

C.P.M. 05

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CONFIDENTIAL.

Recd

No. $\frac{105}{4}$ OF 1893.

FROM

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THE CHIEF SECRETARY TO GOVERNMENT,
N.-W. PROVINCES AND OUDH.

TO

THE SECRETARY TO THE GOVERNMENT OF INDIA,
HOME DEPARTMENT.

Dated Naini Tal, the 15th September 1893.

SIR,

HOME (SPECIAL)
DEPT

I AM directed to reply to your letter of the 29th August in so far as it concerns the question whether the present law sufficiently empowers the executive authorities to control any agitation or local disturbance which may be due to cow-protection societies.

2. The Lieutenant-Governor has considered this question in view of recent events, and has consulted some of the most experienced officers in the Province. The result of this consultation has been embodied in the accompanying note by the Legal Remembrancer. Sir Charles Crosthwaite's opinion is that the law, as at present stands, is sufficient to enable the authorities to control and suppress any local disturbance. The difficulty in dealing with widespread disturbance is not one of law but of the sufficiency of the force at the command of the executive. But the law is powerless, as it stands, to enable the Government to control the agitation or to prevent the extension of the system which, whatever may have been its primary objects, must be regarded now as seditions and most dangerous to the public peace. It is evident that if societies constituted and having rules such as those in the Ballia and Azamgarh districts are permitted to spread over the country, they may obtain an influence against which it will be very difficult to contend. When the unlawful rules of such societies are actively enforced against any person, the present law will afford a remedy if the person injured comes forward to complain. Under the circumstances, however, it is highly improbable that any complainant will dare to come forward. The societies therefore must be brought under control, and this can be done, it appears to Sir Charles Crosthwaite, without interfering with the lawful aims of pious Hindus by an easy addition to the Penal Code as explained in paragraph 6 (2) of the Legal Remembrancer's note, which will bring the law of this country as regards conspiracy into agreement with the English law on the subject.

As regards the punishment for the offence of belonging to an unlawful society, a period of six months' imprisonment is suggested

in the Legal Remembrancer's draft. This is perhaps sufficient for ordinary members of such societies. In the case of officers of the societies, who are usually men of some education and position, such punishment is not sufficient. They are the persons who have invented these illegal rules and to whose efforts the societies owe their existence, and it is they, if any, who have ulterior objects in view. The Lieutenant-Governor suggests a period of two years' imprisonment with fine as the maximum penalty. As one of the illegal measures adopted by these societies is the prohibition against the use of pounds established under the Cattle Trespass Act, 1871, it is proposed to amend that Act with the view of making the establishment of a pound otherwise than in accordance with section 4 of that Act punishable with imprisonment for a period not exceeding six months, or with fine not exceeding five hundred rupees or with both.

3. In the recent events in these Provinces nothing has caused more concern to the Lieutenant-Governor than the secrecy with which the combined movements of large numbers of persons for an unlawful object have been arranged and carried out. Owing to various causes, the present law* which binds landholders to give information in certain cases, has become ineffectual, especially where landholders are not resident and where, as in the eastern districts, property is much divided. In order to remedy this, the Lieutenant-Governor proposes additions to section 45 of the Indian Penal Code, the object of which is to enable the Magistrate of the district to appoint one or more of the owners or occupiers of land to be a village headman for the purposes of that section. He also proposes to make village accountants or patwāris responsible for giving information. The patwāris, it is suspected, have taken part in the present agitation, and in the diffusion of the illegal written orders of the societies. It is necessary also to add a clause to section 45 enabling the Magistrate of the district to call for information and to require the village headmen, &c., to supply information regarding other matters than those specified in section 45, e.g. the gathering of people for any object, the holding of meetings, the collection of contributions from villagers for any purpose, the visits of preachers or agitators. It is not advisable to specify the matters on which information may be required. And in drafting this clause the wording of clause (f), section 8, of the Village and Road Police North-Western Provinces Act has been followed. If it is thought inadvisable to entrust the Magistrate of the district with powers of this kind, the power can be given to the Local Government. The Local Government, however, can, in its executive capacity, control the District Magistrate in the exercise of the powers given to him; and as occasions may arise requiring information to be given as to some sudden movement or agitation, it is better to give the power to the Magistrate.

4. In the next place it is held to be necessary to amend Act V of 1861 in several particulars. Some deficiencies of that Act, which are now noticed, may have been brought to the notice of the Government of India in connection with other matters, and it is believed that the

amendment of that Act is under the consideration of the Home Department. The following amendments are under present circumstances urgent and should be carried out promptly. It is advisable to make non-resident landowners liable, if the Government shall so direct, for a share of the cost of additional police imposed on the occupiers and inhabitants of their estates. The defect in the present law, which renders the inhabitants only liable, has frequently come to the notice of this Government in connection with ordinary cases in which the misconduct of villagers has necessitated the quartering on them of additional police. It is frequently the case that the misconduct of the villagers, the harbouring of dakiits and other bad characters, and the commission of predatory crimes, such as cattle-lifting and the like, are permitted, if not encouraged, by the owners of the land who do not reside on their land, and thus escape from payment of a part of the cost of the police. In the present case the necessity of altering the law has become most apparent. There can in Sir Charles Crosthwaite's opinion be no doubt whatever that some large landowners and others of smaller importance who do not reside in the disturbed districts or tracts have been responsible, not perhaps for the riots, but for the unlawful machinery which has made them possible, and for the mischievous agitation which has led to them. They and their agents must of course have known what was going on, and cannot have been ignorant of the letters which were being circulated and of the unlawful assemblies which were being arranged. These persons under the present law escape altogether from contributing to the cost of the additional police by reason of their residing elsewhere. In another matter also the law is defective, inasmuch as it provides no means for compensating those whose persons have been injured or property destroyed in the riots. At Azamgarh the Lieutenant-Governor received several petitions from Muhammadans, praying that compensation might be awarded to them for the injuries they had sustained, and it appears obviously right that such persons should be compensated at the expense of those who are responsible for the mischief. In this connection it would, Sir Charles Crosthwaite thinks, be well to provide that instead of, or in addition to, the quartering of additional police at their cost, the landowners or inhabitants should be liable to fine to such amount as the Local Government might direct. The fine to be imposed in addition to the cost of the police when the misconduct of the landowners and inhabitants had caused loss to any person, and to be applied to compensating the injured person. The fine to be instead of police when the landowners or inhabitants had been guilty of misconduct deserving punishment, but not such as to render the quartering of police desirable. The class of cases which this provision is intended to meet is that, for example, in which the inhabitants of a village turn out and assault Muhammadan cattle-drivers and bar the road. The village may be unable to bear the cost of a police guard for any lengthy period, while it is very inconvenient to enlist additional officers and constables for a short period. A moderate fine on the village would be a most appropriate and effectual punishment. Act V of 1861, section 13, is also defective in a third point. It makes the inhabitants generally

of the disturbed district liable for the cost of the police quartered upon it, and leaves the Magistrate no discretion to exempt any class of persons. Thus the very persons against whom disturbances were got up and who have suffered from them may be called upon to contribute to the cost of the police equally with those who were in fault.

5. The alterations of the law herein advocated are, the Lieutenant-Governor thinks, simple, and such as cannot be objected to by reasonable and loyal persons. They ought, he thinks, to be passed as soon as possible, for it is certain that we are face to face with a very dangerous organization which threatens in some districts to become the government *de facto* of the country, and if not suppressed will certainly cause very great trouble in the not distant future.

Sir Charles Crosthwaite believes that this danger may still be averted by firm and fearless action. The true way of administering India is by enforcing village responsibility and compelling the people to control each other, or if they cannot, to inform the authorities and enable them to do it. In these Provinces the tendency for years has been to break up and disintegrate the village communities. We have attempted to keep order and suppress crime by means of an outside police who seem yearly to become more feeble and corrupt, and are hated by the people. We fill our jails with criminals at a vast expense, without getting the upper hand of the criminal classes. Whereas by falling back on the old system of the country, and by enforcing the responsibility of landowners and of villagers as a body, we should get much better results in a more merciful and less costly manner. The present organization of the cow societies works on the people as a whole, and it must be met by the assertion of the principle of joint responsibility.

6. There is one more amendment of the criminal law which can be easily effected, and which the present circumstances of the country most urgently demand. The false and alarming stories that have been published in the newspapers since the occurrence of the disturbances at the Id festival have done very great mischief, and are continuing to do mischief. It is hardly necessary to quote instances, as the Government of India is doubtless aware of the facts. I am however to enclose a copy of correspondence which has taken place between this Government and the *Morning Post*, a newspaper edited by a European and published at Allahabad. It can hardly be doubted that the Editor has been victimized, in the case of both the false reports published, by some one who desired to increase the excitement between Hindus and Muhammadans and to inflame the minds of the former. It is evident from the Editor's reply that he had taken no pains whatever to ascertain the truth of the alarming stories which he published, and which he served up with remarks of his own calculated still more to alarm the public. These stories have been taken up by the Bengal Press and made use of to excite the Hindus against the Government and against the Musalmans.

The tardy contradiction and insufficient apology made by the Editor shows the necessity of having a law which can bring home to persons of his type some sense of responsibility and of the duty Editors of journals owe to the public.

7. The present law (section 505, Indian Penal Code) throws on the Government the onus of proving that the person circulating or publishing a false report knew that it was false. This is an almost impossible task, and section 505 is consequently useless. Sir Charles Crosthwaite recommends that section 505 be amended so as to make it applicable not only to statements which the person circulating or publishing them knows to be false, but to those also which he does not believe in good faith to be true. He recommends also that in that section after the words "with intent to cause fear or alarm to the public, and thereby to induce any person to commit an offence against the State, or against the public tranquillity," the following words be inserted—"or knowing or having reason to believe that such report will cause fear or alarm to the public, and thereby will induce any person to commit an offence as aforesaid."

If this alteration in the law is made at once, it will enable the Government to control one of the worst forms of journalistic crime, namely, the invention and dissemination of lies for the purpose of exciting the people against the Government and of setting race against race. Very few issues of the native newspapers are without instances of this offence; and some newspapers owned and edited, it is believed, by Europeans, such as the *Allahabad Morning Post*, are equally guilty, though perhaps from different motives. The inflammatory and seditious tone of the Native Press, especially in Bengal, cannot have escaped the notice of the Government of India. The Native Press is doing infinite mischief, and unless it can be to some extent suppressed and controlled, it will lead to rebellion and bloodshed.

The other matters dealt with in your letter under reply are receiving the Lieutenant-Governor's attention, and he hopes to address the Government of India concerning them at an early date.

I have the honor to be,

SIR,

Your most obedient servant,

J. J. D. LATOUCHE,

Chief Secy. to Govt., N.-W. P. and Oudh.

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NOTE.

From the papers submitted to me it appears that the objects and aims of the Gaurakshani Sabha, or Cow-protection Society, in the districts of the Benares and Gorakhpur Divisions, are partly lawful and partly unlawful. The agitation is a lawful one, and ought not in my opinion to be interfered with so long as it restricts its operations to the furtherance of the following aims and objects :—

- (1) to provide a home for sick and infirm cattle ;
- (2) to purchase cattle from Hindus who are obliged to sell, and thus to prevent cattle from falling into the hands of Muhammadans who might slaughter them ;
- (3) to raise by voluntary contributions the funds required for the above purposes ; and
- (4) to inculcate the kind treatment of cattle.

2. It would seem, however, that the society has not confined its operations within the above limits, but has developed into a movement for the purpose of securing the following objects in addition to the lawful objects above specified :—

- (1) the prohibiting of the use of Government pounds, the unauthorized establishment of pounds, and the levy of fees from the owners of cattle taken to these unauthorized pounds ;
- (2) the prevention of the sale of cattle by Hindus to Muhammadans (especially butchers), chamars and persons of low caste, under threat of exclusion of the seller from caste ;
- (3) the punishment, by the imposition of a fine and by exclusion from caste, of Hindus who make use of Government pounds, or sell cattle to Muhammadans or to persons of low caste ;
- (4) the compulsory levy of subscriptions under threat of exclusion from caste or of incurring the sin of cow-killing ;
- (5) the enforcement by fines and exclusion from caste of obedience to the society's order.

3. The establishment of unauthorized pounds and the punishment of Hindus by fine and exclusion from caste are not offences punishable under any law at present in force.

4. The prohibition, enforced by threats of fine and exclusion from caste, against taking cattle to a Government pound, and against the sale of cattle to Muhammadans and to low caste persons, would be offences punishable under section 503, Indian Penal Code ; while the levy of fees from the owners of cattle impounded in unauthorized pounds, and of subscriptions under threat of exclusion from caste, would be offences punishable under section 383, Indian Penal Code. Persons, therefore, who in pursuance of the objects of the society are guilty of the above offences can be punished under the Indian Penal Code. Hindus are, however, afraid to come forward, either as complainants or witnesses, and it is manifest that the cases in which evidence of criminal intimidation or of extortion will be obtained against the members or adherents of the society will be few.

5. A society, some of whose aims and objects are those enumerated in the second paragraph of this note, is in my opinion an unlawful society or conspiracy. In the absence, however, of proof of an offence, or of an overt act

towards the commission of an offence in pursuance of the object of the conspiracy, such society or conspiracy does not seem to me to fall under any of the provisions of the Penal Code, or to be opposed to those of any other law at present in force.

6. In order that the existing society or agitation may be brought under effective control, and that further mischief may be prevented, the following action appears to me to be advisable:—

(1) The existing law should be enforced—

(a) in every case in which evidence of criminal intimidation or of extortion, or abetment of these offences, is obtainable against the members or adherents of the society;

(b) as regards the dispersing, under Chapter IX of the Code of Criminal Procedure, of assemblies convened by the promoters of the society, when such assemblies are likely to cause a disturbance of the public peace;

(c) as regards the quartering of additional police under section 13 of Act V of 1861 in districts which owing to the action of the society are in a disturbed or dangerous state.

(2) Legislation should be undertaken for the following purposes:—

(a) To amend the Indian Penal Code;

(i) Membership in an unlawful society or conspiracy should be made an offence.

The following sections might be inserted after section 510, Indian Penal Code:—

510A.—An unlawful society is a society of two or more persons, whose common object is, by causing injury or by threats of injury, to compel any person to do what he is not legally bound to do, or to omit to do what he is legally entitled to do.

510B.—Whoever is a member of an unlawful society shall be punished with imprisonment of either description for a term which may extend to six months or with fine or both.

In England an agreement between two or more persons to commit an offence, or wrongfully to injure or prejudice a third person or any body of men in any manner, is a conspiracy punishable as a misdemeanour.

(ii) In view of the ill-feeling at present existing between the Hindu and Muhammadan communities, the publication and dissemination of false and mischievous reports should be prevented as far as possible. In a prosecution, however, under section 503, Indian Penal Code, the fact that the accused knew that the report or rumour published or circulated by him was a false one must be proved by the Crown. In the majority of cases it will be exceedingly difficult, if not impossible, to obtain evidence in proof of such guilty knowledge. It is therefore proposed that section 503, Indian Penal Code, be amended as follows:—

Section 503.—Whoever, otherwise than in good faith, circulates or publishes any false statement, rumour or report, with intent, &c., &c.

(b) To amend the Cattle Trespass Act, 1871, with the view of making the establishment of a pound otherwise than in accordance with the provisions of section 4 an offence under the Act.

(c) To amend the Code of Criminal Procedure. As it is most necessary that the Magistrate of the district should be informed of the establishment and spread within his district of societies, such as the Gaurakehani Sabha, and of the meetings held and the action taken by these societies, the following amendments of section 45 are recommended :—

(i) The insertion of the words "village accountant" between the words "every village headman" and "village watchman."

(ii) The addition of the following clause after clause (d) :—

"(e). Any matter regarding which he has been required by the Magistrate of the district to supply local information."

(iii) The addition of the following explanation :—

"Explanation (2).—Where there is a village headman appointed under any other law, the person so appointed shall be the village headman for the purposes of this section. Where there is no village headman appointed under any other law, the village headman, for the purposes of this section, shall be appointed by the Magistrate of the district from among the owners or occupiers of land resident in the village. If the Magistrate of the district thinks fit he may appoint more than one headman in any village."

(d) To amend Act V of 1861 :

(i) With the view of making absentee landlords also chargeable with the cost of additional police, and of enabling the Magistrate of the district to exempt classes or sections of the population from the cost of such police; and

(ii) With the view of empowering the Magistrate of the district to award compensation for injuries caused by the act of an unlawful assembly, and to charge, assess and recover the amount so awarded in the same manner as the cost of additional police is charged, assessed and recovered.

The following amendments are accordingly suggested :—

(i) For the last sentence of section 15 the following should be substituted :—

"The landowners and inhabitants of the part of the country described in the notification, or where the disturbed or dangerous state is due to the action of a class or section of the landowners or inhabitants, that class or section shall be charged with the cost of such additional police force; and the Magistrate of the district, after inquiry if necessary, shall assess the proportion in which the amount is to be paid by the landowners and inhabitants, or by the said class or section according to his judgment of their respective means."

(ii) After section 16 the following section should be inserted :—

"16A.—Whenever in any part of the general police district loss or damage is caused to any person by the act of an unlawful assembly, the Magistrate of the district may determine the amount of compensation to be awarded to the person injured; and with the previous sanction of the Local Government, to be notified by proclamation in the *Government Gazette*, may direct that the compensation shall be recovered in the proportion prescribed by section 15 from all, or any class or section

(4)

of, the landowners and inhabitants of the part of the country described in the notification. The amount of compensation shall be assessed and recovered by the Magistrate of the district in the same manner as the cost of additional police is assessed and recovered."

The 15th September 1893.

J. DEAS.

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FROM

THE CHIEF SECRETARY TO GOVERNMENT, 1894
N.-W. PROVINCES AND OUDH,

TO

THE EDITOR, "MORNING POST,"

ALLAHABAD.

Dated Naini Tal, the 3rd September 1893.

SIR,

GENERAL DEPT.

In the issue of the *Morning Post* of 29th August 1893 (page 2) two statements are published:—

- (1) That a cow's head was thrown into a principal Hindu temple at Cawnpore.
- (2) That the Munsif of Sahaswan in Budaun had been murdered by Muhammadans because in a case concerning a mosque he had given a decision which displeased them.

On inquiry it has been ascertained that both these statements are absolutely false. The publication of such false reports in a paper of the circulation and character of the *Morning Post*, especially in conjunction with the editorial remarks immediately preceding them, and at a time such as the present, must cause fear and alarm to the public, and is likely to provoke the commission of offences against the public tranquillity. If these statements were published with the knowledge that they were false the publication comes within the provisions of section 503 of the Indian Penal Code.

The Government presumes that you have been misled by some malicious persons or person, but the falsehood about the Munsif's murder is repeated and emphasized in your issue of the 30th, and it was only on 2nd September that a tardy contradiction appeared.

In the *Morning Post* of 1st September a contradiction is published of the story about the cow's head, but it is added that a disturbance is threatened in Cawnpore. The Magistrate of the District (Mr. Bird), writing on the 31st August, did not anticipate any disturbance.

You will no doubt see the propriety of contradicting these stories to which you have given circulation in a much more emphatic manner than you have yet done; and also of giving the name of your informant, as in the present state of feeling between Hindus and Muhammadans such falsehoods are directly calculated to provoke a disturbance, and persons inventing and knowingly disseminating them must be punished.

I have, &c.,

J. J. D. LATOUCHE,

Chief Secy. to Govt., N.-W. P. and Oudh.

"THE MORNING POST":
Allahabad, September 14th, 1893.

DEAR SIR,

I DELAYED publishing and acknowledging your letter of the 3rd, in order to make inquiries. The result appears in our issue of the 12th. I regret that I have not yet been able to trace the sender of the murder story. I may add that in future I shall refer all such reports to the Local Government before publishing them.

Yours truly,
T. G. PIKE,
Editor.

Extract from the "Morning Post" of the 12th September 1893.

We communicated with our correspondent at Cawnpore, whose reply we quote in full:—"The cow-head rumour was very strong in the city. I first got what I considered fairly reliable information from a member of the Municipal Board. The following morning I heard it corroborated by at least forty men from different parts of the city. I put on a reliable Muhammadan and a Hindu to get me special information about it. The former is a merchant, who has dealings with the owners of the temple. I learned that the owners desired to suppress the rumour, as it was likely to bring ill odour on the building thus desecrated, but that the rumour was true; that it had been done at midnight; that four men were present when the head was found; and that a boy had been seen running away, and it was presumed that he had done it. It may be true or the reverse, but it is still firmly believed in the city, and the impression is that steps have been taken to deny it for diplomatic reasons. Of course, in writing you, I said that 'from what I could gather,' that was the cause of the ill-feeling. I learn to-day from a friend who has known the family (connected with the temple) for years, that there is much internal quarrelling, and that the probability is that, if it be true, they have done it among themselves, and it is not the work of a Muhammadan. From Government's agitation about the matter it would suggest that they know it to be true, and, presuming that your informant is a Government servant, they want to make it hot for him for divulging secrets. For Government's special benefit you contradicted the rumour next day. What more do they want? All is quiet here now. Our Collector worked like a slave for three or four days right in the heart of the agitated parts. He handled things well, and deserves great credit.

"P. S.—There is no getting really at the root of a thing like this unless by a proper inquiry of a magisterial nature, and not even then. Beyond what I have given you above I cannot vouch for the accuracy or otherwise of the report."

We need say no more about the matter than that we do not divulge the names of correspondents under any circumstances, unless, of course, we are deliberately misled, as in the Sahaswan case. We are endeavouring to trace the sender of this report.—EDITOR.

Confidential.]

J. & D.
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1894

No. 1460/64

Level. 3

FROM

C. J. LYALL, Esq., C.S.I., C.I.E.,
Secretary to the Government of India,

TO

THE CHIEF SECRETARY TO THE GOVERNMENT OF MADRAS.
THE SECRETARY TO THE GOVERNMENT OF BOMBAY,
JUDICIAL DEPARTMENT.
THE CHIEF SECRETARY TO THE GOVERNMENT OF BENGAL.
THE CHIEF SECRETARY TO THE GOVERNMENT OF THE PUNJAB.
THE CHIEF COMMISSIONER OF THE CENTRAL PROVINCES.

Home Department
Public.

Simla, the 4th October 1893.

SIR,

IN continuation of my confidential Circular No. $\frac{1}{1000}$, dated the 29th August last, with which I forwarded a copy of a note setting forth the history of the movement against the slaughter of kine which is now active in many parts of India, and asked for further information on the subject, I am now directed to enclose a copy of a letter, No. 105-4, dated the 18th September 1893, from the Government of the North-Western Provinces and Oudh, making certain proposals for amending the law in order to enable the Government to control agitation or local disturbance which may be due to cow-protection societies.

2. It will be seen that Sir Charles Crosthwaite advocates the following amendments of the law:—

I.—In the Penal Code—

- (a) The insertion of two sections dealing with the law of conspiracy;
- (b) The amendment of section 505, which relates to the circulation of false and mischievous reports, so as (1) to cast the onus of proving good faith (*vide* section 52) on the person who circulates or publishes the report; and (2) to make punishable such circulation not only *with intent* to cause fear or alarm to the public, but also when the circulator knows or has reason to believe that fear or alarm is likely to be caused.

II.—In the Criminal Procedure Code—

Additions to section 45—

- (i) "Village accountant" to be added after "village headman."
- (ii) The following clause to be added after clause (d):—
"(e) Any matter regarding which he has been required by the Magistrate of the district to supply information."
- (iii) The addition of an explanation enabling the Magistrate to appoint one or more village headmen where there is none appointed under any other law.

III.—In the Police Act, V of 1861 (this Act is not in force in Madras or Bombay, but similar additions could, if necessary, be made to the Police law of those Presidencies)—

- (a) to amend section 15 so as to throw the cost of additional police not only on the "inhabitants" of the disturbed tracts, but also on the landowners, who may be absentees;
- (b) to amend the same section by enabling the cost of additional police to be cast upon the class or section of the landowners or inhabitants to which the disturbances are due;
- (c) to add a section enabling the Magistrate, with the previous sanction of the Local Government, to assess upon the landowners and inhabitants, and to recover from them, compensation for loss or damage caused by the action of an unlawful assembly in the same way as the cost of additional police is assessed and recovered under the amended section 15.

IV.—In the Cattle-trespass Act, 1871—

To make the establishment of a pound otherwise than in accordance with the provisions of section 4 an offence under the Act.

I am to add, with reference to the last proposal, that the Lieutenant-Governor has since modified his suggestion, and now proposes that a section should be added to the chapter on Penalties (VI) in the following terms:—

"Whoever, having seized cattle under the provisions of section 13 or 14 of this Act, shall take such cattle to any place other than the nearest pound, and whoever, not being a pound-keeper appointed under this Act, shall receive or keep such cattle, shall, on conviction before a Magistrate, be punished with imprisonment for a period not exceeding six months, or with fine not exceeding 500 rupees, or with both."

3. In connection with the first of the above proposals, that relating to the provision of a law of conspiracy for India, I am further to enclose a copy of a case submitted to the Advocate General by the Government of India, and of that officer's opinion thereon.

4. The Governor General in Council will be glad to receive at a very early date (^{the} ~~the~~ _{year}) opinion (of ^{His Excellency the Governor in Council} ~~His Honour the Lieutenant-Governor~~), and those of such officers as (^{he} ~~he~~ _{you}) may deem it expedient to consult, on the legislation proposed. If (^{His Excellency in Council, &c.} ~~you~~) should be unable to reply without further consideration in regard to the proposals numbered II, III, and IV, the Government of India will be glad to receive, if possible by the end of October 1893, such observations as (^{the Government of} ~~you~~) may have to make in regard to those included under head I for the amendment of the Indian Penal Code.

5. It will be seen that Sir Charles Crosthwaite's proposals are based on a conviction that the proceedings of the cow-protection societies constitute a serious menace to the peace of the country, and it is understood that he is about to submit a full statement of the evidence on which he has been led to form this conclusion. I am to enquire whether the movement appears to be spreading or becoming dangerous in ^{and whether in consequence exceptional} measures of any kind seem to (^{His Excellency the Governor in Council} ~~His Honour the Lieutenant-Governor~~) to be necessary. If so, I am to ask that any recommendations of the kind may be supported by a detailed account of the facts which appear to (^{the Government of Madras, &c.} ~~you~~) warrant them. Such information should be presented in a form in which it could be published, and should deal with the number (so far as can be ascertained) of the societies for cow-protection existing in ^{their organization, their} rules of working, the degree to which they have established an influence over the people, and any disturbances which may have been the result of agitation due to them.

6. It will not have escaped (^{the} ~~the~~ _{year}) notice (^{of His Excellency the Governor in Council} ~~of His Honour the Lieutenant-Governor~~) that since the occurrence of the riots at Rangoon, in Azamgarh and elsewhere in the North-Western Provinces, and in other parts of the country, the discussion in the English and vernacular press of the question of kine-slaughter, and the duties and action of the British Government and its officers in regard to it,

has assumed a form which appears to threaten considerable danger to the public peace. I am to enclose, for ^(the) information ^(of His Excellency the Governor in Council),
of His Excellency the Governor in Council
of His Excellency the Governor in Council

• Vide Appendix.

a collection of extracts^o bearing upon this subject which has been made from the weekly reports in Native papers published in the several Presidencies and Provinces since the end of June last. Such writings, imputing prejudiced and partial action to the constituted authorities, and containing violent and inflammatory language addressed to religious partisans, seem not unlikely to lead sooner or later to a general weakening of the bonds of order and public discipline, even where they do not directly incite to disturbance and outrage. I am to enquire whether ^(His Excellency the Governor in Council has) any
of His Excellency the Governor in Council has
you have

suggestion to make for action in restraint of such publications, and whether it is considered desirable, or practicable, to proceed to legislation on the subject. It will, of course, be borne in mind that only the gravest necessity would be held to justify the reimposition of any such control over the public press as was aimed at by Act IX of 1878, and further that, in view of the fact that much of the most virulent writing now appears in newspapers published in English, which owing to the spread of acquaintance with that language are widely read, and are also largely extracted and translated in the vernacular press, it would not be possible to confine, as was done by that Act, any restrictive measures which might be proposed to publications in Oriental languages.

7. In paragraph 3 of my letter of the 29th August enquiry was made as to the sufficiency of the existing law in force in ^(This para. not to go to Panjab.) bearing upon the question of the slaughter of kine. In this connection I am to draw ^(the) attention ^(of His Excellency the Governor in Council) to the provisions of section 43 of the Punjab
of His Excellency the Governor in Council
of His Excellency the Governor in Council

"The slaughter of kine and the sale of beef shall not take place, except subject to rules to be made from time to time, either generally or in any particular instance, prescribed by the Local Government."

Laws Act (IV of 1872) quoted in the margin, and to ask whether any similar enactment appears to be necessary or advisable in

It should be borne in mind that the circumstances of the Punjab, which previous to annexation was

under Sikh rulers who treated kine-slaughter as a capital crime, were wholly exceptional, and that the maintenance of restraints on the practice which were justifiable there would not be practicable in other parts of India, where the British Government succeeded to the authority of Musalman sovereigns, or where adherents of the two rival creeds have long lived side by side under British rule without serious cause of dispute arising from this subject. The general principle which should be followed—and the Government of India have no doubt that it is well understood and ordinarily followed by all experienced officers throughout the country—is to maintain existing custom, and, while respecting the religious observances of Muhammadans, to secure Hindus against wanton injury to their feelings by Musalmans or others in the exercise by the latter of their right to slaughter kine for food or sacrifice. It may be that the provisions of section 144 of the Criminal Procedure Code and of sections 153 and 298 of the Indian Penal Code are ordinarily sufficient to meet the case, and that no special rules are required. But if in any locality there has been disturbance or excitement, to deal with which special measures seem necessary, it might be useful to ascertain and carefully record the existing custom, and to guard against any extension of kine-killing in public or private, or any deviation from accepted usage, either by such rules as might be made under section 43 of the Punjab Laws Act, or by an executive Resolution which could be published as a standing order for the guidance of local officers and the information of persons interested.

8. I am to request that all correspondence connected with this subject, and ^(Para. 7 to Panjab.) with my previous letter of the 29th August, may be kept strictly *secret and confidential*.

I have the honour to be,

SIR,

Your most obedient Servant,

C. J. LYALL

Secretary to the Government of India

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Strictly Confidential.]

No. 1323.

FROM .

C. J. LYALL, ESQ., C.S.I., C.I.E.,
Secretary to the Government of India,

TO

THE SOLICITOR TO GOVERNMENT,
CALCUTTA.

Home Department.
Public.

Simla, the 16th September 1893.

SIR,

I AM directed to forward a statement of facts regarding the *Gorakshini Sabhas* or cow-protection societies which have been established in certain parts of India, and to request that you will be good enough to lay it confidentially before the Honourable the Advocate General for his opinion on the questions raised in the latter portion of the statement.

I have the honour to be,

SIR,

Your most obedient Servant,

C. J. LYALL,

Secretary to the Government of India.

Case for the consideration of the Honourable the Advocate General.

Societies called *Gorakshini Sabhas* or "Cow-protection associations" have been established in various parts of the North-Western Provinces and Oudh. Their rules are designed to prevent cattle from passing under any circumstances into the hands of those who will either sacrifice them or slaughter them for food. They are described as organised in the following way:—

Each district is divided into local areas, to each of which is allotted a *Sabhapati*, with a *Sadar Sabhapati* as chief controlling authority for the district. Under the *Sabhapati* there are *Sabhasads*, who are receivers of contributions throughout the villages, each large village having one or more. Besides these there are various officers, paid and unpaid, bearing different designations and exercising different functions. The whole of the Hindu population is, where a society of the kind has been established, compelled to contribute to its purposes or to suffer expulsion from caste. Among the rules of one such society are the following:—

"For the protection of *gasmata** each household shall every day contribute from its food supply one *chituki* (or pinch), equivalent to one *paisa*, per member. From this *chituki* fund a cow refuge (*gasmata*) shall be built, and the expenses of its maintenance shall be met. And if any one is compelled to sell a cow at a fair, the cow shall be bought up and interned in the cow-refuge; and if anywhere money be needed for the protection of cows, it shall be paid at once. *The eating of food without setting apart the chituki shall be an offence equal to that of eating a cow's flesh.*

"It is well-known that sacrificers who are put out by this cow-protection give excessive prices, purchasing at even a great loss, and perpetrate their sacrifices with the intention of causing hearthurnings. There is no other course but this, that no kind of cow, buffalo, or bullock shall be allowed to go into a place where it can fall into the hands of one who sacrifices.

"Nats, Banjāras, Chamārs, and others buy cows and sell them to butchers; and Musalmans and others are the very cause of the slaughter of cows. Cows shall not be sold into the hands of any such persons; and if any kind of cow die, the owner shall sell its skin to a proper person and apply the money to cow-protection."

Among the papers of another *Sabha*, the following list of offences of which the officers of the *Sabha* take cognisance has been found:—

- (i) Whoever, whether Hindu or Musalman, lets loose any cow; or
- (ii) Whoever takes a cow to the Government pound; or
- (iii) Whoever does not subscribe to the *Sabha*; or
- (iv) Whoever castrates an ox; or
- (v) Whoever sells a female buffalo; or
- (vi) Whoever sells cattle to an unknown person; or
- (vii) Whoever sells cattle to a butcher, or to Nats, Dosidhs, Chamārs, or Banjāras—
shall be guilty of the offence of cow-killing.
- (viii) Whoever takes any kind of cow or old ox to the *Dadri* or *Sheorat meis* shall be fined the value of 10 cows, and be outcasted and turned out of his village."

2

The *Sabhas* constitute themselves tribunals to take cognisance of the offences laid down in their rules, and records of regular trials held under the presidency of the *Sabhapati* have been found. The following are specimens:—

Gao Mahardni (Cow Empress) versus Sita Ram Ahir of Haldi.

Charge—Impounding a cow in the Government pound.

"The cow was sold by auction (from the pound) to one Gangu, a butcher, for Rs. 10. The fact was brought to the notice of the *Sabhapati*, who, sending for Sita Ram, ordered him to buy back the cow, which he did for Rs. 14, and then sent him up for trial before the *Sabha*. The court was formally held in _____'s house in _____. Sita Ram pleaded guilty, and was sentenced to Rs. 4-8-0 fine. He refused to pay the fine, and was brought before the *Sadar Sabha*, and sentenced to 24 days' outcasting and various religious penalties."

Gao Mahardni versus Sheo Lochan.

Charge—Impounding a cow in the Government pound.

"Tried by the head *Sabhapati*. Sentenced to 12 days' outcasting, with the accompanying religious penalties, and to pay a fine of 8 cows. On default to four times the above punishment. Any one abetting his default to pay half the above fine."

Gao Mahardni versus Ram Bhatam.

Charge—Inducing people to act contrary to the *Sabha's* orders.

"Sentenced to a fine of Rs. 10, to be paid towards the *Gaushala* fund, and 15 days outcasting."

The papers of which these are specimens disclose a widespread system of coercion among Hindus of all castes directed towards the establishment of the authority of the *Sabha* and the boycotting of the Musalmans. The enforcement of contributions is secured by the penalty of outcasting and the threat of religious terrors. All Hindus are thus compelled to join a *Sabha* where one has been established, and any recusant person, or member who violates the rules of the *Sabha*, is formally tried and punished with money penalties and outcasting as shewn in the above records of cases.

Whenever any prominent person is considered to have been guilty of conduct offensive to a *Sabha*, notices are distributed enjoining all Hindus to refrain from associating with him; and persons receiving these notices are required to make copies of them and distribute them to others under penalty of being considered guilty of the death of so many cows. Many such notices or proclamations have been found.

The opinion of the Advocate General is desired as to whether proceedings such as those above described can be brought within the provisions of the Indian Penal Code.

It would seem that the enforcement of contributions by the threat of outcasting or other religious penalties would come under sections 503-506 of the Indian Penal Code as criminal intimidation, and also, if the threat is as described above, that the person threatened will be held guilty of cow slaughter or eating cow's flesh, under section 508 (apparently mere threat of outcasting has been held* not

* See O'Kinealy's Indian Penal Code, 3rd Edition, page 336.

come under that section). Such proceedings in trials by the *Sabhas* resulting in the exaction of fines as are described above might probably be brought within the definition of extortion in section 383. The word "dishonestly" used in that section, as defined in section 24 of the Code, seems to cover such usurpation of authority as involved in claiming the right to fine a person for an act which is no offence.

The Government of India also wish to be advised whether persons who conspire together to form an association on the basis and for the purposes above described, and who pass rules prescribing penalties for such acts as have been detailed, cannot under section 107 of the Indian Penal Code be indicted, abetment of criminal intimidation, extortion, or an offence punishable under section 508 as the case may be, or otherwise prosecuted.