

C.P.M. 10

J. & D.

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1894

[ Confidential. ]

No. 57.

FROM

H. C. FANSHAWE, ESQUIRE,  
Offg. Chief Secretary to Government,  
Punjab and its Dependencies,

TO

THE SECRETARY TO THE GOVERNMENT OF INDIA,  
HOME DEPARTMENT.

Dated Lahore, 17th January 1894.

Home.

General.

Sir,

I AM now directed to reply to your letters No. 1-5 C., dated the 29th August 1893, and No. 1463, dated the 4th October 1893, on the subject of the agitation against the slaughter of kine in India.

2. With the first of those letters you forwarded for correction or amplification copies of a note setting forth the history of the movement against the slaughter of kine, and it was asked that a detailed précis of the history of the movement in the Punjab might be prepared and submitted for the information of the Government of India. Inquiry was also made whether the existing law was sufficient to enable Executive officers to control any agitation or local disturbance which might be due to the movement. In your letter of the 4th October the opinion of the Lieutenant-Governor was invited on certain proposals which had been made by the Government of the North-Western Provinces for amending the law in order to enable the Government to control agitation or local disturbances due to cow-protection societies, and it was requested that if any exceptional measures of the kind appeared to be necessary in the Punjab, a detailed statement might be given of the facts which would warrant such recommendations. The question was also raised whether it would be desirable or practicable to legislate with a view to taking power to restrain discussions in the press on the subject of the slaughter of kine.

3. In reply, I am to say that the note on the history of the movement which accompanied your letter of the 29th August last is practically correct. At the same time I am to forward copies of a note which was prepared in the Special Branch of the Police Office two years ago which gives a detailed history of the movement in the Punjab up to the close of the year 1891, together with copies of notes which have been since prepared giving the history of the movement in this Province during the years 1892 and 1893. The enclosed copies of reports received from Deputy Commissioners and Commissioners show that the excitement in the Punjab is at present dying down, and that the Arya Samaj and other similar societies (with which in this Province we have to deal rather than with special Gaurakhshani Sabhas) are not concerning themselves much with the cow question at this moment.

4. I am also to submit for the information of the Government of India copies of a Circular<sup>a</sup> which was issued to the Judges of the Chief Court and to certain other selected officers asking for their opinions on the proposed legislation, together with copies of the replies received. I am also to forward copies of a note recorded by the Lieutenant-Governor which gives his views in detail on the whole question. This note was written as soon as possible after the receipt of your letter of the 4th October for the immediate information of the Government of India. His Honor has since read the opinions of the officers who were consulted on this matter and finds nothing in them to lead him to modify it.

5. Some misunderstanding appears to have been caused by the inadvertent omission of the word "likely" in the 10th line of paragraph 2 (1) of my Circular of the 10th November: it was intended to suggest that it might be made an offence to belong to a society, &c., if the objects of the society were likely to create such religious excitement as might lead to a breach of the peace. With reference to paragraph 4 of the letter from Mr. Ibbetson, Deputy Commissioner, Jullundur, I am to say that Sir Dennis Fitzpatrick quite agrees in the opinion there expressed that the responsibility of the village as a whole should as a rule be enforced and that both parties to a riot should be punished, but His Honor thinks nevertheless that power is required to make a distinction when there is good ground for doing so. His Honor thinks that it would not be expedient, as suggested by Mr. Ibbetson, to give Magistrates the power to flog persons for participation in riots and affrays. The Lieutenant-Governor agrees that the *onus* of proving good faith under the amended Section 505 of the Criminal Procedure Code should, as Mr. A. Anderson says, be clearly put on the accused. Mr Justice Roe's proposal to give power to the Executive Government to declare a society unlawful may be worthy of consideration, but, if the Lieutenant-Governor remembers rightly, such a power was found to be of little use in Ireland owing to the Protean faculty such societies possess of altering their external characteristics.

6. On the question whether any legislation that may be determined on should take the form of a special law or of amendments of the existing Codes, the memorandum by Sir Meredyth Plowden, whose opinions on such a matter are eminently deserving of respect, should be read. Sir Dennis Fitzpatrick would not himself speak of the Penal Code, as Sir Meredyth Plowden does, as "an organic structure" because the phrase seems to him calculated to suggest false analogies. At the same time His Honor would quite agree that, our Codes being elaborately designed structures, any additions to them made to meet exceptional cases are very apt to mar their symmetry. On the other hand, there is considerable practical convenience in having additions to our criminal law fitted into the Codes wherever this is possible, and it is, as Sir Dennis Fitzpatrick understands, for this reason, as also because by fitting subsequent legislation into the Codes we are in less danger of losing sight of the fundamental principles embodied in the Codes, that the Secretary of State has more than once impressed upon the Government of India the desirability of adopting this mode of legislation.

7. The present case, however, is one in which it would hardly be possible to give much weight to the views of the jurist or draftsman. The matter to be dealt with is one of extreme delicacy, and it must be dealt with in the form that seems best from a political point of view. If we are to proceed with a flourish of trumpets, as Mr. Justice Benton and Mr. A. Anderson would have us do—and the Lieutenant-Governor has admitted in paragraph 23 of his note that there is a good deal to be said for this course—it will no doubt be open to us to adopt either form of legislation. But now, seeing how quietly

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everything has gone since His Honor's note was written, he is decidedly in favour (so far as the interests of the Punjab are concerned) of proceeding quietly and unostentatiously, dealing with the various portions of the subject piecemeal, as suitable occasions may present themselves, and this of course means proceeding as far as possible by amendments of or additions to the Codes.

I have the honor to be,

SIR,

Your most obedient Servant,

H. C. FANSHAWE,

*Offg. Chief Secretary to Government, Punjab.*

Punjab Government Press, Lahore—18-1-21—20.

Confidential  
Minute Paper. J.P. 293  
1894

Public Department.

Letter, No. 7 of 1894

Dated 26 January } 1894.  
Received 19 February }

	Date.	Initials.	SUBJECT.
Under Secretary.....	21 Feb	mm	Cow Protection propagated in India. Views of the Punjab Govt.
Secretary of State .....	22	hll	
Committee .....	25	K	
Under Secretary.....	1 March	mm	
Secretary of State .....			
Council .....	/	AB	

has been very  
 given satisfactory that  
 the Govt. of India are content  
 with these slight changes.  
 Well  
 Yes - see Sir P.  
 Antichin's report to the

Secy J.P. Committee  
 1 March 94  
 AA VP  
 A.C.C.

Seen Council,  
 13 March 1894

Minute.

The Govt. of India has forwarded the  
 views of the Punjab Govt. on the subject of  
 measures to be adopted for controlling the  
 agitation set on foot by the Jyotishini Societies.  
 In the first place it is satisfactory to note  
 that in the Punjab the excitement is at  
 present dying down as that the political  
 societies of the Province are not at present  
 concerning themselves much with the  
 cow question.  
 With regard to <sup>legislation</sup> ~~addresses~~, the Chief  
 Justice, Sir Meredith P. Wooden, is averse  
 to any amendment of the Penal or Criminal  
 Procedure Codes, as would prefer to proceed  
 by special enactment, if possible; if not,  
 by enforcing the existing law.  
 The Lt. Governor, on the other hand, is

in favour of "proceeding quietly and unostentatiously, dealing with the various portions of the subject piecemeal" that is "proceeding as far as possible by amendments of or additions to the Code".

With regard to the special amendments of the Code proposed by the N. S. P. Com., Sir D. Fitzpatrick proposes (paras. 7-10 of his minute) either amendments of or additions to the proposed sections providing for the punishment of agitators. With regard to the preventive measures to be adopted, he offers suggestions in paras 12 & 13. As to measures to impose restrictions on the newspaper press, he is in favour of applying to certain districts to be determined by the Governor but in Council from time to time a special temporary law conferring on magistrates powers somewhat similar to some of those conferred by the Vernacular Press Act of 1878 but of a milder description & limited to the particular matter of religious quarrels.

So far as the Punjab alone is concerned, however, Sir D. Fitzpatrick is by no means sure that he would ask that legislation should be undertaken at the present time; and he would be quite satisfied if a draft law were prepared and merely kept ready in case things should get worse.

The Gov. of India have already reported their determination to be content for the present with (calling attention to the powers invested in the Police & Mag. Act) a few slight amendments of the Police Act & Proc. Code. This letter is in circulation & these papers are now submitted by way of supplement for information. Sir D. Fitzpatrick's was before the J. of S. Semi-officially when they adopted the conclusions already mentioned.

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No. 7 of 1894.

GOVERNMENT OF INDIA.  
HOME DEPARTMENT.

PUBLIC.

TO THE RIGHT HONOURABLE

THE EARL OF KIMBERLEY, K.G.,

*Her Majesty's Secretary of State for India.*

*Calcutta, the 26th January 1894.*

MY LORD,

IN continuation of our Despatch No. 5 (Public), dated the 24th instant, with which we forwarded certain correspondence dealing with the cow-protection propaganda in India, we have now the honour to forward a letter,\* with its annexures, from the Government of the Punjab, which reached us too late to be enclosed in that Despatch.

\* No. 57, dated the 17th January 1894.

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We have the honour to be,

MY LORD,

Your Lordship's most obedient, humble Servants,

LANSDOWNE.

G. S. WHITE.

A. E. MILLER.

H. BRACKENBURY.

C. B. PRITCHARD.

J. WESTLAND.

A. P. MacDONNELL.