

CPM 8

Secret and Confidential.]

No. 849J.—D.

FROM H. J. S. COTTON, Esq., C.S.I.,

Chief Secretary to the Government of Bengal,

**TO THE SECRETARY TO THE GOVERNMENT OF INDIA,
HOME DEPARTMENT.**

Dated Darjeeling, the 28th October 1893.

JUDICIAL.

SIR,

I AM desired by the Officiating Lieutenant-Governor to reply to your letter No. 1462, dated 4th instant, forwarding, for His Honour's opinion, certain proposals made by the Government of the North-Western Provinces and Oudh for legislation in connexion with the anti-kine-killing agitation which prevails in those provinces and in portions of Bihar. The Officiating Lieutenant-Governor thought it right to consult the Commissioner of the Patna Division on Sir Charles Crosthwaite's proposals, and to instruct him to take, confidentially, the opinion of Mr. Gibbon of Bettiah, and Messrs. Thompson and Mylne of Behia, gentlemen of much prudence and knowledge of the country. The result is embodied in Mr. Forbes' memorandum, dated October 23rd, a copy of which is forwarded herewith.

In paragraph 5 of your letter under reply, it is asked that if the Lieutenant-Governor considers exceptional measures necessary in connection with this cow-protection movement in Bengal, his recommendations should be accompanied by a detailed account of the facts which warrant them. The necessity of procuring the fullest and most accurate information relating to the movement was recognized by the Officiating Lieutenant-Governor some time ago, and he deputed a selected officer of the Civil Service, Mr. LeMesurier, to Bihar for the express purpose of enquiring into the agitation and preparing a full account of its origin, growth, ramifications and methods of working. Mr. LeMesurier's enquiries are still incomplete, and for that reason His Honour would not of his own accord have addressed the Government of India at this moment or until the enquiries had further advanced. He trusts to be able to submit an *ad interim* report within a month from date, but meanwhile he must ask His Excellency in Council to provisionally accept his assurance that evidence will be forthcoming to support such amendments in the law as are supported in this letter.

2. The cow-protection movement has engaged Sir Antony MacDonnell's most serious attention for some time. He was brought into contact with it in the Central Provinces, and the subject was therefore not new to him when he came to Bengal. But he finds here that the movement shows an aggressiveness which was wanting in Nagpur, due no doubt to the fact that in the latter locality Muhammadans are few, and the element of opposition wanting. The difficulties we are encountering in connexion with the slaughter of kine are not of recent origin. The antipathy of the orthodox Hindu to kine-slaughter is one of the most deep-rooted feelings of his nature; and it has displayed itself during centuries in attempts to prevent kine being killed, wherever there was a chance of success, or religious feeling became in any way excited. The present acute phase of the old-standing difficulty is probably due to complex causes. At the bottom there smoulders the old religious sentiment which every bigot or

enthusiast can fan into a flame; superadded to this, there is the feeling of disquietude with which orthodox Hinduism is beginning to regard the influences of Western knowledge and education; and lastly there is the political unrest of which the Congress movement is the most striking manifestation. To this inherent sentiment, as well as to these now feelings of religious disquietude and political unrest, expression is now being given in accordance with the power and habit of organization which natives of India have been taught in recent years, and at which they have been apt pupils. In former years, before these lessons had been inculcated by official precept and unofficial example, and before we had by improvements in the means of communication and locomotion abridged distances and made intercourse between remote places easy, the old Hindu feeling used to display itself in isolated outbreaks with no concerted plan of action. But times have now changed, and the change has by no means reached its limit. A religious enthusiast or a political agitator, whose operations but a few years ago would have been restricted to say a corner of the Punjab, lectures in North-East Bengal in one week, at Allahabad in the next, and at Nagpur, Poonah or Madras in the week after; and he leaves behind him disciples who are eager to work on the lines of an organization which, if not identical, are everywhere more or less directed to the same ends. This habit of organization cannot, His Honour apprehends, now be checked or suppressed. For good or evil, it must be taken as a permanent feature of the political outlook. And if the habit cannot be suppressed, still less can the feelings or sentiments upon which the habit operates. In the manifestations now under notice the sentiment is ostensibly religious, but it is readily susceptible of manipulation for other ends, especially for the collection of funds. The Hindu's reverence for the cow is one of the "magazines of physical force" on which, it has been said, the forward party in Indian politics might rely in their contest with the Government; and it would be unwise in existing circumstances to ignore this aspect of the case.

3. We are therefore at present beset with a new, more complex, and acute phase of the old-standing difficulty of all Indian Governments in historic times; and the practical question for us to consider is whether the general method of treatment which has served us in the past will, with possibly some reinforcement and strengthening of existing legal provisions, serve us in the present emergency and its possible future developments; or whether we must take a new departure and provide by novel legislation against the growth of sectarian terrorism and possible sedition. Sir Charles Crosthwaite is convinced (by evidence which it is understood he is about to submit to the Government of India) that, though "the law as it at present stands is sufficient to enable the authorities to control and suppress any local disturbance • • it is powerless to enable the Government to control the (Gorakshini) agitation or to prevent the extension of the system, which, whatever may have been its primary objects, must be regarded now as seditious and most dangerous to the public peace." He therefore recommends that the existing law should not only be strengthened, but also that legislation should be undertaken against seditious societies and the dissemination of false news. His specific proposals are to have (a) a sort of Law of Conspiracy; (b) a Press Law; and (c) a strengthening of the Police, Cattle Trespass, and Criminal Procedure Acts.

4. The Officiating Lieutenant-Governor, after very careful consideration, is unable to support the first proposal. His fear is that it would at the present time be generally construed as an interference with an universal Hindu feeling, if not, indeed, as a direct attack on the Hindu religion. Explain the matter as we might, this construction would commend itself as the true one to most orthodox Hindus, and it would be driven home into the minds of the ignorant Hindu masses by the promoters and fomenters of this Gorakshini movement and by every discontented anxious to embarrass the Administration. This is the course which has been followed on a small scale (and Sir Antony MacDonnell regrets to believe, not without some measure of success) in connexion with the Ago of Consent Act; and it would undoubtedly be pursued on a much greater scale, and with far more pernicious results, if the proposal now under notice were persisted with. The anti-kino-killing movement would thereby probably gain a stimulus of incalculable force, and perhaps would generally assume that seditious character which Sir Charles Crosthwaite is

disposed to attribute to its manifestations in Azimghur and Balia. The attention of the entire Hindu population in all Provinces would be arrested, and a tremor of excitement would pass through the land, of which all that could with certainty now be said is that its effects would be evil, far-reaching, and possibly ineradicable. Moreover, it is difficult to conceive that, with a police so "feeble and corrupt" and so "hated by the people" as ours are stated to be, the proposed law could be so worked as to yield advantages at all commensurate with the danger involved. Indeed the Officiating Lieutenant-Governor fears that, as the law would from its inception be in antagonism with the most revered sentiment of the people, it would tend to quicken into active life the dormant dislike of alien rule which prevails in every country; that it would generate among the masses of the people of India a spirit of hostility to the British Government—for even a distorted sense of religious persecution is strongly provocative of national feeling;—and that, finally, it would be operative only through espionage which would lead to private feuds and widespread reprisals. If such a law were passed there might, in process of time, arise Muhammadan associations, the business of which would be to prosecute every Hindu who violated the law in order to coerce others, and to supply help to those threatened. The Officiating Lieutenant-Governor's forebodings on this subject may possibly be unduly sombre, but he cannot conceive anything more dangerous to the Administration than the prospect of a conflict between the Government and the people over a religious question, or a question which it is to the interests of any one to make, or which by any possibility could be made, the subject of religious discussion. And, believing as he does that the proposal under notice would surely be made a religious question of a most serious character, Sir Antony MacDonnell most earnestly urges on the Government of India not to touch it. It would be far better to leave matters alone and trust to the existing law, than, in the absence of inevitable necessity, pursue a project which is fraught with so much danger. It will be observed that Mr. Forbes and the experienced gentlemen he has consulted are also opposed to this part of Sir Charles Crosthwaite's proposals.

5. It may then be asked, is there to be no remedy, no punishment, for that coercion which, if it does not force men to seditious conduct, certainly compels them by spiritual or temporal terrorism to interfere with their neighbours' legitimate liberty of action? The reply to this would seem to be that, apart from proposals for strengthening the law which will presently be made in this letter, we are not altogether powerless under the existing law. So far as matters have gone in Bengal, a really efficient District Officer can do a great deal to control this movement, keep its adherents from going far wrong, and punish them if they transgress. Two out of the three riots which have happened in Bihar in connexion with the movement since Sir Antony MacDonnell joined his present appointment might have been prevented, had the Magistrate been more prudent and resolute in one case and more alert in the other. The propagandist proceedings are no doubt much more difficult to check, and it is to check them that the law requires strengthening in these Provinces. But we have before now broken up seditious movements—the Wahabi conspiracy for instance—by the energetic application of the existing law, and as the executive officers of these Provinces are now more alive to the necessities of the case than they were, His Honour would prefer not to embark in Bengal, at all events not at present, on the perilous sea of legislation for conspiracy. Agitators and propagandists have been allowed to have their way a little too much; possibly through a mistaken notion that interference with the spread of free opinion would not be tolerated. But there are degrees in all things; and the local officers in Bihar are now aware that these propagandists are not exempt from the operation of Chapter XXII of the Indian Penal Code and Chapter VIII of the Criminal Procedure Code, although the operation of these provisions may not be certain or free from defects.

But it may be urged that Sir Charles Crosthwaite believes the danger to be imminent in the North-Western Provinces. It may be argued that even in Bengal the movement is not likely to keep within its present dimensions, and that a prudent Government should take thought for the future, and lay its plans in anticipation of possible developments. Making every allowance, however, for such considerations, the Officiating Lieutenant-Governor would not legislate

for a Law of Conspiracy; he would prefer to adopt more indirect methods. What precise form legislation, if it were unavoidable, might most suitably take would so much depend on the circumstances of the time, that no certain forecast can be made; but possibly such an amendment of the Penal Code in regard to Criminal Intimidation, as Mr. Forbes proposes, and the making section 508 of the Code to be an offence cognizable by the police, might be sufficient. If more drastic measures were needed, the proposal to register all societies of a political, quasi-political, religious or social character, made by Mr. Forbes and other gentlemen, might be considered, this registration being supplemented by a power to declare, under specified circumstances, any particular association which infringed its published rules to be dissolved, and any further propagation of its principles to be illegal and punishable. His Honour, however, thinks it necessary to state that legislation of that description is a two-edged weapon, and that it might tend to drive into secret courses and beneath the surface, an agitation which it is desirable to force as much as possible into the light of day.

6. The next point to be considered is the imposition of restrictions on the dissemination of false news. This, though intrinsically of great, is of secondary importance, compared with the conspiracy proposal; but Sir Antony MacDonnell thinks the moment inopportune for a proposal of the sort. It would be universally taken as an attack upon the liberty of the press, and it is not to be denied that it would to some extent fetter legitimate journalistic enterprise. Perhaps no press in India has been more obnoxious to the charge of disseminating false news and unjust opinions than the Native Press in Bengal. But after five months of careful watching, and basing his judgment on the experience of that period, the Officiating Lieutenant-Governor is not prepared to say that he could make out a really substantial case against any important native paper in these Provinces of a wilful dissemination of false news. Of news which was incorrect—and of opinions and criticisms which were baseless, unjust and perverted—and of opinions and criticisms which were baseless, unjust and harsh—there has been more than enough; but, on the whole, His Honour would not from his recent experience be prepared to say that even in Bengal a restriction on the liberty of the press in the direction proposed is called for. He agrees with Mr. Gibbon in thinking that restriction as applied to inflammatory circulars like that reproduced in the appendix to Mr. Forbes' memorandum would be entirely inoperative and useless. If this be His Honour's judgment on a consideration of the Native Press alone, repressive legislation would of course be much less justifiable if the measure applied, as it unavoidably would, to the European Newspaper Press also. But, in truth, Sir Antony MacDonnell thinks that the real influence of the Native Press in Bengal, though not to be ignored, may very easily be exaggerated.

7. I am now to refer to the last class of proposals made by Sir Charles Crosthwaite, and here I am to say that Sir Antony MacDonnell entirely approves of the proposed amendment of the Police Act; that he would go further than the Government of the North-Western Provinces and Oudh in amending the Criminal Procedure Code; and that he is only deterred from accepting the proposals regarding the Cattle Trespass Act by two considerations, *first*, that it is well not to undertake more legislation than is inevitable; and, *secondly*, that it is well to avoid even the appearance of direct legislating against the cow-protection movement. But the amendment proposed in paragraph 3 of your letter under report is deserving of support on its merits, and should be effected on the first suitable opportunity.

8. In the proposed amendment of Act V of 1861, the Officiating Lieutenant-Governor agrees. He had, independently of the reference now under reply, and from his own recent experience, become satisfied of the necessity of one of the proposed amendments—that of section 13. It is the fact that, under the present wording of the section, a portion of a village community who are in no way offenders, but rather sufferers, are mulcted for conduct in which they have not participated, and of which they disapprove. It is also the fact that absentee owners are now able to foment disturbances with impunity. The proposed amendment of the section will redress this injustice, render the working of the law more equitable, and is fully justifiable on its merits, independent of the present agitation altogether. The proposal to fine a village

for damage caused to private or public property by an unlawful assembly seems also to the Officiating Lieutenant-Governor to be a suitable and proper amendment. It will be in the recollection of His Excellency in Council that a similar proposal has recently been made by this Government in connexion with the Bill to establish police surveillance over habitual offenders.

9. To Sir Charles Crosthwaite's proposal to amend section 45 of the Criminal Procedure Code, the Officiating Lieutenant-Governor has also no objection to offer. He thinks the proposal desirable and necessary so far as it goes. But Sir Antony MacDonnell's own experience impels him to go further, and to propose an amendment in this portion of the law, which, while not conflicting with religious sentiment, will afford a much more effectual means of control than we now possess over all movements dangerous to the public tranquillity. It will also be in accordance with the views (with which the Officiating Lieutenant-Governor has much sympathy) of village responsibility advocated by Sir Charles Crosthwaite in paragraph 5 of his letter under notice. To the extent to which the duty of preserving the peace and giving early notice of any intention to break it, attached to the ownership of land in the last century. Failure to fulfil this duty was followed by heavy penalties, forfeiture of his estate being one of the punishments to which a defaulting proprietor or zamindar was liable. Sir Antony MacDonnell has no doubt that the agitation which prevails would not have gone the lengths it has, or resulted in the outbreaks that have occurred, had the landlords throughout the disturbed localities not countenanced the unruly spirit which has shown itself. Had the responsibility for the maintenance of the peace in their estates which formerly attached to the proprietorship of land been maintained, the landlords would in all probability have assumed a different attitude. Unfortunately, as the law now stands in Bengal, that responsibility is mostly of a moral kind. The landholders were, by the Permanent Settlement Regulations, exonerated from the responsibility of keeping the peace in their estates, and the only obligation now resting on them in this respect is that imposed by the Criminal Procedure Code. It would, having regard to the jealousy with which any interference with the Permanent Settlement is viewed, be a delicate matter to re-impose police obligations in their entirety in Bengal (though the same difficulty does not apparently attach to the re-enactment of Regulation 2 of 1797, applying to Benares which was not repealed till 1862); the only way therefore to deal with the matter in the Lower Provinces is by an amendment of the Criminal Procedure Code.

10. It is known to the Government of India that the objectionable features of this agitation mostly display themselves in personal coercion, illegal assemblies, and riots. The matter of personal coercion has been already dealt with in paragraph 5 above. Here it is to be pointed out that illegal assemblies and riots are both bailable offences, and that the landlords (not to speak of the village headmen, patwaris, and others) are under no obligation to report to the authorities either the commission, or the intention to commit, offences of the sort; the result is that the law in this respect affords no hold over the landlords, and imposes on them no responsibility. The most necessary amendment of the Criminal Procedure Code, therefore, is the imposition of this responsibility in the case of illegal assemblies and riots, and this can be done by the enumeration of sections 143 and 147 of the Indian Penal Code in section 44 and in section 45 (c) of the Criminal Procedure Code.

11. But these amendments of themselves will be inadequate. In order to render the sections effective for the object in view, viz. the holding landlords responsible for timely information of the intention to commit a riot or a breach of the peace, the onus of proving that the landlord had information of the intention should no longer rest with the prosecution, but the burden of proving want of information should rest on the landlord or other person enumerated in the section. The landlord or landlords should be permitted to appoint an agent in the village for the purposes of the section, in which case, the responsibility should *prima facie* attach to the agent; but if the landlord abstains or neglects to appoint an agent, the responsibility should attach to him, whether he be resident or non-resident. Finally, if the amendment be thought too drastic, it may, His Honour thinks, be certainly allowed, having regard to the condition of affairs,

for damage caused to private or public property by an unlawful assembly seems also to the Officiating Lieutenant-Governor to be a suitable and proper amendment. It will be in the recollection of His Excellency in Council that a similar proposal has recently been made by this Government in connexion with the Bill to establish police surveillance over habitual offenders.

9. To Sir Charles Crosthwaite's proposal to amend section 45 of the Criminal Procedure Code, the Officiating Lieutenant-Governor has also no objection to offer. He thinks the proposal desirable and necessary so far as it goes. But Sir Antony MacDonnell's own experience impels him to go further, and to propose an amendment in this portion of the law, which, while not conflicting with religious sentiment, will afford a much more effectual means of control than we now possess over all movements dangerous to the public tranquillity. It will also be in accordance with the views (with which the Officiating Lieutenant-Governor has much sympathy) of village responsibility advocated by Sir Charles Crosthwaite in paragraph 5 of his letter under notice.

To the extent to which the duty of preserving the peace and giving early notice of any intention to break it, attached to the ownership of land in the last century. Failure to fulfil this duty was followed by heavy penalties, forfeiture of his estate being one of the punishments to which a defaulting proprietor or zamindar was liable. Sir Antony MacDonnell has no doubt that the agitation which prevails would not have gone the lengths it has, or resulted in the outbreaks that have occurred, had the landlords throughout the disturbed localities not countenanced the unruly spirit which has shown itself. Had the responsibility for the maintenance of the peace in their estates which formerly attached to the proprietorship of land been maintained, the landlords would in all probability have assumed a different attitude. Unfortunately, as the law now stands in Bengal, that responsibility is mostly of a moral kind. The landholders were, by the Permanent Settlement Regulations, exonerated from the responsibility of keeping the peace in their estates, and the only obligation now resting on them in this respect is that imposed by the Criminal Procedure Code. It would, having regard to the jealousy with which any interference with the Permanent Settlement is viewed, be a delicate matter to re-impose police obligations in their entirety in Bengal (though the same difficulty does not apparently attach to the re-enactment of Regulation 2 of 1797, applying to Benares which was not repealed till 1862); the only way therefore to deal with the matter in the Lower Provinces is by an amendment of the Criminal Procedure Code.

10. It is known to the Government of India that the objectionable features of this agitation mostly display themselves in personal coercion, illegal assemblies, and riots. The matter of personal coercion has been already dealt with in paragraph 5 above. Here it is to be pointed out that illegal assemblies and riots are both bailable offences, and that the landlords (not to speak of the village headmen, patwaris, and others) are under no obligation to report to the authorities either the commission, or the intention to commit, offences of the sort; the result is that the law in this respect affords no hold over the landlords, and imposes on them no responsibility. The most necessary amendment of the Criminal Procedure Code, therefore, is the imposition of this responsibility in the case of illegal assemblies and riots, and this can be done by the enumeration of sections 143 and 147 of the Indian Penal Code in section 44 and in section 45 (c) of the Criminal Procedure Code.

11. But these amendments of themselves will be inadequate. In order to render the sections effective for the object in view, viz. the holding landlords responsible for timely information of the intention to commit a riot or a breach of the peace, the onus of proving that the landlord had information of the intention should no longer rest with the prosecution, but the burden of proving want of information should rest on the landlord or other person enumerated in the section. The landlord or landlords should be permitted to appoint an agent in the village for the purposes of the section, in which case, the responsibility should *prima facie* attach to the agent; but if the landlord abstains or neglects to appoint an agent, the responsibility should attach to him, whether he be resident or non-resident. Finally, if the amendment be thought too drastic, it may, His Honour thinks, be certainly allowed, having regard to the condition of affairs,

if restricted to illegal assemblies and riots of a seditious or fanatical character. It is quite improbable that any such intention can be entertained in the village, much less any overt act taken in execution of it, without the knowledge of the landlord or his agent.

The Officiating Lieutenant-Governor is aware that the extravagances of this anti-kine-killing movement are much fomented by the professional and trading classes in the towns, especially by Marwaris, whose religion forbids them to take life of any sort. He does not, however, at present, see an unobjectionable way to concentrating responsibility in urban areas. The point is one for further consideration.

12. The sanction which the law provides for infractions of sections 44 and 45 of the Criminal Procedure Code is contained in section 170, Indian Penal Code. The punishment provided in the latter portion of this section seems to the Officiating Lieutenant-Governor to be inadequate for coercion, illegal assemblies, or riots with sectarian or seditious objects, and in these cases, for six months' imprisonment and a thousand rupees fine, as provided by the existing law, he would substitute two years' imprisonment of either sort and fine; but he does not think that this amendment is immediately necessary. It might be postponed till a more favourable moment.

13. The preceding observations exhaust what the Officiating Lieutenant-Governor has to say at present in regard to amendments of the law or fresh legislation, but before concluding he would offer a few remarks of a general character on the present situation. He would repeat his belief that the Government is not confronted by an entirely novel difficulty, but with an old-standing difficulty presented in a now, more complex, and acute phase. Nothing that the British Government in India can do will remove the fundamental difficulty, except the prohibition of kine-slaughter altogether, and that would mean the creation of new difficulties which are too obvious to need mention and is not to be thought of. The only policy for the Government to pursue is to maintain existing custom, while endeavouring to remove the sources of irritation; and to insist on kine-slaughter, when it must be carried on, being effected with the least obtrusiveness or irritation to Hindu feeling. These precautions should be effected by executive order, and without legislation. Sir Antony MacDonnell agrees with Mr. Forbes that no restrictions should be imposed by legislation on kine slaughter in these Provinces, save such as sanitary requirements in municipalities may dictate. For the rest the amendments now proposed in the Criminal Procedure Code and Police Act might be made less unacceptable to the Hindu public, if accompanied by the correction of the case-law in regard to Brahmani bulls, to which the Commissioner refers.

14. One word more. The Officiating Lieutenant-Governor has noticed a very general demand on the part of the Hindu Native Press in these Provinces, and of the Congress advocates in England, for a Commission to enquire into the riots which have attended the cow-protection movement. The arguments adduced in favour of the issue of such a Commission are that the riots and agitation are due to Muhammadan aggressiveness, to official bias in favour of Muhammadans, and to official mismanagement and incapacity; and it is urged that until a complete enquiry is made, and the true causes of conflict ascertained, no complete remedy can be applied. Since his return to Bengal, the Officiating Lieutenant-Governor has had reason to think that in some of the riots which have occurred the Muhammadans have been the immediate aggressors; he has also regretfully to admit that in some cases the riots might have been prevented had there been greater prudence, resolution, and alertness on the part of the local authorities. But notwithstanding this, His Honour believes that the present acute excitement in parts of Bihar is primarily due not to Muhammadan aggressiveness, although here and there it may have been accentuated by it, but to Hindu propagandism, countenanced and fomented by men of local influence, from some of whom better things were to be expected. There may have been official imprudence and neglectfulness of the signs of impending trouble. These we are striving to correct. There is, of course, Muhammadan fanaticism always to be taken count of; but the attitude of Muhammadans, though watchful, is not now openly aggressive; while His Honour has lost no opportunity of impressing on all officers the necessity of absolute impartiality towards both parties. The true source of the agitation with

which we have to reckon is the Hindu revival, which would be, if it could, unconciliatory and uncompromising on this question of kine-slaughter. Of course His Honour does not mean to say that among a large class of enlightened Hindus a more reasonable feeling does not prevail; he knows it does; his observations apply to the less enlightened, to the propagandists, the agency that uses them, and the ignorant masses upon which they work. It is not probable that a Commission of enquiry could do anything towards allaying the bitterness of feeling among these classes. On the contrary, the effect of such an enquiry would be to produce additional excitement, to concentrate attention of all Hindus and Muhammadans upon the subject, and to fan into a flame the smouldering fanaticism on both sides. So long as Sir Antony MacDonnell was in doubt as to the causes at work or the issues involved, he was disposed to think that the appointment of a Commission was worth considering, as a means of ascertaining facts. He is now convinced that a Commission would bring to light nothing which we either do not know or cannot guess; while it would in all probability either stimulate hopes which could not be satisfied, or excite rivalries which it would be difficult to assuage.

The Officiating Lieutenant-Governor would not be surprised to learn that the advocacy of a Commission by the Congress leaders and the Native Press has in view an enquiry not into these disturbances alone, but, by a side-wind, into the whole system of Indian Government and administration. The demand for a Royal Commission of Enquiry holds a foremost place in the programme of the Indian National Congress and in the representations of its advocates in England. Such an enquiry would, it is believed, be unusual in the case of a country administered by the Crown; but it may possibly be granted by Parliament sooner or later, if no internal or external complications meanwhile occur. In the true interests of the people, Sir Antony MacDonnell trusts it will be later rather than sooner, and that time may be allowed the country to develop on existing lines, which in themselves are but of yesterday. For this among other reasons he would deprecate the appointment of any Commission, at the present time, which might find a pretext for ripping up and examining the framework of the Administration and hastening that process of evolution which, within the short space of 15 years, has worked a change of which we do not recognize the extraordinary magnitude, only because we have ourselves helped in the transformation.

I have the honour to be,

SIR,

Your most obedient servant,

H. J. S. COTTON,

Chief Secretary to the Govt. of Bengal.

Confidential.]

MEMORANDUM.

Government of India's No. 1462, dated 4th October 1893.

The particulars required in the last sentence of paragraph 5 of the Government of India's letter are being collected, and will be supplied in the report I shall shortly submit in reply to Bengal Government No. 67J.D. of the 8th ultimo.

The Gorakshini Sabha movement is being conducted in Bihar on the same lines, apparently, as in the North-Western Provinces, though not, I imagine, with the same display of vigour. Here, as there, the movement is equally directed against Government (in respect of the commissariat arrangements for a meat-supply) as against the Muhammadans. The dangerous tendency of the doctrines taught is shown by the fact that the action of the agitators is not limited to the protection of the cow, but extends to a general boycotting, in more ways than one, of the Muhammadan population. Thus attempts are continually being made to prevent their using village wells, and I am informed that in parts of Saran, especially in villages belonging to the Majhowlee Raj, the Gonds have lately combined to refuse to parch grain for the use of Muhammadans.

As regards the question whether the movement appears to be spreading or becoming dangerous (in this Division), my opinion is that it is not; the reason, and the sole reason, being that the repressive measures taken in Patna, and more particularly in Gaya (by promptly quartering additional police in 7 or 8 different places, wherever an anti-kine killing disturbance occurred), just before the last Bukr-Id, and the knowledge that measures in the same direction are now being taken in respect of the disturbances at Koath (in Shahabad) and Basantpur (in Saran), have had the effect of proving to the people that Government is determined to sternly repress lawlessness, and that in a manner most distasteful to the inhabitants—and against which they have no appeal to the law courts.

At the same time, the fact of our having succeeded to a certain extent in discouraging the agitation must not be accepted as an indication that exceptional measures of some kind are not needed. It is true that in Gaya and elsewhere, owing to the firm attitude taken and the personal influence of the District Magistrate, certain Sabhas are becoming discredited and are losing the support of some of their more respectable and influential members; and it is not unlikely that this may go on, and that other Sabhas may in a short time become more or less inactive. But so long as the organization is allowed to continue its operations unfettered, free of all control, it will be a standing menace to the public peace, and to the continued affection of the people to the British Government. At any moment a fanatical cry—the preaching of a single Sadhu—may call into active life its immense capacities for mischief.

I am not myself in favour of the proposals in paragraph 6 (2), (a), (i) of Mr. Deas' note. We should be met by the initial difficulty of having to prove that a society, in its inception harmless enough, and whose professed aims and published rules are unobjectionable, has, in some way, at some time or other, become an "unlawful" society. This will often be impossible. We may, for instance, have strong reasons (as we now have) for thinking that the large collections going on are not being made for innocent purposes, but it will be quite impossible for us to prove this without some practical means of investigating the society's working and accounts.

Again, the objects of a society may be partly lawful and partly unlawful. Most of the original members of the Gorakshini Sabhas had only the care of diseased and aged cattle at heart, and many of them are of the same mind still. Some of them were Muhammadans; some Europeans. We cannot assert that the improper object of only some of the members is the "common object" of them all; and even if we could get over this difficulty, we should still be bound (in a prosecution under proposed section 110B) to distinguish between members whose object is lawful and *vice versa*, knowing as we do that many of them do not subscribe to the unlawful portion of the programme, but belong to

the society from entirely innocent motives. To make such a distinction would not be practicable.

Then, again, it seems doubtful how far the law courts would regard the carrying out of caste-regulations, and the infliction of caste-punishments, as committing "injury"; while I think that any attempt to coerce or regulate the proceedings of professedly innocent institutions by means of criminal prosecutions would, as a matter of policy, be most unwise. So far from being coerced or overawed, the harmful societies would only sail as close to the wind as possible, and learn to conduct their proceedings with greater secrecy than ever. They would elude our grasp at every turn, while the prosecution of individual members here and there would probably do their cause more good than harm. The victims, if we secured any, would be regarded as martyrs; and each fresh prosecution would only lead to renewed agitation and give an additional impetus to seditious teachings.

I think that a much less invidious and more effective means of attaining our object would be for the executive to be vested with certain powers of control. It should be made lawful for the Governor-General in Council, on report from a Local Government, to place any Society or Association, whose proceedings were shown to his satisfaction to be conducted in a manner calculated "to excite feelings of disaffection to the Government established by law in British India, or to cause fear or alarm to the public (and thereby to induce any person to commit an offence against the public tranquillity)"* under surveillance. The words I have placed in inverted commas are taken from sections 124A and 505, Indian Penal Code. These sections provide a cure—a punishment for the offences they deal with. The object of the legislation now proposed is the prevention of such offences; and therefore cannot, I think, fail to commend itself to every

* It might perhaps be as well to omit the words within brackets, or to substitute the wording of the preamble to Act IX of 1878, viz. "likely to excite disaffection to the Government established by law in British India, or antipathy between persons of different races, castes, religions, or sects in British India" for the whole of the sentence within inverted commas.

A. F.

educated and intelligent native who has the real interests of the country at heart.

As to the kind of surveillance, and the manner in which it should be exercised, I would make the following suggestions:—

Immediately any Society or Association is declared by the Governor-General in Council to be "under surveillance," it should be incumbent on the office-bearers, both of the head society and of all subordinate branches, to register their names before the officer or officers of Government appointed for the purpose. Ordinarily such officers would be the District Magistrates. It would be obligatory upon the office-bearers, whenever called upon to do so, to supply such Government officer with lists of the members, copies of the rules, accounts, &c., and all other necessary information; and, if specially required to do so, to submit all proceedings of the society, within a given time of their taking place, for his information. Such officer should have full powers of inspection, and, subject to certain restrictions (in the direction of confirmation of his orders by the Local Government), of veto and control. He would thus be able to prevent the issue and circulation by the society's agents of inflammatory notices, misuse of its funds in sending forth seditious preachers, &c. Penalties would of course attach to disregard of the officer's orders—penalties both personal and extending to the closure of any Sabha or branch, and confiscation of its funds.

Worked under some such surveillance, a movement such as the Gorakshini would entirely fulfil its legitimate objects without any chance of its disseminating sedition or stirring up class animosities, as it has, left to its own devices, so completely succeeded in doing.

Mr. Deas' paragraph 6 (2) (a) (ii).—I quite agree in the amendments to section 505, Indian Penal Code, proposed by Mr. Deas, and in paragraph 7 of Mr. LaTouche's No. 103, dated 18th September 1893. The sabhasads one and all deny any intent to cause alarm, &c. But we have to put a stop to conduct on their part which is likely to have that effect. The words "otherwise than in good faith," which are to be inserted at the beginning of the section, refer apparently only to the offender's knowledge of the falsity of the statement, and not to his knowledge of the probable effect of his circulating it.

Mr. Deas' paragraph 6 (b).—This will be unnecessary if the above proposals regarding the surveillance of mischievous societies are approved. The rules of the different Gorakshini Sabhas will then come under the District Magistrate's control.*

* On further consideration, I agree to the amendment proposed by the Lieutenant-Governor, North-Western Provinces, mentioned in paragraph 2 of Mr. Lyall's letter of the 4th October. It will be the only practical way of preventing cattle, other than old and diseased ones, being taken to the Gorakshini Goshalas. We can allow the Sabhas to bid for any cattle sold under section 14, and we can go further and make Magistrates, under the proviso to that section, hand over to the Sabhas any cattle which are not likely to fetch a fair price. The Sabhas and the Government pounds can thus usefully work together.

A. P.—23-10-93.

Mr. Deas' paragraph 6 (c) (i).—“Chaukidari Panchayet” should also be inserted. I should also be inclined to bring in Municipal Commissioners, members of District or Local Boards, and Honorary Magistrates. This would be of some help to the authorities, especially in

the case of towns where Mr. Gibbon points out such help is particularly needed.

Mr. Deas' paragraph 6 (c) (ii) and (iii).—I agree.

Mr. Deas' paragraph 6 (d) (i).—Instead of Dr. Deas' amendment, I would read the last sentence of section 15, Act V, 1861, as follows:—

“The cost of such additional police shall be charged to the inhabitants, generally, of the part of the country described in the notification, or only to such class or classes of the inhabitants as the Magistrate of the district (subject to the approval of the Divisional Commissioner?) may direct; and such Magistrate shall, after inquiry if necessary, assess the proportion in which the amount is to be paid by the inhabitants or by such class or classes according to his judgment of their respective means (and responsibility?).”

“Provided that, for the purposes of this section, the word “inhabitants” may include proprietors and lessees, whether resident in the part of the country aforesaid or not.”

I think that some such reading as this is to be preferred for the following reasons:—

1st.—Mr. Deas' amendment omits all reference to the “conduct of the inhabitants.” It should be sufficiently wide to embrace the full intention of the section.

2nd.—It may not always be advisable to assess only the particular class to whose action disturbances may appear *prima facie* to be due. Such a course might lead the other party to the quarrel to presume on the impunity with which it is treated. In the late riots the Hindus, it is true, have generally been the aggressors. But at the same time it is very necessary to bring home to the Muhammadans the lesson that they, on their side, must be careful not to give offence. The Magistrate must not be bound by a hard-and-fast rule in this matter. He has to consider not only the merits of the individual case in hand, but also the probable results of his action in other places also.

Then as regards landlords. The responsibility of absentee landlords should be placed beyond doubt. And this responsibility must not be made to depend, as Mr. Deas' amendment would make it, upon proof being forthcoming of their “action.” It is their (intentional?) *inaction* that proves so mischievous. The influence of most landlords in Bihar over their raiyats in matters of the kind under discussion is practically supreme. Whether it is for good or for bad can only be deduced from the circumstances of each case. Where an outbreak is sudden, from some temporary local cause, the absentee landlord may not possibly have been aware of its likelihood. But when an agitation, as the present one, is of long standing, it is most unlikely that it can come to a head without not merely his knowledge, but also a knowledge on the part of the raiyats of his sympathy.

There may be many innocent persons among the raiyats themselves who, in the public interests, are still held pecuniarily responsible. Why not also the landlord, who has the best means of knowing what is going on in his villages, and whose duty towards the public it is to make use of them? The public interests demand that there should be some strong inducement to landlords, not to sit still and do nothing, but to use their great influence *actively* in the cause of law and order.

Mr. Deas' paragraph 6 (d) (ii).—I agree.

Paragraph 6 of Government of India's No. 1463, dated 4th October 1893.—I do not recommend that any special attempt be made at present to control the public press, beyond the proposed amendments to section 505, Indian Penal Code. Those amendments will, I think, sufficiently secure the object in view, and until experience has shown that this is not the case, we shall not be justified in imposing further restrictions.

There is, however, one species of evil against which the public need protection, which the law at present does not afford. I refer to the circulation of inflammatory "chittis," printed and written with the object of stirring up class animosity. The circulation of "chittis" of a *seditious* character is punishable under section 124A, Indian Penal Code, but I know of no provision of law under which mischievous circulars of a character other than *seditious* can be reached. Section 505, Indian Penal Code, does not apply, as the "chittis" I refer to do not contain any "false statement." They contain only injunctions such as to boycott, in one way or another, some particular class,

• See Appendix A attached.

with usually certain stringent caste-penalties attached in case of non-observance.* It might be possible for the Magistrate to issue a general order under section 144, Criminal Procedure Code, forbidding their circulation when disobedience would entail punishment under section 183, Indian Penal Code. But this would only be a very indirect way of meeting the evil, of doubtful efficiency, and uncertain in its working. The remedy also in most cases would come too late: the offenders could not be called to account for the mischief they had already done. We require some sanction of law that will have the effect of *preventing* the mischief.

These remarks equally apply to the inflammatory teachings of itinerant preachers. The effects of such preachings are too well known to need demonstration. The late attack on the Basantpur police-station by a mob of Hindu fanatics may be quoted as an instance of the mischief being done. It was the direct outcome of the exhortations of an influential Sadhu on a preaching tour.

It is obvious that some restrictions should be placed upon the unbridled license at present permitted by the law in these matters. I would therefore suggest the insertion of the following section 505A in the Indian Penal Code:—

"Whoever, by words, either spoken or intended to be read, or by visible representation, or otherwise, wilfully excites or attempts to excite antipathy between persons of different races, castes, religions or sects, in British India (knowing or having reason to believe that he will thereby induce any person to commit an offence against the public tranquillity)," shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

"*Explanation.*—The writing or printing, whether by press, lithography, engraving, photography, or any other process, of any paper (other than a newspaper as defined in section 2, Act IX of 1878)* intended to be used in the commission of the offence made punishable by this section, shall be deemed an abetment of such offence; and any such paper, together with any implements, utensils, plant, or materials used or employed in printing or copying such paper shall be liable to be forfeited."

There is a minor point in connection with these inflammatory notices and pictures that I may here mention. I find that many, if not all of them, do not bear the name of the printer, &c., as required by section 3, Act XXV of 1867. It seems advisable that the Local Government should make a rule under section 20 of that Act, that all papers not conforming to the requirements of section 3 shall be liable to seizure and confiscation by order of the Magistrate.

Paragraph 7 of Government of India's letter.—I am not in favour of any legislation being attempted with a view to placing restrictions upon kinelaughter in Lower Bengal, except in respect of the following matter only:—

Norris, J., in his judgment in the case marginally noted, held that a "Brahmini" bull is not an "object" within the meaning of section 205, Indian Penal Code, and that where such animal was killed by Muhammadans secretly, for the sake of the meat and skin, and without any *intention* of insulting the Hindu religion, no offence was committed

Romesh Chander *versus* Hiru Mandal and another—page 839, Volume XVII, I. L. R., Calcutta Series.

under that section. The Learned Judge appears to have been strangely blind to the disjunctive conjunction "or" and the words following it in the next line of the section. Be this as it may, the Legislature should without delay make it clear that the above ruling is wrong. It is one of the chief complaints, and certainly a reasonable one, among Hindus, that this animal, regarded by them as specially sacred, and of common use for breeding purposes, can be entrapped and slaughtered with impunity. Such license was never allowed during any previous Raj, and I do not imagine for a moment that the framers of the Code intended that it should be permitted under British rule.

Norris, J., at the same time held that such bull is not "property" within the meaning of sections 378, 403, and 425, Indian Penal Code. Section 378 is, no doubt, not applicable, but sections 403 and 425 should I submit be made to apply. Persons, such as municipal subordinates, indigo factory employes, &c., should not be allowed to rove about, seizing Brahmini bulls for draught-cattle. The using of such bull for the purpose of drawing night-soil carts, for instance, must be a severe shock to a Hindu's feelings.

At the same time, some remedy must be allowed to a person whose crops are being damaged by stray cattle, be they even Brahmini bulls; and the impounding of such bulls under sections 10 and 11 of the Cattle Trespass Act cannot well be forbidden. Then comes the question, what are we to do with them when thus pounded? Are they to be sold under section 14 if not redeemed? I would say no, not at least until we have given the Hindu public reasonable opportunity of relieving us of their charge. I would extend the term of seven days under section 14, in the case of these animals to one month; meanwhile let it be incumbent on the "officer appointed by Government" under section 14 to proclaim the animal by beat of drum in the village where he was seized; if not redeemed within, say, one week, let "the officer" then offer the animal to the nearest Gorakshini gowshala. If the offer be not accepted, then, after the expiration of the month, let the sale proceed.

For the rest, I would not, in Lower Bengal, enter upon the dangerous course of legislation suggested in paragraph 7 of Mr. Lyall's letter. So long as we protect the Hindus against open and wilful outrage to their feelings, they cannot reasonably expect more. Their cry against "innovations," by which *are* they can only mean an increase in the number of kine-sacrifices, is not one on which they are entitled to be heard. It is a factious cry—an attempt to insert the thin end of the wedge—the ultimate object being the prevention of kine-slaughter altogether. As a matter of fact, there has been little or no increase; whatever there may have been has been owing to the conduct of the Hindus themselves, in exasperating the Muhammadans into taking vindictive measures. The Hindu leaders must be made to understand that their only hope of reducing the number of kine-sacrifices to its lowest normal limit is by their immediately putting a stop to all agitation. Government is bound to protect Muhammadans, so long as they are careful to give no open offence, from violence. Hindus and Muhammadans both know this as well as we do; the Muhammadans will keep us to it, and we shall *have* to act up to it, or acknowledge ourselves unequal to the fulfilment of our mission here any longer. I am convinced that any yielding on this point will act as a bugle-call to Muhammadanism, and will raise a counter-storm, to which the existing agitation among Hindus is child's play.

The Government of India has probably no idea of the extent to which the Hindus have been going out of their way to rife up causes of offence. I instance, as an example, a case last April or May in Gaya, where a Muhammadan forwent an intended sacrifice at his daughter's marriage, and purchased some beef, instead, in a distant village. Returning home, he was waylaid; was asked what he had in his sackcloth bundle; replied only grain; was forcibly searched, the meat discovered, and the man thereupon was nearly killed. The whole of the Hindus then turned out, and went off to raid the butcher's quarter in the other distant village.

Case after case gives the clearest proof possible of the movement being purely factious and fanatical; that the Hindus have no excuse whatever for their conduct. In no case have they come forward with specific complaints to the Magistrate; invariably, they have taken the law into their own hands. In

such circumstances any sign of wavering on the part of Government, any mistaken leniency, will have the worst possible result.

A. FORBES.

The 23rd October 1893.

P.S.—I append—

Appendix I.—Translation of one of the numerous "chittis" being distributed through the country.

Appendix II.—Notes of interviews by Mr. LeMesurier with Messrs. Gibbon, Burrows, and Mylne.

A. F.

APPENDIX I

(Copy.)

SRI SRI JAGDEO BAHADUR—

BE it known to all Hindus that they should not go to see the Taziahs of the Muharramans. If any Hindu does so there will be upon him the sin of killing 100 cows. He who does not go will receive the blessing of giving away (dán kaina) of 100 cows. On such a day as the Musalmans have their holiday, the Hindus should remain in their houses or worship the Mohadeo in the temples, and should not observe any holiday of the Musalmans, and should not keep the tazia. For it is worth notice that Musalmans do not worship the Hindu gods. They follow only their own religion, and the Hindus should, according to their religion, not observe the religious festivals of the Musalmans. If they do so, it will be a great sin. It must be generally published in villages that Hindu *Telis* should not give oil to Musalmans, and the Gonds should not do their work. Those who do so will do very great sin. The Hindus should not also engage Musalman pleaders and mukhtars in their cases, because Musalman pleaders and mukhtars take wages from Hindus and kill cows, and this causes sin to the lower classes. It must be considered that Brahmins should shelter the cow, so that there be 30 days' blessing and festival.

In whosoever hands this letter falls, he must send it to five villages. If he does not, his will be the sin of killing 100 cows.

[True copy of translation.]

H. LEMESURIER.

The 22nd October 1893.

APPENDIX II.

Notes of an interview with MR. T. M. GIBBON, C.I.E., at Motihari, 15th October 1893.

HAVING explained to Mr. Gibbon the nature of the changes proposed to be made in the law, he remarked as follows:—

A. On the proposal to add to the Penal Code sections 510 A and B (defining an "unlawful society," and rendering punishable the being a member thereof)—

"I agree entirely with what Mr. Forbes has written regarding the difficulty of deciding when and at what point a society, originally innocent and lawful, becomes unlawful; of distinguishing between innocent and guilty members of such a society, and generally of working the proposed sections. I would also point out that in their objects these societies are professedly for perfectly legitimate aims, and in their open working are well within their rights. They profess to be a religious movement working to blot out mischievous practices which have crept into their religion. Thus the order to all Hindus to desist from joining in the Muharram is legitimate in itself;—the objectionable side of it is the quarrel thereby produced between Hindus and Musalmans. Similarly the order to all Hindus forbidding them to put cattle into risk of slaughter is also within their rights. The letters which are now being circulated everywhere direct all Hindus that 'if a man sells a cow to a butcher, or a low caste man likely to sell it to a butcher, he will have 1,000 or one lakh of curses brought upon his head.' All this is within the domain of religion and morals. Believe me the organizers of the movement are shrewd enough and clever enough to keep within the letter of the law, however widely it may be spread. The proposed change in the law may perhaps strengthen the hands of Government, but it will need to be most carefully enforced.

"I approve Mr. Forbes' proposal regarding 'surveillance' of suspected societies, and the means by which he would enforce it, subject to certain reservations (these I have put at length under 'amendment of section 45, Code of Criminal Procedure'). I would approve of giving to District Officers the widest, even inquisitorial, powers in respect to *(sic)* such societies. But I hold that all measures will be inoperative and useless until a general and universal Registration Act is passed, compelling every association of whatever kind, every

branch and every sub-committee to be registered; power being granted to the District Officer at any time to examine the books, ascertain who are the members, &c. &c.

"What is the use of inspecting books, &c. (under the 'surveillance' proposals), of a few obscure committees in a small area? We know the present association extends all over India from Bombay to Rangoon. What more easy, if the books of Champaran or Saran branches are being inspected, than to transfer the working of the secret propaganda to Allahabad or anywhere outside this Local Government?" (Mr. Gibbon did not say, but, I imagine, also thought of a 'suspected' society changing its name or transferring its organization to a new body under a different name.—H. L.M.)

B. To amend section 505, Indian Penal Code.—Mr. Gibbon leaves the press question aside. This will not touch the sadhus, &c., how will it be possible to prove their statements are false? As a rule they do not make definite statements. They declare that "by the order of Sri Sri Jagat Narnin," so-and-so is to be done or foreborne. They do not openly preach against Government, only indirectly.

C. To amend section 45, Code of Criminal Procedure.—The obligation to chaukidars, panchos and landowners to report will be inoperative, as it will not cover cities and towns, where (Mr. Gibbon considers) all future troubles will arise. For the future, the riots will no longer be in outlying villages. Those that have already taken place he believes to have been got up in order to advertise the movement. The result now is that every Hindu is a member, that complete control of funds has been obtained, and that it will now be an easy matter to send contributions from any part of the country to all places where riots or trials are going on. For the present therefore the war of outposts will cease, every nerve will be strained to get hold of the leading men in India. (Note.—I showed him Mr. Roger's intercepted letter to the Maharaja of Darbhanga, which he regards as confirming this view.) Then the cities may be expected to give trouble. A careful look out should also be kept at the great fairs, without showing the force in reserve too much,—specially at Sonapore, which together with Patna and Benares he regards as the most likely centres of future disturbance.

Just for the present the agitators have been staggered by finding at Basantpur that a Hindu police officer would order his men to fire on them, and Hindu constables would obey. Hence another reason for believing that "outpost" riots will now probably cease.

D. As a corollary, Mr. Gibbon would omit "landholders" in the proposed modification of section 15, Act V of 1861. In his opinion, the landholders are much less "in" this agitation than vakils, mukhtars, lallabs, and bunniahs,—and he would add words making the clause clearly applicable to cities or towns.

(ii) The principle of compensation he admits to be just and fair, especially in towns.

To resume, Mr. Gibbon thinks the movement can only be suppressed through its head. Allahabad and Benares must be attacked to do any good. Isolated prosecutions may suppress a petty branch sabha here and there, but this will do no good. The bulk of the members of these are really honestly interested in the cow, and wish no more than their religion leads them to believe a duty. The real organizers are emissaries sent from the central committees: these men know the ground and have chosen out the instruments for the real propaganda and raising of disorder. These men take care not to be on the local committees.

Therefore to suppress the propaganda the Act passed must be such as will place the whole organization in a position to be overhauled and inspected simultaneously in different places and provinces, and in spite of change of name, place or proposed object or similar artifices.

This he would secure by a General Registration Law.

H. LEMESURIER.

The 15th October 1893.

Notes of an interview at Becha with Mr. L. MYLNE, J.P., of Jagdispur, and
Mr. W. F. BURROWS, of Becha, on 15th October 1893.

I MET these gentlemen by appointment, and enquired their opinions on the various proposals that have been made for legislation or regulation in regard to the Gorakshini and kindred societies. These opinions are as follows:—

(i) We do not consider legislation, to make the Gorakshini societies unlawful and membership thereof an offence, to be desirable. We prefer Mr. Forbes' proposal that the Governor-General in Council be authorized, in certain contingencies, to place societies or associations under surveillance.

(ii) As regards Mr. Gibbon's proposal that all societies or associations should be compelled by law to register themselves, Mr. Mylne thought no. 'In my opinion no such measure is necessary, at least not in Bengal for the time being. We must avoid doing anything likely to irritate the Hindus or make them think their religion is being attacked.'

Mr. Burrows.—Yes. I can see no hardship in requiring every society to register at least its centre of business and the names of its members or office-bearers, and such a law would greatly facilitate the bringing of offending societies under surveillance.

(iii) As regards the amendment of section 505, Indian Penal Code, by omitting or modifying the words "knowing it to be false," both gentlemen said they approved. This would be especially useful in dealing with the "rabid" press; at present they can simply

shield themselves behind their correspondents, whose names they refuse to give up. We hold that, if a man spreads a false, alarmist or mischievous rumour, he should do so at his own peril and be held responsible for its being false, even though he may not have known it to be so.

(iv) Their opinions as to the proposed modifications of section 45, Criminal Procedure Code, are given below—
(A) As to adding the "village accountant" or "patwari" to the list of persons bound to give information.

Yes, he has very little to do at present, and this extra duty would be no hardship. The chauthidari-panchayat should also be bound by law to give information

(B) Regarding the addition of a clause (e) to the list of matters required to be reported, viz.—(e) "Any other matter on which he may have been required by the District Magistrate to furnish information."

We see no objection to this. If the information is needed for the preservation of the public peace, it is only right that those men being on the spot should furnish it.

(C) As to power being given to the Magistrate to appoint one or more headmen for the purpose of this section, we think this desirable where the Chauthidari Act is not in force or unions have not been formed. It is necessary that there should be somebody in every village bound to report these matters.

III. Proposed amendments to Act V of 1861 (Police Act).

(a) We approve of an absentee landholder being made to contribute for additional police, but only if it can be proved that he was any way liable for or concerned in the disturbance. The mere fact of his being an absentee should not be held to be sufficient ground for assessing him.

Note by Commissioner.—The case of proving his non-residence should rest on the absentee landlord.

A. F.

(b) We approve of the assessment being levied from such class or classes as may by their conduct have necessitated the extra police. This brings the cost upon those really responsible.

(c) We think that it is fair to levy compensation from the village whose members cause disturbance, under the same proviso as made with regard to landholders (in sub-clause (a)). We hold that a village is distinctly liable when it connects itself with the offenders after the riot, by refusing all help or evidence. In such cases what else could be done?

IV. As to forbidding Goushala pounds, we approve of this being done, if it is proved that the institution of such pounds is intended as a coercive measure to prevent people impounding him in the regular pounds. But goushalas themselves should on no account be interfered with.

V. As regards regulating the slaughter of kine and sale of beef, we hold that it is necessary that Government officers should see that Mussalmans do not flaunt their cow-killing practices in the sight of Hindus. There should in all villages be stated places for slaughter, and the kine should be brought there by night or early in the morning before daybreak. This could be secured by legislation or by executive rules to be made applicable under section 144, Criminal Procedure Code. We do not think that to do this would lead to counter-agitation by the Mussalmans. In small places where Muhammadans do not preponderate, they already have to be careful, and to make them so in all places would, in my (Mr. Mylne's) opinion, go far to propitiate all reasonable Hindus.

Note by Commissioner.—This remark apparently refers to the slaughter of cattle and sale of meat by butchers. We mean it later here with the view of private sacrifices if performed with due privacy.

A. F.

In most places no rules would be necessary, the Muhammadans being so few that they do not even think of cow slaughter; it is only where they are pretty numerous that regulations are necessary. Even where Hindus greatly preponderate and can suppress cow-slaughter, they would be glad to have the rules declared. They are wanting legislation, and to do this would be a good sop to them. Restrictions already exist and are observed in many places: thus in Jagdispur the butchers still obey Koer Singh's rule and bring the kine in at night or before daybreak. To make this the law would therefore cause no hardship or undue interference with individual freedom.

The 18/A October 1893.

H. LeMERRIER.

H. P.—Reg. No. 929T—16—27-10-93.

257

1894

Encl. 9

No. 5638J.

FROM H. J. S. COTTON, Esq., C.S.I.,

Chief Secretary to the Government of Bengal,

TO THE COMMISSIONER OF THE PATNA DIVISION.

Dated Calcutta, the 30th December 1893.

JUDICIAL

SIR,

THE Lieutenant-Governor believes that it is possible, without difficulty, to enforce the application of the following principles in municipalities and cantonments with a view to the prevention of acts which may lead to outbreaks by irritating and offending Hindu prejudices in regard to kine-killing:—

- (1) That as far as possible cattle intended for slaughter should not be led or driven through public and frequented streets, nor along main roads where alternative paths can be taken, nor in such a way as to draw attention to them or to compel the public to know of their destination.
- (2) That when slaughtered for food this should be done in places specially set apart for the purpose in a secluded spot surrounded by walls high enough to prevent any one from seeing what is happening inside.
- (3) That beef should not be hawked about or exposed for sale except within a shop licensed for the purpose.

2. I am now to request that you will be good enough to ascertain and report without delay, for the information of Government, how far it is the case that the municipalities in Bihar and the Dinapore Cantonment have passed by-laws enforcing these principles and have worked them efficiently, and, if there has been any defect hitherto, that you will stimulate the authorities to make the necessary byo-laws and work them properly. His Honour attaches much importance to this matter and desires that the subject of this reference may receive the earliest and most careful consideration of yourself and of the officers of the Patna Division.

I have the honour to be,

SIR,

Your most obedient servant,

H. J. S. COTTON,

Chief Secretary to the Govt. of Bengal.

5. The first three of these principles can be enforced by byo-laws under the Municipal Act in municipal areas, and enquiries are being made of all municipalities in Bihar to ascertain how far they have passed such byo-laws and worked them effectively, and to stimulate them to pass and work them if there has been any defect hitherto. They can also be enforced in cantonments under the Cantonment Law. In rural areas, however, no such power exists, and His Honour recommends that a law be passed giving to District Magistrates the power to issue executive orders to the same effect, in rural towns or villages not inhabited exclusively by Muhammadans, and on roads leading to the cantonments of British troops; and making the breach of such orders punishable. The legislation which Sir Charles Elliott advocates would be somewhat after the precedent of section 43 of Act IV of 1872, the Panjab Laws Act, and the rules framed under that section.

6. The fourth principle is advanced by the Lieutenant-Governor with some hesitation. He believes fully in its theoretic propriety, but he is conscious that great caution would have to be exercised in giving effect to it, and that it might cause irritation among the Muhammadans. It is based on the axiom which has generally governed our action where questions of religious toleration are involved, and which is widely appealed to by the people themselves, that what is customary should be allowed to continue, and that innovations should not be permitted. His Honour understands that the rules which were framed for the Panjab in 1890 have worked well and have been accepted even in the Delhi territory, where the sense of recent supremacy is still keen among Muhammadans; and if so, similar rules need not apparently be resented in Bengal. In any case the principle should only be applied to mixed areas, not to towns or wards of towns which are exclusively inhabited by Muhammadans.

7. In regard to the purchase of cattle for commissariat purposes, the Lieutenant-Governor does not think it advisable at present to make any definite proposals, but he would recommend the issue of such rules by the Government of India in the Military Department to the Commissariat Department, as would ensure that the purchase of cattle for slaughter and their conveyance to the commissariat centres shall be carried on in accordance with the spirit of principle (a) above, and shall be done with every precaution to conceal the object for which the cattle are purchased or driven. The question of the slaughter of cattle for the supply of meat to British troops on the march has been separately considered, and the special recommendations of the Lieutenant-Governor on the subject have been communicated to the Government of India in my letter No. 5450J., dated the 18th December 1893.

8. There remains the point which Sir Charles Elliott desires to press on the Government of India even more urgently than any of the views expressed above, viz. the necessity of resorting to legislation to render the killing of "Brahmini" bulls punishable by law, even when it is not proved that there is any intention of insulting the religious feelings of the Hindu community.

* Queen-Empress vs. Imam Ali
(L. L. R., 10 All., 120.)
Queen Empress vs. Nihal
(L. L. R., 9 All., 348.)
Kamesh Chandra Sanyal vs.
Hiru Mondal (L. L. R., 17 Calc.,
362.)

Under the law as interpreted by the Calcutta and Allahabad High Courts* a "Brahmini" bull is not an "object" within the meaning of section 295, Indian Penal Code, nor is it "property" within the meaning of sections 378, 403, and 425. It cannot therefore be the subject of theft or criminal misappropriation, and the killing of such an animal for the sake of the meat or skin, but without any intention of insulting the Hindu religion, is not an offence under the Penal Code, and if it were an offence, there is no owner who is entitled to prosecute. Of the legality of these decisions there can be no question; but in the opinion of the Lieutenant-Governor it is intolerable that the law should be such as to allow animals which are considered sacred by the whole Hindu community to be slaughtered and eaten with impunity because nobody has a right to prosecute the offender. Sir Charles Elliott entirely agrees with what has been said on this subject by Mr. Forbes in his memorandum of the 23rd October, a copy of which was forwarded to you with the letter from this Government, No. 819J.D., dated 28th October, and by Sir Antony MacDonnell in paragraph 13 of that letter, and he recommends that some such alteration should be made in section 295 of

the Penal Code as is suggested by Mr. Justice Brodhurst,* so as to make the maiming or killing of a Brahmini bull punishable. In order to meet the difficulty about the bull being nobody's property, the law might provide for vesting the property of "Brahmini" bulls either in the priest of the temple to which it was dedicated or in the priest under whose instructions it was let loose on the occasion of a "sradh," or else in the zamindar of the village in which it may be found, as representing the community whose feelings are shocked and wounded by any injury done to it.

* Queen-Empress *vs.* Imam Ali.

I have the honour to be,

SIR,

Your most obedient servant,

H. J. S. COTTON,

Chief Secretary to the Govt. of Bengal.

Secret and Confidential.]

No. 5543J.

Encl 8

From H. J. S. COTTON, Esq., C.S.I.,

Chief Secretary to the Government of Bengal,

To THE SECRETARY TO THE GOVERNMENT OF INDIA,

HOME DEPARTMENT.

Dated Calcutta, the 23rd December 1893.

JUDICIAL

SIR,

In continuation of my Secret and Confidential letter, No. 819J.D., dated 28th October 1893, I am directed to submit the following additional remarks and proposals of His Honour the Lieutenant-Governor of Bengal, in connection with the anti-kine-killing agitation which prevails in the North-Western Provinces and in portions of Bihar.

2. I am to say at the outset that Sir Charles Elliott fully agrees with the views expressed by Sir Antony MacDonnell, in paragraphs 8 to 12 of his letter referred to above, in regard to the amendment of the law for strengthening the means of repression and for punishing offenders after an outbreak has occurred. He submits, however, that it is not sufficient to provide for the effectual punishment of those who have broken the law, and that we ought to consider what is to be said on the behalf of the offenders, and whether anything still remains to be done towards the prevention of any acts which may lead to such outbreaks, by irritating and offending Hindu prejudices.

3. Sir Charles Elliott would draw the attention of the Government of India to the rules promulgated in the Panjab in 1890, and to the discussion which took place in that year when he was a Member of the Supreme Council. He feels much sympathy with the view expressed under Sir J. B. Lyall's orders in a letter from the Panjab Government written in June 1890, to the effect that "the Hindu view is one to which English officers are somewhat blind. Brought up in a country where everyone eats beef, and where the idea of the sanctity of the cow is unknown, and would seem to be the strongest superstition, most Englishmen are naturally disposed to sympathise with the Muhammadan view, and some, in fact, are more intolerant of the Hindu view than the ordinary Muhammadan of India."

4. Expressed in very general terms, the principles which the Lieutenant-Governor would lay down as applicable to the case, and as going as far as is expedient in the direction of the Hindu view, are as follows:—

- (a) As far as possible, cattle intended for slaughter should not be led or driven through public and frequented streets, nor along main roads, where alternative paths can be taken, nor in such a way as to draw attention to them or to compel the public to know of their destination.
- (b) When slaughtered for food, this should be done in places specially set apart for the purpose, in a secluded spot surrounded by walls high enough to prevent any one from seeing what is happening inside.
- (c) Beef should not be hawked about or exposed for sale except within a shop licensed for the purpose.
- (d) The sacrificial slaughter of cattle by Muhammadans in private houses at the Bakar-id should be permitted by license granted by the Magistrate of the district to Muhammadans who have exercised the custom in previous years, and who own premises so constructed that what goes on inside is invisible to the public view.