

RAJA RAM MOHUN ROY

HIS LIFE, WRITINGS & SPEECHES

"The prospect of an educated India, of an India approximating to European standards of culture, seems to have never been long absent from Ram Mohun's mind: and he did, however vaguely, claim in advance for his countrymen the political rights which progress in civilization inevitably involves. Here again Ram Mohun stands forth as the tribune and prophet of New India."—Miss. Collett's "Life."

Price Rs. Three.

G. A. NATESAN & CO., MADRAS.



RAJA RAM MOHUN ROY.

RAJA RAM MOHUN ROY

HIS LIFE, WRITINGS & SPEECHES

"The prospect of an educated India, of an India approximating to European standards of culture, seems to have never been long absent from Ram Mohun's mind : and he did, however vaguely, claim in advance for his countrymen the political rights which progress in civilization inevitably involves. Here again Ram Mohun stands forth as the tribune and prophet of New India."—Miss. Collett's "Life."

Price Rs. Three.

G. A. NATESAN & CO., MADRAS.

PREFACE

Ram Mohun stands in history as the bridge over which India marches from her unmeasured past to her incalculable future. He was the arch which spanned the gulf that yawned between ancient caste and modern humanity, between superstition and science, between despotism and democracy, between immobile custom and a conservative progress, between a bewildering polytheism and a pure, if vague, Theism. He was the mediator of his people, harmonizing in his own person, often by means of his own solitary sufferings, the conflicting tendencies of immemorial tradition and of inevitable enlightenment."

"He embodies the new spirit which arises from the compulsory mixture of races and faiths and civilizations,—he embodies its freedom of enquiry, its thirst for science, its large human sympathy, its pure and sifted ethics, along with its reverent but not uncritical regard for the past, and prudent, even timid, disinclination towards revolt. But in the life of Ram Mohun we see what we hope yet to have shown us in the progress of India, that the secret of the whole movement is religious. Amid all his wanderings Ram Mohun was saved by his faith. * * * He was a genuine outgrowth of the old Hindu stock: in a soil watered by new influences, and in an atmos-

phere charged with unwonted forcing power, but still a true scion of the old stock.

“ Ram Mohun thus presents a most instructive and inspiring study for the New India of which he is the type and pioneer. He offers to the new democracy of the West a scarcely less valuable index of what our greatest Eastern dependency may yet become under the imperial sway of the British commonalty. There can be little doubt that, whatever future the destinies may have in store for India, that future will be largely shaped by the life and work of Ram Mohun Roy. And not the future of India alone. We stand on the eve of an unprecedented intermingling of East and West. The European and Asiatic streams of human development, which have often tinged each other before, are now approaching a confluence which bids fair to form the one ocean-river of the collective progress of mankind. In the presence of that greater Eastern question,—with its infinite ramifications, industrial, political, moral and religious,—the international problems of the passing hour, even the gravest of them, seem dwarfed into parochial pettiness. The nearing dawn of these unmeasured possibilities only throws into clearer prominence the figure of the man whose life-story we have told. He was, if not the prophetic type, at least the precursive hint, of the change that is to come.”

In these words Miss Collett, summed up the character and achievements of Ram Mohun Roy whose life and writings are presented in these pages.

So far as we know this is the first attempt to collect under one cover the voluminous writings of Ram Mohun Roy, which ~~are~~ are astonishing in their variety and scope. They deal with religion, social reform, politics, education, law and administration—to the discussion of which he brought a mind trained in the best cultures of the East and West.

In this volume we have his trenchant criticisms of Suttee, with the historic petitions to the House of Commons and to the then Governor-General, followed by an essay on "The Rights of Women." Ram Mohun's Memorials on the "Freedom of the Press" have been rightly compared to Milton's *Areopagitica*. The document on "English Education in India" was the basis of Macaulay's historic minute. Mention must also be made of Ram Mohun's evidence before the Select Committee of the House of Commons, embodied in the papers on "The Judicial and Revenue Systems of India," and on "The Indian Peasantry." Nothing can exceed the lucidity and value of his presentation. The evidence embraces some of the most important questions relating to the administration of India, such as the reform of Courts, the jurisdiction of the country's courts over Europeans, the Jury System, the separation of the executive and judicial offices, the codification of laws, the advisability of consulting the people in matters of legislation, the establishment of a native militia, the larger employment of natives, the age and education of civil servants, the amelioration of the condition of the

tenantry and the framing of laws for their protection, and lastly, the permanent settlement; it is needless to say that every word of it deserves to be carefully read and considered by us in the light of present day problems. Then we have papers on "The Prospects of Christianity in India" which every missionary will do well to read, "Rights of Hindus over Ancestral Property," "Settlement in India by Europeans" and the splendid protest against "Regulation III of 1828"—all of which are discussed with profound knowledge of law and procedure and inspired by strong conviction.

The volume opens with a lengthy biographical sketch recounting the story of his life and achievements and in particular the establishment of the Brahmo Samaj of which he was the founder. It ends with his own modest auto-biography which he wrote at the request of an English friend.

CONTENTS

	PAGE,
BIOGRAPHICAL SKETCH	(1—64)
SUTTEE—THE BURNING OF WIDOWS	
The Character of Hindu Women	... 1
Suttee and the Shastras	... 7
Address to Lord William Bentinck	... 14
Petition to the House of Commons	... 19
THE RIGHTS OF WOMEN	... 21
FREEDOM OF THE PRESS	
Memorial to the Supreme Court	... 35
Appeal to the King-in-Council	... 46
ENGLISH EDUCATION IN INDIA	... 84
RELIGIOUS TOLERATION	... 90
PROSPECTS OF CHRISTIANITY IN INDIA	93
RIGHTS OF A HINDU OVER ANCESTRAL PROPERTY ACCORDING TO LAW	... 111
THE REVENUE SYSTEM OF INDIA	... 152
THE INDIAN PEASANTRY	... 191
THE JUDICIAL SYSTEM OF INDIA	... 201
SETTLEMENT IN INDIA BY EUROPEANS	251
REGULATION III OF 1828	... 261
ADDRESS TO BRITISH UNITARIANS	... 269
AUTOBIOGRAPHICAL SKETCH	... 272

UNIFORM WITH THIS VOLUME
SPEECHES AND WRITINGS OF

MRS. SAROJINI NAIDU
RT. HON. SRINIVASA SASTRI
SIR J. C. BOSE
DR. SIR P. C. RAY
DR. ANNIE BESANT
LORD SINHA
SWAMI VIVEKANANDA
DADABHAI NAOROJI
SIR WILLIAM WEDDERBURN
PUNDIT MALAVIYA
M. K. GANDHI
SIR DINSHA WACHA
SURENDRANATH BANERJEA

Price of each Vol. Rs. 3 (Three.)

To Subscribers of *Indian Review* Rs. 2-8.

GOPAL KRISHNA GOKHALE

Price Rs. 4. To Subs. of "I. R." Rs. 3-8.

G. A. Natesan & CO., Publishers, Madras.

RAJA RAM MOHUN ROY

BIRTH, PARENTAGE AND BOYHOOD

RAM Mohun Roy came from a respectable Brahmin family whose original seat was in an obscure village in the Murshidabad district. His great grandfather, Krishna Chandra Banerji, was a man of note. He, having done some good services to the local Government, was honoured with the title of "Roy," and as this title was afterwards made hereditary, the family has since come to be known as the "Roys," the humbler designation of 'Banerji' being merged, as it were, in the prouder one of 'Roy.' Shortly after the receipt of this titular distinction, Krishna Chandra was invested with the powers of collecting the revenues of the districts of Hughly and Burdwan, and as this important office necessitated the making of Khanacool Krishnagar, in the former district, his headquarters, he built a house at Radhanagar on the banks of the Kana Darkeswar, and removed thither with his family.

Like Krishna Chandra, his son, Braja Binode, was also a man of mark. He served under Siraj-ud-dowla, and his official career was synchronous with that stirring "fateful" epoch, which witnessed the struggles of "a handful of merchants" with the Nawab—struggles which ultimately resulted in the

establishment of the British Empire. Braja Binode had seven sons, of whom Ramkanta held the first place in the father's heart, though he occupied only the fifth in the family pedigree. The subject of this memoir was the son of this man Ramkanta and his wife, Tarini Devi, better known as "Phool Thakurani." Ram Mohun was born at the Radhanagar house in A. D. 1774, a year memorable in the annals of British India, as in it were established both the Supreme Council and the Supreme Court—the highest Executive and the highest Judiciary. Ram Mohun was happy in his parents. His father Ramkanta was a small Zemindar and was held in esteem by people of the surrounding villages as well as of his own. His mother "Phool Thakurani" was a woman of great piety and remarkable firmness of character.

As Ramkanta was in a well-to-do condition, he spared no pains to give an excellent education to his son. But in those days when education was at a low ebb the only places of instruction were the *Patshalas* of Hindu Pandits and *Mukhtabs* of Persian Moulvis. Young Ram Mohun learned the elements of the Bengali language at the village Patshala. But mere knowledge of Bengali was not of much use in those days. Persian was still the language of the Court, and persons who wanted to make their sons cut a respectable figure in life never failed to educate them in Arabic as well as Persian—these two languages being related to each other as parent and child. Accordingly, Ram Mohun was placed under the care of the

Moulvi of the village; and when it was found that he had acquired a fair knowledge of Persian, he was sent in his ninth^o year to Patna, the chief seat of Arabic learning in Bengal. Here Ram Mohun stayed for a little more than three years, and, endowed as he was by nature with wonderful memory, and equally wonderful faculty of understanding, mastered Persian and Arabic within a comparatively short period. The knowledge which he had thus acquired was not of an ordinary kind; it was deep and extensive. He had read many of the eminent poets (*shairs*) and philosophers (*sufis*) of Persia and Arabia. Among the Persian poets, Hafiz and Sadi were his great favourites, and it was not unoften that he repeated some of their well-known sayings, more especially those of the didactic poet of Shiraz. But as his mind was cast in a philosophic mould, the mystical philosophy of the Sufis pleased him most, and this fondness became deeper still when, on studying later on the *Vedanta* and *Yoga*, he found its great resemblance with Hindu philosophy. He also read Aristotle and Euclid in Arabic in order to qualify himself in Grecian lore so far as it was then known in the East.

Having learned Persian and Arabic in conformity, as he says, with the usage of his paternal kinsmen who were all worldly men, he, agreeably to the usage of his maternal relations who were all priests by profession, wanted to learn Sanskrit and the theological works written in it, which contain the body of

Hindu literature, law and religion; and as Benares (Kasi) has from remote antiquity been the chief seat of Sanskrit learning, he was in his fourteenth year sent to that holy city to study that language of languages. Ram Mohun commenced his study with a whole heart, and, as he was not sparing in his efforts to stock his mind with useful knowledge, he mastered the classical language of the Hindus with the same ease with which he had mastered that of the Mohammedans. Ram Mohun stayed at Benares till his sixteenth year; and it was here that he imbibed the monotheistic tenets of the *Vedanta* and the *Upanishads*, which made him a determined enemy of idolatry. Thus, he returned home quite an altered man—one who was destined to upset the traditions of his family.

ADIEU TO HOME AND TRAVELS

Soon after his return home, Ram Mohun wished to give publicity to his views on religion. His study of the philosophy of the Sufis had made quite an impression on his mind, and when it was deepened and strengthened by his knowledge of Hindu philosophy, he became a thorough-going opponent of Hinduism as it was then in vogue. He wrote a work condemning idolatry as being opposed to the religion taught in the Vedas. This little book was written in Persian with an Arabic preface, and was very properly styled *Tuhfatul Muwahhiddin*. As the work called in question the validity of the idolatrous system of the Hindus, it gave great offence to the young

man's father, Ramkanta, who was a bigoted Hindu, having deep regard for the gods and goddesses of the Hindu Pantheon. A rupture took place, in consequence, between father and son, and things soon took such a bad turn that Ram Mohun found his home too hot for him; and though not actually turned out of it by sheer force, he did not deem it safe to stay in it any longer. Accordingly, he left his paternal roof, and threw himself adrift on the world quite alone and unfriended. But he was not the man to despond and lose courage under circumstances however adverse. He did not loiter about his village but started at once on travels.

Ram Mohun Roy started on his travels with a view to add to his knowledge by acquainting himself with the manners, customs and religions of the people whose country he passed through. His travels occupied about four years during which he visited several places, both within the bounds of Hindusthan and outside it. Even distant Tibet was included in his programme, and he went there to obtain first-hand knowledge of the doctrines of Buddhism. From before that time India had been denuded of the Buddhists who, being unable to bear the violent on-slaught of Sankaracharya, had left the country *en masse*. The doctrines of Buddhism, as they were taught at that reputed seat, did not, however, commend themselves to Ram Mohun Roy's mind and as he was a bold outspoken man, he did not make secret of his own religious convictions.

His assertion of monotheistic doctrines gave offence to the Lama worshippers, so much so that in their fanatic fury they were resolved to lay violent hands on him, and they would certainly have executed their resolve but for the help which the poor Hindu received from a quarter whence it was least expected. Some kind-hearted women of the place readily came to his rescue and by their timely help saved him from imminent danger. This circumstance made a very deep impression on his mind, and ever after he became a warm friend and staunch advocate of the tender sex. No wonder that he laboured hard for the emancipation of women.

RESTORATION TO PATERNAL FAVOUR

While Ram Mohun Roy was thus touring far away from home, Ramkanta, whose fatherly feeling, swayed by religious bigotry, had proved unkind to his son, felt the separation very much, and his heart which was by no means hard and cruel, was moved. Misguided as he thought his son had been, Ramkanta sent out men after him, who, on finding him out, acquainted him with his father's wish. Ram Mohun Roy, who had not left home for good but still retained what is called in law *animus revertendi*, consented to return; and on his arrival at home was warmly received by Ramkanta. A reconciliation took place between father and son, and they became friends again. Knowing full well what the state of Ram Mohun's mind really was, Ramkanta, with a view to bind him hard-and-fast to the world,

got him married. The ceremony was performed in the usual orthodox style, and the wedded couple commenced to pass their days in peace and comfort. But domestic happiness was not all to Ram Mohun Roy who constantly turned to study, as the most exhilarating recreation of his life. He had, as we have seen, early acquired a fair knowledge of Sanskrit, Arabic and Persian, besides his own vernacular; but as yet he was a perfect stranger to the language of the foreign rulers, and it was not till his twenty-second year that he commenced to learn English. For some years, however, he made little progress, in English as he was engrossed in the study of the Hindu Shastras which had gained such a firm hold on his mind. About this time this life-long student was also initiated into some other foreign languages, namely Hebrew, Greek and Latin. Ram Mohun was not satisfied merely with the study of the Hindu Shastras; in fact, this study was only the means to an end which was to hold controversies with the Brahmins, and to convince them of their errors. He carried on controversies with the priestly classes upon idol-worship and Sati. One very painful circumstance had turned the young man's attention to the latter subject. Ram Mohun had an elder brother named Jaga Mohun. When this man died, his wife who was devotedly attached to him, burned herself on his funeral pyre. This incident, so very shocking to human feelings, made a very deep impression on his mind, and it was one of the immediate causes which,

in his maturer years, led him to put forth strenuous efforts for the suppression of that horrible, heart-rending practice.

After he had commenced learning English, Ram Mohun Roy began to associate with Europeans, and soon after made himself tolerably acquainted with their laws and form of Government. He had from early youth entertained a strong feeling of aversion to the establishment of British power in India; but on coming into closer contact with the British people he gave up his prejudice against them and became strongly inclined in their favour, feeling persuaded that British rule, though a foreign rule, would lead more speedily and surely to the amelioration of his countrymen; and he came to know, and enjoyed the confidence of, several of the Europeans in their public capacity. No wonder that he became and remained all through a warm and sincere advocate of British sway in India. But though he endeared himself to the foreign rulers, he continued to alienate his own countrymen by his outspoken attacks on social evils.

FAREWELL TO HOME

Ramkanta, judging of others' mind by his own, had hoped that Ram Mohun, warned by his trials would come round to orthodoxy again. But in this he reckoned without his host. The young reformer, again, took up the cudgels against idolatry and several other practices, and renewed the fight with redoubled zeal and energy. Upon this, the leaders of Hindu

society, finding their religion in danger, tried to put down the proud rebel, and they so far succeeded in their attempt that they brought about his expulsion from home. This melancholy event took place in the last year of the eighteenth century.

IN GOVERNMENT EMPLOY

When Ram Mohun Roy was thrown adrift on the world, he naturally sought for employment. He was then not alone but had, also, a family to support. In the very year in which he was cast out of his paternal abode, he had a son born to him. This was his first-born, who was named Radha Prasad, after Krishna's favourite wife, Radha. Fortunately for the discarded young man, it was not long before he got a clerkship in the Rangpore Collectorate. He afterwards served for some years in the ministerial department of Ramgurh and Bhagalpur until the exigencies of service brought him again to Rangpore. As Ram Mohun was a man of parts and diligence, his rise in the service was almost assured, and he at last rose to the very top by being made Dewan, as the ministerial head was then called. The position of this officer was at that time much higher than it is now. He was the ministerial chief of the district and wielded very large powers. Such an officer had generally considerable influence over his Civilian master, and if the latter happened to be an ease-loving man, was often all in all. Ram Mohun Roy spent about a decade of his life as Dewan, and even after he had bade a long, long adieu to service, he was still called

the Dewanji, until ennobled by the Emperor of Delhi by being created a Raja.

While at Rangpore, Ram Mohun Roy, busily engaged as he certainly was, did not altogether forget his favourite study of the Hindu Shastras. In the odds and ends of time, he not only conversed with the Vedic Rishis, but also held controversies with the Brahmins on several religious and social subjects, more especially idolatry and widow-burning.

SETTLED IN CALCUTTA

When Ram Mohun Roy found that he had amassed money more than sufficient for the fulfilment of the great object he had in view, he resigned his appointment and came down to Calcutta with the purpose, as he said, of "engaging in religious culture and in the investigation of truth." This turn in his life took place in the year 1814, when he had attained his fortieth year. He had made enough of money by strenuous efforts, and, as money is said to draw in more money, it was soon after he had settled down in Calcutta, supplemented by a considerable portion of the property left by his father. This accession was made in consequence of a reconciliation with his mother, Tarini Devi, who had all along managed the family property in pursuance of the arrangement which had been made by her husband Ramkanta.

A few days after coming to Calcutta, Ram Mohun Roy purchased a garden with a house attached to it, built in the European style in Upper Circular

Road, at the eastern extremity of the City. He had before, while serving at Rangpore, purchased a Zemindari yielding an income of Rupees ten thousand a year. In this way he realised his long-cherished desire of retiring from service and consecrating the latter portion of his life to philosophy and religion. His love of retirement amounted almost to a passion, and he used to say that a man after acquiring competence should spend his life in the enjoyment of philosophic ease. "Old as I am," he once said to a friend, "I wish I may retire to a solitary cave and there apply myself to the study of the Vedanta and Masnavi." But with all his love of retired life, he never neglected the call of duty which the then miserable condition of his country imperatively made on him, and, as he was right earnest in his love of mankind, readily responded to the call. Ram Mohun Roy was, so to say, a born reformer, and before he left Government service, he had formed the resolution to reform the social and religious life of his country. Now that he had got the sinews of war, he gave full and free vent to the workings of his mind, and proceeded to give his thoughts and feelings a permanent, tangible shape and form. The prevailing Hindu religion being mixed up, as it very largely was, with gross superstitions and shocking ceremonials, he tried to separate the essentials from the excretions. This, he saw, he could do only by laying bare before the people the real nature and character of the Hindu religion as taught in the Vedas,

and the Upanishads. But as these authorities were locked up in Sanskrit of which people were mostly ignorant, it became necessary for him to translate, at least, some parts thereof into the current vernacular, and for wider circulation into the language of the rulers as well, which had become the language of the educated in Bengal.

LITERARY LABOURS

Ram Mohun Roy commenced to translate the Vedas and the Upanishads into Bengali and English. In the very year in which he came to Calcutta, he, in concert with a few friends, established the Atmiya Sabha—*Friendly Society* for the worship of the One Invisible God as inculcated in the Vedas and the Upanishads. In the year following, he brought out a work on the Vedanta in Bengali. This was followed in the next year by an abridgment of the Vedanta and the translations of the Kena Upanishad and the Isha Upanishad, to which were added, in 1819, translations of the Mundaka and the Katha Upanishads: all these publications run in the same direction as they, more or less, speak of the unity of the Godhead. The abridgment of the Vedanta is the most important of all. It gives a summary of the doctrines of the Vedanta Philosophy, of which the one, on which all others hinge, is that God is one and the same, and that the superstitious practices which deform the pure Hindu religion have nothing to do with the true spirit of its teaching. The Vedanta, from which all Hindu Philosophy is

derived, is regarded by us, Hindus, as an inspired work coeval with the creation of the world. It is divided into four parts, namely, Rig, Yajur, Sam and Atharva. In each of them the Unity of the Supreme Being is inculcated and the mode of worshipping Him particularly noticed. The Upanishads, which are in a manner commentaries on the Vedas, also testify to the same state of things. By the aid of all these well-known and well-authenticated works, Ram Mohun Roy proved what real Vedic religion was, and in so doing explained that the rites and ceremonies which, in the popular mind, were associated with it, were but excrescences to be eschewed. In this way he tried to put down idolatry and restore the Hindu faith to its original purity. But by this action he had roused the ire of orthodoxy. His publications produced an intense and widespread agitation in Indian society all over the country. As the historian of the Brahmo Samaj says "all the engines of social persecution were set in motion against him." The spirit in which he bore all this persecution will be best illustrated by the following extract from the preface to his English edition of the Abridgment of the Vedanta :

By taking the path which conscience and sincerity direct, I, born a Brahmin, have exposed myself to the complainings and reproaches, even of some of my relations whose prejudices are strong and whose temporal advantage depends upon the present system. But these, however accumulated, I can tranquilly bear, trusting that a day will arrive when my humble endeavours will be viewed with justice, perhaps acknowledged with gratitude. At any rate, whatever men may say, I cannot be deprived of this consolation : my motives are acceptable to that Being who beholds in secret and compensates openly !

RAM MOHUN ROY'S VIEW OF CHRISTIANITY

We have said that Ram Mohun Roy came in contact with Europeans. Naturally he became a warm admirer of Christianity, and held in high esteem and regard its good and great founder. Indeed, the character of Jesus Christ is above reproach and is worthy of the highest praise. His teachings bring out in prominent relief the Fatherhood of God and the Brotherhood of Man. While studying Persian and Arabic, Ram Mohun had come to appreciate the strict monotheism of the Mahommedans. Their book of books, the Koran, says in so many words that there is no God but God, and Mohomet is his Prophet. The same doctrine he also discovered when he studied the Vedanta philosophy at Benares. This circumstance struck the Hindu student as something strange, seeing that the Hindu world was deeply immersed in idolatry and the worship of the countless gods and goddesses of the Hindu Pantheon. Afterwards, when he came to study the Holy Bible, he found the very same doctrine taught in it. Thus he found that all the three principal religions of the world taught one and the same doctrine. Ram Mohun, as was his wont, had studied the Bible with very great care and diligence, and had acquired a deep and thorough knowledge of its tenets. In fact, his knowledge of the Scriptures was far superior to that of the most so-called Christians. As the teachings of Jesus Christ have found place in the four Gospels of the New Testament, he drew upon them

and prepared a book on the subject for the edification of his countrymen. This book he styled, "The Precepts of Jesus, the guide to peace and happiness," and published it together with translations in Sanskrit and Bengali in the year of grace, 1820. The chief value of these "Precepts" lies in the fact of their being recorded in the very words of the Evangelists, so that there could be no doubt or difficulty about their meaning. But Ram Mohun Roy gave only Christ's precepts, separating them from the other portions which are open to comment; and this is how he justifies the separation of the two portions. Says he in the Introduction to the "Precepts":—

I feel persuaded that by separating from the other matters contained in the New Testament, the moral precepts found in that book, these will be more likely to produce the desirable effect of improving the hearts and minds of men of different persuasions and degrees of understanding. For historical and the other passages are liable to the doubts and disputes of thinkers and anti-Christians, especially miraculous relations, which are not much less wonderful than the fabricated tales told down to the natives of Asia, and consequently would be at least, to carry little weight with them. On the contrary, moral doctrines, tending evidently to the maintenance of the peace and harmony of mankind at large, are beyond the reach of metaphysical perversion, and intelligible alike to the learned and the unlearned.

In praise of his compilation he continues to observe:—

This simple code of religion and morality is so admirably calculated to elevate men's ideas to high and liberal notion of the God, who has equally subjected all living creatures, without distinction of caste, rank or locality, to change, disappointment, pain and death, and has equally admitted all to be partakers of the bountiful mercies which He has lavished over Nature, and it is, also, so very fitted to regulate the conduct of human

race in the discharge of their various duties to God, to themselves and to society that I cannot but hope the best effects from its promulgation in the present form.

This separation between the essentials and non-essentials of the religion of Jesus was not palatable to the missionaries in general and to the Serampur Baptists in particular, who protested against what was alleged as the heathen interpretation of, and meddling with the Christian religion. Then ensued a controversy in which the victory of Ram Mohun Roy was complete, though bigoted Christians denied him the credit. But no right-thinking persons of the Christian persuasion hesitated to say that his arguments were sound and unanswerable, and the extraordinary learning and ability shown in his several replies and their great worth were readily acknowledged in England and America.

Soon after the publication of the final appeal to the Christian public, the Serampur Missionaries, not content with vindicating the truth and excellence of their own doctrines as they understood them, took the offensive and made an all-round attack on the whole body of Hindu Shastras as unreasonable, and also abused the Hindus in very offensive terms in their Bengali newspaper the SAMACHAR DARPAN (Mirror of News), as well as in the FRIEND OF INDIA. Ram Mohun Roy, who never flinched from fight, was ready with a reply and published in answer, the BRAHMINICAL MAGAZINE, the fourth number of which bore date the 15th November, 1823. As was his wont, the answer so made did not bear his own

signature but the name of one Siva Prosad Sarma, a purely feigned name. Thinking that he could not better answer 'the revilers than by laying bare the Hindu religion in its true light, he thus laid down the real religious creed of the Hindus :—

In conformity with the precepts of our ancient religion, contained in the Holy Vedant, though disregarded by the generality of moderns, we look up to the One Being as the animating and regulating principle of the whole collective body and as the origin of all individual souls, which in a manner somewhat similar vivify and govern their particular bodies; and we reject idolatry in every form and under whatever veil of sophistry it may be practised, either in adoration of an artificial, a material or an imaginary object. The divine homage, which we offer, consists solely in the practice of *Daya* or benevolence towards each other, and not in a fanciful faith or in certain motions of the feet, legs, arms, head, tongue or other bodily organs, in a pulpit or before a temple.

In the paper which he published in the aforesaid Magazine, Ram Mohun Roy ably defended the Hindu systems of philosophy and religion against the insolent attacks of the Missionaries, and attempted to prove the untenability and unreasonableness of the Trinitarian doctrines. The Missionaries were silenced, and they indirectly acknowledged their defeat by not offering any answer either to the fourth number of the BRAHMINICAL MAGAZINE, or to the final appeal to the Christian public.

THE TRINITARIANS AND REV. ADAM

As we have observed above, Ram Mohun Roy was dead against the doctrine of Trinity. He believed in one God and looked upon Him as the Supreme Ruler of all things and objects. Seeing that his belief in the Unity of the Godhead quite tallied with that of the Unitarians, it was not unoften that he

resorted to their Church and joined them in their prayer. This being observed by the Trinitarian Christians, they asked him: "Why do you frequent a Unitarian place of worship instead of the numerous attended established Churches?" Ram Mohun Roy answered that the Unitarian mode of worship, prayer and preaching is quite in unison with the teachings of the Hindu religion as inculcated in the Vedas and the Upanishads, and that the Divinity of Christ, and the principle of the Christian Trinity, are not consistent with the teachings of Christ, as recorded in the Gospels. He proceeded to give three more reasons for not attending the established Churches and frequenting the Unitarian Church. These three reasons were very precise and important:

I. Because the doctrine of the Trinity inculcated in those Churches, consisting of God the Father, God the Son and God the Holy Ghost, is defensible only on the plea of Mystery; while the Trinity preached to us by the Brahmins is a representation of the three principal attributes of the Deity in an allegorical sense, and does, therefore, deserve some momentary attention. The mind, which rejects the latter as a production of the fancy cannot be reasonably expected to adopt the former.

II. Because Unitarians reject polytheism and idolatry under every sophistical modification, and discountenance all the evil consequences resulting from them.

III. Because Unitarians believe, profess and inculcate the doctrine of the Divine Unity—a doctrine which I find firmly maintained both by the Christian scriptures and by our most ancient writings commonly called the Vedas.

The answer thus made was full and to the point, and it is noticeable that thereafter the Missionaries did not trouble Ram Mohun Roy with any such question. As a result of this controversy a few Christians left the Trinitarians and joined the party of the Uni-

tarians. Among these was the Rev. William Adam, a Trinitarian Missionary, who had come out to India to propagate evangelical Christianity. On being convinced by the arguments of Ram Mohun Roy, that the doctrines of the Trinity, the Divinity of Christ and Atonement through the vicarious sacrifice of Jesus were against the proper teaching of the Bible, he renounced Trinitarianism and became a Unitarian Christian. This memorable conversion took place in the latter part of 1821.

By his avowal of Unitarianism, the Rev. gentleman became an eyesore to the Trinitarians, who began to treat him in a manner quite opposed to the spirit of Christianity. This exceptionally hard treatment was dealt to him on account of his having been a Missionary and not an ordinary Christian. Needless to say that the connection of Mr. Adam with the Baptist Mission soon ceased and Ram Mohun had to help him in organising a Unitarian mission in Calcutta. Mr. Adam, besides being an able and learned man, was thoroughly acquainted with the languages, manners and prejudices of the natives. He readily joined Ram Mohun Roy and laboured in concert with him, quite unmindful of the privations and sufferings to which he was subjected by his co-religionists. Mr. Adam was the only American Unitarian Missionary in Bengal and, like his spiritual *guru* and chief, laboured hard for the progress and improvement of this country, and for the spread, among men, of the true religion and the worship of one God. Ram

Mohun regularly attended the Unitarian Churches even against the attacks of his countrymen. But somehow the Church did not prosper and dwindled away by the time that Ram Mohun, impelled by his followers, started the Brahmo Samaj. But to the end Mr. Adam was unswerving in his loyalty and attachment to Ram Mohun.

THE TYTLER CONTROVERSY

Now to the other great controversy of that time. There was one Mr. R. Tytler a medical man who served the honourable East India Company in the capacity of a surgeon. Though a medical man by profession he did not confine himself to the healing art. He also dealt in religion and wrote some works on that momentous subject, among which was a discourse in vindication of the Divinity of Christ. No wonder then that he came into hostile contact with Ram Mohun Roy, who criticised it as being opposed to the true teaching of the Bible. The latter, as we have said over and over again, was a firm believer in the Unity of the Godhead and flatly rejected the doctrine of Divine Incarnations so much in favour with the Trinitarian Christians, of whom Dr. Tytler was one. Ram Mohun Roy, finding that the Doctor believed in the manifestation of God in flesh, and considering that the Incarnation of the Deity was the common basis of Hinduism and Christianity, addressed him a letter asking him in his character of a Trinitarian Christian, to join him in support of their common

cause and cordially co-operate with him in his endeavour to check, as he said, the alarming growth of the Unitarian heresy. But as Ram Mohun Roy was himself a Unitarian, one can easily see that he was not quite serious in asking the Doctor's aid in that way. The result, as might have been expected, was that Dr. Tytler took offence, and not only did he treat Ram Mohun Roy as an enemy of the Christian faith but also applied the most offensive and opprobrious language to the Hindu religion. In his letter, dated 3rd May 1823, on which date the controversy really commenced, he roundly abused Ram Mohun Roy for telling him pointedly that his belief in the Divinity of the Holy Saviour was on a par with a Hindu's belief in his *Thakur*. This abuse was too much for the great Hindu to bear, and he accordingly sent him a letter in reply, wherein he expressed his surprise that a man of the Doctor's reputed learning and accomplishments should have been offended at the mention of resemblance between his belief in the Divinity of Jesus Christ with a Hindu's belief in his *Thakur*, because, said he :

° You ought to know that our religious faith and yours are founded on the same sacred basis, *viz*, the *Manifestation of God in flesh* without any restriction to a dark or fair complexion, large or small stature, long or short hair. You cannot surely be ignorant that the Divine Ram was the reputed son of Dasarath, of the offspring of Bhaggeerath, of the tribe of Raghoon, as Jesus was the reputed son of Joseph, of the House of David, of the Tribe of Judah. Ram was the king of the Raghoons and of foreigners, while in like manner Jesus was king of the Jews and Gentiles. Both are stated, in the respective sacred books handed down to us, to have performed very wonderful miracles and ascended up to Heaven. Both were tempted by the Devil while on earth, and both have been wor-

shipped by millions up to the present day. Since God can be born of the Tribe of Judah, how, I ask, is it impossible that he should be born of the tribe of Ragho or of any other nation or race of men? And as the human form and feelings of Ram afford sceptics no good argument against his omnipresent and divine nature, it must be evident to you that this deluded sect of Unitarians can lay no stress on the human form and feelings of Jesus Christ as disproving his divinity.

Thus, the resemblance is very striking and ought to have led the Doctor to think that he had no good reason to be offended at a fact which was so very patent. Ram Mohun Roy proceeded to say :—

You may perhaps urge that there is a wide difference between a belief in Three Persons of the Godhead as maintained by you and a belief in three hundred and thirty millions of persons in the Godhead entertained by the Hindus. But as all such numerical objections are founded on the frail basis of human reason, which we well know is fallible, you must admit that the same Omnipotence, which can make three one and one three, can equally reconcile the unity and plurality of three hundred and thirty millions, both being supported by a sublime mystery which far transcends all human comprehension.

As the reply given by Ram Mohun Roy was simply crushing, the learned Doctor would have done well to give up his position as untenable. But he continued the controversy and made a reply to Ram Mohun or rather Ram Doss, that being the pseudonym under which he conducted the controversy. The reply, which appeared in the BENGAL HARKARU, was no reply at all; it was simply abuse and nothing more. In that reply, he was audacious enough to say that Hindu idolatry and Unitarianism were the same and that they both proceeded from the Devil. The Editor of the HARKARU, however, coming forward to defend the Doctor, wrote as follows :—

We would put to Ram Doss that there is in our opinion a wide difference between the belief which maintains God to have appeared in the *Flesh* and that of the Hindu who believes the

appearance of the Omnipotent Being in the shape of a Thakur, which, if we are not mistaken, is composed of stone, metal or wood.

As the remark called for a reply, Ram Mohun Roy addressed a letter to the Editor in which, after mentioning his total unacquaintance with the Hindu religion, even though he was resident in Calcutta for a pretty long time, he proceeded to observe:—

Can you find a single Hindu in the whole of India who imagines that the divine Ram, the son of Daasharath by Kaushtilya, his mother, according to the flesh, was composed either of wood, stone or metal?

If you can find even one, there may be some excuse for your mistake in supposing what is so wide of the fact. You may, of course, find numerous consecrated images or statues of the Holy Ram, in the Hindu temples formed of wood and other materials, placed there for the pious purpose of attracting the attention of devotees to that Divine Incarnation, although many good Hindus do not consider such representations as necessary, and worship Ram directly without the intervention of any sensible object. But can you suppose for a moment that a model or picture of any person, whether divine or human, can identify that being with such representation or convert the original existence into the same materials? If this were the case, then the number of men so unfortunate as to have statues or portraits of themselves made, must lose their real essence—their original elements necessarily degenerating into stone or paint and canvas.

But it is indisputable that neither the images of the Holy Jesus in Roman Catholic Churches, nor the representations of Divine Ram in the Hindu temples, are identified with either of those sacred persons.

The above reply being quite unanswerable, the Doctor did not venture to say anything in opposition to or in disparagement of it, but merely made some general remarks whereby he, in a manner, assented to the contention of Ram Mohun Roy. He said:—

We never intended to intimate that any sensible Hindu could for a moment suppose that God was personally present in an image of brass, stone or metal; but we have no hesitation in asserting that such an opinion does prevail, not only among

the Hindus, but amongst the ignorant of all classes whose religious faith prescribes the worship of images as the medium of access to the Deity.

He then concludes by admitting the inability of himself and others of sort to discuss any of the points connected with the religious worship of the Hindus, they having had very few opportunities of making themselves acquainted with them. Then Ram Mohun or rather Ram Doss challenged Dr. Tytler several times to establish the three charges he had brought against Hinduism; but the latter, instead of dealing with arguments took to abusing the opponent.

Dr. Tytler may have been a learned man, but it appears that his power of reasoning was very weak and that his head was anything but logical. In his letter published in the HARKARU, of the 22nd May, in reply to Ram Doss's letter of the 16th, where he described the Buddhists as being inimical to Hinduism, he said with unfeigned sneer: "The sapient Ram Doss now changes his tone, and tells us that the Buddhists 'despise *many* of the gods worshipped by the Hindus.' It thence follows that *some* of the Hindu deities must be objects of their adoration." At this high flight of logical reasoning, Ram Doss justly exclaimed, "Indeed?" and pertinently asked:—

In what school of *wisdom* did the learned Doctor acquire his logic? Although I despise or dislike several members of a family, is this a proof that I must adore the rest? May I not regard the rest with indifference or be unacquainted with them? But granting even that Buddhists do worship *some* of the Hindu gods while they despise others, may they not still be inimical to Hinduism? Don't the Jews despise one of the Christian gods, worship another and are indifferent to a third, and yet are they inveterate enemies of Christianity?

Dr. Tytler being now, it appears, completely silenced, a friend, under the signature of *A Christian*, came forward to his assistance and addressed a letter to the Editor of the HARKARU in which he made some statements, to which Ram Doss, in his letter of 23rd May, made very able and satisfactory reply.

THE PROSPECTS OF CHRISTIANITY IN INDIA

The Serampore Missionaries, earnest, enthusiastic and painstaking however were not labouring in vain. They had already made some converts and were expecting to make a few more. These converts, however, were for the most part drawn from the lower strata of society ; the gentry, far less the nobility, having been only slightly touched. Of the converts so made, there were only a few who became so through conviction ; the majority abandoned the religion of their forefathers only through selfish motives. But the said Missionaries, though their labours were attended with only a modicum of success, used to make too much of them and felt no hesitation in announcing to the Christian world that they had succeeded in their mission work far beyond their most sanguine expectations. Many of the Trinitarians gladly took them at their word and expressed great joy at the remarkable success which had attended their cause in Native India. But a few of their party who were not so bigoted as the rest, and were not disposed to assent to the opinion or assertion before giving it their careful consideration, entertained some doubt as to the veracity of the statements made by the

Serampore Baptists in their Reports. As for the Unitarians, both of England and America, they were as a body very slow of belief in this matter, and were, therefore, very desirous to know how things were actually faring in India, and whether there was any chance of Christianity being well received in it. Accordingly, a certain number of Unitarians of America went to the Rev. Henry Ware, of Harvard College, a well-known Unitarian Minister, and earnestly asked him if he could by any means obtain the required information. The said professor, in compliance with their request, the propriety of which he so gladly admitted, addressed two letters, one to the Rev. William Adam, the only American Unitarian Missionary, and the other to the subject of this memoir. The letter to Ram Mohun Roy bore date the 24th April 1823, in which the writer thus states the circumstances under which he wrote.

A number of Unitarian Christians with whom I am associated, take a deep interest in extending the knowledge and the blessings of Christianity to those who have not enjoyed its light. But they believe that the methods which had hitherto been employed, are not likely to be effectual, yet they are unwilling to relinquish the hope, that some others may be suggested by a better knowledge than we possess of the actual state of things, that shall prove more successful. They avail themselves of this opportunity, through Captain Heard, who is the bearer of this to endeavour to procure such information as may assist them in judging, whether anything can be done by them to advance the cause of Christianity in India. In pursuance of their design and by their desire, I have prepared a number of questions, a copy of which is enclosed, upon which Captain Heard is kind enough to offer his services to obtain such information as he can from the best sources. From none can we hope for so much, or so satisfactory knowledge as from yourself.

In a post-script, he asked Ram Mohun Roy if, with the knowledge which he possessed of the character both of the Hindu and the Christian Theology and of their moral influence and tendency, he thought it desirable that the inhabitants of India should be converted to Christianity; if so, in what degree desirable, and for what reasons. The number of queries so sent was twenty. Of these questions, the first two appear to be the most important. They are as follows:

1. What is the real success of the great exertions which are being made for the conversion of the natives of India to Christianity?

2. What is the number and character of the converts?

Ram Mohun Roy, who, like most Christians, did not find that Christianity was making fair progress in India, felt some scruple as to answering these questions himself in the way in which they should be answered, seeing that the Serampore Missionaries used to make too much of their work and determinedly contradicted anyone who might express a doubt as to the success of their labours. In order to avoid the occasion of a further dispute with them on this point, he followed a course which commended itself to him, and to which no objection could possibly be taken. Instead of answering the above queries in his own language, he adopted the language of the Rev. Abbe Dubois who, from his deep and accurate knowledge of India acquired from Apostolic labours in it during a period of thirty years, was so well qualified

to answer them. The Abbe is known not only for his services in the cause of Christian religion, but also for his excellent book on the manners, customs, and religions of Indians. This book is a striking memorial of his varied learning and wealth of experience, and is regarded as masterpiece in its kind. This Indian classic has only lately been edited by that distinguished Anglo-Indian, the late lamented Mr. Beauchamp, who was for several years the Editor of the MADRAS MAIL. On the question of conversion into the Christian faith, Abbe Dubois says:—

The question to be considered may be reduced to these two points: First, is there a possibility of making real converts to Christianity among the natives in India? Secondly, are the means employed for that purpose, and above all, the translation of the Holy Scriptures into the idioms of the country likely to conduce to this desirable object?

To both interrogatories, I will answer in the negative: it is my decided opinion first, that under existing circumstances there is no human possibility of converting the Hindus to any sect of Christianity; and secondly, that the translation of the Holy Scriptures circulated among them, so far from conducing to this end, will, on the contrary, increase the prejudices of the natives against the Christian religion and prove in many respects detrimental to it.

As these assertions, coming from a person of his profession, might to many appear bold and extraordinary, the good Abbe deemed it necessary to adduce arguments and proofs in support of them. In pursuance of his inquiry in this respect, he mentions among others the case of the Baptist Missionaries of Serampore. He thus observes:—

Behold the Baptist Missionaries at Serampore; inquire what are their scriptural successes on the banks of the Ganges; ask them whether those extremely incorrect versions, already

obtained at an immense expense, have produced the sincere conversion of a single pagan; and I am persuaded that if they are asked an answer upon their honour and conscience, they will all reply in the negative.

As to the social position of the converts made by those missionaries and the circumstances which led to their conversion, Ram Mohun Roy said that the generality, if not all of them, were of low caste and were not at all respectable "for their understanding, morals and condition in life"; and that they changed their religion not from inquiry and conviction but from selfish and interested motives.

Among the other queries, the ninth is of considerable importance. It is this:—"What are the chief causes that have prevented, and that continue to prevent, the reception of Christianity by the natives of India? May such of the want of success be reasonably attributed to the form in which the religion is presented to them?" To this query, the following answer was given by Ram Mohun Roy:—

The chief causes which prevent the natives of India from changing their religion are the same as are found in the numerous class of Christians, who are unable to give an answer to any man that asketh the reason of the hope they profess, *viz.*, their reliance on the sanctity of the books received among them as revealed authorities and the variety of prejudices planted in their minds in the early part of life. These are strongly supported by the dread of loss of caste, the consequence of apostasy which separates a husband from his wife, a father from his son, and a mother from her daughter. Besides, the doctrines, which the missionaries maintain and preach, are less conformable with reason than those professed by Mussalmans, and in several points are equally absurd with the popular Hindu creed. Hence there is no rational inducement for either of these tribes to lay aside their respective doctrines, and adopt those held up by the generality of Christians.

As regards the question at the concluding part of the letter of the Rev. Henry Ware, to wit, "Whether it be desirable that the inhabitants of India should be converted to Christianity; in what degree desirable and for what reasons?" Ram Mohun Roy observed that he paused to answer, as he says:—

As I am led to believe, from reason which is set forth in scripture, that in 'every nation he that *feareth God* and *worketh righteousness* is accepted with him' in whatever form of worship he may have been taught to glorify God. Nevertheless, I presume to think that Christianity, if properly inculcated has a greater tendency to improve the moral, social and political state of mankind than any other known religious system.

The work, which was left undone by Dr. Carey and his compeers, was taken up by Dr. Duff and some others, and they succeeded in making some converts even among the gentry. Since then the prospects of Christianity is becoming gloomier day by day, and now that the Brahmos have taken the field, the missionaries seem to be thinking that their prosperous days are numbered, and they must seek for "fresh fields and pastures new."

RAM MOHUN ROY AS A SOCIAL REFORMER

(a) *The Sati Rite.*

Ram Mohun Roy is generally known as a religious reformer, but he was a social reformer as well. Indeed, religious and social matters are so intermixed that it is sometimes difficult to determine where religion ends and social reform begins. The Sati rite, or the burning alive of a Hindu woman on the funeral pyre of her husband, is a matter of this difficult nature. When the English

first came to rule the country, they were shocked at this cruel inhuman practice prevailing so very widely. But on being told that it formed part and parcel of the Hindu religion as current in Bengal, they did not deem it proper to interfere. But as the practice, revolting as it is to human feelings went on increasing, some gentlemen, who had the good of the country at heart, took the matter into their earnest consideration with a view to devising some means for the abolition thereof. The credit of first moving in this painful but none the less momentous matter is due to the Serampore Missionaries, with Carey as the head and prime mover. In 1814, when India was ruled by Lord Wellesley, the Missionaries sent out ten agents to travel from village to village within a radius of 30 miles round Calcutta, to collect information, and after sufficient inquiries were made, they duly brought the matter to the notice of the Governor-General; but as Lord Wellesley was to retire a week later, he did not feel free to take action. Accordingly, the matter dropped for the time being, and it was not revived until 1818, when Ram Mohun Roy published his first tract against the Sati rite. It was originally written in Bengali. This was a very able and learned discourse; and the author, thinking that the arguments contained in it might tend to alter the notions which some European gentlemen entertained on this subject, lost no time in giving to the public, also, an English translation thereof. As the attack therein made on the practice

was alarmingly violent, it excited great opposition among orthodox Hindus, who were not willing to give up their time-worn customs and beliefs; and with a view to combat the views so cleverly and forcibly put forth by Ram Mohun Roy, they started a newspaper called the CHANDRIKA under the editorship of a very learned Brahmin of the right orthodox type.

It is very difficult, if not impossible, to determine how and when the practice originated. The great Father of History, Herodotus, says that some such custom was in vogue among the Crestonians, but he is silent as to any such custom having prevailed among the Indians. It seems that the Indian practice came into being long after the time of Herodotus; and it is certain that it did not exist in Vedic times. Even when the *Aranyaka* was compiled, it had not obtained currency in the country; but it would appear that it was quite in vogue from before the invasion of India by Alexander the Great. Not only does the Vedas make no mention of the practice, but Manu, also, whose authority as a law-giver stands unrivalled, does not at all countenance or even hint at it. Speaking of the Hindu widow, he says:—

Let her continue *till death* forgiving all injuries, performing harsh duties, avoiding every sensual pleasure, and cheerfully practising the incomparable rules of virtue which have been followed by such women as were devoted to one only husband.

True it is that Angira, like some other Rishis, has said:—

That a woman who, on the death of her husband, ascends the burning pile with him, is exalted in Heaven, as equal to Arundhati.

As Ram Mohun Roy, by his second Essay on the subject which appeared in 1820, has shown, these words of Angira have been explained by the greatest Smriti writer in Bengal, the renowned Pandit Raghunandan, as conveying merely the exaggerated praise of Sati. Indeed, Ram Mohun Roy's second Essay settles once for all this fact that, according to Hindu Shastras, a woman, on her husband's death, has generally two courses before her to follow, namely, she may die with her lord, or she may adopt an ascetic life. The former, being revolting to human feelings, is generally renounced in favour of the latter, which is certainly the better and the more reasonable course of the two. But as, by Hindu law as current in Bengal, a widow was deemed competent to have, and hold for her life, the estate of her husband dying without male issue, there were not found wanting bad men who, to gain their selfish ends, would be only too ready to remove her from the way in order to let the next heir of the deceased come in at once. It seems that some such evil motives had a great deal to do in introducing this strange custom of Sati.

But when the advocates of Sati found that they could not support their contention by referring to law, they shifted their ground and continued their controversy by saying that, even supposing that the practice was not supported by law, it was quite sanctioned by custom, and as such practice had been in use for a long time, it could not be given up. But this ground,

too, was not tenable seeing that such a custom could not be called a sound legal custom, and Ram Mohun argued that it is only customs of the latter kind which deserve the high praise bestowed on custom by Manu. As for the custom referred to by the advocates of Sati, it was one of those customs which was more honoured in the breach than in the observance. Thus, the triumph of Ram Mohun Roy was complete.

Fortunately for him, a great and good man was then at the helm of the State. When, after suitable inquiries, Lord William Bentinck found to his satisfaction that the Sati rite was, so far from being supported by law and good custom, directly opposed to them, and that it did not at all form a part of the Hindu religion as current in the land, he in consultation with his Hon'ble colleagues, passed in the year of grace, 1829, a Regulation declaring the practice of Sati illegal, and the persons taking part in it punishable in the Criminal Courts. This moral victory proved an infinite source of joy to Ram Mohun Roy, and he hastened to offer thank to Heaven whose

"protecting arm," has rescued our weaker sex from cruel murder under the cloak of religion, and our character, as a people, from the contempt and pity with which it had been regarded on account of this custom by all civilised nations on the face of the globe.

(b) *Kulinism.*

Polygamy, shocking as it is, was badly rampant in the time of Ram Mohun Roy. He plainly saw that it was an evil practice and ought to be put a

stop to. In his excellent Essay on the *Ancient Rights of Females*, he observes:—

This horrible polygamy among Brahmins is directly contrary to the law given by ancient authors; for Yagnavalkya authorises second marriage while the first wife is alive, only under eight circumstances: 1st, The vice of drinking spirituous liquors. 2ndly, Incurable sickness. 3rdly, Deception. 4thly, Barrenness. 5thly, Extravagance. 6thly, The frequent use of offensive language. 7thly, Producing only female offspring. Or, 8thly, Manifestation of hatred towards her husband.

He also cites some other authorities to show that a Hindu is not legally free to take any number of wives, but that, as a matter of fact, during his wife's life-time, he cannot marry again except under certain specified circumstances. This is a sound and wholesome injunction, but it is seldom, if ever, obeyed. As the practice is, and has been, in use for a long time, a Hindu is at liberty to marry any number of wives, no matter that he has one living. Although Kulinism was damnably prevalent among Brahmins and was doing immense mischief in Hindu society, still Ram Mohun Roy did not deem it prudent to disturb it except by making a few sensible remarks against it. In fact, the custom had got so firmly rooted in Hindu minds and had had such long continued use in its favour that, perhaps, he thought that the time had not come for its removal from the social system, and, accordingly, did not worry himself much about it. That well-known statesman and lawyer, Thomas Babington Macaulay, also seemed to have thought in the same way: and when it was suggested to him, very probably by Ram Mohun Roy himself and a few others like him, that polygamy might be put a stop to by a

legislative enactment, he did not follow up the suggestion but left the matter to the solvent influence of time and education; and it is gratifying to observe that his foresight is on a fair way to being practically fulfilled. Now-a-days, only a few educated men are to be found in this country who have more wives than one. In fact, monogamy has become the rule, and it is only in exceptional cases and under peculiar circumstances that this rule is broken through.

(c) *Widow Marriage.*

Widow marriage, which under certain circumstances is very desirable, also attracted the far-seeing attention of Ram Mohun Roy. But it seems that he did not in all seriousness take the matter in hand, evidently on some such consideration as had dissuaded him from earnestly interfering with the objectionable practice of polygamy. The time had not then come for active interference: nor had it come even when the venerable Pandit Ishwar Chandra Vidyasagar fought tooth and nail for it. True it is that an Act of the Legislature had been passed, legalising such marriages; but except among a handful of men who are a drop in the ocean, it has remained almost a dead letter.

HIS VIEW OF EDUCATION

Being a highly educated man himself, it was only natural that Ram Mohun Roy should have had more than ordinary regard for education. In fact, he set a very high value on it and very properly thought that the more a nation improves itself by education,

the higher it rises among nations. By education he evidently meant good practical education—education which fills the mind with useful knowledge. Though a well-known Sanskrit scholar, Ram Mohun Roy had very little regard for the niceties of Sanskrit grammar, or the subtleties of Hindu philosophy. Accordingly, when, in 1823, it was proposed to establish a Sanskrit school under Hindu Pandits for the purpose of imparting such knowledge as might be derived from a study of Sanskrit grammar and the Darshanas, as Hindu philosophy is collectively called—knowledge which was already pretty prevalent in India, at least among a certain section of the Hindus—he entered a powerful protest against it, and in order to acquaint Government with his views, he addressed a letter to the then Governor-General, Lord Amherst. In that letter he very forcibly urged that if the improvement of the native population was the object of the Government, instead of affording them facilities for learning Sanskrit grammar and Hindu philosophy, it would far better fulfil its object by promoting a liberal and enlightened system of instruction, embracing Mathematics, Natural Philosophy, Chemistry, Anatomy, with other useful sciences, which might be well accomplished with the money sanctioned, by employing a few gentlemen of talent and learning educated in Europe and by providing a college furnished with necessary books, instruments and other apparatus. He, however, did not altogether condemn the study of Sanskrit, which, he admitted, has a value of its

own, as it enables one to get a deep insight into the rich and rare stores of Sanskrit literature—a literature which, as Heeran says, “ incontestably belongs to a highly cultivated people, whom we may with reason consider to have been the most informed of the East.” Such a study might, he thought, be well left to the keepers of *Tols* in the different parts of the country, who were engaged in teaching the Sanskrit language together with other branches of learning, which were intended to be taught in the proposed seminary ; and if their more diligent cultivation were desirable, it would be effectually promoted by holding out premiums and granting certain allowances to the most eminent Pandits, who had already undertaken on their own account to teach them, and who would, by such rewards, be stimulated to still greater exertions. The Government, it seems, was impressed by the arguments adduced by Ram Mohun Roy, and it was, principally, in consequence of the agitation set up by him that the foundation-stone of the building, intended for the Sanskrit College, was laid in the name of the Hindu College, and the Hindu College was located there together with the Sanskrit College. This Hindu College was intended to give instruction to Hindu boys and to Hindu boys alone, and had been established some years before. That great educationist and sincere well-wisher of this country, David Hare was the prime mover in the matter, and he found a very earnest co-adjutant in Ram Mohun Roy. Finding

that the then Chief Justice of the Supreme Court, Sir Edward Hyde East, had the good of the land of his adoption at heart, these two selfless workers approached his Lordship with their scheme, and the result was the establishment of the said college in the year 1817, the main object of which was the spread of English education among the natives of the country. But though Ram Mohun Roy laboured very hard towards its establishment, still with characteristic disinterestedness he kept himself aloof from its management, fearing that the orthodox leaders of the Hindu community might not like to act in concert with a man whom they looked upon as no better than an outcast. Not satisfied with merely assisting David Hare and men of that sort for the spread of English education in this country, he himself established an English school of his own in the year 1822. Surely, Bengal owes a very huge debt of gratitude to Ram Mohun Roy for his efforts in the cause of English education.

Some time after the establishment of the Hindu College, there began the famous controversy between the Orientalists who advocated education in Oriental classics, and the Anglicists who were for imparting instruction through the medium of English. The former party was headed by that great antiquarian, James Prinsep of Prinsep Ghat fame, and the latter by that eminent historian, poet and essayist, Thomas Babington Macaulay (afterwards Lord Macaulay). The battle raged loud and long for more than a decade. Ram Mohun Roy, who always took part in

every movement that tended towards the amelioration of his country, ranged himself on the side of the Anglicists, and it was an open secret that he gave his powerful aid to those with whom he sided. The controversy was so very keen and each side so strong that it was long doubtful which side would come out victorious. Lord William Bentinck weighing the arguments on both sides and sincerely believing that the country greatly wanted English education for its improvement and edification, decided in favour of the Anglicists. It is very much to be regretted that Ram Mohun Roy did not live to see his laudable efforts crowned with complete success, as the Resolution of the Governor-General on the subject was not passed until the 7th May 1835, more than a year and half after his death.

Ram Mohun Roy was not only for educating the males, he was equally in favour of female education. In his advocacy of the latter he had the assured precedent of ancient India to support him. When the two grand Epics—the Ramayana and the Mahabharata—were written, Hindu women were not kept in seclusion. The Zenana system was quite unknown, and the members of the softer sex were allowed to appear in public and attend meetings on great occasions. Learning, too, was not a forbidden fruit to them, and the literature of the times furnishes us with the names of more than one lady who vied with the most learned men of that period in culture and religious knowledge. Gargi, Maitreyi and Lilavati

were well able to hold their own against any sage or savant of their times. In fact, female education was quite common in days of old, and it was only in later times that it fell into disuse. Ram Mohun Roy's advocacy of female education helped not a little towards drawing the attention of the public to it; but no tangible measure was taken in that direction until the arrival of Mr. Drinkwater Bethune. He came out as the Law Member of the Supreme Council in succession to the celebrated Macaulay. But though a lawyer by profession and calling, he was not slow to turn his attention to other matters, of which the one which mostly exercised his mind was the education of Indian women; and as he found some earnest natives to back him up, and also expected the countenance of Government, he entered into the subject more deeply, and, at last, succeeded in establishing a female school in Calcutta, to which he lent his own honoured name. This very important event in the educational annals of Bengal took place in the year 1843, nearly fourteen years after the death of Ram Mohun Roy.

RAM MOHUN AS A POLITICIAN

Ram Mohun's interest was not confined to social reform and education. We have noticed his religious controversies both with orthodox Hindus and Christian Missionaries. But, as we shall see, he was far and away the ablest and the most wide-awake politician of his time. Nor did he cultivate the narrow and parochial patriotism of latter days. His patriotism

was broad-based on the doctrine of the solidarity of humanity and inspired by his passion for liberty. "He would be free or not be at all," wrote Mr. William Adam, a Baptist Missionary whose Association with Ram Mohun led him to adopt Unitarian opinions. He said:—

He would be free or not be at all.....Love of freedom was perhaps the strongest passion of his soul,—freedom not of action merely, but of thought.....This tenacity of personal independence, this sensitive jealousy of the slightest approach to an encroachment on his mental freedom was accompanied with a very nice perception of the equal rights of others, even of those who differed most widely from him.

It was this love of liberty, says Mr. Ramanand Chatterjee in his brochure on *Ram Mohun Roy and Modern India* that was the source of all his political opinions and the mainspring of all his political activity. It made him take interest in and deeply sympathise with all political movements all over the world that had for their object the advancement of popular freedom. Mr. Chatterjee quotes some instances of Ram Mohun's cosmopolitan sympathies in the region of politics.

When the intelligence reached India that the people of Naples after extorting a constitution from their despotic king were crushed back into servitude by the Austrian troops, in obedience to the joint mandate of the crowned heads of Russia, Prussia, Austria, Sardinia, and Naples, Ram Mohun felt it keenly.

In a letter to Mr. Buckingham, dated August 11, 1821, he wrote:—

I am afraid I must be under the necessity of denying myself the pleasure of your society this evening; more especially as my mind is depressed by the late news from Europe.....From the late unhappy news I am obliged to conclude that I shall not live to see liberty universally restored to the nations of Europe, and Asiatic nations, especially those that are European

colonies, possessed of a greater degree of the same blessing than what they now enjoy.

Under these circumstances I consider the cause of the Neapolitans as my own, and their enemies as ours. Enemies to liberty and friends of despotism have never been, and never will be, ultimately successful.

"These noble words," says Miss Collett, "reveal how profoundly Ram Mohun felt with the Late Russell Lowell that "In the gain or loss of one race all the rest have equal claim"; and that

Wherever wrong is done
To the humblest and the weakest, 'neath the all-beholding Sun,
That wrong is also done to us.

Ram Mohun's Persian weekly MIRAT-UL-AKBAR contained an article on "Ireland, the causes of its distress and discontent." In this he dwelt on the evils of absenteeism and the injustice of maintaining Protestant clergymen out of revenues wrung from the Roman Catholic inhabitants of Ireland. He said:—

How admirable is the observation of Saadi (on whom be mercy !)

Do not say that these rapacious ministers are the well-wishers of his Majesty;

For in proportion as they augment the revenue of the State, they diminish his popularity ;

O statesman, apply the revenue of the King towards the comfort of the people; then during their lives they will be loyal to him.

When the news of the establishment of constitutional Government in Spain reached India, continues Mr. Chatterjee, he gave a public dinner at the Town Hall. Some months before his departure for England, news reached Calcutta of the latest French Revolution, and, "so great was his enthusiasm that," we are told, "he could think and talk of nothing else !" He viewed it as a triumph of liberty and rejoiced accordingly. On

his voyage to England he landed at the Cape for only an hour or two. "Returning on board he met with a nasty accident. The gangway ladder had not been properly secured, and he got a serious fall, from which he was lame for eighteen months afterwards and indeed never finally recovered. But no bodily suffering could repress his mental ardour. Two French frigates, under the revolutionary flag, the glorious tri-colour, were lying in Table Bay ; and lame as he was, he would insist on visiting them. The sight of these colours seemed to kindle his enthusiasm, and to render him insensible to pain." During the days of the Reform Bill agitation in England, he considered the struggle between the reformers and anti-reformers as a struggle between liberty and oppression throughout the world.

We must now pass on to a consideration of Ram Mohun's views on the politics of his own country. He publicly avowed that in the event of the Reform Bill being defeated, he would renounce his connection with England.* His attitude to Moslem rule and Moslem society was unprejudiced and paternal as will be seen from a perusal of his evidence before the Select Committee of the House of Commons. He had high respect for Moslem character and their general ability. But his faith in British character and the possibilities of British Rule for the uplift of India dominated his political convictions. He writes in his *Autobiography* :—

.....I proceeded on my travels, and passed through different countries, chiefly within, but some beyond, the bounds of Hindustan, with a feeling of great aversion to the establish-

* Ram Mohun Roy and Modern India.

ment of the British Power in India. When I had reached the age of twenty, my father recalled me, and restored me to his favour; after which I first saw and began to associate with Europeans, and soon after made myself tolerably acquainted with their laws and form of government. Finding them generally more intelligent, more steady and moderate in their conduct, I gave up my prejudice against them, and became inclined in their favour, feeling persuaded that their rule, though a foreign yoke, would lead more speedily and surely to the amelioration of the native inhabitants ;.....

He concluded his "Final Appeal to the Christian Public."

"by offering up thanks to the supreme Disposer of the events of this universe, for having unexpectedly delivered this country from the long-continued tyranny of its former Rulers, and placed it under the Government of the English,—a nation who not only are blessed with the enjoyment of civil and political liberty, but also interest themselves in promoting liberty and social happiness, as well as free inquiry into literary and religious subjects, among those nations to which their influence extends."

It is the prospect of civil and religious liberty that decides his allegiance!

Ram Mohun never differentiated between Hindus and Mohammedans so far as their political interests were concerned. In the excellent brochure to which we have already drawn attention, Mr. Chatterjee points out how farsighted Ram Mohun was in his views touching the fundamentals of Indian politics.

A new Jury Act came into operation in the year 1827. On August 18th, 1828, Ram Mohun wrote to Mr. J. Crawford and entrusted to him petitions against the Act for presentation to both Houses of Parliament, signed by Hindus and Mohammedans. He thus concisely stated the grounds of grievance:—

In his famous Jury Bill, Mr. Wynn, the late President of the Board of Control, has by introducing religious distinctions into the judicial system of this country, not only afforded just grounds for dissatisfaction among the Natives in general, but

has excited much alarm in the breast of every one conversant with political principles. Any Natives, either Hindu or Mohammedan, are rendered by this Bill subject to judicial trial by Christians, either European or Native, while Christians, including Native converts, are exempted from the degradation of being tried either by a Hindu or Mussalman juror, however high he may stand in the estimation of society. This Bill also denies both to Hindus and Mohammedans the honor of a seat in the Grand Jury even in the trial of fellow Hindus or Mussalmans. This is the sum total of Mr. Wynn's late Jury Bill, of which we bitterly complain.

Ram Mohun went on to suggest a possibility which is by no means so remote now as when he wrote :—

Supposing that 100 years hence the Native character becomes elevated from constant intercourse with Europeans and the acquirement of general and political knowledge as well as of modern arts and sciences, is it possible that they will not have the spirit as well as the inclination to resist effectually any unjust and oppressive measures serving to degrade them in the scale of society ? It should not be lost sight of that the position of India is very different from that of Ireland, to any quarter of which an English fleet may suddenly convey a body of troops that may force its way in the requisite direction and succeed in suppressing every effort of a refractory spirit. Were India to share one-fourth of the knowledge and energy of that country, she would prove from her remote situation, her riches and her vast population, either useful and profitable as a willing province, an ally of the British empire, or troublesome and annoying as a determined enemy.

In common with those who seem partial to the British rule from the expectation of future benefits arising out of the connection, I necessarily feel extremely grieved in often witnessing Acts and Regulations passed by Government without consulting or seeming to understand the feelings of its Indian subjects and without considering that this people have had for more than half a century the advantage of being ruled by and associated with an enlightened nation, advocates of liberty and promoters of knowledge.

The letter quoted above is remarkable, as Mr. Chatterjee says, for the far-sighted glance into the future which it reveals. Here in germ is to be found the national aspiration which is now breaking forth

into demands for a greater measure of Self-Government than the people at present enjoy. Ram Mohun's English biographer observes that—

The prospect of an educated India, of an India approximating to European standards of culture, seems to have never been long absent from Ram Mohun's mind: and he did, however vaguely, claim in advance for his countrymen the political rights which progress in civilization inevitably involves. Here again Ram Mohun stands forth as the tribune and prophet of New India.

RAM MOHUN ROY AS A LAWYER

Although neither law nor politics was Ram Mohun Roy's forte, still there arose occasions on which he had to express his views regarding the administration of the country in one or other of its departments. When, for instance, the question of the renewal of the Charter of the Honourable East India Company was on the *tapis*, and several individuals connected with India were examined as witnesses on the subject, the authorities in England wished Ram Mohun Roy, also a respectable gentleman of the land, to give his evidence before the Select Committee of the House of Commons. His evidence, which possesses high value and importance, shows what a thorough statesman he was, and it places beyond doubt the very wide and extensive range of his mind. This evidence has since been published in pamphlet form under the title of "Exposition of the Judicial and Revenue Systems of India." As to the merit of this performance, it is sufficient to say that it embraces some of the most important questions relating to the administration of India, such as the reform

of Courts, the jurisdiction of the country's courts over Europeans, the Jury system, the separation of the executive and judicial offices, the codification of laws, the advisability of consulting the people in matters of legislation, the establishment of a native militia, the larger employment of natives, the age and education of civil servants, the amelioration of the condition of the tenantry and the framing of laws for their protection, and the last, though not least, the permanent settlement; and it is needless to say that every word, which fell from his lips, deserves to be carefully read and considered by our Rulers as well as by our patriots. As to the manner in which a Code of Criminal Law should be framed suitable to the wants of the people, he thus expressed himself:—

A Code of Criminal Law for India should be founded as far as possible on those principles which are common to and acknowledged by the different sects and tribes inhabiting the country. It ought to be simple in its principles, clear in its arrangement and precise in its definition, so that it may be established as a standard of criminal justice in itself and not stand in need of explanation by a reference to any other books of authority, either Mohammedan or Christian.

HIS PASSION FOR LIBERTY

As we have observed, one great feature of Ram Mohun Roy's character, which strikes one on reading his works and letters, is his ardent love of freedom. Liberty of thought and liberty of action he considered the only sure paths leading to the progress and happiness of a people. Ram Mohun believed that a free Press is one of the best safe-guards of liberty and his passion for liberty was uncommon in those days. In 1823, an occasion arose for the exercise of this laudable passion

on his part. Lord Hastings left India in that year, and Lord Amherst was appointed to fill his place. But as the latter had not arrived in India when his predecessor left it, Mr. Adam, the senior member of the Supreme Council, acted as Governor-General till the arrival of the permanent incumbent. But short as Mr. Adam's tenure of office was, he made himself very unpopular by decreeing the removal of the liberty of the Press. This is how this unpleasant affair came to pass. Mr. Silk Buckingham, the Editor of the CALCUTTA JOURNAL, in an evil hour made some severe comments on official acts and officials in his paper. This appeared to the Government as very unseemly, and the provisional Governor-General ordered his removal, and he was actually deported from the country. But the matter did not end here. The Government took it into its serious consideration and, on the 14th March, the Acting Governor-General passed a Rule and Ordinance—as it was called in the official language of the time, curbing the freedom of the Press. According to the Act of Parliament, 13 Geo. III, Cap. 63, every Regulation made by the Governor-General had, as the law then stood, to be sanctioned and registered by the Supreme Court before it passed into law. Leave was obtained by Mr. Fergusson, Barrister-at-Law, on behalf of Mr. Buckingham for protesting against sanction being given to the Rule and Ordinance by the Supreme Court. A Memorial signed by six well-known Indians was also presented to the

Court. It was from the pen of Ram Mohun Roy, who was also one of the signatories, and it was a well-written and well-reasoned document. This Memorial, as has been said, may be regarded "as the Areopagitica of Indian History. Alike in diction and in argument it forms a noble land-mark in the progress of English culture in the East."

Says Miss Collett :

The appeal is one of the noblest pieces of English to which Ram Mohun put his hand. Its stately periods and not less stately thought recall the eloquence of the great orators of a century ago. In a language and style for ever associated with the glorious vindication of liberty, it invokes against the arbitrary exercise of British power the principles and traditions which are distinctive of British History.

The matter was heard by the Hon'ble Sir Francis Macnaghten, the sole acting Judge of the Court ; but unfortunately for the people his Lordship allowed the Rule and Ordinance to be registered. When the Memorialists found that their prayer, though fair and reasonable, was not heard, they got up a petition to His Majesty King George IV, and sent it to England. This petition, too, was written by Ram Mohun Roy. In fact, he was the guiding spirit in the matter and bore the brunt of the whole work. The petition is a remarkable piece of document and is certainly a masterpiece of its kind.

The petition, however, did not prove successful at the time, but it certainly lent some force to the cause which bore fruit some time later. This happened when, on the retirement of Lord Bentinck, Sir Charles Metcalfe acted as Provisional

Governor-General before the arrival of the next permanent ruler, Lord Auckland. Thus, what had been taken away by one temporary Governor-General in 1823 was fully restored by another of the same fraternity in 1836. As a token of gratitude for the entire liberty of the Press which Sir Charles allowed, the inhabitants of Calcutta named the public library of their city "The Metcalfe Hall," which is now known as the Imperial Library.

LAW OF INHERITANCE

Though not a lawyer by profession, Ram Mohun Roy knew more of Hindu law than many a professional man. He had read with care most of the Smritis with their commentaries,—the earliest as well as the latest. Thus, he came to know both the ancient and the modern law, and was well able to institute a comparison between them. On comparing them he found that on the question of inheritance of females, the modern law had done great injustice to them. This excited his righteous indignation, which found expression in an Essay on the subject in 1822. He showed by quoting chapter and verse from the Shastras that while, by the ancient law, the mother was entitled to a share equal to that of her son in the property left by her husband, and the daughter to one-fourth, the modern law had almost deprived them of such vested rights, if they might be so called.

The necessity for writing the Essay arose in this way. During the early part of the nineteenth century, the law relating to the power of alienation of

Hindus over ancestral property under the Bengal school was anything but settled. In the reported cases from 1792 to 1816, we find that the Courts favoured the absolute power of alienation by the father. In 1816, however, the law was almost broken through by the case of *Bhawanee Churan vs. The Heirs of Ramkant*, which practically overruled all previous rulings, and declared that the father's power was limited. In 1829 and 1830, the then Chief Justice of the Supreme Court, Sir Charles Edward Grey, repeatedly expressed his opinion against the father's power in several cases, more especially in the case of *Barada Persad vs. Taraprasad Banerjee*. Finding that the highest Tribunal in the land went wrong in its view of the law on a very important subject, Ram Mohun Roy wrote an Essay on the "Rights of Hindus over Ancestral Property" in which he clearly showed that the law, as expounded and enunciated by his Lordship, was the very reverse of right. He proved that the Hindu law, as current in Bengal, gave absolute power to a person over his ancestral property and that he could do with it as he pleased. His able exposition seemed to have had its desired effect, for we find that, in 1831, the law was settled once for all by the celebrated case of *Jagamohan Roy vs. Srimati Nemoo Dassee*, in which the same Chief Justice, Sir Charles Grey, referred the matter to the Judges of the Sudder Dewany Adawlut who, after mature consideration, declared that a Hindu father

had absolute power over ancestral property. Later on, the Privy Council declared the law in the case of *Nagabushana Ammal vs. Gopoo Nadaraja Chetty*, in the following terms: "Throughout Bengal a man who is the absolute owner of property may now dispose of it by Will as he pleases, whether it be ancestral or not." Thus, it seems that Ram Mohun Roy, by his Essay, did yeoman's service towards restoring the law to its original correct state.

THE ESTABLISHMENT OF THE BRAHMO SAMAJ

We have seen that Ram Mohun was continually fighting against idolatry and polytheism. Many earnest and pious men gathered round him, and the ranks of his 'Salvation Army' went on increasing. He had founded the *Atmiya Sabha* for divine worship and had also established the *Ved Mandir* for the study of Vedic lore, as well as some institutions for debate and discussion on religious and social subjects. But the main object of his life still remained to be fulfilled, and he was now earnest in materialising it. It is not enough to believe in one God, it is also necessary to worship Him. For this purpose a special Church was supplied in the year 1828, when the Brahmo Samaj was established. It was on the 25th of August 1828 that Ram Mohun and his friends opened a place for public worship in Lower Chitpore Road, Calcutta. It was duly consecrated as the Adi Brahmo Samaj on 23rd January 1830. It was to be a cosmopolitan house of prayer.

This Samaj was not sectarian in its character, it was established on a broad and liberal basis. Ram Mohun Roy's was a universal religion which recognised no distinction of colour, creed or caste. He invited all "for the worship and adoration of the Eternal, Unsearchable, Immutable Being, who is the Author and Preserver of the Universe," to his Church, where the Supreme Being and He alone was to be worshipped under "no name, designation or title, peculiarly used by any man or set of men to any particular Being;" and he enjoined in the trust deed that :

No religion should be reviled or slightly or contemptuously spoken of or alluded to in his church, and that worship should be conducted in such way as would tend to promote the contemplation of the Supreme Being as well as to promote charity, morality, piety, benevolence, virtue and for strengthening of the bond of union between men of all religious persuasions and creeds.

Ram Mohun Roy had a marked contempt for morbid austerity, sentimentalism and that false aloofness which shuns mankind; and he clearly showed from the sacred writings of the Hindus that the highest religion was quite compatible with the duties of the world, and that the so-called worldly life of a householder, so far from being an insuperable bar, was well calculated to lead to salvation. All that he thought necessary to attain to a life of godliness is sincerely and devoutly to contemplate on the One on High and to constantly practise in life, benevolence, morality, and, above all, that divine quality which blesseth him that gives and him that receives.

Thus was the Brahmo Samaj of modern India established for the worship of "the one Brahm without a second." In fact the mission of Ram Mohun Roy through the Brahmo Samaj was, in the words of Pandit Sivanath Sastri

to call his countrymen to discard idolatry and come to the worship of the one true God. His duty was that of a sturdy pioneer, working single-handed to clear away a mass of popular prejudice and prepare the way for those who were coming after him. His work was mainly negative and re-formatory and not positive and constructive. The mission he unconsciously fulfilled and to which he was called was to combine in the reawakened spiritual aspirations of the people, the spiritual ideals of the East and the West, a mission which the Brahmo Samaj is still pursuing in this land. For the answer to deeper questions of the nature and the attributes of the Supreme, he turned to Hindu writings; for his thorough knowledge of them had convinced him of the deeply and truly spiritual character of their speculations. He turned away from the extra-cosmic and anthropomorphic conceptions of the Deity familiar to old Judaism, and largely reproduced in current forms of orthodox Christianity and Mohamedanism, but accepted with profound admiration the moral and social ideals of the Christian faith. Summarily speaking, he derived his ideas on the spiritual side from Hindu sources; but his passion for Unitarianism was derived from Mahomedanism and many of his moral ideas he got from the precepts of Jesus. It was thus that the root ideas of the three systems were incorporated in the fundamental conceptions of a Universal Religion.

Among the men of light and leading who helped Ram Mohun Roy in raising the Brahmo Church and stood by him through good report and evil report in his laudable work, the names of Ram Chandra Vidyabagish, Kali Nath Roy, the two famous Tagores, Dwaraka Nath and Prasanna Kumar, Tara Chand Chakravarti and Chandra Sekhar De deserve special mention. Ram Chandra Vidyabagish took the greatest interest and laboured the hardest. He was the minister of the Samaj from its very beginning,

and when after Ram Mohun Roy's demise, others deserted the Church, he alone kept it alive, till Maharshi Devendra Nath Tagore, accepted the Brahmo faith and took over charge from his hands. The Maharishi found a very able and worthy co-adjutant in Keshab Chandra Sen. Latterly, Keshab Chandra abandoned the Adi Brahmo Samaj and established a Samaj of his own, which is flourishing side by side with the parent tree. The Brahmo faith, liberal as it is in its principles, has, to a considerable extent, arrested the progress of Christianity in India, more especially in Bengal.

RAM MOHUN ROY IN ENGLAND

Now that he had accomplished the dear object of his life and established the Brahmo Samaj on a firm and permanent basis, Ram Mohun was on the look-out for an opportunity to go to the "Far West," which he had so ardently longed to do; and as good luck would have it, a glorious opportunity presented itself ere long for the due fulfilment of his desire. The Emperor of Delhi,—now reduced to a mere shadow of a sovereign,—having taken umbrage at some acts of the powerful East India Company prejudicial to his interests, wanted to send an ambassador to His Majesty the King of England, for the purpose of having his grievances removed, and as Ram Mohun Roy was, by his ability and experience, eminently fitted to go on such an important mission, he was selected by His Majesty, who, to add dignity and importance to the person of his representative,

conferred upon Ram Mohun Roy the title of Raja. Besides representing the Imperial grievances, Ram Mohun Roy had two other objects in view, namely, first, to be present at the approaching discussion in the House of Commons for the renewal of the East India Company's Charter; and secondly, to present memorials in favour of the abolition of the Sati rite, which he took with him from India, and to counteract the agitation carried on by powerful leaders of orthodox Hindu society.

Ram Mohun Roy sailed for England on the 15th November 1830, accompanied by his foster-son, Raja Ram Roy, and two Hindu servants, Ram Ratan Mukherji and Ramhari Das. They sailed in the *Albion* which was bound for Liverpool. At the time of which we are speaking, a voyage to Europe was a very long and tedious affair, and it was, therefore, no wonder that the ship did not reach its destination till April 1832, that is, nearly a year and a half after. The voyage was anything but peaceful. While the ship was steering its course over the Indian Ocean, it was overtaken by a terrible storm and was thereby placed in such a critical position that most of the crew and the passengers had given up all hope of life. But, at last, the storm subsided. The dreaded "Kalapani" (*Black Water*), against the crossing of which Hindu custom and superstition had placed an almost insuperable barrier, was passed in safety. Surely, this was no ordinary feat for a Hindu of rank and position like Ram Mohun Roy, and we cannot

but admire his moral courage in having performed it in the face of such serious opposition. By this time Ram Mohun Roy had established his reputation as a scholar, philosopher, and reformer. He had written Bengali works on the *Vedanta*, translated into English some of the *Upanishads*, defeated some very noted Christian Missionaries in religious controversies, and established the Brahmo-Samaj or Theistic Church. He had, given his strong support to the Governor-General, Lord William Bentinck for the abolition of *Sati* or the burning of Hindu widows on the funeral pyre of husbands. He had also won the warmest regard of that Prince of Indian Missionaries, Dr. Alexander Duff, and, as a matter of fact, won a very high repute. When such a remarkable man, "the great Apostle of the East," whose name and fame had long preceded him to Europe, reached the shores of England on the 8th April, it is not surprising that he should have received a cordial welcome from the great men of that land of freedom. The Raja landed at Liverpool and took up his lodgings at one of the hotels there. His arrival in England excited considerable interest. No sooner was his advent known in that famous City, than almost every man of distinction in the place hastened to call on him. One of the first visits he received was from the three sons of Roscoe the celebrated historian of the Medici. They came, not merely on their own account but to convey to him the "affectionate greetings" of their distinguished

father, whom paralytic affection had for years confined to his apartments. Ram Mohun Roy lost no time in calling on the old man, who, though forbidden by his doctor to receive any visitors made an exception in favour of the great Indian with whom he had before corresponded. The interview was deeply affecting, as it was their first and last meeting on this side of Eternity. Ram Mohun Roy heard of Roscoe's death while residing in London.

The first public place he attended at Liverpool was Mr. Grundy's Unitarian Chapel. The sermon was proper to the occasion, in exposition of the duty of unlimited charity in our judgments of the creeds of other men, and of their principles of belief. He listened to it with the utmost attention and afterwards expressed himself to be very much pleased with it. After the sermon was over, the congregation, instead of dispersing, thronged up every avenue to get a near view of him; and it was not till they had heard him address them in their own language and shaken hands with him that they would be prevailed upon to allow him to return.

• After staying a few days at Liverpool, Ram Mohun Roy started for London. On his way thither, he halted at Manchester to see the great factories.

On the very night he reached London, Mr. Bentham, the great philosopher and law reformer, leaving his lonely hermitage, where he had ensconced himself in order that he might consecrate, to quote

his own words, "every moment of his life to the service of mankind," came all the way round to see him. Thus, a very warm friendship sprang up between these two great minds, which lasted until it was dissolved by death. The Englishman was proud of his Indian friend and gladly addressed him as an intensely admired and dearly beloved fellow servant in the service of humanity. But the venerable founder of the Utilitarian School was not the only great man that paid the Raja the honour of a visit. In fact, many of the distinguished Londoners honoured him and sought his friendship. Though many of the proud Lords wanted only to lionize him, yet there were not a few who appreciated him, and sought his company with a view to acquiring information regarding India. Among these were Mr. (afterwards Lord) Brougham, Sir Henry Stratchey and Sir Charles Forbes. With Brougham, then only known as the great advocate of popular education and of the abolition of slavery, Raja Ram Mohun Roy lived on terms of the closest intimacy.

But not only was the Raja honoured by the learned, he was also honoured even by Royalty itself. He was duly presented to the King, who gave him a cordial reception, and at the grand ceremony of the Coronation, he was given a seat by the side of the Ambassadors of the Crowned Heads of Europe. On the opening of the London Bridge, he was invited by His Majesty to the grand dinner party which was

given in celebration of that event. The Court of Directors, though they refused to recognise his embassy and his title, treated him with honour. They entertained him at a public dinner on the 6th July, in the name of the Honourable East India Company at the London Tavern.

The Raja, active and energetic as he certainly was, quite busied himself while in England. He gave his evidence before the Select Committee of the House of Commons on the Revenue and Judicial systems of India, presented petitions to the said House in the matter of the abolition of the Sati rite, and had the satisfaction of being present there, when the appeal against such abolition was rejected on the 11th July, 1832. Thus, he succeeded in attaining the two minor objects of his mission, though he failed to achieve the main one, for which he had gone, namely, the restoration of some provinces in the vicinity of Delhi to the Emperor; but this failure, it may be observed, was mainly due to the weakness and indecision of the aggrieved party himself.

While in England, Raja Ram Mohun Roy was taken care of by some English families, not only as a distinguished guest but also as a friend. Of these families, the most notable was the family of his most intimate friend, David Hare, who has done more for the mental and moral improvement of the natives of India than any other foreigner. There he became acquainted among others with Dr. Lant Carpenter, who afterwards wrote an excellent memoir of him.

This Dr. Carpenter was the father of Miss Mary Carpenter, whose name has almost become a household word in this distant land. She was then quite in her prime, and as she was well able to appreciate real sterling merit wherever it was found, began to cherish deep regard for Raja Ram Mohun Roy, so much so that she there and then conceived a very strong desire to see the wonderland which had given birth to such a great personality. But this desire she could not fulfil until the year 1866 ; and though her stay in Bengal was not long, she had done excellent work among the people.

THE LAST SCENE

After a short sojourn in France, where he was the recipient of Royal favours, the Raja's health began to fail. He had been invited to visit Bristol and to take up his residence at the house of Miss Castle—a ward of Dr. Carpenter—in the neighbourhood of that city. In broken health he started for Bristol, accompanied by Miss Hare, the daughter of his esteemed friend, David Hare, who had resided with her uncle in Bedford Square, in the early part of September, to spend a few weeks at Stapleton Grove, intending to proceed thence to Devonshire, to pass the winter there. Nine days after his arrival, he was attacked with fever. Drs. Pritchard and Garrick attended upon him. Medicine afforded him, however, only temporary relief. His fever returned with redoubled vigour, and grew into what the native physicians would call *Bikar*. The delirium was

followed by a stupor from which he never recovered, and he breathed his last a little after 2 a. m., on the 27th September, in the presence of his foster-son Rajaram, and his Hindu servants. Ram Mohun Roy died in peace and, even while lying cold and lifeless, his body had "a beautiful majestic look." Hindu that he was, Ram Mohun Roy's body should have been cremated according to Hindu rites; but, as a matter of fact, the custom prevalent in that distant land was observed and the body, instead of being reduced to ashes, was consigned to earth. He was buried on the 18th October in a retired spot in a shrubbery, whence, on the 29th of May 1843, his remains were removed to the cemetery of Arno's Vale near Bristol, where a tomb was erected over his grave in the early part of the following year by his friend, Dwaraka Nath Tagore, with the following inscription :—

Beneath this stone rest the remains of Raja Ram Mohun Roy. A conscientious and steadfast believer in the unity of the Godhead, he consecrated his life with entire devotion to the worship of the Divine Spirit alone. To great natural talents he united a thorough mastery of many languages and early distinguished himself as one of the greatest scholars of the day. His unwearied labours to promote the social, moral and physical condition of the people of India, his earnest endeavours to suppress idolatry and Sati rite, and his constant zealous advocacy of whatever tended to advance the glory of God and welfare of man live in the grateful remembrance of his countrymen. This tablet records the sorrow and pride with which his memory is cherished by his descendants.

The noble tribute to the great deceased is not in any way over-coloured; it represents the real state of things and portrays the Raja in his true colours.

The spot, where stands the memorial of the Raja, is to be regarded, as one of his countrymen has beautifully said, "a sacred place for Hindu pilgrimage," and as a matter of fact, it is almost invariably visited by every Hindu sojourner in England.

CONCLUSION

Ram Mohun Roy was a remarkable writer. Indeed, he wielded a powerful pen and always used it for noble causes. But powerful as his pen was, it was not confined to one language but extended to several others as well. Sanskrit, Bengali, Persian, Arabic and, last though not least English, all came within its range. But his mother-tongue was the one in which he wrote the largest. He wrote several works in that language and gave it a form and finish which has since become a thing of beauty. It is impossible within the limited space at our command to deal at any appreciable length with the many-sided activities of so voluminous a writer as Ram Mohun Roy. As has been said in the preceding pages, he wrote in many languages and on all subjects of varying interest. Songs and poems, political and religious discourses, problems of education and sociology, legal and theological controversies, all alike engaged the multiform energy of this great pioneer of modern civilisation in India.

SUTTEE—THE BURNING OF WIDOWS

I

THE CHARACTER OF HINDU WOMEN

The practice of burning widows on the funeral pyre of their husbands was stopped by legislation in 1829 : but as early as 1818 Ram Mohun Roy had published a pamphlet vigorously attacking the cruel custom, and he was chiefly instrumental in moulding public opinion in favour of this beneficent measure. The pamphlet is in the form of a dialogue between an advocate for and an opponent of the practice of concrementation. The following are extracts from the English version of a tract published in February 1820 and dedicated to the Marchioness of Hastings "as an appeal to reason on behalf of humanity."

THE faults which you have imputed to women are not planted in their constitution by nature ; it would be, therefore, grossly criminal to condemn that sex to death merely from precaution. By ascribing to them all sorts of improper conduct, you have indeed successfully persuaded the Hindu community to look down upon them as contemptible and mischievous creatures, whence they have been subjected to constant miseries. I have, therefore, to offer a few remarks on this head.

Women are, in general, inferior to men in bodily strength and energy ; consequently the male part of

the community, taking advantage of their corporeal weakness, have denied to them those excellent merits that they are entitled to by nature, and afterwards they are apt to say that women are naturally incapable of acquiring those merits. But if we give the subject consideration, we may easily ascertain whether or not your accusation against them is consistent with justice. As to their inferiority in point of understanding, when did you ever afford them a fair opportunity of exhibiting their natural capacity? How then can you accuse them of want of understanding? If, after instruction in knowledge and wisdom, a person cannot comprehend or retain what has been taught him, we may consider him as deficient; but as you keep women generally void of education and acquirements, you cannot, therefore, in justice pronounce on their inferiority. On the contrary, Leelavatee, Bhanoomatee, the wife of the prince of Kurnat, and that of Kalidas, are celebrated for their thorough knowledge of all the Shastras: moreover in the Brihadaranyak Upanishad of the Yejoor Veda it is clearly stated, that Yagnavalkya imparted divine knowledge of the most difficult nature to his wife Maitreyee, who was able to follow and completely attain it!

Secondly. You charge them with want of resolution, at which I feel exceedingly surprised: for we constantly perceive, in a country where the name of death makes the male shudder, that the female from her firmness of mind, offers to burn

with the corpse of her deceased husband ; and yet you accuse those women of deficiency in point of resolution.

Thirdly. With regard to their trustworthiness, let us look minutely into the conduct of both sexes, and we may be enabled to ascertain which of them is the most frequently guilty of betraying friends. If we enumerate such women in each village or town as have been deceived by men, and such men as have been betrayed by women, I presume that the number of the deceived women would be found ten times greater than that of the betrayed men. Men are, in general, able to read and write, and manage public affairs, by which means they easily promulgate such faults as women occasionally commit, but never consider as criminal the misconduct of men towards women. One fault they have, it must be acknowledged ; which is, by considering others equally void of duplicity as themselves, to give their confidence too readily, from which they suffer much misery, even so far that some of them are misled to suffer themselves to be burnt to death.

In the fourth place, with respect to their subjection to the passions, this may be judged of by the custom of marriage as to the respective sexes ; for one man may marry two or three, sometimes even ten wives and upwards ; while a woman, who marries but one husband, desires at his death to follow him, forsaking all worldly enjoyments, or to remain leading the austere life of an ascetic.

Fifthly. The accusation of their want of virtuous knowledge is an injustice. Observe what pain, what slighting, what contempt, and what afflictions their virtue enables them to support! How many Kuleen Brahmins are there who marry ten or fifteen wives for the sake of money, that never see the greater number of them after the day of marriage, and visit others only three or four times in the course of their life. Still amongst those women, most, even without seeing or receiving any support from their husbands, living dependent on their fathers or brothers, and suffering much distress, continue to preserve their virtue; and when Brahmins, or those of other tribes, bring their wives to live with them, what misery do the women not suffer? At marriage the wife is recognized as half of her husband, but in after-conduct they are treated worse than inferior animals. For the woman is employed to do the work of a slave in the house, such as, in her turn, to clean the place very early in the morning, whether cold or wet, to scour the dishes, to wash the floor, to cook night and day, to prepare and serve food for her husband, father-in-law, and mother-in-law, sisters-in-law, brothers-in-law, and friends and connections; (for amongst Hindus more than in other tribes relations long reside together, and on this account quarrels are more common amongst brothers respecting their worldly affairs.) If in the preparation or serving up of the victuals they commit the smallest fault, what in-

sult do they not receive from their husband, their mother-in-law, and the younger brothers of their husband? After all the male part of the family have satisfied themselves, the women content themselves with what may be left, whether sufficient in quantity or not. Where Brahmins or Kayasthas are not wealthy, their women are obliged to attend to their cows, and to prepare the cow-dung for firing. In the afternoon they fetch water from the river or tank, and at night perform the office of menial servants in making the beds. In case of any fault or omission in the performance of those labours they receive injurious treatment. Should the husband acquire wealth, he indulges in criminal amours to her perfect knowledge and almost under her eyes, and does not see her perhaps once a month. As long as the husband is poor, she suffers every kind of trouble, and when he becomes rich she is altogether heart-broken. All this pain and affliction their virtue alone enables them to support. Where a husband takes two or three wives to live with him, they are subjected to mental miseries and constant quarrels. Even this distressed situation they virtuously endure. Sometimes it happens that the husband, from a preference for one of his wives, behaves cruelly to another. Amongst the lower classes, and those even of the better class who have not associated with good company, the wife, on the slightest fault, or even on bare suspicion of her misconduct, is chastised as a thief. Respect to virtue and their reputation generally makes them

forgive even this treatment. If unable to bear such cruel usage, a wife leaves her husband's house to live separately from him, then the influence of the husband with the magisterial authority is generally sufficient to place her again in his hands; when, in revenge for her quitting him, he seizes every pretext to torment her in various ways, and sometimes even puts her privately to death. These are facts occurring every day, and not to be denied. What I lament is, that, seeing the women thus dependent and exposed to every misery, you feel for them no compassion, that might exempt them from being tied down and burnt to death.

II

SUTTEE AND THE SHASTRAS

In the following tract published in 1830, Ram Mohun Roy gives an abstract of the arguments regarding the burning of widows, considered as a religious rite. This essay is important as revealing Ram Mohan's profound knowledge of the Shastras and his method of meeting the opposition with texts from the Hindu Scriptures. Ram Mohun was a controversialist par excellence and we find him at his best in these controversies with the orthodox pandits.

SEVERAL essays, tracts, and letters, written in defence of or against the practice of burning Hindu widows alive, have for some years past attracted the attention of the public. The arguments therein adduced by the parties being necessarily scattered, a complete view of the question cannot be easily attained by such readers as are precluded by their immediate avocations from bestowing much labour in acquiring information on the subject. Although the practice itself has now happily ceased to exist under the Government of Bengal,* nevertheless, it seems still desirable that the substance of those publications should be condensed in a concise

* The administration to which this distinguished merit is due, consisted of Lord W. C. Bentinck, Governor-General, Viscount Combermere, Commander-in-Chief, W. B. Bayley, Esq., and Sir C. T. Metcalfe, Members of Council.

but comprehensive manner, so that enquirers may, with little difficulty, be able to form a just conclusion, as to the true light in which this practice is viewed in the religion of the Hindus. I have, therefore, made an attempt to accomplish this object, hoping that the plan pursued may be found to answer this end.

The first point to be ascertained is, whether or not the practice of burning widows alive on the pile and with the corpse of their husbands, is imperatively enjoined by the Hindu religion? To this question even the staunch advocates for Concremation must reluctantly give a negative reply, and unavoidably concede the practice to the option of widows. This admission on their part is owing to two principal considerations, which it is now too late for them to feign to overlook. First, because Manu in plain terms enjoins a widow to

continue till death forgiving all injuries, performing austere duties, avoiding every sensual pleasure, and cheerfully practising the incomparable rules of virtue which have been followed by such women as were devoted to one only husband. (Ch. v. v. 158.)

So Yagnavalkya inculcates the same doctrine: "A widow shall live under care of her father, mother, son, brother, mother-in-law, father-in-law, or uncle; since, on the contrary, she shall be liable to reproach." (*Vide* Mitakshara, ch. i.) Secondly, because an attempt on the part of the advocates for Concremation to hold out the act as an incumbent duty on widows, would necessarily bring a stigma upon the character of the living widows, who have preferred a virtuous life to Concremation,

as charging them with a violation of the duty said to be indispensable. These advocates, therefore, feel deterred upon giving undue praise to a few widows, choosing death on the pile, to the disgrace of a vast majority of that class preferring a virtuous life. And in consideration of these obvious circumstances, the celebrated Smartta Rughoonundun, the latest commentator on Hindu Law in Bengal, found himself compelled to expound the following passage of Ungira, "there is no other course for a widow beside Concremation," as "conveying exaggerated praise of the adoption of that course."

The second point is, that in case the alternative be admitted, that a widow may either live a virtuous life, or burn herself on the pile of her husband, it should next be determined whether both practices are esteemed equally meritorious, or one be declared preferable to the other. To satisfy ourselves on this question, we should first refer to the Vedas, whose authority is considered paramount, and we find in them a passage most pointed and decisive against Concremation, declaring that "From a desire, during life, of future fruition, life ought not to be destroyed." (*Vide* Mitakshara, ch. i.) While the advocates of Concremation quote a passage from the Vedas, of a very abstruse nature, in support of their position, which is as follows :

O fire, let these women, with bodies anointed with clarified butter, eyes coloured with collyrium and void of tears, enter thee, the parent of water, that they may not be separated from their husbands, themselves sinless, and jewels amongst women.

This passage (if genuine) does not, in the first place, enjoin widows to offer themselves as sacrifices; secondly, no allusion whatever is made in it to voluntary death by a widow *with the corpse of her husband*; thirdly, the phrase "these women" in the passage, literally implies women then present; fourthly, some commentators consider the passage as conveying an allegorical allusion to the constellations of the moon's path, which are invariably spoken of in Sanskrit in the feminine gender:—butter implying the milky path, collyrium meaning unoccupied space between one star and another, husbands signifying the more splendid of the heavenly bodies, and entering the fire, or properly speaking, ascending it, indicating the rise of the constellations through the south-east horizon, considered as the abode of fire. Whatever may be the real purport of this passage, no one ever ventured to give it an interpretation as *commanding* widows to burn themselves on the pile and with the corpse of their husbands.

We next direct attention to the Smrittee, as next in authority to the Vedas. Manu, whose authority supersedes that of other lawgivers, enjoins widows to live a virtuous life, as already quoted. Yagnavalkya and some others have adopted the same mode of exhortation. On the other hand, Ungira recommends the practice of Concremation, saying, "That a woman who, on the death of her husband, *ascends the burning pile* with him, is exalted to heaven as equal to Arundhati." So Vyas says, "A pigeon

devoted to her husband, after his death, *entered the flames*, and, ascending to heaven, she there found her husband." "She who follows her husband to another world, shall dwell in a region of glory for so many years as there are hairs in the human body, or thirty-five millions." Vishnu, the saint, lays down this rule, "After the death of her husband, a wife should live as an ascetic or ascend his pile." Hareet and others have followed Ungira in recommending Concremation.

The above quoted passages, from Ungira and others recommend Concremation on the part of widows, as means to obtain future carnal fruition: and, accordingly, previous to their ascent on the pile, all widows invariably and solemnly declare future fruition as their object in Concremation. But the Bhagvad-Gita, whose authority is considered the most sacred by Hindus of all persuasions, repeatedly condemns rites performed for fruition. I here quote a few passages of that book.

All those ignorant persons who attach themselves to the works of the Shastras that convey promises of fruition, consider those extravagant and alluring passages as leading to real happiness, and say, besides them there is no other reality. Agitated in their minds by these desires, they believe the abodes of the celestial gods to be the chief object, and they devote themselves to these texts which treat of ceremonies and their fruits, and entice by promises of enjoyment. Such people can have no real confidence in the Supreme Being. Observers of rites, after the completion of their rewards, return to earth. Therefore they, for the sake of rewards, repeatedly ascend to heaven and return to the world, and cannot obtain eternal bliss."

Manu repeats the same.

Whatever act is performed for the sake of gratification in this world or the next, is called Pravartuk, as leading to the

temporary enjoyment of the mansions of gods; and those which are performed according to the knowledge respecting God are called Nivartuk, as means to procure release from the five elements of this body; that is, they obtain eternal bliss.

The author of the Mitakshara, a work which is considered as a standard of Hindu Law through Hindoostan, referring on the one hand to the authority of Manu, Yagnavalkya, the Bhagvad-Gita, and similar sacred writings, and to the passages of Ungira. Hareet and Vyas on the other hand, and after having weighed both sides of the question, declares that

the widow who is not desirous of eternal beatitude, but who wishes only for a perishable and small degree of future fruition, is authorized to accompany her husband.

So that the Smartta Rughoonundun, the modern expounder of law in Bengal, classes Concremation among the rites holding out promises of fruition; and this author thus inculcates:

Learned men should not endeavour to persuade the ignorant to perform rites holding out promises of fruition.

Hence, Concremation, in their opinion, is the least virtuous act that a widow can perform.

The third and the last point to be ascertained is whether or not *the mode of* Concremation prescribed by Hareet and others was ever duly observed. The passages recommending Concremation, as quoted by these expounders of law, require that a widow, resolving to die after the demise of her husband, should *voluntarily ascend and enter the flames to destroy her existence*; allowing her, at the same time, an opportunity of retracting her resolution, should her courage fail from the alarming sight or effect of the flames, and of returning to her relatives, performing a

penance for abandoning the sacrifice, or bestowing the value of a cow on a Brahmin. Hence, as *voluntarily ascending* upon and *entering into the flames* are described as indispensably necessary for a widow in the performance of this rite, the violation of one these provisions renders the act mere suicide, and implicates, in the guilt of female murder, those that assist in its perpetration, even according to the above quoted authorities, which are themselves of an inferior order. But no one will venture to assert, that the provisions, prescribed in the passages adduced, have ever been observed; that is, no widow ever voluntarily *ascended* on and *entered* into the *flames* in the fulfilment of this rite. The advocates of Concremation have been consequently driven to the necessity of taking refuge in *usage*, as justifying both suicide and female murder, the most heinous of crimes.

We should not omit the present opportunity of offer-up thanks to Heaven, whose protecting arm has rescued our weaker sex from cruel murder, under the cloak of religion, and our character, as a people, from the contempt and pity with which it has been regarded, on account of this custom, by all civilized nations on the surface of the globe.

III

ADDRESS TO LORD WILLIAM BENTINCK

The following address believed to have been drawn up by Ram Mohun Roy was presented on the 16th January 1830 to Lord William Bentinck upon the passing of the Act for the abolition of Suttee.

MY LORD: With hearts filled with the deepest gratitude, and impressed with the utmost reverence, we, the undersigned native inhabitants of Calcutta and its vicinity, beg to be permitted to approach your Lordship, to offer personally our humble but warmest acknowledgments for the invaluable protection which your Lordship's Government has recently afforded to the lives of the Hindu female part of your subjects, and for your humane and successful exertions in rescuing us for ever, from the gross stigma hitherto attached to our character as wilful murderers of females, and zealous promoters of the practice of suicide.

Excessive jealousy of their female connections, operating on the breasts of Hindu princes, rendered those despots regardless of the common bonds of society, and of their incumbent duty as protectors of the weaker sex, insomuch that, with a view to prevent every possibility of their widows forming subsequent attachments, they availed themselves of their arbitrary power, and under the cloak of religion,

introduced the practice of burning widows alive under the first impressions of sorrow or despair, immediately after the demise of their husbands. This system of female destruction, being admirably suited to the selfish and servile disposition of the populace, has been eagerly followed by them, in defiance of the most sacred authorities, such as the *Upanishads* or the principal parts of the *Vedas*, and the *Bhagvad-Gita*, as well as of the direct commandment of Manu, the first and the greatest of all the legislators, conveyed in the following words: 'Let a widow continue till death forgiving all injuries, performing austere duties, avoiding every sensual pleasure,' &c. (Ch. 5. v. 158.)

While in fact fulfilling the suggestions of their jealousy they pretended to justify this hideous practice by quoting some passages from authorities of evidently inferior weight, sanctioning the wilful ascent of a widow on the flaming pile of her husband, as if they were offering such female sacrifices in obedience to the dictates of the Shastras and not from the influence of jealousy. It is however, very fortunate that the British Government under whose protection the lives of both the males and females of India have been happily placed by Providence, has, after diligent inquiry, ascertained that even those inferior authorities, permitting wilful ascent by a widow to the flaming pile, have been practically set aside, and that, in gross violation of their language and spirit, the relatives of widows have, in the burning of those

infatuated females almost invariably used to fasten them down on the pile,, and heap over them large quantities of wood and other materials adequate to the prevention of their escape—an outrage on humanity which has been frequently perpetrated under the indirect sanction of native officers, undeservedly employed for the security of life and preservation of peace and tranquillity.

In many instances, in which the vigilance of the magistrate has deterred the native officers, of police from indulging their own inclination, widows have either made their escape from the pile after being partially burnt, or retracted their resolution to burn when brought to the awful task, to the moritifying disappointment of the instigators: while in some instances the resolution to die has been retracted, on pointing out to the widows the impropriety of their intended undertaking, and on promising them safety and maintenance during life, notwithstanding the severe reproaches liable thereby to be heaped on them by their relatives and friends.

In consideration of circumstances so disgraceful in themselves, and so incompatible with the principle of British Rule, your Lordship in Council, fully impressed with the duties required of you by justice and humanity, has deemed it incumbent on you, for the honour of the British name, to come to the resolution, that the lives of your female Hindu subjects should be henceforth more efficiently protected; that the heinous sin of cruelty to females may no longer be

committed, and that the most ancient and purest system of Hindu religion should not any longer be set at nought by the Hindus themselves. The magistrates, in consequence, are we understand, positively ordered to execute the resolution of the Government by all possible means.

We are, my Lord, reluctantly restrained by the consideration of the nature of your exalted situation, from indicating our inward feelings by presenting any valuable offering as commonly adopted on such occasions; but we should consider ourselves highly guilty of insincerity and ingratitude, if we remained negligently silent when urgently called upon by our feelings and conscience to express publicly the gratitude we feel for the everlasting obligation you have graciously conferred on the Hindu community at large. We, however, are at a loss to find language sufficiently indicative even of a small portion of the sentiments we are desirous of expressing on the occasion; we must therefore conclude this Address with entreating that your Lordship will condescendingly accept our most grateful acknowledgments for this act of benevolence towards us, and will pardon the silence of those who, though equally partaking of the blessing bestowed by your Lordship, have through ignorance or prejudice omitted to join us in this common cause.

In this connection the following reply of Lord William Bentinck to the above address may be read with interest.

It is very satisfactory for me to find that, according to the opinions of so many respectable and intelligent Hindus, the practice which has recently been prohibited, not only was not required by the rules of their religion, but was at variance with those writings which they deem to be of the greatest force and authority. Nothing but a reluctance to inflict punishment for acts which might be conscientiously believed to be enjoined by religious precepts, could have induced the British Government at any time to permit, within territories under its protection, an usage so violently opposed to the best feelings of human nature. Those who present this address are right in supposing that by every nation in the world, except the Hindus themselves, this part of their customs has always been made a reproach against them, and nothing so strangely contrasted with the better features of their own national character, so inconsistent with the affections which unite families, so destructive of the moral principles on which society is founded, has ever subsisted amongst a people in other respects so civilized. I trust that the reproach is removed for ever; and I feel a sincere pleasure in thinking that the Hindus will thereby be exalted in the estimation of mankind, to an extent in some degree proportioned to the repugnance which was felt for the usage which has now ceased.

IV

PETITION TO THE HOUSE OF COMMONS

The following is the text of the counter-petition to the memorial of the advocates of Suttee which Ram Mohun Roy took with him to England and presented to the House of Commons. Ram Mohun was present in England when the appeal against the abolition of Suttee was dismissed by Parliament in July 1832 :

THE humble Petition of the undersigned Natives of India :—

Sheweth,

That a practice has prevailed throughout India particularly in Bengal, of burning those widows on the funeral piles of their deceased husbands, who could be induced to offer themselves as voluntary sacrifices.

That this barbarous and inhuman practice has been happily abolished by the Government of the Right Honourable Lord William Cavendish Bentinck, who has thus conferred an inestimable benefit on the native population of India.

That the regulation prohibiting the practice has been received with gratitude by many, while the majority of the native population have remained passive and acquiescent, although nearly a twelve-month has elapsed since the abolition took place.

That as a proof of your Honourable House of the feeling entertained on the subject by a numerous

portion of the native community, the sub-joined Address was presented to the Governor-General in Council expressive of their thanks for his benevolent interference.

[Here was recited the Address presented by the inhabitants of Calcutta to Lord William Bentinck, in January 1830].

That your petitioners have, however, learned that a number of natives, professing to be attached to the ancient practice, have prepared a petition to your Honourable House, soliciting the re-establishment of the rite of burning their widows; and therefore to prevent your Honourable House from supposing that their sentiments are those of the whole native population, your petitioners respectfully present themselves to the notice of your Honourable House, and pray that the Regulation of the local Government may be confirmed and enforced.

That your petitioners cannot permit themselves to suppose that such a practice, abhorrent to all the feelings of nature, the obligations of society, and the principles of good government, will receive the sanction of your Honourable House, much less that, having been abolished, the British name and character will be dishonoured by its re-establishment.

That your petitioners confidently rely on receiving from your Honourable House a full and final confirmation of the Act of the Governor-General-in-Council abolishing the rite of widow-burning.

And your petitioners will ever pray.

THE RIGHTS OF WOMEN

The following paper originally entitled "Modern Encroachments on the Ancient Rights of Females, according to the Hindu Law of Inheritance" was written by Ram Mohun in 1822. It was reprinted by his son Rama Prasad Roy (who rose to be Judge of the Calcutta High Court) in 1856. The paper shows not only Ram Mohun's generous sympathies but his familiarity with the Hindu Law books and his subtlety in interpreting them :

WITH a view to enable the public to form an idea of the state of civilization throughout the greater part of the Empire of Hindoostan in ancient days, * and of the subsequent gradual degradation

* At an early age of civilization, when the division into castes was first introduced among the inhabitants of India, the second tribe, who were appointed to defend and rule the country, having adopted arbitrary and despotic practices, the others revolted against them: and under the personal command of the celebrated Parasuram, defeated the Royalists in several battles, and put cruelly to death almost all the males of that tribe. It was at last resolved that the legislative authority should be confined to the first class who could have no share in the actual government of the state, or in managing the revenue of the country under any pretence; while the second tribe should exercise the executive authority. The consequence was, that India enjoyed peace and harmony for a great many centuries. The Brahmins having no expectation of holding an office, or of partaking of any kind of political promotion, devoted their time to scientific pursuits and religious austerity, and lived in poverty. Freely associating with all the other tribes they were thus able to know their sentiments, and to appreciate the justice of their complaints, and thereby to lay down such rules as were required, which often induced them to rectify the abuses that were practised by the second tribe. But after the expira-

introduced into its social and political constitution by arbitrary authorities, I am induced to give as an instance, the interest and care which our ancient legislators took in the promotion of the comfort of the female part of the community ; and to compare the laws of female inheritance which they enacted, and which afforded that sex the opportunity of enjoyment of life, with that which moderns and our contemporaries have gradually introduced and established, to their complete privation, directly or indirectly, of most of those objects that render life agreeable.

All the ancient lawgivers unanimously award to a mother an equal share with her son in the property left by her deceased husband, in order that she may spend her remaining days independently of

tion of more than two thousand years, an absolute form of government came gradually again to prevail. The first class having been induced to accept employments in political departments, became entirely dependent on the second tribe, and so unimportant in themselves, that they were obliged to explain away the laws enacted by their fore-fathers and to institute new rules according to the dictates of their contemporary princes. They were considered as merely nominal legislators, and the whole power, whether legislative or executive, was in fact exercised by the Rajputs. This tribe exercised tyranny and oppression for a period of about a thousand years, when Mussulmans from Ghazni and Ghor, invaded the country, and finding it divided among hundreds of petty princes, detested by their respective subjects, conquered them all successively, and introduced their own tyrannical system of government, destroying temples, universities and all other sacred and literary establishments. At present the whole Empire (with the exception of a few provinces) has been placed under the British power, and some advantages have already been derived from the prudent management of its rulers, from whose general character a hope of future quiet and happiness is justly entertained. The succeeding generation will, however, be more adequate to pronounce on the real advantages of this Government.

her children, as is evident from the following passages :—

YAGNAVALKYA. "After the death of a father, let a mother also inherit an equal share with her sons in the division of the property *left by their father.*"

KATYAYANA. "The father being dead, the mother should inherit an equal share with the son."

NARADA. "After the death of husband, a mother should receive a share equal to that of each of his son."

VISHNU THE LEGISLATOR. "Mothers should be receivers of shares according to the portion allowed to the sons."

VRIHASPATI. "After his (the father's) death a mother, the parent of his sons, should be entitled to an equal share with his sons; their step-mothers also to equal shares; but daughters to a fourth part of the shares of the sons."

VYASA. "The wives of a father by whom he has no male issue, are considered as entitled to equal shares with his sons, and all the grand-mothers (*including the mothers and step-mothers of the father*), are said to be entitled as mothers.

This Muni seems to have made this express declaration of rights of step-mothers, omitting those of mothers under the idea that the latter were already sufficiently established by the direct authority of preceding lawgivers.

We come to the moderns.

The author of the Dayabhaga and the writer of the Dayatuttwa, the modern expounders of Hindu Law (whose opinions are considered by the natives of Bengal as standard authority in the division of property among heirs) have thus limited the rights allowed to widows by the above ancient legislators. When a person is willing to divide his property among his heirs during his life-time, he should entitle only those wives by whom he has no issue, to an equal share with his sons ; but if he omits such a division, those wives can have no claim to the property he leaves. These two modern expounders lay stress upon a passage of Yagnavalkya, which requires a father to allot equal shares to his wives, in case he divides his property during his life, whereby they connect the term " of a father," in the above quoted passage of Vyasa, *viz.*, " the wives of a father, &c." with the term " division " understood, that is, the wives by whom he has no son, are considered in the division made by a father, as entitled to equal shares with his sons ; and that when sons may divide property among themselves after the demise of their father, they should give an equal share to their mother only, neglecting step-mothers in the division. Here the expounders did not take into their consideration any proper provision for step-mothers, who have naturally less hope of support from their step-sons than mothers can except from their own children.

In the opinion of these expounders even a mother of a single son should not be entitled to any share.

The whole property should, in that case, devolve on the son; and in case that son should die after the succession to the property, his son or wife should inherit it. The mother in that case should be left totally dependent on her son or on her son's wife. Besides, according to the opinion of these expounders, if more than one son should survive, they can deprive their mother of her little, by continuing to live as a joint family (which has been often the case,) as the right of a mother depends, as they say, on division, which depends on the will of the sons.

Some of our contemporaries, (whose opinion is received as a verdict by Judicial Courts,) have still further reduced the right of a mother to almost nothing, declaring, as I understand, that if a person dies, leaving a widow and a son or sons, and also one or more grandsons, whose father is not alive, the property so left is to be divided among his sons and his grand-sons, his widow in this case being entitled to no share in the property, though she might have claimed an equal share, had a division taken place among those surviving sons and the father of the grand-son while he was alive.* They are said to have founded their opinion on the above passage, entitling a widow to a share when property is to be divided among *sons*.

* This exposition has been set aside by the Supreme Court, in consequence of the Judges having prudently applied for the opinions of other Pandits, which turned out to be at variance with those of the majority of the regular advisers of the Court in points of Hindu Law.

In short, a widow, according to the expositions of the law, can receive nothing when her husband has no issue by her ; and in case he dies leaving only one son by his wife, or having had more sons, one of whom happened to die leaving issue, she shall, in these cases, also have no claim to the property ; and again, should any one leave more than one surviving son, and they, being unwilling to allow a share to the widow, keep the property undivided, the mother can claim nothing in this instance also. But when a person dies, leaving two or more sons, and all of them survive and be inclined to allot a share to their mother, her right is in this case only valid. Under these expositions, and with such limitations, both step-mothers and mothers have, in reality, been left destitute in the division of their husband's property, and the right of a widow exists in theory only among the learned, but unknown to the populace.

The consequence is, that a woman who is looked up on as the sole mistress by the rest of a family one day, on the next, becomes dependent on her sons, and subject to the slights of her daughter-in-law. She is not authorized to expend the most trifling sum or dispose of an article of the least value, without the consent of her son or daughter-in-law, who were all subject to her authority but the day before. Cruel sons often wound the feelings of their dependent mothers, deciding in favour of their own wives, when family disputes take place between their mothers and wives. Step-mothers, who often are numerous on

account of polygamy being allowed in these countries, are still more shamefully neglected in general by their step-sons, and sometimes dreadfully treated by their sisters-in-law who have fortunately a son or sons by their husband.

It is not from religious prejudices and early impressions only, that Hindu widows burn themselves on the piles of their deceased husbands, but also from their witnessing the distress in which widows of the same rank in life are involved, and the insults and slights to which they are daily subjected, that they become in a great measure regardless of their existence after the death of their husbands: and this indifference, accompanied with the hope of future reward held out to them, leads them to the horrible act of suicide. These restraints on female inheritance encourage, in a great degree, polygamy, the frequent source of the greatest misery in native families; the grand object of the Hindus being to secure a provision for their male offspring, the law, which relieves them from the necessity of giving an equal portion to their wives, removes a principal restraint on the indulgence of their inclinations in respect to the number they marry. Some of them, especially Brahmins of higher birth, marry ten, twenty, or thirty women, either for some small consideration, or merely to gratify their brutal inclinations, leaving a great many of them, both during their life-time and after their death, to the mercy of their own paternal relations. The evil consequences arising, from such

polygamy, the public may easily guess, from the nature of the fact itself, without my being reduced to the mortification of particularising those which are known by the native public to be of daily occurrence.

To these women there are left only three modes of conduct to pursue after the death of their husbands. 1. To live a miserable life as entire slaves to others, without indulging any hope of support from another husband. 2. To walk in the paths of unrighteousness for their maintenance and independence. 3. To die on the funeral pile of their husbands, loaded with the applause and honour of their neighbours. It cannot pass unnoticed by those who are acquainted with the state of society in India, that the number of female suicides in the single province of Bengal when compared with those of any other British Provinces, is almost ten to one : we may safely attribute this disproportion chiefly to the greater frequency of a plurality of wives among the natives of Bengal, and to their total neglect in providing for the maintenance of their females.

This horrible polygamy among Brahmins is directly contrary to the law given by ancient authors ; for Yagnavalkya authorizes second marriages, while the first wife is alive, only under eight circumstances : *1st.* The vice of drinking spirituous liquors. *2ndly.* Incurable sickness. *3rdly.* Deception. *4thly.* Barrenness. *5thly.* Extravagance. *6thly.* The frequent use of offensive language. *7thly.* Producing only female

offspirings. Or, 8thly. Manifestation of hatred towards her husband. .

Manu, ch. 9th, v. 80th. "A wife who drinks any spirituous liquors, who acts immorally, who shows hatred to her lord, who is incurably diseased, who is mischievous, who wastes his property, may at all times be superseded by another wife."

81st. "A barren wife may be superseded by another in the eighth year; she, whose children are all dead, in the tenth; she, who brings forth only daughters, in the eleventh: she, who is accustomed to speak unkindly, without delay."

82nd. "But she, who, though afflicted with illness, is beloved and virtuous, must never be disgraced though she may be superseded by another wife."

Had a Magistrate or other public officer been authorized by the rulers of the Empire to receive applications for his sanction to a second marriage during the life of a first wife, and to grant his consent only on such accusations as the foregoing being substantiated, the above Law might have been rendered effectual, and the distress of the female sex in Bengal, and the number of suicides, would have been necessarily very much reduced.

According to the following ancient authorities a daughter is entitled to one-fourth part of the portion which a son can inherit.

VRIHASPATI. "The daughters should have the fourth part of the portion to which the sons are entitled."

VISHNU. "The rights of unmarried daughters shall be proportioned according to the shares allotted to the sons."

MANU, ch, 9th, v. 118. "To the unmarried daughters let their brothers give portions out of their own allotments respectively. Let each give a fourth part of his own distinct share, and they who feel disinclined to give this shall be condemned."

YAGNAVALKYA. "Let such brothers as are already purified by the essential rites of life, purify by the performance of those rites the brothers that are left by *their late father* unpurified; let them also purify the sisters by giving them a fourth part of their own portion."

KATYAYANA. "A fourth part is declared to be the share of unmarried daughters and three-fourths of the sons; if the fourth part of the property is *so small as to be inadequate to defray the expenses attending their marriage* the sons have an exclusive right to the property, *but shall defray the marriage ceremony of the sisters.* But the commentator on the Dayabhaga sets aside the rights of the daughters, declaring that they are not entitled to any share in the property left by their fathers, but that the expenses attending their marriage should be defrayed by the brothers. He founds his opinion on the foregoing passage of Manu and that of Yagnavalkya, which as he thinks, imply mere donation on the part of the brothers from their own portions for the discharge of the expenses of marriage.

In the practice of our contemporaries a daughter or a sister is often a source of emolument to the Brahmins of less respectable caste, (who are most numerous in Bengal) and to the Kayasthas of high caste. These so far from spending money on the marriage of their daughters or sisters, receive frequently considerable sums, and generally bestow them in marriage on those who can pay most. Such Brahmins and Kayasthas, I regret to say, frequently marry their female relations to men having natural defects or worn-out by old age or disease, merely from pecuniary considerations, whereby they either bring widowhood upon them soon after marriage or render their lives miserable. They not only degrade themselves by such cruel and unmanly conduct, but violate entirely the express authorities of Manu and all other ancient lawgivers, a few of which I here quote.

MANU, ch. 3rd, v. 51. "Let no father, who knows the law, receive a gratuity, however small, for giving his daughter in marriage; since the man, who, through avarice, takes a gratuity *for that purpose*, is a seller of his offspring."

Ch. 9th, v. 98. "But even a man of the servile class ought not to receive a gratuity when he gives his daughter in marriage, since a father who takes a fee *on that occasion*, tacitly sells his daughter."

V. 100. "Nor, even in former births, have we heard the *virtuous approve* of the tacit sale of a

daughter for a price, under the name of nuptial gratuity."

KASHYAPA. "Those who, infatuated by avarice, give their own daughters in marriage, for the sake of a gratuity, are the sellers of their daughters, the images of sin, and the perpetrators of a heinous iniquity."

Both common sense, and the law of the land designate such a practice as an actual sale of females; and the humane and liberal among the Hindus, lament its existence, as well as the annihilation of female rights in respect of inheritance introduced by modern expounders. They, however, trust, that the humane attention of Government will be directed to those evils which are the chief sources of vice and misery and even of suicide among women; and to this they are encouraged to look forward by what has already been done in modifying, in criminal cases, some parts of the law enacted by Muhummadan Legislators, to the happy prevention of many cruel practices formerly established.

How distressing it must be to the female community and to those who interest themselves in their behalf, to observe daily that several daughters in a rich family can prefer no claim to any portion of the property, whether real or personal, left by their deceased father, if a single brother be alive: while they (if belonging to a Kuleen family or Brahmin of higher rank) are exposed to be given in marriage to individuals who have already several wives and have no means of maintaining them.

Should a widow or a daughter wish to secure her right of maintenance, however limited by having recourse to law, the learned Brahmins, whether holding public situations in the courts or not, generally divide into two parties, one advocating the cause of those females and the other that of their adversaries. Sometimes in these or other matters respecting the law, if the object contended for be important, the whole community seems to be agitated by the exertions of the parties and of their respective friends in claiming the verdict of the law against each other. In general, however, a consideration of difficulties attending a law suit, which a native woman, particularly a widow, is hardly capable of surmounting, induces her to forego her right; and if she continues virtuous, she is obliged to live in a miserable state of dependence, destitute of all the comforts of life; it too often happens, however, that she is driven by constant unhappiness to seek refuge in vice.

At the time of the decennial settlement in the year 1793, there were among European gentlemen so very few acquainted with Sanskrit and Hindu law that it would have been hardly possible to have formed a Committee of European Oriental scholars and learned Brahmins, capable of deciding on points of Hindu law. It was, therefore, highly judicious in Government to appoint Pandits in the different Zillah Courts of Appeal, to facilitate proceedings of Judges in regard to such subjects. But as we can now fortunately find many European gentlemen capable of

investigating legal questions with but little assistance from learned Natives, how happy would it be for the Hindu community, both male and female, were they to enjoy the benefits of the opinion of such gentlemen, when disputes arise, particularly on matters of inheritance.

Lest any one should infer from what I have stated, that I mean to impeach, universally, the character of the great body of learned Hindus, I declare, positively, that this is far from my intention. I only maintain, that the Native community place greater confidence in the honest judgment of the generality of European gentlemen than in that of their own countrymen. But, should the Natives receive the same advantages of education that Europeans generally enjoy, and be brought up in the same notions of honour, they will, I trust, be found, equally with Europeans, worthy of the confidence of their countrymen and the respect of all men.

FREEDOM OF THE PRESS

I

MEMORIAL TO THE SUPREME COURT.

In 1823 Mr. Buckingham, the proprietor of a newspaper named the CALCUTTA JOURNAL published at Calcutta, having incurred the displeasure of the Government of Mr. Adam, the then (Officiating) Governor-General, was ordered to leave the country, and soon afterwards a Rule and Ordinance was passed on the 14th of March 1823, curtailing the freedom of the Press. According to the Act of Parliament, 13 Geo. III. Cap. 63, every regulation made by the Governor-General then required to be sanctioned and registered by the Supreme Court before it passed into law, (a provision since repealed by Sec. 45 of 3 and 4 Wm. IV. Cap. 85.) Leave was obtained by Mr. Fergusson, Barrister-at-law, on behalf of Mr. Buckingham for protesting against sanction being accorded to the Regulation by the Supreme Court. The matter was heard by Sir Francis Macnaghten. It was for this occasion that this memorial was drawn up and was read before the Court by the Registrar on the 31st of March 1823.

MY LORD, In consequence of the late Rule and Ordinance passed by His Excellency the Governor-General-in-Council, regarding the Publication of Periodical Works, your Memorialists consider

themselves called upon with due submission, to represent to you their feelings and sentiments on the subject.

Your Memorialists beg leave, in the first place, to bring to the notice of your Lordship, various proofs given by the Natives of this country of their unshaken loyalty to, and unlimited confidence in the British Government of India, which may remove from your mind any apprehension of the Government being brought into hatred and contempt, or of the peace, harmony, and good order of society in this country, being liable to be interrupted and destroyed, as implied in the preamble of the above Rule and Ordinance.

First. Your Lordship is well aware, that the Natives of Calcutta and its vicinity, have voluntarily entrusted Government with millions of their wealth, without indicating the least suspicion of its stability and good faith, and reposing in the sanguine hope that their property being so secured, their interests will be as permanent as the British Power itself; while on the contrary, their fathers were invariably compelled to conceal their treasures in the bowels of the earth, in order to preserve them from the insatiable rapacity of their oppressive Rulers.

Secondly. Placing entire reliance on the promises made by the British Government at the time of the Perpetual Settlement of the landed property in this part of India, in 1793, the Landholders have since, by constantly improving their estates, been able to

increase their produce, in general very considerably; whereas, prior to that period, and under former Governments, their forefathers were obliged to lay waste the greater part of their estates, in order to make them appear of inferior value, that they might not excite the cupidity of Government, and thus cause their rents to be increased or themselves to be dispossessed of their lands,—a pernicious practice which often incapacitated the landholders from discharging even their stipulated revenue to Government, and reduced their families to poverty.

Thirdly. During the last wars which the British Government were obliged to undertake against neighbouring Powers, it is well known, that the great body of Natives of wealth and respectability, as well as the Landholders of consequence, offered up regular prayers to the objects of their worship for the success of the British arms from a deep conviction that under the sway of that nation, their improvement, both mental and social, would be promoted, and their lives, religion, and property be secured. Actuated by such feelings, even in those critical times, which are the best test of the loyalty of the subject, they voluntarily came forward with a large portion of their property to enable the British Government to carry into effect the measures necessary for its own defence, considering the cause of the British as their own, and firmly believing that on its success their own happiness and prosperity depended.

Fourthly. It is manifest as the light of day, that the general subjects of observation and the constant and the familiar topic of discourse among the Hindoo community of Bengal, are the literary and political improvements which are continually going on in the state of the country under the present system of Government, and a comparison between their present auspicious prospects and their hopeless condition under their former Rulers.

Under these circumstances, your Lordship cannot fail to be impressed with a full conviction, that whoever charges the Natives of this country with disloyalty, or insinuates aught to the prejudice of the fidelity and attachment to the British Government must either be totally ignorant of the affairs of this country and the feelings and sentiments of its inhabitants, as above stated, or, on the contrary, be desirous of misrepresenting the people and misleading the Government, both here and in England, for unworthy purposes of his own.

Your Memorialists must confess, that these feelings of loyalty and attachment, of which the most unequivocal proofs stand on record, have been produced by the wisdom and liberality displayed by the British Government in the means adopted for the gradual improvement of their social and domestic condition, by the establishment of Colleges, Schools, and other beneficial institutions in this city, among which the creation of a British Court of Judicature for the more effectual

administration of justice, deserves to be gratefully remembered.

A proof of the Natives of India being more and more attached to the British Rule in proportion as they experience from it the blessings of just and liberal treatment, is that the inhabitants of Calcutta, who enjoy in many respects very superior privileges to those of their fellow subjects in other parts of the country are known to be in like measure more warmly devoted to the existing Government; nor is it at all wonderful they should in loyalty be not at all inferior to British-born Subjects, since they feel assured of the possession of the same civil and religious liberty, which is enjoyed in England, without being subjected to such heavy taxation as presses upon the people there.

Hence the population of Calcutta, as well as the value of land in this City, have rapidly increased of late years, notwithstanding the high rents of houses and the dearness of all the necessaries of life compared with other parts of the country, as well as the inhabitants being subjected to additional taxes, and also liable to the heavy costs necessarily incurred in case of suits before the Supreme Court.

Your Lordship may have learned from the works of the Christian Missionaries, and also from other sources, that ever since the art of printing has become generally known among the Natives of Calcutta, numerous publications have been circulated in the Bengalee language, which by introducing free dis-

cussion among the Natives and inducing them to reflect and inquire after knowledge, have already served greatly to improve their minds and ameliorate their condition. This desirable object has been chiefly promoted by the establishment of four Native newspapers, two in the Bengalee and two in the Persian language, published for the purpose of communicating to those residing in the interior of the country, accounts of whatever occurs worthy of notice at the Presidency or in the country, and also the interesting and valuable intelligence of what is passing in England and in other parts of the world, conveyed through the English newspapers or other channels.

Your Memorialists are unable to discover any disturbance of the peace, harmony, and good order of society, that has arisen from the English Press, the influence of which must necessarily be confined to that part of the community who understand the language thoroughly; but they are quite confident, that the publications in the Native languages, whether in the shape of a newspaper or any other work, have none of them been calculated to bring the Government of the country into hatred and contempt, and that they have not proved, as far as can be ascertained by the strictest enquiry, in the slightest degree injurious; which has very lately been acknowledged in one of the most respectable English Missionary works. So far from obtruding upon Government groundless representations, Native Authors and Editors have always restrained them-

selves from publishing even such facts respecting the judicial proceedings in the interior of the country as they thought were likely at first view to be obnoxious to Government.

While your Memorialists were indulging the hope that Government, from a conviction of the manifold advantages of being put in possession of full and impartial information regarding what is passing in all parts of the country, would encourage the establishment of Newspapers in the cities and districts under the special patronage and protection of Government, that they might furnish the Supreme Authorities in Calcutta with an accurate account of local occurrences and reports of Judicial proceedings, —they have the misfortune to observe, that on the contrary, His Excellency the Governor-General-in-Council has lately promulgated a Rule and Ordinance imposing severe restraints on the Press and prohibiting all periodical publications even at the Presidency and in the Native languages, unless sanctioned by a license from Government, which is to be revocable at pleasure whenever it shall appear to Government that a publication has contained anything of an unsuitable character.

Those Natives who are in more favourable circumstances and of respectable character, have such an invincible prejudice against making a voluntary affidavit, or undergoing the solemnities of an oath, that they will never think of establishing a publication which can only be supported by a series

of oaths and affidavits, abhorrent to their feelings and derogatory to their reputation amongst their countrymen.

After this Rule and Ordinance shall have been carried into execution, your Memorialists are therefore extremely sorry to observe, that a complete stop will be put to the diffusion of knowledge and the consequent mental improvement now going on, either by translations into the popular dialect of this country from the learned languages of the East, or by the circulation of literary intelligence drawn from foreign publications. And the same cause will also prevent those Natives who are better versed in the laws and customs of the British Nation, from communicating to their fellow-subjects a knowledge of the admirable system of Government established by the British, and the peculiar excellences of the means they have adopted for the strict and impartial administration of justice. Another evil of equal importance in the eyes of a just Ruler, is that it will also preclude the Natives from making the Government readily acquainted with the errors and injustice that may be committed by its executive officers in the various parts of this extensive country; and it will also preclude the Natives from communicating frankly and honestly to their Gracious Sovereign in England and his Council, the real condition of his Majesty's faithful subjects in this distant part of his Dominions and the treatment they experience from the local Government: since such information cannot in future be

conveyed to England, as it has heretofore been, either by the translations from the Native publications inserted in the English newspapers printed here and sent to Europe, or by the English publications which the Natives themselves had in contemplation to establish, before this Rule and Ordinance was proposed.

After this sudden deprivation of one of the most precious of their rights, which has been freely allowed to them since the establishment of the British Power, a right which they are not, and cannot be charged with having ever abused, the inhabitants of Calcutta would be no longer justified in boasting, that they are fortunately placed by Providence under the protection of the whole British Nation, or that the King of England and his Lords and Commons are their Legislators, and that they are secured in the enjoyment of the same civil and religious privileges that every Briton is entitled to in England.

Your Memorialists are persuaded, that the British Government is not disposed to adopt the political maxim so often acted upon by Asiatic Princes, that the more a people are kept in darkness, their Rulers will derive the greater advantages from them, since, by reference to History, it is found that this was but a short-sighted policy which did not ultimately answer the purpose of its authors. On the contrary, it rather proved disadvantageous to them: for we find that as often as an ignorant people, when an opportunity offered, have revolted against their Rulers, all

sorts of barbarous excesses and cruelties have been the consequence; whereas a people naturally disposed to peace and ease, when placed under a good Government from which they experience just and liberal treatment, must become the more attached to it, in proportion as they become enlightened and the great body of the people are taught to appreciate the value of the blessings they enjoy under its Rule.

Every good Ruler, who is convinced of the imperfections of human nature, and reverences the Eternal Governor of the world, must be conscious of the great liability to error in managing the affairs of a vast Empire; and therefore he will be anxious to afford every individual the readiest means of bringing to his notice whatever may require his interference. To secure this important object, the unrestrained Liberty of Publication, is the only effectual means that can be employed. And should it ever be abused, the established Law of the Land is very properly armed with sufficient powers to punish those who may be found guilty of misrepresenting the conduct or character of Government, which are effectually guarded by the same Laws to which individuals must look for protection of their reputation and good name.

Your Memorialists conclude by humbly entreating your Lordship to take this Memorial into your gracious consideration; that you will be pleased by not registering the above Rule and Ordinance, to permit the Natives of this country to continue in

possession of the civil rights and privileges which they and their fathers have so long enjoyed under the auspices of the British nation, whose kindness and confidence, they are not aware of having done anything, to forfeit.

CHUNDER COOMAR TAGORE,
DEWARKU NAUTH TAGORE,
RAMMOHUN ROY,
HURCHUNDER GHOSE,
GOWREE CHURN BONNERJEE,
PROSSUNNO COOMAR TAGORE.

II

APPEAL TO THE KING IN COUNCIL

The Supreme Court, however, registered the Regulation. Ram Mohun Roy thereupon addressed a memorial to King George IV showing the necessity of granting freedom to the Press of India. The Memorial was signed by many respectable men of the time in Calcutta.

WE, your Majesty's faithful subjects, Natives of India and inhabitants of Calcutta, being placed by Providence under the sovereign care and protection of the august head of the British nation, look up to your Majesty as the guardian of our lives, property, and religion, and when our rights are invaded and our prayers disregarded by the subordinate authorities, we beg leave to carry our complaints before your Majesty's throne, which is happily established in mercy and justice, amidst a generous people celebrated throughout the earth as the enemies of tyranny, and distinguished under your royal auspices, as the successful defenders of Europe from Continental usurpation.

2nd. We, your Majesty's faithful subjects, now come before you under the most painful circumstances, the local executive authorities having suddenly assumed the power of legislation in matters of the highest moment, and abolished legal privileges of long

standing, without the least pretence that we have ever abused them, and made an invasion on our civil rights such as is unprecedented in the History of British Rule in Bengal, by a measure which either indicates a total disregard of the civil rights and privileges of your Majesty's faithful subjects, or an intention to encourage a cruel and unfounded suspicion of our attachment to the existing Government.

3rd. . The greater part of Hindoostan having been for several centuries subject to Muhummadan Rule, the civil and religious rights of its original inhabitants were constantly trampled upon, and from the habitual oppression of the conquerors, a great body of their subjects in the southern Peninsula (Dukhin), afterwards called Mahrattas, and another body in the western parts now styled Sikhs were at last driven to revolt ; and when the Mussulman power became feeble, they ultimately succeeded in establishing their independence ; but the Natives of Bengal wanting in vigour of body, and adverse to active exertion, remained during the whole period of the Muhummadan conquest, faithful to the existing Government, although their property was often plundered, their religion insulted, and their blood wantonly shed. Divine Providence at last, in its abundant mercy, stirred up the English nation to break the yoke of those tyrants, and to receive the oppressed Natives of Bengal under its protection. Having made Calcutta the capital of their dominions, the English distinguished this city by such peculiar marks of

favour as a free people would be expected to bestow, in establishing an English Court of Judicature, and granting to all within its jurisdiction, the same civil rights as every Briton enjoys in his native country ; thus putting the Natives of India in possession of such privileges as their forefathers never expected to attain, even under Hindu Rulers. Considering these things and bearing in mind also the solicitude for the welfare of this country, uniformly expressed by the Honourable East India Company, under whose immediate control we are placed, and also by the Supreme Councils of the British nation, your dutiful subjects consequently have not viewed the English as a body of conquerors, but rather as deliverers, and look up to your Majesty not only as a Ruler, but also as a father and protector.

4th. Since the establishment of the Supreme Court of Judicature in Calcutta till the present time, a period that has been distinguished by every variety of circumstances, the country sometimes reposing in the bosom of profound peace, at others shaken with the din of arms—the local Government of Bengal, although composed from time to time, of men of every shade of character and opinion, never attempted of its own will and pleasure to take away any of the rights which your Majesty's royal ancestors with the consent of their Councils, had been graciously pleased to confer on your faithful subjects. Under the cheering influence of equitable and indulgent treatment, and stimulated by the example of a people famed for their

wisdom and liberality, the Natives of India, with the means of amelioration set before them, have been gradually advancing in social and intellectual improvement. In their conduct and in their writings, whether periodical or otherwise, they have never failed to manifest all becoming respect to a Government fraught with such blessings; of which their own publications and the judgment passed upon them by the works of their contemporaries are the best proofs. Your faithful subjects beg leave in support of this statement to submit two extracts from English works very lately published, one by a Native of India, and other by English Missionaries; the first is from a work published on the 30th of January last, by Ram Mohun Roy, entitled "a Final Appeal to the Christian Public," which may serve as a specimen of the sentiments expressed by the Natives of India towards the Government.

"I now conclude my Essay in offering up thanks to the Supreme Disposer of the universe, for having unexpectedly delivered this country from the long continued tyranny of its former Rulers, and placed it under the Government of the English, a nation who not only are blessed with the enjoyment of civil and political liberty, but also interest themselves, in promoting liberty and social happiness, as well as free inquiry into literary and religious subjects, among those nations to which their influence extends."—Refer to pages 378 and 379.

5th. The second extract is from a periodical work published at the Dapish settlement of Serampore, by a body of English Missionaries, who are known to be generally the best qualified and the most careful observers of the foreign countries in which Europeans have settled. This work, entitled the *FRIEND OF INDIA*, treating of the Native newspapers published in Bengal, thus observes: "How necessary a step this (the establishment of a Native Press), was for the amelioration of the condition of the Natives, no person can be ignorant who has traced the effects of the Press in other countries. The Natives themselves soon availed themselves of this privilege; no less than four Weekly Newspapers in the Native language have now been established, and there are hopes, that these efforts will contribute essentially to arouse the Native mind from its long lethargy of death; and while it excites them to inquire into what is going forward in a world, of which Asia forms so important a portion, urge them to ascertain their own situation respecting that external world, which really communicates all the vigour and interest now so visible in Europeans. *Nor has this liberty been abused by them in the least degree*; yet these vehicles of intelligence have begun to be called for, from the very extremities of British India and the talents of the Natives themselves, have not unfrequently been exerted in the production of Essays, that would have done credit to our own countrymen."—(*FRIEND OF*

INDIA, quarterly series, No. VII. published in December 1882).

6th. An English gentleman, of the name of Buckingham, who for some years published a Newspaper in this place, entitled the CALCUTTA JOURNAL, having incurred the displeasure of the local Government, was ordered to leave this country, and soon afterwards, the Hon'ble John Adam the Governor-General in Council, suddenly without any previous intimation of his intentions, passed a Rule, and Ordinance, on the 14th of March, thus taking away the liberty of the Press, which your Majesty's faithful subjects had so long and so happily enjoyed, and substituting his own will and pleasure for the Laws of England, by which it had hitherto been governed.

7th. It being necessary according to the system established for the Government of this country that the above Regulation should receive the approbation of the Supreme Court by being registered there, after having been fixed up for 20 days on the walls of the Court room, before it could become Law on the following Monday, (the 17th of March) Mr. Fergusson, Barrister, moved the Court to allow parties who might feel themselves aggrieved by the New Regulation, to be heard against it by their Counsel before the sanction of the Court should establish it as Law, and the Honourable Sir Francis Macnaghten, the sole acting Judge, expressed his willingness to hear in this manner, all that could be

urged against it, and appointed Monday the 31st of the same month of March, for Counsel to be heard. His Lordship also kindly suggested, that in the meantime, he thought it would be advisable to present a Memorial to Government, praying for the withdrawal of the said Rule and Ordinance. These observations from the Honourable Sir Francis Macnaghten, inspired your Majesty's faithful subjects of this Presidency, with a confident hope, that his Lordship disapproved of the Rule and Ordinance, and would use his influence with Government to second the prayer of the Memorial he recommended to be presented, or that at least in virtue of the authority vested in him for the purpose of protecting your faithful subjects against illegal and oppressive acts, he would prevent the proposed Rule from passing into Law.

8th, Your faithful subjects agreeable to a suggestion of this nature, proceeding from such a source, employed the few days intervening, in preparing a Memorial to Government, containing a respectful representation of the reasons which existed against the proposed Rule and Ordinance being passed into Law; but in preparing this Memorial in both the English and Bengalee languages, and discussing the alterations suggested by the different individuals who wished to give it their support and signature, so much time was necessarily consumed, that it was not ready to be sent into circulation for signature until the 30th of March; consequently only fifteen Natives of respectability had time to read it over and

affix their signature before the following day on which it was to be discussed in the Supreme Court and finally sanctioned or rejected. Besides that this number was considered insufficient, it was then too late for Government to act upon this Memorial, so as to supersede the discussions and decision that were to take place in the Court, and a few individuals, therefore, of those who concurred in it, hastily prepared another Memorial of the same tenor in the morning of that day, addressed to the Supreme Court itself, demonstrating our unshaken attachment to the British Government, and praying the Court to withhold its sanction from a Regulation which would deprive us of an invaluable privilege, firmly secured to us by the Laws of the Land, which we had so long enjoyed and could not be charged with ever having abused. And although from these circumstances, the Memorial had still fewer signatures, your Majesty's faithful subjects reposed in the hope, that in appealing to a British Court of Law they might rely more on the justice of their cause, than the number or weight of names, especially, since it is well-known, that there are many under the immediate influence of Government, who would not express an opinion against the acts of those in power at the time, although it were to secure the salvation of all their countrymen.

9th. This Memorial being, by the order of the Judge, read by the Registrar of the Court, Mr. Fergusson, (who besides his professional skill and eminence as an English Lawyer, has acquired by his

long practice at the Calcutta Bar, a very intimate acquaintance with the state of this Country) in virtue of the permission granted him, entered into an argument, showing the Rule and Ordinance to be both illegal and inexpedient.

10th. These and other conclusive arguments, urged by Mr. Fergusson, and also by Mr. Turton, both eminently skilled in the Laws of England, powerfully strengthened the hopes previously created by the observations that formerly fell from the Bench, that the learned Judge would enter his protest against such a direct violation of the Laws, and uncalled for invasion of the rights of your faithful subjects.

11th. Notwithstanding, we observed with astonishment and regret, that his Lordship, in giving his decision, paid no regard whatever to the above Memorial, not alluding to it in the most distant manner, nor, to the arguments it contained; and his Lordship further disclosed, that at the time he expressed a desire to hear every objection that could be urged, and recommended a Memorial to Government against it, from which your faithful subjects unanimously hoped that the mind of the Judge was undecided, and rather unfavourable to the Rule, his Lordship had previously pledged himself by promise to Government to give it his sanction.

12th. Your Majesty's faithful subjects cannot account for the inconsistency manifested by Sir F. Macnaghten in two different points with regard to the sanctioning of this Regulation. In the first

place, according to his Lordship's own statement from the Bench, he refused not only once, but twice, to see the Regulation before it passed in Council, probably because his Lordship thought it improper for him to give it his approbation until it came before him in the regular manner; but he afterwards, when application was made to him a third time, not only consented to read it, but with some alterations agreed to give it his sanction, a change of conduct for which no reason was assigned by his Lordship. Again, when application was made to his Lordship to hear the objections that might be urged against it, before giving it his Judicial approval, his Lordship withheld from the knowledge of the public, not only that he had already so pledged himself; but even that he had previously seen the Regulation, and expressed himself ready to hear all that could be said respecting it, in the same manner as if his mind had been unfettered by any promise, and perfectly open to conviction. Consequently, some of your Majesty's faithful subjects prepared a Memorial and retained Counsel against the new Regulation, and had afterwards the mortification to find their representations were treated with contemptuous neglect, and that the arguments of the most able Lawyers could be of no avail.

13th. Your Majesty in Parliament has been graciously pleased to make it a part of the Law of this Country, that after a Regulation has passed the Council, it must be fixed up for twenty days in the

Supreme Court, before it can be registered, so as to receive the full force of Law, an interval which allows the Judge time for deliberation and to hear from others all the objections that may exist to the proposed measure, and might have the effect of preventing the establishment of injudicious and inexpedient or unjust and oppressive acts; but if, as in this case, the Judges enter into previous compact with the Local Government, and thus preclude the possibility of any effectual representation from your faithful subjects, who have no intimation of what is meditated till it be finally resolved upon, the salutary effect of twenty days' delay is lost, and your faithful subjects will be in constant apprehension, the most valuable and sacred of their rights may, as in this instance, be suddenly snatched from them at a moment's warning, before they know that such a measure is in contemplation, or have time to represent the evils which it is calculated to inflict upon them.

14th. In pursuance of the Regulation passed as above described, the Government issued an official order in the GOVERNMENT GAZETTE of the 5th of April, commanding the attention of Editors of Newspapers, or other periodical works, to certain restrictions therein contained, prohibiting all matters which it might consider as coming under the following heads :

(1st). Defamatory or contumelious reflections against the King, or any of the Members of the Royal Family.

(2nd). Observations or statements touching the character, constitution, measures, or orders of the Court of Directors, or other public authorities in England, connected with the Government of India, or the character, constitution, measures, or orders of the Indian Governments, impugning the motives and designs of such authorities of Governments, or in any way tending to bring them into hatred or contempt, to excite resistance to their orders, and to weaken their authority.

(3rd). Observations or statements of the above description, relative to allied, or Friendly Native Powers, their Ministers, or Representatives.

(4th). Defamatory or contumelious remarks of offensive insinuations levelled against the Governor-General, the Governors or Commanders-in-Chief, the Members of Council, or the Judges of His Majesty's Courts at any of the Presidencies, or the Bishop of Calcutta, and publications of any description, tending to expose them to hatred, obloquy or contempt, also libellous or abusive reflections and insinuations against the Public officers of Government.

(5th). Discussions having a tendency to create alarm or suspicion among the native population of any intended official interference with their religious opinions and observances, and irritating and insulting remarks on their peculiar usages and modes of thinking on religious subjects.

(6th). The republication from English, or other papers, of passages coming under the forgoing heads.

(7th). Defamatory publications tending to disturb the peace, harmony, and good order of society.

(8th). Anonymous appeals to the Public, relative to grievances of professional or official nature, alleged to have been sustained by public officers in the service of His Majesty or the Honourable Company.

15th. The above Restrictions, as they are capable of being interpreted, will in fact afford Government and all its functionaries from the highest to the lowest, complete immunity from censure or exposure respecting anything done by them in their official capacity, however desirable it might be for the interest of this Country, and also that of the Honourable Company, that the public conduct of such public men should not be allowed to pass unnoticed. It can scarcely be doubted that the real object of these Restrictions is, to afford all the functionaries of Government complete security against their conduct being made the subject of observation, though it is associated with a number of other restraints totally uncalled for, but well calculated to soothe the supreme authorities in England and win their assent to the main object of the Rule—the suppression of public remark on the conduct of the public Officers of Government in India.

16th. Your Majesty's faithful subjects could have surely no inducement in this distant quarter of the world to make contumelious and injurious reflections on your Majesty or any of the members of your Majesty's illustrious family, or to circulate

them among people to whom your Majesty's name is scarcely known, and to the greatest part of whom, even the fame of your greatness and power has not reached ; but to those few Natives who are possessed of sufficient information to understand the political situation of England, the English newspapers and books which are constantly brought to this country in great abundance, are equally intelligible with the periodical publications printed in Calcutta.

17th. Neither can your Majesty's faithful subjects have and wish to make remarks on the proceedings of the Courts of Directors, of whose beneficent intentions they are well convinced, but that the Honourable body who have so often manifested their earnest desire to ameliorate the condition of their Indian dependents, must be naturally anxious to be made exactly acquainted with the manner in which their wishes are carried into execution, and the operation and effect of the acts passed relative to this country.

18th. Whoever shall maliciously publish what has a tendency to bring the Government into hatred and contempt, or excite resistance to its orders, or weaken their authority, may be punished by Law as guilty of treason or sedition ; and surely in a country enjoying profound peace externally and internally, and where seditious and treasonable publications are unknown, it could not be necessary for Government to throw aside of a sudden, the Laws which for any thing that has appeared, were fully sufficient, and.

arm itself with new and extraordinary powers at a time when that Government is more secure than at any former period.

19th. It may surely be left for British Judges and Juries to determine whether the mention made of the proceedings of Government, be malevolent, seditious and dangerous to the State, so as to render a writer or publisher culpable and amenable to punishment; but if mere mention of the conduct of Government without misrepresentation or malice on the part of the writer, bring it into hatred and contempt, such conduct will never receive the countenance or protection of your Majesty by the sanction of a Law to prevent its exposure to public observation, and the discovery of that dissatisfaction it may have occasioned, which would afford the higher authorities an opportunity of removing them.

20th. After a body of English Missionaries have been labouring for about twenty-five years by preaching and distributing publications in the native languages in all parts of Bengal, to bring the prevailing system of religion into disrepute, no alarm whatever prevails, because your Majesty's faithful subjects possess the power of defending their Religion by the same means that are employed against it, and many of them have exercised the freedom of the Press to combat the writings of English Missionaries, and think no other protection necessary to the maintenance of their faith. While the teachers of Christianity use only reason and persuasion to propa-

gate their Religion, your Majesty's faithful subjects are content to defend theirs by the same weapons, convinced that true Religion needs not the aid of the sword or of legal penalties for its protection. While your Majesty's faithful subjects perceived that Government showed no displeasure, and claimed no arbitrary power of preventing the publication of what was written in defence of the prevailing religion of the country, it was impossible to entertain any such suspicion as that intimated in the 5th article, *viz.*, that Government would interfere with the established faith of the natives of this country. Nevertheless, if any person with a malicious and seditious design were to circulate an unfounded rumour that Government meant so to interfere with our religious privileges, he would be severely punished by law; but if the Government really intended to adopt measures to change the religion of the country, your Majesty's faithful subjects would be absolutely prohibited by the present restrictions from intimating the appalling intelligence to their countrymen: and although they have every reason to hope that the English nation will never abandon that religious toleration which has distinguished their progress in the East, it is impossible to foresee to what purposes of religious oppression such a Law might at some future time be applied.

21st. The office of the Lord Bishop of Calcutta not calling him to preach Christianity in that part of the town inhabited by the natives, or to circulate pamphlets among them against the established Reli-

gion of the country, but being of a nature totally distinct, and not at all interfering with the religious opinion of the native population, they could never dream of vilifying and defaming his character or office.

22nd. The Judges of the Supreme Court in Calcutta and of the English Courts of Judicature at the other Presidencies, enjoy, in virtue of their office, the power of protecting their characters and official conduct from defamation and abuse: since such would be either a contempt of the Court, liable to summary punishment, or punishable by those Laws enacted against libel. It is therefore hard to be conceived, that they stand in need of still further protection, unless it should be wished thereby to create an idea of their infallibility, which however is incompatible with the freedom allowed to Barristers, of delivering their sentiments beforehand on the justice or injustice of the opinions the Judges may pronounce, and in case of appeal, of controverting the justice and equity of their decision. The only object of such a restriction is calculated to attain, must therefore be defeated, unless it be meant thereby to prevent the publication of the pleadings which as they take place in an English Court of Judicature are by Law public, and ought to be accessible to all.

23rd. The seventh restriction prohibiting defamatory publications tending to disturb the peace, harmony, and good order of society, is equally unnecessary, since the British Legislature has already

provided a punishment for such offences by the Laws enacted against libel.

24th. Your Majesty's faithful subjects will not offer any more particular remarks on the superfluous restrictions introduced to accompany those more important ones which are the principal object of Government, and will conclude with this general observation that they are unnecessary, either because the offences prohibited are imaginary and improbable, or because they are already provided for by the Laws of the land, and either the Government does not intend to put them in force at all, or it is anxious to interrupt the regular course of justice, abolish the right of Trial by Jury and, taking the Law into its own hands, to combine the Legislative and Judicial power, which is destructive of all Civil Liberty.

25th. Your Majesty's faithful subjects have heard, that your Majesty constantly submits to the greatest freedom of remark among your British-born subjects without losing any part of the homage and respect due to your exalted character and station, and that the conduct of your Ministers is constantly the topic of discussion, without destroying the dignity and power of the Government. While such is the case in a country where it is said above nine-tenths of the inhabitants read newspapers, and are therefore liable to be led by the opinions circulated through the Press, its capability of bringing a Government into hatred and contempt must be far less in a country where the great mass of the population do not read

at all, and have the greatest reverence for men in power, of whom they can only judge by what they feel, and are not to be moved by what is written, but by what is done, where consequently Government can only be brought into hatred and contempt by its own acts.

26th. The Marquis of Hastings, who had associated for the greater part of his life, with kings and princes, entertained no apprehension that the salutary control of public scrutiny which he commended, would bring him or his Indian administration into hatred and contempt; and in effect, instead of such being the result, the greater the freedom he allowed to the European conductors of the Press, only rendered his name the most honoured and revered in this part of the world, because it was universally believed, that his conduct proceeded from a consciousness of rectitude which feared no investigation.

27th. But your faithful subjects might forbear urging further arguments on this subject to your Majesty, who with your actions open to observation, possess the love, the esteem, and the respect of mankind in a degree which none of the despotic monarchs of Europe or Asia can ever attain, whose subjects are prohibited from examining and expressing their opinions regarding their conduct.

28th. Asia unfortunately affords few instances of princes who have submitted their actions to the judgment of their subjects, but those who have done so, instead of falling into hatred and contempt, were

the more loved and respected, while they lived, and their memory is still cherished by posterity ; whereas more despotic monarchs, pursued by hatred in their life time, could with difficulty escape the attempts of the rebel or the assassin, and their names are either detested or forgotten.

29th. The idea of the possession of absolute power and perfection, is evidently not necessary to the stability of the British Government of India, since your Majesty's faithful subjects are accustomed to see private individuals citing the Government before the Supreme Court, where the justice of their acts is fearlessly impugned, and after the necessary evidence being produced and due investigation made, judgment not unfrequently given against the Government, the judge not feeling himself restrained from passing just sentence by any fear of the Government being thereby brought into contempt. And your Majesty's faithful subjects only pray, that it may be permitted by means of the Press or by some other means equally effectual, to bring forward evidence regarding the acts of Government which affect the general interest of the community, that they also may be investigated and reversed, when those who have the power of doing so, become convinced that they are improper or injurious.

30th. A Government conscious of rectitude of intention, cannot be afraid of public scrutiny by means of the Press, since this instrument can be equally well employed as a weapon of defence, and

a Government possessed of immense patronage, is more especially secure, since the greater part of the learning and talent in the country being already enlisted in the service, its actions, if they have any shadow of justice are sure of being ably and successfully defended.

31st. Men in power hostile to the liberty of the Press, which is a disagreeable check upon their conduct, when unable to discover any real evil arising from its existence, have attempted to make the world imagine, that it might, in some possible contingency, afford the means of combination against the Government, but not to mention that extraordinary emergencies would warrant measures which in ordinary times are totally unjustifiable, your Majesty is well aware, that a free Press has never yet caused a revolution in any part of the world, because, while men can easily represent the grievances arising from the conduct of the local authorities to the supreme Government, and thus get them redressed, the grounds of discontent that excite revolution are removed; whereas, where no freedom of the Press existed, and grievances consequently remained unrepresented and unredressed, innumerable revolutions have taken place in all parts of the globe, or if prevented by the armed force of the Government, the people continued ready for insurrection.

32nd. The servants of the Honourable Company are necessarily firmly attached to that system from

which they derive their consequence and power, and on which their hopes of honours and still greater emoluments depend; and if it be possible to imagine, that these strong considerations are not sufficient to preserve subordination among them, the power of suspension and ruin which hangs over their heads for any deviation from duty, is certainly sufficient to secure that object.

33rd. After the British Government has existed for so many years, it has acquired a certain standard character in the minds of the Natives of India, from the many excellent men who have from time to time held the reins of power, and the principles by which they have been guided. Whatever opinion therefore, may be entertained of the individuals composing it at a particular period, while the source of power remains the same, your Majesty's faithful subjects cannot of a sudden lose confidence in the virtue of the stream, since although it may for a period be tainted with corruption, yet in the natural course of events it must soon resume its accustomed character. Should individuals abuse the power entrusted to them, public resentment cannot be transferred from the delinquents to the Government itself, while there is a prospect of remedy from the higher authorities; and should the highest in this country turn a deaf ear to all complaint, by forbidding grievances to be even mentioned, the spirit of loyalty is still kept alive by hope of redress from the authorities in England; thus the attachment of the natives of India to the British

Government must be as permanent as their confidence in the honour and justice of the British nation, which is their last Court of Appeal next to Heaven. But if they be prevented from making their real condition known in England, deprived of this hope of redress, they will consider the most peculiar excellence of the British Government of India, as done away.

34th. If these conclusions drawn from the particular circumstances of this country, be met with such an argument as that a colony or distant dependency can never safely be entrusted with liberty of the Press, and that therefore natives of Bengal cannot be allowed to exercise the privileges they have so long enjoyed, this would be in other words to tell them, that they are condemned to perpetual oppression and degradation, from which they can have no hope of being raised during the existence of the British power.

35th. The British nation has never yet descended to avow a principle so foreign to their character, and if they could for a moment entertain the idea of preserving their power by keeping their colonies in ignorance, the prohibition of periodical publications is not enough, but printing of all kinds, education, and every other means of diffusing knowledge should be equally discouraged and put down. For it must be the distant consequences of the diffusion of knowledge that are dreaded by those (if there be any such) who are really apprehensive for the stability of Government, since it is

well-known to all in the least acquainted with this country, that although every effort were made by periodical as well as other publications, a great number of years must elapse before any considerable change can be made in the existing habits and opinions of the natives of India, so firmly are they wedded to established custom. Should apprehensions so unworthy of the English nation prevail, then, unlike the ancient Romans who extended their knowledge and civilization with their conquests, ignorance and degradation must mark the extent of British Power. Yet surely even this, affords no hope of perpetual rule, since notwithstanding the tyranny and oppression of Chengis Khan and Tamerlane, their empire was not so lasting as that of the Romans, who to the proud title of conquerors, added the more glorious one of enlighteners of the world. And of the two most renowned and powerful monarchs among the Moghuls, Akbar was celebrated for his clemency, for his encouragement of learning, and for granting civil and religious liberty to his subjects, and Aurungazeb, for his cruelty and intolerance, yet the former reigned happy, extended his power and his dominions, and his memory is still adored; whereas the other, though endowed with equal abilities and possessed of equal power and enterprise, met with many reverses and misfortunes during his life time, and his name is now held in abhorrence.

· 36th. It is well-known that despotic Governments naturally desire the suppression of any freedom

of expression which might tend to expose their acts to the obloquy which ever attends the exercise of tyranny or oppression, and the argument they constantly resort to, is, that the spread of knowledge is dangerous to the existence of all legitimate authority, since, as a people become enlightened, they will discover that by a unity of effort, the many may easily shake off the yoke of the few, and thus become emancipated from the restraints of power altogether, forgetting the lesson derived from history, that in countries which have made the smallest advances in civilization, anarchy and revolution are most prevalent—while on the other hand, in nations the most enlightened, any revolt against governments which have guarded inviolate the rights of the governed, is most rare, and that the resistance of a people advanced in knowledge, has ever been—not against the existence,—but against the abuses of the governing power. Canada, during the late war with America, afforded a memorable instance of the truth of this argument. The enlightened inhabitants of that colony, finding that their rights and privileges had been secured to them, their complaints listened to, and their grievances redressed by the British Government, resisted every attempt of the United States to seduce them from their allegiance to it. In fact, it may be fearlessly averred, that the more enlightened a people become, the less likely they are to revolt against the governing power, as long as it is exercised with justice tempered with mercy, and the

rights and privileges of the governed are held sacred from any invasion.

37th. If your Majesty's faithful subjects could conceive for a moment, that the British nation actuated solely by interested policy considered India merely as a valuable property, and would regard nothing but the best means of securing its possession and turning it to advantage, even then, it would be of importance to ascertain whether this property be well taken care of by their servants, on the same principle that good masters are not indifferent about the treatment of their slaves.

38th. While therefore the existence of a free Press is equally necessary for the sake of the governors and the governed, it is possible a national feeling may lead the British people to suppose, that in two points, the peculiar situation of this country requires a modification of the laws enacted for the control of the Press in England. First, that for the sake of greater security and to preserve the union existing between England and this country, it might be necessary to enact a penalty to be inflicted on such persons as might endeavour to excite hatred in the minds of the natives of India against the English nation. Secondly, that a penalty should be inflicted on such as might seditiously attempt to excite hostilities with neighbouring or friendly states. Although your Majesty's faithful subjects are not aware that anything has yet occurred to call for the precautions thus anticipated, yet should such or any other limitations

of the liberty of the Press be deemed necessary, they are perfectly willing to submit to additional penalties to be legally inflicted. But they must humbly enter their protest against the injustice of robbing them of their long standing privileges, by the introduction of numerous arbitrary restrictions, totally uncalled for by the circumstances of the country—and whatever may be their intention, calculated to suppress truth, protect abuses—and encourage oppression.

39th. Your Majesty's faithful subjects now beg leave to call your Majesty's attention to some peculiarly injurious consequences of the new laws that have thus been suddenly introduced in the manner above described. First, the above Rule and Ordinance has deprived your Majesty's faithful subjects of the liberty of the Press, which they had enjoyed for so many years since the establishment of the British Rule. Secondly, your Majesty's faithful subjects are deprived of the protection of your Majesty and the high council of the British nation, who have hitherto exclusively exercised the legislative power in this part of your Majesty's Dominions.

40th. If upon representations being made by the local authorities in the country, your Majesty after due investigation had been pleased with the advice of the high Council of the Realm to order the abolition of the liberty of the Press in India, your Majesty's faithful subjects from the feeling of respect and loyalty due to the supreme legislative power

would have patiently submitted, since although they would in that case, still have lost one of their most precious privileges, yet their claim to the superintendence and protection of the highest legislative authority, in whom your faithful subjects have unbounded confidence, would still have remained unshaken; but were this Rule and Ordinance of the local Government to be held valid, and thus remain as a precedent for similar proceedings in future, your faithful subjects would find their hope of protection from the Supreme Government cut off, and all their civil and religious rights placed entirely at the mercy of such individuals as may be sent from England to assume the executive authority in this country, or rise into power through the routine of office, and who from long officiating in an inferior station, may have contracted prejudices against individuals or classes of men, which ought not to find shelter in the breast of the legislator.

41st. As it never has been imagined, or surmised in this country, that the Government was in any immediate danger from the operation of the native Press, it cannot be pretended, that the public safety required strong measures to be instantly adopted, and that consequently there was not sufficient time to make a representation to the authorities in England, and wait for their decision, or that it was incumbent on the highest judicial authority in India, to sanction an act so repugnant to the laws of England, which he has sworn to maintain inviolate.

42nd. If as your Majesty's faithful subjects have been informed, this Government were dissatisfied with the conduct of the English newspaper, called the CALCUTTA JOURNAL, the banishment of the Editor of that paper, and the power of punishing those left by him to manage his concern, should they also give offence, might have satisfied the Government ; but at any rate your Majesty's faithful subjects, who are natives of this country, against whom there is not the shadow of a charge, are at a loss to understand the nature of that justice which punishes them, for the fault imputed to others. Yet notwithstanding what the local authorities of this country have done, your faithful subjects feel confident, that your Majesty will not suffer it to be believed throughout your Indian territories, that it is British justice to punish millions for the fault imputed to one individual.

43rd. The abolition of this most precious of their privileges, is the more appalling to your Majesty's faithful subjects, because it is a violent infringement of their civil and religious rights, which under the British Government, they hoped would be always secure. Your Majesty is aware, that under their former Muhammadan rulers, the natives of this country enjoyed every political privilege in common with Mussulmans, being eligible to the highest offices in the state, entrusted with the command of armies and the government of provinces and often chosen as advisers to their prince, without, disqualification or degrading distinction on account of their religion or

the place of their birth. They used to receive free grants of land exempted from any payments of revenue, and besides the highest salaries allowed under the Government, they enjoyed free of charge, large tracts of country attached to certain offices of trust and dignity, while natives of learning and talent were rewarded with numerous situations of honour and emolument. Although under the British rule, the natives of India, have entirely lost this political consequence, your Majesty's faithful subjects were consoled by the more secure enjoyment of those civil and religious rights which had been so often violated by the rapacity and intolerance of the Mussulmans; and notwithstanding the loss of political rank and power, they considered themselves much happier in the enjoyment of civil and religious liberty than were their ancestors; but if these rights that remain are allowed to be unceremoniously invaded, the most valuable of them being placed at the mercy of one or two individuals, the basis on which they have founded their hopes of comfort and happiness under the British power, will be destroyed.

44th. Your Majesty has been pleased to place this part of your Dominions under the immediate control of the Court of Directors, and this Honourable body have committed the entire management of this country (Calcutta excepted) to a number of gentlemen styled Civil Servants, usually under the superintendence of a Governor-General. These gentlemen, who are entrusted with the whole administration,

consist of three classes ; First, subordinate local officers, such as Judges of Districts, Magistrates, Collectors and commercial agents ; Secondly, officers superior to them as Judges of Circuit, and Members of different Revenue and Commercial Boards, &c. Thirdly, those who fill the highest and most important offices as Judges of the Sudder Dewany Adalat, Secretaries to Government, the Members of the Supreme Council and sometimes a Civil Servant may rise to the highest office of Governor-General of India. In former times, native fathers were anxious to educate their children according to the usages of those days, in order to qualify them for such offices under Government as they might reasonably hope to obtain ; and young men had the most powerful motives for sedulously cultivating their minds, in the laudable ambition of rising by their merits to an honourable rank in society ; whereas, under the present system, so trifling are the rewards held out to native talent, that hardly any stimulus to intellectual improvement remains ; yet your Majesty's faithful subjects felt confident, that notwithstanding these unfavourable circumstances, the natives of India would not sink into absolute mental lethargy while allowed to aspire to distinction in the world of letters, and to exercise the liberty of the Press for their moral and intellectual improvement, which are far more valuable than the acquisition of riches or any other temporal advantages under arbitrary power.

45th. Those gentlemen propose and enact laws for the Government of the extensive territory under their control, and also administer these laws; collect revenue of all sorts, and superintend manufactures carried on in behalf of the state; and they have introduced according to their judgment, certain judicial, commercial, and revenue systems, to which it may be supposed they are partial, as being their own, and therefore support them with their whole influence and abilities as of the most efficient and salutary character. It is also the established custom of these gentlemen to transmit official reports from time to time, to the Court of Directors, to make them acquainted with the mode in which the country is governed, and the happiness enjoyed by the people of this vast Empire, from the manner in which the laws are administered.

46th. Granting that those gentlemen were almost infallible in their judgment and their systems nearly perfect; yet your Majesty's faithful subjects may be allowed to presume, that the paternal anxiety which the Court of Directors have often expressed for the welfare of the many millions dependent upon them in a country situated at the distance of several thousand miles, would suggest to them the propriety of establishing some other means besides, to ascertain whether the systems introduced in their Indian possessions, prove so beneficial to the natives of this country, as their authors might fondly suppose or would have others believe, and whether the Rules

and Regulations which may appear excellent in their eyes, are strictly put in practice.

47th. Your Majesty's faithful subjects are aware of no means by which impartial information on these subjects can be obtained by the Court of Directors or other authorities in England, except in one of the two following modes: either, first, by the existence of a free Press in this country and the establishment of newspapers in the different Districts under the special patronage of the Court of Directors and subject to the control of law only, or secondly by the appointment of a Commission composed of gentlemen of intelligence and respectability, totally unconnected with the governing body in this country, which may from time to time, investigate on the spot, the condition of your Majesty's faithful subjects, and judge with their own eyes regarding the operation of the systems of law and jurisprudence under which they live.

48th. But the immense labour required for surveying a country of such extent, and the great expense that would be necessary to induce men of such reputation and ability as manifestly to qualify them for the important task, to undertake a work of such difficulty, which must be frequently repeated, present great, if not insuperable obstacles to the introduction or efficacy of the latter mode of proceeding by Commission; from which your Majesty's faithful subjects therefore, do not entertain any sanguine expectations; unless your Majesty influenced by humane considera-

tions for the welfare of your subjects, were graciously pleased to enjoin its adoption from a conviction of its expediency whatever might be the expense attending it.

49th. The publication of truth and the natural expression of men's sentiments through the medium of the Press, entail no burden on the State, and should it appear to your Majesty and the enlightened men placed about your throne, that this precious privilege which is so essential to the well being of your faithful subjects, could not safely be entrusted to the natives of India, although they have given such unquestionable proofs of their loyalty and attachment, subject only to the restraints wisely imposed upon the Press by the laws of England, your faithful subjects entreat on behalf of their countrymen, that your Majesty will be graciously pleased to grant it, subject to such severer restraints and heavier penalties as may be deemed necessary; but legal restraints, not those of arbitrary power—and penalties to be inflicted after trial and conviction according to the forms of the laws of England,—not at the will and pleasure of one or two individuals without investigation or without hearing any defence or going through any of the forms prescribed by law, to ensure the equitable administration of justice.

50th. Notwithstanding the despotic power of the Moghul princes who formerly ruled over this country, and that their conduct was often cruel and arbitrary, yet the wise and virtuous among them,

always employed two intelligencers at the residence of their Nawabs or Lord Lieutenants, *Ukhbar-nuvees*, or news-writer who published an account of whatever happened, and a *Khoofeanuvees*, or confidential correspondent, who sent a private and particular account of every occurrence worthy of notice; and although these Lord Lieutenants were often particular friends or near relations to the prince, he did not trust entirely to themselves for a faithful and impartial report of their administration, and degraded them when they appeared to deserve it, either for their own faults or for their negligence in not checking the delinquencies of their subordinate officers; which shows, that even the Moghul princes, although their form of Government admitted of nothing better, were convinced, that in a country so rich and so replete with temptations, a restraint of some kind was absolutely necessary, to prevent the abuses that are so liable to flow from the possession of power.

51st. The country still abounds in wealth, and its inhabitants are still addicted to the same corrupt means of compassing their ends, to which from having long lived under arbitrary Government, they have become naturally habituated and if its present rulers have brought with them purer principles from the land of their birth which may better withstand the influence of long residence amid the numerous temptations to which they are exposed;—on the other hand, from the seat of the Supreme Government being placed at an immense distance and

the channel of communication entirely in their own hands, they are left more at liberty to follow their own interests, and looking forward to the quiet and secure enjoyment of their wealth in their native land, they may care little for the character they leave behind them in a remote country, among a people for whose opinion they have no regard. Your Majesty's faithful subjects therefore, humbly presume, that the existence of a restraint of some kind, is absolutely necessary to preserve your faithful subjects from the abuses of uncontrolled power.

52nd. That your Majesty may be convinced, that your faithful subjects do not allude merely to possible abuses, or point out only theoretical defects in established systems, they beg leave to call your Majesty's attention to the observations contained in a number of a most respectable Baptist Missionary works, the accuracy of which, although it has now been two years* in circulation, in all parts of India, not one of the numerous civil servants of the Honourable Company, has ventured to dispute nor have the flagrant abuses it points out, been remedied.

53rd. It might be urged on the other hand, that persons who feel aggrieved, may transmit representations to the Court of Directors, and thus obtain redress; but the natives of this country are generally ignorant of this mode of proceeding; and with neither friends in England nor knowledge of

* No IV. Quarterly series of the Friend of India, published in Dec. 1821.

the country, they could entertain no hope of success, since they know that the transmission of their representations, depends in point of time, upon the pleasure of the local Government, which will probably, in order to counteract their influence, accompany them with observations, the nature of which would be totally unknown to the complainants,—discouragements which in fact have operated as complete preventives, so that no instance of such a representation from the natives of Bengal, has ever been known.

54th. In conclusion, your Majesty's faithful subjects humbly beseech your Majesty, first, to cause the Rule and Ordinance and Regulation before mentioned, which has been registered by the Judge of your Majesty's Court, to be rescinded; and to prohibit any authority in this country, from assuming the legislative power, or prerogatives of your Majesty and the High Council of the Realm, to narrow the privileges and destroy the rights of your Majesty's faithful subjects, who claim your protection, and are willing to submit to such laws, as your Majesty with the advice of your Council, shall be graciously pleased to enact.

Secondly, your Majesty's faithful subjects humbly pray, that your Majesty will be pleased to confirm to them the privilege, they have so long enjoyed, of expressing their sentiments through the medium of the Press, subject to such legal restraints as may be thought necessary, or that your Majesty will be graciously pleased to appoint a Commission of intelligent and independent gentlemen, to inquire into the

real condition of the millions Providence has placed under your high protection.

55th. Your Majesty's faithful subjects from the distance of almost half the globe, appeal to your Majesty's heart by the sympathy which forms a paternal tie between you and the lowest of your subjects, not to overlook their condition ; they appeal to you by the honour of that great nation which under your Royal auspices has obtained the glorious title of Liberator of Europe, not to permit the possibility of millions of your subjects being wantonly trampled on and oppressed ; they lastly appeal to you by the glory of your Crown on which the eyes of the world are fixed, not to consign the natives of India, to perpetual oppression and degradation.

ENGLISH EDUCATION IN INDIA

Ram Mohun Roy may be said to be the pioneer of English education in India. In 1823 the Government of India appointed a Committee to report on the best means of encouraging education. Upon the recommendation of that Committee a college was established for the teaching of Sanskrit. Ram Mohun Roy protested against the establishment of a Sanskrit College and demanded instead that the College might be utilised for imparting "a liberal and enlightened system of instruction embracing Mathematics, Natural Philosophy, Chemistry, Anatomy and other useful sciences" through the medium of English. In the following letter to Lord Amherst, the then Governor-General Ram Mohun protested against the Government's policy of Oriental Education and set forth the advantages that would follow from the introduction of English education in this country.

MY LORD, Humbly reluctant as the Natives of India are to obtrude upon the notice of Government the sentiment they entertain on any public measure, there are circumstances when silence would be carrying this respectful feeling to culpable excess. The present Rulers of India, coming from a distance of many thousand miles to govern a people whose language, literature, manners, customs, and ideas, are almost entirely new and strange to them, cannot easily become so intimately acquainted with

their real circumstances as the natives of the country are themselves. We should therefore be guilty of a gross dereliction of duty to ourselves and afford our rulers just grounds of complaint at our apathy, did we omit on occasions of importance like the present, to supply them with such accurate information as might enable them to devise and adopt measures calculated to be beneficial to the country, and thus second by our local knowledge and experience their declared benevolent intentions for its improvement.

The establishment of a new Sanskrit School in Calcutta evinces the laudable desire of Government to improve the Natives of India by education,—a blessing for which they must ever be grateful, and every well-wisher of the human race must be desirous that the efforts made to promote it, should be guided by the most enlightened principles, so that the stream of intelligence may flow in the most useful channels.

When this seminary of learning was proposed, we understood that the Government in England had ordered a considerable sum of money to be annually devoted to the instruction of its Indian subjects. We were filled with sanguine hopes that this sum would be laid out in employing European gentlemen of talent and education to instruct the natives of India in Mathematics, Natural Philosophy, Chemistry, Anatomy, and other useful sciences, which the natives of Europe have carried to a degree of perfection that has raised them above the inhabitants of other parts of the world.

While we looked forward with pleasing hope to the dawn of knowledge, thus promised to the rising generation, our hearts were filled with mingled feelings of delight and gratitude, we already offered up thanks to Providence for inspiring the most generous and enlightened nations of the West with the glorious ambition of planting in Asia the arts and sciences of Modern Europe.

We find that the Government are establishing a Sanskrit school under Hindu Pundits to impart such knowledge as is already current in India. This seminary (similar in character to those which existed in Europe before the time of Lord Bacon) can only be expected to load the minds of youth with grammatical niceties and metaphysical distinctions of little or no practical use to the possessors or to society. The pupils will there acquire what was known two thousand years ago with the addition of vain and empty subtleties since then produced by speculative men, such as is already commonly taught in all parts of India.

The Sanskrit language, so difficult that almost a life time is necessary for its acquisition, is well-known to have been for ages a lamentable check to the diffusion of knowledge, and the learning concealed under this almost impervious veil, is far from sufficient to reward the labour of acquiring it. But if it were thought necessary to perpetuate this language for the sake of the portion of valuable information it contains, this might be much more easily accomplished by other means

than the establishment of a new Sanskrit College, for there have been always and are now numerous professors of Sanskrit in the different parts of the country engaged in teaching this language, as well as the other branches of literature which are to be the object of the new seminary. Therefore their more diligent cultivation, if desirable, would be effectually promoted, by holding out premiums and granting certain allowances to their most eminent professors, who have already undertaken on their own account to teach them, and would, by such rewards, be stimulated to still greater exertion.

From these considerations, as the sum set apart for the instruction of the Natives of India was intended by the Government in England for the improvement of its Indian subjects, I beg leave to state, with due deference to your Lordship's exalted situation, that if the plan now adopted be followed, it will completely defeat the object proposed, since no improvement can be expected from inducing young men to consume a dozen of years of the most valuable period of their lives, in acquiring the niceties of Vyākarna or Sanskrit Grammar, for instance, in learning to discuss such points as the following: *khada*, signifying to eat, *khadati* he or she or it eats, whether does *khadati* taken as a whole convey the meaning he or she or it eats, or are separate parts of this meaning conveyed by distinctions of the words, as if in the English language it were asked how much meaning is there in the *eat* and how much

in the *s*, and is the whole meaning of the word conveyed by these two portions of it distinctly or by them taken jointly?

Neither can much improvement arise from such speculations as the following which are the themes suggested by the Vedanta,—In what manner is the soul absorbed in the Deity? What relation does it bear to the Divine Essence? Nor will youths be fitted to be better members of society by the Vedantic doctrines which teach them to believe, that all visible things have no real existence, that as father, brother, &c. have no actual entity, they consequently deserve no real affection, and therefore the sooner we escape from them and leave the world the better.

Again, no essential benefit can be derived by the student of the *Mimamsa* from knowing what it is that makes the killer of a goat sinless by pronouncing certain passages of the Vedanta and what is the real nature and operative influence of passages of the Vedas. &c.

The student of the Nyaya Shastra cannot be said to have improved his mind after he has learned from it into how many ideal classes the objects in the universe are divided and what speculative relation, the soul bears to the body, the body to the soul, the eye to the ear, &c.

In order to enable your Lordship to appreciate the utility of encouraging such imaginary learning as above characterized, I beg your Lordship will be pleased to compare the state of science and literature

in Europe before the time of Lord Bacon with the progress of knowledge made since he wrote.

If it had been intended to keep the British nation in ignorance of real knowledge, the Baconian philosophy would not have been allowed to displace the system of the schoolmen which was the best calculated to perpetuate ignorance. In the same manner the Sanskrit system of education would be the best calculated to keep this country in darkness, if such had been the policy of the British legislature. But as the improvement of the native population is the object of the Government, it will consequently promote a more liberal and enlightened system of instruction, embracing Mathematics, Natural Philosophy, Chemistry, Anatomy, with other useful sciences, which may be accomplished with the sums proposed by employing a few gentlemen of talent and learning educated in Europe and providing a College furnished with necessary books, instruments and other apparatus.

In presenting this subject to your Lordship, I conceive myself discharging a solemn duty which I owe to my countrymen, and also to that enlightened sovereign and legislature who have extended their benevolent care to this distant land, actuated by a desire to improve the inhabitants, and therefore humbly trust you will excuse the liberty I have taken in thus expressing my sentiments to your Lordship.

RELIGIOUS TOLERATION

Ram Mohun's object in publishing this tract is to recommend those to whom it is addressed, to avoid using harsh or abusive language in their religious intercourse with European Missionaries. This like other controversial writings was published under the name Prasanna Kumar Thakoor, in the year 1823.

THOSE who firmly believe on the authority of the Vedas, that "God is ONE only without an equal," and that "He cannot be known either through the medium of language, thought, or vision: how can he be known except as existing, *the origin and support of the universe?*"—and who endeavour to regulate their conduct by the following precept, "He who is desirous of eternal happiness should regard another as he regards himself, and the happiness and misery of another as his own," ought to manifest the warmest affection towards such of their own countrymen as maintain the same faith and practice, even although they have not all studied the Vedas for themselves, but have professed a belief in God only through an acquaintance with their general design. Many among the ten classes of Sanyasees, and all the followers of Guru Nanak of Dadoo, and of Kabir, as well as of Suntu etc., profess the religious sentiments above mentioned. It is our unquestionable duty invariably to treat them as brethren. No doubt should be entertained of their future salvation,

merely because they receive instructions, and practise their sacred music; in the vernacular dialect. For Yagnavalkya, with a reference to those who cannot sing the Hymns of the Vedas, has said "The divine hymns *Rik*, *Gatha*, *Panika*, and *Dukshubihita* should be sung; because by their constant use man attains supreme beatitude." He who is skilled in playing on the lute (veena), who is intimately acquainted with the various tones and harmonies, and who is able to beat time in music, will enter without difficulty upon the road of salvation." Again the Shiva Dharma as quoted by Raghoonundan, says, "He is reputed a Guru who according to the capacity of his disciple instructs him in Sanskrit whether pure or corrupt, in the current language of the country, or by any other means."

Amongst foreigners, those Europeans who believe God to be in every sense ONE, and worship HIM ALONE in spirit, and who extend their benevolence to man as the highest service to God, should be regarded by us with affection, on the ground of the object of their worship being the same as ours. We should feel no reluctance to co-operate with them in religious * matters, merely because they consider Jesus Christ as the Messenger of God and their Spiritual Teacher; for oneness in the object of religious practice should produce attachment between the worshippers.

Amongst Europeans, those who believe Jesus Christ to be God himself, and conceive him to be

possessed of a particular form, and maintain Father, Son, and Holy Ghost to be one God, should not be treated in an unfriendly manner. On the contrary, we should act towards them in the same manner as we act towards those of our countrymen who, without forming any external image, meditate upon Rama and other supposed incarnations, and believe in their unity.

Again, those amongst Europeans who believing Jesus Christ to be Supreme Being moreover construct various images of him, should not be hated. On the contrary, it becomes us to act towards those Europeans in the same manner as we act towards such as believe Rama etc., to be incarnations of God, and form external images of them. For the religious principle of the two last mentioned sects of foreigners are one and the same with those of the two similar sects among Hindus, although they are clothed in a different garb.

When any belonging to the second and third classes of Europeans endeavour to make converts of us, the believers in the only living and true God, even then we should feel no resentment towards them, but rather compassion, on account of their blindness to the errors into which they themselves have fallen. Since it is almost impossible, as every day's experience teaches us, for men, when possessed of wealth and power, to perceive their own defects.

PROSPECTS OF CHRISTIANITY IN INDIA

The Rev. Henry Ware, of Harvard College, Cambridge (U. S. A.), a well-known Unitarian minister, addressed a series of questions to Ram Mohun Roy on the subject of the 'Prospects of Christianity and the Means of Promoting its Reception in India' to which Ram Mohun sent answers with the following covering letter. The letter is dated, Calcutta, February 2, 1824.

WITH no ordinary feelings of satisfaction I have the honour to acknowledge the receipt of your letter of April last, which together with the queries it enclosed, I had the pleasure of receiving from the hands of my friend Captain Heard. I now beg to be allowed, in the first place, to express my gratitude for your kind notice of a stranger like myself, residing in a remote country; and, secondly, to return my sincere thanks for the most acceptable present of books with which you have favoured me.

I should have answered your letter by the ship *Bengal*; but I regret to say, that my time and attention had been so much engrossed by constant controversies with polytheists both of the West and East, that I had only leisure to answer by that opportunity a short letter which I had the pleasure of receiving from Mr. Reed of Boston, and was obliged to defer a reply to your queries until the

present occasion. For this apparent neglect I have to request your pardon.

I have now prepared such replies to those questions as my knowledge authorizes and my conscience permits; and now submit them to your judgment. There is one question at the concluding part of your letter, (to wit, "Whether it be desirable that the inhabitants of India should be converted to Christianity; in what degree desirable, and for what reasons?") which I pause to answer, as I am led to believe, from reason, what is set forth in scripture, that "in every nation he that *feareth* God and worketh *righteousness* is accepted with him," in whatever form of worship he may have been taught to glorify God. Nevertheless, I presume to think, that Christianity, if properly inculcated, has a greater tendency to improve the moral, social, and political state of mankind, than any other known religious system.

It is impossible for me to describe the happiness I feel at the idea that so great a body of a free, enlightened, and powerful people, like your countrymen, have engaged in purifying the religion of Christ from those absurd, idolatrous doctrines and practices, with which the Greek, Roman, and Barbarian converts to Christianity have mingled it from time to time. Nothing can be a more acceptable homage to the Divine Majesty, or a better tribute to reason, than an attempt to root out the idea that Omnipresent Deity should be generated in the womb of a female.

and live in a state of subjugation for several years, and lastly offer his blood to another person of *the Godhead*, whose anger could not be appeased except by the sacrifice of a portion of himself in a human form ; so no service can be more advantageous to mankind than an endeavour to withdraw them from the belief than an imaginary faith, ritual observances, or outward marks, independently of good works, can cleanse men from the stain of past sins, and secure their eternal salvation.

Several able friends of truth in England have, in like manner, successfully engaged themselves in this most laudable undertaking. From the nature of her constitution, however, these worthy men have not only to contend with the religious prejudices of education in the popular corruption of Christianity ; but are also opposed by all the force which the Established Church derives from the abundant revenues appropriated to the sustainers of her dogmas. Happily for you, it is only prejudice, unarmed with wealth and power, that you have to struggle with, which, of itself, is, I must confess a sufficiently formidable opponent.

Your country, however, in free inquiry into religious truth, excels even England, and I have therefore every reason to hope that the truths of Christianity will soon throughout the United States, triumph over the present prevailing corruptions. I presume to say, that no native of those States can be more fervent than myself in praying for the uninterrupted happiness of your country, and for what I cannot but

deem essential to its prosperity—the perpetual union of all the States under one general government. Would not the glory of England soon be dimmed, were Scotland and Ireland separated from her? This and many other illustrations cannot have escaped your attention. I think no true and prudent friend of your country could wish to see the power and independence at present secured to all by a general government, exposed to the risk that would follow, were a dissolution to take place, and each state left to pursue its own individual interests, and maintain them from her own resources. As Captain Endicott has been kind enough to offer to take charge of any parcel that I might wish to send you, I have the pleasure of sending the accompanying publications, of which I beg your acceptance. I now conclude my letter with sincere wishes for your health and success, and remain, with the greatest regard.

REPLIES TO QUESTIONAIRE

“ I. *What is the real success of the great exertions which are making for the conversion of the natives of India to Christianity?* ”

II. *What is the number and character of converts?* ”

To reply to each of these questions is indeed to enter on a very delicate subject, as the Baptist Missionaries of Serampore determinedly contradict any one that may express a doubt as to the success of their labours; and they have repeatedly given the public to understand, that their converts were not only

numerous but also respectable in their conduct; while the young Baptist Missionaries in Calcutta, though not inferior to any Missionaries in India in abilities and acquirements, both European and Asiatic, nor in Christian zeal and exertions, are sincere enough to confess openly, that the number of their converts, after the hard labour of six years, does not exceed, *four*; and in like manner the Independent Missionaries of this city, whose resources are much greater than those of Baptists, candidly acknowledge, that their Missionary exertions for seven years have been productive only of *one convert*.

To avoid, however the occasion of a further dispute on this point with the Serampore Missionaries I beg to substitute for my answer to the above queries, the language of the Rev. Abbe Dubois, who, after a mission of thirty years in India, is better qualified than I am, to give a decided opinion upon these subjects, and whose opinions deserve more reliance than those of a private individual who has never engaged in Missionary duties. The quotation above alluded to is as follows.

“Question of conversion,—The question to be considered may be reduced to these two points; First, is there a possibility of making real converts to Christianity among the natives in India? Secondly, are the means employed for that purpose, and above all, the translation of the Holy Scriptures into the idioms of the country, likely to conduce to this desirable object?

“To both interrogatories I will answer in the negative: it is my decided opinion, first, that under existing circumstances there is no human possibility of converting the Hindus to any sect of Christianity; and, secondly, that the translation of the Holy Scriptures circulated among them, so far from conducing to this end, will, on the contrary, increase the prejudices of the natives against the Christian religion, and prove, in many respects, detrimental to it. These assertions, coming from a person of my profession, may to many appear bold and extraordinary: I will therefore support them by such arguments and proofs, as a long experience and practice in the career of proselytism have enabled me to adduce.

“When I was at Vellore, four years ago, in attendance on a numerous congregation living in that place, having been informed that the Lutheran Missionaries kept a Catechist or native religious teacher at that station on a salary of five pagôdas a month, I was led to suppose that they had numerous flock there; but I was not a little surprised, when on inquiry I found that the whole congregation consisted of only *three individuals*, namely *a drummer, a cook, and a horse-keeper*.

“In the meantime, do not suppose, that those thin congregations are wholly composed of converted pagans; at least half consists of Catholic apostates, who went over to the Lutheran sect in times of famine, or from other interested motives.

"It is uncommon on the coast to see natives who successively pass from one religion to another, according to their actual interest. In my last journey to Madras, I became acquainted with native converts, who regularly changed their religion twice a year, and who, for a long while, were in the habit of being six months Catholic and six months Protestant.

"Behold the Lutheran Mission, established in India more than a century ago; interrogate its Missionaries: ask them what were their successes during so long a period, and through what means were gained over the few proselytes they made. Ask them whether the interests of their sect are improving, or whether they are gaining ground, or whether their small numbers are not rather dwindling away?

"Behold the truly industrious, the unaffected and unassuming Moravian brethren: ask them how many converts they have made in India, during a stay of about seventy years, by preaching the Gospel in all its naked simplicity. They will candidly answer: Not one, not a single man.

"Behold the Nestorians in Travancore; interrogate them; ask them for an account of their success in the work of proselytism in these modern times; ask them whether they are gaining ground, and whether the interests of their ancient mode of worship is improving: they will reply, that so far from this being the case, their congregations, once so flourishing, amounting (according to Gibbon's account) to 200,000 souls, are now reduced to less

than an eighth of this number, and are daily diminishing.

“Behold the Baptist Missionaries at Serampore; inquire what are their scriptural successes on the shores of the Ganges; ask them whether those extremely incorrect versions, already obtained at an immense expense, have produced the sincere conversion of a single pagan; and I am persuaded, that, if they are asked an answer upon their honour and conscience, they will all reply in the negative.”

III. *Are those Hindus who profess Christianity respectable for their understanding, their morals, and their condition in life?*”

In answer to this query I must again beg to refer you to the above quotations from the Abbe Dubois. For my own part, I have no personal knowledge of any native converts respectable for their understanding, morals, and condition in life.

“IV. *Of what caste are they generally, and what effect has their profession of Christianity upon their standing?*”

It is reported, and universally believed by the native inhabitants, that the generality, if not all of them, are of low caste, and my acquaintance with the few of them I have met with has in a great degree confirmed me in this belief.

“V. *Are they Christians from inquiry and conviction, or from other motives?*”

The real motives of our actions are very difficult to be discovered. All that I can say on this subject

is, that several years ago there was a pretty prevalent report in this part of India, a native embracing Christianity should be remunerated for his loss of caste by the gift of five hundred rupees, with a country-born Christian woman as his wife; and while this report had any pretention to credit, several natives offered from time to time to become Christians. The hope of any such recompense being taken away, the old converts find now very few natives inclined to follow their example. This disappointment not only discourages further conversion, but has also induced several Mussalman converts to return to their former faith; and had Hindus with equal facility admitted the return of outcasts to their society, a great number of them also would, I suspect, have imitated the conduct of their brother Mussalman converts. In a populous country like Hindustan, there are thousands of distressed outcasts wandering about, in whom the smallest hope of worldly gain can produce an immediate change of religious profession, and their conversion to Christianity is a matter of indifference to the community at large. About two years ago I stated this circumstance to a Church Missionary who lives in my neighbourhood, and whom I respect for his liberal conduct; and I even offered to send to that gentleman as many natives as he might wish to convert on condition that he should maintain them at a fixed salary not exceeding eight rupees per month.

“ VI. Of what denomination of Christians have the Missionaries been most successful ; Catholic, Protestant, Episcopalian, Baptist, Trinitarian, Unitarian ? ”

To the best of my belief no denomination of Christians has had any real success in bringing natives of India over to the Christian faith.

“ VII. What is the number of Unitarian Christians, and are they chiefly natives or Europeans ? ”

The Rev. Mr. Adam is the only Unitarian Missionary in Bengal, and he publicly avowed Unitarianism so late as the latter end of 1821. Notwithstanding the many disadvantages under which he has been labouring, he has brought this system of Christianity into notice in this part of the globe ; as previous to that period many did not know that there was such a thing as Unitarianism, and others tried to stigmatize it, in proportion as their prejudices for the corruptions of Christianity prompted them to abuse reason and common sense, without fear of contradiction. Mr. Adam, although he has made no avowed native convert, has already received every countenance from several respectable European gentlemen, and from a great number of the reading part of the native community in Calcutta.

“ VIII. How are they regarded and treated by other Christians ? Is it with any peculiar hostility ? ”

The manner in which the rest of the Missionaries have treated Mr. Adam, since his avowal of Unitaria-

nism is indeed opposed to the whole spirit of Christianity. But towards other Unitarians, their conduct in general is similar to that of Roman Catholics towards Protestants.

“IX. *What are the chief causes that have prevented, and that continue to prevent, the reception of Christianity by the natives of India? May such of the want of success be reasonably attributed to the form in which the religion is presented to them?*”

The chief causes which prevent the natives of India from changing their religion are the same as are found in the numerous class of Christians who are unable to give an answer to any man that asketh the reason of the hope they profess, *viz.*, their reliance on the sanctity of the books received among them as revealed authorities, and the variety of prejudices planted in their minds in the early part of life. These are strongly supported by the dread of the loss of caste, the consequence of apostacy, which separates a husband from his wife, a father from his son, and a mother from her son, and a mother from her daughter. Besides, the doctrines which the Missionaries maintain and preach are less conformable with reason than those professed by Mussalmans, and in several points are equally absurd with the popular Hindu creed. Hence there is no rational inducement for either of these tribes to lay aside their respective doctrines, and adopt those held up by the generality of Christians.

“X. *Are any of the causes of failure of such a nature, that it may be in the power of Unitarian Christianity to remove them ?*”

Unitarian Christianity is not exposed to the last mentioned objections ; for even those who are inimical to every religion admit, that the Unitarian system is more conformable to the human understanding than any other known creed. But the other obstacles above-mentioned must remain unshaken until the natives are enabled by the diffusion of knowledge to estimate, by comparing one religion with another, their respective merits and advantages, and to relinquish their divisions, as destructive of national union as of social enjoyment.

“XI. *Are there any reasons for believing that Christianity, as it is held by Unitarians, would be more readily received by intelligent Hindus, than as it is held by Trinitarians ?*”

In reply to this question, I repeat what I stated in answer to a question of a similar nature, put to me by Mr. Reed, a gentleman of Boston, *viz.*, “The natives of Hindustan, in common with those of other countries, are divided into two classes, the ignorant and the enlightened. The number of the latter is, I am sorry to say, comparatively very few here : and to these men the idea of a triune-God, a man-God, and also the idea of the appearance of God in the bodily shape of a dove, or that of the blood of God shed for the payment of a debt, seem entirely Heathenish and absurd, and consequently their sincere conversion to

Trinitarian Christianity must be morally impossible. But they would not scruple to embrace, or at least to encourage the Unitarian system of Christianity, were it inculcated on them in an intelligible manner. The former class, I mean the ignorant, must be enemies to both systems of Christianity, Trinitarianism and Unitarianism. As they feel great reluctance in forsaking the deities worshipped by their fathers for foreign Gods, in substituting the blood of God for the water of the Ganges as a purifying substance, so the idea of an invisible Being as the sole object of worship, maintained by Unitarians, is foreign to their understanding. Under these circumstances it would be advisable, in my humble opinion, that one or two, if not more gentlemen, well qualified to teach English literature and science, and noted for their moral conduct, should be employed to cultivate the understandings of the present ignorant generation, and thereby improve their hearts, that the cause of truth may triumph over false religion, and the desired comfort and happiness may be enjoyed by men of all classes."

"XII. *Can any aid be given by Unitarians to the cause of Christianity in India, with a reasonable prospect of success? If any can be given, of what kind, in what way, by what means?*"

In answer, I beg to refer you to my reply to the preceding question, and only add here, that every one who interests himself on behalf of his fellow-creatures, would confidently anticipate the approaching triumph of true religion, should philanthropy induce you and

your friends to send to Bengal as many serious and able teachers of European learning and science and Christian morality, unmingled with religious doctrines, as your circumstances may admit, to spread knowledge gratuitously among the native community, in connection with the Rev. Mr. Adam whose thorough acquaintance with the language, manners, and prejudices of the natives, renders him well qualified to co-operate with them with every prospect of success.

“XIII. Would it be of any use to send Unitarian Missionaries with a view to their preaching Christianity for the purpose of converting adult natives?”

Much good cannot be expected from public preachings at present, on account of the obstacles above-mentioned. It is, however, hoped, that some of the teachers that may be sent out may preach with gradual success.

“XIV. Would it be useful to establish Unitarian Missionary Schools for the instruction of the children of natives in the rudiments of a European education, in the English language, in Christian morality, mingling with it very little instruction relative to the doctrines of Christianity, leaving them chiefly or wholly out of view, to be learned afterwards from our books and our example?”

This would be certainly of great use, and this is the only way of improving their understandings, and ultimately ameliorating their hearts.

"XV. Are there many intelligent natives who are willing to learn the languages of Europe, to cultivate its literature, and to make themselves acquainted with our religion as it is found in our books, and to examine the evidences of its truth and divine origin?"

There are numerous intelligent natives, who thirst after European knowledge and literature, but not many who wish to be made acquainted with the Christian religion and to examine its truth, being chiefly deterred by the difficulty (if not utter impossibility) attached to the acquirement of a correct notion of the tremendous mystical doctrines which the Missionaries ascribe to their religion.

"XVI. Are there many respectable natives who are willing to have their children educated in the English language and in English learning and arts?"

The desire of educating children in the English language and in English arts is found even in the lowest classes of the community, and I may be fully justified in saying that two-thirds of the native population of Bengal would be exceedingly glad to see their children educated in English learning.

"XVII. What benefits have arisen, or are likely to arise, from the translation of the Scriptures into the native languages of the East? Are they read by any who are not already Christians? And are they likely to be read generally even by them? The question is-

suggested by the representations which have been made, that converts to Christianity are mostly, if not altogether, of the lowest and most ignorant classes of society. Is this representation true?"

To the best of my knowledge, no benefit has hitherto arisen from the translation of the Scriptures into the languages of the East, nor can any advantage be expected from the translations in circulation; they are not read much by those that are not Christians except by a few whom the Missionaries represent as being "led away by Socinian principles." As to the character of the converts to Christianity, you will please refer to the replies to the first, second, third, and fourth queries.

"XVIII. Will any important impression, favourable to Christianity, ever be made, except by the conversion and through the influence of persons of education, and of the higher classes of society who can read our sacred books in the original, or at least in the English version?"

Christianity, when represented in its genuine sense in any language whatever, must make a strong impression on every intelligent mind, especially when introduced by persons of education and respectability.

"XIX. Are the translations which have been made faithful and free from sectarian influence as to the expression of Christian doctrines?"

To both parts of this query my reply must be in the negative. I at the same time acquit these trans-

lators of wilful neglect or intentional perversion. They were, I think, too hasty to engage themselves in so difficult an undertaking.

Ideas, in general, are as differently expressed in the idioms of the East from those of the West, as the East is remote from the West. Greater difficulty, therefore, must be experienced by a native of Europe in communicating European ideas in the idioms of Asia, than in conveying Asiatic ideas into the languages of Europe ; so a native of Asia experiences greater inconvenience in expressing Asiatic ideas in European idioms, than in translating European ideas into an Asiatic language.

About four years ago, the Rev. Mr. Adam, and another Baptist Missionary, the Rev. Mr. Yates, both well-reputed for their Oriental and classic acquirements, engaged, in common with myself, to translate the New Testament into Bengalee, and we met twice every week, and had for our guidance all the translations of the Bible, by different authors, which we could procure. Notwithstanding our exertions, we were obliged to leave the accurate translation of several phrases to future consideration, and for my own part I felt discontented with the translation, adopted of several passages, though I tried frequently, when alone at home, to select more eligible expressions, and applied to natives for their aid for that purpose. I beg to assure you, that I (though a native of this country) do not recollect having engaged myself once, during my life, in so

difficult a task, as the translation of the New Testament into Bengalee.

“XX. Are there any particular parts of India or of the East, where efforts for propagating Christianity, or preparing the way for it, might be made with better hopes than in others?”

Calcutta, the capital of the British Empire in India, where the natives are more conversant with English, and frequently associate with European gentlemen, is in my humble opinion, preferable as a field for such efforts to the rest of Hindustan, as the native inhabitants of Bengal, in a great degree, follow the example of the opulent natives of Calcutta.

RIGHTS OF A HINDU OVER ANCESTRAL PROPERTY

This Essay on the "Rights of a Hindu over Ancestral Property according to the Law of Bengal" was written in 1830. It vindicates the right of a Bengalee to alienate even ancestral property. Ram Mohun Roy supplemented this tract with several letters to newspapers on the subject of the administration of Hindu Law.

INDIA, like other large Empires, is divided into several extensive Provinces, principally inhabited by Hindus and Mussalmans. The latter admit but a small degree of variety in their domestic and religious usages, while the Hindus of each province, particularly those of Bengal, are distinguished by peculiarities of dialect, habits, dress, and forms of worship; and notwithstanding they unanimously consider their ancient legislators as inspired writers, collectively revealing human duties, nevertheless there exist manifest discrepancies among them in the received precepts of Civil Law.

2. When we examine the language spoken in Bengal, we find it widely different from that of any part of the Western provinces (though both derived from the same origin), so that the inhabitants of the upper country require long residence to understand the dialect of Bengal; and although numbers of the natives of the upper provinces, residing in Bengal, in

various occupations, have seemingly familiarized themselves to the Bengalees, yet the former are imperfectly understood, and distantly associated with by the latter. The languages of Tellingana and other provinces of the Deccan not being of Sanskrit origin, are still more strikingly different from the language of the upper provinces. The variety observable in their respective habits, and forms of dress and of worship is by no means less striking than that of their respective languages, as must be sufficiently apparent in ordinary intercourse with these people.

3. As to the rules of Civil Law, similar differences have always existed. The *Dayabhaga*, a work by Jeemootavahan, treating of inheritance, has been regarded by the natives of Bengal as of authority paramount to the rest of the digests of the sacred authorities: while the *Mitakshara*, by Vignaneshwar, is upheld, in like manner, throughout the upper provinces, and a great part of the Deccan. The natives of Bengal and those of the upper provinces believe alike in the sacred and authoritative character of the writings of Manu, and of the other legislating saints; but the former receive those precepts according to the interpretation given them by Jeemootavahan, while the latter rely on the explanation of them by Vignaneshwar. The more modern author, Jeemootavahan, has often found occasion to differ from the other in interpreting sacred passages according to his own views, most frequently supported by sound reasoning; and there have been thus created

everlasting dissensions among their respective adherents, particularly with regard to the law of inheritance.*

4. An European reader will not be surprised at the differences I allude to, when he observes the discrepancies existing between the Greek, Armenian, Catholic, Protestant, and Baptist Churches, who, though they all appeal to the same authority, materially differ from each other in many practical points, owing to the different interpretations given to passages of the Bible by the commentators they respectively follow.

5. For further elucidation I here quote a few remarks from the preface to the translation of the *Dayabhaga*, and of a part of the *Mitakshara*, by Mr. Colebrooke, well-known in the literary world, which are as follows: "It, (the present volume) comprehends the celebrated treatise of Jeemootvahan on succession, which is constantly cited by the lawyers of Bengal, under the emphatic title of *Dayabhaga*, or 'inheritance'; and an extract from the still more celebrated *Mitakshara*, comprising so much of this work as relates to inheritance. The range of its authority and influence is far more extensive than that of Jeemootvahan's treatise, for it is received in all the schools of Hindu law, from Benares to the southern extremity of the peninsula of India, as the chief groundwork of the doctrines which they follow,

* Of eighteen Treatises on various branches of Hindu Law, written by Jeemootvahan, that on Inheritance alone is now generally to be met with.

and as an authority from which they follow, and as an authority from which they rarely dissent." The Bengal school alone, having taken for its guide Jeemootvahan's treatise, which is, on almost every disputed point, opposite in doctrine to the *Mitakshara*, has no deference for its authority. But (between the *Dayabhaga* and the abridgments of its doctrines) the preference appeared to be decidedly due to the treatise of Jeemootvahan himself, as well because he was the founder of this school, being the author of the doctrine which it has adopted, as because the subjects which he discusses, are treated by him with eminent ability and great precision." The following is a saying current among the learned of Bengal, confirming the opinion offered by Mr. Colebrooke :

व्यवस्था द्विविधा प्रोक्ता दायभागमतामता ।

दायभागविरुद्धा या मता न बुधसम्मता ॥

"Opinions are said to be of two kinds, one founded on the authority of the *Dayabhaga*, and the other opposed to it ; (but) what is opposed to the *Dayabhaga* is not approved of by the learned."

6. From a regard for the usages of the country, the practice of the British Courts in Bengal, as far as relates to the law of inheritance, has been hitherto consistent with the principles laid down in the *Dayabhaga*, and judgments have accordingly been given on its authority in many most important cases, in which it differs materially from the *Mitakshara*. I

notice a few important cases of frequent occurrence, which have been fully discussed, and invariably decided by the judicial tribunals in Bengal, in conformity with the doctrines of Jeemootvahan.

First. If a member of an undivided family dies, leaving no male issue, his widow shall not be entitled to her husband's share, according to the *Mitakshara*: but according to the *Dayabhaga*, she shall inherit such undivided portion.*

Second. A childless widow, inheriting the property of her deceased husband, is authorized to dispose of it, according to the *Mitakshara*: but according to the *Dayabhaga*, she is not entitled to sell or give it away.†

* *Mitakshara*, Ch. II. Sec. i. Article 39. "Therefore it is a settled rule, that a wedded wife, being chaste, takes the whole estate of a man, who, being separated from his co-heirs and not subsequently reunited with them, dies leaving no male issue."

Dayabhaga. Ch. XI. Sec. i, Art. 43. "But, on failure of heirs down to the son's grandson, the wife, being inferior in pretensions to sons and the rest, because she performs acts spiritually beneficial to her husband from the date of her widowhood, [and not, like them, from the moment of their birth,] succeeds to the estate in their default."

Ditto ditto, Art. 19. "Some reconcile the contradiction, by saying, that the preferable right of the brother supposes him either to be not separated or to be reunited; and the widow's right of succession is relative to the estate of one who was separated from his co-heirs, and not reunited with them. (Art. 20.) That is contrary to a passage of Vrihaspati."

† *Mitakshara*, Ch. II. Sec. xi. Art. 2. "That, which was given by the father, mother, by the husband, or by a brother; and that, which was presented [to the bride] by the maternal uncles and the rest [as paternal uncles, maternal aunts, &c.] at the time of the wedding, before the nuptial fire; and a gift on a second marriage, or gratuity on account of supersession, as will be subsequently explained, (To a woman whose husband marries a second wife, let him give an equal sum as a compensation for the supersession.) And also property which she may

Third. If a man dies, leaving one daughter having issue, and another without issue, the latter shall inherit the property* left by her father, according to the *Mitakshara*; while the former shall receive it, according to the *Dayabhaga*.

Fourth. If a man dies without issue of brothers, leaving a sister's son and a paternal uncle, the latter is entitled to the property, according to the *Mitakshara*; and the former, according to the *Dayabhaga*.†

Fifth. A man, having a share of undivided real property, is not authorized to make a sale or gift of it without the consent of the rest of his partners, ac-

have acquired by inheritance, purchase, partition, seizure, or finding, are denominated by Manu, and the rest, *woman's property*."

Dayabhaga, Ch. XI. Sec. i. Art. 56. "But the wife must only enjoy her husband's estate after his demise. She is not entitled to make a gift, mortgage, or sale of it."

* *Mitakshara*, Ch. II. Sec. ii. Art. 4. "If the competition be between an unprovided and an enriched daughter, *the unprovided one inherits*; but, on failure of such, the enriched one succeeds," &c. Ch. II. Sec. xi. Art. 13. "Unprovided are such as are destitute of wealth or without issue." Hence a provided or enriched one, is such as has riches or issue.

Dayabhaga, Ch. XI. Sec. ii. Art. 3. "Therefore, the doctrine should be respected, which Dikshita maintains, namely, that a daughter who is *mother of a male issue*, or who is *likely to become so*, is competent to inherit, not one, who is a widow, or is barren, or fails in bearing male issue, or bearing none but daughter, or from some other cause."

† *Mitakshara*, Ch. II. Sec. v. (beginning with the phrase, "If there be not even brother's sons, &c.") Art. 4. "Here, on failure of the father's descendants [including father's son and grandsons.] the heirs are successively the paternal grandmother, the paternal grandfather, *the uncles and their sons*."

Dayabhaga, Ch. XI. Sec. vi. Art. 8. "But, on failure of heirs of the father down to the great-grandson, it must be understood, that the succession devolves on the *father's daughter's son*, [in preference to the uncle.]"

according to the *Mitakshara*; but according to the *Dayabhaga*, he can dispose of it at his free will.*

Sixth. A man in possession of ancestral real property, though not under any tenure limiting it to the successive generations of his family, is not authorized to dispose of it, by sale or gift, without the consent of his sons and grandsons, according to the *Mitakshara*; while, according to the *Mitakshara*, he has the power to alienate the property at his free will.†

* *Mitakshara*, Ch. I. Sec. i. Art. 30. "The following passage, 'separated kinsmen, as those who are unseparated, are equal in respect of immovables, for one has not power over the whole, to make a gift, sale or mortgage,' must be thus interpreted: among unseparated kinsmen, the consent of all is indispensably requisite, because no one is fully empowered to make an alienation, since the estate is in common; but, among separated kindred, the consent of all tends to the facility of the transaction, by obviating any future doubt, whether they be separate or united; it is not required on account of any want of sufficient power in the single owner, and a transaction is consequently valid even without the consent of separated kinsmen."

Dayabhaga, Ch. II. Sec. xxvii. "For here also [in the very instance of land held in common] as in the case of other goods, equally exists a property consisting in the power of disposal at pleasure."

† *Mitakshara*, Ch. I. Sec. i. Art. 27. "Therefore. it is a settled point, that property, in the paternal or ancestral estate, is, by birth, (although) the father have independent power in the disposal of effects other than immovables, for indispensable acts of duty, and for purposes prescribed by text of law, as gift through affection, support of the family, relief from distress, and so forth; but he is subject to the control of his sons and these rest, in regard to the immoveable estate, whether acquired by himself or inherited from his father or other predecessor; since it is ordained, 'Though immovables or bipeds have been acquired by a man himself, a gift or sale of them should not be made without convening all the sons. They are born, and they who are yet unbegotten, and they who are still in the womb, require the means of support: no gift or sale should therefore be made.'"

Ditto, Ch. I. Sec. v. Art. 10. "Consequently, the difference is this; although he may have a right by birth in his father's and

7. Numerous precedents in the decision of the Civil Courts in Bengal, and confirmation on appeal by the King in Council, clearly show that the exposition of the law by the author of the *Dayabhaga*, as to the last mentioned point, so far from being regarded as a dead letter, has been equally, as in other points, recognized and adopted by the judicial authorities both here and in England. The consequence has been, that in the transfer of immovable property the natives of Bengal have hitherto firmly relied on those judicial decisions as confirming the ancient usages of the country, and that large sums of money have consequently been laid out in purchase of land without reference to any distinction between acquired and ancestral property.

8. Opinions have been advanced for some time past, in opposition to the rule laid down in the *Dayabhaga*, authorizing a father to make a sale or gift of ancestral property, without the consent of his sons and grandsons. But these adverse notions created little or no alarm; since, however individual opinions

in his grandfather's property, still, since he is dependent on his father, in regard to the paternal estate, and since the father has a predominant interest, as it was acquired by himself, the son must acquiesce in the father's disposal of his own acquired property; but, since both have indiscriminately a right in the grandfather's estate, the son has a power of interdiction [if the father be dissipating the property.]”

Dayabhaga, Ch. II. See. xxviii. “But the texts of Vyasa, exhibiting a prohibition are intended to show a moral offence, since the family is distressed by sale, gift, or other transfer, which argues a disposition in the person to make an ill use of his power as owner. They are not meant to invalidate the sale or other transfer.” Ditto, Sec. xxvi, and Sec. xlvi.

may run, the general principles followed by every Government are entirely at variance with the practice of groundlessly abrogating, by arbitrary decision, such Civil Laws of a conquered country as have been clearly and imperatively set forth in a most authoritative code, long adhered to by the natives, and repeatedly confirmed, for upwards of half a century, by the judicial officers of the conquerors. But the people are now struck with a mingled feeling of surprise and alarm, on being given to understand that the Supreme Law Authority in this country, though not without dissent on the Bench, is resolved to introduce new maxims into the law of inheritance hitherto in force in the province of Bengal; and has, accordingly, in conformity with the doctrines found in the *Mitakshara*, declared every disposition by a father of his ancestral real property, without the sanction of his sons and grandsons, to be null and void.

9. We are at a loss how to reconcile the introduction of this arbitrary change in the law of inheritance with the principles of justice, with reason, or with regard for the future prosperity of the country. It appears inconsistent with the principles of justice; because a judge, although he is obliged to consult his own understanding, in interpreting the law in many dubious cases submitted to his decision, yet is required to observe strict adherence to the established law, where its language is clear. In every country, rules determining the rights of succession to, and alienation of property, first originated either in the conventional

choice of the people, or in the discretion of the highest authority, secular or spiritual; and those rules have been subsequently established by the common usages of the country, and confirmed by judicial proceedings. The principles of the law as it exists in Bengal having been for ages familiar to the people, and alienations of landed property by sale, gift, mortgage, or succession having been for centuries conducted in reliance on the legality and perpetuity of the system, a sudden change in the most essential part of those rules cannot but be severely felt by the community at large; and alienations being thus subjected to legal contests, the courts will be filled with suitors, and ruin must triumph over the welfare of a vast proportion of those who have their chief interest in landed property.

10. Mr. Colebrooke justly observes, in his Preface to the translation of the *Dayabhaga*, that "The rules of succession to property, being in their nature arbitrary, are in all systems of law merely conventional. Admitting even that the succession of the offspring to the parent is so obvious as almost to present a natural and universal law, yet this very first rule is so variously modified by the usages of different nations, that its application at least must be acknowledged to be founded on consent rather than on reasoning. In the laws of one people the rights of primogeniture are established; in those of another the equal succession of all the male offspring prevails; while the rest allow the participation of the female with the male issue, some in equal, other in unequal

proportions. Succession by right of representation, and the claim of descendants to inherit in the order of proximity, have been respectively established in various nations, according to the degree of favour with which they have viewed those opposite pretensions. Proceeding from lineal to collateral succession, the diversity of laws prevailing among different nations, is yet greater, and still more forcibly argues the arbitrariness of the rules."

11. We are at a loss how to reconcile this arbitrary change with reason; because, any being capable of reasoning would not, I think, countenance the investiture, in one person, of the power of legislation with the office of judge. In every civilized country, rules and codes are found proceeding from one authority, and their execution left to another. Experience shows that unchecked power often leads the best men wrong, and produces general mischief.

12. We are unable to reconcile this arbitrary change with regard for the future prosperity of the country; because the law now proposed, preventing a father from the disposal of ancestral property, without the consent of his son and grandson, would immediately, as I observed before, subject all past transfers of land to legal contest, and would at once render this large and fertile province a scene of confusion and misery. Besides, Bengal has been always remarkable for riches, inso-much as to have been styled by her Muhammadan conquerors "Junnutoolbelad," or paradise of regions;

during the British occupation of India especially, she has been manifoldly prosperous. Any one possessed of landed property, whether self-acquired or ancestral, has been able, under the long established law of the land, to procure easily, on the credit of that property, loans of money to lay out on the improvement of his estate, in trade or in manufactures, whereby he enriches himself and his family and benefits the country. Were the change which it is threatened to introduce into the law of inheritance to be sanctioned, and the privilege of disposing of ancestral property (though not entailed) without the consent of heirs be denied to landholders, they being incapacitated from a disposal of the property in their actual possession would naturally lose the credit they at present enjoy, and be compelled to confine their concerns to the extent of their actual savings from their income; the consequence would be, that a great majority of them would unavoidably curtail their respective establishments, much more their luxuries, a circumstance which would virtually impede the progress of foreign and domestic commerce. Is there any good policy in reducing the natives of Bengal to that degree of poverty which has fallen upon a great part of the upper provinces, owing, in some measure, to the wretched restrictions laid down in the *Mitakshara*, their standard law of inheritance? Do Britons experience any inconvenience or disadvantage owing to the differences of legal institutions between England and Scotland, or between one

county of England and another? What would Englishmen say, were the Court of King's Bench to adopt the law of Scotland, as the foundation of their decisions regarding legitimacy, or of Kent, in questions of inheritance? Every liberal politician will, I think, coincide with me, when I say that in proportion as a dependent kingdom approximates to her guardian country in manners, in statutes, in religion, and in social and domestic usages, their reciprocal relation flourishes, and their mutual affection increases.

13. It is said that the change proposed has forced itself on the notice of the Bench upon the following premises:—

1st. Certain writings such as the institutes of Manu and of others, esteemed as sacred by Hindus, are the foundation of their law of inheritance. 2ndly. That Jeemootvahan, the author of the *Dayabhaga*, is but a commentator on those writings. 3rdly. That from these circumstances, such part of the commentary by Jeemootvahan as gives validity to a sale or gift by a father of his ancestral immovables, with the consent of his son and grandson, being obviously at variance with sacred precepts found on the same subject, should be rejected, and all sales or gifts of the kind be annulled.

14. I agree to the first assertion, that certain writings received by Hindus as sacred, are the origin of the Hindu law of inheritance, but with this modification, that the writings supposed to be sacred are only, when consistent with sound reasoning, consider-

ed as imperative, as Manu plainly declares: "He *alone* comprehends the system of duties, religious and civil, who can reason, by rules of logic, agreeably to the Veda, on the general heads of that system as revealed by the holy sages." Ch. xii. v. 106. Vrihaspati. "Let no one found conclusions on the mere words of Shastras: from investigations without reason, religious virtue is lost."* As to the second position, I first beg to ask, whether or not it be meant by Jeemootvahan's being styled a *commentator* that he wrote commentaries upon all or any of those sacred institutes. The fact is, that no one of those sacred institutes bears his comment. Should it be meant that the author of the *Dayabhaga* was so far a commentator, that he culled passages from different sacred institutes, touching every particular subject, and examining their purport separately and collectively, and weighing the sense deducible from the context, has offered that opinion on the subject which appeared to agree best with the series of passages cited collectively, and that when he has found one passage apparently at variance with another, he has laid stress upon that which seemed the more reasonable and more conformable to the general tenor, giving the other an interpretation of a subordinate nature, I readily concur in giving him the title of a commentator, though the word expounder would be

* केवलं शास्त्रमाश्रित्य न कर्तव्योऽर्थनिर्णयः ।

युक्तिहीनविचारेण धर्महानिः प्रजायते ॥ बृहस्पतिः ॥

more applicable. By way of illustration, I give here an instance of what I have advanced, that the reader may readily determine the sense in which the author of the *Dayabhaga* should be considered as a commentator.

15. In laying down rules "on succession to the estate of one who leaves no male issue," this author first quotes (Ch. xi. page 158,) the following text of Vrihaspati: "In scripture and in the code of law, as well as in popular practice, a wife is declared by the wise to be half the body, of her husband, equally sharing the fruit of pure and impure acts. Of him, whose wife is not deceased, half the body survives: how then should another take his property, while half of his person is alive? Let the wife of a deceased man, who left no male issue, take his share notwithstanding kinsmen, a father, a mother, or uterine brother, be present," &c. &c. He next cites the text of *Yagnavalkya*, (p. 160,) as follows:—"The wife and the daughters, also both parents, brothers likewise and their sons, gentiles, cognates, a pupil, and a fellow student; on failure of the first among these, the next in order is indeed heir to the estate of one, who departed for heaven leaving no male issue. This rule extends to all persons and classes." The author then quotes a text from the Institutes of Vishnu, ordaining that "the wealth of him who leaves no male issue, goes to his wife; on failure of her, it devolves on daughters; if there be none, it belongs to the mother," &c. &c. Having thus collected a series

of passages from the Institutes of Vrihaspati, Yagnavalkya, and Vishnu, and examined and weighed the sense deducible from the context, the author offers his opinion on the subject. "By this text, [by the seven texts of Vrihaspati, and by the text of Yagnavalkya,] relating to the order of succession, the right of the widow, to succeed in the first instance, is declared." Therefore, the widow's right must be affirmed to extend to the whole estate." (p. 161.)

16. The same author afterwards notices, in page 163, several texts of a seemingly contrary nature, but to which he does not hesitate to give a reconciling interpretation, without retracting or modifying his own decision. He quotes Sankha and Likhita, Peitheenasi, and Yam, as declaring, "The wealth of a man who departs for heaven, leaving no male issue, goes to his brothers. If there be none, his father and mother take it; or his eldest wife, or a kinsman, a pupil, or a fellow student." Pursuing a train of long and able discussion the author ventures to declare the subordinacy of the latter passage to the former, as the conclusion best supported by reason, and most conformable to the general tenor of the law. He begins by saying, (p. 169,) "From the text of Vishnu and the rest, Yagnavalkya, and Vrihaspati,) it clearly appears, that the succession devolves on the widow, by failure of sons and other [male] descendants, and this is reasonable; for the estate of the deceased should go first to the son, grandson, and great grandson." He adds, in page 170, pointing out the ground

on which the priority of a son's claim is founded, a ground which is applicable to the widow's case also, intimating the superiority of a widow's claim to that of a brother, a father, &c. "So Manu declares the right of inheritance to be founded on benefits conferred. 'By the eldest son, as soon as born, a man becomes the father of male issue, and is *exonerated from debt to his ancestor; such a son, therefore, is entitled to take the heritage.*'" The author next shows, that as the benefits conferred by a widow on her deceased husband, by observing a life of austerity, are inferior only to those procured to him by a son, grandson, and great grandson, her right to succession should be next to theirs in point of order, (page 173.) "But, on failure of heirs down to the son's grandson, the wife, being inferior in pretensions to sons and the rest, because she performs acts spiritually beneficial to her husband from the date of her widowhood, (and not, like them, from the moment of their birth,) succeeds to the estate in their default." He thus concludes: "Hence [since the wife's right of succession is founded on reason] the construction in the text of Sankha. &c., must be arranged by connection of remote terms, in this manner: 'The wealth of a man, who departs for heaven leaving no male issue, let his eldest [that is, his most excellent] wife take; or, in her default, let the parents take it: on failure of them, it goes to the brothers.' The terms 'if there be none,' [that is, if there be no wife,] which occur in the middle of the

text, are connected both with the preceding sentence 'it goes to his brothers,' and with the subsequent one, 'his father and mother take it.' For the text agrees with passages of Vishnu and Yagnavalkya, [which declare the wife's right,] and the reasonableness of this has been already shown." (p. 174.)

17. It is, however, evident that the author of the *Dayabhaga* gives here an apparent preference to the authority of one party of the saints over that of the other, though both have equal claims upon his reverence. But admitting that a Hindu author, an expounder of their law, sin against some of the sacred writers, by withholding a blind submission to their authority, and likewise that the natives of the country have for ages adhered to the rules he has laid down, considering them reasonable, and calculated to promote their social interest, though seemingly at variance with some of the sacred authors; it is those holy personages alone that have a right to avenge themselves upon such expounder and his followers; but no individual of mere secular authority, however high, can, I think, justly assume to himself the office of vindicating the sacred fathers, and punishing spiritual insubordination, by introducing into the existing law an overwhelming change in the attempt to restore obedience.

18. In this apparent heterodoxy, I may observe, Jeemootvahan does not stand single. The author of the *Mitakshara* also has, in following, very properly, the established privilege of an expounder, reconciled, to reason, by a construction of his own, such sacred

texts as appeared to him, when taken literally, inconsistent with justice or good sense. Of this, numerous instances might easily be adduced, but the principle is so invariably adopted by this class of writers, that the following may suffice for examples. The author of the *Mitakshara* first quotes (Ch. I. Sec. iii. Art. 3 and 4, p. 263—265) the three following texts of Manu, allotting the best portion of the heritage to the eldest brother at the time of partition. "The portion deducted for the eldest is the twentieth part of the heritage, with the best of all the chattles; for the middlemost, half of that; for the youngest, a quarter of it." "If a deduction be thus made, let equal shares of the residue be allotted; but if there be no deduction, the shares must be distributed in this manner; let the eldest have a double share, and the next born a share and a half, and the younger sons each a share: thus is the law settled."* The author of the *Mitakshara* then offers his opinion in direct opposition to Manu, saying, "The author himself† has sanctioned an unequal distribution when a division is made during the father's life time. 'Let him either dismiss the eldest with the best share, &c.‡' Hence an unequal partition is admissible in every period. How then is a restriction introduced, requiring that sons should divide only equal shares? (Art. 4) The question is thus answered: True,

* Manu, Ch. ix. v. 112, v. 116 and 117.

† Yagnavalkya.

‡ Yagnavalkya.

this unequal partition is found in the sacred ordinances; but *it must not be practised*, because it is abhorred by the world, [for] it secures not celestial bliss;* as the practice [of offering bulls] is shunned, on account of popular prejudice, notwithstanding the injunction, 'Offer to a venerable priest a bull or a large goat; and as the slaying of a cow is for the same reason disused, notwithstanding the precept, 'Slay a barren cow as a victim consecrated to Mitra and Varuna.'''† By adverting to the above exposition of the law, we find that the objection of heterodoxy, if urged against the authority of the *Dayabhaga*, is equally applicable to that of the *Mitakshara* in its full extent, and may be thus established. 1st. Certain writings, such as the institutes of Manu and of others, esteemed sacred by Hindus, are the foundation of the law of inheritance. 2ndly. Vignaneshwar (author of the *Mitakshara*) is but a commentator on those writings. 3rdly. Therefore, such part of the commentary of Vignaneshwar as indiscriminately entitles all brothers to an equal share, being obviously at variance with the precepts of Manu found on the subject, should be rejected, and the largest portion of the heritage be allotted to the eldest brother, by judicial authorities, according to the letter of the

* A passage of *Yagnavalkya*, according to the quotation of Mitra Mishra in the *Veeramitrodaya*, but ascribed to Manu in Balumbhatta's commentary. It has not, however, been found either in Manu's or *Yagnavalkya's* Institute."—(Mr. Colebrooke)

† Passage of the Veda.

sacred text. Again, take the *Mitakshara*, Ch. I. Sec. 1. Art. 30, p. 257. "The following passage, 'Separated kinsmen, as those who are unseparated, are equal in respect of immovables, for one has not power over the whole to make a gift, sale, or mortgage' must be thus interpreted: 'Among unseparated kinsmen, the consent of all is indispensably requisite, because no one is fully empowered to make an alienation, since the estate is in common; but among separated kindred the consent of all tends to the facility of the transaction, by obviating any future doubt,' whether they be separate or united: it is not required, on account of any want of sufficient power in the single owner, and *the transaction is consequently valid even without the consent of separated kinsmen.*" Dittò, Ch. I. Sec. 11. Art. 28, page 316. "'The legitimate son is the sole heir of father's estate; but, for the sake of innocence, he should give a maintenance to the rest.' This text of Manu must be considered as applicable to a case, where the adopted son (namely, the son given and the rest) are disobedient to the legitimate son and devoid of good qualities."

* 19. I now proceed to the consideration of the last point, as the ground on which the change proposed is alleged to be founded. To judge of its validity we should ascertain whether the interpretations given by the author of the *Dayabhaga*, to the sacred texts, touching the subject of free disposal by a father of his ancestral property are obviously at variance with those very texts, or if they are confor-

mable to sound reason and the general purport of the passages cited collectively on the same subject. With this view I shall here repeat, methodically, the series of passages quoted by the author of the *Dayabhaga*, relating to the above point, as well as his interpretation and elucidation of the same.

20. To show the independent and exclusive right of a father in the property he possesses, (of course with the exception of estates entailed) the author first quotes the following text of Manu: "After the (death of the) father and the mother, the brethren, being assembled, must divide equally the paternal estate: For *they have not power over it, while their parents live.* Ch. I. Sec. 14, (p. 8). He next quotes Devala: "When the father is deceased, let the sons divide the father's wealth; for *sons have not ownership while the father is alive* and free from defect." Ch. I. Sec. 18, (p. 9.) After a long train of discussion, the author appeals to the above texts as the foundation of the law he has expounded, by saying, "Hence the text of Manu, and the rest (as Devala) must be taken as showing, that sons have not a right of ownership in the wealth of the living parents, but in the estates of both when deceased." Ch. I. Sec. 30, (pp. 13 and 14.)

21. To illustrate the position that the father is the sole and independent owner of the property in his possession, whether self-acquired or ancestral, the author thus proceeds: "A division of it does not take place without the father's choice; since Manu, Narada, Gotama, Bodhayana, Sankha, and Likhita,

and others (in the following passages, 'they have not power over it;' 'they have not ownership while their father is alive and free from defect;' while he lives if he desire partition;' 'partition of heritage by consent of the father!' 'partition of the estate being authorized while the father is living,' &c.) declare without restriction, that sons *have not a right to any part of the estate while the father is living, and that partition awaits his choice* : for these texts, declaratory of a want of power and requiring the father's consent, must relate also to property *ancestral*, since the same author *has not separately propounded a distinct period for the division of an estate inherited from an ancestor.*" Ch. II. Sec. 8, (p. 25.) The circumstance of the partition of estates being entirely dependent on the will of the father, and the son's being precluded from demanding partition while the father is alive, sufficiently prove that they have not any right in the estate during his life time; or else the sons, as having property in the estate jointly with the father, would have been permitted to demand partition. Does not commonsense abhor the system of a son's being empowered to demand a division between himself and his father of the hereditary estate? Would not the birth of a son with this power, be considered in the light of a curse rather than a blessing, as subjecting a father to the danger of having his peaceable possession of the property inherited from his own father or other ancestor disturbed?

22. The author afterwards reasons on those passages that are of seemingly contrary authority; first quoting the text of *Yagnavalkya*, as follows. "The ownership of father and son is the same in land which was acquired by his father, or in a corrody, or in chattels." He adopts the explanation given to his text by the most learned, the ancient Oodyot, affirming that it "properly signifies, as rightly explained by the learned Oodyot, that, when one of two brothers, whose father is living, and who have not received allotments, dies leaving a son, and the other survives, and the father afterwards deceases, the text, declaratory of similar ownership, is intended to obviate the conclusion, that the surviving son alone obtains his estate, because he is next of kin. As the father has ownership in the grandfather's estate; so have his sons, if he be dead." Ch. II. Sec. 9, (page 25.) The author then points out, that such interpretation given to the text, as declares the claims of a grandson upon the estate of his grandfather equal to those of his father, while the father is living, is palpably objectionable: for, if sons had ownership during the life of their father, in their grandfather's estate, then should a division be made between two brothers, one of whom has male issue, and the other has none, the children of that one would participate, since (according to the opposite opinion) they have equally ownership." Ch. II. Sec. 11, (p. 26.) He next quotes *Vishnu*: "When a father separates his sons from himself, his will regulates the division of his own

acquired wealth. But in the estate inherited from the grandfather, the ownership of father and son is equal." Upon this text the author of the *Dayabhaga* justly remarks in the following terms: "This is very clear, *when* the father separates his sons from himself, he may, by his own choice, give them greater or less allotments, if the wealth were acquired by himself; but not so, if it were property inherited from the grandfather, because they have an equal right to it. The father has not in such case an unlimited discretion." Ch. II. Sec. 17, (p. 27). That is, *a father dividing his property among his sons, to separate them from himself during life time*, is not authorized to give them of his own caprice, greater or less allotments of his ancestral estate, as the phrase in the above text of *Vishnu*, when a father separates his sons from himself," &c., prohibits the free disposal by a father of his ancestral property *only* on the occasion of allotments among his sons to allow them separate establishments. The author now conclusively states, that "Hence" (since the text becomes pertinent, by taking it in the sense above stated, or because there is ownership restricted by law in respect of shares, and not an unlimited discretion), both opinions, that the mention of like ownership provides for an equal division between father and son in the case of property ancestral, and that it establishes the son's right to require partition, ought to be rejected." Ch. II. Sec. 18, (p. 27).

23. The author, thirdly, quotes *Yagnavalkya*. "The father is master of the gems, pearls and corals, and of all (other movable property), but neither the father, or the grandfather, is so of the *whole* immovable estate;" and points out the sense conveyed by the term "the whole" found in the above passage, saying, "Since here also it is said the '*whole*,' this prohibition forbids the gift or other alienation of the *whole*, because (immovables and similar possessions are) means of supporting the family." (Ch. II. Sec. 23). That is, the father is likewise master of the ancestral estate, though not of the whole of it, implies that a father may freely dispose of a part of his ancestral estate, even without committing a moral offence. This passage of *Yagnavalkya*, cited by the opposite party, who deny to the father the power of free disposal of ancestral estates, runs, in a great measure, against them, since it disapproves a sale or gift by a father only of the whole of his ancestral landed property, while his sons are living, withholding their consent.

24. To justify the disposal by a father, under particular circumstances, even of the whole ancestral estate, without incurring a moral offence, the author adds, (Ch. II. Sec. 26.) "But if the family cannot be supported without selling the whole immovable and other property, even the *whole* may be sold or otherwise disposed of, as appears from the obvious sense of the passage, and because it is directed, that 'a man should *by all means* preserve himself,' and

because a sacred writer positively enjoins the maintenance of one's family by all means possible, and prefers it to every other duty. "His aged mother and father dutiful wife, and son under age, should be maintained even by committing a hundred unworthy acts.* Thus directed Manu." *Vide Mitakshara, Ch. II.* Manu positively says: "A mother, a father, a wife, and a son, shall not be forsaken; he, who forsakes either of them, unless guilty of a deadly sin, shall pay six hundred panas as a fine to the King." (Ch. VIII. v. 389.)

25. He, fourthly, quotes two extraordinary texts of Vyasa, as prohibiting the disposal, by a single partner, of his share in the immovables, under the notion that each partner has his property in the whole estate jointly possessed. These texts are as follows: "A single partner may not, with consent of the rest, make a sale or gift of the whole immovable estate, nor of what is common to the family." "Separated kinsmen, as those who are unseparated, are equal in respect of immovables: for one has not power, over the whole to give, mortgage, or sell it." Upon which the author of the *Dayabhaga* remarks, Ch. II. Sec. 27: "It should not be alleged that by the texts of Vyasa one person has not power to make a sale, or other transfer of such property. For here also (in the very instance of

*बृहौच मातापितरौ साध्वी भार्या सुतः शिशुः ।

अप्यकार्यशतं कृत्वा भर्त्तव्या मनुब्रवीत् ॥

land held in common) as in the case of other goods, there equally exists a property consisting in the power of disposal at pleasure." That is, a partner has, in common with the rest, an undisputed property existing either in the whole of the movables and immovables, or in an undivided portion of them; he, therefore, should not be, or cannot be, prevented from executing, at his pleasure, a transfer of his right to another by a sale, gift, or mortgage of it.

26. In reply to the question, what might be the consequence of disregard to the prohibition conveyed by the above texts of Vyasa? the author says: "But the texts of Vyasa exhibiting a prohibition, are intended to show a moral offence; since the family is distressed by a sale, gift or other transfer, which argues a disposition in the person to make an ill use of his power as owner. They are not meant to invalidate the sale or other transfer." (Ch. II. Sec. 28.) A partner is as completely a legal owner of his own share, (either divided or undivided) as a proprietor of an entire estate; and consequently a sale or gift executed by the former of his own share, should, with reason, be considered equally valid, as a contract by the latter for his sole estate. Hence prohibition of such transfer being clearly opposed to common sense and ordinary usage, should be understood as only forbidding a dereliction of moral duty, committed by those who infringe it, and not as invalidating the transfer.

27. In adapting this mode of exposition of the law, the author of the *Dayabhaga* has pursued the

course frequently inculcated by Manu and others; a few instances of which I beg to bring briefly to the consideration of the reader, for the full justification of this author, Manu, the first of all Hindu legislators, prohibits donation to an unworthy Brahman in the following terms—"Let no man, apprised of this law, present, even water to a priest, who acts like a cat, nor to him who acts like a bittern, nor to him who is unlearned in the Veda" (Ch. IV. v. 192.) Let us suppose that in disregard to this prohibition a gift has been actually made to one of those priests; a question then naturally arises, whether this injunction of Manu's invalidates the gift, or whether such infringement of the law only renders the donor guilty of a moral offence. The same legislator, in continuation, thus answers; "Since property, though legally gained, if it be given to either of those three, becomes prejudicial in the next world both to the giver and receiver." (v. 193). The same authority forbids marrying girls of certain descriptions, saying "Let him not marry a girl with reddish hair, nor with any deformed limb, nor one troubled with habitual sickness, nor one either with no hair or with too much, nor one immoderately talkative; nor one with inflamed eyes." (Ch. III. v. 8). Although this law has been very frequently disregarded, yet no voidance of such a marriage, where the ceremony has been actually and regularly performed, has ever taken place; it being understood that the above prohibition, not being supported by sound reason, only involves the bride-

groom in the religious offence of disregard to a sacred precept. He again prohibits the acceptance of a gratuity, on giving a daughter in marriage naming every marriage of this description "Assura," as well as declaring an Assura marriage to be illegal; but daughters given in marriage on receiving a gratuity have been always considered as legal wives, though their fathers are regarded with contempt, as guilty of a deadly sin. The passages above alluded to are as follows: (Manu :) "But even a man of the servile class *ought not to receive a gratuity* when he gives his daughter in marriage; since a father, who takes a fee *on that occasion*, tacitly *sells* his daughter." (Ch. IX. v. 98). "When the bridegroom, having given as much wealth as he can afford to the father and paternal kinsmen and to the damsel herself, takes her voluntarily as his bride; that marriage is named Assura" (Ch. III. v. 31). "But in this code, three of the five last are held legal, and two illegal, the ceremonies of *Pisachas* and *Assuras* must never be performed." (Ch. III. v. 25).

28. The author finally quotes the following text: "Though immovables or bipeds have been acquired by a man himself, a gift or sale of them (*should*)" not (*be made*) by him, unless convening all the sons; and he proceeds affirming, "So likewise other texts as this, must be interpreted in the same manner (as before). For the words 'should' and 'be made' must necessarily be understood." (Ch. II, Sec. 29). That is, there is a verb wanting in the

above phrase "a gift or a sale not by him," consequently "should" or "ought" and "be made" are necessarily to be inserted, and the phrase is thus read: "A gift or sale *should* not *be* or ought not to be made by him," expressing a prohibition of the free disposal by a father even of his self-acquired immovables. This text also, says the author, cannot be intended to imply the invalidity of a gift or sale by a lawful owner; but it shows a moral offence by breach of such a prohibition: "Since the family is distressed by a sale, gift, or other transfer, which argues a disposition in the person to make an ill use of his power as owner." Moreover, as Manu, Devala, Gotama, Bodhayana, Sankha, and Likhita, and others represent a son as having no right to the property in possession of the father, in the plainest terms, as already quoted in para. 21) no son should be permitted to interfere with the free disposal by the father of the property he actually possesses. The author now concludes the subject with this positive decision. "Therefore, since it is denied that a gift or sale should be made, the precept is infringed by making one. But the gift or transfer is not null: for a fact cannot be altered by a hundred texts." (Ch. II. Sec. 30.)

29. In illustration of this principle it may be observed, that a man legally possessed of immovable property (whether ancestral or self-acquired) has always been held responsible as owner, for acts occurring on his estate, of a tendency hurtful to the peace of

his neighbours or injurious to the community at large. He even forfeits his estate, if found guilty of treason or similar crimes, though his sons and grandsons are living who have not connived at his guilt. In case of default on his part in the discharge of revenue payable to Government from the estate, he is subjected to the privation of that property by public sale under the authority of Government. He is, in fact, under these and many other circumstances, actually and virtually acknowledged to be the lawful and perfect owner of his estate; a sale or gift by him of his property must therefore stand valid or unquestionable. Sacred writings although they prohibit such a sale or gift as may distress the family, by limiting their means of subsistence, cannot alter the fact, nor do they nullify what has been effectually done. I have already pointed out in the 37th paragraph the sense in which prohibitions of a similar nature should be taken, according to the authority of Manu, which the reader is requested not to lose sight of, Mr. Colebrooke judiciously quotes (page 32) the observations made by Raghunandan (the celebrated modern expounder of law in Bengal) on the above passage of the *Dāyabhaga*, ("A fact cannot be altered by a hundred texts,") which is as follows: "If a Brahman be slain, the precept 'Slay not a Brahman' does not annul the murder; nor does it render the killing of a Brahman impossible. What then? It declares the sin." Admitting for a moment that this sacred text (quoted in the *Mitakshara* also) be interpreted conformably

to its apparent language and spirit, it would be equally opposed to the argument of our adversaries, who allow a father to be possessed of power over his self-acquired property ; since the text absolutely denies to the father an independent power even over his self-acquired immovables, declaring, “ Though *immovables* and bipeds have been *acquired by a man himself*,” &c. &c. In what a strange situation is the father placed, if such be really the law ! How thoroughly all power over his own possessions is taken away, and his credit reduced !

30. The author quotes also two passages from Narada, as confirming the course of reasoning, which he has pursued, with regard to the independence claimable by each of all the co-heirs in a joint property. The passages above alluded to are thus read : “ When there are many persons sprung from one man, who have duties apart and transactions apart, and are separate in business and character, if they be not accordant in affairs, should they give or sell their own shares, they do all that as they please ; *for they are masters of their own wealth*.” (Ch. II. Sec. 31.)

• 31. After I had sent my manuscript to the Press, my attention was directed to an article in the “ *Calcutta Quarterly Magazine*, No. VI. April—June, 1825,” being a Review of Sir F. W. McNaghten’s Considerations on Hindu Law. In this essay I find an opinion offered by the writer, tending to recommend that any disposal by a father of his ancestral immovables should be nullified, on the principle that

we ought "to *make that invalid which was considered immoral.*" (p. 225.) I am surprised that this unqualified maxim should drop from the pen of the presumed reviewer, who, as a scholar, stands very high in my estimation, and from whose extensive knowledge more correct judgment might be expected. Let us, however, apply this principle to practice, to see how far, as a general rule, it may be safely adopted.

32. To marry an abandoned female, is an act of evil moral example: Are such unions to be therefore declared invalid, and the offspring of them rendered illegitimate?

To permit the sale of intoxicating drugs and spirits, so injurious to health, and even sometimes destructive of life, on the payment of duties publicly levied, is an act highly irreligious and immoral: Is the taxation to be, therefore, rendered invalid and payments stopped?

To divide spoils gained in a war commenced in ambition and carried on with cruelty, is an act immoral and irreligious: Is the partition therefore to be considered invalid, and the property to be replaced?

To give a daughter in marriage to an unworthy man, on account of his rank or fortune, or other such consideration, is a deed of mean and immoral example: Is the union to be therefore considered invalid, and their children illegitimate?

To destroy the life of a fellow-being in a duel, is not only immoral, but is reckoned by many as

murder: Is not the practice tacitly admitted to be legal, by the manner in which it is overlooked in courts of justice?

33. There are of course acts lying on the border of immorality, or both immoral and irreligious; and these are consequently to be considered invalid: such as the contracting of debts by way of gambling, and the execution of a deed on the Sabbath day. The question then arises, how shall we draw a line of distinction between those immoral acts that should not be considered invalid, and those that should be regarded as null in the eye of the law? In answer to this, we must refer to the common law and the established usages of every country, as furnishing the distinctions admitted between the one class and the other. The reference suggested is, I think, the sole guide upon such questions; and pursuant to this maxim, I may be permitted to repeat, that according to the law and usages of Bengal, though a father may be charged with breach of religious duty, by a sale or gift of ancestral property at his own discretion, he should not be subjected to the pain of finding his act nullified; nor the purchaser punished with forfeiture of his acquisition. However, when the author of the Review shall have succeeded in inducing British legislators to adopt his maxim, and declare that the validity of every act shall be determined by its consistence with morality, we may then listen to his suggestion, for applying the same rule to the Bengal Law of Inheritance.

34. The writer of this Review quotes (in p. 221) a passage from the *Dayabhaga*, (Ch. II. Sec. 76,) "Since the circumstance of the father being lord of all the wealth, is stated as a reason, and that cannot be in regard to the grandfather's estate, an unequal distribution, made by the father, is lawful only in the instance of his own acquired wealth." He then comments, saying, "Nothing can be more clear than Jeemootvahan's assertion of this doctrine." But it would have been still more clear, if the writer had cited the latter part of the sentence obviously connected with the former; which is that, "Accordingly Vishnu says, 'When a father separates his sons from himself, his own will regulates the division of his own acquired wealth. But in the estate inherited from the grandfather, the ownership of father and son is equal.'" That is, a father is not absolute lord of his ancestral property, (as he is of his own acquired wealth,) *when occupied in separating his sons from himself* during his life. This is evident from the explanation given by the author of the *Dayabhaga* himself, of the above text of Vishnu, in Sec. 56, (Ch. II,) "The meaning of this passage is, 'In the case of his own acquired property, whatever he may choose to reserve, whether half or two shares, all that is permitted to him by the law; but not so in the case of property ancestral;" as well as from the exposition by the same author of this very text of Vishnu, in Sec. 17, (Ch. II,) already fully illustrated as applicable solely to the occasion of partition, (para. 22, p. 27.)

35. It would have been equally clear as desirable, because *conclusive*, if the writer of the article had also quoted the following passage of the *Dayabhaga* touching the same subject, (Ch. II. Sec. 46.) "By the reasoning thus set forth, if the elder brother has two shares of the father's estate, how should the highly venerable father being the natural parent of the brothers, and COMPETENT TO SELL, GIVE, OR ABANDON THE PROPERTY, and being the root of all connection with the *grandfather's estate*, be not entitled, in like circumstances, to a double portion of his own father's wealth?"

36. In expounding the following text of *Yagnavalkya*, "The father is master of the gems, pearls, and corals, and of all (other movable property), but neither the father, nor the grandfather, is so of whole immovable estate;" the author of the *Dayabhaga* first observes, (Ch. II. Sec. 23,) "Since the grandfather is here mentioned, the text must relate to his effects." He then proceeds, saying, "Since here also it is said 'the whole,' the prohibition forbids the gift or other alienation of the 'whole,'" &c.; and thus concludes the section (24:) "For the insertion of the word 'whole' would be unmeaning (if the gift of even a small part were forbidden.)" The author of the *Dayabhaga* does not stop here; but he lays down the following rule in the succeeding section already quoted, (26.) "But if the family cannot be supported without selling the *whole immovable* and other property, even the *whole* may be sold or

otherwise disposed of : as appears from the obvious sense of the passage, [and because it is directed, that 'a man should by all means preserve himself.'"] Here Jeemootvahan justifies, in the plainest terms, the sale and other disposal by a father of the *whole* of the estate *inherited from his own father* for the maintenance of his family or for self-preservation, without committing even a moral offence : but I regret that this simple position by Jeemootvahan should not have been adverted to by the writer of the article while reviewing the subject.

37. To his declaration, that "Nothing can be more clear than Jeemootvahan's assertion of this doctrine," the reviewer adds the following phrase : "And the doubt cast upon it by its expounders, Raghunandan, Shri Krishna Tarkalankar, and Jagannath, is wholly gratuitous. In fact, the latter is chiefly to blame for the distinction between illegal and invalid acts." It is, I think, requisite that I should notice here who these three expounders were, whom the writer charges with the invention of this doctrine ; at what periods they lived ; and how they stood and still stand in the estimation of the people of Bengal. To satisfy any one on these points, I have only to refer to the accounts given of them by Mr. Colebrooke, in his preface to the translation of the *Dayabhaga*. In speaking of Raghunandan, he says, "It bears the name of Raghunandan, the author of the *Smriti-tatwa*, and the greatest authority of Hindu Law in the province of

Bengal." "The *Daya-tatwa*, or so much of the *Smriti-tatwa* as relates to inheritance, is the undoubted composition of Raghunandan; and in deference to the greatness of the author's name, and the estimation in which his works are held among the learned Hindus of Bengal, has been throughout diligently consulted and carefully compared with Jeemootvahan's treatise, on which it is almost exclusively founded." (p. vii.) "Now Raghunandan's date is ascertained at about three hundred years from this time," &c. (p. xii.) Mr. Colebrooke thus introduces Shri Krishna Tarkalankar: "The commentary of Shri Krishna Tarkalankar on the *Dayabhaga* of Jeemootvahan, has been chiefly and preferably used. This is the most celebrated of the glosses on the text. Its authority has been long gaining ground in the schools of law throughout Bengal; and it has almost banished from them the other expositions of the *Dayabhaga*; being ranked in general estimation, next to the treatises of Jeemootvahan and of Raghunandan." (p. vi.) "The commentary of Maheshwar is posterior to those of Chooramuni and Uchyoot, both of which are cited in it; and is probably anterior to Shri Krishna's or at least nearly of the same date." (p. vii.) In the note at foot he observes, "Great-grandsons of both these writers were living in 1806." Hence it may be inferred, that Shri Krishna Tarkalankar lived above a century from this time. Mr. Colebrooke takes brief notice of Jagannath Tarkapunchanan, saying, "A very ample compilation

on this subject is included in the Digest of Hindu Law, prepared by Jagannath, under directions of Sir William Jones, &c." (p. ii.) The last mentioned, Jagannath, was universally acknowledged to be the first literary character of his day, and his authority has nearly as much weight as that of Raghunandan.

38. Granting for a moment that the doctrine of free disposal by a father of his ancestral property is opposed to the authority of Jeemutvahan, but that this doctrine has been prevalent in Bengal for upwards of three centuries, in consequence of the erroneous exposition of Raghunandan, "*the greatest authority of Hindu law in the province of Bengal*," by Shri Krishna Tarkalankar, the author of "*the most celebrated of the glosses of the text*," and by the most learned Jagannath; yet it would, I presume, be generally considered as a most rash and injurious, as well as ill-advised, innovation, for any administrator of Hindu Law of the present day to set himself up as the corrector of successive expositions, admitted to have been received and acted upon as authoritative for a period extending to upwards of three centuries back.

39. In the foregoing pages my endeavour has been to show that the province of Bengal, having its own peculiar language, manners and ceremonies, has long enjoyed also a distinct system of law. That the author of this system has greatly improved on the expositions followed in other provinces of India, and, therefore, well merits the preference accorded to his exposition by the people of Bengal. That the discre-

pancies existing amongst the several interpretations of legal texts are not confined alone to the law of disposition of property by a father, but extend to other matters. That in following those expositions which best reconcile law with reason, the author of the Bengal system is warranted by the highest sacred authority, as well as by the example of the most revered of his predecessors, the author of the *Mitakshara*; and that he has been eminently successful in his attempt at so doing, more particularly by unfettering property, and declaring the principle, that the alienator of an hereditary estate is only morally responsible for his acts, so far as they are unnecessary, and tend to deprive his family of the means of support. That he is borne out in the distinction he has drawn between moral precepts, a disregard to which is sinful, leaving the act valid and legal, and absolute injunctions, the acts in violation of which are null and void. If I have succeeded in this attempt, it follows that any decision founded on a different interpretation of the law, however widely that exposition may have been adopted in other provinces, is not merely retrograding in the social institution of the Hindu community of Bengal, mischievous in disturbing the validity of existing titles to property, and of contracts founded on the received interpretation of the law, but a violation of the charter of justice, by which the administration of the existing law of the people in such matters was secured to the inhabitants of this country.

THE REVENUE SYSTEM OF INDIA

In 1831 Ram Mohun Roy was called upon to give evidence before the Select Committee of the House of Commons. He was asked a number of questions particularly with reference to the Revenue and Judicial Systems of India. His answers were remarkable for accuracy and independence. In this chapter we reproduce the questions and answers touching the Revenue System of India.

I. QUESTION. *By what tenure is land held in the provinces with which you are acquainted?*

ANSWER. In the provinces of Bengal, Behar, and part of Orissa (*Midnapoor*), land is now held by a class of persons called *Zamindars* (i. e, landholders), who are entitled to perpetual hereditary possession, on condition of paying to Government a certain revenue, fixed on their respective lands. This is termed the *Zamindari* system. But in the ceded and conquered provinces belonging to the Presidency of Fort William, no fixed agreement has yet been made with the *Zamindars* as to the amount of assessment. Consequently their estates are not in their own hands, but under the immediate management of Government, and subject to fresh assessments from time to time at its discretion.

In the Madras Presidency, the revenue is for the greater part, collected directly from the cultivators, (called *Ryots*) by the Government revenue officers,

according to the rate fixed on the different descriptions of land in various situations. These cultivators may retain possession as long as they pay the revenue demanded from them.

2. Q. *By what tenure was land held under the former government?*

A. Under the Mohammedan government, lands were held by hereditary right on the Zamindary system (though the revenue was sometimes arbitrarily increased); and the Zamindars were considered as having a right to their respective estates, so long as they paid the public revenue. They were at the same time responsible for any breach of the peace committed within the limits of their estates. In this manner many estates, some of which can yet be referred to, such as Vishnupur, Nadia, &c., continued in the same family for several centuries.

3. Q. *Do persons of all religious sects hold by the same tenure?*

A. No religious or other distinctions were observed under the former government in regard to the holding of land; at present, Europeans are interdicted by law from becoming proprietors of land, except within the jurisdiction of the British Courts of Law at the three Presidencies, Calcutta, Madras and Bombay.

4. Q. *Are the estates most usually large or small?*

A. In the Bengal presidency the estates are many of them considerable, and there are many others

of various smaller dimensions; but in the Madras presidency, where the revenue is collected directly from the cultivators, the district is generally divided into small farms.

5. Q. *Do the proprietors cultivate their own estates, or let them to tenants?*

A. To the best of my knowledge, almost all the land in the Bengal presidency is let out by the proprietors in farms, on a larger or smaller scale.

6. Q. *On what terms are the farms rented?*

A. The farms are frequently rented by the *Zamindar* himself to cultivators, often on lease, for payment of a certain fixed rent, and frequently the *Zamindar* lets the whole, or a great part of his *Zamindary* to respectable individuals, who realize the rents from the cultivators according to the contracts previously made with them by the *Zamindars*, or subsequently by these middlemen.

7. Q. *Does the ordinary rate of rent seem to press severely on the tenants?*

A. It is considered in theory that the cultivator pays half the produce to the landholder, out of which half, 10-11ths or 9-10ths constitute the revenue paid to Government, and 1-10th or 1-11th the net rent of the landholder. This half of the produce is a very heavy demand upon the cultivator, after he has borne the whole expense of seed and labour; but in practice, under the permanent settlement since 1793, the landholders have adopted every measure to raise the rents by means of the power put into their hands.

8. Q. *Under the former government had the cultivator any right in the soil to cultivate in perpetuity on paying a fixed rent not subject to be increased?*

A. In former times *Khud-Kasht Ryots* (i. e. cultivators of the lands of their own village) were considered as having an absolute right to continue the possession of their lands in perpetuity on payment of a certain fixed rent, not liable to be increased. But under an arbitrary government, without any regular administration of justice, their acknowledged rights were often trampled upon. From a reference to the laws and the histories of the country, I believe that lands in India were individual property in ancient times. The right of property seems, however, to have been violated by the Mohammedan conquerors in practice; and when the British Power succeeded that of the Mohammedans, the former naturally adopted and followed up the system which was found to be in force, and they established it both in theory and practice.

9. Q. *Are the tenants now subjected to frequent increase of rent?*

A. At the time when the permanent settlement was fixed in Bengal (1793), Government recognized the *Zamindars* (landholders) as having alone an unqualified proprietary right in the soil, but no such rights as belonging to the cultivators (*Ryots*). (*Vide* Reg. I & VIII. of 1793, the foundation of the perpetual settlement.) But by Art. 2. S. 60. of Reg.

VII. of 1793, Government declare, that no one should cancel the *Pattahs* (*i. e.*, the title deeds), fixing the rates of payment for the lands of the *Khud-Kasht Ryots* (peasants cultivating the lands of their own village), "except upon proof that they had been obtained by collusion," or "that the rents paid by them within the last three years had been below the *Nirrh-bundee* (general rate) of the *Purgannah*," (particular part of the district where the land is situated) or "that they had obtained collusive deductions," or "upon a general measurement of the *Purgunnah* for the purpose of equalizing and correcting the assessment." In practice, however, under one or other of the preceding *four* conditions, the landholders (*Zamindars*), through their local influence and intrigues, easily succeeded in completely setting aside the rights, even of the *Khud-Kasht* cultivators, and increased their rents.

10. Q. *In what manner was the revenue assessed by Government upon each estate, and upon what principle at the time of the permanent settlement?*

A. In the province of Bengal at the time of the permanent settlement, (in 1793) the amount of the revenue which had been paid on each estate, (*Zamindary*) in the preceding year was taken as a standard of assessment, subject to certain modifications. Estates (*Taluks*) which had paid a revenue directly to Government for the twelve years previous without fluctuation, were to be assessed at that rate, and the principle of that assessment was considered to be nearly one-half of

the gross produce. In Behar and other places the gross amount of the rents arising from an estate was fixed upon as the rate of Government assessment, allowing however a deduction of ten per cent. to the landholder (*Zamindar*), in the name of proprietor's dues (*Malikanah*), and also something for the expense of collecting the rents, &c. In the upper provinces attached to Bengal presidency, as before observed, no settlement has yet been concluded with the Zamindars (*landholder*.) The estates (*Zamindarys*) are sometimes let out by Government to the highest bidder, to farmers of revenue on leases of a few years, and in other cases the rents are collected from the cultivators by the Government officers.

II. Q. *On what principle do the proprietors of land regulate the rate of rent paid by the tenants?*

A. The different fields or plots of ground on an estate are classed into 1st, 2nd, 3rd and 4th quality, and certain rates per *bigah* (a well-known land measure in India) are affixed to them respectively, agreeable to the established rates in the district. These rates are considered as a standard in setting the rent to be paid by the cultivators. But as the precise quantity of land is always liable to dispute, and fields may be classed in the first, second, third, or fourth quality according to the discretion of the Zamindars or Government surveyors, and the measurement is also liable to variation through the ignorance, ill-will, or international errors of the measures—there is *in practice* no fixed standard to afford security to the culti-

vators for the rate or amount of rent demandable from them, although such a standard is laid down in theory.

12. Q. *Is the rent any specific proportion of the gross produce of the land ?*

A. In theory the rent is estimated, as I before observed, at half the gross produce of the land ; it is often increased however much beyond that amount by various means ; but in places peculiarly subject to have the crops destroyed by sudden inundation or any other casualty, villagers cultivate generally on condition of receiving half the gross produce and delivering the other half to the landlord (*Zamindar*).

13. Q. *Is the rent paid in money, in agricultural produce, or in labour ?*

A. The rent is generally paid in money, except under peculiar circumstances, when the agreement is to pay half the gross produce as rent. And it is sometimes paid by labour, when some of the villagers enter the service of the landlord (*Zamindar*) on condition of holding certain lands in lieu of their services.

14. Q. *If in money or produce, at what period of the year, and in what proportion ?*

A. The money rent is usually paid by monthly instalments, the heaviest payments being made when the harvest is realized : and the payment in produce is of course exclusively at that season.

15. Q. *Is the revenue in many instances collected by Government directly from the cultivators, and not from the proprietors, or any set of middlemen ?*

A. Yes; very commonly in the Madras presidency, and sometimes in the ceded and conquered upper provinces, as above observed (Question 10.). Also when lands advertised for sale, in order to realize arrears of revenue, do not find purchasers, they may remain temporarily in the hands of Government.

16. Q. *In the event of a proprietor or cultivator falling into arrear in his instalments of revenue, what means are adopted by the Government for realizing it?*

A. Various modes have been adopted, but the usual mode now followed, with respect to landholders (*Zamindars*) is, that at the expiration of every third month of the revenue year, should any balance of revenue remain unpaid, the estate in arrear may be advertised for sale.

17. Q. *Is the person of the proprietor liable to be arrested for the revenue?*

A. Should the arrear of revenue due not be realized by the sale of the estate, the person of the proprietor may be seized.

18. Q. *What proportion of the revenue may fall into arrear in one year, or what proportion of the land may be subject to legal process by the public authorities for its recovery?*

A. Perhaps two-fifths, or one-half of the whole revenue are usually in arrear, on an average, taking the whole year round, and more than one-half of the estates are advertised for sale every year, but comparatively few are actually sold, as many of the

proprietors contrive, when pressed by necessity, to raise the money by loan or otherwise.

19. Q. *In the event of the tenants falling into arrear with their rent, what means do the proprietors adopt for realizing it ?*

A. They distrain their movable property with some exceptions by the assistance of the police officers, and get it sold by means of the judicial authorities.

20. Q. *Do the courts afford the same facilities to the proprietors for recovering their rents, as to the Government for realizing its revenue ?*

A. When the revenue of an estate falls into arrear, the Government by its own authority sells the property. But the proprietor cannot sell the property of a cultivator, except by the means of the judicial authority, which however generally expedites the recovery of such balances.

21. Q. *In the event of a sale of land for revenue, what mode does the Collector adopt in bringing it to sale ?*

A. When, at the end of the revenue quarter or year as before explained, a balance remains due, a notice is put up in the Collector's Office (*Cutcherry*) announcing that the lands are to be sold, unless the balance of revenue be paid up within a certain period. On the expiration of this period the lands may be sold to the highest bidder at public auction by the Collector, under the sanction of the Board of Revenue.

22. Q. *What period of indulgence is given to the defaulter before the sale takes place ?*

A. A space of from one month to six weeks, and not less than the former period from the time of advertising is allowed for paying up the arrears before the sale can actually take place.

23. Q. *What previous warning is given to him to pay up his arrears, what length of notice of the intended sale is given to the public, and in what mode is the notice published?*

A. First the Collector sends a written order to the defaulting landholder, demanding payment of the arrears due. Failing this, a catalogue of the various estates for sale is inserted in the Government Gazette, and the particulars of each are advertised in the office of the Collector, and of the Judicial Court and the Board of Revenue.

24. Q. *What class of persons become the principal purchasers?*

A. Frequently other landlords become purchasers, and sometimes the proprietors themselves in the name of a trusty agent. Sometimes persons engaged in trade, and sometimes the native revenue officers in the name of their confidential friends.

25. Q. *What proportion of the land is purchased by the revenue officers?*

A. The proportion purchased by the revenue officers is now, comparatively very small.

26. Q. *Do they conduct the sales fairly or turn their official influence to their own private advantage?*

A. As such publicity is not given to the notices of sales as the local circumstances require, native

revenue officers have sometimes an opportunity, if they choose, of effecting purchases at a reduced price ; since the respectable natives in general, living in the country, are not in the habit of reading the Government Gazette, or of attending the public offices ; and in respect to estates of which the business is transacted by agents, by a collusion with them, the estates are sometimes sold at a very low price.

27. Q. *Can you suggest any plan for obviating abuses of this kind ?*

A. 1st. The advertisements or notices of sale should first be regularly sent to the parties interested at their own residences, not merely delivered to their agents. 2ndly. They should be fixed up not only in the Government offices, but at the chief market places and ferries (ghats) of the district ; also in those of the principal towns, such as Calcutta, Patna, Murshidabad, Benares, and Cawnpore. 3rdly. The police officers should be required to take care that the notices remain fixed up in all these situations from the first announcement till the period of sale. 4thly. The day and hour of sale being precisely fixed, the biddings for an estate should be allowed to go on for a specific period—not less than five minutes—that all intending purchasers may have an opportunity of making an offer ; and the lapse of that period should be determined by a proper measure of time, as a sand-glass placed on the public table for general satisfaction.

28. Q. *When a cultivator fails to pay his rent, does the proprietor distrain or take possession of the tenant's movables by his own power, or by applying to any legal authority?*

A. Already answered. (See Ques. 19.)

29. Q. *Does the legal authority seize upon both the movable and immovable property, and the person of the tenant for his rent?*

A. 1st. On a summary application to the police, the movable property of the tenant, with some exceptions, is distrained by the help of the police officers; 2ndly, by the ordinary judicial process, the immovable property of the tenant may be attached, and his person arrested for the recovery of the rest.

30. Q. *What is the condition of the cultivator under the present Zamindari system of Bengal, and Ryotwary system of the Madras Presidency?*

A. Under both systems the condition of the cultivators is very miserable; in the one, they are placed at the mercy of the *Zamindars'* avarice and ambition; in the other, they are subjected to the extortions and intrigues of the surveyors and other Government Revenue Officers. I deeply compassionate both; with this difference in regard to the agricultural peasantry of Bengal that there the landlords have met with indulgence from Government in the assessment of their revenue, while no part of this indulgence is extended towards the poor cultivators. In an abundant season, when the price of corn is low, the sale of their whole crops is required to

meet the demands of the landholder, leaving little or nothing for seed or subsistence to the labourer or his family.

31. Q. *Can you propose any plan of improving the state of the cultivators and inhabitants at large?*

A. The new system acted upon during the last forty years, having enabled the landholders to ascertain the full measurement of the lands to their own satisfaction, and by successive exactions to raise the rents of the cultivators to the utmost possible extent, the very least I can propose and the least which Government can do for bettering the condition of the peasantry, is absolutely to interdict any further increase of rent on any pretence whatsoever; particularly on no consideration to allow the present settled and recognized extent of the land to be disturbed by pretended remeasurements; as in forming the Permanent Settlement (Reg. 1. of 1793. Sec. 8 Art 1.), the Government declared it to be its right and its duty to protect the cultivators as being from their situation most helpless," and "that the landlord should not be entitled to make any objection on this account." Even in the Regulation (VIII of 1793. Sec. 60 Art. 2), the Government plainly acknowledged the principle of the *Khud-Kasht* cultivators having a perpetual right in the lands which they cultivated and accordingly enacted, that they should not be dispossessed, or have their title deeds cancelled, except in certain specified cases applicable, of course, to that period of general settlement (1793), and not

extending to a period of forty years afterwards. If Government can succeed in raising a sufficient revenue otherwise by means of duties, &c., or by reducing their establishments, particularly in the revenue department, they may then, in the districts where the rents are very high, reduce the rents payable by the cultivators to the landholders, by allowing to the latter a proportionate reduction.

32 Q. *Are the Zamindars in the habit of farming out their estates to middlemen in order to receive their rents in an aggregate sum, authorizing the middlemen to collect the rent from under-tenants; and if so, how do the middlemen treat the cultivators?*

A. Such middlemen are frequently employed, and are much less merciful than the Zamindars?

33. Q. *When the cultivators are oppressed by the Zamindars or middlemen, are the present legal authorities competent to afford redress?*

A. The judicial authorities being few in number, and often situated at a great distance, and the landholders and middlemen being in general possessed of great local influence and pecuniary means, while the cultivators are too poor and too timid to undertake the hazardous and expensive enterprise of seeking redress, I regret to say that the legal protection of the cultivators is not at all such as could be desired.

34. Q. *Can you suggest any change in the revenue or judicial system which might secure justice and protection to the cultivators against the oppression*

of the *Zamindars*, *middlemen*, or *officers of Government* ?

A. I have already suggested (see Q. 31.) that no further measurement or increase of rent on any pretence whatever should be allowed ; 2ndly. Public notices in the current languages of the people, stating these two points, should be stuck up in every village, and the police officers should be required to take care that these notices remain fixed up at least twelve months ; and to prevent any infringement thereof, on receiving information of any attempt at remeasurement on the part of any landholder (*Zamindar*), &c. 3rdly. Any native judicial commissioner for small debts (*Munsif*) who is authorized to sell distrained property for the recovery of rent, should be required not to proceed to sale unless fully satisfied that the demand of the *Zamindar* had not exceeded the rate paid in the preceding year ; and if not satisfied of this, he should immediately release the property by application to the police. 4thly. That the Judge or Magistrate be required to hold a court one day in the week for cases of this kind, and, on finding any *Zamindar* guilty of demanding more than the rent of the preceding years, should subject such offender to a severe fine ; and on discovering any police officer or native commissioner guilty of connivance or neglect, he should subject them to fine and dismissal from the service. 5thly. The Judge or Magistrate in each district should be directed to make a tour of the district once a year, in the cold season in order to see that the

above laws and regulations for the protection of the poor peasantry are properly carried into effect. 6th and lastly. The Collector should be required to prepare a general register of all the cultivators, containing their names, their respective portions of land, and respective rents as permanently fixed according to the system proposed.

35. Q. *Is the condition of the cultivators improved within your recollection of the country ?*

A. According to the best of my recollection and belief, their condition has not been improving in any degree.

36. Q. *Has the condition of the proprietors of land improved under the present system of assessment ?*

Undoubtedly : their condition has been much improved ; because, being secured by the permanent settlement against further demands of revenue, in proportion to the improvement of their estates, they have in consequence brought the waste lands into cultivation, and raised the rents of their tenantry, and thus increased their own incomes, as well as the resources of the country.

37. Q. *Has the Government sustained any loss by concluding the permanent settlement of 1793 in Bengal, Behar, and part of Orissa without taking more time to ascertain the net produce of the land, or waiting for further increase of revenue ?*

A. The amount of assessment fixed on the lands of these provinces at the time of the permanent settlement (1793), was as high as had ever been assessed,

and in many instances higher than had ever before been realized by the exertions of any Government, Mohammedan or British. Therefore the Government sacrificed nothing in concluding that settlement. If it had not been formed, the landholders (*Zamindars*) would always have taken care to prevent the revenue from increasing by not bringing the waste lands into cultivation, and by collusive arrangements to elude further demands; while the state of the cultivators would not have been at all better than it is now. However, if the Government had taken the whole estates, of the country into its own hands, as in the ceded and conquered provinces and the Madras Presidency then, by allowing the landholders only ten per cent. on the rents (*Malikanah*), and securing all the rest to the Government, it might no doubt have increased the revenue for a short time. But the whole of the landlords in the country would then have been reduced to the same wretched condition as they are at present in the ceded and conquered provinces of the Bengal Presidency, or rather annihilated, as in many parts of the Madras territory; and the whole population reduced to the same level of poverty. At the same time, the temporary increase of revenue to Government under its own immediate management would also have soon fallen off, through the misconduct and negligence of the revenue officers, as shown by innumerable instances which the estates were kept *khas*; i.e., under the immediate management of Government.

38. Q. *Why are lands so frequently sold for arrears of revenue, and transferred from one set of hands to another?*

A. For ten or twelve years after the introduction of the permanent settlement, the old *Zamindars*, from adhering to their ancient habits of managing their estates by agents, and neglecting their own affairs, very soon lost a great part of their lands and some the whole; the purchasers, by their active exertions and outlay of capital, improved many of their estates, and increased their own fortune but many of their heirs and successors again becoming less active and more extravagant, by rivalry with each other in nuptial entertainments, funeral rites, and other religious ceremonies, frequently ran into debt, and brought their estates again into the market.

39 and 40. Q. *Do the lands sold for arrears usually realize the revenue claimed by Government, and fetch their full value? If not, what is the cause of the deprecation?*

A. They generally realize the revenue due from them; not always, however, as they are sold sometimes even below the amount of arrears due by the proprietors, owing to the want of due publicity and consequent absence of competitors; or to collusive sales of the estates as before observed (see Answer to Question 26).

41. Q. *After the sale of the lands, should the arrears not be realized, does the Government seize upon the person of the proprietor?*

A. Yes: the Government seizes his person, and any other property Government may discover him to be possessed of, is sold.

42. Q. *If so, is there any limit to his confinement, except payment of the debt?*

A. There is no specified limit to the best of my recollection; but after Government is satisfied that he has given up all his property, he may obtain his release from its humanity.

43. Q. *Have the cultivators any means of accumulating capital under the present system?*

A. Certainly not: very often when grain is abundant, and therefore cheap, they are obliged, as already observed, to sell their whole produce to satisfy the demands of their landlords, and to subsist themselves by their own labour. In scarce and dear years they may be able to retain some portion of the crop to form a part of their subsistence, but by no means enough for the whole. In short, such is the melancholy condition of the agricultural labourers, that it always gives me the greatest pain to allude to it.

44. Q. *When the Government makes an assessment on the fields of the cultivators by means of numerous subordinate officers, is there any effectual mode of preventing collusion, embezzlement or oppression in the valuing and measuring of the lands?*

I think it is almost impossible under that system, carried on, as it must be, by means of a vast number of individuals who are generally poor, and have no character to support. From their mismanagement:

not only the cultivators suffer, but ultimately the Government itself, from the falling off in the revenue, under a system that at once presses down the people and exhausts the resources of the country. However, if the Government would take the survey and assessment of one of the preceding years as a standard, and prevent any future measurement and assessment, it would relieve the cultivators, from the apprehension of further exactions,* and the Collector or the Registrar of the district should be authorized to grant reduction to any cultivator subjected to overmeasurement on being petitioned, and on personally ascertaining such to have occurred.

45. Q. *Are Collectors generally competent to superintend personally the revenue affairs of the district?*

A. From the heat of the climate, and from the difficulty of transacting business in a language which is foreign to them, the Collectors in general for the above reasons, must stand in need of aid from others, whom they employ as instruments in conducting the details. At the same time they have so little intercourse or acquaintance with the native inhabitants, that they must naturally depend chiefly on two or three persons who are around them, in whom they generally place confidence, and consequently these few

* Since writing the above, I happened to meet with a gentleman from Madras, of high talents and experience who maintained that no further measurements or assessments are at all allowed in the provinces belonging to that presidency. I felt gratified at the intelligence, and shall feel still more so to find it confirmed by the Regulations of Government.

who have no chance of bettering their condition from the trifling salaries allowed them, sometimes consult their own interests, rather than those of the Government or the people.

46. Q. *Are the Collectors vested with sufficient power to perform effectually the duties attached to their office, or do they enjoy authority of an extent to be injurious to the public ?*

A. Their powers are amply sufficient. The judicial authorities also are always required by the regulations of Government to afford them promptly every necessary assistance in the discharge of their duties; and many Collectors are even invested with the additional office and powers of Magistrates; contrary to the judicious system established by Lord Cornwallis, and to the common principles of justice, as they thus become at once parties and judges in their own case; consequently such powers very often prove injurious to those who attempt to maintain their own right against the claims of Government, whose agents the Collectors are. I much regret such a wide deviation in principle from the system of Lord Cornwallis; as I think that system, with such modifications and improvements as time may suggest, should be maintained as the basis of the revenue and judicial system of India.

47. Q. *Can you suggest any improvement which might secure the revenue to Government and protection to the people ?*

A. The regulations already in force are fully adequate to secure the Government revenue. But to secure the people against any unjust exactions on the part of the revenue officers, I would propose, first, that the Collectors should not by any means be armed with magisterial powers. Secondly, that any charge against the revenue officers should be at once investigated by the judicial courts to which they are subject, without reference to number of cases on the file of the court, as has been the practice with regard to causes in which the Collectors are prosecutors: so that both parties may have an equal chance of legal redress. This, under existing circumstances, seems to be the best remedy that presents itself; but with the present system, I must repeat my fears that redress will not always be attainable.

48. Q. *Would it be injurious or beneficial to allow Europeans of capital to purchase estates and settle on them?*

A. If Europeans of character and capital were allowed to settle in the country, with the permission of the India Board, or the Court of Directors, or the local Government, it would greatly improve the resources of the country, and also the condition of the native inhabitants, by showing them superior methods of cultivation, and the proper mode of treating their labourers and dependants.

49. Q. *Would it be advantageous, or the reverse, to admit Europeans of all descriptions to become settlers?*

A. Such a measure could only be regarded as adopted for the purpose of entirely supplanting the native inhabitants, and expelling them from the country. Because it is obvious that there is no resemblance between the higher and educated classes of Europeans and the lower and uneducated classes. The difference in character, opinions and sentiments between Europeans and Indians particularly in social and religious matters, is so great, that the two races could not peaceably exist together, as one community, in a country conquered by the former, unless they were gradually assimilated by constant intercourse, continued and increased for a long period of years, under a strong and vigorous system of police, in every village, large or small; an establishment so expensive, however, that the present revenues of India could not support it. Such assimilation has in some measure taken place at Calcutta, from the daily communication of many of the respectable members of both communities. Yet even in that Capital, though the seat of Government, and numerous police officers are placed at almost every hundred yards, the common Europeans are often disposed to annoy the native inhabitants. By the above statement I do not mean to convey that there are not any honest and industrious persons among the European labourers. On the contrary I believe that amongst the very humblest class of society such characters are numerous. But even in justice to them, I deem it right to state that

without capital, they could not, in a hot country, compete with the native labourers, who are accustomed to the climate, and from their very different habits of life with regard to food, clothing and lodging, can subsist on at least one-sixth, if not one-tenth of what is required by an European labourer. Consequently the latter would not find his situation at all improved, but the very reverse by emigrating to India.

50. Q. *Would the judicial system as at present established, be sufficient to control the European settlers in the interior of the country?*

A. At present British-born subjects are not amenable to the Company's courts, except as regards small debts under 500 rupees (about £50) and for petty cases of assault. Consequently under the present regulations, the courts, as now established, are by no means competent to exercise any adequate control over British-born subjects in the interior.

51. Q. *Would it be advisable to extend the jurisdiction of the King's courts already established at the Presidencies, or to augment their number: or to give greater powers to the Company's judges over the European settlers?*

A. If the expenses attending the King's courts could be reduced to a level with the costs of the Company's courts, it would be useful and desirable to increase the number of such courts to the same extent as that of the Company's courts of appeal at present, if Europeans of respectability are permitted freely to settle in the interior. But should such

reduction of expense be impracticable, it seems necessary in that event to extend the power of the Company's courts under the judicial servants of the Company. In the latter case these judicial servants should be regularly educated as barristers in the principle of British law; or the British settlers must consent to be subject to the present description of judicial officers, under such rules and regulations as the Government of India has established for the rest of the inhabitants of the country. With regard to the extension of the jurisdiction of the King's courts already established at the Presidencies, although in the courts justice is, I think, ably administered, yet it is at an expense so enormous to the parties, and to the community, that even so wealthy a city as Calcutta is unable to support its exorbitant costs, to which two successive grand juries have called the attention of the judges without any effect.

52. Q. *How would the settlement on a large scale of Europeans of capital in the country improve its resources?*

A. As a large sum of money is now annually drawn from India by Europeans retiring from it with the fortunes realised there, a system which would encourage Europeans of capital to become permanent settlers with their families, would necessarily greatly improve the resources of the country.

53. Q. *Is there any portion of land in the provinces with which you are acquainted, free from public assessments?*

A. There is land of this description, and in some districts to considerable extent.

54. Q. *Have any measures been adopted by Government to ascertain the validity of the title by which such lands are held free from assessment, or have any of them been resumed, and under what circumstances?*

A. In Reg. XIX. of 1793, Lord Cornwallis, the Governor-General-in-Council, directed the revenue Collectors to enquire into the validity of the titles of such land : and in case of there being any doubt as to their validity, to institute prosecutions so as to have them judicially investigated ; and in the event of the parties in possession of the land failing to establish a valid title in the Court, the lands might, by a decree of the Court, be resumed by the Collectors on behalf of Government. But the Government declared, in the preamble of that regulation, that no holder of such tax-free (*lakiraj*) lands should be deprived of them, or subjected to revenue, until his title should be judicially investigated and “adjudged invalid by a final judicial decree.” However, I feel bound to add, that in 1828, by Reg. III. of that year, the Revenue Collector in each district was authorised to dispossess the holders of such tax-free lands by his own authority, without reference to any Judicial Courts, if the Collector should be of opinion, after such enquiry as might satisfy himself that the title of the proprietor was not valid. It is therein enacted (Sec. 4. Art. 1.) that “such decision of the Collector

shall have the force and effect of a decree." Also (Art. 2,) that "it shall not be necessary for him to transmit his proceedings to the Board of Revenue," but "the party dispossessed might appeal;" and by Art. 3, whether an appeal be filed or not, "that it shall and may be lawful for the Collector immediately to carry into effect his decision by attaching and assessing the lands." This regulation produced great alarm and distrust amongst the natives of Bengal, Behar, and Orissa, many of whom petitioned against the principle of one party, who lays claim to the land, dispossessing an actual possessor at his own discretion; and Lord William Bentinck, though he has not rescinded the regulation, has suspended the immediate execution of it for the present.

II

VARIOUS opinions are entertained by individuals with regard to the perpetual settlement of public revenue, concluded according to Regulation I. of 1793 with proprietors of land in the provinces of Bengal, Behar, and Orissa, and arguments resting on different principles have been adduced for and against this system ; no room is therefore left for throwing any new light on the subject. We may, however, safely advance so far as to admit the settlement to be advantageous to both the contracting parties, though not perhaps in equal proportion.

2. To convince ourselves, in the first instance, of the accuracy of the opinion that the perpetual settlement has proved advantageous to Government, a reference to the revenue records of the former and present rulers will, I think, suffice. No instance can be shown in those records, in which the sum assessed and annually expected from these provinces was ever collected with equal advantage prior to the 1793. To avoid the demand of an increase of revenue on the part of Government, proprietors in general used them wilfully to neglect the cultivation, which very often proved utterly ruinous to themselves, and excessively inconvenient to Government, in managing, farming, or selling such estates for the purpose of realising their revenues.

3. Such persons as have directed their attention to the revenue records of Government, must have been struck with the extreme difference existing between the rate of value at which estates usually sold prior to the year 1793, or even several years subsequent to that period, and the common price which the disposal of those estates now obtains to Government or individuals at public or private sales; and it will not, I believe, be alleged that I am far wrong, when I say that this increase may in general be reckoned tenfold, and in some instances twenty. This enormous augmentation of the price of land is principally to be attributed to the extensive cultivation of waste lands, which has taken place in every part of the country, and to the rise of rents payable by the cultivators, and not to any other cause that I can trace.

4. It is true the common increase of wealth has an irresistible tendency to augment the price, without any improving change in the property; but when we reflect on the extent of overwhelming poverty throughout the country (towns and their vicinity excepted), we cannot admit that increase of wealth in general has been the cause of the actual rise in the value of landed estates. To those who have ever made a tour of the provinces, either on public duty or from motives of curiosity, it is well-known that within a circle of a hundred miles in any part of the country there are to be found very few, if any (besides proprietors of land), that have the least pretension to

wealth or independence, or even the common comforts of life.

5. It has been asserted, and perhaps justly, that much of the increased wealth of Bengal in late years is to be ascribed to the opening of the trade in 1814, thereby, occasioning a greatly increased demand for the produce of lands. In as far, however, as this cause may have operated to increase of wealth, it is confined to landlords and dealers in commodities.

6. Besides, Government appropriates to itself an enormous duty on the transit and exportation of the produce of the soil, which has, since the period of the perpetual settlement, increased, to a great amount from the exertions of the proprietors in extending and improving cultivation, under the assurance that no demand of an increase of revenue would be made upon them on account of the progressive productiveness of their estates.

7. In the second place, that the perpetual settlement has been conducive to the interest of the proprietors of land is, in fact, acknowledged by all parties, and is fully evident on reference to the present and former revenue registers. The benefit which the proprietors enjoy is principally owing to two circumstances: First, The extended cultivation of waste lands which formerly yielded no rent: Secondly, subsequent increase of rents, much beyond those rates paid by cultivators at the time of the perpetual settlement, in defiance of

the rights of *Khud-kasht* Ryots—that is, such villagers as cultivate on lease the land that belongs to the village.

8. None will, I think, hesitate to rejoice in the augmentation of the incomes of proprietors derived from the extension of cultivation, as every man is entitled by law and reason to enjoy the fruits of his honest labour and good management. But as to the policy of vesting in the proprietors themselves, exempted from any increase of tax, the power of augmenting rents due from their *Khud-kasht* tenants, I must confess it to be a subject that requires examination.

9. It is too true to be denied that there was no regular system of administering justice, even in theory, under the Government of the former rulers, and that there were few instances in which such humble individuals as *Khud-kasht* Ryots succeeded in bringing complaints against proprietors to the notice of higher authorities; nevertheless their claims to the cultivation of particular soils at fixed rates, according to their respective qualities, were always admitted as their means of livelihood, and inducement to continue to reside in their native village, although proprietors very often oppressively extorted from them sums of money, in addition to their rents, under the name of *abwabs*, or subscriptions; while, on the other hand, the Ryots frequently obtained deductions through collusion with the managers acting in behalf of the proprietors.

10. The measure adopted for the protection of *Khud-kasht* tenants in Article 2nd, Sec. LX. Reg. VIII. of 1793, was conditional and has been consequently subject to violation. Hence they have benefited very little, if at all, by its provisions.

11. The power of imposing new leases and rents, given to the proprietors by Reg. I and VIII of 1793, and subsequent Regulations, has considerably enriched comparatively a few individuals—the proprietors of land—to the extreme disadvantage, or rather ruin, of millions of their tenants; and it is productive of no advantage to the Government.

12. During the former system of Government, proprietors in these and other provinces, contrary to the tenure by which lands are held in England, were required to pay a considerable proportion of their rents to the ruler of the country, whose arbitrary will was alone sufficient to augment or reduce the rates of the revenue demandable from them, and who, by despotic power, might deprive them of their rights as proprietors when they failed to pay the revenue unjustly alleged to be due from them. Under these circumstances, the situation of the proprietors was not in any respect on a more favourable footing than that of the *Khud-Kasht* tenant, and consequently their right was not in any way analogous to that of a landlord in England.

13. In short, there were three parties acknowledged to have had a fixed right in the soil:—1st, The Ryots to cultivate the land, and receive one half of

the produce in return for the seed and labour. 2ndly, The Government, in return for its general protection, to receive the other half, with the exception of one-tenth or eleventh. 3rdly, The Zamindars, or landholders to receive the tenth or eleventh for their local protection, and for their intervention between the Government and the peasantry.

14. With a view to facilitate the collection of revenue and to encourage proprietors to improve their estates, Government liberally relieved them in the year 1793 from the distress and difficulties originating in the uncertainty of assessment, by concluding a perpetual settlement with them. But I am at a loss to conceive why this indulgence was not extended to their tenants, by requiring proprietors to follow the example of Government, in fixing a definite rent to be received from each cultivator, according to the average sum actually collected from him during a given term of years; or why the feeling of compassion excited by the miserable condition of the cultivators does not now induce the Government to fix a *maximum* standard, corresponding with the sum of rent now paid by each cultivator in one year, and positively interdict any further increase.

15. Some, however, doubt whether Government can now assume the power of bettering the condition of this immense portion of its subjects, without violating the long-standing practice of the country, and the principles laid down in their existing regulations, at least for the last forty years. But I am satisfied that

an unjust precedent and practice, even of longer standing, cannot be considered as the standard of justice by an enlightened Government.

16. With respect to the Regulations, however, there would be no real violation of them ; as in Reg. I. of 1793, which is the basis of the permanent settlement, the Government thus expressly declares, that " It being the duty of the ruling power to protect all classes of people, and more particularly those who from their situation are most helpless, the Governor-General-in-Council will, whenever he may deem it proper, enact such regulations as he may think necessary, for the protection and welfare of the dependant *Talukdars*, *Ryots* and other cultivators of the soil ; and no *Zamindar*, independent *Talukdar*, or other actual proprietor of land, shall be entitled on this account to make any objection to the discharge of the fixed assessment which they have respectively agreed to pay."

17. And again in Reg. VIII. of 1793 (Sec. 60 Art 2.), the Government recognized the principle of the cultivators of the lands attached to their own village (*Khud-kasht Ryots*) having a permanent right to retain possession thereof at a fixed rent, and enacted that their title-deeds (*Pattahs*) should not be set aside, except in certain specified cases, applicable to that period of general settlement, and not extending to forty years afterwards.

18. I regret to say that in some parts of these provinces the rent is already raised so high, that

even an interdict against further increase cannot afford the Ryots (cultivators) any relief or comfort; consequently, the Government might endeavour to raise part of its revenue by taxes on luxuries, and such articles of use and consumption as are not necessities of life, and make a proportionate deduction in the rents of the cultivators, and in the revenues of the *Zamindars* to whom their lands belong.

19. Failing this, the same desirable object may be accomplished by reducing the revenue establishment in the following manner:—Under the former Government, the natives of the country, particularly Hindus, were exclusively employed in the revenue department in all situations, and they are still so almost exclusively under the present system. The Collectors being covenanted European servants of the Company, are employed as superintendents at a salary of a thousand or fifteen hundred rupees (£ 100 to 150.) per mensem. The duties, however, are chiefly performed by the native officers, as they are not of such importance or difficulty as the duties attached to the judicial department, in which one slip might at once destroy the life of the innocent, or alter the just destination of property for a hundred generations.

20. The principal duties attached to the situation of Collector are as follows: 1st. The receipt of the revenue by instalments according to the assessment, and remitting the amount thus collected to the General Treasury; or to one of the commanding officers; or to the Commercial Resident, or Salt

Agent, as directed by the Accountant-General. 2nd. Advertising and selling the estates of defaulters to realise arrears. 3rd. Taking care of his own treasury (to prevent any mismanagement of it,) and the revenue records. 4th. Making partitions of estates, when joint sharers thereof apply to him for such division. 5th. Preparing a quinquennial register of the estates paying revenue within his Collectorship. 6th. Ascertaining what tax-free land has been in the possession of individuals without a valid title. 7th. Furnishing the judicial authorities with official papers required by them, and executing their decrees concerning lands &c. 8th. Deciding cases which the judicial officer has it in his option to refer to the Collector. 9th. Officiating as local post-master under the authority of the Post-Master-General. 10th. Assessing duties on the venders of liquors and drugs with the concurrence of the Magistrate, and collecting the duties payable thereon (receiving five per cent. on the amount of collection for his trouble). 11th. Giving out stamped papers to native venders, and he being responsible for the same, ten per cent., I think, on the sum realised is allowed him for his trouble and responsibility. (The two latter articles produce for the Collector an additional monthly income of from not less than 200 to 1,600 rupees a month, according to the greater or smaller sale in different districts.) 12th. Regulating the conduct of the native Sub-Collectors, assessors and surveyors employed on the estate under the immediate management of Govern-

ment. 13th. Transmitting monthly and annual reports and accounts to the Accountant-General and the Civil Auditor, and corresponding with the Board of Revenue on the various affairs of his Collectorship as well as obeying their instructions.

21. A native of respectability at a salary of about 300 or 400 rupees per month may be appointed in lieu of the European Collector, and he should give sureties for his character and responsibility to such amount as Government may deem adequate. The large sum that may thus be saved by dispensing with the Collectors would not only enable Government to give some relief to the unfortunate Ryots above referred to by reducing their rents, but also raise the character of the natives and render them attached to the existing Government and active in the discharge of their public duties, knowing that under such a system the faithful and industrious native servant would receive the merit, and ultimately the full reward of his services; whereas under the present system the credit or discredit is attributed to the European head of the department; while the natives who are the real managers of the business are entirely overlooked and neglected, and consequently they seem most of them to be rendered quite indifferent to anything but their own temporary interest.

22 With respect to the expediency and advantage of appointing native revenue officers to the higher situations in the revenue department, I am strongly supported by the opinions of persons whose senti-

ments have great weight with the governing party as well as with the party governed. I can safely quote the remarks of many distinguished servants of the Honourable East India Company, such as Sir Thomas Munro, Mr. Robert Richards, Mr. H. Ellis, and others.

23. The native Collectors should be under the immediate and strict control of the Board of Revenue as the European Collectors at present are, and should be made strictly responsible for every act performed in their official capacity. No one should be removed from his situation unless on proof of misconduct regularly established to the satisfaction of Government on the report of the Board of Revenue.

24. For the present, perhaps, it would be proper to transfer the duty of selling the property of defaulting landholders to the Registrars; and the Judges, instead of referring causes to the revenue officers, should submit them to the Sudder Ameens (or native Commissioners already appointed to decide causes under a certain amount.)

25. In order to prevent the exercise of any undue influence or bribery in obtaining the situation of native Collectors of revenue, it is requisite that all the present *Serishtadars* or head native officers attached to the different Collectorships, should each be confirmed, at once, in the situation of Collector, and in case of his death or removal, the next in rank should succeed him. In the same manner those under them should be each promoted regularly in succession

according to his rank in the revenue department, unless incapacitated from being unable to produce the requisite security, or from other evident disqualification. And no one should be allowed to hold the situation of Collector unless he had been at least ten years in the revenue service.

26. The present Collectors may be transferred, if found qualified, to the judicial or some other department, or allowed to retire on suitable pensions. Besides the Board of Revenue, who should exercise a constant superintendence over the revenue branch, there should be six or eight European civil servants of the company, who stand high in the estimation of Government, appointed under the denomination of circuit Collectors, to examine personally, from time to time, the records kept, and the proceedings held by the native Collectors.

27. At all events I must conclude with beseeching any and every authority to devise some mode of alleviating the present miseries of the agricultural peasantry of India and thus discharge their duty to their fellow-creatures and fellow-subjects.

INDIAN PEASANTRY

The following are additional queries and answers respecting the condition of India. Ram Mohun's views on the position of the Indian peasantry are set forth lucidly in his evidence before the Select Committee.

1. QUESTION. *What is your opinion of the physical condition of the Indian peasantry ?*

ANSWER. India is so extensive a country that no general statement on this subject will apply correctly to the people of the various parts of it. The Natives of the Southern and Eastern Provinces for example, are by no means equal in physical qualities to those of the Northern and Western Provinces. But as regards physical strength, they are upon the whole inferior to the Northern nations, an inferiority which may be traced, I think, to three principal causes: 1st. The heat of the climate of India, which relaxes and debilitates the constitution: 2ndly, The simplicity of the food which they use, chiefly from religious prejudices: 3rdly, The want of bodily exertion and industry to strengthen the corporeal frame, owing principally to the fertility of the soil, which does not render much exertion necessary for gaining a livelihood. Hence the Natives of Africa, and some parts of Arabia, though subject to the influence of the same or perhaps a greater intensity of heat, yet from the necessity imposed upon them of toiling hard for

sustenance, and from using animal food, they are able to cope with any Northern race in physical strength; therefore, if the people of India were to be induced to abandon their religious prejudices, and thereby become accustomed to the frequent and common use of a moderate proportion of animal food, (a greater proportion of the land being gradually converted to the pasture of cattle,) the physical qualities of the people might be very much improved. For I have observed with respect to distant cousins, sprung from the same family, and living in the same district, when one branch of the family had been converted to Mussalmanism, that those of the Moham-
medan branch living in a freer manner, were distinguished by greater bodily activity and capacity for exertion, than those of the other branch which had adhered to the Hindu simple mode of life.

2. Q. *What is the moral condition of the people?*

A. A great variety of opinions on this subject has already been afloat in Europe for some centuries past, particularly in recent times, some favourable to the people of India and some against them. Those Europeans who, on their arrival in the country, happened to meet with persons whose conduct afforded them satisfaction, felt prepossessed in favour of the whole Native population, and respected them accordingly; others again who happened to meet with ill treatment and misfortunes, occasioned by the misconduct or opposition, social or religious,

of the persons with whom they chanced to have dealings or communication, represented the whole Indian race in a corresponding light; while some, even without being in the country at all, or seeing or conversing with any Natives of India, have formed an opinion of them at second hand founded on theory and conjecture. There is, however, a fourth class of persons, few indeed in number, who though they seem unprejudiced, yet have differed widely from each other, in many of their inferences from facts, equally within the sphere of their observation, as generally happens with respect to matters not capable of rigid demonstration. I therefore feel great reluctance in offering an opinion on a subject on which I may unfortunately differ from a considerable number of those gentlemen. However, being called upon for an opinion, I feel bound to state my impression, although I may perhaps be mistaken.

From a careful survey and observation of the people and inhabitants of various parts of the country and in every condition of life, I am of opinion that the peasants or villagers who *reside at a distance from large towns and head stations and courts of law*, are as innocent, temperate and moral in their conduct as the people of any country whatsoever; and the farther I proceed towards the North and West, the greater the honesty, simplicity and independence of character I meet with. The virtues of this class, however, rest at present chiefly on their primitive simplicity, and a strong religious feeling

which leads them to expect reward or punishment for their good or bad conduct, not only in the next world, but like the ancient Jews, also in this; 2ndly. The inhabitants of the cities, towns or stations who have much intercourse with persons employed about the Courts of law, by Zamindars &c., and with foreigners and others in a different state of civilization, generally imbibe their habits and opinions. Hence their religious opinions are shaken without any other principles being implanted to supply their place. Consequently a great proportion of these are far inferior in point of character to the former class, and are very often even made tools of in the nefarious work of perjury and forgery; 3rdly. A third class consists of persons who are in the employ of landholders (Zamindars) or dependent for subsistence on the Courts of law, as Attorney's clerks, and who must rely for a livelihood on their shrewdness; not having generally sufficient means to enter into commerce or business. These are for the most part still worse than the second class; more especially when they have no prospect of bettering their condition by the savings of honest industry, and no hope is held out to them of rising to honour or affluence by superior merit. But I must confess that I have met a great number of the second class engaged in a respectable line of trade, who were men of real merit, worth and character. Even among the third class I have known many who had every disposition to act uprightly and some actually

honest in their conduct. And if they saw by experience that their merits were appreciated, that they might hope to gain an independence by honest means, and that just and honourable conduct afforded the best prospect of their being ultimately rewarded by situations of trust and respectability, they would gradually begin to feel a high regard for character and rectitude of conduct; and from cherishing such feelings become more and more worthy of public confidence, while their example would powerfully operate on the second class above noticed, which is generally dependent on them and under their influence.

3. Q. *What is the rate of wages generally allowed to the peasantry and labourers?*

A. In Calcutta, artizans, such as blacksmiths and carpenters, if good workmen, get (if my memory be correct) from ten to twelve rupees a month (that is, about 20 to 24 shillings); common workmen who do inferior plain-work 5 or 6 rupees (that is, about 10 or 12 shillings); masons from 5 to 7 (10 to 14 shillings) a month; common labourers about $3\frac{1}{2}$ and some 4 rupees; gardeners or cultivators of land about 4 rupees a month, and palanquin-bearers the same. In small towns the rates are something below this, in the country places still lower.

4. Q. *On what kind of provisions do they subsist?*

A. In Bengal they live most commonly on rice with a few vegetables, salt, hot spices and fish. I

have however often observed the poorer classes living on rice and salt only. In the upper provinces they use wheaten flour instead of rice, and the poorer classes frequently use bajra (millet) &c. ; the Moham-medans in all parts who can afford it add fowl and other animal food. A full grown person in Bengal consumes about 1 lb. to 1½ lb. of rice a day ; in the upper provinces a larger quantity of wheaten flour, even though so much more nourishing. The Vaishyas (persons of the third class) and the Brahmans of the Deccan never eat flesh under any circumstances.

5. Q. *What sort of houses do they inhabit ?*

A. In higher Bengal and the Upper and Western Provinces they occupy mud huts ; in the lower and Eastern parts of Bengal generally hovels composed of straw, mats and sticks ; the higher classes only having houses built of brick and lime.

6. Q. *How are they clothed ?*

A. The Hindus of the Upper Province wear a turban on the head, a piece of cotton cloth (called a *Chadar*) wrapped round the chest, and another piece girt closely about the loins and falling down towards the knee ; besides, they have frequently under the *Chadar* a vest or waistcoat cut and fitted to the person. In the lower provinces they generally go bareheaded ; their lower garment is worn more open but falling down towards the ankle ; and the poorer classes of labourers have merely a small strip of cloth girt round their loins for the sake of decency and are in other respects quite naked. The Moham-

medans everywhere use the turban and are better clad. The respectable and wealthy classes of people, both Mussalmans and Hindus, are of course dressed in a more respectable and becoming manner.

7. Q. *Does the population increase rapidly?*

A. It does increase considerably, from the early marriages of the people and from the males so seldom leaving their families, and almost never going abroad. But there are occasional strong natural checks to this superabundance. The vast number carried off of late years by cholera having greatly reduced the surplus population, the condition of the labourers has since been much improved, in comparison with what it was before the people were thinned by their melancholy scourge.

8. Q. *What is the state of industry among them?*

A. The Mohammedans are more active and capable of exertion than the Hindus, but the latter are also generally patient of labour, and diligent in their employments, and those of the Upper Provinces not inferior to the Mohammedans themselves in industry.

9. Q. *What capability of improvement do they possess?*

A. They have the same capability of improvement as any other civilized people.

10. Q. *What degree of intelligence exists among the native inhabitants?*

A. The country having been so long under subjection to the arbitrary military Government of the Mohammedan rulers, which showed little respect for

Hindu learning, it has very much decayed and indeed almost disappeared, except among the Brahmans in some parts of the Dakhan (Deccan), and of the Eastern side of India, more distant from the chief seat of Mohammedan Government. The Mussalmans, as well as the more respectable classes of Hindus chiefly, cultivated Persian literature, a great number of the former and a few of the latter also extending their studies likewise to Arabic. This practice has partially continued to the present time, and among those who enjoy this species of learning, as well as among those who cultivate Sanskrit literature, many well-informed and enlightened persons may be found, though from their ignorance of European literature, they are not naturally much esteemed by such Europeans as are not well versed in Arabic or Sanskrit.

11. Q. *How are the people in regard to education?*

A. Those about the courts of the native princes are not inferior in point of education and accomplishments to the respectable and well-bred classes in any other country. Indeed they rather carry their politeness and attention to courtesy to an inconvenient extent. Some seminaries of education (as at Benares &c.) are still supported by the princes and other respectable and opulent native inhabitants, but often in a very irregular manner. With respect to the Hindu College in Calcutta, established under the auspices of Government on a highly respectable and firm footing, many learned Christians object to the system there

followed of teaching literature and science without religion being united with them; because they consider this as having a tendency to destroy the religious principles of the students (in which they were first brought up and which consequently were a check on their conduct), without substituting anything religious in their stead.

12. Q. *What influence has superstition over the conduct of the people?*

A. I have already noticed this in reply to query 2nd.

13. Q. *What is the prevailing opinion of the Native inhabitants regarding the existing form of Government and its administrators, Native and European?*

A. The peasantry and villagers in the interior are quite ignorant of, and indifferent about either the former or present Government, and attribute the protection they may enjoy or oppression they may suffer to the conduct of the public officers immediately presiding over them. But men of aspiring character and numbers of such ancient families as are very much reduced by the present system, consider it derogatory to accept of the trifling public situations which natives are allowed to hold under the British Government, and are decidedly disaffected to it. Many of those, however, who engage prosperously in commerce, and of those who are secured in the peaceful possession of their estates by the permanent settlement, and such as have sufficient intelligence to

foresee the probability of future improvement which presents itself under the British rulers, are not only reconciled to it, but really view it as a blessing to the country.

But I have no hesitation in stating, with reference to the general feeling of the more intelligent part of the Native community, that the only course of policy which can ensure their attachment to any form of Government, would be that of making them eligible to gradual promotion, according to their respective abilities and merits, to situations of trust and respectability in the state.

THE JUDICIAL SYSTEM OF INDIA

The following are further extracts from Ram Mohun's Evidence before the Select Committee of the House of Commons on the affairs of the East India Company.

1. QUESTION. *Have you observed the operation of the Judicial System in India ?*

ANSWER. I have long turned my attention towards the subject, and possess a general acquaintance with the operation of that system, more particularly from personal experience in the Bengal presidency, where I resided.

2. Q. *Do you think that the system hitherto acted upon is calculated to secure justice ?*

A. The judicial system established in 1793, by Lord Cornwallis, was certainly well adapted to the situation of the country, and to the character of the people as well as of the Government, had there been a sufficient number of qualified Judges to discharge the judicial office, under a proper code of laws.

3. Q. *Explain particularly in what points you consider the practical operation of the system defective ?*

A. In the want of sufficient number of Judges and Magistrates, in the want of adequate qualification in many of them to discharge the duty in foreign languages, and in the want of proper code of laws, by which they might be easily guided.

4. Q. *Can you explain what evils result from the want of a greater number of Judges?*

A. 1st. The Courts being necessarily few in number in comparison to the vast territories under the British rule, many of the inhabitants are situated at so great a distance from them, that the poorer classes are in general unable to go and seek redress for any injury, particularly those who may be oppressed by their wealthier neighbours, possessing great local influence. 2ndly. The business of the Courts is so heavy that causes often accumulate to such an extent, that many are necessarily pending some years before they can be decided; an evil which is aggravated by subsequent appeals from one court to another, attended with further delay and increased expense. By this state of things wrong-doers are encouraged, and the innocent and oppressed in the same proportion discouraged, and often reduced to despair. 3rdly. Such a mass of business transacted in foreign languages being too much for any one individual, even the ablest and best intentioned Judge, may be disheartened at seeing before him a file of causes which he can hardly hope to overtake; and he may therefore be thus induced to transfer a great part of the business to his native officers, who are not responsible, and who are so meanly paid for their services, that they may be expected to consult their own interests.

5. Q. *Will you inform us what evils arise from the want of due qualification in the Judges?*

A. It is but justice to state that many of the judicial officers of the Company are men of the highest talents, as well as of strict integrity, and earnestly intent on doing justice. However, not being familiar with the laws of the people over whom they are called to administer justice by these laws, and the written-proceedings of the Court, answers, replies, rejoinders, evidence taken, and documents produced, being all conducted in a language which is foreign to them, they must either rely greatly on the interpretation of their native officers, or be guided by their own surmises or conjectures. In one case, the cause will be decided by those who in point of rank and pay are meanly situated, and who are not responsible to the Government or public for the accuracy of the decision; in the other case, a decision founded on conjecture must be very liable to error. Still, I am happy to observe that there are some judicial officers, though very few in number, whose judgment and knowledge of the native languages are such, that in cases which do not involve much intricacy and legal subtlety, they are able to form a correct decision independent of the natives around them.

6. Q. *Can you point out what obstructions to the administration of justice are produced by the want of a better code of laws?*

A. The regulations published from year to year by the Local Government since 1793, which serve as instructions to the Courts, are so voluminous, compli-

cated, and in many instances, either too concise or too exuberant, that they are generally considered not a clear and easy guide ; and the Hindu and Mahomedan laws administered in conjunction with the above regulations, being spread over a great number of different books of various and sometimes doubtful authority, the Judges, as to law points, depend entirely on the interpretations of their native lawyers, whose conflicting legal opinions have introduced great perplexity into the administration of justice.

7. Q. *Is there any other impediment to the fair administration of justice besides these you have stated ?*

A. The first obstacle to the administration of justice is, that its administrators and the persons among whom it is administered have no common language. 2ndly. That owing partly to this cause and also in a great measure to the difference of manners &c., the communication between these two parties is very limited ; in consequence of which the Judges can with the utmost difficulty acquire an adequate knowledge of the real nature of the grievances of the persons seeking redress, or of the real character and validity of the evidence by which their claims are supported or opposed. 3rdly. That there is not the same relation between the native pleaders and the Judge as between the British Bar and the Bench. 4thly. The want of publicity owing to the absence of reports and of a public press, to take notice of the proceedings of the Courts in the interior :

consequently there is no superintendence of public opinion to watch whether the Judges attend their Courts once a day or once a week, or whether they attend to business six hours or one hour a day, or their mode of treating the parties, the witnesses, the native pleaders or law officers, and others attending the Courts—as well as the principles on which they conduct their proceedings and regulate their decisions; or whether in fact they investigate and decide the causes themselves, or leave the judicial business to their native officers and dependants. (In pointing out the importance of the fullest publicity being afforded to judicial proceedings by means of the press, I have no reference to the question of a free press, for the discussion of local politics, a point on which I do not mean to touch.) 5thly. The great prevalence of perjury; arising partly from the frequency with which oaths are administered in the Courts, having taken from them the awe with which they were formerly regarded, partly from the Judges being often unable to detect impositions in a foreign language, and to discriminate nicely the value of evidence amongst a people with whom they have in general so little communication; and partly from the evidence being frequently taken, not by the Judge himself but by his native officers (Omlah), whose good will is often secured hand by both parties, so that they may not endeavour to detect their false evidence by a strict examination. Under these circumstances the practice of perjury has grown so prevalent that the facts

sworn to by the different parties in a suit are generally directly opposed to each other, so that it has become almost impossible to ascertain the truth from their contradictory evidence. 6thly. That the prevalence of perjury has again introduced the practice of forgery to such an extent as to render the administration of justice still more intricate and perplexing. 7thly. The want of due publicity being given to the regulations which stand at present in place of a code of laws. From their being very voluminous and expensive, the community generally have not the means of purchasing them; nor have they a sufficient opportunity of consulting or copying them in the judicial and revenue offices where they are kept. As these are usually at a distance from the populous parts of the town, only professional persons or parties engaged in suits or official business are in the habit of attending these offices. 8thly and lastly. Holding the proceedings in a language foreign to the Judges, as well as to the parties and to the witnesses.

8. Q. *In what language are the proceedings of the Courts conducted?*

A. They are generally conducted in Persian, in imitation of the former Mohammedan rules, of which this was the Court language.

9. Q. *Are the Judges, the parties, and the witnesses sufficiently well acquainted with that language to understand the proceedings readily?*

A. I have already observed that it is foreign to all these parties. Some of the Judges, and a very

few among the parties, however, are conversant with that language.

10. Q. *Would it be advantageous to substitute the English language in the Courts, instead of the Persian?*

A. The English language would have the advantage of being the vernacular language of the Judges. With regard to the native inhabitants, it would no doubt, in the meantime, have the same disadvantage as the Persian; but its gradual introduction in the Courts would still, notwithstanding, prove ultimately beneficial to them by promoting the study of English.

11. Q. *Does the native Bar assist the Judge, and form a check on the accuracy of the decisions?*

A. It is no doubt intended to answer this most useful purpose, and does so to some extent; but, from the cause alluded to above (Ans. 7. No. 3.), not to the extent that is necessary to secure the principles of justice.

12. Q. *Do the Judges treat the native pleaders with the consideration and respect due to their office?*

A. They are not always treated in the inferior Courts with the consideration due to their office.

13. Q. *To what do you attribute it, that the bar is not treated with respect?*

A. The native pleaders are so unfortunately situated from there being such a great distance between them and the Judges who belong to the rulers of the country, and from not being of the same pro-

fession, or of the same class as the Judges, and having no prospect of promotion as English Barristers have, that they are treated as an inferior caste of persons.

14. Q. *Do not the native judicial officers employed under the Judge assist him in his proceedings?*

A. Of course they assist him, and that very materially.

15. Q. *What kind of assistance do they render to the Judge?*

A. They read the proceedings, viz. bill (darkhast, or arzi), answers, replies, rejoinders, and other papers produced in the Court; they write the proceedings and depositions of the witnesses; and very often, on account of the weight of business, the Judge employs them to take the depositions of the witnesses: sometimes they make abstracts of the depositions and other long papers, and lay them before the Judge for his decision.

16. Q. *Are they made responsible to the Judge for the proceedings held?*

A. They are responsible to the Judge, but not to the Government or the public.

17. Q. *Are not the Judges assisted also by Hindu and Mohammedan lawyers, appointed to act as interpreters of the law?*

A. They are: learned natives of this description being attached to the Courts to give their opinion on the Hindu and Mohammedan law points which may arise in any case.

18. Q. *Are natives of the country empowered to decide causes of any description?*

A. Yes: there are native Munsifs, or Commissioners, for the decision of small debts; and Sudder Ammeens who are authorised to try causes under five hundred rupees, whether connected with landed or movable property.

19. Q. *Are they qualified to discharge the duties entrusted to them?*

A. Many of them are fully qualified; and if proper care can be taken in the selection, all the situations might be filled with well-qualified persons.

20. Q. *What is your opinion of the general character and conduct of the Judges in their official capacity as such?*

A. I am happy to state that in my humble opinion the judicial branch of the service is at present almost pure; and there are among the judicial servants of the Company gentlemen of such distinguished talents, that from their natural abilities, even without the regular study of the law, they commit very few, if any, errors in the administration of justice. Others are not so well gifted, and must therefore rely more on the representations of their native officers, and being free from any local check on their public conduct, their regularity, attention to business, and other judicial habits, are not equal to the wishes of their employers, nor calculated to give general satisfaction.

21. Q. *Do they borrow money to any extent from the natives ?*

A. Formerly they borrowed to a great extent ; at present this practice is discouraged.

22. Q. *Why are the natives prevailed upon to lend to the Judges, and other civilians, money to such an extent ?*

A. Natives not having any hope of attaining direct consideration from the Government by their merits or exertions, are sometimes induced to accommodate the civil servants with money, by the hope of securing their patronage for their friends and relatives, the Judges and others having many situations directly or indirectly in their gift ; sometimes by the hope of benefitting by their friendly disposition when the natives have estates under their jurisdiction ; and sometimes to avoid incurring the hostility of the Judge, who, by Regulation IX of 1807, is empowered not only to imprison, but inflict corporal punishment, by his own authority under certain legal pretences on any native, whatever his respectability may be.

23. Q. *What is your opinion of the judicial character and conduct of the Hindu and Mohammedan lawyers attached to the Courts ?*

A. Amongst the Mohammedan lawyers I have met with some honest men. The Hindu lawyers are in general not well spoken of, and they do not enjoy much of the confidence of the public.

24. Q. *What is your opinion of the official character and conduct of the subordinate native judicial officers?*

A. Considering the trifling salaries (which they enjoy, from 10, 20, 30 or 40 rupees to 100 Rupees a month, (the last being the allowance of the head native officer only,) and the expenses they must incur, in supporting some respectability of appearance, besides maintaining their families; (the keeping of a palanquin alone must cost the headman a sum of between 20 and 30 rupees per month,) and considering also the extent of the power which they must possess, from their situations and duties as above explained (Q. 15). and the immense sums involved in the issue of causes pending in the Courts, it is not to be expected that the native officers, having such trifling salaries, at least many of them, should not avail themselves sometimes of their official influence, to promote their own interests.

25. Q. *What is your opinion of the professional character and conduct of the pleaders?*

A. Many pleaders of the Sudder Dewanee Adawlut are men of the highest respectability and legal knowledge, as the Judges are very select in their appointment, and treat them in a way which makes them feel that they have a character to support. Those of the provincial Courts of appeal are also generally respectable, and competent to the discharge of their duties. In the Zillah Courts some respectable pleaders may also be met with, but proper persons

for that office are not always very carefully selected ; and in general, I may observe, that the pleaders are held in a state of too much dependence by the Judges, particularly in the inferior Courts, which must incapacitate them from standing up firmly in support of the rules of the Court.

26. Q. *Is bribery and corruption ever practised in the judicial department, and to what extent ?*

A. I have already intimated my opinion in the answers to Questions 20 and 24.

27 and 28. Q. *Have the respectable and intelligent native inhabitants generally confidence in the purity of the Company's Courts and the accuracy of their decisions ; and have the native community confidence in the integrity of the subordinate judicial officers ?*

A. Whilst such evils exist as I have above noticed, in my reply to Queries 5, 6 and 7, as well as to Queries 20 and 24, the respectable and intelligent native inhabitants cannot be expected to have confidence in the general operation of the judicial system.

29. Q. *Are the Judges influenced in their decision by their native officers ?*

A. Those who are not well versed in the native languages, and in the Regulations of Government, must necessarily be very much dependent on their native officers, as well as those who dislike to undergo the fatigue and restraint of business, which to Europeans is still more irksome in the sultry climate of India.

30. Q. *Can you suggest any mode of removing the several defects you have pointed out in the judicial system?*

A. As European Judges in India are not generally expected to discharge judicial duties satisfactorily, independent of native assistance, from not possessing a thorough knowledge of the languages, manners, customs, habits, and practices of the people, and as the natives who possess this knowledge have been long accustomed to subordination and indifferent treatment, and consequently have not the power of commanding respect from others, unless joined by Europeans, the only remedy which exists, is to combine the knowledge and experience of the native with the dignity and firmness of the European. This principle has been virtually acted upon and reduced to practice since 1793, though in an imperfect manner, in the constitution of the Courts of Circuit, in which the Mufti (native assessor) has a voice with the Judge in the decision of every cause, having a seat with him on the bench. This arrangement has tolerably well answered the purpose of Government, which has not been able to devise a better system in a matter of such importance as the decision of questions of life and death, during the space of forty years, though it has been continually altering the systems in other branches. It is my humble opinion, therefore, that the appointment of such native assessors should be reduced to a regular system in the civil courts. They should be appointed by Government for life, at the

recommendation of the Sudder Dewanee Adawlut, which should select them carefully, with a view to their character and qualifications, and allow them to hold their situations during life and good behaviour, on a salary of from 300 to 400 rupees per mensem. They should be responsible to the Government as well as to the public for their decisions, in the same manner as the European Judges, and correspond directly with the judicial secretary. A casting voice should be allowed to the European Judge, in appointing the native officers, in case of difference of opinion; the native assessor, however, having a right to record his dissent. These assessors should be selected out of those natives who have been already employed for a period of not less than five years as assessors (Mufti), lawyers (Zillah Court Maulvis), or as the head native officers in the judicial department.

Par. 2. This measure would remove the evils pointed out in the answers to Q. 5 and to Q. 7, Nos, 1, 2 and 3, and also afford a partial remedy to the evils noticed in Nos. 5, 6 and 8 of Answer 7, as well as provide against the evils referred to in answer to Query 24.

Par. 3. In order however to render the administration of justice efficient and as perfect as human efforts can make it, and to remove the possibility of any undue influence which a native assessor might attempt to exercise on the bench under a European Judge of insufficient capacity, as well as to do away with the vexatious delays and grievous sufferings attending

appeals, it is necessary to have recourse to trial by jury, as being the only effective check against corruption, which, from the force of inveterate habit, and the contagion of example, has become so notoriously prevalent in India. This measure would be an additional remedy to the evils mentioned in the reply to Query 5 and 7, Nos. 1, 2, 3, and 5, 6, 8, and also in the replies to Query 4, Nos. 2 and 3, as well as in Query 24.

Par. 4. With a view to remove the evils arising from want of publicity of the Regulations, as noticed in No. 7 of Answer to the Query 7, two or three copied in each of the principal native languages used in that part of the country should be kept in a building in the populous quarter of the town, under the charge of a keeper on a small salary, and all persons should be freely admitted to read and copy them at leisure from sunrise to sunset. The expense of this would not amount to two pounds a month for each station, and the benefits of it would be incalculable.

Par. 5. In order to remedy the evils arising from the distance of the Courts as noticed at Question 4th, Answer No. 1, I beg to suggest as follows: The Sudder Ammeens, or superior Commissioners for the decision of causes under 500 rupees, affecting movable or immovable property, are at present stationed at the same place where the Zillah Judge holds his Court, and plaints are at first laid before the Judge, who turns them over to one of these Commissioners at his own discretion; consequently they afford no

remedy for the great distance of the Courts from many under their jurisdiction, as this often embraces a circle of 60 or 80 miles. I therefore propose that these Sudder Ammeens should be stationed at proportionate distances in different parts of the district, so that suitors may not have to travel far from their homes to file their bills and afterwards to seek and obtain justice; and that one of the assistants of the Judge should be stationed in a central position which might enable him (without any additional charge to Government as I shall hereafter show) to visit and personally superintend these Ammeens, when the Judge's station is on or near the border of his district. If it is otherwise situated one of the assistants of the Judge may remain at the head station with the Judge, and superintend the Commissioners nearest to him, while another assistant being stationed at an appropriate distance, may superintend those who are more remotely situated from the first assistant. There will thus be as complete a check over them as under the present system, and justice will be brought home to the doors of a great majority of the inhabitants of each district, since causes under 500 rupees are exceedingly numerous in every Zillah or City Court.

Par. 6. These assistants may, at the same time, be very usefully employed in checking the dreadfully increasing crime of forgery, by which the course of justice is now so very much impeded in the judicial Courts. Written documents of a diametrically opposite nature are, as is well-known, constantly laid before these

Courts, and serve to confound justice and perplex a conscientious bench. Therefore under the proposed system of Assistant Judges' Courts in two different quarters of a district, I would recommend, as highly necessary and expedient to check materially the practice of forgery, that parties to any deed should be required, in order to render the same valid, to produce it in open Court before the nearest Assistant Judge, within a certain number of days from the time of its execution. This rule should apply to all sorts of deeds, contracts and agreements regarding property above 100 rupees in value, such as wills and bills of sale, &c. and money bonds for debts payable at a certain period beyond six months, and upon receiving a fee of from one to two rupees, according to its importance, the Assistant Judge, after ascertaining the identity of the parties in open Court, should immediately affix his signature as witness to the deed and retain a copy of the same in a book of record kept on purpose, duly authenticated and marked to prevent the possibility of interpolation, or any other species of fraud. The sum above allowed as a fee on registering, with a small fixed charge per page for retaining a copy, would be more than sufficient to remunerate any extra trouble attending the duty and the labour of transcribing. To induce the proprietors of land and other respectable persons to appear without reluctance in open Court on such occasions, they should be invariably treated with the respect due to their rank. Further to encourage the public to have papers regis-

tered, and to satisfy the Government that no improper delay takes place in registering them, as well as to prevent the copyists from extorting perquisites, a book should be kept in which the party presenting a paper should in open Court enter a memorandum of the day and hour on which he presented it for registration, and of the day and hour when it was produced and returned to him. This system would materially remedy the evil referred to in answer to Q. 7. No. 6.

Par. 7. The Assistant Judges should also receive appeals from the Sudder Ammeens, and try them in conjunction with a native assessor appointed by the Sudder Dewanee Adawlut, on a salary smaller than that of the Judges' Assessor, that is, perhaps not exceeding 200 rupees a month. In the event of difference of opinion between the Assessor and the Assistant Judge on any case, it should be appealable to the Zillah Judge, whose decision should be final : and as the Sudder Ammeens are now paid from the duties on the stamps used and the fees received on the papers filed, so the Assistant Judges' Assessor may be paid in the same manner from the fees and stamps imposed on the appeal causes.

Par. 8. The Assistant Judge, though not empowered to interfere with the police officers of the interior in the discharge of their duties, should notwithstanding be authorised to receive written complaints of any abuse of their power from persons who feel themselves oppressed by the police, and to forward the same to the Head Magistrate of the dis-

trict for his investigation; as very often the poor villagers and peasants are oppressed by the local police officers, but despair of any relief, from being unable to leave their homes and travel to a distance to the station to seek redress.

31. Q. *Is trial by Jury (or any thing resembling it) resorted to at present in any case?*

A. The principle of juries under certain modifications has from the most remote periods been well understood in this country under the name of Panchayet.

32. Q. *What is the difference between the Jury system and the Panchayet?*

A. The Panchayet exists on a very defective plan at present, because the Jurors (members of the Panchayet) are not regular in their meetings, have no power to compel the attendance of witnesses, unless by appealing to the Court; they have no Judge to preside at their meetings and direct their proceedings and are not guarded in any manner from partiality or private influence. They are in fact at present only arbitrators appointed by the Court with consent of the parties in a cause, each party nominating one arbitrator and the Judge a third; and sometimes both parties agree to refer the decision of the case to one arbitrator.

33. Q. *Why and when was the Panchayet system discouraged?*

A. It has not been totally discouraged, but rather placed on a different footing. In former days

it was much more important in its functions. It was resorted to by parties at their own option, or by the heads of tribes, who assumed the right of investigation and decision of differences; or by the Government, which handed over causes to a Panchayet.

34. Q. *Do you really think the introduction of any system of Jury trial or Panchayet would be beneficial?*

A. Undoubtedly, as shown by the 3rd Par. of my answer to Question 30. Since a Panchayet composed of the intelligent and respectable inhabitants, under the direction of a European Judge to preserve order, and a native Judge to guard against any private influence, is the only tribunal which can estimate properly the whole bearings of a case, with the validity of the documentary evidence, and the character of the witnesses, who could have little chance of imposing false testimony upon such a tribunal.

35. Q. *Do you think it would be acceptable to the inhabitants?*

A. As the Panchayet even in its present very imperfect form is still practised by the inhabitants, it would without doubt be much more so, were it reduced to a regular system, guarded by proper checks, and dignified by judicial forms, which would inspire the whole community with higher respect and confidence for this ancient institution. But to whatever length its popularity may go, it is the only system by which

the present abuses consisting of perjury, forgery, and corruption can be removed.

36. Q. *Will you explain, in detail, the modification of the Panchayet-jury system which you think best suited to the circumstances of the country?*

A. I am of opinion that the Panchayet system should be adopted in conjunction with the plan above stated. (Q. 30.) It would be easy to adapt it to the object in view, without imposing any duty on the respectable portion of the native community. Three jurymen, or at most five, would, I conceive, answer the purpose as well as a greater number, and any Zillah (district) could easily supply a list from which these might be taken without inconvenience. Three times the number required for sitting on a trial should be summoned, and the persons actually to serve should be taken by lot, so that neither the judges nor the parties may be able to know beforehand what persons will sit on the trial of a cause. The general list of jurymen should be as numerous as the circumstances of the City or Zillah (district) will admit. It should be prepared by the European Judge at the station, and altered and amended by him from time to time as may seem proper and requisite. He may easily select well qualified juries from respectable and intelligent natives known to be versed in judicial subjects, who reside in considerable numbers at every station. A necessary concomitant to the introduction of jurymen will be the sole use of the vernacular dialect of the place

to the exclusion of the Persian language in proceedings. Publicity should be as much fostered as possible, and the Jury should be kept apart and required to decide without separating, as in the English Courts of law. In a trial thus conducted the resort to appeal will cease to be useful, and for the purposes of justice, need only be allowed where there is a difference of opinion betwixt the Bench and the Jury. For, where Judge and Jury are unanimous, an appeal would be more likely to produce injustice by vexatious expense and delay, than to rectify error on the part of the inferior Court, and ought therefore to be prohibited.

37. Q. *Do you think the natives of the country are qualified to discharge judicial functions of this nature, and from what class would you select the Jurors?*

A. They are assuredly qualified, as I observed before, in answer to Query 19, and the Jurors at present may be judiciously selected from retired pleaders (vakils) and retired judicial officers, from agents employed by private individuals to attend the Court (mukhtars) who are generally well qualified, and from the other intelligent and respectable inhabitants as above observed (Answer to Q. 30 and 36.) To avoid any undue bias or partiality, both parties in a suit should have a right of objecting to any juryman, who can be shown to have an interest in the cause, or particular connection with either party.

38. Q. *Do you think the natives are competent and eligible to all judicial situations, or to only subordinate ones?*

A. As many of them, even under the present manifold disadvantages, already discharge all the judicial functions, even the most arduous (see Q. 15.), it will not be very difficult, I think, with proper management, to find qualified persons amongst the natives for any duty that may be assigned to them. Many, however, as in other countries, are only fit for subordinate situations.

39. Q. *What advantage, do you conceive, this Panchayet-jury system would possess over the judicial system now established?*

A. First, from the thorough knowledge of the native character possessed by such a tribunal, and of the language of the parties and witnesses, it would not be so liable to error in its decisions. Secondly, the Jury would be guarded from undue influence by the Judge and his Assessors. Thirdly, it would guard the Assessor from the use of undue influence. Fourthly, it would secure the dispatch of business, and the prevention of delay, and of the need of appeals. The checking of perjury and forgery may also reasonably be hoped from it, besides many other advantages already pointed out.

40 Q. *Are the Provincial Courts of Appeal conducted on the same principles as District Courts?*

A. As they are presided over by gentlemen of more experience and longer residence in the country,

these Courts are generally conducted with greater regularity.

41. Q. *What is the nature of the difference existing between them?*

A. Under the Bengal Presidency, in causes above 10,000 rupees, the action must be laid in the Provincial Court of Appeal, and may be decided by one Judge. This Court takes cognizance also of any case of inferior amount below 10,000 rupees, which may be carried to it by appeal from the decision of or proceedings held by the Judge of the City or District Court, and from these, Provincial Appeal Courts, appeals can only be made to the Sudder Dewanee Adawlut, the highest civil tribunal.

42. Q. *Can you point out any defects in the Sudder Dewanee Adawlut, and their remedies?*

A. Government has always been very careful in its selection of Judges for the Sudder Dewanee Adawlut, both as regards their ability and integrity; and they are fully competent to remove any defects which may exist in the Court over which they preside. It is, however, highly desirable that Judges of the Sudder Dewanee Adawlut should have the power of issuing the writ of *habeas corpus*, on seeing sufficient grounds for the exercise of this peculiar power, according to the practice of the English Courts. But when the person imprisoned is situated at a greater distance from the Sudder Courts than fifty miles, the Judges of this Court, to save useless expense, might direct one of the Circuit Judges, on whom they could

best rely, to investigate the case, and report to them.

43. Q. *What other duties are assigned to the Judges of the Provincial Courts?*

A. They are a medium of communication between the Sudder Dewanee Adawlut and the inferior Courts, and were also Judges of Circuit.

44. Q. *How many Provincial Courts are there?*

A. There are six Provincial Courts in the provinces attached to the Bengal Presidency, viz., that of Calcutta, Dacca, Murshidabad, Patna, Benares, and Bareilly.

45. Q. *Are not the Judges of the Provincial Courts still Judges of Circuit?*

A. No: they were so formerly; but about two years ago the local Government transferred the duties of Judges of Circuit from them to the Revenue Commissioners.

46. Q. *Does any inconvenience arise from making the revenue Commissioners also Judges of Circuit?*

A. Such an union of offices is quite incompatible and injurious. The Judge of Circuit discharges duties of the highest importance, being invested with the power of life and death, and imprisonment during life in chains, the infliction of corporal punishment, and the confiscation of property. He is, besides, charged with the preservation of peace and good order in several extensive districts; and it is morally impossible, therefore, that he can fulfil the expectations of Government and the public, if his attention be

at the same time engrossed and distracted by political, commercial, or revenue transactions. In criminal suits, moreover, he labours under a peculiar disadvantage, not being assisted by a Bar composed of persons of liberal education, or by a body of honest, intelligent, and independent jurors. The former often proves of essential service to the Bench in the King's Courts, by able expositions of the law as applicable to every case, by great acuteness in cross-examining witnesses, and in the detection of false evidence; while the importance of the jury is universally acknowledged.

Par. 2. Formerly, when the Judges of the Provincial Courts of Appeal did the duties of the circuit, one or two of them used to remain at the station, to attend to the necessary current business, while the others (one, or sometimes two,) were on circuit. But under the present system, the Commissioner of Revenue being also Judge of Circuit, when he goes on circuit, all references to him, by the Collectors under his jurisdiction, often remain unanswered, and the most important matters in the revenue business are entirely suspended for months together. Although the former Mohammedan Governments were subject to the charge of indifference about the administration of justice, they yet perceived the evils liable to arise from an union of revenue and judicial duties. No Judge or judicial officer empowered to try capital crimes, (as Kazees or Muftis) was ever suffered to become a Collector of revenue.

Par. 3. The separation of these two offices has also been established by long practice under the British Government, being one of the leading principles of the system introduced by Lord Cornwallis. Accordingly those young civilians who attached themselves to the revenue line of the service, have advanced by successive steps in that line; while those again who preferred the judicial, have been in like manner continued and promoted through the different grades in that department of public duty. Therefore, by overturning this system, a gentleman may now be appointed to discharge the highest judicial duties, who never before tried the most trivial cause; and another to superintend the Collectors of revenue, to whose duties he has been all his life a stranger. Mr. E. R. Barwell, Revenue Commissioner and Judge of Circuit of the 24 Pargannas, Baraset, Jessore and Barisal, is an example of the former case; and Mr. H. Braddon, Revenue Commissioner and Judge of Circuit of Burdwan, Jungul Mahal, and Hughly is an instance of the latter.

Par. 4. The remedy I beg to propose, without further expense attending the establishment, is to separate the duties between two distinct sets of officers, and double the jurisdiction of each. By this arrangement each gentleman discharging one class of duties would find them more easy and simple, though the field embraced was more extensive, and the expense would be the same as under the present system.

Par. 5. The duties of Judges and Magistrates are not so incompatible as those of the Judges of Circuit and the Commissioners of Revenue; but still separation of these duties is advisable on account of the great weight of the business in the Zillah and City Courts. Therefore these two offices (the office of Judge and that of Magistrate) should be exercised by different individuals. However, the Magistrates should assist the Judges in the execution of their decrees or orders as they have hitherto done in those districts where the offices of Judge and Magistrate are separate.

47. Q. *What delay generally takes place in the decision of causes?*

A. In the Zillah Courts a cause may be pending on an average about two or three years; in the Courts of appeal four or five years; and in the Sudder Dewanee Adawlut the same period. But if the property in dispute amount to the value of about 50,000 rupees, so as to admit of an appeal to the King-in-Council, the probable period of delay in the decision of such an appeal is better known to the authorities here than to myself.

48. Q. *What is the cause of such delay?*

A. It must be acknowledged that irregularity in attending the discharge of the judicial duties, and the want of proper discipline or control over the judicial officers are the main causes of obstruction in the dispatch of the judicial business; and these daily growing evils in every branch of the judicial establishment have, in a great measure, defeated the object

which the Government had in view in establishing it. For example, a bill of complaint written on stamp, the first paper in a suit, cannot easily be got on the file unless it be accompanied with some perquisite to the native recorder, whose duty it is to ascertain, first, whether the sum in dispute correspond with the value of the stamp, an act which may be accomplished in a minute or a week, just as it suits the inclination of the examiner. The case is the same with respect to the issuing of the summonses prepared by another native officer, to command the attendance of the person sued, either in person or by a pleader to put in his answer. Summonses, subpoenas, and the processes of the Provincial Courts are issued against individuals through the Judge of the district in which they reside, and a certain period is always allowed for serving these processes; but neither are the Zillah Judges, whose time is otherwise fully occupied, punctual in observing those subordinate duties, nor does the higher Court, which is occupied by other important business, take any early notice of the expiration of the time allowed for making the return. The parties are therefore obliged to cultivate a friendly understanding not only with the officers of the Provincial Court, but also with those of the Zillah or City Court. Whether the defendant attends immediately or long after the time allowed him, or whether he files his answer within the regular prescribed period, or a year afterwards, is treated as if practically immaterial. But delay unintentionally allowed to the parties in filing

the requisite papers and in producing their documents and witnesses, is the too frequent source of great abuses; as the opportunity thus afforded by delay is embraced to invent stories and forge documents in support of them, to procure false witnesses and to instruct them in the manner that appears best calculated to serve the purposes in view.

Par. 2. Moreover, some of the Judges are very irregular in calling on causes, choosing any day and any time that suits their convenience to occupy the Bench singly. The pleaders, being natives of the country, have little or no influence over the conduct of the Judges to prevent such irregularities, and dare not hint dissatisfaction.

Par. 3. I would suggest, with a view to remove irregularities originating in a want of official control, without disregard to economy, that the head writer in each Court be required to discharge this duty with some extra remuneration for the same, and be made strictly responsible under an adequate penalty, with proper sureties for his conduct, liable, jointly with him, to any fine he may incur, by want of punctuality proved against him by either party, on complaint to the Judge of the Court, or of a Superior Court, or to the Judicial Secretary.

Par 4. This superintendent or clerk of the papers should be required to place on the file in open Court bills of complaint as well as answers and replies, &c., within the period prescribed in Regulation IV of 1793. These should not be admitted to

the records after the time allowed, unless the Judge, on motion publicly made, find sufficient reasons for prolonging the period, say a week or two in particular cases.

Par. 5. The clerk of the papers should vigilantly watch that no delay takes place in issuing summonses, subpoenas, and other processes of the Court ; and that the day on which these are ordered to be issued, and the day on which their return is expected should be correctly registered in a separate book kept on purpose.

Par. 6. In case of neglect or wilful disobedience, the superintendent of the paper should immediately submit the circumstance to the notice of the Judge. Should the neglect be on the part of the prosecutor, the Judge ought immediately to pronounce nonsuit, and if on the part of the defendant, proceed *ex parte* without allowing the neglect to be remedied. Or if the Judge do not attend to these rules, the clerk of the papers should be bound to report the circumstance to the Superior Court, or the Judicial Secretary on pain of forfeiting his situation. A separate register of the returns should also be kept, as well as a register showing the time when the defendant's answer must be filed—say one month from the day when the summonses are served, as is the case with equity suits in Calcutta ; also showing the hours during which the Judge may attend on public duty, and likewise his occasional absence from Court with the alleged cause thereof. The superintendent should transmit monthly-

a copy of each register, with his own remarks, to Government through the Secretary of the Judicial Department, for its particular attention to every breach of regularity therein mentioned.

Par. 7. With a view to the same end, every person who chooses should have a right to be present during the trial of causes in any Court : the Courts, as is generally the case at present, should be so constructed as to afford facilities for a considerable number of persons bearing and witnessing the whole proceedings : any one who chose should be entitled to make notes of the same and publish them, or cause them to be published, in any manner he may think proper for general information, subject to prosecution for intentional error or misrepresentation that might be judicially proved against him before a competent tribunal, and to incur such penalty as it might award. This measure would tend to remove the evils pointed out in answer to Query 7, No. 4.

49. Q. *What number of causes may be pending at one time, and undisposed of in the District Courts and Courts of Appeal ?*

A. This depends partly on the comparative degree of industry and attention to business bestowed by the judicial officers, partly on the extent of the district, and amount of business within the jurisdiction of the respective Courts. However, the average number of causes pending may be ascertained by a reference to the registers kept, which are not at present accessible to me. My impression is that, in

some districts they are very numerous. But to show how much the vigilance and activity of a public officer may accomplish, even in so extensive a district as Hughly, I may mention that there, under Mr. D. C. Smith, every case is decided in the course of four, five or six months. In the Courts of Appeal the causes pending are very numerous. Conscientious and active as Mr. Smith is, he is often obliged, from the pressure of business, Judicial and Magisterial, to authorise his native Judicial Officers to take the depositions of witnesses in the civil suits.

50. Q. *Could the number of appeal cases be reduced without any disadvantage ?*

A. Yes, certainly, not only without disadvantage but with great positive advantage. 1st. By introducing a more regular system of filing papers and bringing on causes, as above suggested, in answer to Q. 48. 2nd. By the aid of a Jury and joint native Judge, as proposed in reply to Q. 30. 3rd. By allowing of no appeal unless when there is a difference of opinion in the Zillah or City Court in giving sentence, as noticed in reply to the Query 36. By these means the business would be at once conducted with more dispatch, and with more accuracy; so many litigious suits would not occur; and there would be very little need of appeals to revise the decisions.

51. Q. *Has the right of appeal to the King-in-Council proved beneficial or otherwise ?*

A. Owing to the vast distance, the heavy expenses, and the very great delay which an appeal to

England necessarily involves, owing also to the inaccuracies in the translations of the papers prepared after decision and sent to this country, and to other causes, I think the right of appeal to the King-in-Council is a great source of evil and must continue to be so, unless a Specific Court of Appeal be created here expressly for Indian appeal causes above £10,000. At the same time to remove the inaccuracies above noticed, three qualified persons (a European, a Mussalman, and a Hindu) should be nominated joint translators, and the translations should be furnished within one year from the conclusion of the proceedings in India, and both parties should be allowed to examine the accuracy of the translations thus prepared. But if the appellant neglects to pay the fees of translation within two months after the decision, the appeal should be quashed.

52. Q. *What is the nature of the duties assigned to the Revenue Commissioners ?*

A. They exercise a general superintendence and control over the Revenue Collectors, with powers similar to those vested in the Board at Calcutta, formerly called the Board of Revenue, and in the Board of Commissioners for the upper provinces. The Board at Calcutta is now the superior authority to which an appeal may be made from the decisions of the present Commissioners, (it is in consequence now generally termed the Sudder or Supreme Board), and thence to the Government itself. In other words the office of Commissioner is a substitute for the Board

of Revenue, but an appeal being allowed from the one to the other, of course there is abundance of appeals, and a great part of the business is thus transacted twice or thrice over.

53. Q. *What is the nature of the duties assigned to them as Judges of the Circuit ?*

A. As Judges of Circuit they exercise control over the Magistrates and try the higher classes of criminal causes, which involve a question of life or death, or severe punishment ; and an appeal lies from them to the Sudder Nizamut Adawlat, the highest criminal tribunal.

54. Q. *Does not the discharge of one class of duties interfere with the discharge of another class, which seems to be of a very different nature ?*

A. As above noticed (Ans. to Q. 46), while they are engaged in the duties of their Circuit Court, the reports and references from the Revenue Collectors must remain for several months unanswered ; and not only do the people suffer in consequence, but the public business stagnates, as already observed.

55 and 56. Q. *What is the nature of the functions of the Judge of Circuit, and his native law-assessor ? Do they afford each other reciprocal assistance in the discharge of their duties ?*

A. Both take cognizance of the charges brought before the Magistrates and sent to their Court : both hear the evidence and examine the witnesses, and both give their voice in passing the decision, as I observed in Par. 1st, of my Ans. to Q. 30. In a

vague sense the Mohammedan law assessor may be considered as analagous to Jury in English Courts, while the European Judicial Officer is the Judge.

57. Q. *Are the Judges generally competent to the discharge of their duties ?*

A. Some of them are highly qualified, but it is not expected that European Judges should be generally competent to determine difficult questions of evidence among a people whose language, feelings, and habits of thinking and acting are so totally different from their own.

58. Q. *Are the native law assessors generally competent ?*

A. They are generally so: some of the Muftis (Mussalman law assessors) are men of such high honour and integrity, that they may be entrusted with the power of a jury with perfect safety; and they are all of the most essential utility, and indeed the main instrument of expediting the business of the Criminal Courts. However highly or moderately qualified the European Judges may have been, the business has been advantageously conducted through the assistance and co-operation of these Mohammedan Assessors for a period of 40 years past.

59. Q. *If they should differ in opinion, what course is adopted ?*

A. The case is then referred to the Nizamut Adawlat (the highest criminal tribunal).

60. Q. *What course do the Judges of the Nizamut Adawlat adopt ?*

A. If the Judge of the Supreme Criminal Court, before whom the referred case comes, should, after consulting with the Muftis of that Court, concur in the opinion of the Circuit Judge, his decision is confirmed and carried into execution. But should the Sudder Nizamut (supreme criminal) Judge differ from the opinion of the Circuit Judge, the case is then submitted to a second, or if necessary, to a third Sudder Nizamut Judge, and the opinion given by two Sudder Judges against one, is final.

61. Q. *Are the Judges of the Supreme Criminal Court also Judges of the highest Civil Court?*

A. Yes; and very deservedly.

62. Q. *Are they generally competent to the discharge of their duties?*

A. I have already observed (Q. 42.) that they are highly competent.

63. Q. *As it is of the highest importance that the Courts of Circuit should be above all corruption; can you suggest any means of improving them?*

A. Courts which have the disposal of life and death are undoubtedly of very high importance; and I would therefore propose instead of only one law-assessor (who stands in place of a Jury) that three or five (at least three) law assessors should be attached to each Court, while trials are going on.

64. Q. *From what class of men would you select the Juries in the Criminal Courts?*

A. The Criminal Law now established in India has been very judiciously founded on the Moham-

medan Criminal Law. It has however been so greatly modified by the Acts of Government from time to time since 1793, that it, in fact, constitutes a new system of law, consisting partly of its original basis, and partly of the Government regulations. But it has been made a regular study only by the respectable Mohammedans, who, when they attain a certain proficiency, are styled Maulvies, a term equivalent to Doctors of Law. Formerly two of these were attached to each Court of Circuit, and one to each District Court. Of late the office of Maulvi of Circuit having been abolished, the Maulvi or Mufti of the Zillah (district) Court has been ordered by Government to officiate as Mufti of Circuit, while the Judge of Circuit is engaged in the trial of the criminal causes of that district. Thus he alone, as Assessor of the Judge of Circuit, is entrusted with the powers usually assigned to a Jury in a British Court; having the power of delivering his opinion on every case at the close of the trial.

Par. 2. With a view to lessen the abuse of the great power thus given, it is highly desirable that Government should adopt the following precaution: The Judge of Circuit previous to his departure for any Zillah (district) or City to try criminal causes, should summon, through the Magistrate, one or two additional Maulvies attached to the adjacent Courts, with a few other learned, intelligent and respectable inhabitants of that District or City, to join him on his arrival with a moderate extra allowance for their services,

and every morning before he takes his seat on the Bench, the Judge should, without previous intimation, direct three of them to sit with him during the whole trials that may come on for that day as his law assessors; and they should be required to deliver their opinions in each case in open Court, immediately after the close of the proceedings, without previous opportunity of communicating with any one whatever, on the same principle as an English Jury: and the Judge should immediately inform the parties of the verdict, to put an end to all intrigues. The Judge of Circuit should also be required to keep a vigilant watch over the proceedings of the Magistrates within his jurisdiction, and to institute an investigation personally and on the spot, into any complaint preferred against them, whenever he sees sufficient ground for adopting this prompt measure; and the Judge of Circuit only should have the power of inflicting corporal punishment; not any Magistrate as injudiciously authorised by Regulation IX of 1807, Sec. 19.

65. Q. *What would be their duty? precisely like that of a Jury, or like that of the law assessors as hitherto employed?*

A. More resembling that of the law assessors as hitherto employed. The difference between them is not important, and the result would be the same.

66. Q. *Should not the Jury be selected from persons of all religious sects and divisions?*

A. Since the Criminal Law has hitherto been administered by the Mohammedans; to conciliate this

class, the assessors should still be selected from among them, until the other classes may have acquired the same qualifications, and the Mohammedans may become reconciled to co-operate with them.

67. Q. *Do you think any alteration necessary in the system of criminal law now established ?*

A. As the Criminal Laws now established are already, in general, very familiar to the natives, I think they may better remain in their present state, until the Government may be able to introduce a regular Code.

68. Q. *In what manner do you think a Code of Criminal Law could be framed suitable to the wants of the country ?*

A. A Code of Criminal Law for India should be founded as far as possible on those principles which are common to, and acknowledged by all the different sects and tribes inhabiting the country. It ought to be simple in its principles, clear in its arrangement, and precise in its definitions ; so that it may be established as a standard of criminal justice in itself, and not stand in need of explanation by a reference to any other books of authority, either Mohammedan or Christian. It is a subject of general complaint that persons of a certain high rank, however profligate some of them may be, are, from political considerations, exempted from the jurisdiction or control of the Courts of the law. To remedy this inconvenience, in the proposed Code, so as to give general satisfaction, without disregarding the political distinctions hitherto

observed, it may perhaps be expedient for Government to order such persons to be tried by a special commission, composed of three or more persons of the same rank. This very regulation, when once known to them, would, in all probability, deter them from committing any very gross act of tyranny or outrage upon their dependants or others.

69. Q. *What period of time would it take to frame such a Code, and by whom could it be done satisfactorily?*

A. It must require at least a couple of years to do it justice; and it ought to be drawn up by persons, thoroughly acquainted with Mohammedan and Hindu law, as well as the general principles of British law.

70. Q. *Are the Judges capable of regulating their proceedings by such a Code of laws?*

A. At present they are not generally capable of performing their judicial duties independent of the aid of the assessors; but with a proper Code, as above supposed, they might, most of them, in no great period, by making it a regular study, become much more capable of administering justice by it than they are by the present system.

71 & 72. Q. *Would not the detention of the young civilians in England to obtain a regular legal education be injurious by delaying their proceeding to India for several years, at that period of life, when they are best capable to acquire the native languages? Do you conceive that any disadvantages arise from civilians going out at an early age?*

A. This is a subject which merits the deepest consideration of the legislature. Young men sent out at an early age, before their principles are fixed, or their education fully matured, with the prospect of the highest power, authority, and influence before them, occupying already the first rank in society immediately on their arrival, and often without the presence of any parent, or near relative to advise, guide or check them, and surrounded by persons ready, in the hope of future favours and patronage, to flatter their vanity and supply money to almost any extent to their too easily excitable passions—are evidently placed in the situation calculated to plunge them into many errors, make them overstep the bounds of duty to their fellow creatures and fellow subjects, and to relax whatever principles of virtue may have been implanted in their yet inexperienced minds. The excuse made for so injudicious an arrangement, that it is favourable to the acquisition of the native languages, is of no weight; for it may be observed that the missionaries, who are usually sent out at the age of from 25 to 35 years, acquire generally in two or three years so thorough a knowledge of these languages as to be able to converse freely in them and even to address a native audience with fluency in their own tongue. In fact the languages are easily acquired at a mature as well as at an immature age by free communication with the people. Moreover, by the system of native Assessors, Juries and other helps to the Judges and

Magistrates, and by the gradual substitution of English for Persian, as above proposed, so extensive and minute a knowledge of the native languages would not be requisite. In short from the present system of sending out youths at so early an age, very serious evils arise to themselves, as well as to the Government, and to the public. 1st. With respect to themselves, they are too often seduced into habits which prove ruinous to their health and to their fortunes, becoming thereby involved in debts from which many of them are never afterwards able to extricate themselves without having recourse to improper means. 2ndly. These embarrassments interfere very seriously with their duty to Government and the public, as the persons to whom they are indebted generally surround them, and seize every opportunity of enriching themselves which their situation and influence put in their way. 3rdly. Their indiscreet choice of native officers from youthful partialities, and the thoughtless habits acquired in early days, amid power and influence, prove very injurious to the community. Therefore no civil servant should be sent to India under 24 or at least 22 years of age, and no candidate among them should be admitted into the judicial line of the service, unless he can produce a certificate from a Professor of English Law to prove that he possesses a competent knowledge of it. Because, though he is not to administer English Law, his proficiency therein will be a proof of his capacity for legal studies and

judicial duties, and a knowledge of the principles of jurisprudence as developed in one system of law will enable him to acquire more readily any other system; just as the study of the ancient and dead languages improves our knowledge of modern tongues. This is so important, that no public authority should have the power of violating the rule, by admitting to the exercise of judicial functions any one who has not been brought up a lawyer.

73. Q. *How are the laws of inheritance regulated?*

A. The property of Mohammedans descends and is divided according to their own law of inheritance; and the property of Hindus according to theirs; and of other sects also agreeably to their respective laws of inheritance.

74. Q. *What books do the Hindu lawyers officially attached to the Courts follow as law authorities?*

A. There are various books, but in Bengal they chiefly follow the *Dayabhaga* with occasional reference to other authorities; and in the Western province, and a great part of the Deccan they follow the *Mitakshara* principally.

75. Q. *What books do the Mohommedan lawyers follow as authorities?*

A. The majority of the Mussalmans of Hindustan follow the doctrines of Abu Hanifah and his disciples: consequently the *Hidaya* is their chief law authority; but they also refer to some other books of

decision or cases such as the Fatawæ Alamgiri and others.

76. Q. *Is there any mode by which the law authorities, now so voluminous and perplexing, might be simplified in such a manner as to prevent the native lawyers from misleading the Courts, and confounding the rights of property?*

A. To effect this great and pre-eminently important object, a Code of Civil Law should be formed on similar principles to these already suggested for the Criminal Code, and this, as well as the former, should be accurately translated, and published under the authority of Government. By printing off large impressions, and distributing them, at prime cost, in the current languages of the people, they might render the rights of property secure; since, these being clear and well-known to the whole community, it would be impossible for any designing man to induce an intelligent person to enter upon litigious suits.* The law of inheritance should, of course, remain as at present with modifications peculiar to the different sects, until by the diffusion of intelligence the whole community may be prepared to adopt one uniform system. At present when a new regulation, drawn up by any officer of Government and submitted to it, is approved of, it immediately becomes law when promulgated, the same as an Act of Parliament in this country, when approved of, discussed, and sanctioned by King, Lords and Commons. From the want of sufficient local knowledge and

experience on the part of the framers of such regulations, they are often found not to answer in practice, and the local Government is thus frequently obliged to rescind the whole or part of them. I would therefore suggest that if any new regulation be thought necessary before the completion of the Civil and Criminal Codes above proposed, great care and precaution should be observed in its enactment. With this view every such project of law before it is finally adopted by the Government, should be printed and a copy sent directly from Government, not only to the Judges of the Sudder Dewanee Adawlat, and the Members of the Board of Revenue &c., but also to the Advocate-General on the part of the Honourable Company, to the principal Zamindars, such as the Rajahs of Burdwan, Behar, Benares, &c., and to the highly respectable merchants such as Jaggat Set at Murshidabad, Baboo Bajnath at Patna, and the representatives of Baboo Manohar Dass at Benares, also to the Muftis of the Sudder Dewanee Adawlat, and the head native officers of the Boards of Revenue, for their opinion on each clause of the Regulation to be sent in writing within a certain period. Because these being the persons who are affected by the Regulations, they will be cautious of recommending any that is injurious. It should still be optional, however, with Government to be guided or not by their suggestions. But a copy of the minutes made by the different parties above named should accompany the Regulations, when these are to be transmitted to England for the con-

sideration of the Court of Directors, and Parliament ; and there should be a Standing Committee of the House of Commons, to take the whole regulations and minutes into consideration, and report to the House from time to time on the subject, for their confirmation or amendment.

In such matters as those of war and peace, it may be necessary that the local Government should act on its own discretion and responsibility according to existing circumstances, notwithstanding the opinion of the Government in England. But as the affairs of India have been known to the authorities in Europe, for such a series of years, in matters of legislation, the local Government should be bound to carry into effect any regulations or order in judicial and revenue matter sent out, formally enacted by the British Government, or the Court of Directors under the express sanction of the Board of Commissioners for the control of the affairs of India, although the local Government might still remonstrate against them to the home authorities.

The attention thus shown by the Government at home and abroad, to the feelings and interests of the Zamindars, and merchants, as principal members of the community, though it would not confer upon them any political power, would give them an interest in the Government, and inspire them with greater attachment to it, and also the whole community, as being under their influence, and in general receiving its opinions from them.

77. Q. *Should the civil servants, in the judicial and revenue departments, be educated expressly for the particular line of the service in which they are engaged, or is it advantageous to transfer them from one branch of it to another ?*

A. It is found by experience that persons, by long habit in the performance of any particular duties, become not only more dexterous in but more reconciled and even attached to them, and find them less irksome than others to which they have not been accustomed. In my humble opinion, the duties of a Judge are not inferior in difficulty to those of any other profession whatever, nor is the qualification requisite for them to be acquired with less experience. It has been alleged that the revenue officers, when converted into judicial officers, must be better Judges of revenue causes. But on this principle, commercial officers ought to become Judges for the sake of commercial causes, agriculturists for agricultural causes, and mechanics for mechanical disputes. However, as matters of revenue, commerce, agriculture, &c. are decided on the general principles of law and justice, any such special preparation has never been found necessary : therefore these two classes of duties should be kept quite distinct, if it is wished that either of them be performed well.

78. Q. *Can you offer any other suggestions for the improvement of the Judicial Establishment ?*

A. 1st. In order to keep the judicial officers above temptation, their salaries should not be reduced.

2ndly. With the additional aids and checks of joint native Judges, Assessors, and Juries above proposed, (Ans. to Q. 30.) all Civil Courts of Appeal may be dispensed with, except the Supreme Civil Court (Sudder Dewanee Adawlat,) and thus a very considerable saving may be effected by the Government. One tenth of this saving will suffice to support all the native Assessors, Juries &c, above recommended. (Q. 30.) 3rdly. By gradually introducing the natives into the revenue departments under the superintendence of European officers, and in the Judicial department in co-operation with them, the natives may become attached to the present system of Government, so that it may become consolidated, and maintain itself by the influence of the intelligent and respectable classes of the inhabitants, and by the general good will of the people, and not any longer stand isolated in the midst of its subjects, supporting itself merely by the exertion of superior force.

Par. 2. Should the gradual introduction of the natives into places of authority and trust as proposed, be found not to answer the expectations of Government, it would then have the power of stopping their further advancement, or even of reversing what might have been already done in their favour. On the contrary, should the proposed plan of combining Native with European officers have the effect of improving the condition of the inhabitants and of stimulating them with an ambition to deserve the confidence of the Government, it will then be enabled to

form a judgment of the practicability and expedience of advancing natives of respectability and talent to still higher situations of trust and dignity in the state, either in conjunction with or separately from their British fellow subjects.

Par. 3. In conclusion, I deem it proper to state, that in preparing my replies to these queries, I have not been biassed by the opinions of any individual whatsoever; nor have I consulted with any person or even referred to any work which treats on the subject of India. I have for the facts consulted only my own recollections; and in regard to the opinions expressed, I have been guided only by my conscience, and by the impressions left on my mind by long experience and reflection. In the improvements which I have ventured to suggest, I have kept in view equally the interests of the governors and the governed; and without losing sight of a just regard to economy, I have been actuated by a desire to see the administration of justice in India placed on a solid and permanent foundation.

SETTLEMENT IN INDIA BY EUROPEANS

This is reprinted from the General Appendix to the report from the Select Committee of the House of Commons on the affairs of the East India Company 1832, pp. 341—343. Up to 1813, the East India Company had been able to preserve their monopoly of the trade of the East Indies intact, and Europeans in general were prohibited from settling or trading in India. The Charter Act of 1813 had permitted the free resort of Europeans in India, but excluded them from forming any settlements in it by the purchase or lease of lands. By the passing of the Charter Act of 1833 all such restrictions were taken away, and Europeans were permitted to settle in India. During the enquiry by the Select Committee of the House of Commons the opinion of Ram Mohun Roy on the point was sought, and it, to some extent, strengthened the hands of the supporters of the change.

MUCH has been said and written by persons in the employ of the Hon. East Indian Company and others on the subject of the settlement of Europeans in India, and many various opinions have been expressed as to the advantages and disadvantages which might attend such a political measure. I shall here briefly and candidly state the principal effects which, in my humble opinion, may be expected to result from this measure.

2. I notice, first, some of the advantages that might be derived from such a change.

ADVANTAGES

First.—European settlers in India will introduce the knowledge they possess of superior modes of cultivating the soil and improving its products (in the article of sugar, for example), as has already happened with respect to indigo, and improvements in the mechanical arts, and in the agricultural and commercial systems generally, by which the natives would of course benefit.

Secondly.—By a free and extensive communication with the various classes of the native inhabitants the European settlers would gradually deliver their minds from the superstitions and prejudices, which have subjected the great body of the Indian people to social and domestic inconvenience, and disqualified them from useful exertions.

Thirdly.—The European settlers being more on a par with the rulers of the country, and aware of the rights belonging to the subjects* of a liberal Government, and the proper mode of administering justice, would obtain from the local Governments, or from the Legislature in England, the introduction of many necessary improvements in the laws and judicial system; the benefits of which would of course extend to the inhabitants generally, whose condition would thus be raised.

Fourthly.—The presence, countenance and support of the European settlers would not only afford to the natives protection against the impositions

and oppression of their landlords and other superiors, but also against any abuse of power on the part of those in authority.

Fifthly.—The European settlers, from motives of benevolence, public spirit and fellow-feeling towards their native neighbours, would establish schools and other seminaries of education for the cultivation of the English language throughout the country, and for the diffusion of a knowledge of European arts and sciences; whereas at present the bulk of the natives (those residing at the Presidencies and some large towns excepted) have no more opportunities of acquiring this means of national improvement than if the country had never had any intercourse or connection whatever with Europe.

Sixthly.—As the intercourse between the settlers and their friends and connection in Europe would greatly multiply the channels of communication with this country, the public and the Government here would become much more correctly informed, and consequently much better qualified to legislate on Indian matters than at present, when, for any authentic information, the country is at the mercy of the representations of comparatively a few individuals, and those chiefly the parties who have the management of public affairs in their hands, and who can hardly fail therefore to regard the result of their own labours with a favourable eye.

Seventhly.—In the event of an invasion from any quarter, East or West, Government would be

better able to resist it, if, in addition to the native population, it were supported by a large body of European inhabitants, closely connected by national sympathies with the ruling power, and dependent on its stability for the continued enjoyment of their civil and political rights.

Eighthly.—The same cause would operate to continue the connection between Great Britain and India on a solid and permanent footing; provided only the latter country be governed in a liberal manner, by means of Parliamentary superintendence, and such other legislative checks in this country as may be devised and established. India may thus, for an unlimited period, enjoy union with England, and the advantage of her enlightened Government; and in return contribute to support the greatness of this country.

Ninthly.—If, however, events should occur to effect a separation between the two countries, then still the existence of a large body of respectable settlers (consisting of Europeans and their descendants, professing Christianity, and speaking the English language in common with the bulk of the people, as well as possessed of superior knowledge, scientific, mechanical, and political) would bring that vast Empire in the East to a level with other large Christian countries in Europe, and by means of its immense riches and extensive population, and by the help which may be reasonably expected from Europe, they (the settlers and their descendants) may succeed

sooner or later in enlightening and civilizing the surrounding nations of Asia.

3. I now proceed to state some of the principal disadvantages which may be apprehended, with the remedies which I think calculated to prevent them, or at any rate their frequent occurrence.

DISADVANTAGES.

First.—The European settlers being a distinct race, belonging to the class of the rulers of the country, may be apt to assume an ascendancy over the aboriginal inhabitants, and aim at enjoying exclusive rights and privileges, to the depression of the larger, but less favoured class; and the former being also of another religion, may be disposed to wound the feelings of the natives, and subject them to humiliations on account of their being of a different creed, colour and habits.

As a remedy or preventive of such a result, I would suggest, 1st. That as the higher and better educated classes of Europeans are known from experience to be less disposed to annoy and insult the natives than persons of a lower class, the European settlers, for the first twenty years at least, should be from among educated persons of character and capital, since such persons are very seldom, if ever, found guilty of intruding upon the religions or national prejudices of persons of uncultivated minds; 2nd. The enactment of equal laws, placing all classes on the same footing as to civil rights, and the establishment of trial by Jury (the Jury being composed impartially of

both classes), would be felt as a strong check on any turbulent or overbearing characters amongst Europeans.

The second probable disadvantage is as follows : the Europeans possess an undue advantage over the natives, from having readier access to persons in authority, these being their own countrymen, as proved by long experience in numerous instances ; therefore, a large increase of such a privileged population must subject the natives to many sacrifices from this very circumstance.

I would therefore propose as a remedy, that in addition to the native vakils, European pleaders should be appointed in the country Courts in the same manner as they are in the Kings's Courts at the Presidencies, where the evils referred to is consequently not felt, because the Counsel and Attorneys for both parties, whether for a native or a European, have the same access to the Judge, and are in all respects on an equal footing in pleading or defending the cause of their clients.

The third disadvantage in contemplation is, that at present the natives of the interior of India have little or no opportunity of seeing any European except persons of rank holding public offices in the country, and officers and troops stationed in or passing through it under the restraint of military discipline, and consequently those natives entertain a notion of European superiority, and feel less reluctance in submission ; but should Europeans of all

ranks and classes be allowed to settle in the country, the natives who come in contact with them will materially alter the estimate now formed of the European character, and frequent collisions of interest and conflicting prejudices may gradually lead to a struggle between the foreign and native race till either one or the other obtain a complete ascendancy, and render the situation of their opponents so uncomfortable that no Government could mediate between them with effect, or ensure the public peace and tranquility of the country. Though this may not happen in the interior of Bengal, yet it must be kept in mind, that no inference drawn from the conduct of the Bengalese (whose submissive disposition and want of energy are notorious) can be applied with justice to the natives of the Upper Provinces, whose temper of mind is directly the reverse. Among this spiritual race the jarrings alluded to must be expected, if they be subjected to insult and intrusion—a state of things which would ultimately weaken, if not entirely undermine, the power in India, or at least occasion much bloodshed from time to time to keep the natives in subordination.

The remedy already pointed out (para 3rd, art. 1st. remedy 1st.) will, however, also apply to this case, that is, the restriction of the European settler to the respectable intelligent class already described, who in general may be expected not only to raise the European character still higher, but also to emancipate their native neighbours from the long-

standing bondage of ignorance and superstition, and hereby secure their affection, and attach them to the Government under which they may enjoy the liberty and privileges so dear to persons of enlightened minds.

Some apprehend, as *the fourth probable danger*, that if the population of India were raised to wealth, intelligence, and public spirit, by the accession and by the example of numerous respectable European settlers, the mixed community so formed would revolt (as the United States of America formerly did) against the power of Great Britain, and would ultimately establish independence. In reference to this, however, it must be observed that the Americans were driven to rebellion by misgovernment, otherwise they would not have revolted and separated themselves from England. Canada is a standing proof that an anxiety to effect a separation from the mother country is not the natural wish of a people, even tolerably well-ruled. The mixed community of India, in like manner, so long as they are treated liberally, and governed in an enlightened manner, will feel no disposition to cut off its connection with England, which may be preserved with so much mutual benefit to both countries. Yet, as before observed, if events should occur to effect a separation, (which may raise from many accidental causes, about which it is vain to speculate or make predictions), still a friendly and highly advantageous commercial intercourse may be kept up between two free and Christian countries,

united as they will then be by resemblance of language, religion, and manners.

The fifth obstacle in the way of settlement in India by Europeans is, that the climate in many parts of India may be found destructive, or at least very pernicious to European constitutions, which might oblige European families who may be in possession of the means to retire to Europe to dispose of their property to disadvantage, or leave it to ruin, and that they would impoverish themselves instead of enriching India. As a remedy I would suggest that many cool and healthy spots could be selected and fixed upon as the head-quarters of the settlers (where they and their respective families might reside and superintend the affairs of their estates in the favourable season, and occasionally visit them during the hot months, if their presence be absolutely required on their estates), such as the Suppatoo, the Nilgherry Hills, and other similar places, which are by no means pernicious to European constitutions. At all events, it will be borne in mind that the emigration of the settlers to India is not compulsory, but entirely optional with themselves.

To these might be added some minor disadvantages though not so important. These (as well as the above circumstances) deserve fair consideration and impartial reflection. At all events, no one will, I trust, oppose me when I say, that the settlement in India by Europeans should at least be undertaken experimentally, so that its effects may be ascertained

by actual observation on a moderate scale. If the result be such as to satisfy all parties, whether friendly or opposed to it, the measure may then be carried on to a greater extent, till at last it may seem safe and expedient to throw the country open to persons of all classes.

On mature consideration, therefore, I think I may safely recommend that educated persons of character and capital should now be permitted and encouraged to settle in India, without any restriction of locality or any liability to banishment, at the discretion of the Government ; and the result of this experiment may serve as a guide in any future legislation on this subject.

REGULATION III OF 1828

The Executive Government of India passed a Regulation in 1828 authorising the Revenue Officers to dispossess the holders of rent-free lands at their own discretion without any judicial decree having been sought or obtained against the validity of the title to such lands. Ram Mohun Roy placed himself at the head of the land-holders of Bengal, Behar, and Orissa and in a petition of remonstrance to Lord William Bentinck, the then Governor-General protested against such arbitrary and despotic proceedings. The appeal was however unsuccessful. Ram Mohun, it will be remembered referred to it in his evidence before the Select Committee on the Revenue System of India. As a result of persistent agitation the Governor-General found it necessary to suspend the immediate execution of the Regulation.

THE humble petition of the undermentioned inhabitants of Bengal, Behar, and Orissa, Showeth :

That, placed as your petitioners are, under the sole protection of the British Rule they confidently feel justified when oppressed, in claiming justice and paternal care from the power, and approaching for redress the footstool of your Lordship, the local representative of their Sovereign, and the immediate guardian of the safety and security of their lives and property. With this strong impression, your peti-

tioners most humbly appeal to your Lordship-in-Council against the operation of Regulation III of 1828, recently passed by Government, which appears to your petitioners unprecedented in severity and unparalleled in oppression.

That your petitioners, in the first instance, entreat your Lordship's permission to bring to your notice the preamble of Regulation XIX, of 1793, containing the solemn assurances of Justice couched in the following terms: The Governor-General-in-Council 'has further resolved that the claims of the public on their lands, (provided they, the holders of such lands, as are exempted from the payment of public revenue, register the grants as required in the Regulation) shall be tried in the Courts of Judicature, that no such exempted lands may be subjected to the payment of revenue {until the titles of the proprietor shall have been adjudged invalid by a final judicial decree.' Your petitioners trust, after a reference to the language above quoted, your Lordship will not consider their hopes of legal protection founded upon slight grounds, and their fears excited by the contrary plan laid down in the present Regulations, as mere creations of fancy. The whole of the tenour of the preamble, your petitioners presume, clearly exhibits, that although Marquis Cornwallis, then the Governor-General of India, was as desirous as any of his successors to resume such lands as were alienated in opposition to the ancient and existing laws of the country, yet, from strict

regard for the principles of justice, and for the spirit and usages of the British law, his Lordship felt dissuaded from empowering a Collector an agent in behalf of Government to exercise judicial power over the parties whose rights were to be contested by that Government.

That your petitioners, in the second place, beg your Lordship's attention to Regulation II. of 1819, which, though it varies from Regulation XIX. of 1793 in some essential points, yet guarantees to your petitioners that no part of their property can be rendered liable to attachment without the decision of a higher and more adequate authority than a Collector of Land Revenue, or can be subjected to forfeiture without a chance of redress from the established Judicial Courts and the Regular Courts of Appeal. Your petitioners, however, deeply regret to find themselves suddenly deprived of their long-cherished confidence by the threatening promulgation of Regulation III. of 1828, and being on the eve of ruin, they are driven to the necessity of appealing to your Lordship-in-Council, and humbly, but earnestly, solicit your Lordship's condescending attention to the grounds of their complaint.

That Clause 1st, Sec. IV. of the Regulation in question, totally overlooking the solemn pledge contained in the preamble of Regulation XIX. of 1793, has authorized a Collector to institute inquiries in regard to lands free of assessment, without previously obtaining the sanction of the Board of Revenue for

such inquiry, as required in Sec. 15, Regulation XIX., and in article first, Sec. V. Regulation II. of 1819, and has transferred 'the force and effect' of a judicial decree to any decision that the Collector may pass upon such inquiry against the present holders of lands of the above description; that the second and third articles of the same section not only invest a Collector with unrestrained power to adjudge any land in possession of individuals to be the property of Government, but give him further absolute authority 'to carry immediately into effect his decree by attaching and assessing the land,' so adjudged, without being required to refer his decision to a higher authority for confirmation, as directed in Sec. XX., Regulation II. of 1819. Your Lordship will now perceive that a Collector of Land Revenue is, by virtue of his office, empowered in the first instance to search out lands subject to the claims of Government; he again is authorized to prefer an action before himself as a Judge against the party who may be supposed to have been illicitly in possession of them; and lastly, he is rendered competent not only to adjudge the land to be the property of Government, but also to dispossess the present proprietor of the same land by a stroke of his pen in 'a Persian roobakaree' held by himself. In short, a Collector is under one capacity commissioned to act the part of plaintiff, while under another the same Collector is vested with the power of discharging functions of an absolutely judicial nature, in passing a decree in cases in which he in fact stands

as plaintiff or informer, and to carry immediately into effect whatever decree he may pass, a system which your petitioners presume the most despotic Government might feel reluctant to adopt.

That your petitioners further beg leave to bring to the notice of your Lordship the hardship and difficulty they naturally dread from the operation of the regulation at issue. In Sec. XXII. Regulation II. of 1819, Government bestowed upon your native subjects the privilege of seeking redress against the decision of the highest revenue authorities (the Board of Revenue) from the nearest Zillah or City Court, in cases in which the amount of demand did not exceed 500 rupees; that the most indigent individuals, or men engaged in husbandry or humble professions, might easily have access to that Court without experiencing much inconvenience or incurring heavy expenses; besides, they were permitted in Sec. XXVI. Regulation II. of 1819, to appeal to a higher judicial authority for the vindication of their rights, on the supposition that the decision passed by a Zillah or City Judge was unjust or erroneous. But your petitioners, with the deepest regret, feel compelled to entreat, your Lordship will refer to clause fifth, Sec. IV. of the present Regulation, virtually denying your native subjects all means of self-defence. Though the above clause justifies in theory an appeal to a Special Commissioner against the decision of a Collector, yet it has rendered such an appeal in almost two cases of three almost

absolutely impracticable, since numerous individuals possessing small pieces of land of the above description are so occupied in the pursuit of their livelihood, as to make it practically impossible for them to leave their respective families and occupations, to proceed to a distant station for the purpose of conducting an appeal before a Special Commissioner. Moreover, the Collectors in general, from their want of experience of judicial duties are not, and cannot, your petitioners presume, be regarded as sufficiently competent to institute judicial investigation; their decisions, consequently, could not bear that weight and respect which are attached to a decree passed by an experienced judicial officer of Government; under these circumstances, any investigation that may be held by a Special Commissioner, when appealed to him against the decision of a Collector, would, in point of fact, be the first as well as last judicial trial.

Your petitioners further beg your Lordship's liberal consideration of the long period that has elapsed since the officers of Government were commanded to inquire into the validity of the tenures of *lakrauj* lands. Severe as the provisions of the present regulations are, and widely as they depart from the spirit of that of Lord Cornwallis, it would have been happy for the people, had even such modes of investigation as are there laid down been acted upon with promptitude. Not only, however, has the cautions and just regard for the safety of private property evinced by that just and wise statesman been set

aside, but that, too, under circumstances in many instances far more unfavourable for the security of your native subjects than if their rights had been tried at his time.

Sannads, and other records, which might then have been produced so as to place your petitioners' titles beyond dispute, have, from the many accidents to which papers are liable, been lost or destroyed. In cases of disputed and divided succession, and of dispossession by judicial or revenue sales, your Lordship will readily understand how often the possession of the titles must have been withheld from the actual owner of land, however rightful his succession to the property. Fire, inundation, and the ravages of destructive insects or vermin, have, in the course of thirty-five years, necessarily caused many important documents to perish, and it is after the lapse of such a period, that they are now called to make good, before a new species of tribunal, rights which have so long remained undisturbed.

Your petitioners confidently affirm, that on reference to the revenue and judicial records of the Zillahs and Cities, it will be found that there are innumerable instances in which lands free of assessment have been since 1793, transferred to different hands by sale at the public auctions, superintended either by revenue or by judicial officers, for the recovery of arrears of revenue due to Government, or for the satisfaction of judicial decrees. These have been purchased by individuals of course on the public

faith hitherto possessed by them without molestation. Now your Lordship-in-Council may be pleased to judge whether it would be in any way consistant with justice, that such lands should again be resumed from these purchasers, on the grounds of their titles being invalid, and assumed by Government, whose public officers once previously obtained their value in satisfaction of the demand of Government upon their prior possessors.

That your petitioners, without fear of contradiction, can plead their past and present conduct as a proof of their unshaken and continued loyalty and attachment to the British Rule in India. They have carefully entertained the hope of daily amelioration in their condition, from the augmenting and established power and possessions acquired by the wisdom of their rulers; but they feel painfully disappointed in that expectation when on comparing with each other, the language used and the spirit manifested on the one and the same subject, in Regulations XIX. of 1793, II. of 1819, and III. of 1828. Your petitioners perceive, with inexpressible grief, a gradual indifference exhibited toward their rights and interests. As loyal subjects, however, they are in duty bound to lay candidly before your Lordship their grievances, and sincerely pray that your Lordship in Council, for the honour of the British name, and from a sense of justice, may be pleased to rescind the Regulation complained of, and thereby save thousands of families of your dutiful subjects from utter ruin.

ADDRESS TO BRITISH UNITARIANS

At a crowded meeting of the Unitarian Association, London, in 1831, Ram Mohun Roy was received with every mark of deep and heartfelt respect. Sir John Bowring to whom the resolution of welcoming the Raja was entrusted, spoke of him in glowing terms. He said :

I recollect some writers have indulged themselves with inquiring, what they should feel if any of those time-honoured men whose names have lived through the vicissitudes of ages, should appear among them. They have endeavoured to imagine, what should be their sensations if a Plato or a Socrates, a Milton or a Newton, were unexpectedly to honour them with their presence. I recollect that a poet, who has well been called divine, has drawn a beautiful picture of the feelings of those who first visited the Southern Hemisphere, and there saw, for the first time, that beautiful constellation, the Golden Cross. It was with feelings such as they underwent, that I was overwhelmed when I stretched out in your name the hand of welcome to the Raja Ram Mohun Roy.

The resolution was carried with acclamation, the whole gathering standing. The Raja thanked those that arranged for the meeting and spoke as follows :

I am too unwell and too much exhausted to take any active part in this meeting ; but I am much indebted to Dr. Kirkland and Dr. Bowring for the honour they have conferred on me by calling me their fellow-labourer, and to you for admitting me to this Society as a brother, and one of your fellow-labourers. I am not sensible that I have done anything to deserve being called a promoter of this cause : but with respect to your faith I may observe, that I too believe in the one God, and that I believe in almost all the

doctrines that you do : but I do this for my own salvation and for my own peace. For the objects of your Society I must confess that I have done very little to entitle me to your gratitude or such admiration of my conduct. What have I done?—I do not know what have I done?—If I have ever rendered you any services, they must be very trifling—very trifling, I am sure. I laboured under many disadvantages. In the first instance, the Hindus and the Brahmans, to whom I am related, are all hostile to the cause, and even many Christians there are more hostile to our common cause than the Hindus and the Brahmans. I have honour for the appellation of Christians : but they always tried to throw difficulties and obstacles in the way of the principles of Unitarian Christianity. I have found some of these here ; but more there. They abhor the notion of simple precepts. They always lay a stress on mystery and mystical points, which serve to delude their followers ; and the consequence is, that we meet with such opposition in India that our progress is very slight ; and I feel ashamed on my side that I have not made any progress that might have placed me on a footing with my fellow-labourers in this part of the globe. However, if this is the true system of Christianity, it will prevail, notwithstanding all the opposition that may be made to it. Scripture seconds your system of religion, common sense is also on your side ; while power and prejudice are on the side of your opponents. There is a battle going

on between reason, scripture and common sense ; and wealth, power and prejudice. These three have been struggling with the other three ; but I am convinced that your success, sooner or latter, is certain. I feel over-exhausted, and therefore conclude with an expression of my heartfelt thanks for the honour that from time to time you have conferred on me, and which I shall never forget to the last moment of my existence."

AUTOBIOGRAPHICAL SKETCH

The following letter from Ram Mohun Roy himself first appeared in the 'Athenæum,' and in the 'Literary Gazette'; from one or other of which it was copied into various newspapers. It was written just before he went to France. Miss Carpenter says: It was probably designed for some distinguished person who had desired him to give an outline of his history; and he adopted this form for the purpose. The letter may be considered as addressed to his friend Mr. Gordon, of Calcutta.

MY DEAR FRIEND,

IN conformity with the wish, you have frequently expressed, that I should give you an outline of my life, I have now the pleasure to give you the following very brief sketch.

My ancestors were Brahmans of a high order, and, from time immemorial, were devoted to the religious duties of their race, down to my fifth progenitor, who about one hundred and forty years ago gave up spiritual exercises for worldly pursuits and aggrandisement. His descendants ever since have followed his example, and, according to the usual fate of courtiers, with various success, sometimes rising to honour and sometimes falling; sometimes rich and sometimes poor; sometimes excelling in success, sometimes miserable through disappointment. But my maternal ancestors, being of the sacerdotal order by

profession as well as by birth, and of a family than which none holds a higher rank in that profession, have up to the present day uniformly adhered to a life of religious observances and devotion, preferring peace and tranquillity of mind to the excitements of ambition, and all the allurements of wordly grandeur.

In conformity with the usage of my paternal race, and the wish of my father, I studied the Persian and Arabic languages,—these being indispensable to those who attached themselves to the Courts of the Mahommedan princes; and agreeably to the usage of my maternal relations, I devoted myself to the study of the Sanskrit and the theological works written in it, which contain the body of Hindu literature, law and religion.

When about the age of sixteen, I composed a manuscript calling in question the validity of the idolatrous system of the Hindus. This, together with my known sentiments on that subject, having produced a coolness between me and my immediate kindred, I proceeded on my travels, and passed through different countries, chiefly within, but some beyond, the bounds of Hindustan, with a feeling of great aversion to the establishment of the British power in India. When I had reached the age of twenty, my father recalled me, and restored me to his favour; after which I first saw and began to associate with Europeans, and soon after made myself tolerably acquainted with their laws and form of Government. Finding them generally more intelligent,

more steady and moderate in their conduct, I gave up my prejudice against them, and became inclined in their favour, feeling persuaded that their rule, though a foreign yoke, would lead more speedily and surely to the amelioration of the native inhabitants ; and I enjoyed the confidence of several of them even in their public capacity. My continued controversies with the Brahmins on the subject of their idolatry and superstition, and my interference with their custom of burning widows, and other pernicious practices, revived and increased their animosity against me; and through their influence with my family, my father was again obliged to withdraw his countenance openly, though his limited pecuniary support was still continued to me.

After my father's death I opposed the advocates of idolatry with still greater boldness. Availing myself of the art of printing, now established in India, I published various works and pamphlets against their errors, in the native and foreign languages. This raised such a feeling against me, that I was at last deserted by every person except two or three Scotch friends, to whom, and the nation to which they belong, I always feel grateful.

The ground which I took in all my controversies was, not that of opposition to *Brahminism*, but to a *perversion* of it ; and I endeavoured to show that the idolatry of the Brahmins was contrary to the practice of their ancestors, and the principles of the ancient books and authorities which they profess to revere

and obey. Notwithstanding the violence of the opposition and resistance to my opinions, several highly respectable persons, both among my own relation and others, began to adopt the same sentiments.

I now felt a strong wish to visit Europe, and obtain by personal observation, a more thorough insight into its manners, customs, religion, and political institution. I refrained, however, from carrying this intention into effect until the friends who coincided in my sentiments should be increased in number and strength. My expectations having been at length realised, in November, 1830, I embarked for England, as the discussion of the East India Company's charter was expected to come on, by which the treatment of the natives of India, and its future Government, would be determined for many years to come, and an appeal to the King in Council, against the abolition of the practice of burning widows, was to be heard before the Privy Council; and his Majesty the Emperor of Delhi had likewise commissioned me to bring before the authorities in England certain encroachments on his rights by the East India Company. I accordingly arrived in England in April, 1831.

I hope you will excuse the brevity of this sketch, as I have no leisure at present to enter into particulars.

SILVER JUBILEE NUMBER

THE INDIAN REVIEW

Contains Double the usual matter, over Hundred Portraits, Illustrations, & Numerous Autograph Messages.

MESSAGES OF CONGRATULATION

From Lord Hardinge, Lord Haldane, Rt. Hon. Ramsay MacDonald, Lord Olivier, H. E. Viscount Goschen, Lord Willingdon, H. E. Sir Harcourt Butler, H. E. Sir Malcolm Hailey, Lord Sinha, Lord Riddell, Lord Clwyd, Hon. Sir Alexander Muddiman, Hon. Sir Moncrieff Smith, Sir Alexander Whyte, H. H. the Aga Khan, Rt. Hon. Syed Amir Ali, Hon. Sir Dinshaw Wacha, Sir Ibrahim Rahimtoollah, Mr. W. L. Courtney, Mr. J. L. Garvin, Mr. H. W. Nevinston, Sir Sidney Lee, Mahatma Gandhi, Rt. Hon. Sastri, Hon. Raja Sir Harnam Singh, Hon. Sir P. Ramnathan, Dr. Besant, Sir P. S. Sivaswami Aiyar, Mr. S. T. Shepherd, Mr. Arthur Moore, Mr. S. Rangasami, Mr. Polak, Dr. Whitehead, Col. Wedgwood, Sir Stanley Reed, Mr. K. Natarajan, Mr. Chintamani.

SPECIAL ARTICLES BY

Sir Rajendranath Mukerjee, Sir Valentine Chirol, The Rt. Hon. Srinivasa Sastri, Mian Sir Mahomed Shafi, Mr. J. C. Molony. I.C.S., Dr. Shams-ul-Ulema J. Modi, Dr. James H. Cousins, Dr. Brainerd Spooner, Sir Jagadish Chandra Bose, The Anagarika Dharma-pala, Mr. C. F. Andrews, Hon. Mr. C. P. Ramaswami Iyer, Lala Lajpat Rai, Mr. Marmaduke Pickthall, Sir K. G. Gupta, Prof. Vaswani and others.

THE REVIEW AND ITS EDITOR BY

Mr. Glyn Barlow, formerly Editor of the *Madras Times*, Sir Alexander Cardew, Mr. Saint Nihal Singh, Prof. K. B. Ramanatha Aiyer, Mr. D. Scott Bremner Editor of the *Madras Mail*, Mr. E. L. Thornton, I.C.S., Mr. N. C. Kelkar, Editor of the *Mahratta* etc

PRICE RE. ONE ONLY.

Please note that a large number of books are given at concession rates only to subscribers of "The Indian Review." Any one who wishes to buy books at concession rates must remit Rs. 5, one year's subscription to the Review in advance. Copies will not be sent by V.P.P.

G. A. Natesan & Co., Publishers, George Town, Madras.

Eminent Orientalists.

INDIAN, ENGLISH, FRENCH, GERMAN AND AMERICAN

This is the first attempt to present under one cover a succinct account of the lives and achievements of well-known Orientalists, who have done pioneer work in the field of Indology. The activities of this group of savants—English, Scotch, French, German, American and Indian, have been many-sided. They have explored the regions of archæology, epigraphy and palæography, and have thus opened out vistas of knowledge in directions never before thought of.

Among the Orientalists Studied Are : Sir William Jones, Sir Charles Wilkins, Colebrooke, Horace Wilson, George Tournour, Fergusson, Rajendralal Mitra, Telang, Bhau Daji and Indrajī, Dr. Buhler, Monier Williams, Max Muller, Sir John Fleet, Edwin Arnold, Nivedita, Griffith, Whitney, Vincent Smith, Tilak, Anundoram Barooah, Bhandarkar, Macdonnell, Keith, Paul Deussen and Sylvain Levi.

Among the Contributors to the volume are : Prof. P. Seshadri, Prof. Radhakrishnan, Dr. S. Krishnaswami Ayengar, Prof. P. P. S. Sastri, Mr. Shumbu Chunder Dey, Prof. Suryanarayana, Mr. Vasant Naik, Mr. K. S. Ramaswami Sastri, Prof. M. S. Ramaswami Ayengar, Prof. Surya Kumar Bhuyan, Prof. Srinivasa-chari, and Mr. D. W. Wickramarachi.

The Times of India :—The biographies go right down, to the present day and give a good deal of information which is not easily available.

The Leader :—Interesting and stimulating.

Swarajya :—We heartily recommend this book to any one who desires to have within the compass of a few pages a true and faithful study of Indian Culture.

Price Rs. 2. Two.

To Subscribers of the "Indian Review," Re. 1-8.

G. A. Natesan & Co, Publishers, George Town, Madras.

Sankara's Select Works

Sanskrit Text and English Translation.

By Mr. S. VENKATARAMANAN, B. A.

Contents.—Hymn to Īśvara; Ten Versed Hymn; Hymn to Dakṣiṇāmūrti; Direct Realisation; The Century of Verses; Knowledge of Self; Commentary on the Text; Definition of one's own self.

The main object of this invaluable publication is to present, in simple English, some of the works of Sri Sankaracharya in which he tried to expound, in a popular style, the philosophy of the non-dualistic Vedanta of which he was the well-known founder. With this view, the present translation has been rendered free of technical words and phrases, and, in some instances, literal and technical accuracy has been purposely sacrificed in order to make the translation readable and comprehensive by itself independently of the text. It is, however, hoped that the juxtaposition of the Sanskrit text and the English translation will serve the double object of enabling the student of Sanskrit to understand the text better and to correct, by a reference to the text, any defect of expression in the translation as an inevitable result of the attempt to grabit in a popular style. A publication of this kind should be specially helpful for a proper understanding of the broad outline of Sankara's philosophy of non-dualism.

Price Rupees Two.

To Subscribers of the "Indian Review," Re. 1-8.

A large and varied collection of Books on Indian Politics, Religion, Philosophy, Industries, Arts, Agriculture, Economics, Biographies, Speeches and Writings of Eminent Indians are given at special concession rates to Subscribers of the Indian Review. Any one who wishes to buy books at concession rates must remit Rs. 5. (five) one year's subscription to the Review in advance. It is cheapest to send in the subscription of Rs. Five by M.O. If by cheque—Rs. 5-4.

G. A. Natesan & Co., Publishers, George Town, Madras.

