 so that the latest period after which a girl can be safely kept unmarried is 10. If within that period she cannot get a suitable bridegroom, she will have to be given to such a one as could be had at the time. So far therefore as women are concerned the rule proposed could make very little difference

difference, it being of very little consequence whether a girl is married at 8, 9, or 10 — In regard to boys however the effect of the rule will be that they will have to marry girls of 9 or 10 when they are 21 or 22 the age at which they usually take their degree instead of their marrying girls of 8 or 9 when they are 16 or 17 years old as they do at present. This no doubt puts off the consummation of marriage so far as males are concerned from the ages of 20 and 21 to those of 25 and 26, but I am not sure whether in a climate like that of India, the change will prove a real blessing. In my humble opinion it is far better that a boy of 16 or 17 years marries a girl of 8 or 9 than that a youth of 21 or 22 years marry a girl of 9 or 10.

5. Mr Malabari suggests that steps of Departments should devise means similar to those above mentioned. To be evidently means that employments should not be given to married men

when

[illegible] unmarried girls should be searched
are to be found. Should these females
out [illegible] the providing force, cannot
result in [illegible] any offensive goal, while
the arrangement might simply give
room for people to bleat upon
Government with [illegible] as
anxious to interfere [illegible] indirect
manner with religious and
social institutions. I think that
if Government is to interfere at all,
it must do so openly and by legis-
lation, and not by such indirect
methods.

6. As regards marriage of
infant girls with old men, certainly
I think it is a matter in which
Government can interfere without
provoking the slightest suspicion
in the minds of intelligent natives.
I have known cases in which girls
of 8 or 9 years have been given in
marriage for the sake of money to
men of 60 years, but such cases are
so very few that the interference

of Government is hardly called for.
If Government is to interfere at all
it must be by legislating that such
marriages are illegal.

7. The practice of fathers
receiving money from persons
to whom they give their daughters
in marriage is common among
certain classes of Brahmans,
but I doubt whether it could be
stopped by any such rule as has been
suggested by Mr. Malabari, or
ended by any legislation. If Govern-
ment is declared illegal it will be
made secretly. The remedy entirely
lies in the advancement of civilization.

8. In this part of the country
there are but very few cases in
which elder girls are married to
younger men and the matter hardly
calls for legislation. I have heard
of such marriages only among
the goundens of Coimbatore.

9. As regards widows, Mr. Malabari
makes 5 suggestions. (1) That arrange-
ments be made to ascertain whether

a

a widow has adopted seclusion voluntarily or not, and facilities be afforded to her to complain of the outrages any social illtreatment (2) that the priest be deprived of the right to excommunicate the relatives and connections of the parties contracting second marriage (3) that the marriage ceremony be made as inexpensive as possible by ruling that 2 or 3 declarations before a Magistrate may constitute a marriage, (4) that the Government be pleased to make an annual grant for a few years to the widow marriage funds, and (5) that increased educational facilities be afforded to widows. With reference to these suggestions I beg to note that widows in this country do not receive any such illtreatment as they cannot get rid of without any special aid from Government, if they choose to do so, nor are marriages rites so expensive as to prevent widows from marrying. The 1st and 3rd proposals therefore seem to me to be unnecessary. The real difficulty is the fear of excommunication, which not only degrades

60 P.D. 3

degrades the man excommunicated in the eyes of his fellows, but also has been to very great inconvenience since he cannot easily get caste servants and priests for performance of ceremonies which cannot be given up without loss of caste. If the priest can somehow be deprived of the power to excommunicate parties marrying a second time or at least their friends and relatives who support them, the advantage will no doubt be very great, but I do not see how Government can interfere in the matter. It would be contrary to all principle for Government to tell the Priest that he ought not to advise his followers to do what he himself thinks to be right for his spiritual welfare. No doubt grants of money to the widow marriage fund will to some extent remove the hardship of excommunication and encourage & support the reform poor men to come forward, but it is highly doubtful whether Government would be justified in spending money raised by general taxation on such matters as these. Education imparted to widows may also be productive of some good, but in the present state

state of society, I do not think that widows will avail themselves of any facilities which may be created for their education. The only chance of success lies in the frigid reflection of Government, and even for the people and the educated classes in particular it is hard and bitter to tear their sister from the midst of all the usage of the country has imposed upon them.

I have the honour to be,
Sir,
Your most Obedient Servant
Malabarius

INFANT MARRIAGE IN IND[illegible]

NOTE II.

WITH SUGG[illegible]NS REVISED AND AMP[illegible]D

In continuation of my note, dated 15th August, on the subject of Infant Marriage and Enforced Widowhood, I have now to submit the following points for consideration :—

I. That my statement has been accepted as being generally correct, and that several of my suggestions have commended themselves, partly or wholly, to some representative Hindu gentlemen and responsible Hindu journalists. It may be added here that a few of these have actually suggested direct legislative action as chief remedy for the evils under notice.

II. That it has been shown that Infant Marriages contribute very largely to compulsory Widowhood.

III. That Infant Marriages form no part of a religious institution in India.

IV. That the nominal marriage of a Hindu girl is not insisted upon either by her religion or caste much before puberty; and that even after that period the girl is fit to be married on performing certain expiatory rites.

V. That according to Shastras no Hindu male may marry before he has gone through a prolonged course of moral and intellectual discipline. This condition places him between 20 and 30, and it also naturally implies that his wife should be much above 12.

VI. That in spite of this salutary rule the fashion of child marriages has become "all but universal" in modern India—in some castes as many as 60 to 80 *per cent.* of girls being found prematurely married.

VII. That the educated classes and all sensible Hindus generally deplore the evil results of the custom, but in the absence of some AUTHORITATIVE REGULATION they are quite unable to help themselves. It is too much to expect individual reformers in India, with their peculiar habits and usages, to discard a deep-rooted and wide-spread custom where the area of selection in a caste is extremely limited, and where both parties to a contract of marriage are seldom or never of the same mind as regards the disadvantages of the custom. In some castes the leading members have tried corporate action, but without avail. For instance, a society was formed at Ahmedabad a few years ago, the members of which pledged themselves not to marry their children under certain fixed limits of age. But as there was no binding agreement, no real and uniform *bandobast*, and as breach of faith involved no inconvenience, the volunteers, many of them earnest and sincere men, fell away when their turn came for action.

VIII. That this being so, it is desirable that the State should co-operate with Society to some extent, at least in the initial stage of reformation; that it should lend the cause the weight of its moral influence, should invite the confidence of representatives and otherwise aid them in their struggles for self-improvement. Such action is quite competent to the State: in public interests it can and ought to co-operate with the people so far without resorting to any form of "Interference" rightly understood.

IX. That Infant Marriages lead to a variety of mischiefs. They may lead to unhappiness, and they do lead to suffering in the case of women and to early widowhood; they

lead to [illegible] and deterioration of the race. I submit that the State is bound to deal with [illegible] of these public evils of the evil.

X. There are two methods of action, *first*, to discourage the practice, and *second*, to encourage [illegible] up matters. In regard to the former (*a*) I propose that, after due notice, the University (which is not Government) may declare the married candidates ineligible for matriculation, and the [illegible] and Scholarships may be likewise refused to [illegible] students at College. The head of Public Departments may prefer the unmarried candidates to the [illegible] qualifications being equal. This second proposal may not need [illegible] too. I would gladly avoid it if a more feasible alternative could be [illegible]. I cannot help observing that even this proposal, as it is, does not fall [illegible] ultimate definition of the word Interference. If parents and guardians claim to [illegible] their minor charge at any age, is not the State also free to exercise its patronage to the [illegible] consistently with its principles of public morality? Government do not [illegible] physically or morally incompetent persons, however pitiable their circumstances may be. In the case of girls who are minors, and not a few of them [illegible] the duty of the State to protect their interests becomes imperative. It is not, therefore, on grounds of justice, but of practicability that I am induced to view this proposal with diffidence. A practical suggestion elicited in the course of the present discussion is worth mention here—that children may be betrothed at any time, but that on coming to years of discretion they may be given the opportunity of ratifying the contract previously entered into without their assent.

My other method (*b*) is that special inducements may be offered to grown up pupils at school, especially to girls, in the shape of scholarships, prizes, medals, &c.

Referring again to suggestion (*a*), I may be permitted to enumerate a few cases with which the British Government has been constrained to deal in a public manner. And though all these cases are not exactly parallel, still they fall more or less under the same category, the difference being more of degree than of kind. The results of a child marriage, are almost as inevitably [illegible]ous as of many other social customs in India which the British Government has already put down: in some points the result of such marriage [illegible] more [illegible]. We have, for instance, Compulsory Vaccination. Defiance of the Vaccination Act, or even neglect or omission to take the benefit of it, has been made penal. Students and applicants for State employment are required to produce the Vaccinator's certificate. Then, during epidemics, patients, of whatever caste, are forced to take hospital medicines. Again, we have the Coroner's Inquest in cases of accident and of suspected crime. All these measures are extremely repugnant to the religious sense of the community, and none of them was asked for by them or their representatives. On the contrary, their introduction was bitterly opposed by the majority. And yet, in the interest of the people these measures had to be forced upon them under specific penalties. There was State action of the same kind, apparently more arbitrary, in the suppression of *Sutti*, infanticide, self-torture, lotteries, gambling on holidays, and other religious practices, so-called. Slavery and the traffic in human beings had similarly to be put down with a high hand, though we know that in some cases the slaves themselves, no doubt under inspiration from their masters, declared for bondage in preference to freedom, and though such selling and buying was alleged to have the sanction of religion amongst some nations. A Government, which has done so much for the happiness and advancement of mankind, shows strange inconsistency in declining to act in the present case as supreme guardian of the interests committed to its care. If it waits for the entire population to be sufficiently educated to help themselves, or to apply for aid from without, it lays itself open to the same charge of inconsistency. The Parsi Act, the Brahmo Act and other legisla-

tive measures to regulate inheritance, succession [illegible], were not undertaken at the instance of entire communities or even all their leaders. Thus, then, guided by the light of its own past experience the least that the State should do in this matter is to co-operate with enlightened public opinion to the extent above indicated. The practice of Infant Marriages has taken deep root in the [illegible] and the efforts of private individuals by themselves will never dislodge it. [illegible]m is like a chronic disease too obstinate to yield at once and to single remedies. Determined and sustained action alone will cope with it successfully.

At the end of my first [illegible] Malabari I have called attention to two seriously objectionable forms of the [illegible] noted among this [illegible] men and grown up girls married to boys. Is it too much [illegible]owhood, in Society and [illegible] State to protect minors from such obvious injustice?

BEHRAMJI M. MALABARI.

Bombay, 23rd October 1884.

ENFORCED WIDOWHOOD.

NOTE II.

[WITH SUGGESTIONS REVISED AND AMPLIFIED.]

As to Enforced Widowhood it is in some points a more difficult and a much more delicate question to deal with. Nobody wishes the young widow to be remarried by force. Only let second marriage be optional with her. This justice has already been accorded to woman under Act XV of 1856. But though the British Government in India has made the remarriage of widows perfectly legal in theory, practically the enactment brings little relief to them. In effect it leaves the widow very nearly where she was before; and by betraying its own weakness, it upholds the pretensions of caste. The struggle between the two parties as unequal as ever, has now been rendered doubly sharp. This conflict appears to be incompatible with the avowed object of the Legislature, and it may ruin the cause of reform. The Code sanctions the remarriage of widows. But Caste tears up the sanction with vindictive zeal, and visits with its severest displeasure all those concerned in an act sanctioned by the law of Nature and confirmed by the law of the land. Europeans cannot realise the full meaning of "excommunication" in India. It means the snapping of cherished domestic ties, the upsetting of close social relations for an essentially home-loving people, the forfeiting of everything that makes life bearable. Let the Courts call upon the Punchayet to show cause for its action wherever it is found to be vexatious, affording some facilities to the victims at the same time; and excommunication will lose half its terrors. Such a step, necessitated by the [illegible] advance made in 1856, will curb the recklessness of the strong and breathe a sense of security into the weak. To add to the difficulties in the way of widow marriage there are the expenses. The priest will not officiate at the ceremony for his usual fee. In view of these and other difficulties I now submit the following revised suggestions:—

I. That, if possible, the widow be helped to a handsome allowance from her husband's

effects, so as to make her independent of those whose interest it is in many cases to keep her a widow all her life.

II. That in the interests of widows ill-provided for, the marriage ceremony be made as inexpensive as possible, for instance by ruling that two or three declarations before the Registrar may constitute marriage.

III. That Government may be pleased to make special grants for a few years to a Widow Marriage Fund, and of the more enterprising

IV. That special educational facilities be provided for widows, to enable them to qualify themselves as school mistresses, lady medical practitioners, and nurses.

It would be wrong, I submit, to look more, or at least entirely to the benevolent efforts of individuals. Such efforts may have succeeded in European countries where society is more or less compact and homogeneous. But in India, with its innumerable sects cut off from one another by wide difference in locality, language, and other kind of national unity, and where social life is regulated by the *ipse dixit* of an intensely conservative and irresponsible priesthood; where men's minds cling to the glories of the past too tenaciously to be diverted to the more glorious possibilities of the present or the future; spontaneous and self-helping progress is, to my thinking, impossible. It is necessary, no doubt, that social leaders should pave the way for action on the part of the State. But at the same time it is equally necessary, I hold, that the State should brush away obstacles in the path of progress, listen to the reformers' call for succour, approve and encourage their appeal, and in short, show itself ready to guide the steps of a nation struggling in second childhood. This has been the character of British administration in India, and this spirit of statesmanship shall have to be maintained if Britain wishes to vindicate her moral supremacy. Let me not be misunderstood again as throwing the burden of responsibility on the rulers. The sum total of my demand on the State is for *temporary aid and co-operation*, such as it has more than once extended before to less urgent reforms. This friendly action is of vital importance to the cause, and I cannot therefore lay too much stress upon it or repeat the demand too often or in too many forms.

Now whatever the attitude of statesmen, it does not absolve social leaders from their liability which is comparatively heavier. But in the case of the latter it must be remembered that most of them, as individuals, are far from being free agents. And though anxious to take the initiative, they dare not do so unless assured of combination from within and co-operation from without. As to the people I observe that the national conscience is slowly awakened to the urgency of reform. Signs are visible in some parts of earnest inquiry and discussion. Encouraged by these signs of the times I am arranging to publish in book form all the opinions received for and against my proposals. This compilation will be largely distributed in India and elsewhere. It will also be translated into the principal vernaculars and scattered far and wide over the country. The next step will be to start an Association. If this Association is subsidised by Government, by Native Princes and other friends of the cause, it may do much good by means of pamphlets, lectures, appeals, and other modes of popular education. In the meantime practical suggestions will be gratefully received. If correspondents wish their letters to be treated as private, they have only to express the wish.

BEHRAMJI M. MALABARI.

Bombay, 23rd October 1884.

L. Dated 1937/85

Madras General Charge
Deputy Collector's Office
15th January 1885.

From

The Hon'ble Vellanday akam Pillai
Deputy Collector
on General Duties
Madras

To

The Honorable E. F. Webster
Chief Secretary to Government
Madras.

Sir,

In obedience to the order contained in Government Order No 2480, Public, dated 18th November 1884 I beg respectfully to submit my views on the suggestions contained in Mr Malabari's Notes for mitigating the evils arising from "Infant marriage" and "Enforced widowhood."

2. The orthodox Hindus, who are attached to the existing institutions and who view innovations as sources of danger, may hold a different opinion and I believe that any Hindu, who has had liberal education and whose heart is not hardened by tradition, must admit the "Infant marriage" and "Enforced widowhood" as serious social evils, requiring the attention

are nearly
equal to those in India, and that
therefore follows that in a large number
of cases, could remain without
husbands in the Countries, with
the difference in India, some of these Costume
be widowhood instead of remaining
unmarried. I must ask these
Gentlemen to consider the difference
between the Conditions of women
leading lives of celibacy of their
own accord, enjoying all the innocent
Comforts and pleasures of life and
those of the Hindu widows, who are
looked down to inauspicious dis-
full creatures destined to live
miserably without the comforts and
pleasures of life. Enforced widowhood
must therefore be admitted to
be an inhumane institution, in-
compatible with the progress of
Civilization, irrespective of the
other evils resulting from it.

6 Early marriage is supported
by some with more plausible
Reasons than those adduced in
support

sort of [illegible] unable to start the [illegible]
youths who are prevented [illegible]
who may otherwise go [illegible]
unable to gratify their preferences
wants to buy a [illegible]
There may be some truth in the
but the good derived from the
system is more than counterbalanced
by the evil produced by it.
I have known many a student
had their [illegible] been cut
home, but it would not [illegible]
the consummation of the marriage
until they finished their College
ate Course and graduated themselves. To force marriage upon
young men is creating unnecessarily premature temptation
for sexual pleasure. Instances
are not wanting where young
men have been spoiled by
early marriage. Many have
given up their studies unable
to find time for the same
having been burdened with
the cares of Conjugal life.
They

[illegible] for responsible work [illegible]
bound down to their homes unable
[illegible] or less inclined to [illegible]
Society than they would otherwise
be. Early marriage is therefore
an obstruction to the progress
of the Society. I have heard of a
highly talented candidate for
the University Examination tell
his friends that he would have
succeeded some of the questions
better had he not been anxious
about the condition of his lady
friend. If this is the case even
with grown up men, a raw youth
married early and blessed with
children, must feel worse
under the circumstances. Besides
early marriage affects the general
health of the married couple
the results is
on their progeny and we have
a weak and imbecile nation.
The most serious of all the evils
arising from the institution is
the creation of an innumerable
number of [illegible]
infant widows and
widowers

secured by [illegible]
to the parents and [illegible]
than to the contracting [illegible]
themselves. In many instances
the husband and wife were bound
by ties of consanguinity, [illegible]
each other from infancy and
were often playmates. Even where
this is not the case the tie of
marriage creates a strong mutual
attachment between the couple
who are contented with their
lot and live happily. The
well intentioned control exercised
by the parents or guardians over
young men and women in this
matter has saved them from
falling victims to the intrigues
of wicked people. The young
man learns to be
obedient to his mother and the
mistress of the house, and this
is a necessity for the promotion
of happiness in the present state
of the Hagdu Society. The woman-

[illegible] comparing the original texts
of some of the translations and
extracts published by some philan-
thropic Hindu gentlemen, I find
the authorities on the subject
to be entirely against
early marriage, and in favor of
a minimum of twelve years
for the days of faith in the
divine origin of their authorities
are fast vanishing. They are
being believed to be human laws
and hence arrage a human institution
Dayanand Saraswati, which is intended
for the promotion of human happi-
ness, does not produce that end,
but, on the other hand, found
to be productive of evil, it may
well be removed and a better
law calculated to secure that
end may be substituted. What
ever may be the Laws prescribed
by the ancient Law-giver regarding
the marriageable age of the girls
or

[illegible] of the Letter to Dr. [illegible]
to ensure he deems an
intelligent man. If he remains
ignorant to the Extent of
parent happiness
can be secured by affecting marriage
after the Girls attain puberty
Infant or child marriage cannot
be supported on the
the Local Acts of the Legislature
have already been [illegible]
G. having noted some of the
main arguments adduced in
favor of early marriage, and
perpetual widowhood, beg to
say a few words about the
Authorities quoted in support
of them. Though I have not
made myself acquainted with
the Hindu Sastras on the subject

[illegible]

The following [illegible]
I think [illegible]
Sastras [illegible]
appear to have been [illegible]
after [illegible]
Gheretas, and [illegible]
was an orthodox [illegible]
Rule of [illegible]
to 12 10 or 8 and [illegible]
stopping the remarriage [illegible]
was made by [illegible]
of heaven, by [illegible]
married [illegible]
life after the death of [illegible]
husband, she was [illegible]
found to be [illegible]
misdemeanor to prevent [illegible]
marriage of widows. It was [illegible]
restricted [illegible]
widows and [illegible]
widows and finally [illegible]
prohibited

[illegible] Widow was prescribed. Even
[illegible] widow marriage appear
[illegible] practised. But the
[illegible] could be despised an unfortun
[illegible] the Society
[illegible] Society for marriage and prohibition
[illegible] marriage of widows have now
[illegible] the Sastra characters (established
[illegible] Gheretas) of the High Caste
[illegible] Hindus during a reformer, that
[illegible] attempt to mitigate the evil
[illegible] of perpetual widowhood of innocent
[illegible] virgins appear to have failed
as the custom was too deeply
rooted to be destroyed. At
present an attempt at breaking
it is repugnant to the feelings
of the orthodox Hindus Caste Hindus
who prefer the existing state
of things, and the majority of
the widows themselves being ignorant
and illiterate would not think
think of marrying a second husband

13-

[illegible]
that [illegible]
[illegible]
among the Brahmins
the Hindoo code
must [illegible]
that the other castes
unfortunately this
violation of [illegible]
custom is very [illegible]
especially [illegible]
marriage or caste
14. The Brahmins [illegible]
peculiar in the respect [illegible]
prepared to overlook the commission
of the greatest of crimes [illegible]
heinous of offences, but [illegible]
not brook his daughter [illegible]
marry after she attains [illegible]
or [illegible] her married [illegible]
becomes a widow when [illegible]
and he & the cause of [illegible]
fortune. He accompanies [illegible]
with a Brahmin murderer [illegible]
deceit to pervert [illegible]
[illegible]

[illegible]
[illegible]
[illegible]

a Cor at home [illegible]
after the Thirty Eight Cases
Case that should be noted
married widow. as a Consequence
the prejudice of law at the date
is so strong that he is deaf
all argument in favor of these
helpless creatures of a second Brah
man marries a second Sonet of
the other Brahmin sect may
possibly be disposed to hear
with them on account of his
money. But wealthy men never
experience difficulty in getting
young wives. A man approaching
the grave can easily secure a
Sect of 9 or 10 years for his parties
provided he makes up his mind
to pay a handsome Sum for the
creature. A leper can in the
same way easily secure the
hands of a Jack maid for money
Therefore the Cases of invalids
men marrying widows are very
remote. The majority of the
Brahmin being of this description
(married)

to be disposed to pay
to regard the educated
mean the Community. Graduates
persons who have received liberal
education, many may be a figure
of the reform. But even these are
wanting in moral Courage. This
probably due to the peculiar
circumstances under which they
have been placed. Fully alive to
the evils of the customs they leave
the College with Confidence of
effecting some reform in the
Society. But when they enter the
world they find that they are
unequal to the task and succumb
to the opinions of their friends and
relations, on whom they have to
depend much; and who assail
them as rash youths or miscreants.
Having to look for their subsistence
they find themselves unable to
devote sufficient attention to Social
and other questions connected with

[illegible]

[illegible] Clause [illegible]

[illegible] Counterbalance [illegible]

[illegible] of the other Clauses [illegible]

doubt whether the Government

will not be acting [illegible]

Feelings of the [illegible] by

by adopting any direct measure

measure which may be enacted

to be incompatible with the

declared policy. I do not think

the Irish Universities [illegible] be

prepared to accept any law

prohibiting incestuous marriages. The

Law Lords of Parliament will [illegible]

afraid remain as they [illegible]

It may declare all marriages

between minors, & their validity

would. What would be the result?

Betrothal will be forfeited and

cause, and the public will be

prepared

[illegible] Lord Stanley married,

and [illegible] be left to the mercy

of the person to whom she is

betrothed by the betrothal,

he may abandon her, though she

cannot abandon him. The Law

may possibly look more mischief

to the sex for the benefit of which

it may be intended

16. The best course therefore

for effecting the reform is to create

a sufficiently strong public

opinion in favor of it and all

that Government can render is

indirect aid.

17. Dr Malabaris suggestions

on this point are excellent. The

Government may advise the

Universities and heads of schools

to decline to admit married Com-

mers for University Examinations

and in the Schools 3 or 4 years

hence. I feel assured that such

a Course will attend with greater

success than any other

18.

18 [illegible] Caste
and Caste to one the
South Society [illegible]
erects [illegible] already [illegible]
in occasion. The Court [illegible]
to certain extent [illegible]
ects the Government [illegible]
all castes but [illegible]
The High Caste [illegible]
for a few days at the [illegible]
injustice done to [illegible]
him work with a [illegible]
would not [illegible]
on that account [illegible]
with a Parish [illegible] Caste
Compunction in the [illegible]
of Brahmin boy [illegible]
with a Parish boy. But the Govern-
ment have left the institutions
open to all caste. The High Caste
Hindu was at first reluctant to
send his son to a School where
he had to sit down side by
side with a low caste man and
even on the same bench for hours
time from the instructions [illegible]
Government

Government [illegible]
[illegible] Caste
[illegible] Parish
[illegible] Brahmin boy
accustomed to sit down side by
side on the same bench without
fear of pollution in the Court.
Railway affords another glaring
instance of the High Caste man
giving up his scruples for Convenience
of travelling. Here mile and mile
side by side sitting down on the
same bench with a low caste man
whom he shuns in his village.
If the Government prohibit many
men (including betrothed men)
from attending any School or
appearing for any of the University
Examinations no Brahmin would
be imprudent enough to forego the
various splendid opportunities
which University honors afford
him

[illegible]

[illegible] Law [illegible]

[illegible] Law [illegible]

[illegible] Law [

[illegible]

[illegible] Government [illegible]

[illegible] agriculture [illegible]

[illegible] the Government [illegible]

scarcely supported [illegible] unfortunately

[illegible] efforts are only in the

[illegible] of the educated men

[illegible] to assist in their acts, for the

[illegible] record already given. If they

choose to sympathize & co-operate

with the Brahmos who have

effected reforms in the north

they can do more good for their

sisters and daughters than by

any amount of preaching.

What we want is men to

set examples more Rajagopalas

Charlus and Seshyengars.

22. There is however one point

in which the Government interference

will not, in my opinion, go much

against the feelings of the people.

They may pass an Act prohi-

biting the priests from exercising

[illegible]

[illegible] the Great Justice [illegible]

The other Enclosed suggested by

Mr Shadwell, might also be

a measure of some use if

judiciously carried out. But I believe

alone will be the most powerful &

most effective course for reformers

the states of the women and

21. The powers for effecting

the social reforms are [illegible]

[illegible]

[illegible] have been [illegible] between [illegible] actually [illegible] marriage between a man and his sister or [illegible] patrisa & aunt & mattrudd uncles daughter, can claim any right to interfere with widow marriages in favor of which authorities are not wanting. The undersigned can therefore be relieved by Government of one of the Lesser Obstacles, Causes of Anxiety, they have at present.

I have the honour to be
Sir
Your most obedt Servant
[illegible]
[illegible]
By Collector

74 P 1

Krishna Villas, (b)
Singapore Madras.
February 23, 1885.

To
The Private Secretary
to Government Madras.

UNDER SECRETARY
23 FEB 85
GOVERNMENT OF MADRAS

Sir,

I beg to acknowledge the receipt
of your G.O. dated 18th October last, No
for Public and to submit the
following opinion on the
questions raised by Mr. Malabari.

1. Infant marriages and
enforced widowhood are not sanctio
ned by the Hindu Shastras, nor were
they in use in India a few hundred
years ago.

(2). On the contrary, the marriage
of undeveloped girls are in a way
prohibited by them, and widows are
recommended by the Vedas and
Smrities to remarry.

1

[illegible] by the Hindu Scriptures and
[illegible] Hindu Law and Usage
[illegible] by the Hindus, and
[illegible] to the
[illegible] coverage immorality and crime,
the Government are bound, at
[illegible] to prohibit such marriages
as they have already abolished
Enforced Widowhood. I am sure
the Government would not sanction
anything against Hindu Law, if
they prohibit marriages of girls of
less than 10 years old and even
age those of developed minds.

(4). The Shastras of the Hindus
do not sanction marriages of elder
women to younger men. Govern-
ment may prohibit such marri-
ages also.

(5). Mr. Malabari proposes
that no Hindu girl who has
lost her husband before she
is 10 years old, shall be
considered to life long widow-
hood against her will. What
the means is not quite clear to
me.

75 P 62

Nor no woman can be condemned against her will to life long widow-hood unless it be clear to me that the marriage by a minor, if such marriage, is forbidden by the Hindu Law the enforced widowhood which Mr. Malabari wishes to remove, will be entirely swept away. No girl, who is a minor, that is, who has not attained the age of discretion or an age which entitles her to express her consent to cohabit with a man, viz, 10 years, (Vide Indian Penal Code Sec 375), can, according to the Hindu Law, be married. Even therefore if no widow who is a minor. The same Law lays down that a widowed virgin can be remarried as if she were unmarried, and as such she is not entitled to the estate of her first husband. If this principle of the Hindu Law receives the sanction of the British Legislature I am certain that there will be no virgin widows in India.

(6). Mr. Malabari proposes

stamp duty for [illegible]
Reg. Her Courts.

(8). Mr. Malabari
Had it decided between
that the priest has no right
excommunicate anybody
in accordance with the Act XV
1856. This question at first
me a good deal of
come to the conclusion that
priests excommunications is
nothing more than the exercise
of his private undoubted right
and to interfere with it would
be illegal. The best remedy
against excommunication of the
priest is to show contempt openly
and neglect it. If men of common
sense and education would do
this there would be an end to
the priests' tyranny.

(9). Sympathy of men of

[illegible] [illegible]
[illegible] [illegible]
[illegible] [illegible]

Dated 23rd Feby/85

Received 26th do

Enclosures

SUBJECT.

Infant marriage
Marriage reform
Widowhood

For

To

The Chief Secretary

to Government,

Madras.

SIR,

As directed in G. O. No. 2480, 18th November 1884, Public, I beg to submit my views on the questions of "Infant marriage" and "Enforced widowhood" discussed by Mr. Behramji Malabari in his papers which were read in G.O. No. 2270, Public, dated the 15th October 1884.

INFANT MARRIAGE.

2. Infant marriage is indeed a great evil and a source of social grievance. It is however a practice that is confined to Brahmins alone. In the Madras Presidency the Komattis a very small section of the community also follow the practice. Mr. Malabari's statement that "amongst the illiterate mass early marriage obtains most widely" is not borne out by facts which fell within my own personal observation. Nor do the Census Returns of 1881 support it. Among Brahmins the only section in which infant marriage is the rule, the proportion of widows to the total female population in that class is 31 per cent. Vide Census Report of 1881, Vol I, Page 94. In no other section of the Hindus this large proportion of widows is noticeable in the Census returns, as it must be if Mr. Malabari's statement is correct. Among all castes of Hindus other than Brahmins and Komattis, Infant marriages are rare and exceptional and not the rule. I cannot deny that young men in India get themselves married earlier than those in the European countries, and so are the Mohammedans and Christians in this country. That is because of the climate and other influences; and it cannot, I think, be successfully counteracted by any rules.

3. To make any attempt at putting down Infant marriages among the Brahmins and Komattis, can be of no earthly use until the restrictions of caste, the great stumbling block in the way of the progress of the Hindus, are annihilated or at least so much slackened as to admit of the introduction of such social improvements and reforms as may from time to time be considered by the leading members and by the educated section of the community, as most essential to the happiness and comforts, and morals of the nation. The high education which the Government have been at so much pains and expense to impart, the rapid spread of Western ideas, the introduction of Railways, the admission of educated Hindus in the circle of high principled and highly educated Europeans, the sympathy of the Governing Englishmen for the natives of this country, and their anxiety from the highest of motives to promote the weal of the subject millions, are all combining to influence the feelings of natives and to counteract the restrictions of caste. They are all doing their good work in different directions. The prejudices of caste are gradually wearing away. The higher caste Hindus travel in the Railways seated side by side with the lowest and non—caste people in the same compartment without evincing disgust or dissatisfaction as they are wont to do; and the sense of pollution by the touch of the lowest caste is dying away. The prejudice is giving way to necessity. In the Railway platform there is neither room nor time for people to remember the scruples of caste. All are in great haste when the Train arrives and in the bustle the people have to elbow out their way in the moving crowd little caring for caste and its scruples. The educated higher class natives do not generally respect the restraints of caste, and they break through them whenever they are able to do so without offending the feelings of their own parents or their female relations. Their example is followed by the all—daring students of colleges and higher class schools. Those of moderate education who come within the influence of these are catching the contagion. The educated section of the Hindus may therefore be fairly said to be in a transition state. The seeds for the destruction of the influence of caste are sown in all directions, but they are just germinating and striking root. They are yet to grow;

and it will be long before they could bear fruit. The non education of the females is a great drawback. The influence of mothers, wives and sisters is unspeakable at home. It acts like a spell even with the highly educated Hindu of the present day whether young or old, and he finds it most difficult to break through the charm, and carry out his liberal notions. Times are however changing. Female education is finding favour among all sections and castes of the Hindu community. The encouragement that is now being given to it both by the Government and by the Local and Municipal Boards and also by the Mission Societies is conferring immense benefit on the Hindu community. But this is only a millionth part of what yet remains to be done. It is however a question of time and the most zealous of Reformers must have patience. "Rome was not built in a day." Our mothers, wives, sisters and daughters have to be taught to think and argue as we do before we can hope to disentangle ourselves from the fetters of that great bane of our society, the caste. The influence of the (மடாதிபதிகள்) Matathipathis and of the educated orthodox Hindus over the higher caste society is another great social evil which has to be combated down. That influence, however, I am happy to say is not now as all—powerful as it once was. It has been much curtailed during the past quarter century. Powerful and worthy Reformers have come forward and are working away nothing daunted. It will however take a long a very long time before the evils of caste disappear. But it is not a matter for a just and humane Government to interfere with. The educated orthodox men and the illiterate mass of population who are guided by them will take it ill. They would look upon it as an interference with their liberty. Such an idea is but natural. The task of destroying the influence of caste should be left entirely to the leading members of the community and the spread of education and civilization. Until caste becomes a thing of the past there is no hope of preventing the marriage of girls before years of discretion among Brahmins.

4. The most enlightened and the most influential Brahmins are themselves fighting the cause of Infant widows. Although I for one feel convinced that the present system of binding Hindu females to be true to one love, is most conducive to the happiness and comforts of a wedded life, yet I fully sympathize with, and have actually joined, the party which advocate and encourage the remarriage of infant widows ever since its formation. For it is impossible as I stated above to hope to put a stop to Infant marriage among Brahmins as long as caste is respected. If the practice now in vogue among other castes of Hindus of marrying females after years of discretion could be adopted among Brahmins, it would be a great victory achieved in the cause of civilization. But even the most sanguine of the Hindu Reformers cannot but despair of such a change for many many years to come.

5. Mr. Malabari's suggestion for the interference of Government to put restraints on the marriages of students of colleges until they graduate themselves does not commend itself to me. It would I am afraid go to work in an unwatched direction and most mischievously. Early marriage with all its evil consequences has this one very great advantage; Viz keeping the educated young men, the flower and hope of the Hindu community, uncorrupted by immoral tendencies and temptations, and rendering them the guardians and protectors of female honor and chastity. For their marriage is consummated between 17 and 20 years of age, and this keeps them from any necessity for going astray. This most important advantage in my humble opinion far outweighs all the evils and disadvantages traced to it by Mr. Malabari in vivid and rather exaggerated colors. The interference of Government to check early marriages by preferring bachelor candidates for University examinations and for Government employments would not only deprive both the Hindu community and the Government the aid and influence of men of superior intellect and of very high principles, character and qualifications, but also would seriously and disastrously check the improvement of the best intellect of the community and give a death blow to all morals among educated young men. I have thought out the subject and it is clear to my mind that as long as the marriage of infant females continues in vogue, interference of Government to put down early marriage among males would simply lead to doleful disasters and miseries to the Hindu community. How can young men, restrained by Government to wait long for their marriage, find their match among females in age, health, and temperament to all of which some weight should be attached? How could the community or Government benefit when highly educated young men, thus tempted to wait, have to be wedded to young

girls of nine or ten years old? Taking 22 as the average age at which a young man graduates himself in arts, he has to wait another 2 years perhaps 3 to graduate himself in the Law; and if he in his 24th or 25th year be wedded to a girl of 10 years old, the oldest girl that could be had, he will have to wait another 4 or 5 years before the marriage could be consummated. In India generally speaking, 20 to 35 is the best age for conjugal enjoyments among males and 15 to 30 among females. Thus the youth who took pains to cultivate his mind at great self sacrifice, finds at last that the interference of Government has deprived him of ½ of his best age to enjoy conjugal life. It cannot be far from truth when I say that such angelic young men as would deny to themselves the pleasures of love, most natural in that age, must be few and far between. The generality of them would either take to harlots and contract loathsome diseases which might continue to make them miserable to the end of their lives, or offend honest families. Once steeped in this immoral and wicked habit the young men cannot well get out of it, even after their marriage. Morals will then be at a great discount even among the highly educated. The present high moral tone of the educated Hindus would be quite a contrast with Mr. Malabari's hopeful young generation.

6. The Government may prohibit, by a legal enactment on the score of Humanity and Justice, marriage under certain age both among the Hindu males and among the females. The presiding priest and others who assist in such marriages might be punished heavily. There will be a decided advantage in this over the proposed restraint to would be graduates and Public servants; for it would better secure the growth and health of both sexes and save the community the shame and misery of infant and youthful widowhood. If the Government have scruples to such a measure as one interfering with the right and liberty of the subject, then the proposed restriction to the students of colleges and candidates to Public service, is one that should be objected to ten times more strongly. I devoted my best thought on the subject and the interference of Government to check early marriage among males in the way proposed by Mr. Malabari in my humble opinion would be one of doubtful Policy, while it cannot in the least benefit either the community or Government.

7 "Impossibility of exercising free will on the part of those most concerned, the unhappy "consequences of any physical defects or moral taint on one side or the other, and hopeless "disparity of temperament or total or partial absence of physical adaptability" are enumerated as resulting from infant marriage. I need hardly say that those who care to give some thought to the above cannot come to the conclusion that those evils should result from early marriage only and from no other causes.

8. I, for one, do not much believe in young men or in young women being always happy in their choice. Choice after all is a blind guess, and is always more tempted or governed by symmetrical make and personal grace than by any insight into the quality of the mind and attachment of the heart. Nor is the latter a thing that could be correctly estimated by even the very superior and gifted intellects. If men of so much above the usual average run of mankind as Lord Byron &c. fail in their choice, and in a society which allows free scope for many a private talk and personal intercourse between the young lovers, can there be any meaning in the high sounding phrase liberty of choice? Young men and young women however shrewd they may be and however deeply piercing their power of testing the worth of the inner persons may be, and how much sobriety and patience so ever they may use in making the selection, they are apt to be mislead, seduced, or taken in from their youthful impetuosity and madness of love. It is the personal appearance that at first captivates youngsters; the quality of mind and attachment of heart and other accomplishments the imagination of the lovers readily supplies. If in European countries where this liberty to youngsters is so much professed, parental control and direction is found most desirable and even necessary, what harm could there be in less civilized India to leave the selection to the more experienced eyes of the parents.

9. Castes and sub-castes limit the area of selection it is true. But how can the evil be laid at the root of castes, and how can infant marriage serve as an excuse to break the law of caste. Is the annihilation of caste so easy? No, the spread of high education and high principles among both males and females has to do the work and it will be long, very long before the object can be realized.

lege of giving herself away to any young man she chose after her years of discretion) the Patriarchs would seem to have introduced the rule of marrying girls before puberty, in view to keep the blood pure and eliminate all impurities from the Brahmin stock. Whatever may be the present disadvantages (I freely admit there are many) of such a rule to the parties most concerned, it cannot be denied that it has had the advantage of purity of blood to which the patriarchs however mistakenly and selfishly appear to have subordinated the rest of the merits of that class and all their comforts and conveniences of life. Weak as the Brahmin class is in physique as compared with the other classes of the Hindus, the superiority of their intellect as a class is most prominent and noticeable. This I believe is mostly due to the old patriarchal rule which kept their blood and stock pure and untainted. This however, I speak subject to correction. The anxiety for the remarriage of virgin widows is confined to the highly educated and enlightened Brahmins. The orthodox would not encourage the idea. These men who also carry the mass of population with them put it down as unchaste and against shastras. Others are indifferent although they feel that the reform will be an advantage and a step in the right direction.

13. The remedy of educating public opinion and setting it to cope with the evil and work the reform, Mr. Malabari condemns as almost useless on the ground that after so many years of toil a very small portion only of the Indian population have received elementary education, and that the influence of caste is too powerful even for men of enlightened & broad views to act up to their convictions. This is true. But how could caste be broken? What consolation is there in store for those who venture to break it? They are cut off from their society directly they outstep the bounds of caste, and an end is thus put to all their good intentions to work the reforms and serve to benefit the society of which they were once the respected and highly esteemed members. Sir Comarasamy of Ceylon, Mr. Muthukrishna of Madura, Mr. Sabapathi Aiyah of Hydrabad and his brother Meenatchi Aiyah of Bangalore are all so many instances of enlightened men acting up to their convictions and losing all chance of ever serving their community. The best remedy in my humble opinion is the education of public opinion and I am glad to say it is working fast among the very class where Infant marriage is the rule. They are the highest castemen and they have been and continue to be the guides of the rest of the Hindus. The best educated and enlightened of them have to combine and work unanimously. And this is being done at present

14. Mr. Malabari next refers to an obnoxious custom of the parents benefitting in the shape of lump sums by consenting to give away their daughters in marriage to old men. This inhuman practice I am sorry to say is also prevalent among certain sections of the Brahmins (Kāniyālars and Aiyangars) in the Madras Presidency. Money is usually demanded from the bridegroom whether young or old as a present to the bride on account of Jewellery. It is usually demanded in so many seers of gold. If the bridegroom happens to be an elderly person the rate is doubled trebled and quadrupled according to the would be husband's age, wealth and social status. Rich families of course are so many exceptions to the rule. When the bride's parents are too poor to bear their share of the marriage expenditure that has also to be paid by the bridegroom. I quite agree with Mr. Malabari in thinking that a ruling such as he suggested is very desirable. An Enactment laying down a rule that money received from the Bridegroom, save and except that which is paid for the marriage expenditure, should be safely deposited in the bride's name and exclusively for her use, will I believe, not only be a great boon to the poor infant victim, but will also serve as a wholesome check against inhuman parents thus sacrificing and selling their female children for their own benefit. It is a fit subject for the interference of Government.

ENFORCED WIDOWHOOD.

15. I fully sympathize with the feelings given expression to by Mr. Malabari in his paper on the enforced widowhood. The evils that he has put forward are not untrue although they exist rarely and exceptionally only among the Hindus as among all other nations. But the remedies he has proposed cannot be of any avail although the Government may give effect to them. They will all remain a dead letter as indeed does Act XV. of 1856 to this day remain.

and the community. I therefore do not see what necessity there is, in the interest of the parties contracting 2nd marriage, for the Government to interfere with the authority of the priests which has already been set at defiance by them without the aid of Government. In my humble opinion there is no necessity for the proposed rules and the community cannot hope to benefit by them as explained above.

I much regret the delay which was unavoidable from pressure of other work, and I beg to be excused.

I have the honor to be,

Sir,

Your most obedient servant,

Trichinopoly
5th March
1885

J. Cattathuraiyan

Head Sheristadar,

Trichinopoly Collectorate.

17. His 2nd rule is "whether a widow has attained majority or not, she shall be entitled to claim upon her caste to the Hindu laws to give her in marriage and to the sole management of her property, and to maintenance from the family." I speak of widows who are entitled to marry? Her own caste will not marry her (I) including one who is willing to marry a widow, and (2) in getting Brahmins to solemnize the marriage according to the rites of her caste and religion. All the ceremonies (texts or Sanskrit phrases) and customs have as yet, to be modified and altered for widow marriage. At this she may have to change her religion and adopt one which really permits and solemnizes marriages of widows. As a Hindu caste widow who chooses up her mind to go to her married state through the task of caste religion and the affection and society of her relations there now exists no barrier to her marrying a caste Hindu if she succeeds in finding one who is willing or a christian or a Mahomedan. In the case of a widow of an undivided member, if she chooses to re-marry she loses her right for maintenance. In her secluded state it is true that she could hardly be left to select a match for herself or even give expression to her desire to be remarried. How could the Government help her out of the difficulty? Can the proposed rule mend matters. In my humble opinion it cannot but be a power for abuse with the authorities.

18. His 3rd Rule is "that every widow of whatever age shall have the right to complain to the authorities of social ill usage (over and above excommunication) and that proper facilities shall be afforded her for the purpose, such as the gratuitous services of counsel, exemption from stamp duty, attendance at Court and so on." What social ill-usage can she complain of? If she is not asked to dinners and if her caste people refuse to dine with her, how can the Government punish such acts? What other social ill-usage is meant here such as could be prosecuted under criminal law, or sued for damages under Civil law. I do not understand. If the right of the society to excommunicate is admitted, nothing that can be called social ill-usage can be punishable. She will have to purchase society and its sympathy as indeed she must do her other comforts and conveniences.

19. His 4th Rule is "that the priest has no right to excommunicate the relations and connection of the parties contracting 2nd marriage besides excommunicating the principals." If the right of a priest to excommunicate is recognized, with what consistency can the Government declare that the right should be exercised only in such cases and not in others. The authority of the priest over the society is a matter of moral and religious obligation on the part of the members of the society. They may obey or disobey such an authority as they choose. There is no legal obligation. Parties who are unwilling to obey the priests or matthipatis can do so without the interference of Government in the matter. Parties contracting 2nd marriage against the conventional rules, are by their own act getting out of the pale of the authority of the priest.

Public — 941

Bm Pottsboro
Hist Thurston
Feby

2.5.5/10
6.6.5/85

Opinion re
Infant marriage
Enforced Widowhood
Life

Chap 4 Title 1 Sections 1 to 7

1. The Chief Secretary to the Government of India

2. The Examiner of Hindu Law

Have the honor to submit for the consideration of Government my views on the subject enclosed.

2. In the Calcutta Census of the Hindu Community it appears as women Twelve or Fourteen hundred of her husband — Even Thirty the widow perhaps may in practice succeed the Rajah due to inordinate care.

3. The Pleaders who study a Kind of Religion called Honour for keep the actual perhaps the demise the Hindu Religion call.

4. The opinion against Widow Remarriage and Enforced Widowhood Remarriage who by reason of their Caste or of their Religious or of their Birth Check humanity and Justice

of not appreciate the Religious Liberty to which
and particularly of the Unitarian Community.
The Community exists of thousands of families
whose Forefathers and are not persecuted
by the Authority and Officers - Laws & Government
but by the prevailing Priests.
Liberty. Should be a clear and unwarrantable
violation of the most Sacred Principle Pro-
claimed by this Glorious Influence & bear
upon the religious Rights and practices of the
People — and Especially upon the institution
of Marriage which is one of if not the most
Sacred Covenant of any Social or Church
Duty. Freedom of Marriage Rights and Duties
at any age is left denied now and was
but denied at any time, and the agitators
are not just cause for in Religious
with Love to do not religiously or Socially
offend of Liberty. Liberty being
to Christ - Love but should be allowed
Each it Toleration if the whole world
did not with the Divine and Eternal Rule
of Conscience. By the Law of the
Land
Unitarian N.C.
Second Reading Today

Submitting his views
on the remarriage of
Hindu women.

Travancore

From

H. Krishnaswamy Row Esqre
Ag. Chief Justice of
Travancore

To

The Honble E. H. Webster
Chief Secretary to Government
Madras

Sir,

I have the honor to acknowledge
the receipt of G.O. dated 18th Octr No 1185
(Public department) directing me to state
my views on the suggestions made by the Hon.
Bar of Bombay in connection with infant
marriage and enforced widowhood among
Hindus; and to submit the following obser-
vations.

The existence of the evils of
infant marriage and enforced widowhood
graphically depicted by Mr. Behramji M.
Malabari, cannot be denied. There are two
keen conflicting and diametrically opposite
opinions

the proposals made by Mr. Malabari to chec
Infant Marriages. They are, 1stly, that no
married Student shall be eligible to go up
for the University Examinations; 2ndly, tha
no married man shall be eligible to enter the
public service; 3rdly, that the price paid
to the parents of a girl, should, by a legislative
Enactment, be declared to be the property of
the girl; and 4thly, that the marriage of a
boy with a girl older than himself in age,
should, by law, be declared null and void.
I take it to be the cardinal principle of all
Government action that it will promote the
happiness of its subjects. In my humble
opinion, these proposals of Mr. Malabari
will aggravate the evils without materially
promoting happiness. The number of young
men who Educate themselves for University
Examinations, is and will ever be a very small
fraction of the juvenile population of
India. Those who look to, or depend
upon, public service would never exceed
one in 5000. With the Exciting belief that
a Girl should be married before she is
6.

of acadamical honors and literature pro-
fessors, unless the father of the bride pays
down such a price. (Vara Vatchava) as
would induce him to marry; foregoing all
the educational and professional advantage
I cannot better conclude this part than in
the following words of an illustrious person-
age with whom I had the honor of conversing
on the subject
"The result of the proposed rules will be the
Government will get a crop of raw and thought-
less servants; and the Indian girl, the Stupid-
est husband".

It may be argued that in the
same way in which many a superstition
has ceased to Exercise its influence, in the
face of necessity, the Hindu Community
will tacitly give its consent to the postponement
of marriage of girls until such time as
properly qualified bridegrooms could be
had. Those who advance this argument
forget that the exploded superstitions had
no bearing upon the unions of sexes
in marriage. It cannot be denied that
the Social progress of Hindu Society, is
arrested wherever a woman has to be
consulted

---

to the public service, would be limited
by the evils of early marriage; the inability
to marry their daughters to Europe-
anized educated youths; and to those whose
prospects of earning their own bread, or sharing
experience shows that in respectable families,
the birth of females preponderates over that of
males. To quote the words of Mrs. Malabari,
"The area of selection is so narrow where society
is split up into numerous castes and sub-
castes that practically Hindu parents have
to make Hobson's Choice if at all to accept the
first boy available or to buy one who comes
the cheapest, all things considered". In
other words, already a scarcity of competent
bridegrooms is keenly felt. The rule, pro-
posed, would, in my opinion, convert
it into famine. The Experience of the marriage
of daughters in respectable families, is
now unbearable, if not ruinous. The pro-
posed rules would make them absolutely
impossible; for no promising young man could
be found willing to give up the prospect

So long as infant marriages
are not legally prohibited, I do not think
it wise to meddle with the existing State of
things and make rules, the effect of which
would certainly be to hold out a premium
to ignorance and incompetency; to multiply
the evils and the expenses of marriage on
the bride's side, and thereby add to the im-
poverty and misery of India; and to
bring about unions more deplorable than
those now contracted.

The law declaring that
the price paid to the parents of a bride,
by the bride-groom is the property of the
girl, would be a dead letter. It may
grace the Statute book, but it would be
honored only in the breach of its provisions.
The misappropriators of the money being
parents, the girl as well as her husband
would be most reluctant to take any
legal steps to compel its proper application.
Generally those who sell their daughters
in marriage are poor, and they do not
really stand in dread of decrees that

may be passed by the Govt Councils are bound by law not to interfere and incivilent. The accumulations of wealth against the usage of receiving money for consideration of giving in daughters marriage and the explicit ordinances declarations of Rushees that a girl who is given in marriage by her parents in consideration of money, does not become Patni (wife) but ohe is a Dasee (Concubine); and that her Gotra does not change by such marriage, have had no effect in checking the abominable practice which, I regret to say, is on the increase.

I have seen in the Northern Circars of this Presidency so much of the evils of the parents receiving money to give their infant daughters in marriage to men who, by their character, age, social position, and physical strength are utterly unfit to marry, that I feel it to be my duty to propose legislation to prohibit the marriage of males after the age of 50. The evils are so faithfully and graphically described in a Telugu drama entitled "Brahmya Vivaham" by

K. Veerasalingam of Rajamundry that I cannot resist the temptation of inviting attention to it. The legislation I propose has the support of the Shastras, for according to them, none who is more than 50 years old should marry. It will in a measure reduce the chances of widowhood with its train of evils. The plea of religious necessity which many a old and sickly man puts forward to justify his marriage with a girl, fit to be his great grand-daughter rather than his partner, is perfectly untenable; for the marriage of a widower is not a religious necessity, and Sri Rama than whom there is no higher Hindu Authority, performed many Aswamada Yagams with the gold image of his departed wife (Seetha) to supply the place of a wife in such ceremonies. I would not raise my voice against the marriage of an old man to an infant, if he marries under a real conviction of religious necessity, to keep Agnihotram (fire), but not one in 100 old men who marry, even dream of keeping Agnihotram, and much less keep

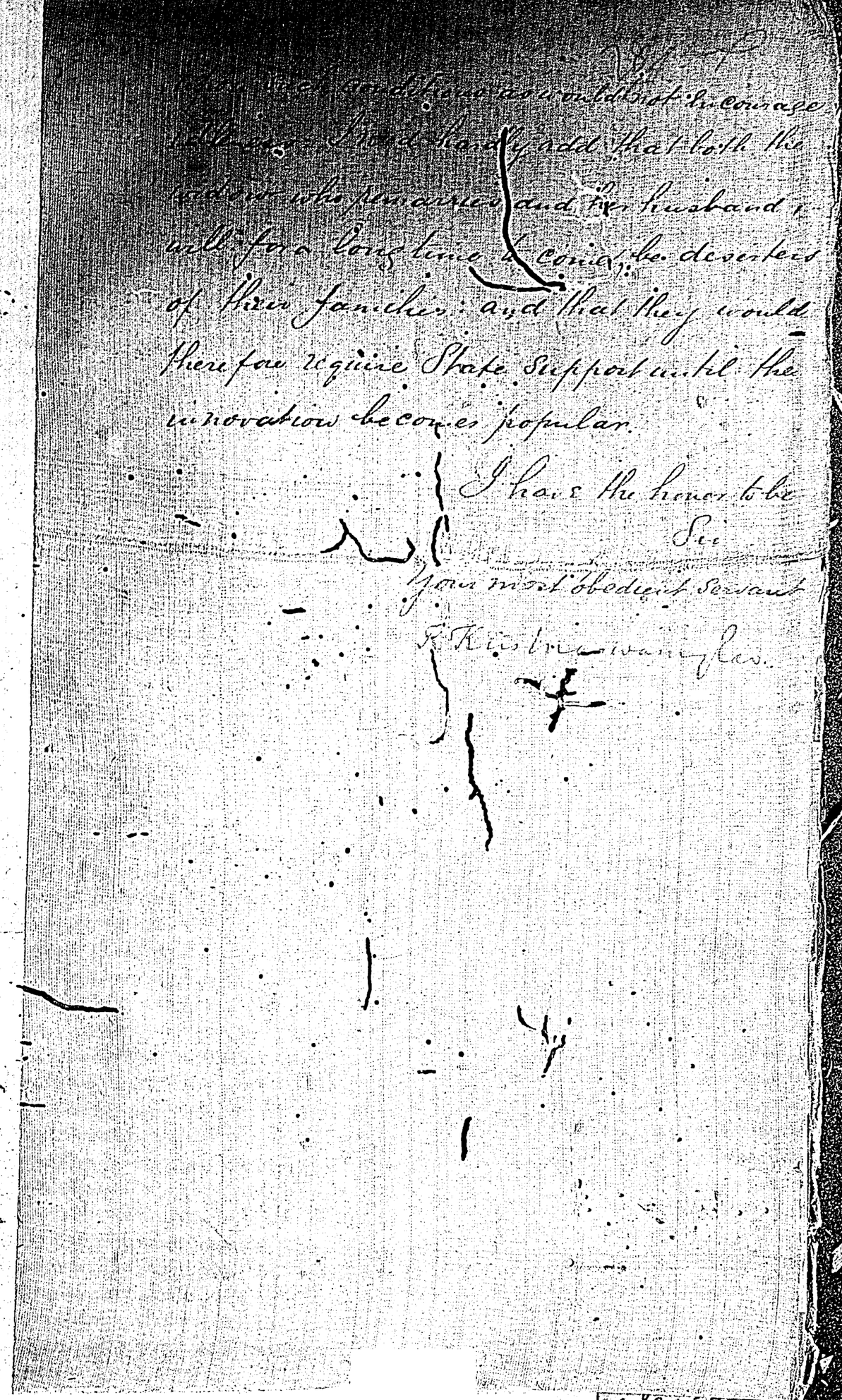
of [illegible] marriages are of daily occurr

I will next proceed to consid
the suggestion made by Mr. Malabari to
mitigate the evils of enforced widowhood. Th
are (1) that no Hindu girl who has lost he
husband or her betrothed, if she is a minor,
shall be condemned to lifelong widowhood
against her will; (2) that arrangements may
be made, in suspected cases, to ascertain whet
a widow has adopted perpetual seclusion
voluntarily, or whether it has been forced
upon her; (3) that every widow of whatever
age shall have the right to complain to the
Authorities of social ill-usage (even and
above Excommunication) and that proper
facilities shall be afforded her for the pur
pose: Such as, gratuitous service of Counsel
Exemption from Stamp duty, attendance
at Court & so on; and (4) that the Pancha
shall no right to excommunicate the relation
and connections of the parties Contracting
Second marriage, besides excommunicating
the principals.

As a rule, widowed girls
are allowed until they attain the age of 18
or 20, to retain their locks, wear jewels a

[illegible] ...ers, and it has result[illegible]
...sters under Coorg laws. But it
disapproval of both of these
these innocent superstitions
young widow, and the ...
her freedom, make her ... of
of widow-hood is preferred to ...
allowed to her by her living husband and
Relatives. Here, as a Concession to the ...
widow repeated Instances, that the husband's
and relatives, often connive at the performance
of the most melancholy rite of Tonsure. I
do not deny that these are ...
in their religious ... but the ...
of 7 or 8 years old, to all the miseries of ...
widowhood. But then ... her ... large
and is now dwindling. Even if it be so, that
such rites are now very rare phenomena. It
is not, in my opinion, Expedient to put
the machinery of legislation, to do what is
now being done without it. The laws now
in force contain adequate provisions for the
protection of a widow. If against her will,
she is compelled to go through the melancholy
ceremony of Tonsure, the offenders will be liable
to prosecution on charges of assault, ...
hurt, using Criminal force &c under the
Indian

...ter of the
...
...
...



Dec 1884

Dear Webster

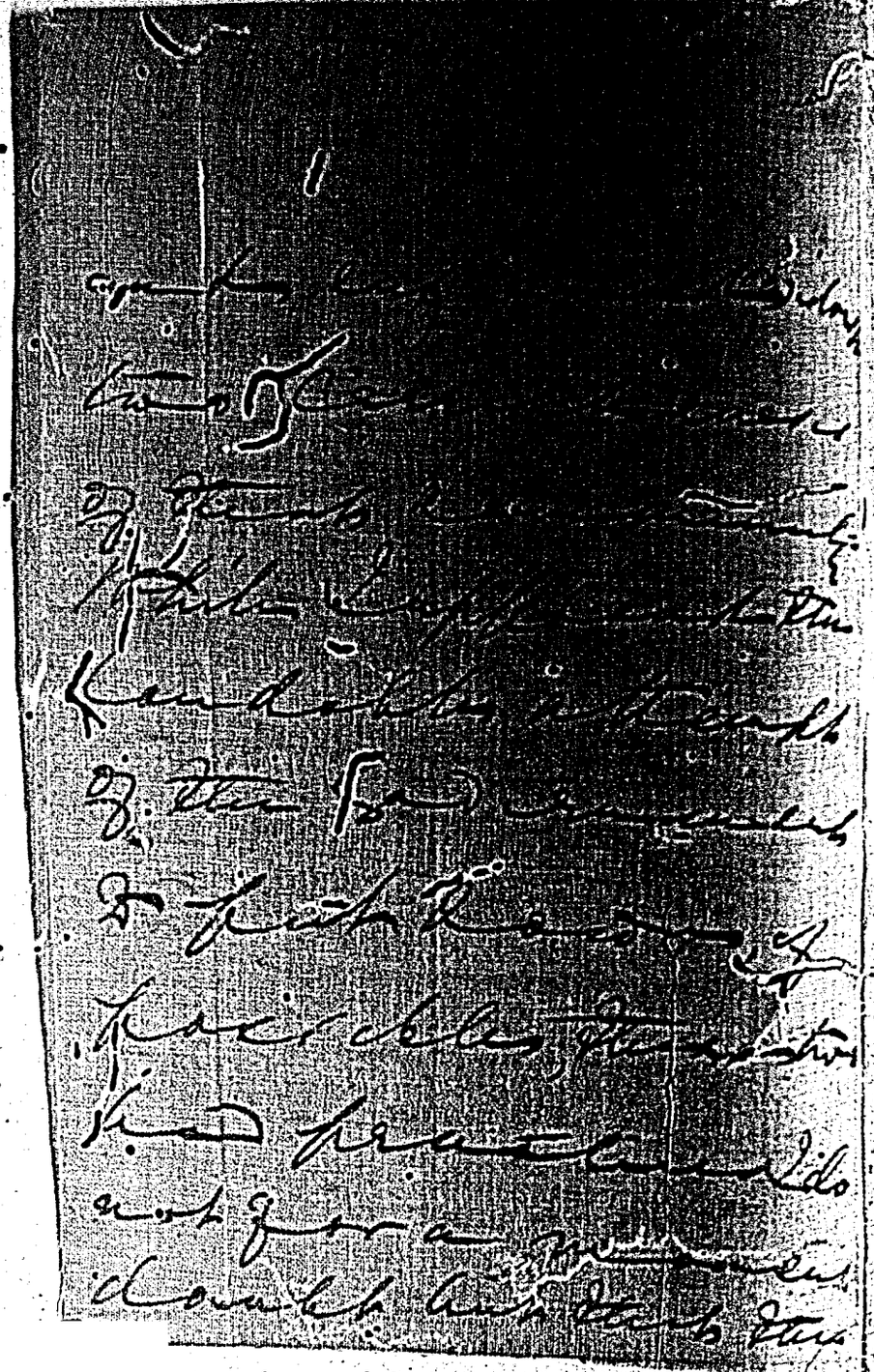
Dec 1884

Subject

Submitting for publication
a C. C. dated Dec 1884 to
2.4.8 Public Health Act
on the insufficient provision of
the statutory interment with
infant mortality and enforced
withdrawal of Minister

Dear Sirs

I am directed
by Mr Secy of State
to acknowledge
your letter of
opinion of Counsel
subject referred to
Return me Forms &c



Subordinate Court
Madura (East)
14th December 1884

Sir,

I have the honour to forward herewith the petition of Ponnachandrayer Subordinate Judge of Madura addressed to the Honourable the Chief Secretary to Government of Fort St. George

Sir,

In obedience to the order of Government contained in G.O. No. 2480 dated 10th November 1884 I have the honour to submit herewith my report on the petition of Ponnachandrayer Subordinate Judge of Madura addressed to the Honourable the Chief Secretary to Government of Fort St. George

1st ... the petitioner ... engaged ... widow ... have been ... Government ... any ... Government ... 23 years ... Government ...

Presidency

Do No. 125

From
Capt. Audry RE

Dy 16/12/84
Dy 18/12/84

Opinion
Collin Infanth
Marriage & Enforced
Widowhood

Presidency Jamaica 1st February 1847

I have the honor to report that in spite of the Education
and a training of the Government there
is the part of the Education Department
of the Police of the Island no
perceptible change in the
prevailing habit of early marriage
become more common
than ever and I shall say that
become the reproach of the people
at large. Even graduates of the
University and educated men
generally have been discovering
of their infant girls of 2 or 3 years
by marriage simply for an
appreciation that they could
scarcely get rich boys or young
of rich men at a reduced rate
3 The fashion of the day
is that infant girls of respectable
are forced upon the notice of rich
men with the view of their
and that in a comparatively few
time the boys parents should
the infant who brings them
the largest sum as dowry
that description of education
is certainly needed has been
admitted on all hands, but
nothing can be done and
will

will be done by the Legislature if
they be left to themselves even
for a certainty to come. The
of the existing Education Law
doubtful if not a bar to the
effecting a reform in this
and less but little by
any thing to overrule the
powerful opposition of the
masses under the influence
of their priests. To substantiate
case any association I would
respectfully ask the Government
to ascertain if there is today
any graduate or educated man
who as father of infant girls
has not got them married while
they were infants or if those
is any graduate or educated
man who has had the moral
courage of keeping his daughte
unmarried till she should
attained her puberty and then
getting her married. I could
will come forward to say that
he has done so. This in 100 shou
clearly that no good in this
direction can be expected from
the present system the educated
Natives of Jamaica generally

The

85157

name appear to me to be quite impracticable and not at all calculated to produce the desired effect, for they are restrictions which would not affect the whole community. All those that have the fraternal interest at heart will be willing to be governed by the Universal Law of

5th

I beg to be excused for submitting here that the Government while confirming all the old rights resulting from unsophisticated marriage and sincerely anxious to remedy the evil by some means or other have been unconsciously abetting and encouraging it. I say so because the Courts created by the British Government do far back as 1808 & 1811 thoroughly investigating into the question when raised and in exact accordance with the forms and ceremonies constituting such marriages, refused to grant decrees upon the declarations of the old parties, unless proceedings for three days were deeper than the foregoing ceremonies of the orthodox Brahmans

Brahmin in the Presidency they
have understood to be that
and Betel nut & infant girl be
widow of a widow and all the
same rule as persons of full age
may be widow under the Hindu
Law, with due regard to infant
marriage and the Government
have been pleased to appoint
it is the law of the country. Before
applying the rights of a widow to an
infant girl it was for the Betel
Courts at the commencement of
its rule to have ascertained
upon thorough investigation
whether a betrothed infant
girl attained the status of a
widow by the death of the boy to
whom she had been betrothed
or whether the term widow in
the Hindu Law applied only
to a married girl who lost
her husband after the true
consummation of the marriage.
I am enquiry into this question
is now undertaken I feel sure
that it cannot be shown to be
satisfactory of the Government
that the term widow has through
misapprehension, error and
ignorance become perverted
from

from its original signification
that I am applying to the case
of the Brahmin widow the rule
which I believe all communities
the Government direct should govern
the Brahmin of all classes the
minor case was considered com-
plete as to the actual consum-
mation and that they should
govern effect to the rule make
the infant couple pass through a
form of ceremonial procedure
(for forgetting) altogether the reason
of it.

6. As I subjoin a
have had experience of Gujarat
Vaad, Kathiawar, Bellary, Belgaum
Calcutta and Tellicherry and I
have attended innumerable
marriages. Belgaum is noted
for its Brahmin population
comprising of nearly 8000 houses
of Tamil Brahmins and some
of them have settled there also
at Calicut and Tellicherry in
Employment and trade. The
Belgaum Brahmin through caste or
Belgaum Brahmins do not
form an isolated class of
Brahmins but at one time they
belonged to the Community of

17th. 8

and out and chew, which is truly a symbol of communication. Which is done on the first day. Called a Tying because the first thing that a husband and wife do on the date of actual consummation of marriage as soon as they return into the bed chamber is to exchange betel This practice is observed universally on the fourth day of marriage by all classes of Brahmins.

Let us ask the very Brahmins who do not fail to make the infant couple sleep on the 4th night on one mat actual it stands for and what it is required for. They do not know the reason of it. It is for the enlightened Government and for the enlightened members of the community who should cooperate with it to understand correctly what it represents. We have already stated, it is only a symbol of consummation without which no marriage is complete. We have seen carefully observing the forms and ceremonies of marriage and

at

of Female Infanticide the Female Infant is taken by the Paternal Grandmother and the Maternal Grandmother of the Infant each keeping it for one day (first) afternoon and the Paternal Grandmother on the 3rd day and the Maternal Grandmother on the 4th day after the fourth night they make the infant couple sleep on a mat in a room which is only a symbolic consummation or a symbol of actual Consummation which is executed to the completion of a marriage. The same practice is observed even to this day in all the Brahmin families of Travancore and Cochin and in some of the Brahmin Communities of Tanjore Madura, and South Arcot Districts. Among the Telugu Brahmins of Northern Circars, Nandipatam and Bellary, on the fourth day of the infant marriage the infant couple are made to sleep on one mat and they are made to exchange betel and

in the event of any difference be-
tween the above mentioned
extract from the Malabar Law published thereof
and the following words "The
(Tumbidree) nuptials un-
variably take place on the fourth
night of the marriage — a cir-
cumstance which shows that
without consummation of the
marriage there can be no
marriage. Even among the
non-Malabar Brahmins with
whom child marriage is the
rule the infant couple are made
to sleep on one bed in the room
on the fourth night of the marriage
And this is done in compliance
with the requirements of the
shastras as essential to the com-
pletion of the marriage, but
the Brahmins on whose own
reasoning) and attempts to
know the reason of every ceremony
are symptoms of a tendency
to desert their religion and be-
come an outcaste, have by long
custom forgotten the reason of such
mock consummation on the fourth
night"

[illegible] marriage
proved against which there
marriage which was not to be consum-
only a late graft on the ancient
marriage after puberty. The Brahmins
had gone into these questions up to the
day. But it would appear to have
merely required that a betrothed
infant girl attained the status of
widow or in other words that actual
consummation was necessary
to entitle a betrothed girl to be con-
sidered in every respect a wife

8. Of the Judge of the
Madras Sudder Dewanny Adawlut
had availed himself of the opinion
of the Pandit Venkatesa dated
to the effect that a woman with
whom marriage was not con-
summated would have no
claim to inherit her husband's
property and [illegible] the end
resulting from holding otherwise
held a thorough investigation into
the question and declared to
recognise the status of a widow in
a betrothed infant girl, by the
time infant marriage would
have received a check and the
chances of widow hood occurring
at

at least before attaining puberty and have been reduced to a nullity and Dissolved instead of leaving to the Judge the option of declaring the marriage void according to the Hindu precepts contained in the Dattaka Chandrika and other treatises made by the Hindu Pundits constituted conservators and preservers of the Hindu religion. She is in my opinion entitled to be considered in every respect as a wife. Held that a betrothed girl was entitled to be treated as a widow. This opinion was only an obiter dictum and not based upon any express text or evidence of custom. Likewise the Madras Court of Sudder Adawlut Court of Bombay in Bombay it is to be regretted failed to take into consideration the opinion of Mirchhuy ram Sastree and Vullud krain Sastree to the effect that betrothment was liable to be revoked for sufficient reasons such as divorce, bad conduct on man, both girl and boy belonging to the same Gotram and the like which distinctly implied that betrothment alone did not complete the marriage and that actual consummation was necessary. I shall here quote the

4

the opinion of the Pundits of Madras.

"Under the various texts of Hindu Law laying down, that a betrothed wife with whom consummation has not taken place together with a woman married and illegitimate children and with respect to property payable to the heirs of the deceased husband are entitled to the pension due of to the obligation of maintaining the concubines. It is to held in Vivada Chandrarnava an translation of patrimony. But it is not held that women with whom marriage has not been consummated and illegitimate children have any claim to inherit."

(Signed) Venkatesa Sastree
Pundit.

"If what is here called betrothment be the first or real marriage (for the fetching home of the bride at the age of puberty, commonly called the second marriage) and merely the solemn-nization

maintain not the celebration of the rite) - the woman remarriable unmarried again, (except in those cases where custom dispenses with the law) and at known of such dissolution made by the Punchayet between consummation and non consummation, the w in my opinion, entitled to be considered in every respect as a wife.

"In a late case before the Sudder Dewanny Adawlut of Madras, where a marriage had been interrupted by the death of the husband previous to celebration and before consummation, the young woman who survived claimed to inherit to the deceased as his widow, or to be entitled at least to maintenance out of his assets. But the claim was compromised. Venkatazah v. Venkatasubbaiyah"

Bombay.

Broach - Court of Adawlut 26.6.1811.

"In the case of Kubjan who first betrothed his daughter to Pranwullub the brother of Ruchh, and afterwards to Vedoo on complaint

complaint the former having been annulled by reversing decree of Broach Collector and it appearing that neither the betrothment nor betrothment had been consummated, the claim of Kubjan was rejected, there being no evidence that the one in question was accompanied by the delivery of a sum of money, as packa the Pulla, or usual presents, nor of opinions that by according to the custom of the caste or the law, the first betrothment ought to be established and have its effect, it being advanced in the Hindu books, that a girl shall only be betrothed once, and that betrothment shall have taken place before the usual period for the consummation of marriage, had conducted in the same and the like

(signed) Lushington Stokes

Julius Bryan Steele

Bombay)

Broach — Court of Adawlut

The father in the one having betrothed his daughter in con-

sideration

[illegible] betrothed [illegible]
[illegible] betrothed [illegible]
[illegible] betrothed [illegible]

performance of religious
ceremonies his wife is re-
quired to stand by touching
him with a holy vase. During
the performance of Agasan or
sacrifice of sheep, &c. the
husband's cloth and arc
of the wife's cloth are knit
together and they walk round
together whenever occasion shall
require, for they may move
for all other purposes separately
unfastening or detaching
themselves. The marriage
is actually consummated. Her
first child must be born
on the bed which her husband
places for the above purpose
in the performance

12. Should very naturally
there arise any question why the
Bridegroom at the time of the
Ceremony refuses to consummate the
marriage, viewing a ceremonial
service as sanctity, secret ly
detesting their infancy, &c.
even in their childhood. There
are three causes sufficiently
accounting for it. Apart from
the

6 Hindoo for Ready. Kali minds are now too fully occupied by it to pay any attention to local reforms. Astrology has spoiled the country, making the people inactive, indolent and indifferent to the movement of things contemporary for every one believes that the country will get on as fore-ordained by Brahma. The Hindoo in general and the Brahmin especially and even the educated man of to-day believe that all the misfortunes of one's life have been fore-ordained and the coming good or evil can be ascertained by means of Astrology which, they say, is a science. Can read whether an infant male child will be lucky or unfortunate, whether or not an unfortunate will get a good husband and have a happy married life and whether he will become rich or a beggar and so forth. So Brahmins are selected to each place as astrologers in each district and the duties of the astrologer are to cast the horoscope of the infant

Cont.

respect. Having such faith in the doctrine of fate and events of the future, which astrology is believed to reveal, they argue that a girl destined by fate to become a widow will become so at any time whether she is married while an infant or married at a later stage of life and therefore they might be married at once. The influence which the doctrine of fate and astrology exercise over the Brahmins and Hindus generally is paramount and it would not be right of this lady even the graduates of the University who have received liberal education. It is to be very much regretted that this fact is not shaken off, even when they see the general ceremonies of bridegroom following in several cases very closely the ceremonies connected with betrothment and when many infants become widows in early where astrologer pronounced coincidence of horoscopes and predicted married life without interruption. Astrologers own daughters do not escape such fate

Even

Such failures are nevertheless attributed by the people not to their actual causes, but to some thing wrong in the dominant creed, that the Gods of the enfeebled nation have been offended, and that the people can recover their late prosperity only by finding out the offender and punishing him with death. Accordingly, on the occasion of any national calamity, such as a famine, a pestilence, or a defeat in battle, the Kaffirs institute a strict search for the person who has given offence to the Deity, and when he is found, put him to death with the most cruel tortures. Sometimes the search is made for a wizard, who is supposed to have caused the misfortune by his incantations; sometimes for a person who has violated some custom of the tribe, or who has been suspected of a crime. Sometimes the search is made for a person who has been suspected of a crime.

The Kaffirs are very superstitious, and believe in witchcraft. They believe that the spirits of the dead can return to the earth and do evil to the living. They also believe that the spirits of the dead can return to the earth and do evil to the living. They also believe that the spirits of the dead can return to the earth and do evil to the living.

The Kaffirs are very superstitious, and believe in witchcraft. They

[illegible] a certain clause [illegible]
in the settlement of the property
of the late Frederick [illegible]
and on the second part the said
marriage will take place
[illegible] and whereas
the said parties are desirous
of having the benefit of the said
settlement so far as the said
marriage may be affected
by the provisions of the said
Act of Parliament and
of the Deed of Revocation
of the Uses of the said
settlement and of the
Deed of Appointment
of New Trustees and
of the Conveyance
to be executed
in pursuance
of the said
Deed of Revocation
and of the
Deed of Appointment
of New Trustees
and of the said
Conveyance
and whereas

[illegible] Bill to declare that certain
[illegible] for the Government of
[illegible] Provinces shall be
an enactment for [illegible]
[illegible] Bill for the Government
[illegible] Provinces and for matters
[illegible] marriage shall not be
deemed and is hereby declared
[illegible] and to remove all doubts
[illegible] complete and binding
[illegible] are made by persons
[illegible] from any disqualification
[illegible] and shall be decided by the decision
[illegible] law in the case of persons
[illegible] of any conversion or
[illegible] subsequent marriage.
[illegible] to do, and whereas
[illegible] legislation is [illegible]
[illegible] a certain [illegible]
[illegible] her husband before consummation
[illegible] of the marriage or marriages
shall not be considered a ground
and shall not be entitled to claim

the [illegible] of a wife under the Hindu
Law, but shall be entitled to maintain
after her parents have ceased to
do such under the Hindu Law. By
such legislation the Government
do not declare that infant marriages
or illegal or [illegible] they [illegible]
This kind of legislation will indirectly
by [illegible] the effects of [illegible]
parents from [illegible]
[illegible] the infant [illegible] before
they attain puberty & therefore
[illegible] to [illegible] for [illegible]
offering [illegible] a settlement
[illegible]. Should [illegible] subsequently
[illegible] through the second [illegible]
[illegible] with the [illegible] Law
[illegible] to the [illegible] the Government
[illegible] fairly [illegible] the [illegible]
[illegible] by which [illegible] may be
[illegible] to [illegible] the [illegible]
[illegible] to [illegible] the [illegible]
[illegible] Hindu Law [illegible]
[illegible] by the Hindu [illegible]
[illegible] shall [illegible]

Rec'd 18-11-82: 2450

18-11-82: 2270

in the hope that an opportunity
of obtaining an important
object effecting the well
being of My Colonial Subjects
against her will together
with welcome.

I have been in
the service of their Highnesses
the late Raja of Travancore
and gladly take the right
opportunity of expressing
my sincere regret at
their loss.

I have been in
the service of their Highnesses
the late Raja of Travancore
and gladly take the right
opportunity of expressing
my sincere regret at
their loss.

The importance of the
object in my early
years of nurturing
& submit my views
upon which be pleased
to lay the Memorandum
before

the Rajas Government.

Travancore
Cochin
Colombo
5th January 1855

Chief Secretary

Addressed

Chief Secretary Ceylon &c &c &c

Judicial Assistant
Commissioner

From

Mr. Subbaraya Aiyr. S.A. to
Sr. Judge Evacuation

Encl. one

Public Department

No. 2279
2 Sep 30

105

From

THE CHIEF SECRETARY TO GOVERNMENT,
FORT ST. GEORGE,

To

THE SECRETARY TO THE GOVERNMENT
OF INDIA,
FOREIGN DEPARTMENT.

dated 20 September 188

SIR,

With reference to your letters of the 11th Sept 1884 and 9th Sept &c on the subject of infant marriage and reported evidence in India I am directed by H.E. the Governor in Council to offer the following remarks

2. The opinions of the leading native gentlemen of Madras as ascertained by the Collectors of Districts in reply to the Circular Memorandum of the Government of India, Home Department, No. 2270 dated 18th Oct. 1884 and No. 2480 dated 18th Nov. 1884 appear from a perusal of the enclosures to the letter from the Collector of Salem dated 12th Nov. 1884 to have been carefully recorded. The opinions on which the observations of the Collector of Salem are based have been recorded before the receipt of the Circular Memorandum above referred to. Extracts from the proceedings of the Collectors of Districts are attached to the Salem Collector's letter and the Board have had the benefit of perusing the whole of the proceedings. It will be observed that the Board

that it is most desirable that
Your Grace with their opinions
on this occasion should be a measure
to be to their ignorance, as which
[illegible] as to Mr. Malabari's
publications formed claims to
the attention of this Colony.

Such opinions as have
been received are plainly opposed
to the views of the question
they were now be forwarded
H.E. the G.G. in C. with an
intimation that Her Government
did not wish to be [illegible]
to [illegible] with these views
[illegible] intimation of
suggested by

As observed by Mr.
dent of the Bombay Legislative
Assembly such action would
a clear unwarrantable
tion of Her Majesty's Pro
ation to bring pressure
influence to bear upon
[illegible] beliefs & practices
people, particularly upon
question of marriage which
of, of all the most sacred
nt of any creed or church.

The opinion of this gentle-
man as a reformer, is cer
well worthy of perusal.

1065

The Chief Justice of Travancore
points out that the orthodox element,
which unreservedly opposed to such
interference as is suggested represents
99 per cent of the native community,
and to give this Province,
at any rate is concerned, much
is the reason to complain. Such
view is an over-estimate.

[illegible] Hindu has married a male
adult [illegible] prohibited in
[illegible] from the
[illegible] of [illegible] has [illegible] as
[illegible] is [illegible]

He shows the suggestion would
for practical dissolution of infant
marriages are unobtainable, as
[illegible] of May are not practi-
cable that of civil law of
ordinary grievances, has
is entirely due to their own i
to bring them to [illegible]

The Late Mahadeva
Travancore confined himself
approaching the [illegible]
the Govt to [illegible] with a
marriage [illegible] widows

Mr. Ramachandra
Sub Judge of Madura, a
of advanced Hindu thought
Conclusion that the Mad
Legislature are unfamiliar

GOVERNMENT OF MADRAS.

PUBLIC DEPARTMENT.

READ—the following papers:—

From the President, Hindu Sabha, to the Chief Secretary to Government, dated Trichoor, 2nd November 1884.

The Remarriage of Hindu Women.

I have the honor to submit, for the consideration of Government, my views on this subject—

1*st*.—The religious sense of the Hindu community is against a woman thinking or having a memory of more than one person as her husband, however readily the animal feelings may in practice overcome the religious sense in individual cases.

2*ndly*.—The Brahman, who is only a Hindu of religious culture, is honored for holding the animal feelings in subordination to that religious sense.

3*rdly*.—The agitation against infant marriage and enforced widowhood proceeds from persons, who, by reason of their western education, or of their scepticism, or of their desire to check immorality and infanticide, cannot appreciate the religious sense of the Hindu, and particularly of the Brahman community. This community consists of thousands of families unknown to Government, and are not represented by the agitators and officers known to Government, but by the practising priests.

4*thly*.—It will be a clear and unwarrantable violation of Her Most Gracious Majesty's Proclamation to bring official influence to bear upon the religious beliefs and practices of the people, and particularly upon the institution of marriage which is one of if not the most sacred sacrament of any creed or church.

5*thly*.—Freedom to marry girls and widows at any age is not denied now and was not denied at any time, and the agitators are not just and even honest in interfering with those who do not religiously or socially approve of that freedom. I myself belong to the agitator class, but should be ashamed to call it *persecution* if those who do not believe and act with me disown me as their relative or casteman.

(Signed) A. SANKARIAH, B.A.,
President, Hindu Sabha.

From the Chief Justice of Travancore, to the Chief Secretary to Government, dated Trivandrum, 13th December 1884.

I have the honor to acknowledge the receipt of G.O., dated 15th ultimo, No. 2480, Public department, directing me to state my views on the suggestions made by Mr. Malabari, of Bombay, in connection with infant marriage and enforced widowhood among Hindus; and to submit the following observations.

2. The existence of the evils of infant marriage and enforced widowhood, graphically depicted by Mr. Beheramji M. Malabari, cannot be denied. There are now two conflicting and diametrically opposite opinions upon the religious obligation of a Hindu girl to be married before she attains age; and to remain a widow, irrespective of her age, at the time the greatest of misfortunes befalls her. The conviction of a large

number of educated native gentlemen—that the Shastras do not prohibit the marriage of girls after puberty, and the remarriage of widows, especially where they happen to be virgins—might warrant the interference of the Government, in some shape or other, in *furtherance* of the policy which led to the passing of Act XV of 1856. But I entertain serious doubts as to the success of the measures proposed by Mr. Malabari to check the evils in any appreciable degree, so long as a very large majority of natives of both sexes are either opposed to any reform, or are indifferent to it. I may, without fear of contradiction, add that the orthodox element still represents not less than 99 per cent. of the native communities, that nearly 90 per cent. of those who are convinced of the reasonableness of, or the necessity for, the reforms, are not likely to act up to their convictions for several decades to come.

3. I shall first consider the proposals made by Mr. Malabari to check infant marriages. They are, firstly, that no married student shall be eligible to go up for the University Examinations; secondly, that no married man shall be eligible to enter the public service; thirdly, that the price paid to the parents of a girl should, by a legislative enactment, be declared to be the property of the girl; and fourthly, that the marriage of a boy with a girl older than himself in age, should by law be declared null and void. I take it to be the cardinal principle of all Government action, that it will promote the happiness of its subjects. In my humble opinion these proposals of Mr. Malabari will aggravate the evils without materially promoting happiness. The number of young men who educate themselves for University Examinations is and will ever be a very small fraction of the juvenile population of India. Those who look to, or depend upon, public service would never exceed 1 in 5,000. With the existing belief that a girl should be married before puberty, the consequence of the ruling that no married man shall appear for examinations and enter public service would be to multiply the evils of early marriage by inducing parents to marry their daughters to comparatively uneducated youths, and to those whose prospects of earning their own bread are gloomy. Experience shows that in respectable families the birth of females preponderates over that of males. To quote the words of Mr. Malabari, "the area of selection is so narrow where society is split up into numerous castes and sub-castes that practically Hindu parents have to make Hobson's choice of it, to accept the first boy available or to buy one who comes the cheapest, all things considered." In other words, already a scarcity of competent bridegrooms is keenly felt. The rule proposed would, in my opinion, convert it into famine. The expenses of the marriage of daughters in respectable families is now unbearable, if not ruinous. The proposed rules would make them absolutely ruinous, as no promising young man could be found willing to give up the prospect of academical honors and lucrative professions, unless the father of the bride pays down such a price (vara datchana) as would induce him to marry, foregoing all the educational and professional advantages. I cannot better conclude this part, than in the following words of an illustrious personage with whom I had the honor of conferring on the subject: "The result of the proposed rules will be the Government will get a crop of raw and thoughtless servants; and the Indian girl, the stupidest husband."

4. It may be argued that in the same way in which many a superstition has ceased to exercise its influence, in the face of necessity, the Hindu community will tacitly give its consent to the postponement of the marriage of girls until such time as properly qualified bridegrooms could be had. Those who advance this argument forget that the exploded superstitions had no bearing upon the unions of sexes in marriage. It cannot be denied that the social progress of Hindu society is arrested wherever a woman has to be consulted. None could be so cruel as to refuse a voice to the mother in the marriage of her daughter. Women in all countries are more conservative than males. In India, the ignorance of the generality of the fair sex makes the matter worse. Neither the priest nor the matron of the family could be induced to consent to postpone the marriage of a girl beyond the period of puberty by any amount of explanations upon the difficulties of the situation. They, with their notions, my convictions of *predestination*, could not be made to see the utility of giving the girl in marriage to one whose future prospects are comparatively brighter

than those of one whom they would select with the sole object of fulfilling the requisites of religious usage. An attempt to set at nought the time-honored priests, sisters and matrons of the family, disturb domestic harmony as it does, and fails in 999 out of a thousand cases. As it is, the life of the father of a girl in a respectable family is full of anxieties and trials. The proposed rules would only make it unbearable.

5. So long as infant marriages are not legally prohibited, I do not think it wise to meddle with the existing state of things and make rules the effect of which would certainly be to hold out a premium to ignorance and incapetence to multiply the evils and the expenses on the bride's side, and thereby add to the poverty and misery of India, by bringing about unions more deplorable than those now contracted.

6. The law declaring that the price paid to the parents of a bride, by the bridegroom, is the property of the girl, would be a dead letter. It may grace the statute book, but it would be honored only in the breach of its provisions. The misappropriators of this money being parents, the girl as well as her husband would be most reluctant to take any legal steps to compel its proper application. Generally those who sell their daughters in marriage are poor, and they do not really stand in dread of decrees that may be passed by the Civil Courts who are bound by law not to *imprison* the insolvent. The denunciations of Manu against the usage of receiving money in consideration of giving a daughter in marriage, and the explicit and unanimous declarations of Rushies that a girl who is given in marriage by her parents in consideration of money, does not become patni (wife) but she is a dasi (concubine); and that her gotra does not change by such marriage, have had no effect in checking the abominable practice which, I regret to say, is on the increase.

7. I have seen in the Northern Circars of this presidency so much of the evils of the parents receiving money to give their infant daughters in marriage to men who, by their character, age, social position, and physical strength, are utterly unfit to marry, that I feel it to be my duty to propose legislation to prohibit the marriage of males *after* the age of fifty. The evils are so faithfully and graphically described in a Telugu drama entitled "Brahmya Vivaham," by K. Veerasalingam of Rajahmundry, that I cannot resist the temptation of inviting attention to it. The legislation I propose has the support of the Shastras, for, according to them, none who is more than 50 years old should marry. It will in a measure reduce the chances of widowhood with its train of evils. The plea of religious necessity which many an old and sickly man puts forward to justify his marriage with a girl fit to be his great-granddaughter, rather than his partner, is perfectly untenable; for the marriage of a widower is not a religious necessity, and Sri Rama, than whom there is no higher Hindu authority, performed many aswarnada yagoms, with the gold image of his departed wife (Seetha) to supply the place of a wife in such ceremonies. I would not raise my voice against the marriage of an old man to an infant, if he marries under a *real* conviction of religious necessity, *i.e.*, to keep agnikotram (fire), but not one in a hundred old men who marry ever dreams of keeping agnikotram, and much less keeps it.

8. It may be argued that the legislature will not be justified in prohibiting the marriage of old men, for by doing so, it will act contrary to the laws of all nations. In countries where marriage is a matter of contract and the bride has the right of choosing her own partner in pleasure and in sorrow, there will be no necessity for placing any restriction on the right to marry, but in India, the *protection* of the *interests* of minor *girls* who are often victims of the caprice and sometimes of the avarice of their guardians, renders it necessary that some restriction must be imposed.

9. The practice of marrying boys to girls older than themselves seems to be confined to a very small section of low classes in certain districts among whom marriage after puberty is not prohibited. Marriage of girls being compulsory, and the difficulty of procuring husbands of proper age of the same caste as that of the girl seem to be the sole reason for the existing practice. So long as caste system exists, I doubt not that a legislative prohibition of such marriages would be considered as a serious grievance

The propriety of passing such a law is very questionable, as among the civilized communities of Europe such marriages are of daily occurrence.

10. I will next proceed to consider the proposals made by Mr. Malabari to mitigate the evils of enforced widowhood. They are (1) that no Hindu girl who has lost her husband or had her betrothed if she is a minor, shall be condemned to life-long widowhood against her will; (2) that arrangements may be made, in suspected cases, to ascertain whether a widow has adopted perpetual seclusion voluntarily, or whether it has been forced upon her; (3) that every widow of whatever age shall have the right to complain to the head authority of social ill-usage (*over and above* excommunication), and that proper facilities shall be afforded for the purpose, such as gratuitous service of Counsel, exemption from stamp duty, attendance of Vakils, and so on; and (4) that the priest has no right to excommunicate the relations and connections of the parties contracting second marriage, besides excommunicating the principals.

11. As a rule, widowed girls are allowed until they attain the age of 18 or 20 to retain their locks, wear jewels and flowers, and to have meals, as their more fortunate sisters under coverture. But the strong but silent disapproval with which society looks upon these innocent enjoyments of the unfortunate young widow, and the example of others in her position, make her seek the miseries of widowhood, in preference to the comforts allowed to her by her loving parents and relatives. It is, as a concession to the young widow's repeated entreaties, that the parents and relatives often consent to the performance of the most melancholy rite of tonsure. I do not deny that there are bigoted men, who, in their religious fervour, have subjected girls of 7 or 8 years old to all the miseries of perpetual widowhood. But their number was never large and is now dwindling. I may even say that such men are now very rare phenomena. It is not, in my opinion, expedient to put the machinery of legislation to do what is now being done without it. The laws now in force contain adequate provisions for the protection of a widow. If against her will, she is compelled to go through the melancholy ceremony of tonsure, the offenders will be liable to prosecution on charges of assault, causing hurt, using criminal force, &c., under the Indian Penal Code. Ample provision is made in Act XV of 1856 for the marriage of widows and for the protection of their civil rights. She is also protected from wanton insults, resulting from the offensive and unnecessary publication of bulls of excommunication, by the judgment of the Madras High Court in Empress *versus* Sri Sankarachary Swami. If widows have *unredressed* grievance, its existence is entirely due to their reluctance to bring them to public notice. Courts, civil or criminal, cannot, of course, take cognizance of cases not duly submitted for their decision. So long as people, either by ignorance or indifference, do not avail themselves of legal remedies to which they are entitled, no law, however elaborate and stringent, can help them. The social ill-usage to which Mr. Malabari refers is always of a *negative character*, such as refusal, direct or indirect, to associate with a married widow or her husband, or her active sympathizers, in meals, religious ceremonies, and in social gatherings. No legislature of the nineteenth century would attempt to make friends and unmake enemies by its laws. Even if the power of priests to excommunicate married widows, their husbands, relatives and friends, be taken away from them, there will be nothing to compel the priest or the unwilling society to associate with the remarried pairs and their connections, in meals, religious ceremonies, and in social gatherings. I must here add that Mr. Malabari has no objection to the priest excommunicating the principal parties to the second marriage. From what has recently passed in Madras, in connection with the bulls of excommunication issued by one of the leading Muttadipathies, one might legitimately infer that priests will, in the long run, be not disposed to exercise the power of excommunication, if by the exercise of it they would lose a large number of their wealthy disciples.

12. In conclusion I may state that the complaint of the Widow Marriage Association of Pajahmundry, under whose auspices a dozen widow marriages were performed in Brahmin and Vishya families, is not that the laws are defective; but that they could not command necessary funds to pay the expenses of marriage and to maintain such of the married pairs as are unable to support themselves. The best

possible aid which the Government can give seems to me to be periodical donations to the Widow Marriage Fund upon such conditions as would not discourage it. I need hardly add that both the widow who remarries and her husband will, for a long time to come, be deserters of their families, and that they would therefore require State support until the innovation becomes popular.

(Signed) K. KRISHNASWAMI RAO,
Chief Justice of Travancore.

From His Highness the Maharaja of Travancore, to the Chief Secretary to Government, dated Tarpanagudi, 19th December 1884.

It is with much pleasure I learn that the Madras Government has requested certain leading members of the Hindu community to express their opinion on infant marriage and enforced widowhood, two terrible curses of that community. While I applaud the laudable attempt of the Government to put down, if possible, these two bad practices, I do not for a moment doubt but that the majority of those sensible men now consulted will express their decided opinion against these horrible causes of much misery and "biting afflictions" to their poor sisters and daughters. I would have written to you earlier on the subject, but my eyes were [illegible], and I was under treatment. It is another source of very great pleasure to me to see of late all wrong interpretations on His Excellency's motives and actions disappearing from amidst the prejudiced or voluntarily blind section of the native community.

(Signed) RAMA VARMA.

From the Subordinate Judge of Madura, to the Chief Secretary to Government, dated Madura, 17th December 1884.

In obedience to the order of Government contained in G.O., No. 2480, dated 18th November 1884, I have the honor to submit my views on the questions raised and suggestions offered by Mr. Malabari of Bombay, in connection with the infant marriage and enforced widowhood among Hindus.

2. The evils arising from infant marriage and consequent widowhood have been too well known to Government to need any discussion from any Hindu. From my experience of twenty-three years of several districts in the presidency, I am in a position to assure the Government that in spite of the liberal education and a painful consciousness on the part of the educated men of the evils of all sorts arising from it, infant marriage has become more numerous than ever, and I should say it has become the mania of the people at large. Even graduates of the University and educated men generally have been disposing of their infant girls of two or three years by marriage simply from an apprehension that they could scarcely get rich boys or sons of rich men at a future time.

3. The fashion of the day is that infant girls of rich men are forced upon the sons of rich men with dowry of great value, and that in a competition of this kind the boy's parents choose the infant who brings them the largest sum as dowry. That a reform in this direction is certainly needed has been admitted on all hands; but nothing can be done and will be done by the Hindus if they be left to themselves even for a century to come. A few of the educated Hindus no doubt take real interest in effecting a reform in this matter, but their exertion is not enough to override the powerful opposition of the masses under the influence of their priests. To substantiate my assertion, I would respectfully ask the Government to ascertain if there is to-day any graduate or educated man who, as father of infant girls, has not got them married while they were infants; or if there is any graduate or educated man who has had the moral courage of keeping his daughter unmarried till she had attained her puberty and then getting her married. No one will come forward to say that he has done so. This will show clearly that no good in this direction can be expected from the joint action of the educated Hindus or Hindus generally. The graduates and educated men

generally who become widowers by the death of infant girls betrothed to them have not had the moral courage of marrying adult infant widows who have not attained puberty, and setting an example to the masses at large. Educated men instead of coming forward as leaders wish to be followers.

4. If infant marriage can be stopped by any means direct or indirect remarriage of widows may not demand much attention. But the suggestions offered by Mr. Malabari such as restricting the admission to University honors to unmarried boys, heads of departments in the various branches of the Government service preferring unmarried to married candidates, and the Government ruling by legislation that money obtained for an infant girl married to an old man is her own money, and should safely be deposited in her own name, appear to me to be quite impracticable and not at all calculated to produce the desired effect, for they are restrictions which would not affect the whole community. All those that pass the Matriculation Examination do not aspire to University honors.

5. I beg to be excused for submitting here that the Government, while conscious of the evils arising from infant marriage and sincerely evincing a desire to remedy the evils by some means or other, have been unconsciously abetting and encouraging it. I say so, because the courts created by the British Government so far back as 1805, without thoroughly investigating into the question when raised, and without acquainting themselves with the forms and ceremonies constituting infant marriage, but relying upon the statements of the old priests, whose prejudices in those days were deeper than the prejudices of the orthodox Brahmans of the present day, have condescended to recognise in a betrothed infant girl the status of a widow and all the incidents of property appertaining to a widow under the Hindu law, was an incentive to infant marriage, and the Government have been pleased to recognise it as the law of the country. Before applying the rights of a widow to an infant girl it was for the British Courts at the commencement of its rule to have ascertained upon thorough investigation whether a betrothed infant girl attained the status of a widow by the death of the boy to whom she had been betrothed, or whether the term widow in the Hindu law applied only to a married girl who lost her husband after the true consummation of the marriage. If an inquiry into this question be now instituted, I feel sure that it can be shown to the satisfaction of the Government that the term widow was through misapprehension, error and ignorance become perverted from its original signification so as to apply even to a babe in the arms of her mother. I shall now refer to a few facts which I believe will convince the Government that even among the Brahmans of all classes no marriage was considered complete before the actual consummation, and that they now in giving effect to this rule make the infant couple pass through a form of symbolic consummation forgetting altogether the reason of it.

6. As Sub-Judge I have had experience of Ganjam, Vizagapatam, Cocanada, Bellary, Pálghat, Calicut and Tellicherry, and I have attended innumerable marriages. Pálghat is noted for its Brahman population consisting of nearly 8,000 houses of Tamil Brahmans and some of them have settled themselves at Calicut and Tellicherry on employment and trade. The Pálghat Brahmans though called Patter Brahmans do not form an isolated class of Brahmans, but at one time they belonged to the community of Tamil Brahmans inhabiting the East Coast and districts of Tanjore, Madura and Tinnevelly, and migrated into Malabar and settled themselves permanently at Pálghat. The Pálghat Brahmans and the Brahmans of the East Coast do perform the tale tying (தாலி) ceremony and Saptapathee on the first day, and on the fourth night they make the infant couple sleep on one mat in a room which is only a symbolic consummation or a symbol of actual consummation which is essential to the completion of a marriage. The same practice is observed even to this day in all the Brahman families of Travancore and Cochin and in some of the Brahman communities of Tanjore, Madura, and South Arcot district. Among the Telugu Brahmans of Northern Circars, Masulipatam and Bellary, on the fourth day of the infant marriage the infant couple are made to sit on one mat and they are made to exchange betel and nut and chew, which is only a symbol of consummation; whereas it is not done on the first day. I call it a symbol

because the first thing that a husband and wife do on the date of actual consummation of marriage as soon as they retire into the bed chamber is to exchange betel. This practice is observed invariably on the fourth day of marriage by all classes of Brahmans.

7. Let us ask the very Brahmans who do not fail to make the infant couple sleep on the fourth night on one mat what it stands for, and what it is required for. They do not know the reason of it. It is for the enlightened Government and for the enlightened members of the community who should co-operate with it to understand correctly what it represents. As I have already stated, it is only a symbol of consummation without which the marriage is complete. I have been carefully observing the forms and ceremonies of marriage, and as the result of my experience I have alluded to the above-mentioned fact at page 4 of my introduction to the Manual of Malabar Law published last year in the following words:—"The (Nambudries) nuptials invariably take place on the fourth night of the marriage, a circumstance which shows that without consummation of the marriage there can be no marriage. Even among the non-Malabar Brahmans with whom child-marriage is the rule, the infant couple are made to sleep on one bed in the room on the fourth night of the marriage. And this is done in compliance with the requirements of the Shastras as essential to the completion of the marriage, but the Brahmans in whose view reasoning and attempt to know the reason of every ceremony are symptoms of a tendency to desert one's religion and become an outcaste, have by long custom forgotten the reason of such mock consummation on the fourth night." This mock consummation proves beyond doubt that child marriage which was not so common is only a later graft on the ancient marriage after puberty. No British Court has gone into these questions up to this day. But it would appear to have merely assumed that a betrothed infant girl attained the status of a widow, or, in other words, that actual consummation was not necessary to entitle a betrothed girl to be considered in every respect a wife.

8. If the Judge of the Madras Sudder Dewanny Adawlut had availed himself of the opinion of the Pandit Venkatesa Sastree to the effect that a woman with whom marriage was not consummated would have no claim to inherit her husband's property and foreseeing the evils arising from holding otherwise, held a thorough investigation into the question and declined to recognise the status of a widow in a betrothed infant girl, by this time infant marriage would have received a check and the chances of widowhood occurring at least before attaining puberty would have been reduced to a minimum. Instead of doing so, the Judge in spite of the Shastree's opinion himself observing, "I know of no distinction made by the Hindu priests between consummation and non-consummation; she is in my opinion entitled to be considered in every respect as a wife," held that a betrothed girl was entitled to be treated as a widow. This opinion was only an assumption and not based upon any expressed text or evidence of custom. Likewise the Adawlut Court of Bombay in Bombay, it is to be regretted, failed to take into consideration the opinion of Mureshwram Sastree and Wullubhram Sastree to the effect that betrothment was liable to be revoked for sufficient reasons such as disease, bad conduct in man, both girl and boy belonging to the same gotram and the like which distinctly implied that betrothment alone did not complete the marriage and that actual consummation was necessary. I shall here quote the opinions in their own words:—

Madras.

Sudder Dewanny Adawlut—

"A Hindu employed in the army dies leaving at his death a betrothed wife with whom consummation had not taken place, together with concubines and both adopted and illegitimate children, and with respect to property, a pension payable to his heirs. Who are in this case his heirs?

Answer.

"The adopted children are entitled to the pension subject to the obligation of maintaining the concubines. It is so held in Vivandabangarnava on partition of patrimony. But it is not said that women with whom marriage has not been consummated, and illegitimate children, have any claim to inherit."

(Signed) VENKATESA SASTREE.

Remark.

"If what is here called betrothment be the first or real marriage (for the fetching home of the bride at the age of puberty, commonly called the second marriage, is merely the solemnization, not the celebration of the rite) the woman cannot be married again (except in some castes where custom supersedes the law), and *as I know of no distinction made by the Hindu priests between consummation and non-consummation, she is, in my opinion, entitled to be considered in every respect as a wife.*

"In a late case before the Sudder Dewanny Adawlut of Madras, where a marriage had been interrupted by the death of the husband subsequent to betrothment and before consummation, the young woman who survived claimed to inherit to the deceased as his widow, or to be entitled at least to maintenance out of his assets. But the suit was compromised—Venkatram *vs.* Venestasoobermell."

Bombay.

Broach—Court of Adawlut, September 6th, 1811—

"In the case of Kullan who first betrothed his daughter to Pranwulub, the brother of Ruseek, and afterwards to Yesoor on complaint the custom of the caste having been ascertained, by assembling witnesses from Broach, Oklesun and Hansit, it appears that where the first betrothment has been accompanied with presents, it is conclusive, and it appearing in this case that the one in question was accompanied by the delivery of a sum of money, as part of the mulla, or bridal presents, we are of opinion that as well according to the custom of the castes as the law, the first betrothment ought to be established and have its effect, it being ordained in the Mitakshara, that a girl shall only be betrothed once, unless the betrothment that has taken place be liable to be broken for sufficient reasons, such as disease, bad conduct in the man and the like.

(Signed) Nurchuyram Sastree.
(,,) Wulubhram Sastree.

Bombay.

Broach—Court of Adawlut—

The father in this case having betrothed his daughter in consideration of a sum of money stipulated, the betrothment is adhara vivaha, and, on payment of the money, it cannot be set aside, otherwise it may.

Ibid.

The betrothment in question cannot stand, the Mitakshara declaring that those only whose gotra are not the same may be betrothed to each other. And whatever bridal presents may have been given by the boy's father or family to the father or family of the girl must be returned.

(Signed) Nurchuyram Sastree.

9. Manu and Mitakshara do not deal with a betrothed infant girl as a widow, but on the contrary it is clear from the annotations in the Mitakshara that the term widow is restricted to a woman whose nuptials have been completed. In the annotation on section 7, chapter I, of the Mitakshara it is said, "Unmarried signifies one whose nuptials have not been commenced; married whose nuptials are begun." The meaning of the passage cited from Manu is "a young woman betrothed, but whose nuptials have not been completed and who is consequently a maiden, since she is not yet become the wife of the intended husband."

10. In the beginning of the last year the question whether actual consummation was essential for the completion of a marriage was raised and argued before the Honorable Justice Kernan in a suit brought by a woman as widow of one deceased Krishnamah who was a Brahman by birth and who had after betrothment of the woman according to Hindu law, but before consummation of the marriage, become a convert to Christianity and married a Christian wife; after his death the betrothed Brahman woman as widow of the deceased claimed his property under the Hindu law. The question was argued at great length, and the Judge had reserved his judgment, but how the case was disposed of I have no means of knowing.

11. Let me now see from a religious stand-point if a woman and no other accomplishes religious ceremonies, or, in other words, religious ceremonies are accomplished by means of "pathni" or lawfully wedded wife. In practice even to this day it is a fact that a betrothed girl is considered unfit and unqualified to accomplish religious ceremonies or join her husband in the performance of it before actual consummation of the marriage takes place. A person of 60 years old becoming a widower and physically unfit to marry, can and marries an infant girl believing in the Vedic rule that a wife is necessary to help him in the performance of religious ceremonies, without which he could not hope to enjoy bliss in the next world. He knows that the girl he marries is disqualified for it till she attains marriage and the marriage is consummated. To render a gift made by a Brahman valid his wife should sprinkle water on the betel which her husband passes to the donee. During the performance of religious ceremonies his wife is required to stand by fanning him with a holy grass. During the performance of yogam or sacrifice of sheep, cow, &c., one end of the husband's cloth and one end of the wife's cloth are fastened together and they both move together wherever and on whatever purpose they may move. For all these purposes a betrothed infant girl is considered unqualified till she attains her puberty and her marriage is actually consummated. These facts which may be ascertained upon due investigation also tend to show that a marriage is not complete before consummation.

12. It will very naturally strike any foreigner why the Brahmans, in spite of their consciousness of the infinite marriage proving a permanent source of misery, create it by betrothing their infant girls even in their childhood. There are these causes sufficiently accounting for it. Apart from the unfounded notion that a girl attaining puberty before betrothal loses her caste, the difficulty of obtaining young boys suited to the girl as to age and position at a future time as the girl grows as old as 12 or 13, engrosses the attention of the parents, and they begin to negotiate for the boys from the very moment of birth of the girl. The boy's parents receive thousands of offers of the kind with rich dowries and they choose. If the betrothed boy dies, the parties feeling the misery and evil consequence of looking upon and treating an infant girl as a widow are her parents. If we go to-day to a college in any district we can hardly find unmarried Brahmin boys of 12 or 13 years.

13. The next thing that encourages infant marriage is the cursed astrology in which the uneducated women and the educated men alike confide. The credulity of the Hindus is too well known, and this is evident from the present mania of the educated Hindus for Theosophy. Their minds are now too fully occupied by it to pay any attention to social reforms. Astrology has spoiled the country making the people inactive, indolent and indifferent to improvement of any sort or kind; for every one believes that the country will get on as preordained by Brahma. The Hindus generally, and the Brahmans especially, and even the educated men to this day believe that all the incidents of one's life have been predestined, and the coming good or evil can be ascertained by systems of astrology which they therefore believe, can reveal whether an infant male child will be lucky or otherwise, whether or not an infant girl will get a good husband and lead a happy married life, and whether she will become mother of children, and so forth. No Brahman betrothment takes place without an Astrologer's opinion of the coincidence in every respect of the horoscopes of the infant boy and girl to be betrothed, and the chief thing that the Astrologer is asked to ascertain is that the girl will not lose her husband and become a widow. If the Astrologer says that the horoscopes agree, the parents of the girl think that they have made the best selection imaginable. If any sensible person intercede and suggest postponement of the betrothment at least till the girl attains her twelfth year, that she might escape the chances of widowhood if then, the strong argument of the people against it is that the fate of the boy and girl and the mode of life they have to lead in this world have been preordained by Brahma or written on one's skull, and that astrology has been intended by the Rishees to give the people to a certain extent a

foreknowledge of such future life, and that nothing could alter one's fate. The females are uneducated, superstitious and filled with old-fashioned prejudices, and the males are not less so, and though a few of them be otherwise, they have to humour their women in every respect. Having such faith in the doctrine of fate and events of the future, which astrology is believed to reveal, they argue that a girl destined by fate to become a widow will become so at any time, whether she is married while an infant or married at a later stage of life, and therefore they might be married at once. The influence which the doctrine of fate and astrology exercise over the Brahmans and Hindus generally is paramount, and I would not acquit of this folly even the graduates of the University who have received liberal education. It is to be very much regretted that this faith is not shaken a bit, even when they see the funeral ceremonies of bridegrooms following in several cases very closely the ceremonies connected with betrothment and when many infants become widows in cases where Astrologer pronounced coincidences of horoscopes and predicted married life without interruption. Astrologers own daughters do not escape such fate. Such failures are invariably attributed by the people and the very Astrologer consulted, to some thing wrong in the horoscope itself, viz., that the star of the infants had not been correctly jotted down by the people who were present at the time of birth; that in calculation of figures certain figures were added instead of being subtracted, and the like. The Astrologer further justifies his blunder by saying that Brahma misleads him in some cases lest people escape their fate preordained by him, and the people believe in such excuses. The parents of an infant girl when they hear the death of her husband, cry and mourn over the event and console themselves with the thought that the inevitable fate or karma, meaning the result of good and bad actions of the former life, could not be evaded by any amount of human precaution. Palmistry, by which gipsies in England indulge in fleecing young girls by predicting their future, is made a criminal offence, and astrology has been breeding more mischief in this country.

14. The next and the strongest of all the inducements to infant marriage is the certainty which the decision law of the country affords, that an infant girl on losing her betrothed husband becomes entitled to suitable maintenance from the boy's ancestral property if the boy be an undivided member; and to inheritance if he be a divided member and that she would not be a burden upon the parents. In consequence of this Judge-made law, the parents of an infant girl do not ask for any settlement either of money or property on the girl at the time of betrothal as a provision for her maintenance in case of her becoming a widow. In rich families no money is paid for the girl, but on the contrary presents are made by the parents of the girl to the boy. In the case of the people of ordinary circumstances which constitute the great majority of the mass, a certain sum of money is received for the girl which is appropriated by the parents, and as they know that the girl's maintenance is recognised as charge upon the property of the boy's parents, they do not feel the necessity of asking for any settlement for this purpose at the time of betrothal. If the decision law had been otherwise, the parents of the girl would insist upon some settlement of property being made at the time of betrothal to which the parents of the boy would never consent, and this would have had the effect of postponing betrothment at least for a few years. The parents of the girl now think that by betrothment alone they settled their girls in the world, and that they need have no more care or anxiety about their future. If betrothment was not treated as complete marriage and if the courts declined to recognise the status of a widow in a betrothed infant girl losing her husband before consummation or nuptials, and declare that such infant is entitled to be treated as a maiden of her parents, infant marriage will soon die out, and upon its result we can think what further improvements can be effected in this direction.

15. The belief that a girl attaining puberty before betrothal or marriage loses her caste and ought to be treated only as an outcaste, has no legal basis. To show that it is so, I have to refer to the community of Nambudri Brahmans of the West Coast among whom infant marriage is rare, and I should say never takes place. A girl is permitted to lead a life of celibacy if she chooses to do so; she is permitted to marry at any time after attaining puberty. In any illom or house of a Nambudri having

such unmarried girls, the Pattar Brahmins of Palghat as well as their brethren of the East Coast sit in line with Sambandis and take meals which are prepared by such girls. It is true that they the Parameshwaras sin the meals touched by them is not treated by the Brahmans as polluted by the touch of an outcaste.

16. I beg to submit that it is high time for the Government to interfere in the matter of such an importance. It is for the Government to gather evidence as to the facts I have above stated in connection with the form of infant marriage observed in this presidency, and if it be proved that, with a view to render the marriage complete and binding the infant couple are made to go through some form of nuptial consummation, it would be necessary that the decision law in this respect has been the result of misconception and erroneous assumption. Should this be so, I would respectfully suggest that a simple prospective legislation be passed providing that a betrothed infant girl losing her husband before consummation of the marriage or nuptials, shall not be considered a widow and shall not be entitled to claim the rights of a widow under the Hindu law but shall be treated as a maiden of her parents having all the rights as such under the Hindu law. By such legislation the Government do not declare that infant marriage is illegal nor do they prohibit it. This kind of legislation will indirectly have the effect of preventing the parents from disposing of them during their infancy and before they attain puberty. No Hindu father will seek after a girl for his boy offering to make a settlement upon her. I would further suggest the revival of the old Hindu law now considered by the Hindus as obsolete, that a boy should marry after passing through the period of studentship which in the olden time was from 20 to 22. Considering the present state of the education, the Government can fairly fix upon the 16th year as which time a boy can be expected to acquire a certain amount of knowledge, the average age at which a boy matriculates being the 15th or the 16th. At the 16th a boy under the Hindu law attains his majority. If it should be considered impolitic to legislate against Hindu boys marrying before they attain their 16th year, the effect of such a legislation might even otherwise be obtained. I would improve the Maharaja's first proposal by suggesting that admission in all the Government colleges and grant-in-aid schools be limited in the case of boys of 16 years and under only to unmarried boys after 6 or 7 years notice from the date of the order. A majority of boys are Brahmans and infant marriage is greatly among them and to a fearful extent, and this vice has been copied by other caste people who try to imitate them in every respect. The restriction I propose will indirectly have the effect of rendering boy market very dear, and postponement of infant marriage will become unavoidable. No parents, especially the Brahman parents, who are under any circumstance interested in getting their sons employed in Government service by making them obtain academical honors, will prefer marriage to it. This may be done by Government without any legislation.

17. The existence of a class of people called dancing-girls, it is well known, was an immemorial institution forming a part of the religious endowments in India. The continuance of such a class used to be encouraged by the society, and the temple authorities, even when the temples were under the management of the Government, through their officers, even by adoption of infant girls bought from others for the purpose. The British Courts recognised such adoptions as valid as adoptions of boys in ordinary Hindu families carrying with it all rights of property. The decision law conferred on the adopted girl of a dancing-girl the status of a son under the Hindu law. But since the introduction of the Penal Code such adoptions and even a dancing-girl dedicating her own daughter while an infant to a temple having been treated as penal offences punishable under sections 372 and 373 of Act XLV of 1860, this class of people is becoming fast extinct. The Government have very prudently interfered with a religious institution with a view to prevent open immorality.

18. Before Act XXI of 1850 was enacted a Hindu male or female becoming an outcaste or by becoming a convert to Christianity or Muhammadanism, lost his or her rights to property under the Hindu law. This disqualification has been removed by legislation which entitles even a widow to hold her husband's property throughout life even after she had changed her religion. I allude to them only as instances to justify the interference of Government in the manner I have above suggested in the

matter of infant marriage. I again repeat that a declaratory legislative declaration to the effect that a betrothed infant girl should be by treated as wife till the marriage is actually consummated, and that such a girl losing her husband before consummation shall not be considered a widow and also an order of the executive Government in the Educational department restricting the admission generally to unmarried boys only under sixteen in all the Government and aided schools, will do no violence to the religious sentiments of the people, but on the contrary it will have the effect of checking early marriages. The legislation I have above proposed will have the immediate effect of putting a stop to the most cruel and heart-rending scene of every day's occurrence, viz., taking the betrothed infant girl losing husband to the burning ground, on the first day and again on the tenth day making her wear all her jewels, good clothes and deck her hair with flowers and ornaments as the first day that she can use them or enjoy such luxury in her life, while all the time the unfortunate child is unconscious of the significance and the ceremony such a girl has to think to do with burning of the body which is done by a great majority of cases, by the brother or father of the deceased. Such a girl, however young she may be, being denied the privilege of mixing with the betrothed girls of her age in singing, wearing ornaments, &c., and in doing all that married girls are required to do on occasions of marriage or auspicious ceremonies at home and elsewhere, such an infant girl being denied the privilege of going to temples on festive occasions and enjoying the sight of a festival as other married girls of her age do; the most melancholy scene of all is the so-called widowed infant girl not knowing the reason of her exclusion, asking her parents how she had offended them or others, and why she was not treated as a married girl, and the parents then beginning to weep over the misfortune of the girl. The above description, I hope, will enable the Government to picture to themselves the misery of a betrothed infant girl losing her husband, and the misery of her parents, and feel that nothing short of Government interference, at least in the way I have suggested, would effectually remedy the evil arising from child-marriage.

19. If the Government by legislation decline to recognise such an infant girl as a widow, from that very moment of such legislation, no parents of such a girl would submit her to the cruel treatment I have above described, but on the contrary would begin to look upon her as a maiden still marriageable. The legislation will also discourage people spending large sums of money upon infant marriages.

Re-marriage of Widows.

20. As I have already observed if infant marriage be checked by some means or other, the marriage of Hindu widows need demand very little attention. If people begin to marry their girls after puberty, it would very naturally occur to them as a matter of no consequence how long after puberty they are married. The girls would by that time attain their age of discretion, and might very naturally claim the option of choosing husbands, and the parents will have to yield to their wishes. When betrothed infant girls who may have lost or lose their husbands either before or after the proposed legislation see the change, they will naturally be tempted to negotiate for remarriage through their parents, and boys of proper age would come forward to marry them and prefer them in fact to infants that may be selected by their parents. This course will, I believe, effect in a decade or two perceptible reformation in this direction.

21. Even now there are young widows who have inherited their husband's property quite willing and anxious to remarry, provided that such remarriage would not interfere with the right which they would otherwise have of holding their deceased husband's property throughout life. In this direction no alteration in the Act can be suggested. But section 2 of Act XV of 1856, which is an enabling Act, has now the effect of encouraging rather a life of immorality than chastity which was intended by the Act. For the recent decision of the Calcutta High Court, I regret to say, has had the effect of neutralizing what little good was calculated to be done by the passing of the Act. When a question arose whether a Hindu widow forfeited her right to hold possession of her deceased husband's property by reason of unchastity of which she was guilty after the property had vested in her, the Calcutta High Court held

that unchastity incurred after the vesting of the property has never disqualification disentitling her to hold possession. But Justice Dwarkanath Mitter dissenting from the Court's opinion recorded his minute to the effect that unchastity was a positive disqualification. This decision was, however, confirmed by the Privy Council, and it has since been followed by all the courts in the country. The decision law allows Hindu widow to lead with impunity a life of open prostitution retaining possession of her husband's property, while the hallowed ties of matrimony entails forfeiture of property according to Act XV of 1856. This is certainly an anomaly which ought to be remedied. It must be enacted that adultery on the part of the widow is a positive disqualification to hold property inherited from her husband.

22. The criminal law of the country should also be amended so as to make excommunication by priests and punishment by castes those that contract second marriage and their relations accessories to the offence. They should also be prohibited from exclusion from public temples and public tanks which at present they are looked upon as outcastes, and are denied admission into public temples and prevented from using public tanks and rivers and courtyards as Hindus generally do. I would, therefore, suggest that Act XV of 1856 be so remodelled as to afford all such protections, facilities, and inducements to such of the Hindu widows and men as may really desire to remarry.

(Signed) [illegible] M.A.L.L.,
Subordinate Judge.

From the Third Judge, Appellate Court, Ernaculum, to the Chief Secretary to Government, dated Ernaculum, 5th January 1885.

I beg to submit, for the perusal and consideration of His Excellency the Governor in Council, a memorandum stating my views on the subject of Mr. Malabari's paper touching infant marriages and enforced widowhood.

2. Although I have not had the honor of being formally asked by the Government for opinion I have ventured to lay my views before them in the hope that an expression of opinion on an important subject affecting the well-being of my countrymen may not be altogether unwelcome.

3. I have been in the service of His Highness the Maharaja of Cochin as a Judge of the highest Court of Appeal, and in this capacity have had opportunities of studying the wants and feelings of the Hindus.

4. The importance of the subject is my only excuse for venturing to submit my views, and I beg you will be pleased to lay the memorandum before the Government.

(Signed) V. SUBBARAYA AIYAR, B.A., & B.L.,
Third Judge.

MEMORANDUM.

Mr. Malabari has addressed the Government of India on the subject of infant marriages and enforced widowhood, and suggests that certain measures be adopted by the Government with a view of checking the evils complained of. Although I am not one of those whose opinions on the subject have been invited by the Government, I have no doubt that in a matter like this, affecting as it would do the social well-being of a large section of the population of India, the Government would be anxious to secure the opinion of gentlemen other than those specially mentioned for consultation so as to allow of the utmost possible light being thrown upon the subject in all its bearings. For this reason I venture to beg that Government be pleased to lay my views and suggestions on the matter before them trusting that an expression of opinion on this important question will not be altogether unwelcome.

Mr. Malabari's remarks, divested of all poetical varnish with which it is surcharged, amount to an assertion that infant marriage has been the bane of the country leading to discord and misery among the married couples in after-life. In his opinion it has a most demoralizing influence upon the social well-being of the people. As a remedy for the evil he suggests the expediency of the Government holding out inducements to those young men who come in contact with it by showing preference in the distribution of official patronage and academic honors to unmarried young men.

The Government I am sure could not have failed to notice that recently there has been a movement set on foot under the auspices of enlightened and liberal minded native gentlemen for the purpose of bringing about a reform in the existing marriage institutions of the Hindus and for the emancipation of Hindu widows from the tyranny of customs which prohibits the remarriage. Gentlemen like Rao Sahib Raganada Rao and Cheptsal Rao I may remark labor with commendable zeal and earnestness in furtherance of the cause, and by the publication of tracts and pamphlets have endeavoured to convince their countrymen that the union effected between a boy and a girl by the marriage rites does not operate as an indissoluble tie until after its consummation, and that therefore where the girl loses her husband before she attains years of age she cannot be considered as having become doomed to perpetual widowhood and consequently become ineligible for remarriage. The propositions laid down by them are supported by texts from the Shastras. But against this opinion the immense majority of persons who maintain and quote texts assert that a Hindu girl should be married before she attains her puberty, and that postponement of marriage till after she attains her discretion entails forfeiture of caste. The remarriage controversy has evidently so far as to have led to the solemnization of a number of remarriages according to rites prescribed in the Northern districts of this Presidency. A good beginning has thus been made though unreasoning orthodoxy looks upon it as an innovation unsupported by the sacred writs and upon act subjecting the parties to the ban or excommunication. And advantage can be taken of this by giving additional facilities and by remodelling the provisions of Act XV of 1856, as I will show further on.

This is not the place for discussing questions of this kind in their religious aspect, and my object in referring to them briefly is merely to show that, in the opinion of the orthodox, who, by far, form the majority of the people, the shastras make it imperative that the marriage of a girl should take place before she attains her puberty, and that there can be no postponement of the ceremony without incurring the risk of social degradation and forfeiture of caste. The caste rules are characterized by a degree of bigotry and intolerance that marriage of a girl of one caste with a boy of another is not permissible. Each caste is again sub-divided into so many sections that the field for selection of brides and bridegrooms is really very limited. Among Brahmans there are many sub-divisions, and the members of one division are not permitted to step out of the limits of their social circle in quest of boys and girls. So is the case with the non-regenerate classes of the Hindu population.

Referring to the Census statistics of 1881 it will be found on a comparision of figures that the custom of early marriage is prevalent specially among the Brahmans. To quote from the Census report "some are married before 7, and nearly all are married before 10."

The figures suggest that between 6 and 7 is the average age of marriage for females among Brahmans. This has the natural result of a high percentage of widows, and we find that nearly one-third of the Brahman women are widows. Out of every 15 Brahman women of all ages 3 are not yet married, 7 are married and 5 are widows, and widows past remedy. There are proportionately 50 per cent. more widows among Brahmans than among other castes, and this surplus may be wholly attributed to the greater extent to which infant marriages occur among Brahmans than is the case with other castes. Certainly one-third, probably a larger proportion of the number of Brahman widows, are widows owing to this custom. That is to say if Brahmans do there would be nearly 60,000 fewer unhappy women in their caste. The total figures show countenanced infant marriage only to the extent that other castes that there are 80,000 widows under 20, and the foregoing remarks suggest that Brahman custom is responsible for three-fourths of this." From this it will be seen that out of a total of 80,000 widows under 20, 60,000 belong to the Brahman caste and 20,000 only to other castes. When the proportion of Brahmans to the entire Hindu population is considered, it will become patent that among Brahmans alone infant and early marriages are celebrated in a reckless manner, and that the non-Brahman classes are not much addicted to the custom.

The restrictions which religion as at present understood or more properly caste rules impose upon the marriage institutions of the country naturally tend to circumscribe within very narrow limits the field for selection, and leaves the parents no option in the matter but to select at the earliest opportunity the best girls available for marriage to their boys. The narrower the field the keener the competition, and hence infant or rather early marriages are brought about. However may be the effects of such unions in a physiological point of view, I do not think the statement is true that such unions result as a rule in misery and poverty. In the course of my experience I have seldom come in contact with a couple who felt unhappy merely because their union was brought about in their young ages.

Early marriages brought about under the discriminating and fostering care of Hindu parents have not failed to lead to happy unions securing to the married couples social and domestic felicity.

The Hindu mind is so much imbued with traditions and feelings as regards the efficacy of ceremonies for his spiritual benefit after death that he always has a hankering after (what to him is a blessing) the birth of sons and daughters. He seldom pauses to determine the economic consequences of a married life, and seldom bestows a thought upon his capacity to sustain the increasing cares and the growing needs of a large family. He must have a son or else he is tormented in his mind by anticipations of the tortures of the hell called "put." As I have already observed the miserable condition of ill-assorted pairs is not to be attributed to the fact of the parties having been married at an early age. I have heard from many of my European friends that even in England and other civilized countries, where freedom of choice and liberty of action are enjoyed in the highest degree by the contracting parties, marriage is a lottery in which more blanks are drawn than prizes. The reason is the unhappy condition of man's nature which appears to be ever in the consideration of the infinite diversities of human nature such as incompatibility of temper, diversity of tastes, conflicting conformity and the like. Legislation in the marriage law of the Hindus must be guided by the Hindus themselves and no amount of extraneous pressure can bend the effect of inveterate prejudices and religious sentiments which are entwined with the minds of the orthodox. Wisdom does not advise legislation in such matters for it would compromise the policy of neutrality which the Government has hitherto maintained with regard to religious matters. By requiring the people to discard popular [illegible] and religious sentiments in passing an Act, the Government would [illegible] the pledge to which it is bound by the wisdom of [illegible] British statesmanship, that the Government shall be neutral in religious matters.

Many such considerations requiring the Government to show favor to unmarried natives in its executive capacity will not have the desired effect. Those that compete for University honors and Government service form an infinitesimal proportion of the Hindu population. The form in which the inducement is proposed to be held out by the Government can hardly have any effect upon the inertia and apathy with which the masses look upon such matters. It would in fact create a division or chasm in the community from the masses—create an estrangement of the really intelligent section of the community from the masses—a state of things which in itself is not desirable, and must tend to frustrate the benevolent intentions of the Government. Signs have been watching the signs of the times can have failed to be struck with the spirit of inquiry which has been awakened in the minds of the people by the agitation of the Widow Remarriage Association and its branches. The spread of education and dissemination of knowledge cannot fail to assail the inveterate prejudices of the masses, and the Government cannot do better than watch and wait in such matters till public opinion has been educated up to the pitch requisite for the initiation of reforms.

The Government has established girls' schools and afforded a thousand facilities for a dissemination of knowledge, and these coupled with the philanthropic action of voluntary Associations must in course of time bear fruit and bring about the desired reform. If the Government is induced to give its executive authority a stretch in the direction suggested by Mr. Malabari, there would be no limit to interferences of the kind in question, and the Government might find itself confronted by questions of an embarassing nature.

I will illustrate what I mean by giving examples. The peculiarity of the features of Malabar law makes it a unique system of law the principles of which are incomprehensible to foreign writers. The customs and manners of the Malabar people have been misunderstood so much so that the want of permanence in the marriage tie has been held to be the result of polyandrous practices; speculative writers on the subject have gone so far as to assert that the so called polyandry of the Nairs affords an instance of that type of which promiscuity is an essential feature. Taking this as the primordial type, and as the normal condition of men in their primitive state, they think that its development must have gone through successive stages leading eventually to monandrous practice. The Thibetan polyandry is stated to be of a type which allows a woman to be the wife of several persons related to each other by blood. The two forms of polyandry have led to two different laws of succession. In the one succession follows in a line to be traced to female kinship, while in the other it depends upon male kinship. The case of the five Pandava Princes, as recorded in the Mahabharata, is quoted as an instance to show the prevalence of polyandry of the Thibetan form in ancient times. The practice of polyandry was, however, too gross and repulsive to retain its place among the social institutions of any nation on its onward march in the path of civilization, and is supposed to have been displaced by a form known by the name of the Levirate. This is a practice according to which the widow of a person is married by his surviving brother, and among the Hebrews it is considered to be a pious duty due to the memory of the deceased brother. Even according to Hindu law this practice seems to have had the sanction of the rishis and sages and an obsolete text of the law authorizes the procreation of children upon the body of a wife by her brother-in-law. This practice has fallen into desuetude, leaving monandry as its relic. This theory of the development of marriage institutions was worked out by the late Mr. McLennan, who regarded the Nairs as a process of evolution that has eventually led to monandry. Other original thinkers, such as Lubbock and Herbert Spencer, suppose that the various practices have been more or less connected with the rights of property, and do not attach much weight to the development theory.

However this may be there is not the slightest warrant in the actual facts of the case for the position that the Nairs are addicted to polyandry in any form. Polyandry is not an established institution of the country, and whatever derelictions the want of permanence in the marriage tie

may lead to, there can be no doubt that constancy of love and conjugal fidelity are virtues as much respected and honored among them as among the other nations.

But to return from the digression, the intelligent and educated section of the Nair community have set on foot a movement to effect a change in the marriage laws of Malabar. But the opposition is so great that no reform is looked for giving to the Nair wife a distinct status in the family of her Nair husband. Should the Nair reformers seek the aid of the Government in the manner suggested by Mr. Malabari will the Government be prepared to countenance the reform by showing preference to this particular section in the distribution of official patronage and honors?

Again, there are certain customs among the Muhammadans which reduce their women to the condition of slaves. It is stated that, according to the belief of the orthodox, women have no souls. The Government may be solicited to extend encouragement to reforms tending to ameliorate the social condition of the Mahammadan women on the line suggested by Mr. Malabari. Will the Government be prepared to take action?

No measure by which the Government in the exercise of its executive functions restricts its favors and honors to particular sections of the community. On grounds affecting the religious sentiments of the people will be in keeping with the policy which has affected a severance of its connection with the management of the religious endowments of the different religionists. There is also something odd in the clamor raised by Mr. Malabari for Government interference in the advance of social reforms when the tendency of the day is clamour for more liberal concessions in the matter of local self-government. We are afraid that by insisting upon Government support in the way suggested by Mr. Malabari we may incur the reproach of being unable to bring about the most desirable social reforms by self-help and self-restraint and of standing in need of the active interference of a foreign Government in matters relating to the internal economy of our domestic institutions. The suggestions offered by Mr. Malabari for discouraging infant marriages are impracticable, and if carried out are more likely to inflict hardship upon the educated and intelligent section of the community and to leave untouched popular prejudices.

But as regards enforced widowhood something can be done. A move has already been made in this direction by the passing of the Widows Remarriage Act XV of 1856 which was an enabling Act. But the Act has hitherto been a dead letter, and has fallen short of its expectations. The decisions of the Indian Courts have, I regret to say, had the effect of neutralizing what little good was calculated to be done by the passing of the Act.

In Kerykolitany *versus* Monceramkolit[1] a question arose as to whether a Hindu widow forfeited her right to hold possession of her deceased husband's property by reason of unchastity and immoral conduct of which she was guilty after the property had vested in her. The Calcutta High Court decided that unchastity incurred after the vesting of the property was not disqualification disentitling her to hold possession. This decision was not concurred in by the late Justice Dwaraka Nauth Mittar in whose opinion it was a positive disqualification. It was confirmed by the Privy Council (*vide* Indian Law Reports, Calcutta series, vol. V, page 776), and has since been followed by all the Courts of India. Proved immorality and unchastity in a Hindu widow go unpunished according to the decisions, while the hallowed ties of holy matrimony entail forfeiture of property according to Act XV of 1856. The courts would not punish a licentious widow by depriving her of her husband's property in favor of the next heir in reversion, while the Act of 1856 declared her incompetent to hold possession in case of her remarriage with a second husband. The case of a Hindu widow in possession of her husband's property offers greater attractions than that of one who relinquishes her hold on her first husband's property and becomes united with a second husband. This certainly is an anomaly which ought to be removed. It must be enacted that adultery on the part of the widow is a positive disqualification to hold property inherited from her husband.

[1] Bengal Law Reports, Vol. XIII, page 1.

Secondly, it is advisable to declare that marital right as between husband and wife become complete only after nuptials. The proposition may be taken to have been well nigh proved by texts of our Smritis, and a declaration to this effect will do no violence to the religious sentiments of the people, while it will have the effect of checking early marriages when they are contracted solely upon sordid motives. A statutory declaration that the rights of property as against husband and wife are inchoate till nuptials will have a strong deterrent influence upon those who seek to bestow their infant girls in marriage to rich heirs.

Thirdly, the criminal law of the land may be so amended as to make it a penal offence on the part of priests and gurus to excommunicate publicly those that contract second marriages and their solemnizers.

Fourthly, the Government may show its active sympathy with the objects of voluntary Associations for social reform as indeed philanthropic members of Government do evince a desire and co-operate with natives to bring about social reforms and thus ameliorate the condition of women.

To recapitulate what I have said I think it would be injudicious and impolitic on the part of the Government to show partiality in the distribution of patronage to unmarried young men, that such a course would only affect the educated and intelligent section of the Hindu community

now inflict hardship upon them, that Act XV of 1856 ought to be remodelled so as to afford additional inducements to the Hindu widows as may really desire to break caste rules and remarry.

Cochin, 5th January, 1885. (Signed) C. SUBBARAYA AIYAR.

From S. Subramania Aiyar, Esq., Vakil, High Court, to the Chief Secretary to Government, dated Madras, 5th January 1885.

I have the honor to acknowledge the receipt of your letter, No. 2480, asking my opinion on the memoranda of Mr. Malabari on infant marriage and enforced widowhood. I extremely regret I was not able to reply to it earlier. The subject has been so fully discussed in all its aspects and so often that I do not think it necessary to enter into any lengthy disquisition. To be brief Mr. Malabari has not exaggerated the evil effects of the pernicious practice of marrying boys and girls before they attain proper age now obtaining among a large section of the Hindu community. The most orthodox cannot deny that the evil is a real evil having a most degenerating influence on the social, moral, intellectual and physical well-being of society. It is however gratifying to find that there is a strong reaction in the minds of the educated classes in this matter, and the percentage of such marriages is on the decrease.

2. There can also be no question of the social miseries caused by enforced widowhood, but it is hard to believe that, the order of things affecting a considerable portion of the female population should have been the outcome of mere caprice of the stronger sex.

3. It is indeed very desirable, nay necessary, to set from time to time what measures ought to be adopted to minimise these evils if not to eradicate them. But it is not desirable that the peculiar circumstances of this community should be lost sight of, and popular opinion, however unreasonable it may be considered to be by the go-a-head reformers, rejected in a consideration of these questions, and that changes entirely out of harmony with the feelings and even with the prejudices of the people should be suddenly introduced. Direct legislative interference on such socio-religious question, if I may use such a term, will not be viewed with any favor by the masses, and such interference is more calculated to retard than promote progress.

4. Holding these views I must prefer improvement from within to interference from without.

5. Already signs are visible that the attention of the people is being directed to these questions, and I have no doubt that in course of time a satisfactory solution of these difficulties will be arrived at. I do not think the Government will be well advised to interfere actively with such usages by legislation. At the same time I do not see any objection to indirect encouragement on the part of Government.

6. I certainly think with Mr. Malabari that the restriction to confer University honors to unmarried men, will have a deterrent effect on early marriages. I would even go a little further and recommend that no boy under sixteen be allowed to appear for any University or public examination if he be already married. This restriction will go some day to minimise the evil. As to the question of enforced widowhood I must confess I am not in a position to suggest anything radical which would ameliorate the condition of widows. I think everything would have been done to minimise the evil if the suggestion for indirectly enforcing the postponement of the marriage of boys till after sixteen be adopted. It is unlikely that grown up boys will be married to "*infants*," and it may safely be asserted that in course of time the chances of young girls becoming widows would be considerably reduced. The thing first to be attended to is how to educate public opinion in this country to recognise (as it did once) the propriety of marriages of girls after puberty among the classes where such marriages are now disallowed.

7. Alienation by will by a Hindu coparcener of his undivided share to provide for his wife, daughter, and sisters is, I believe, not legal, and I think the aid of the legislature can be sought for to legalise it. This rule will much tend to improve the

position of women by making them far less dependent on their male relations than they are now.

8. The modification which has already been introduced by decided case in respect of alienations by coparceners is so great that the granting of testamentary power recommended will not be looked upon as an undesirable innovation.

9. It only remains for me to say that personally I cannot take any serious exception to the suggestions of Mr. Malabari in his second memorandum, but it is doubtful whether they are likely to be availed of in the present circumstances of the society.

10. I must apologise once more for the delay and also for the shortness of the reply.

(Signed) S. SUBRAHMANYA AIYAR,
Vakil, High Court.

From the Superintendent of Stationery to the Chief Secretary to Government, dated Madras, 15th January 1885.

With reference to G.O., dated 18th October 1884, No. 2270, Public, I have the honor to submit the following observations on the proposals of Mr. Malabari in the matter of infant marriage and enforced widowhood in India.

2. Mr. Malabari has sent me a supplemental note containing revised and amplified suggestions on the subject, which I beg to enclose.

3. I do feel that infant marriage and enforced widowhood are evils and serious evils too, but I do not see my way to advising the Government to interfere in the matter directly or indirectly. While any such interference can be productive of no beneficial results, it is sure to shake the confidence of the people in the neutrality of Government in religious matters and create a reaction in favor of the very evil which it is our wish to repress.

4. In order to discourage infant marriages, Mr. Malabari proposes that no married student should be eligible to go up for the University examinations. In the first place the number of persons that would come under this rule will be exceedingly small, and even if it were considerable, it is extremely doubtful whether the result would be a benefit to the country. According to custom which is regarded, I think, erroneously, as the law, every girl has to be married before she attains her puberty, and if she is not so married she loses her caste. Girls in this country usually attain puberty at 12 or 13 and sometimes even so early as 11, so that the latest period up to which a girl can be safely kept unmarried is 10. If within that period she cannot get a suitable bridegroom, she will have to be given to such a one as could be had at the time. So far therefore, as women are concerned, the rule proposed could make very little difference, it being of very little consequence whether a girl is married at 8, 9, or 10. In regard to boys, however, the effect of the rule will be that they will have to marry girls of 9 or 10 when they are 21 or 22, the age at which they usually take their degree, instead of their marrying girls of 8 or 9, when they are 16 or 17 years old as they do at present. This, no doubt, puts off the consummation of marriage, so far as males are concerned, from the ages of 20 and 21 to those of 25 and 26, but I am not sure whether, in a climate like that of India, the change will prove a real blessing. In my humble opinion it is far better that a boy of 16 or 17 years marries a girl of 8 or 9, than that a youth of 21 or 22 years marry a girl of 9 or 10.

5. Mr. Malabari suggests that heads of departments should devise means similar to those above mentioned. He evidently means that employments should not be given to married men when unmarried men, duly qualified, are to be found. This, as I have pointed out in the preceding paragraph, cannot result in any appreciable good, while the arrangements will simply give room for people to look upon Government with suspicion, as anxious to interfere in an indirect manner with our religious and social institutions. I think that if Government is to interfere at all, it must do so openly and by legislation, and not by such indirect methods.

6. As regards marriages of infant girls with old men, I certainly think it is a matter in which Government can interfere without provoking the slightest suspicion in the minds of intelligent natives. I have known cases in which girls of 8 or 9 years have been given in marriage for the sake of money to men of 60 years, but such cases are so very few that the interference of Government is hardly called for. If Government is to interfere at all, it must be by legislating that such marriages are illegal.

7. The practice of fathers receiving money from persons to whom they give their daughters in marriage is common among certain classes of Brahmans, but I doubt whether it could be stopped by any such rule as that suggested by Mr. Malabari, or indeed by any legislation. If payment is declared illegal, it will be made secretly. The remedy lies in the advancement of civilization.

8. In this part of the country there are but very few cases in which older girls are married to younger boys, and the matter hardly calls for legislation. I have heard of such marriages only among the Gounders of Coimbatore.

9. As regards widows, Mr. Malabari makes five suggestions—(1) that arrangements be made to ascertain whether a widow has selected seclusion voluntarily or not, and facilities be afforded to her to complain if she undergoes any social ill-treatment; (2) that the priest be deprived of his right to excommunicate the relations and connections of the parties contracting second marriage; (3) that the marriage ceremony be made as inexpensive as possible by ruling that two witnesses' declarations before a registrar may constitute a marriage; (4) that the Government be pleased to make an annual grant for a few years to the widow marriage fund; and (5) that special educational facilities be afforded to widows. With reference to these suggestions, I beg to note that widows in this country do not receive any such ill-treatment as they cannot get rid of without any special aid from Government if they choose to do so, nor are marriage rites so expensive as to prevent widows from marrying. The 3rd and 5th proposals therefore seem to me to be unnecessary. The real difficulty is the fear of excommunication, which not only degrades the man excommunicated in the eyes of his fellows, but also puts him to very great inconvenience, as he cannot easily get caste servants and priests for the performance of ceremonies which cannot be given up without loss of caste. If the priest who solemnizes the marriage be deprived of the power to excommunicate parties marrying a second time, or at least their friends and relatives who support them, the advantage will no doubt be very great; but I do not think that Government interfere in the matter. It would be contrary to all principle of Government to tell the priest that he ought not to advise his followers to do what he himself thinks to be right for his spiritual welfare. No doubt grants of money to the widow marriage fund will, to some extent, remove the hardship of excommunication and encourage poor men to come forward and support the reform, but it is highly doubtful whether Government would be justified in spending money raised by general taxation on such matters as these. Education imparted to widows may also be productive of some good, but in the present state of society I do not think that widows will avail themselves of any facilities which may be created for their education. The only chance of success lies in the perfect neutrality of Government, and it is for the people and the educated classes in particular to try and emancipate their sisters from the misery which the usage of the country has imposed upon them.

(Signed) P. CHENTSAL RAO,
Superintendent of Stationery.

From the Deputy Collector on General Duties, Madura, to the Chief Secretary to Government, dated Madura, 15th January 1885.

In obedience to the order contained in G.O., No. 2480, Public, dated 18th November 1884, I beg respectfully to submit my views on the suggestions contained in Mr. Malabari's notes for mitigating the evils arising from "Infant marriage" and "Enforced widowhood."

2. The orthodox Hindus, who are attached to the existing institutions, and who view innovations as sources of danger, may hold a different opinion, and I believe that any Hindu, who has had liberal education and whose heart is not hardened by custom, must admit the "Infant marriage" and "Enforced widowhood" as serious social evils,

requiring the attention of any one that is interested in the well-being of the Hindu society into which his lot has been cast. The hardest heart has felt the evil of the widowhood but it has yielded to custom—a cruel and inhuman custom—that prevails in the caste. I have known instances of respectable men, the mere ornaments to the Hindu society, having met with premature deaths, broken-hearted and unable to bear the misfortune that befell their beloved daughters. A Hindu family with a young widow is in perpetual misery and gloom prevails in it.

3. One of the ingenious, though cruel, arguments adduced in favor of enforced widowhood is that it checks over-population. It is surprising that any argument is ventured in support of the custom. The idea of depriving for life a helpless young girl who happens to lose, what is by no choice of hers to call, her husband of even the ordinary innocent pleasures of life is monstrous, and the practice has to be put a stop to in the cause of humanity, if not on any other ground. The other evils attending on perpetual widowhood have been fully described by the author of the notes, and there can therefore be no question about the enforced widowhood being a serious evil to the society. It is gravely asserted by the orthodox Brahmans that a woman becomes a widow by the result of her karma in the previous births, and that it is a sin to allow her to marry again. This is something like misers preaching it to be a sin to help the indigent, who, by the result of their karma, have been destined to be poor. No amount of argument can convince these men, even if they are really serious.

4. One of the main causes of the existence of an unusually large number of these unfortunate creatures in India is early marriage. Infant marriage is largely practised more among the Brahmans than in other castes. Komattics and high caste Vellalas have followed this example of the Brahmans. Early marriage is, however, almost unknown to the low caste Sudras, among whom marriage of widows is also permitted. It therefore follows that the number of widows among the Brahmans is larger than that among the Komatties and high caste Vellalas, and that the number among the latter bears a large percentage to that among the low caste Sudras. This is borne out by the results of the census of 1881.

5. Whereas per cent is the average of widows in the European countries, 21 is the percentage among Hindus, and 31 the percentage among the Brahmans, 29 widows among the Brahmans are comparatively more than double those in the western countries. It is argued by some that though the widows in India are more than double those in Europe, yet the unmarried women in the latter are nearly double those in India, and that it therefore follows that a large number of women will remain without husbands in all countries, with this difference that in India some of these continue in widowhood instead of remaining unmarried. I must ask these gentlemen to consider the difference between the conditions of women leading lives of celibacy of their own accord, enjoying all the innocent comforts and pleasures of life, and those of the Hindu widows, who are looked upon as inauspicious sinful creatures, destined to live miserably without the comforts and pleasures of life. Enforced widowhood must therefore be admitted to be an inhumane institution incompatible with progress of civilization, irrespective of the other evils resulting from it.

6. Early marriage is supported by some with more plausible reasons than those adduced in support of perpetual widowhood. It is said to suit the Hindu youths who are precocious and who may otherwise go astray, unable to gratify their pernicious wants by a legitimate course. There may be some truth in this, but the good derived from the system is more than counterbalanced by the evil produced by it. I have known many a student who had their betrothed wives at home, but would not consent for the consummation of the marriage until they finished their collegiate course and graduated themselves. To force marriage on such young men is creating an unnecessarily premature temptation for sexual pleasure. Instances are not wanting where young men have been spoiled by early marriage. Many have given up their studies unable to find time for the same, having been burthened with the cares of conjugal life. They lose their spirits and are bound down to their houses, and, in fact, become less useless to the society than they would otherwise be. Early marriage is therefore

an obstruction to the progress of the society. I have heard a highly talented candidate for the University examination tell his friends that he would have answered some of the questions better, had he not been anxious about the condition of his sick child. If this is the case even with grown up men, how much worse must it be with those who married early and blessed with children, and how much worse under the circumstances. Besides, early marriage affects the general health of the married couple and their progeny, and the result is we have a weak and diseased nation. The least serious of all the evils arising from the institution is the creation of an unusually large number of infant widows and widows past reproach. The miserable condition of these unfortunate creatures must melt the stoutest heart, and the present system of infant marriage must be given up solely for the purpose of obviating this greatest of all the social evils, if not on any other ground.

7. Again, marriage is a solemn contract made between the husband and wife. Religion is connected with it in view to make the tie of marriage as strong as possible in the eyes of man and God. It is absurd that such a contract, which is intended to ensure happiness to the contracting parties during their lives, should be made by their parents or guardians without their consent or knowledge. But custom is so strong that it is seriously contended that freedom of choice can be accompanied with no better results. An orthodox Hindu further asserts that conjugal happiness is better secured by leaving the choice to the parents and guardians than to the contracting parties themselves. In many instances the husband and wife were bound by ties of consanguinity, knew each other from infancy, and were often playmates. Even when this is not the case, the tie of marriage creates a strong mutual attachment between the couple, who are contented with their lot and live happily. The well-intentioned control exercised by the parents or guardians over young men and women in this matter has saved them from falling victims to the intrigues of wicked people. The young man secures a wife who is obedient to his mother and the mistress of the house, and this is a necessity for the promotion of happiness in the present state of the Hindu society. The woman is contented with her lot and why should we then interfere?

8. There is a good deal of force in all these arguments. But there are degrees of happiness in married life. A man feels pleasure or displeasure in the company of his wife. And the pleasure he derives in that of an intelligent wife is superior. Ignorance is the cause of this apparent happiness. A better happiness can be secured by effecting marriage after the contracting parties attain proper age. Infant or child marriage cannot be supported on these grounds. The social evils of the system have already been pointed out.

9. Having noticed some of the main arguments adduced in favor of early marriage and perpetual widowhood, I beg to say a few words about the authorities quoted in support of them. Though I have not made myself acquainted with the Hindu sastras on the subject by studying the original texts, yet from the translations and extracts published by some philanthropic Hindu gentlemen I find the authorities on the subject to be contradictory; those against early marriage and in favor of remarriage of widows preponderating.

10. The days of faith in the divine origin of these authorities are fast vanishing. They are being believed to be human laws and marriage a human institution. If any sastra which is intended for the promotion of human happiness, does not produce that effect, but is, on the other hand, found to be productive of evil, it may well be rescinded and a better law, calculated to secure that end, may be substituted. Whatever may be the laws prescribed by the ancient lawgivers regarding the marriageable age of the girls or the remarriage of widows, they may be overlooked, if they are found to be productive of serious evils to the society, for the benefit of which they are intended.

11. The following facts may, I think, be traced from the sastras. In earlier days marriages appear to have been performed after women attained puberty or discretion, and remarriage of widows was an orthodox institution. Marriageable age for women was then reduced to 12, 10 or 8, and an attempt at stopping the remarriage of widows was made by holding them as unfit for heaven, if they continued unmarried and lead a virtuous life after the death of their husbands. This was probably found to be not a

sufficient inducement to prevent remarriage of widows. It was then restricted first, to childless widows and then to virgin widows, and finally absolutely prohibited. And even death with her husband was prescribed. Even after all this widow marriage appears to have been practised. But the married couple occupied an inferior position in the society.

12. Early marriage and prohibition of remarriage of widows have now become the Sishtacharam (established good custom) of the high caste Hindus. Many a reformer, that attempted to mitigate the evil of perpetual widowhood of innocent virgins, appears to have failed, as the custom was too deeply rooted to be destroyed. At present an attempt at breaking it is repugnant to the feelings of the orthodox high caste Hindus, who prefer the existing state of things, and the majority of the widows themselves being ignorant and illiterate would not, I believe, think of marrying a second husband.

13. It has already been shown that infant marriage and forced widowhood are prominent more among the Brahmans than among the other castes. Though the Brahmans are, as a rule, more intelligent than the other caste people, yet unfortunately their feeling against a violation of any of the existing customs is very strong, and more especially of that regarding marriage or caste.

14. The Brahman character is peculiar in this respect. He is prepared to overlook the commission of the greatest of sins and the heinest of offences, but would not brook his daughter or sister marry after she attains puberty, or see her married, even if she becomes a widow when an infant, and *he* is the cause of her misfortune. He associates freely with a Brahman murderer, dacoit, perjurer, forgerer, an adulterer, or a whoremonger, a drunkard or eater of animal food, provided the latter is liberal and opens his purse freely; but the Brahman will not associate with one who marries a virgin widow or a girl who has attained puberty, though she may be his kith and kin, in whom all his hopes are centered. He has no scruples to live with a Brahman woman who may be known to be unchaste, but he will not admit into his society the unfortunate virgin widow who chooses to marry herself to a second husband. I have mentioned this anamolous state of things in order to show the strong prejudice that unfortunately exists against the introduction of the remarriage of widows among the most intelligent and powerful section of the Hindu community. I have observed many an orthodox Brahman asserting before me that a Brahman girl, who is married after she attains age, loses her caste, and that he views a remarried widow as a common whore. The prejudice of an orthodox Brahman is so strong that he is deaf to all arguments in favor of these helpless creatures. If a rich Brahman marries a widow, some of the orthodox Brahmans may probably be disposed to mess with him on account of his money. But wealthy men never experience difficulty in getting young virgin wives. A man approaching the grave can easily secure a girl of 9 or 10 years for his partner, provided he makes up his mind to pay a handsome price for the creature. A leper can in the same way easily secure the hands of a fair maid for money. Therefore the chances of wealthy men marrying widows are very remote. The majority of the Brahmans being orthodox, widow marriage is not at all likely to be supported by them.

15. As regards the educated men, I mean the University Graduates and persons who have received liberal education, many may be in favor of the reform. But even these are wanting in moral courage. This is probably due to the peculiar circumstances under which they have been placed. Fully alive to the evils of the custom, they leave the college with confidence of effecting some reform in the society. But when they enter the world they find that they are unequal to the task and succumb to the opinions of their friends and relations, on whom they have to depend much, and who assail them as rash youths or miscreants. Having to look for their subsistence, they find themselves unable to devote sufficient attention to social and other questions unconnected with the profession which they have adopted. They thus become gradually passive, and some of them may even be not disposed to interfere with the existing custom. The opinion of the educated classes is not therefore so strong as to counterbalance or even match that of the other classes. I therefore doubt whether the Govern-

ment will not be acting against the feelings of the orthodox population by adopting any direct repressive measures, which may be construed to be inconsistent with their declared policy. I do not think the Hindu community to be prepared to accept any law prohibiting infant marriage; the law, even if passed, will, I am afraid, remain a dead letter. It may declare all marriages between minors to be null and void. What would be the result? Betrothal will be performed as usually and the public will regard the girl to be married, who will, however, be left to the mercy of the person to whom she is contracted by the betrothal; he may abandon her, though she cannot abandon him. Such law may probably work more mischief to the sex for the benefit of which it may be enforced.

16. The best course, therefore, for effecting the reform is to create a sufficiently strong public opinion in favor of it, and all that Government can render is indirect aid.

17. Mr. Malabari's suggestions on this point are excellent. The Government may advise the University and heads of schools to decline to admit married men for University examinations and in the schools three or four years hence. I feel assured that such a course will succeed with greater success than any other.

18. It is well known that caste and custom are the bane of the Hindu society, and that the Government have already succeeded in weakening the caste prejudices to a certain extent by indirect acts. The Government first introduced all castes into the public service. The high caste Hindu grumbled for a few days at the apparent injustice done to him by making him work with a chandala, but would not give up the service on that account. He now works with a Pariah without the least compunction in the same office. A Brahman boy would not read with a Pariah boy. But the Government have left their institutions open to all castes. The high caste Hindu was at first reluctant to send his son to a school, where he had to sit down side by side with a low caste man, and even withdrew his son for some time from the institution. The Government were firm and insisted on keeping their schools open to all castes. The high caste man then found it prudent to sacrifice his prejudices for the benefit of his son, and the Brahman and the Mahrata boys have become accustomed to sit down side by side on the same bench without fear of pollution in the least. Railway affords another glaring instance of the high caste man giving up his scruples for convenience. He travels for miles and miles, side by side, sitting down on the same bench, with a low caste man, whom he shuns in his village. If the Government prohibit married men (including betrothed men) from attending any school or appearing for any of the University examinations, no Brahman would be imprudent enough to forego the various splended opportunities, which University honors afford his sons to distinguish themselves in this world, but would prefer keeping them unmarried till they pass their examinations.

19. The heads of offices may also discourage early marriage by refusing to entertain young men who may have got themselves married in their early age: but it will be difficult to persuade them all to adopt such a measure.

20. Female education appears to me to be the most effective of all the measures that can be adopted for the remedy of the evils under notice. The woman must understand her present unfortunate position in which she has been placed by the stronger sex, and she will then defend her cause. At least she will readily co-operate with any man who may sympathize with her. At present Hindu women are the real obstacles to any social reform. They are the greatest enemies of their unfortunate widowhood sisters. It is their taunts, censure, and prejudices that are more unbearable by the helpless widows that may be inclined to marry again, than the bull of the priest or the curse of the sastry or the mandate of a tyrannical parent. The moment a widow thinks of remarrying, she is a marked woman and treated as an adultress or a whore by the other women. Under these circumstances she, very naturally, feels averse to conjugal life after she loses her husband. This dread of social ignominy, added to the horrors of hell, &c., created by the priest-craft, is enough to deter the most courageous of the fair sex from thinking of a second husband. In the case of child widows, the parents or guardians are undoubtedly the sinners, and are answerable for the lot of their unfortunate children. In the majority of cases, the widowhood cannot be said to

be really "enforced." It has assumed the appearance of a voluntary act on the part of the sufferers. The present miserable state of the widows is due more to the ignorance of women than to want of sympathy on the part of men. The minds of the women have, therefore, to be enlightened in order that they may understand their position and the great injustice done to them. The other courses suggested by Mr. Malabari may also tend to encourage remarriage of widows. But education, education alone, will be the most powerful and effective course for improving the status of the woman.

21. The agencies for effecting the social reforms are the educated classes, who may bring about these and other social improvements more easily than any amount of legislature which may render the Government unnecessarily unpopular. Unfortunately the reforms are only in the lips of the educated men, but not in their acts, for the reasons already given. If they choose to sympathize and co-operate with the Brahmans, who have effected reforms in the north, they can do more good for their sisters and daughters than by any amount of preaching. What we want is men to set examples—more Rajagopalu Charloos and Seshyengars.

22. There is, however, one point in which the Government interference will not, in my opinion, go much against the feelings of the people. They may pass an Act prohibiting the priests from excommunicating a widow who may choose to remarry, and her husband and others who may sympathize or associate with them. I do not see how the priests, who have been permitting marriages between persons within the degree actually prohibited by the Smrities, *i.e.*, marriage between a man and his sister's or paternal aunt's or maternal uncle's daughter, can claim any right to interfere with widow marriages in favor of which authorities are not wanting. The widows can thus be relieved by Government of one of the several fears and causes of anxiety they have at present.

(Signed) M. TILLAINAYAGAM PILLAI,
Deputy Collector.

From the Deputy Collector of Madras, to the Chief Secretary to Government, dated Madras, 23rd February 1885.

I beg to acknowledge the receipt of G.O., dated 18th October last, No. 2270, Public, and to submit the following as my opinion on the questions raised by Mr. Malabari:—

1. Infant marriages and enforced widowhood are not sanctioned by the Hindu sastras, nor were they in use in India a few hundred years ago.

2. On the contrary, the marriages of undeveloped girls are in a way prohibited by them, and widows are recommended by the Vedas and Smrities to remarry.

3. As infant marriages and enforced widowhood are not prescribed by the sastras, and as they have been found to encourage immorality and crime, the Government are bound, I think, to prohibit infant marriages, as they have already abolished enforced widowhood. I am sure the Government would not sanction anything against Hindu law, if they prohibit marriages of girls of less than 10 years of age, and encourage those of developed maidens.

4. The sastras of the Hindus do not sanction marriages of elder women to younger men. Government may prohibit such marriages also.

5. Mr. Malabari proposes "that no Hindu girl, who has lost her husband or her betrothed, if she is a minor, shall be condemned to life-long widowhood against her will." What he means is not quite clear to me. No woman *can* be condemned *against* her will to life-long widowhood, nor is it clear to me what he means by "a minor." I think if the provisions of the Hindu law be enforced, all evils, which Mr. Malabari wishes to remove, will be entirely swept away. No girl, who is a minor, that is, who has not attained the age of discretion or an age which entitles her to express her consent to cohabit with a man, viz., 10 years (*vide* Indian Penal Code, section 375), can, according to the Hindu law, be *married*. There can therefore be

no widow who is a minor. The same law lays down that a widowed virgin can be remarried as if she were unmarried, and as such she is not entitled to the estate of her first husband. If this principle of the Hindu law receives the sanction of the British legislature, I am certain that there will be no virgin widows in India.

6. Mr. Malabari proposes further that arrangements may be made to ascertain, in suspected cases, whether a widow has adopted perpetual seclusion voluntarily or whether it has been forced upon her. I do not think that there is any need to make any such arrangements. Moreover any such arrangement will be unpopular, and in the long run will do no good but may do harm. Act XV of 1856 enables any widow to cease to be a widow at her pleasure.

7. Nor are the facilities proposed to be given to widows in the third proposal of Mr. Malabari necessary or expedient. So far as I am aware no widow has been compelled to continue a widow for want of a gratuitous service of a counsel, or from want of exemption from stamp-duty, or for fear of attending the courts.

8. Mr. Malabari wishes that it should be laid down that the priest has no right to excommunicate anybody acting in accordance with Act XV of 1856. The question at first puzzled me a good deal. At last I have come to the conclusion that the priest's excommunication is nothing more than the exercise of his private undoubted right, and to interfere with it would be illegal. The best remedy against excommunication of the priest is to show contempt openly, to neglect him. If men of common sense and education would do this, there would be an end to the priest's tyranny.

9. Sympathy of men of influence, whether Europeans or Natives, will, no doubt, tend to soften down the rigour of the priest's excommunication, and an association like the one proposed by Mr. Malabari may do good.

10. I beg to send six copies of a pamphlet which dwells on the aforesaid evils, and shows what remedies are necessary.

(Signed) R. RAGOONATH RAO,
Deputy Collector.

From the Head Sheristadar, Trichinopoly Collectorate, to the Chief Secretary to Government, dated Trichinopoly, 7th March 1885.

As directed in G.O., No. 2480, 18th November 1884, Public, I beg to submit my views on the questions of "Infant marriage" and "Enforced widowhood" discussed by Mr. Beheramji Malabari in his papers which were read in G.O., No. 2270, Public, dated the 18th October 1884.

INFANT MARRIAGE.

2. Infant marriage is indeed a great evil and a source of social grievance. It is, however, a practice that is confined to Brahmans alone. In the Madras Presidency the Komatties, a very small section of the community, also follow the practice. Mr. Malabari's statement that "throughout the illiterate mass early marriage obtains most widely" is not borne out by facts which fell within my own personal observation. Nor do the census returns of 1881 support it. Among Brahmans, the only section in which infant marriage is the rule, the proportion of widows to the total female population in that class is 31 per cent.—vide census report of 1881, vol. I, page 94. In no other section of the Hindus this large proportion of widows is noticeable in the census returns, as it must be if Mr. Malabari's statement is correct. Among all castes of Hindus other than Brahmans and Komatties, infant marriages are rare and exceptional and not the rule. I do not deny that young men in India get themselves married earlier than those in the European countries; and so are the Muhammadans and Christians in this country. That is because of the climatic and other influences; and it cannot, I think, be successfully counteracted by any rules.

3. To make any attempt at putting down infant marriages among the Brahmans and Komatties can be of no earthly use until the restrictions of caste, the great stumbling block in the way of the progress of the Hindus, are annihilated, or at least so much

sickened as to admit of the introduction of such social improvements and reforms as may from time to time be considered by the leading members and by the educated section of the community as most essential to the happiness and comforts and morals of the nation. The high education which the Government have been at so much pains and expense to impart, the rapid spread of western ideas, the introduction of railways, the admission of educated Hindus in the circle of high principled and highly educated Europeans, the sympathy of the governing Englishmen for the natives of this country, and their anxiety from the highest of motives to promote the weal of the subject millions, are all combining to influence the feelings of natives and to counteract the restrictions of caste. They are all doing their good work in different directions. The prejudices of caste are gradually wearing away. The higher caste Hindus travel in the railways seated side by side with the lowest of non-caste people in the same compartment without evincing disgust or dissatisfaction as they are wont to do; and the sense of pollution by the touch of the lowest caste is dying away. The prejudice is giving way to necessity. In the railway platform there is neither room nor time for people to remember the scruples of caste. All are in great haste when the train arrives, and in the battle the people have to elbow out their way in the moving crowd. little caring for caste and its scruples. The educated higher class natives do not generally respect the restraints of caste, they break through them whenever they are able to do so without offending the feelings of their own parents or their female relations. Their example is followed by all-daring students of colleges and higher class schools. Those of moderate education who come within the influence of these are catching the contagion. The educated section of the Hindus may therefore be fairly said to be in a transition state. The seeds for the destruction of the influence of caste are sown in all directions, but they are just germinating and striking root. They are yet to grow, and it will be long before they could bear fruit. The non-education of the females is a great drawback. The influence of mothers, wives, and sisters is unspeakable at home. 'It acts like a spell even with the highly educated Hindu of the present day, whether young or old, and he finds it most difficult to break through the charm, and carry out his liberal notions. Times are, however, changing, female education is finding favor among all sections and castes of the Hindu community. The encouragement that is now being given to it both by the Government and by the Local and Municipal Boards and also by the Missionary Societies, is conferring immense benefit on the Hindu community. But this is only a millionth part of what yet remains to be done. It is, however, a question of time, and the most zealous of reformers must have patience. "Rome was not built in a day." Our mothers, wives, sisters, and daughters have to be taught to think and argue as we do before we can hope to disentangle ourselves from the fetters of that great bane of our society—the caste. The influence of the (மடாதிபதி) matathipathis and of the educated orthodox Hindus over the higher caste society is another great social evil which has to be combated down. That influence, however, I am happy to say is not now as all-powerful as it once was. It has been much curtailed during the past quarter century. Powerful and worthy reformers have come forward and are working away nothing daunted. It will, however, take a long a very long time before the evils of caste disappear. But it is not a matter for a just and humane Government to interfere with. The educated orthodox men and the illiterate mass of population who are guided by them will take it ill. They would look upon it as an interference with their liberty. Such an idea is but natural. The task of destroying the influence of caste should be left entirely to the leading members of the community and the spread of education and civilization. Until caste becomes a thing of the past, there is no hope of preventing the marriage of girls before years of discretion among Brahmans.

4. The most enlightened and the most influential Brahmans are themselves fighting the cause of infant widows. Although I for one feel convinced that the present system of binding Hindu females to be true to one love, is most conducive to the happiness and comforts of a wedded life, yet I fully sympathize with, and have actually joined, the party which advocate and encourage the remarriage of infant widows even since its formation. For it is impossible, as I stated above, to hope to put

a stop to infant marriages among Brahmans as long as caste is respected. If the practice now in vogue among other castes of Hindus of marrying females after years of discretion could be adopted among Brahmans, it would be a great victory achieved in the cause of civilization. But even the most sanguine of the Hindu reformers cannot despair of such a change for many many years to come.

Mr. Malabari's suggestion for the interference of Government to put restraints on the marriages of students of colleges until they graduate themselves does not commend itself to me. It would, I am afraid, go to work in an unwatched direction and most mischievously. Early marriage with all its evil consequences has this one very great advantage, viz., keeping the educated young men, the flower and hope of the Hindu community, uncorrupted by immoral tendencies and temptations, and rendering them the guardians and protectors of female honor and chastity; for their marriage is consummated between 17 and 20 years of age, and this keeps them from any necessity for going astray. This most important advantage, in my humble opinion, far outweighs all the evils and disadvantages traced to it by Mr. Malabari in vivid and rather exaggerated colors. The interference of Government to check early marriages by preferring bachelor candidates for University examinations and for Government employments would not only deprive both the Hindu community and the Government the aid and influence of men of superior intellect and of very high principles, character, and qualifications, but also would seriously and disastrously check the improvement of the best intellect of the community and give a death blow to all morals among educated young men. I have thought out the subject and it is clear to my mind that as long as the marriage of infant females continues in vogue, interference of Government to put down early marriage among males would simply lead to doleful disasters and miseries to the Hindu community. How can young men, restrained by Government to wait long for their marriage, find their match among females in age, health, and temperament, to all of which some weight should be attached? How could the community or Government benefit when highly educated young men, thus tempted to wait, have to be wedded to young girls of 9 or 10 years old? Taking 22 as the average age at which a young man graduates himself in arts, he has to wait another two years perhaps three to graduate himself in the law; and if he in his 24th or 25th year be wedded to a girl of 10 years old, the oldest girl that could be had, he will have to wait another four or five years before the marriage could be consummated. In India, generally speaking, 20 to 25 is the best age for conjugal enjoyments among males, and 15 to 30 among females. Thus the youth who took pains to cultivate his mind at great self-sacrifice, finds at last that the interference of Government has deprived him of two-thirds of his best age to enjoy conjugal life. It cannot be far from truth when I say that such angelic young men as would deny to themselves the pleasures of love, most natural in that age, must be few and far between. The generality of them would either take to harlots and contract loathsome diseases which might continue to make them miserable to the end of their lives, or offend honest families. Once steeped in this immoral and wicked habit the young men cannot well get out of it, even after their marriage. Morals will then be at a great discount even among the highly educated. The present high moral tone of the educated Hindus would be quite a contrast with Mr. Malabari's rising young generation.

6. The Government may prohibit, by a legal enactment on the score of humanity and justice, marriage under certain age both among the Hindu males and among the females. The presiding priest and others who assist in such marriages might be punished heavily! There will be a decided advantage in this over the proposed restraint to would-be graduates and public servants; for it would better secure the growth and health of both sexes, and save the community the shame and misery of infant and youthful widowhood. If the Government have scruples in such a measure as one interfering with the right and liberty of the subject, then the proposed restriction to the students of colleges and candidates to public service, is one that should be objected to ten times more strongly. I devoted my best thought on the subject, and the interference of Government to check early marriage among males in the way

proposed by Mr. Malabari, in my humble opinion, would be one of doubtful policy, while it cannot in the least benefit either the community or Government.

8. "Impossibility of exercising free will on the part of those most concerned, the unhappy consequences of any physical defects or moral taint on one side or the other, and hopeless disparity of temperament or total or partial absence of physical adaptability" are enumerated as resulting from infant marriage. I could hardly say that those who care to give some thought to the above can not come to the conclusion that those evils should result from early marriage only and from no other causes.

8. I, for one, do not much believe in young men or in young women being always happy in their choice. Choice after all is a blind guess, and is always more tempted or governed by symmetrical make and personal grace than by any insight into the quality of the mind and attachment of the heart. Nor is the latter a thing that could be correctly estimated by even the very superior and gifted intellects. If men of so much above the usual average run of mankind as Lord Byron, &c., fail in their choice, and in a society which allows free scope for many a private talk and personal intercourse between the young lovers, can there be any meaning in the high sounding phrase liberty of choice? Young men and young women however shrewd they may be and however deeply piercing their power of testing the worth of the inner persons may be, and how much sobriety and patience soever they may use in making the selection, they are apt to be mislead, seduced, or taken in from their youthful impetuosity and madness of love. It is the personal appearance that at first captivates youngsters; the quality of mind and attachment of heart and other accomplishments the imagination of the lovers readily supplies. If in European countries where this liberty to youngsters is so much professed, parental control and direction is found most desirable and even necessary, what harm could there be in less civilized India to leave the selection to the more experienced eyes of the parents.

9. Castes and sub-castes limit the area of selection it is true. But how can the axe be laid at the root of castes, and how can infant marriage serve as an excuse to break the law of caste. Is the annihilation of caste so easy? No, the spread of high education and high principles among both males and females has to do the work and it will be long, very long before the object can be realized.

10. The rest of the evils enumerated are more or less prevalent in the most civilized countries, and they need not necessarily be the result of infant marriage. Old men marrying young girls is an every day occurrence in England and other European countries with the results portrayed by Mr. Malabari. "The breaking down of health by too early nuptials, the boy-husband giving up studies, the birth of sickly children, the necessity of feeding too many mouths, poverty, dependence, &c.," are all true. But these, it must be remembered, are only exceptions and not the rules; for the proportion of such cases, even taking them very liberally at 20 per cent., is about one in a hundred of the Hindu population, because the Brahmans bear the proportion of $\frac{1}{20}$th to, or 5 per cent. of, the whole Hindu population. The picture is too darkly painted by Mr. Malabari, and his pen appears to have been carried away by his zeal for the amelioration of his countrymen. He speaks as if there are 40 million Hindu widows, while, according to the latest census, the figures is only 16½ [16, 117, 135] (census of 1881, vol. I, page 88).

11. Mr. Malabari then believes in over-population in poverty in India, and argues if it is not the duty of Government to interfere to check this overgrowth, treating the question purely as one of economy. But he has not proved his case. Over-population in poverty in the sense he puts it, has no actual existence. The figures of the last census do not bear him out. Infant marriages, as I stated before and as admitted on all sides, is confined to Brahmans. Now the Brahmans bear the percentage of 4·94 to the whole population of India as detailed in the margin. The Brahman female population for the whole of India is 6,606,000. Of this 31 per cent. or 2,047,860

Census Report, vol. I, page 308.

Madras Presidency	.. ..	3·94
Bombay do.	.. ..	4·83
Bengal do.	.. ..	6·06
	3)	14·83
		4·94

are widows; 21⅔ per cent. or 1,436,805 are unmarried. Thus both the unmarried and widowed females of the Brahman class come up to 52⅔ per cent. of the female Brahman population, while in Europe the single and widowed females come up to 67 per cent. of the total female population there or 14⅓ per cent. more (Census Report for 1881, page 94, vol. I). The result therefore is that even in that caste of the Hindus, where infant marriage prevails and in which there are the largest number of widows or rather spinsters, they (the widows) fall short by 14⅓ of the percentage of spinsters and widows in Europe. Why should the misery of the infant widows of the Brahmans be more appalling than that of their sisters in Europe who take to celibacy? And how can over-population in poverty result when more than 31 per cent. of the female population of this section (the highest percentage known in the whole world) remain widows and unproductive. In the paper on the enforced widowhood Mr. Malabari rather inconsistently advocates remarriage of widows against his own theory of over-population in poverty. The total number of widows under 20 years of age is 60,000 (Census, vol. I, page 102). It is therefore to these 60,000 infant widows that Mr. Malabari's remarks refer, not to 20,000,000 as he has stated. These widows bear but the proportion of 22½ per cent. to the total Brahman female population, and therefore they bear a proportion of only 40 per cent. of the spinsters in Europe who are 57 per cent. of the total female population there. Even when virgin widow remarriage (thanks to Messrs. Dewan Bahadur Ragunath Rao and Chentsal Rao), which has fairly commenced, becomes an established custom in the country, I am sure very very few would avail themselves of the license for many many years to come.

12. The details of the marriage ceremonies among Brahmans in the Vedic and Smriti periods are exhaustively and lucidly dwelt upon in a most thoughtful paper on widow remarriage by the Hon. Mr. Justice Muthusami Aiyar. When the circumstances of the state of society among the Brahmans in the Smriti and the Puranic periods are taken into consideration, one cannot but come to the conclusion that in the lawless state of the country at the time (when the rule, that might is right, was exercised recklessly and with a libertine spirit) the patriarchs considered it desirable to secure a guardian and protector to the girl before she bloomed into womanhood. While the future husband was certain of the virgin-purity of his girl-wife, the girl herself had the double protection of both her father and husband's families against seduction or mistakes which will embitter and poison her wedded life. Subsequent to the Vedic period (a period when the female had enjoyed the privilege of giving herself away to any young man she chose after her years of discretion) the patriarchs would seem to have introduced the rule of marrying girls before puberty, in view to keep the blood pure and eliminate all impurities from the Brahman stock. Whatever may be the present disadvantages (I freely admit there are many) of such a rule to the parties most concerned, it cannot be denied that it has had the advantage of purity of blood to which the patriarchs however mistakenly and selfishly appear to have subordinated the rest of the merits of that class and all their comforts and conveniences of life. Weak as the Brahman class is in physique as compared with the other classes of the Hindus, the superiority of their intellect as a class is most prominent and noticeable. This, I believe, is mostly due to the old patriarchal rule which kept their blood and stock pure and untainted. This, however, I speak subject to correction. The anxiety for the remarriage of virgin widows is confined to the highly educated and enlightened Brahmans. The orthodox would not encourage the idea. These men, who also carry the mass of population with them, put it down as unchaste and against sastras. Others are indifferent, although they feel that the reform will be an advantage and a step in the right direction.

13. The remedy of educating public opinion and setting it to cope with the evil and work the reform, Mr. Malabari condemns as almost useless on the ground that after so many years of toil a very small portion only of the Indian population have received elementary education, and that the influence of caste is too powerful even for men of enlightened and broad views to act up to their convictions. This is true. But how could caste be broken? What consolation is there in store for those who venture to

break it? They are cut off from their society directly they outstep the bounds of caste, and an end is thus put to all their good intentions to work the reforms and serve to benefit the society of which they were once the respected and highly esteemed members. Sir Comarasamy of Ceylon, Mr. Muthukrishna of Madura, Mr. Sabapathy Aiyah of Hyderabad, and his brother Mechatchi Aiyah of Bangalore are all so many instances of enlightened men acting up to their convictions and losing all chance of ever serving their community. The best remedy, in my humble opinion, is the education of public opinion, and I am glad to say it is working fast among the very class where infant marriage is the rule. They are the highest castemen and they have been and continue to be the guides of the rest of the Hindus. The best educated and enlightened of them have to combine and work unanimously. And this is being done at present.

14. Mr. Malabari next refers to an obnoxious custom of the parents benefiting in the shape of lump sums by consenting to give away their daughters in marriage to old men. This inhumane practice, I am sorry to say, is also prevalent among certain sections of the Brahmans (Kaniyalars and Aiyangars) in the Madras Presidency. Money is usually demanded from the bridegroom, whether young or old, as a present to the bride on account of jewellery. It is usually demanded in so many seers of gold. If the bridegroom happens to be an elderly person the rate is doubled, trebled, and quadrupled according to the would-be husband's age, wealth and social status. Rich families of course are so many exceptions to the rule. When the bride's parents are too poor to bear their share of the marriage expenditure, that has also to be paid by the bridegroom. I quite agree with Mr. Malabari in thinking that a ruling, such as he suggested, is very desirable. An enactment laying down a rule that money received from the bridegroom, save and except that which is paid for the marriage expenditure, should be safely deposited in the bride's name and exclusively for her use, will, I believe, not only be a great boon to the poor infant victim, but will also serve as a wholesome check against inhumane parents thus sacrificing and selling their female children for their own benefit. It is a fit subject for the interference of Government.

Enforced Widowhood.

15. I fully sympathize with the feeling given expression to by Mr. Malabari in his paper on the enforced widowhood. The evils that he has put forward are not untrue, although they exist rarely and exceptionally only among the Hindus as among all other nations. But the remedies he has proposed cannot be of any avail unless the Government may give effect to them. They will all remain a dead letter as indeed does Act XV of 1856 to this day remain.

16. The first rule he proposes is "that no Hindu girl, who has lost her husband or her betrothed, if she is a minor, shall be condemned to life-long widowhood against her will." In the first place I ask what is it that condemns a Hindu girl to life-long widowhood against her will? It is her caste. Then until caste is done away with no Hindu girl could ever think of coming forward to express her inclination to be remarried; and therefore the introduction of this rule is rather too premature, in the present state of Hindu society, to be of any use whatever. It is a thing to be left entirely in the hands of the Hindu reformers. The reformers at Madras have succeeded in bringing about the remarriage of infant widows in many instances. They have commenced fairly well, and they had better be left to work out their reforms themselves.

17. His second rule is "that arrangements may be made in suspected cases to ascertain whether a widow has adopted perpetual seclusion voluntarily or whether it has been forced upon her." I ask whether this is possible. What is the status of a Hindu widow according to the Hindu law as it at present stands? If she is the widow of a divided member, she has the sole management of her property. If she is the widow of an undivided member, she is entitled to maintenance from the family funds. In the former case if she means to remarry (I speak of widows whose marriages have once been consummated) whom is she to marry? Her own caste man will refuse to

marry her. But if he does marry both of them will be excommunicated. So they lose caste and with it the sympathy of the community to which they belong. This is not helped. She has her property and the love of her second husband secure that she may lose. When a widow resolves, in spite of loss of caste, to remarry, she is at liberty, even now, to choose a husband who is willing from any section of the community. The real difficulty in marrying her own caste man lies (1) in finding one who is willing to marry a widow, and (2) in getting Brahmans to solemnize the marriage according to the rites of her caste and religion. All the mantrums (Vedic or Smriti phrases) and ceremonies have as yet to be modified and fitted up for widow marriage. As it is, she may have to change her religion and adopt one which readily permits and solemnizes remarriage of widows. To a Hindu caste widow who makes up her mind to renounce her married state at the risk of caste, religion and the affection and society of her relations, there now exists no obstruction to marrying a caste Hindu if she succeeds in finding one who is willing, or a Christian or a Mahammadan. In the case of a widow of an undivided member, if she chooses to remarry, she loses her right for maintenance. In her secluded state it is true that she could hardly be able to select a match for herself, or even give expression to her desire to be remarried. How could the Government help her out of the difficulty? Can the proposed rule mend matters. In my humble opinion it cannot, but be a power for abuse with the authorities.

18. His third rule is "that every widow of whatever age shall have the right to complain to the authorities of social ill-usage (over and above excommunication), and that proper facilities shall be afforded her for the purpose, such as the gratuitous services of counsel, exemption from stamp duty, attendance at court, and so on." What social ill-usage can she complain of? If she is not asked to dinners, and if her caste people refuse to dine with her, how can the Government punish such acts? What other social ill-usage is meant here such as could be prosecuted under criminal law, or sued for damages under civil law, I do not understand. If the right of the society to excommunicate is admitted, nothing that can be called social ill-usage can be punishable. She will have to purchase society and its sympathy as indeed she must do her other comforts and conveniences.

19. His fourth rule is "that the priest has no right to excommunicate the relations and connection of the parties contracting second marriage besides excommunicating the principals." If the right of a priest to excommunicate is recognized, with what consistency can the Government declare that the right should be exercised only in such cases and not in others. The authority of the priest over the society is a matter of moral and religious obligation on the part of the members of the society. They may obey or disobey such an authority as they choose. There is no legal obligation. Parties who are unwilling to obey the priests or mathathipathis can do so without the interference of Government in the matter. Parties contracting second marriage against the conventional rules, are, by their own act, getting out of the pale of the authority of the priest and the community. I therefore do not see what necessity there is, in the interest of the parties contracting second marriage, for the Government to interfere with the authority of the priests which has already been set at defiance by them without the aid of Government. In my humble opinion there is no necessity for the proposed rules and the community cannot hope to benefit by them as explained above.

20. I much regret the delay which was unavoidable from pressure of other work, and I beg to be excused.

(Signed) T. PATTABHIRAM,
Head Sheristadar, Trichinopoly Collectorate.

Read J. Wright.

24 Sept 1885 No. 2249.

T.O. Ordered that the following letter be forwarded to the Govt. of India. Jsn. 11.IX.5.