

Revenue (1898) Department.

*Print
with notes
and send 3 clear
proof copies
15/12*

G.O., No. 798 + 799

Confidential No.

DATED 16th Feb 1898

[Despatch Abstract.]

Stating that there has been no case reported
of organized agitation in this Presidency in
favour of withholding the fore revenue &
that this Govt accepts the suggestion &
amend the land revenue laws

a

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
Ceo 4609 988							

Government {1898} of Madras. REVENUE.

CONFIDENTIAL.

Recd.

Regd.

} 1898.
Enclosures
Spare copies

G.O., Mis. No. 798, 16th February 1898.

FEBRUARY.

Act II of 1864.

Stating that the Government of India will be addressed in connection with certain proposals made by them in amending —.

CONFIDENTIAL.

GOVERNMENT OF MADRAS.

REVENUE DEPARTMENT.

READ—the following paper:—

From J. P. HEWETT, Esq., C.I.E., Secretary to the Government of India, Home Department (Judicial), to the Chief Secretary to the Government of Madras, dated Simla, the 12th November 1897, No. 1474.

I am directed to forward the enclosed correspondence * with the Government of Bombay regarding a proposal made by that Government, in consequence of an organized attempt made to induce occupants of land to withhold payment of land revenue, to the effect that the Government of India should consider the expediency of including in the Indian Penal Code a section or sections to make

it an offence in India, as it is under the common law in England, to conspire to do an injury which is not itself an offence, and also a provision to make it an offence for even one person to incite the withholding of Government revenue. The Government of India inquired of the Bombay Government whether the exercise of the authorized coercive processes for the collection of the land revenue had been generally successful, and have received from the Governor in Council an assurance that they have been found perfectly efficacious in defeating the combinations that were commenced to prevent the recovery of the revenue. The Bombay Government, however, while admitting that this measure is not in existing circumstances necessary for the protection of the revenue, represent that the common law of England as to conspiracy is a reasonable and equitable law which might advantageously be applied in India.

In Sir Charles Lyall's strictly confidential letter No. 1460-1464, dated 4th October 1893, certain Local Governments and Administrations were consulted as to a proposal made by the Government of the North-Western Provinces and Oudh in its letter No. 105-4, dated 18th September 1893, for the insertion in the Indian Penal Code of two sections dealing with the law of conspiracy, and, after considering the replies of Local Governments to this reference, the Government of India determined that it was not then desirable to alter the law in the direction proposed by Sir Charles Crosthwaite. They are, as at present advised, opposed to the adoption of the English law of conspiracy in England, and do not wish at the present juncture to further consider the proposal of the Bombay Government on this point. But a suggestion has been made that it might be made an offence in the land revenue law in force in each province to incite any person to withhold payment of the land revenue, and I am desired to inquire whether any such difficulties have occurred in Madras as occurred in Bombay. I am also to ask

whether the Governor in Council thinks it advisable that when the land revenue law in Madras next comes under amendment, a section should be added to it, containing a provision in accordance with the suggestion above referred to, so as to afford a ready means of proceeding criminally against any persons who may at any time take a leading part in organizing a conspiracy or exciting an agitation against the payment of Government land revenue.

ENCLOSURES.

Endorsement No. 2635, Judicial.

Transferred to the Revenue Department with G.O., No. 2236-37, Judicial, dated 27th October 1893 (to be returned when done with).

FORT ST. GEORGE,
2nd December 1897.

(Signed) A. T. ARUNDEL,
Chief Secretary.

ORDER—Mis. No. 798, Revenue, dated 16th February 1898.

Ordered that the following letter be despatched to the Government of India.

(True Extract.)

(Signed) G. S. FORBES,
Secretary to Government.

To the Judicial Department, with G.O., Nos. 2236-37,
dated 27th October 1893, returned.

Ed. J. Henricus.

18 Copies.

1898.

HOME DEPARTMENT.

CONFIDENTIAL.

From

The Government of Fort St. George.

Recd.

Regd.

} 1898.

Enclosures

Spare copies

Letter, No. 799, Revenue, 16th February 1898.

FEBRUARY.

STATING that there has as yet been no case reported of organized agitation in this Presidency in favour of withholding the Government revenue, and that this Government accepts the suggestion to amend the land revenue law.

CONFIDENTIAL.

REVENUE DEPARTMENT.

LETTER—from

THE HON'BLE MR. G. S. FORBES, I.C.S.,
Secretary to the Government of Madras,
Revenue Department,

To

THE SECRETARY TO THE GOVERNMENT OF INDIA,
HOME DEPARTMENT.

Dated Fort St. George, 16th February 1898.

SIR,

I am directed to acknowledge the receipt of your letter No. 1474, Judicial, dated 12th November 1897, enquiring whether any difficulties have been experienced in this Presidency in the realization of the land revenue similar to those that have occurred in Bombay, and suggesting the insertion in the land revenue law, when it next comes under amendment, of a provision making it an offence for any person to incite another to withhold payment of the land revenue.

2. I am to state in reply that there has as yet been no case reported of organized agitation in this Presidency in favour of withholding the Government revenue, and that the absence of the proposed provision from the Land Revenue Code has therefore not been felt. At the same time His Excellency in Council recognises that such agitation has a cumulative effect, and if allowed to go on unchecked slowly but surely loosens the attachment of the people to the Government. A provision on the lines suggested will not only furnish a ready remedy in the event of its operation being actively required, but will be even more valuable as a measure of warning and prevention. His Excellency the Governor in Council therefore accepts the suggestion of the Government of India and I am accordingly to state that the necessary provision will be made in Act II of 1864 (Madras), for the amendment of which in other respects a draft Bill is now ready.

I have the honour to be,

Sir,

Your most obedient servant,

(Signed) G. S. FORBES,
Secretary to Government.

Exd. J. Henricus.

18 Copies.

CONFIDENTIAL.

REVENUE DEPARTMENT.

NOTES CONNECTED WITH G.O., Nos. 798, 799, REVENUE, DATED
16TH FEBRUARY 1898.

Proceedings of the Judicial Department, No. 2635, dated 2nd December 1897.

[SUBJECT.—Amendment of Act II of 1864 (M.).]

To Secretary—

From the papers forwarded with the above, it appears that organized attempts were made in the Bombay Presidency towards the close of 1896 to induce landholders to withhold payment of land revenue. A mass meeting, attended by 2,000 persons, was held on 13th November 1896 at a place called Khatalvad, at which a Professor Sathe explained to his audience that "if their crops had failed, they should not pay assessment to Government." The proceedings of this meeting were commented on in an article of the *Kesari* newspaper, dated 15th December 1896, edited by Tilak, which contained the following statements:—"He (the Professor) clearly explained to all the assembled people that they should not pay the assessment if they were not in a position to do so." Again, "and where the crops have really failed, the people should take a vow not to pay the assessment." Placards containing extracts from this article were posted in various places in the Thana district, stating that it was the duty of the people by crying out a thousand times or by presenting petitions to obtain "from Government the privileges granted to them by the Famine Code, and that they should make a fixed resolve not to pay assessments" when the crops had really failed. The leaders were also exhorted to help the people in forming the resolution and it was pointed out that prompt payment of his dues even by one person would affect other persons injuriously and that the people must be prepared to suffer inconvenience, if necessary, "while quarrelling according to law". A Poona association, called the Sarvajanic Sabha, is stated to have sent out agents to various districts ostensibly to explain the provisions of the Famine Code, but the result was that in many districts there were unmistakable signs of a determination not to pay land revenue. The provisions of the Land Revenue Code, however, enabled Government to break down the combinations and recover the Government dues.

2. The Bombay Government consulted its Advocate-General in regard to the success of any legal steps that might be taken against the organizers of these attempts. That officer pointed out that an incitement not to pay the Government revenue was not punishable as abetment, as the latter should be abetment of an offence, which non-payment of revenue was not. He added that by the Common Law of England and Ireland for two or three persons to conspire together to do an injury to a third party or a class of persons was an offence, though the injury itself might not be so and that it was under this law of conspiracy that persons who incited tenants in Ireland not to make payment to landlords were tried and punished. The Advocate-General suggested that this law should be embodied in

the Indian Penal Code and that further it should be made an offence even for one person to incite another to withhold payment of the Government revenue. The Bombay Government made a recommendation accordingly to the Government of India. The latter is, however, opposed to the adoption of the English Law of conspiracy and is prepared to consider only the second proposal of the Bombay Government.

3. In their letter read above, the Government of India enquire whether any difficulties have occurred in this Presidency similar to those in Bombay. So far as known, the reply to this enquiry is in the negative. There was, however, an

Please see below.

N.E.M.

agitation some time back in the Kistna district against the enhancement of the rate of water-tax, which resulted in large relinquishment of the permission to take water for the irrigation of wet crops and in the consequent transfer of the lands from wet to dry. The correspondence on this subject has been put up with the Gódavari settlement papers in circulation and is not therefore available. Notwithstanding the relinquishments, the ryots irrigated their crops during the year for which water-rate was charged, and in the following year they submitted applications for permission to take water as usual and had their lands retransferred to wet.

4. The second question put by the Government of India is whether on the next occasion for amending the land revenue law a section may be added thereto making it an offence for any person to incite another to withhold payment of the land revenue. The Revenue Recovery Act of this Presidency contains adequate provisions for the realization of the revenue, but does not furnish a ready means of putting down a conspiracy in its inception and of meeting out due punishment to the agitator who deserves it more than the ignorant people who are misled by him. For this reason it is thought that the proposal will commend itself to Government and that in that event a reply in the affirmative may be furnished to the Government of India.

V.K.R.

17-1-98.

5. The first question is whether difficulties similar to those which have occurred in Bombay have been experienced in this Presidency. Board's Proceedings, Mis. No. 2430, dated 14th May 1895, gives a full account of the water-rate agitation in Kistna and Gódavari in 1895. The case is not exactly the same, however, as

This, as the Under Secretary says, is quite a different case. In the Bombay case they incited the people to omit doing what they were legally bound to do: in Kistna there was incitation and combination to omit doing what each individual might do or not do just as he chose.

G.S.F.

Yes.

A. E. H[AVELOCK].

"to spite their faces." The Bombay agitations, however, seem to have been fomented by political agitators who saw an opportunity in the famine. There have been no such agitations in this Presidency. Local conspiracies to evade the payment of revenue are however probably not uncommon, e.g., in the upland villages of the Tanjore taluk, the Kallar ryots often combine and refuse to pay the kist. Moveable property disappears when it is sought to be attached and value and no outsider would have to take it up. If the land is not really very valuable, the defaulters will allow it to be bought in by Government on the chance of being able to get it on a fraudulent darkhast. Otherwise some relation of the defaulter will bid for that as low a rate as he can get the Revenue Inspector to knock it down for.

6. For a conspiracy, to withhold land revenue by whatever motive prompted, to be successful, three conditions seem necessary—

I don't think these circumstances cover the case contemplated.

The danger is that agitators may mislead the people into imagining that if they show a determined and united front, Government will give in. There would be a rude awakening. But meantime serious consequences may have occurred.

G.S.F.

(1) The land must not be very valuable.

(2) The conspirators must not be dependent on it.

(3) The conspirators must be prepared to suffer considerably and be endowed with a spirit of cohesion and pugnacity. Everywhere throughout this Presidency these conditions seem to

be wanting. Either the land is very valuable or the people are wholly dependent on it, and at present, at all events, there is no spirit of cohesion or pugnacity anywhere.

7. It seems very unlikely, therefore, whether such conspiracies are ever likely to cause serious anxiety in this Presidency.

8. The next question relates to the proposed amendment of the land revenue law by inserting a provision making it an offence for any person to incite another to withhold payment of the land revenue.

Although conspiracies of the kind under discussion most probably never be successful in this Presidency and though they may never give Government anxiety, yet it is quite possible that the time may come when political agitators will turn their energies in this direction, if not in the hope of success yet in the hope of bringing odium on the Government amongst the ignorant ryots. It is submitted

In the Bombay case there was open preaching of resistance.

The evidence difficulty is common to all questions of conspiracy or abetment.

G.S.F.

that the section would be a difficult one to use. Evidence of the incitement would not be easily forthcoming. But the existence of the provision might prove a valuable warning.

9. In this connection it may be noted that the Bombay Code (*vide* section 150 *et seq.* of Bombay Act V of 1879) contains much more stringent provisions for the recovery of arrears of land revenue than our Act II of 1864.

The Bombay Code provides for the occupancy or alienated holding in respect of which an arrear of land revenue is due being forfeited to Government, and also provides for the arrest and imprisonment of the defaulter.*

Section 153 of Bombay Act V of 1879.

* Under the Madras Act the defaulter can be imprisoned only if the arrears cannot be liquidated by sale of the property and even then only if Collector has reason to suspect fraud (section 48 of Act II of 1864).

Section 157 of Bombay Act V of 1879.

N. E. MARJORIBANKS.
18-1-98.

To the Honourable Member and for circulation—

I don't think it is necessary to refer the matter to the Board for opinion.

The provision is meant to be and would in this Presidency be, it is hoped, no more than a preventive measure: a sign post warning the people against the thin ice.

Agitation and preaching in favour of withholding Government revenue may not gain much success: but such agitation has a cumulative effect if there is no remedy in the Government pharmacopœia to purge it. If it is allowed to go on unchecked it slowly but surely loosens the attachment of the people to the Government. This is perhaps true of all political agitation directed against the Government: but in the matter of the payment of the land revenue, which comes home to so vast a proportion of the people of India, the effect is peculiarly malign.

I think the Government may promise to make a provision in the Land Revenue Code.

G. S. FORBES.
19-1-98.

We should refer to the Board for opinion. There has been no case in the Presidency yet in which the proposed enactment was necessary, but these may be in the future. A Bill to alter the Act about recovering land revenue is on the anvil.

J. G[ROSE].
25-1-98.

I have often thought that the law of conspiracy in India should be assimilated to the English Law. But I suppose, after what India says in the last three lines of page 1 of its letter, that we cannot enter on that branch of the subject. As to the rest, I am inclined to agree with the Secretary. I do not see what we shall gain by consulting the Revenue Board. We know already all they can tell us and it is advisable not to publish more widely than is essential confidential papers of this kind. It is clear that, in the event of a strike against the payment of land revenue, we should be in by no means as good a position as the Bombay Government was last year, for Act II of 1864 (Madras) contains no provisions so drastic and so capable of immediate application as the Bombay Revenue Code. I should therefore take advantage of the present opportunity to amend our Act, for the amendment of which, in other respects, a Bill is now ready in the manner proposed. Even so we shall be far from as well off as the Bombay Government, for we shall still have no section corresponding to section 153 of the Bombay Act and shall still be tied down to the somewhat cumbrous and dilatory procedure of Act II of 1864. But perhaps as our people are not so troublesome as the Bombay people, we can manage.

These papers explain, what I never before quite understood, the prosecution of Tilak on a comparatively unobjectionable newspaper article.

H. B[LISS].
27-1-98.

I am inclined to the opinion of Sir Henry Bliss as to the law of conspiracy. But, we are not allowed to raise that large question; and I do not consider the present moment a suitable one for raising it.

Mr. Forbes has, I think, stated the case well, in his note of 19th January 1898, and I would accept what he says.

On the whole, I consider that it would be better not to refer to the Board.

A. E. H[AVELOCK].
30-1-98.

To the Hon'ble Mr. J. Grose—

Drafts submitted for approval.

Issue.

G.S.F.
11-2-98.

G.S.F.

J.G. (on draft).
15-2-98.

[Issued as G.O., No. 798 and letter No. 799, Revenue, dated 16th February 1898.]

Revenue (1897) Department.

CURRENT No. 10525

Confidential 115

From
The Judicial Dept.

Order

No. 2635

Dated 2-12-97.

Received 7-12-97

Registered 7-12-97

Enclosures *three*

Spare copies.

SUBJECT.

*Transferring Communication
from the Govt. of India re: the
proposed amendment of the
Indian Penal Code with reference
to recovery of revenue.*

BACK PAPERS

G.O.	No.	Department.	Date

FURTHER PAPERS

G.O.	No.	Department.	Date.

[Strictly confidential,]

No. 1474

FROM

J. P. HEWETT, Esq., C.I.E.,

Secretary to the Government of India,

To

The Chief Secy. to the Govt. of Madras.

Home Department.
Judicial.

Simla, the 12th November 1897.

SIR,

I AM directed to forward the enclosed correspondence* with the Government of Bombay regarding a proposal made by that Government, in consequence of an organized attempt made to induce occupants of land to withhold payment of land revenue, to the effect that the Government of India should consider the expediency of including in the Indian Penal Code a section or sections to make it an offence in India, as it is under the common law in England, to conspire to do an injury which is not itself an offence, and also a provision to make it an offence for even one person to incite the withholding of Government revenue. The Government of India inquired of the Bombay Government whether the exercise of the authorized coercive processes for the collection of the land revenue had been generally successful, and have received from the Governor in Council an assurance that they have been found perfectly efficacious in defeating the combinations that were commenced to prevent the recovery of the revenue. The Bombay Government, however, while admitting that this measure is not in existing circumstances necessary for the protection of the revenue, represent that the common law of England as to conspiracy is a reasonable and equitable law which might advantageously be applied in India.

In Sir Charles Lyall's strictly confidential letter, No. 1460-1464, dated 4th October 1893, certain Local Governments and Administrations were consulted as to a proposal made by the Government of the North-Western Provinces and Oudh in its letter No. 105-4, dated 18th September 1893, for the insertion in the Indian Penal Code of two sections dealing with the law of conspiracy, and, after considering the replies of Local Governments to this reference, the Government of India determined that it was not then desirable to alter the law in the direction proposed by Sir Charles Crosthwaite. They are, as at present advised, opposed to the adoption of the English law of conspiracy in England, and do not wish at the present juncture to further consider the proposal of the Bombay Government on this point.

Print full
Jwalc no 5055 of 97
Conc no 398 97
CHIEF SECRETARY
22 NOV. 1897
GOVERNMENT OF MADRAS
2P

Encls.
sent
Separately

A m 80
no 2235-37
27-10-93

But a suggestion has been made that it might be made an offence in the land revenue law in force in each province to incite any person to withhold payment of the land revenue, and I am desired to inquire whether any such difficulties have occurred in Madras as occurred in Bombay. I am also to ask whether the Governor in Council think it advisable that when the land revenue law in Madras next comes under amendment, a section should be added to it, containing a provision in accordance with the suggestion above referred to, so as to afford a ready means of proceeding criminally against any persons who may at any time take a leading part in organizing a conspiracy or exciting an agitation against the payment of Government land revenue.

I have the honour to be,

SIR,

Your most obedient Servant,

A. L. S.
Secretary to the Government of India.

Judicial Department

Current No. 5055

Confidential No. 398

48 (Plant to send all)
note this is
Govt. No. 2635 of 2-12-97

Transferred to the
Revenue Department
with G.O. No. 2236-37

Judicial, dated 27-10-93

(to be returned when done with)

From

The Govt of India
Home Dept

No. 1474

A. L. S.
Chief Secretary
2.12.97

M. L.
1/12/97

Dated. 22-11-97

Received 22-11-97

Registered 29-11-97

Enclosures 2

Spare copies 7 of Ct + 7 of Incl
No 2 to the Ct

Subject

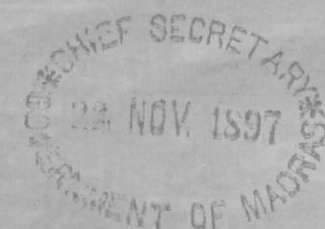
Proposed amendment of the
Indian Penal Code with reference
to the recovery of revenue

Index
No.

JUDICIAL.

HOME DEPARTMENT PROCEEDINGS, MAY 1897.

Progs.
No.



No.

No. 582 (Famine), dated Bombay Castle, the 20th February 1897.

No. 210.

From—The Honourable J. MONTRATH, I.C.S., Acting Chief Secretary to the Government of Bombay, Revenue Department.

To—The Secretary to the Government of India, Department of Revenue and Agriculture.

In forwarding the accompanying copy of a memorandum No. 11 of 8th instant, from the Honourable the Advocate-General at this Presidency, I am directed to request that the Government of India may be moved to consider the expediency of including in the Indian Penal Code a section or sections to make it an offence in India, as it is under the common law in England, to conspire to do an injury which is not itself an offence, and also a provision to make it an offence for even one person to incite the withholding of Government revenue.

2. In November last it was reported that superior holders in Kolaba, who own most of the land, were combining to pay no assessment unless a substantial part were remitted, and for that purpose were holding meetings throughout the district. A memorial, purporting to have been adopted at one of the meetings, was forwarded to Government, and in it a general remission was asked, together with other concessions. The Collector has recently reported that crowds of people, the number of which in one case was estimated to be not less than 4,000, surrounded his camp; and representatives of the crowd informed him that the gathering was the result of a Resolution passed at a mass meeting, in which it was determined that such a demonstration should be made. It may be mentioned that in the Kolaba District many of the crops are poor, and that in individual cases suspensions and possibly eventual remissions will be needed, but most of the superior holders are wealthy persons, or at least men of considerable substance, and this Government decline and have instructed the Collector to decline to take into consideration representations made in combination.

3. An association, called the Poona Survajani Sabha, has sent out agents to various districts for the ostensible purpose of explaining the provisions of the Famine Relief Code; but, as appears from reports of their proceedings, really for the purpose of inciting people to withhold payment of the land-revenue. The principal member of the association, who is also a member of the Legislative Council of this Presidency, nominated by the Municipal Committees of the Central Division, owns and edits a paper called the *Kesari*, in which, on the 15th December last, there appeared an article, of which a copy is appended. Soon afterwards placards, of which a translation is also appended, containing an extract from that article, and urging that the advice of persons, like the Honourable Mr. Tilak, should be considered, and that no haste should be made in the payment of the assessment, as the result of the action of one will have to be borne by others,

No. were posted in various places in the Thana District. Some of the crops in that district also, as indeed throughout the Presidency, have been much below the average; but there has been so far no distress apparent in it, and therefore no occasion for explaining the provisions of the Famine Relief Code. No. 210.

4. In the Dharwar District, in the greater part of which the crops have been fair, a person who professes to be an agent of the Poona Sarvajanik Sabha has posted notices, of which a translation is enclosed. It is reported that his speeches have been more objectionable than the notices, and that in consequence the landholders have formed combinations and have "flatly refused with a resolute mind" to pay any assessment.

5. In the affected districts also there is evidence of combination. The Collector of Poona states that there are unmistakeable signs of a determination to pay no revenue, being formed and fostered by persons not immediately concerned with the land, and the Commissioner, Central Division, has been met by crowds of people claiming remissions.

6. The facts above set forth leave no room for doubt that there is proceeding an organized attempt, in which false statements are freely used, to induce the occupants of land to withhold payment of the land revenue, and it may be added that in a recent issue of a paper, called the *Poona Vaibhav*, the people are urged to cease to pay the income tax. The Governor in Council does not anticipate that this attempt will be successful. Collectors have been instructed to apply the principle recommended by the Famine Commission that nobody should be forced to borrow in order to pay the land revenue, but that all who can pay without borrowing should do so. It is believed that it will be found possible to carry this principle into practice in the current season. The coercive measures authorized by the Land Revenue Code are very potent, and it is understood that in several places the combinations have been unable to withstand the effect of a few examples of these measures. At the same time there can be no doubt that a widespread and persistent conspiracy to withhold payment of the State dues is possible, and that it would be productive of immense public injury and demoralization. It appears to His Excellency in Council that there should be the means of preventing or checking such a conspiracy before it attains formidable proportions. A conspiracy against the payment of what is due to the State is worse from the point of view of public interest than a conspiracy against the payment of rents to individuals. No doubt the culpability of an injury to the public is less keenly appreciated than the culpability of an injury to private persons, but it can hardly be supposed that the punishment of an attempt to deprive the State of what is due to it would offend the moral sense of any civilized community. It is also unsatisfactory that it should be possible for agitators with impunity to incite persons to a course which must lead to their own injury, if not to public disadvantage, and cause trouble and inconvenience to the administration.

7. For these reasons I am to strongly commend to the consideration of His Excellency the Governor General in Council legislation to the effect suggested by the Honourable the Advocate-General. If it could be carried out at an early date, it would be of great assistance at a time when District Officers are in much need of relief from all avoidable difficulties in defeating the attempts which are being made to obstruct the levy of the land revenue.

No.

No. 11, dated Bombay, the 8th February 1897.

From—BASIL LANG, Esq., Advocate-General.

To—The Acting Chief Secretary to the Government of Bombay, Revenue Department.

With reference to memorandum No. 382 (Famine) of the Revenue Department (Famine), dated 2nd February 1897, requesting my opinion as to whether any steps can be taken against the Agent of the Poona Sarvajanik Sabha for the issue of a notice regarding the suspension and remission of land revenue, I am of opinion as follows:—

The notice issued by Ananthrao Joshi Yeksambekar, Agent of the Poona Sarvajanik Sabha, states that Government have ordered the remission of land revenue in cases in which the produce is six annas, and the postponement of its collection when the produce is 12 annas, and that revenue is being collected in defiance of the alleged orders of Government. These statements are said to be false. The notice may also be considered, if read as a whole, as an incitement to the ryots not to pay the land revenue due to Government.

No. 211.

No. In so far as the notice amounts to an incitement not to pay the revenue, I think that no offence has been committed which could be punished under any law in India. In order to make abetment punishable in India, there must be abetment of an offence, and the non-payment of Government revenue is not an offence. No. 211.

In England and Ireland the law is different: by the common law of those countries, when two or more persons conspire together to do an injury to a third party or a class of persons, though the injury does not amount to an offence, the parties conspiring are guilty of the offence of conspiracy: it was under this law that persons who incited tenants in Ireland not to pay rent to landlords were tried (*see Regina versus Parnell and others*, 14, Cox and Thompson's, C. C., page 508). This law has at present no application in India, but as it appears that bodies like the Poona Sarvajanik Sabha are sending emissaries about the Presidency, inciting the ryots not to pay their dues to Government, it would seem to be desirable that a section or sections embodying the common law of England and Ireland on this branch of the law of conspiracy, should be added to the Indian Penal Code: it would be desirable to go further than the law in England and Ireland, and to make it an offence for one person to incite the withholding of Government revenue, even though it may not be possible to prove that such person was acting in concert with others.

As regards the false statements above referred to in the notice, it appears to me doubtful whether a prosecution under section 505 of the Indian Penal Code would be possible. Though it would no doubt be possible to show that the statements were false to the knowledge of the person or persons who published them, it could scarcely be established that they were published with the intent to cause fear or alarm to the public, and thereby to induce any person to commit an offence against the State or against public tranquillity within the meaning of that section.

That portion of the notice which alleges that the revenue is being collected in violence of the orders of Government amounts, I think, to defamation of the revenue officers of Government, but the terms of the notice are so vague and the districts in which this is said to be done are not indicated, so that there would be great difficulties in the way of a successful prosecution for this offence.

[TRANSLATION.]

No.

No. 50, dated Bombay Castle, the 14th January 1897.

No. 212.

A mass meeting of the ryots, held within the range of the loaded guns of the Police.

It is a matter of great satisfaction that the agents sent by the Poona Sarvajanik Sabha are going from place to place explaining the sections of the Famine Relief Code, and advising and urging the people to act in accordance therewith. There is a vast difference between the duties which public bodies, like the Sarvajanik Sabha, had to perform during the famine of 1876 and those which they have to perform during the present distress. In 1876 the Famine Relief Code did not exist, and Government had not then laid down any other rules in this behalf. Those times have passed away, and as rules of a permanent nature have been framed as to the steps to be taken by Government when a famine occurs and as to the relief to be asked for by and granted to the ryot and (similar) other matters, both Government and the people are equally bound by them. But it will appear from what is stated in the letters received from Junnar, Karmale, Sholapur and other places, the Government officers, being accustomed to lord over the people, having been acting in a high-handed manner in some places. But we should not care for such high-handedness.

The people as well as the officers of Government must remember that in these days law, and not force, reigns supreme. If it be provided by law that, in the event of the failure of crops to a particular extent, assessment should be remitted or its recovery postponed, it is the duty of Government officers to grant remission and that of the people to firmly and perseveringly but peaceably ask for it. These remarks are likewise applicable in the case of forests. They have been already thrown open by Government, and, therefore, there is now no fear as to grazing cattle therein. In short, it is the duty of the people to ask from Government the rights which have been granted to them under the Famine Relief Code, and of the leaders

No. of the several places to repeatedly impress upon their minds what we have already said many a time, *viz.*, that if the people fail to act according to the above suggestions, they will have to starve without any cause. The leaders have yet to learn the art of teaching the people how to fight with Government in a constitutional manner, and it is only when they have learnt that art, that Government officers will *cease to be insolent* and the people benefited to some extent. The agents of the Sarvajanic Sabha have gone to several places for this very purpose, and we understand that they are doing their work satisfactorily, explaining to the inhabitants of Nagar the difference between test works and relief works, and also the fact that the Salis and Koshtis have a right to request Government to employ them in their own craft. Messrs. Mahadkar Joshi and Rajvade have similarly done their duty at Belgaum, Dharwar, Bijapur, Bagalkot, Indi and other places. Satara and Nasik have also been visited by other agents who have returned from those places. Further, certain persons on behalf of the Sabha had purposely gone from Poona to Sholapur when the merchants of that place recently passed a resolution with regard to weavers. Mr. Govind Krishna Tilak, Pleader, who likewise paid a visit to Pandharpur and Karmala, has returned and will shortly leave for Dhulia. This shows that the Sabha is energetically doing the really important work, not merely of collecting information, but that of explaining to the people the provisions of the Famine Relief Code and of making them act according to those provisions. But it is not possible for the Sabha to do its work satisfactorily unless the leading people of the various places co-operate with it. Relief can only be obtained if the people will approach Government with the Famine Relief Code in one hand and petitions in the other, with a determination to act accordingly. Otherwise, Government will take the credit of having framed a good code for combating with famine, while the people will be starved to death. This must be clearly explained to the people by the leaders in the several talukas. These leaders should cherish hopes that they would obtain for the people all the facilities provided for in the Code, and should, for this purpose, laying aside all private business, work zealously and inspire the people with confidence by assuring them that Government want to protect and not to kill them. It is the business of Government to make laws, but it is our duty to see that they are (properly) enforced. And if, in order to obtain that end, we are required to agitate and submit hundreds and thousands of petitions, we must be prepared to do all that.

Let it be understood that under this rule law, and not force, reigns supreme. In case we are required to fight for our rights we must do so constitutionally, and it is only when we act in that way that we obtain some of them. The meeting of

* A comprehensive term for the higher classes as distinguished from the mere cultivator.

Kolis, Warlis, and Pandharpeshas,* numbering over two thousand people, which was held at Khatalvad in the Umbergaon Peta on Tuesday, the 13th instant, illustrates this fact. For Government (? the District Authorities) being under the impression that the Kolis, Warlis, and other people of the Thana District cause disturbance when they assemble together, the Mahalkari, the Fouzdar, and Mr. Dubulay, the Assistant Collector, personally attended the meeting, and the Police, with loaded guns, formed a cordon round the place, with the intention of opening fire the moment any one inadvertently uttered any word (against Government) or caused any disturbance. All were in anxiety as to how the meeting would pass off under such circumstances. But Professor Sathe, Secretary to the Famine Committee of the Sarvajanic Sabha who had purposely gone there to attend it, explained to the audience over and over again, three times, in the presence of the Assistant Collector, that if their crops had failed, they should not pay any assessment to Government. It may be said that the Police, who had come there to shoot down the people, proved very useful in inducing the assembled people to hear with calmness the Professor's three hours' unfaltering speech. Whatever the Saheb? (the Assistant Collector) might have in his mind, he, on the termination of the proceedings, went away with his myrmidons after exchanging a few sweet words with the Professor. Though the people had repeatedly requested the Saheb to take a chair, he remained standing throughout the meeting, and when the Professor made a reference to him in his speech by stating that they were speaking there under the protection of Government officers, he asked him why he mixed up his name in his address. A detailed account of the meeting has been received from Professor Sathe, but we are unable to publish it to-day for want of space. The meeting which consisted of two thousand people, and which, though surrounded by the Assistant Collector, the Sheristadar, the Mahalkari and a Police detachment, with smoking guns, terminated successfully, must have been the first of its kind in the Konkan. It was presided over by Mr. Govind Narayan Devdhar, and though many people

No. desisted from attending it through the fear of the Police, the number present was over two thousand. The points dealt with by Professor Sathe were almost those which we have already noticed. With the Famine Relief Code in his hand he clearly explained to the audience the desire of Government and the rules framed by them. The faces of the assembled people showed that the subjects explained by the Professor were well understood. The chief point dealt with in the meeting was the question of land assessment. The meeting was specially convened for the purpose of considering the measures to be adopted in this behalf, as the time for paying it was drawing very near. The promoters of the meeting, however, were in great anxiety as to its success on account of the angry attitude of the Police and the Assistant Collector, but all fear disappeared and Professor Sathe succeeded in disposing of the business in a good manner. In the presence of the Assistant Collector he clearly explained to all the assembled people that *they should not pay the assessment if they were not in a position to do so*. One of the audience having asked why they should not there and then ask for redress as the Saheb was personally present at the place, Professor Sathe told him that the Saheb having assumed a severe attitude that day owing to some particular cause, they should go to him five or ten days thereafter and show to him the accounts of their crops, when he would grant them redress without fail. In short, what the Professor told them was that Government did not insist upon the recovery of revenue, but it lay entirely with the people not to relax their efforts till they bore fruit. He further told the audience that though the Police had brought their guns with them, there was no reason to be afraid of them, that they would be losers to the extent they feared them, and that if everything were done constitutionally, without fearing or flinching the hungry Koli and Warli, people would receive bread and not bullets. This concluded the business of the meeting. Professor Sathe is next going to Dahanu, Umbergaon, Panwel, Pen, Nagaon, Roha, etc., for the purpose of explaining the Famine Relief Code to the people. The leaders of those places should therefore co-operate with him, and we feel confident that they would do so. As the time for paying Government assessment is drawing near, the people of the villages in which the crops have failed should submit petitions to Government detailing the total area of cultivable land in each village, and stating the extent of the crops it has yielded in the last as well as in the current year. And where the crops have really failed, the people should take a vow not to pay the assessment as provided for in the Famine Relief Code. If it is found possible to recover the assessment, either by prosecuting the people as has been done at Junnar, or by means of threats, or by making a show or firing upon the people, or by actually shooting down one or two persons, officers of Government will not hesitate to recover it by these means. But the people should understand that neither does the Queen-Empress desire this, nor does the law contain any provision to that effect. At such a juncture, therefore, the people should resolve to obtain the full amount of relief afforded by the Famine Relief Code even at the risk of their lives, and the leaders of the people at various places should assist them in carrying out this resolve. It is just possible that sometimes one might get into difficulties even when fighting constitutionally, but if our people are not prepared for that eventuality, there can be no doubt that, in accordance with an English saying, they will receive either earth or sand instead of bread. We therefore again request the people not to sit silent at this juncture. Though the number of people who would, like Shet Virchand charitably distribute food and fodder, or like Mr. Chakradev save hundreds of cows, is small, still those who have got the necessary resources, both intellectual and financial, to do what we have suggested above, can be found in large numbers at many places, and we trust that they will heartily come forward at this juncture. And we feel confident that this our appeal will be received with a responsive "Amen" from every quarter.

MIRZA ABBAS ALI BAIG,
Oriental Translator to Government.

No.

PLACARD REFERRED TO IN PARAGRAPH 3 OF THE LETTER TO THE GOVERNMENT OF INDIA. No. 218.

Make a request for postponement and remission of assessment this year, looking to the outturn of crops.

Under sections 137 and 139 of the Famine Relief Code the Collector is to recommend to the Divisional Commissioner the whole or partial suspension or remission of the assessment when the crops have entirely failed in most parts

HOME DEPARTMENT PROCEEDINGS, MAY 1897.

No. of the district, and therefore consideration should be made before paying the assessment to Government by borrowing money. The fact that the result of the action of one will have to be suffered by others should be borne in mind; and so no haste should be made for the payment of assessment. No. 213.

It is not the wish of Government that the cultivators should pay the assessment by running into debt.

All people are aware that petitions have been sent to the Collector, Commissioner, and Government as resolved in the meeting at Katalwada. In that petition request has been made that the assessment may not be recovered by coercive measures pending final decision of that petition; and therefore no haste should be made for paying the assessment by borrowing at least until the disposal of that application. Consider the advice of persons like the Honourable Mr. Tilak as regards whether to pay or not to pay the assessment, and then do whatever is to be done.

The Honourable Mr. Tilak writes in the *Kesari*:—

As the law is that postponement or remission of assessment will be given when the crops fail to a certain extent, the Government officers must necessarily give that concession to the people; and people should demand it resolutely but quietly and with determination.

As Government officers have been always habituated to exercise their authority, they have exhibited high-handedness in some places, but one must not be afraid of such high-handedness. It should be remembered, both by the ryots and the Government officers, that these days are not of high-handedness, but of law.

It is the duty of the ryots to ask from Government the privileges granted to them by the Famine Relief Code; and if the ryots fail to do this, they shall have to starve to death.

Our leaders have yet to learn how to teach the ryots to quarrel with Government in a legal way; and it is only when they will learn this the arrogance of Government officers will vanish, and the ryots will get some benefit.

The ryots will get their grievances redressed in this year of famine when they will take the Famine Relief Code in one hand and the petition in the other with a fixed determination to act according to that; otherwise Government will take the credit of having passed a good Famine Relief Code, and we shall simply die. Leaders from the taluka must explain these things to the people. They must cherish the hope of securing the privileges provided by the Code for the people; and for that purpose they should diligently strive laying aside their private engagements. They should encourage the ryots by assuring them that Governments do not wish to kill them, but to save them. It is the business of Government to frame laws, but it is for us to see that they are properly carried out; and if for this purpose it is necessary not merely a hundred but even a thousand times to cry out or make petitions, we must do it.

Remember that this is a Government of law, not of high-handedness. If it is necessary to quarrel, we should quarrel lawfully, and when we quarrel in that way, then only we will get our rights; where the crops have really failed, there the people should make a fixed resolve not to pay assessments according to the Famine Relief Code.

Government officers will not hesitate to recover the revenue by sanctioning prosecutions as in Junnar, by threatening, by a show of firing, or perhaps by actually shooting one or two men. But the people should fully understand that such is not the wish of Her Majesty, nor does the law countenance such a course. On such an occasion, never mind if we die, but the people should resolve to secure the full-measured concessions given by law, and the leaders in various places should assist them in forming this resolution. Even while quarrelling according to law, one may sometimes have to suffer; but if our people will not be prepared for that, then according to an English proverb "the mouths will be filled with earth or sand instead of bread." Therefore it is our suggestion that people should not remain quiet at this time.—(*Kesari*, dated 15th December 1896.)

CAMP UMBERGAON;

The 26th December 1896.

1. HARI SITARAM PARANJPE,
2. KESHAV TRIMBAK KARULKAR,
3. VINAYAK SHIVRAM PIMPUTKAR,

Secretaries, Vasantoochava,
Aikyavardhak Sabha, UMBER-
GAON.

HOME DEPARTMENT PROCEEDINGS, MAY 1897.

No. Translation of the notice issued to the public by the Agent of the Poona Sarvajanic Sabha. No. 213.

Come Sirs, come please, let us know your respective grievances.

The Government of India have received a telegram from Her Majesty the Queen, Empress of India, to the effect that no one shall die of starvation in the current year's famine, and orders have been issued to all the Commissioners in the Bombay Presidency to grant remissions of land revenue in places where the outturn of crops is six annas, and to postpone its realization to next year where the crop is 12 annas, and also to grant tagai to ryots.

Notwithstanding this, no consideration is paid to the fact that in some places men and cattle are dying, and also to the fact that assessment is being levied by compulsory measures on fields which have not been sown. In order that all possible information from ryots about these matters might be communicated to the Poona Sarvajanic Sabha so as to enable them to ask for redress from Government in the case of such persons, the Agent of the said Sabha will deliver a lecture on 'Famine Relief' on Thursday, 31st December 1896, from 3 to 6 p.m. in Shri Vir Narayan Temple, and it is my prayer that all the Vakils, Shets, Savkars, ryots and poor helpless people should present themselves there to represent their grievances.

ANAN HRAO JOSHI YEKSAMBEKAR,

Agent, Poona Sarvajanic Sabha.

E. J. EEDEN,

Acting Commissioner (S. D.).

No.

No. 561, dated Simla, the 7th May 1897.

No. 214.

From—J. P. HEWITT, Esq., C.I.E., Secretary to the Government of India.

To—The Chief Secretary to the Government of Bombay.

I am directed to acknowledge the receipt of your letter* No. 582 (Famine), dated the 20th February 1897,

* Addressed to the Department of Revenue and Agriculture, submitting certain proposals for the amendment of the Indian Penal Code.

2. It is stated that there has been an organized attempt by agents of the Poona Sarvajanic Sabha to induce the occupants of land in certain districts in the Bombay Presidency to withhold payment of land revenue. The Honourable the Advocate-General, Bombay, has been consulted by the Local Government, and in forwarding his opinion the Bombay Government commend to the consideration of the Governor General in Council the legislation suggested by him, viz., the insertion in the Indian Penal Code of a section or sections making it an offence in India, as it is under the common law in England, to conspire to do an injury which is not itself an offence, and of a provision making it an offence for even one person to incite the withholding of Government revenue.

3. It is stated in your letter under reply that it was understood by the Bombay Government that the exercise of the coercive measures authorized by the Land Revenue Code had been used in some places with success against these combinations, and I am to say that, before coming to a decision on the subject, the Government of India would be glad to be informed whether this effect has been general, and also what has been the result of other measures which, the Governor General in Council understands, the Bombay Government have taken in respect of the association to whose agency the combination to withhold the payment of land revenue was due. In the event of the measures taken by the Governor in Council having been found to be efficacious, I am to ask whether His Excellency in Council still adheres to the proposals under consideration without change.

No. 562.

Copy forwarded to the Department of Revenue and Agriculture for information. Papers returned.

Exd.—T. C. S.

No. 418-P.—Famine, dated Poona, the 25th July 1897.

From—The HONOURABLE MR. J. MONTEATH, I.C.S., C.S.I., Chief Secretary to the Government of Bombay,

To—The Secretary to the Government of India, Home Department.

I AM directed to furnish the information requested in paragraph 3 of your letter No. 561, dated 7th May 1897.

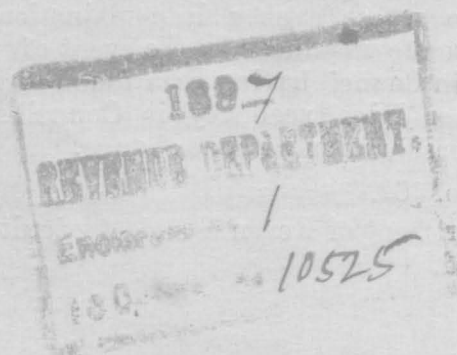
2. From the reports which have been received it appears that in every district in which attempts were made by agents of the Poona Sarvajanik Sabha to induce occupants of land to withhold payment of the revenue, the adoption of measures authorised by the Land Revenue Code has been perfectly efficacious in defeating the combinations which were commenced. Thana seems to be the only district in which revenue, which it would be reasonable to recover in the current year, is still overdue, and the amount is not large, and it is understood that there will be no difficulty in levying it before the close of the revenue year. It is not a little remarkable how little actual coercion was needed for the purpose. Apparently in Dharwar, where notices containing false statements regarding orders issued by Government were published and applications for remission were made on printed and lithographed forms, none at all was required; it was sufficient for the Collector to intimate that owing to the attempt to form a combination collection would be made with some stringency. In Sholapur the land of the leader of what was called a "People's Association" was confiscated and the Collector is not aware of any other coercive process being used. The Collector of Khandesh writes as follows:—

Some of the richest defaulters—Marwadis, Bunyas, Sowkars, and so forth—were immediately selected: and on the 21st January orders summarily forfeiting their lands, transferring them to padit,* and directing recovery of arrears by seizure of moveable property were sent to the villages. The recalcitrant Khatedars had of course been expecting the usual tedious procedure of notices, jahirnamas, etc., etc., and thinking that they were going to give Government the maximum of trouble with the minimum of loss to themselves. The instantaneous forfeiture of their lands completely paralysed them. The rank and file seeing the collapse of the bigger men rushed at once to the chawris with their haftas† lest a like thing should befall them also. And thus the net result of the agitation and the strike was that the Government revenue came in more quickly and more plentifully than it would otherwise have done: and that I fear a good many people have paid up who could ill afford it and who would have been deemed by us entitled to suspensions and possibly remissions had they been left alone to ask for them in the ordinary way.

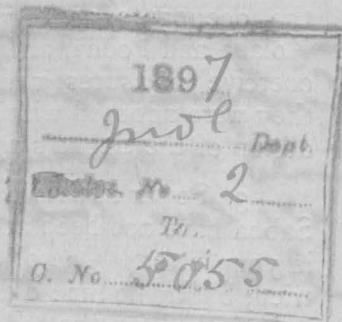
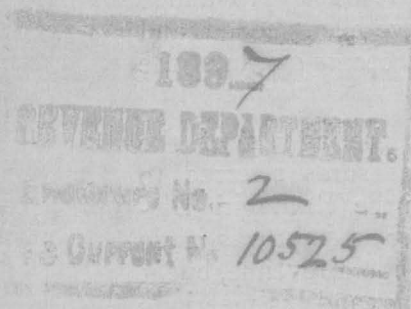
At Kalyan in the Thana District eighteen of the chief well-to-do defaulters were arrested under section 157 of the Land Revenue Code, but it was necessary to actually confine one only, and the Collector states that although the agitation caused inordinate delay and trouble in realizing the Government dues, the occupants as a rule paid before distraint was actually carried out. In Kolaba and Poona, and to a small extent in Kanara, it was necessary to adopt coercive measures which but for the agitation would not have been needed, and they were adopted with success. It does not appear that in other districts the action of the Sabha's agents had much practical effect.

3. So far as His Excellency in Council can ascertain, the agents of the Sabha have not been active since the adoption of the other measures referred to in your letter. One of them continued a tour and lectures in the Ratnagiri District; but at no time did he meet with any success. A further attempt was made by another in the Kolaba District to induce people to withhold revenue, but it was futile, as the people had then lost confidence in the Sabha, and his meetings were very sparsely attended.

4. Thus the anticipation stated in paragraph 6 of my letter No. 582-Famine, dated 20th February 1897, that the attempt of the Sabha's agents to induce occupants of land to withhold payment of the revenue would not be successful has been fully realized. But the Governor in Council continues to be of opinion that if the people had more tenacity of purpose such an organization would not be so easily defeated and is capable of immense public injury, and that it is not



satisfactory that it should be possible for agitators with impunity to incite people to courses which bring punishment on themselves and to hamper the administration. The common law of England on this matter is, in the opinion of His Excellency in Council, a reasonable and equitable law which might advantageously be applied in India. At the same time it is not in existing circumstances, as has throughout been admitted by this Government, necessary for the protection of the revenue, and if the Government of India consider that strong reasons of policy render at present undesirable the legislation which has been proposed, His Excellency the Governor in Council has no desire to press for it.



sub connected with No. 778 & 799

16-2-98

H. M. D. C. C.

Through the Under Secy to Secy.

We should refer to the Board for opinion. There has been no case in the Presidency yet in which the proposed enactment was necessary, but there may be in the future. As Mr. Walker has said about recovering Land Revenue is an annual

25/1/98

I have often thought that the law of conspiracy in India should be assimilated to the English law. But I suppose, after what India says in the last 3 lines of page 1 of its letter, that we cannot enter on that branch of the subject. As to the rest, I am inclined to agree with the Secretary. I do not see what we shall gain by consulting the Rev. Mr. — we know already all they can tell us and it is advisable not to publish more widely than is essential confid. papers of this

C. No. 10,525 of 1897.

18

From the papers forwarded with the above, it appears that organized attempts were made in the Bombay Presidency towards the close of 1896 to induce landholders to withhold payment of land revenue. A mass meeting attended by 2000 persons was held on 13-11-96 at a place called Khatalvad, at which a Professor Sathe explained to his audience that "if the crops had failed, they should not be assessed to Govt." The proceedings of this meeting were commented on in an article of the Kesari newspaper dated 15-12-96 edited by Lilak, which contained the following statements:—"He (the Professor) clearly explained to all the assembled people that they should not pay the assessment if they were not in a position to do so." Again, "And where the crops have really failed, the people should take a vow not to pay the assessment." Placards containing extracts from this article were posted in various places in the Thana district, and stating that it was the duty of the people by crying out a thousand times or by

presenting petitions to obtain from Govt. the privileges granted to them by the Famine Code, and that they should make a fixed resolve not to pay assessments "when the crops had really failed. The leaders were also exhorted to help the people in forming the resolution and it was pointed out that prompt payment of his dues even by one person would affect other persons injuriously and that they ^{people} must be prepared to suffer inconvenience, if necessary, while quarrelling according to law". A Poona Association, called the Sarvajani Sabha, is stated to have sent out agents to various districts ostensibly to explain the provisions of the Famine Code; but the result was that in many districts there were unmistakeable signs of a determination not to pay land revenue. The provisions of the Land Revenue Code, however, enabled Govt. to break down the combinations and recover the Govt. dues.

2. The Bombay Govt consulted its Advocate-General in regard to the success of any legal steps that might be taken against the organisers of these attempts. That officer pointed out that an incitement not to pay the Govt. Revenue was not punishable as contempt, as the latter should be subject of an offence, which non-payment of revenue was not. He added that by the Common Law of England and Ireland

2
Kunil. It is clear that, in the event of a strike against the payment of land revenue, we should be in by no means as good a position as the Bombay Govt was last year, for Act II of 1864 (Madras) contains no provisions so drastic & so capable of immediate application as the Bombay Revenue Code. I should therefore take advantage of the present opportunity to amend our Act, for the amendment of which in other respects a bill is now ready, in the manner proposed. Even so, we shall ~~be~~ be far from as well off as the Bombay Govt, for we shall ^{still} have no section corresponding to s. 153 of the Bombay Act and shall still be tied down to the somewhat cumbersome & dilatory procedure of II of 1864 - but perhaps, as our people are not so troublesome as the Bombay people, we can manage - These papers explain, what I have before quite understood, the prosecution of Tilak on a comparatively inobjectionable newspaper article.

27/1/98

You are inclined to the opinion of Sir H. Bliss as to the law of conspiracy. But, we are not prepared to raise that large question; and I do not consider

consider the present moment as suitable one for raising it.

Mr. Forbes has, I think, studied the case well, in his Note, of 19.1.98, and I would accept what he says.

On the whole, I consider that it would be better not to refer to the B's.

A. H.

30.1.98

Please see below
Mk

3
Ireland for two or three persons to conspire together to do an injury to a third party or a class of persons was an offence, though the injury itself might not be so and that it was this law of conspiracy that persons who incited tenants in Ireland not to make payment to landlords were tried and punished. The Advocate-General suggested that this law should be incorporated in the I. P. Code and that further it should be made an offence even for a person to incite another to withhold payment of the Govt. revenue. The Bombay Govt. made a recommendation accordingly to the Govt. of India. The latter is, however, opposed to the adoption of the English law of conspiracy and is prepared to consider only the second proposal of the Bombay Govt.

2. In its letter read above to Govt. of India enquires whether any difficulties have occurred in this Presidency similar to those in Bombay. So far as known, the reply to this enquiry is in the negative. There was, however, an agitation sometime back in the Kistna district against the enhancement of the rate of water-tax, which resulted in large relinquishment of the permission to take water for the irrigation of wet crops and in the consequent transfer of the lands from wet to dry. The correspondence on this subject has been out with the Advocate-General.

6

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vari Settlement papers in circulation and is not therefore available. Notwithstanding the relinquishments, the ryots irrigated their crops during the year for which water rate was charged, and in the following year they submitted applications for permission to take water as usual and had their lands retransferred to wet.

4. The second question put by the Govt. of India is whether on the next occasion for ^{amending} the land revenue law a section may be added thereto, making it an offence for any person to incite another to withhold payment of the land revenue. The Revenue Recovery Act of this Presidency contains adequate provisions for the realization of the revenue, but does not furnish a ready means of putting down a conspiracy in its inception and of meting out due punishment to the agitator who ^{deserves} it more than the ignorant people who are misled by him. For this reason it is thought that the proposal will commend itself to Govt. and that in that event a reply in the affirmative may be furnished to the Govt. of India.

R.O.
17/1/98
Sey
The first question is whether difficulties similar to those which have occurred in Bombay have been experienced in this Presidency.

First copy
Return
Respat
AD AG
CURRE
ENCL
Date
L
S
I
This as the U.S. says is quite a different case. In the Bombay case they ~~combined to prevent~~ incited the people to omit doing what they were legally bound to do: in Kistna there was incitation & combination to omit doing what each individual might do or not do just as he chose.

GH
Yes.
#54

5 38
B.P. No 2430 Misc D 14 May 1895 gives a full account of the water rate agitation in Kistna & Godavari in 1895. The case is not exactly the same however as the Bombay case. Govt had raised the water rate 1 Re a the ryots, instigated us doubt by the riches among the landholders who were also vakeils. Relinquishment relieving their applications for water & announced their resolution to cultivate their lands with dry crops. The Govt remained firm & the ryots soon realized the futility of "cutting off their noses to spite their faces." The Bombay agitations however seem to have been fomented by political agitators who saw an opportunity in the famine. There

6
have been no such
agitations in this
Presidency. Local
conspiracies to evade
the payment of revenue
are ^{however} probably not un-
common. In the
upland villages of the
Tanjore Taluk, the
Kallas Mols often
combine & refuse to
pay the Govt. Morabbi
property disappears
when it is sought to be
attached and selling
the land is useless
for nobody in the
village will bid anything
up to its value and
no outsider wd have
to take it up. If the
land is not really very
valuable, the defaulters
will allow it to be bought
in by Govt. on the chance
of being able to get it
on a ^{fraudulent} darkhast. Otherwise
some relation of the
defaulter will bid a ~~little~~
for ^{what} as low a rate as he

I don't think these circumstances
cover the case contemplated.

The danger is that agitators
may mislead the people into
imagining that if they should
a determined & united front
Govt will give in. There is ^{to be}
a rude awakening. But
meantime serious consequences
may have occurred

7
can get the Revenue
Inspector to knock it
down for.

6. For a conspiracy,
to wit that ^{land revenue},
by whatever motive prompted
to be successful, three
conditions seem necessary

- (1) The land must not
be very valuable.
- (2) The conspirators must
not be dependent on it
- (3) The conspirators must
be prepared to suffer
considerably and be
endowed with a spirit
of cohesion & pugnacity.
Every where throughout
this Presidency some these
of them ~~can~~ conditions
seem to be wanting,
~~and not present~~. Either
the land is very valuable
or the people are wholly
dependent on it. and
at present, at all events
there is no spirit of
cohesion or ~~unlawful~~ pugnacity
anywhere.

7. It seems very
unlikely therefore whether

8
such conspiracies are ~~very~~
ever likely to cause
serious anxiety in this
Presidency.

8. The next question
relates to the proposed
amendment of the land
revenue law by inserting
a provision making it
an offence for any person
to incite another to
withhold payment of
the land revenue.

Although conspiracies
of the kind under discussion
~~but~~ most probably never
be successful in this
Presidency, & though they
may never give Govt
anxiety yet it is quite
possible that the time
may come when political
agitation with ~~as~~ ^{the}
~~means of bringing~~ turn
their energies in this
direction, if not in the
hope of success yet in the
hope of bringing odium
on the Govt amongst the
ignorant mpto. It is submitted

Rajah

In the Bombay case there
was open preaching of
resistance.

The evidence difficulty is
common to all qns of
conspiracy or abetment

877

9
58
that the section wd be
a difficult one to use.
Evidence of the incitement
wd not be easily forthcoming.
But the existence of the
provision might prove
a valuable warning.

9. In this connection it may
be noted that the Bombay
Code (vide sections 150 & 151
of Bombay Act V of 1879
p 349 in the vol put up)
contains much more
stringent provisions
for the recovery of arrears
of land revenue than
our Act II of 1864.

The Bombay Code provides
for the occupance or
alienated holding in
respect of which an
arrear of land revenue
is due ^{being} forfeited
to Govt, ~~without going~~
and also provides

for the arrest & imprison-
ment of the defaulter.
10. The question raised ~~here~~ may it
be submitted be referred
to the Bd. for opinion

Sec 153
of Act
V of 1879

Sec 157
of do.

+ Under the Madras
Act the defaulter
can ~~only~~ be imprisoned
only if the arrear
cannot be liquidated
& sale of the property
& even then only if
Collector has reason to
suspect fraud. (See 48 of Act II of 1864)

Not.

I don't think it is necessary
to refer the matter to the
Board for opinion.

The provision is meant to be
+ 0.3 in this per he; it is hoped,
no more than a preventive
measure: A sign post warning
the people against the thin
ice.

Agitation & preaching in
favour of withholding gov't
revenue may not gain much
success: but such agitation
has a cumulative effect
if there is no remedy in the
gov't. Pharmacopoeia to purge
it. If it is allowed to go on
unchecked it slowly but
surely loosens the attachment
of the people to the gov't. This is
~~perhaps~~ true of all political
agitation directed against
the gov't: but in the matter of the
pay of the land revenue, which
comes home to so vast a proportion
of the people of India the effect
is peculiarly malignant.

I think the Gov't may promise to
make a provision in the Land Revenue Bill 19.1.98

Has the Gov't
Draft to a appeal
8/11/98

15/2/98

C. No 10.525 of 19

G.O. 8/16 Feb 1898 No 798 M
ordered that the following
letter be despatched to the Gov't
of India.

The Judicial Dept with
G.O. No 2236.37 returned
27.10.93

No 799

The Secy to the Gov't of India
Home Dept

I am directed to acknowledge
the receipt of your letter No 1474
Judicial dated 12.11.97 enquiring
whether any difficulties have been
experienced in the Presidency in
the realization of the land revenue
similar to those that have occurred
in Bombay and suggesting the
inclusion in the land revenue
law, when it next comes under
consideration

^{amendment}
~~consideration~~ of a provision making
 it an offence for any person
 to write another to withhold
 payment of the land revenue.
 2. I am to state in reply that
 there has as yet been no case reported
 of organised
 agitation in this Presidency
 in favour of withholding the
 Govt revenue and that the
 absence of the proposed provision
 from the land Revenue Code
 has therefore not been felt.
 At the same time H.E. wil. recognises that such agitation has a
 cumulative effect, & if allowed
 to go on unchecked slowly but
 surely loosens the attachment
 of the people to the Govt. a
 provision on the lines suggested
 will not only furnish a ready
 remedy in the event of its
 operation being actually required
 but will be ^{at least} even more
 valuable as a
 measure of ~~prevention~~ ^{warning} &
 prevention.
 H.E. The Government
 in Council therefore accept
 the suggestion of the Govt of
 India and I am accordingly
 to state that the necessary
 provision will be made
 in Act II of 1864 (Madras),
 for the amendment of which
 in other respects a Draft Bill
 is now ready.

KD
 2/2/98

8/2/98

First copy sent to Press.

Returned for Signature.

Despatched.

READ AGAIN G.O., N.
 189

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ORDER OF GOVERNMENT

LETTER OF GOVERNMENT.

STATEMENT WITH DITTO

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CONFIDENTIAL.

Government {1898} of Madras.
REVENUE.

CONFIDENTIAL.

Recd.

Regd.

} 1898.

Enclosures

Spare copies

G.O., Mis. No. 798, 16th February 1898.

FEBRUARY.

Act II of 1864.

Stating that the Government of India will be addressed in connection with certain proposals made by them in amending —.

CONFIDENTIAL.

GOVERNMENT OF MADRAS.

REVENUE DEPARTMENT.

READ—the following paper:—

From J. P. HEWETT, Esq., C.I.E., Secretary to the Government of India, Home Department (Judicial), to the Chief Secretary to the Government of Madras, dated Simla, the 12th November 1897, No. 1474.

I am directed to forward the enclosed correspondence * with the Government of Bombay regarding a proposal made by that Government, in consequence of an organized attempt made to induce occupants of land to withhold payment of land revenue, to the effect that the Government of India should consider the expediency of including in the Indian Penal Code a section or sections to make

* Letter from the Government of Bombay, No. 582, dated the 20th February 1897, and enclosures.
Letter to the Government of Bombay, No. 561, dated the 7th May 1897.
Letter from the Government of Bombay, No. 418, dated the 25th July 1897.

it an offence in India, as it is under the common law in England, to conspire to do an injury which is not itself an offence, and also a provision to make it an offence for even one person to incite the withholding of Government revenue. The Government of India inquired of the Bombay Government whether the exercise of the authorized coercive processes for the collection of the land revenue had been generally successful, and have received from the Governor in Council an assurance that they have been found perfectly efficacious in defeating the combinations that were commenced to prevent the recovery of the revenue. The Bombay Government, however, while admitting that this measure is not in existing circumstances necessary for the protection of the revenue, represent that the common law of England as to conspiracy is a reasonable and equitable law which might advantageously be applied in India.

In Sir Charles Lyall's strictly confidential letter No. 1460-1464, dated 4th October 1893, certain Local Governments and Administrations were consulted as to a proposal made by the Government of the North-Western Provinces and Oudh in its letter No. 105-4, dated 18th September 1893, for the insertion in the Indian Penal Code of two sections dealing with the law of conspiracy, and, after considering the replies of Local Governments to this reference, the Government of India determined that it was not then desirable to alter the law in the direction proposed by Sir Charles Crosthwaite. They are, as at present advised, opposed to the adoption of the English law of conspiracy in England, and do not wish at the present juncture to further consider the proposal of the Bombay Government on this point. But a suggestion has been made that it might be made an offence in the land revenue law in force in each province to incite any person to withhold payment of the land revenue, and I am desired to inquire whether any such difficulties have occurred in Madras as occurred in Bombay. I am also to ask

whether the Governor in Council thinks it advisable that when the land revenue law in Madras next comes under amendment, a section should be added to it, containing a provision in accordance with the suggestion above referred to, so as to afford a ready means of proceeding criminally against any persons who may at any time take a leading part in organizing a conspiracy or exciting an agitation against the payment of Government land revenue.

ENCLOSURES.

Endorsement No. 2635, Judicial.

Transferred to the Revenue Department with G.O., No. 2236-37, Judicial, dated 27th October 1893 (to be returned when done with).

FORT ST. GEORGE,
2nd December 1897.

(Signed) A. T. ARUNDEL,
Chief Secretary.

ORDER—Mis. No. 798, Revenue, dated 16th February 1898.

Ordered that the following letter be despatched to the Government of India.

(True Extract.)

(Signed) G. S. FORBES,
Secretary to Government.

To the Judicial Department, with G.O., Nos. 2236-37,
dated 27th October 1893, returned.

Ed. J. Henricus,
18 Copies.

1898.

HOME DEPARTMENT.

CONFIDENTIAL.

From *The Government of Fort St. George.*

Recd.

Regd.

} 1898.

Enclosures

Spare copies

Letter, No. 799, Revenue, 16th February 1898.

FEBRUARY.

STATING that there has as yet been no case reported of organized agitation in this Presidency in favour of withholding the Government revenue, and that this Government accepts the suggestion to amend the land revenue law.

CONFIDENTIAL.

REVENUE DEPARTMENT.

LETTER—from

THE HON'BLE MR. G. S. FORBES, I.C.S.,
Secretary to the Government of Madras,
Revenue Department,

To

THE SECRETARY TO THE GOVERNMENT OF INDIA,
HOME DEPARTMENT.

Dated Fort St. George, 16th February 1898.

SIR,

I am directed to acknowledge the receipt of your letter No. 1474, Judicial, dated 12th November 1897, enquiring whether any difficulties have been experienced in this Presidency in the realization of the land revenue similar to those that have occurred in Bombay, and suggesting the insertion in the land revenue law, when it next comes under amendment, of a provision making it an offence for any person to incite another to withhold payment of the land revenue.

2. I am to state in reply that there has as yet been no case reported of organized agitation in this Presidency in favour of withholding the Government revenue, and that the absence of the proposed provision from the Land Revenue Code has therefore not been felt. At the same time His Excellency in Council recognises that such agitation has a cumulative effect, and if allowed to go on unchecked slowly but surely loosens the attachment of the people to the Government. A provision on the lines suggested will not only furnish a ready remedy in the event of its operation being actively required, but will be even more valuable as a measure of warning and prevention. His Excellency the Governor in Council therefore accepts the suggestion of the Government of India and I am accordingly to state that the necessary provision will be made in Act II of 1864 (Madras), for the amendment of which in other respects a draft Bill is now ready.

I have the honour to be,

Sir,

Your most obedient servant,

(Signed) G. S. FORBES,
Secretary to Government.

Exd, J. Henricus.

18 Copies.

CONFIDENTIAL.

REVENUE DEPARTMENT.

NOTES CONNECTED WITH G.O., Nos. 798, 799, REVENUE, DATED
16TH FEBRUARY 1898.

Proceedings of the Judicial Department, No. 2635, dated 2nd December 1897.

[SUBJECT.—*Amendment of Act II of 1864 (M.).*]

To Secretary—

From the papers forwarded with the above, it appears that organized attempts were made in the Bombay Presidency towards the close of 1896 to induce land-holders to withhold payment of land revenue. A mass meeting, attended by 2,000 persons, was held on 13th November 1896 at a place called Khatalvad, at which a Professor Sathe explained to his audience that "if their crops had failed, they should not pay assessment to Government." The proceedings of this meeting were commented on in an article of the *Kesari* newspaper, dated 15th December 1896, edited by Tilak, which contained the following statements:—"He (the Professor) clearly explained to all the assembled people that they should not pay the assessment if they were not in a position to do so." Again, "and where the crops have really failed, the people should take a vow not to pay the assessment." Placards containing extracts from this article were posted in various places in the Thana district, stating that it was the duty of the people by crying out a thousand times or by presenting petitions to obtain "from Government the privileges granted to them by the Famine Code, and that they should make a fixed resolve not to pay assessments" when the crops had really failed. The leaders were also exhorted to help the people in forming the resolution and it was pointed out that prompt payment of his dues even by one person would affect other persons injuriously and that the people must be prepared to suffer inconvenience, if necessary, "while quarrelling according to law". A Poona association, called the Sarvajanic Sabha, is stated to have sent out agents to various districts ostensibly to explain the provisions of the Famine Code, but the result was that in many districts there were unmistakable signs of a determination not to pay land revenue. The provisions of the Land Revenue Code, however, enabled Government to break down the combinations and recover the Government dues.

2. The Bombay Government consulted its Advocate-General in regard to the success of any legal steps that might be taken against the organizers of these attempts. That officer pointed out that an incitement not to pay the Government revenue was not punishable as abetment, as the latter should be abetment of an offence, which non-payment of revenue was not. He added that by the Common Law of England and Ireland for two or three persons to conspire together to do an injury to a third party or a class of persons was an offence, though the injury itself might not be so and that it was under this law of conspiracy that persons who incited tenants in Ireland not to make payment to landlords were tried and punished. The Advocate-General suggested that this law should be embodied in

the Indian Penal Code and that further it should be made an offence even for one person to incite another to withhold payment of the Government revenue. The Bombay Government made a recommendation accordingly to the Government of India. The latter is, however, opposed to the adoption of the English Law of conspiracy and is prepared to consider only the second proposal of the Bombay Government.

3. In their letter read above, the Government of India enquire whether any difficulties have occurred in this Presidency similar to those in Bombay. So far as known, the reply to this enquiry is in the negative. There was, however, an

Please see below.

N.E.M.

agitation some time back in the Kistna district against the enhancement of the rate of water-tax, which resulted in large relinquishment of the permission to take water for the irrigation of wet crops and in the consequent transfer of the lands from wet to dry. The correspondence on this subject has been put up with the Gódavari settlement papers in circulation and is not therefore available. Notwithstanding the relinquishments, the ryots irrigated their crops during the year for which water-rate was charged, and in the following year they submitted applications for permission to take water as usual and had their lands retransferred to wet.

4. The second question put by the Government of India is whether on the next occasion for amending the land revenue law a section may be added thereto making it an offence for any person to incite another to withhold payment of the land revenue. The Revenue Recovery Act of this Presidency contains adequate provisions for the realization of the revenue, but does not furnish a ready means of putting down a conspiracy in its inception and of meeting out due punishment to the agitator who deserves it more than the ignorant people who are misled by him. For this reason it is thought that the proposal will commend itself to Government and that in that event a reply in the affirmative may be furnished to the Government of India.

V.K.R.

17-1-98.

5. The first question is whether difficulties similar to those which have occurred in Bombay have been experienced in this Presidency. Board's Proceedings, Mis. No. 2430, dated 14th May 1895, gives a full account of the water-rate agitation in Kistna and Gódavari in 1895. The case is not exactly the same, however, as

This, as the Under Secretary says, is quite a different case. In the Bombay case they incited the people to omit doing what they were legally bound to do: in Kistna there was incitation and combination to omit doing what each individual might do or not do just as he chose.

G.S.F.

Yes.

A. E. H[AVELOCK].

"to spite their faces." The Bombay agitations, however, seem to have been fomented by political agitators who saw an opportunity in the famine. There have been no such agitations in this Presidency. Local conspiracies to evade the payment of revenue are however probably not uncommon, e.g., in the upland villages of the Tanjore taluk, the Kallar ryots often combine and refuse to pay the kist. Moveable property disappears when it is sought to be attached and selling the land is useless for nobody in the village will bid anything up to its value and no outsider would have to take it up. If the land is not really very valuable, the defaulters will allow it to be bought in by Government on the chance of being able to get it on a fraudulent darkhast. Otherwise some relation of the defaulter will bid for that as low a rate as he can get the Revenue Inspector to knock it down for.

6. For a conspiracy, to withhold land revenue by whatever motive prompted, to be successful, three conditions seem necessary—

I don't think these circumstances cover the case contemplated.

The danger is that agitators may mislead the people into imagining that if they show a determined and united front, Government will give in. There would be a rude awakening. But meantime serious consequences may have occurred.

G.S.F.

(1) The land must not be very valuable.

(2) The conspirators must not be dependent on it.

(3) The conspirators must be prepared to suffer considerably and be endowed with a spirit of cohesion and pugnacity. Everywhere throughout this Presidency these conditions seem to

be wanting. Either the land is very valuable or the people are wholly dependent on it, and at present, at all events, there is no spirit of cohesion or pugnacity anywhere.

7. It seems very unlikely, therefore, whether such conspiracies are ever likely to cause serious anxiety in this Presidency.

8. The next question relates to the proposed amendment of the land revenue law by inserting a provision making it an offence for any person to incite another to withhold payment of the land revenue.

Although conspiracies of the kind under discussion most probably never be successful in this Presidency and though they may never give Government anxiety, yet it is quite possible that the time may come when political agitators will turn their energies in this direction, if not in the hope of success yet in the hope of bringing odium on the Government amongst the ignorant ryots. It is submitted

In the Bombay case there was open preaching of resistance.

The evidence difficulty is common to all questions of conspiracy or abetment.

G.S.F.

that the section would be a difficult one to use. Evidence of the incitement would not be easily forthcoming. But the existence of the provision might prove a valuable warning.

9. In this connection it may be noted that the Bombay Code (*vide* section 150 *et seq.* of Bombay Act V of 1879) contains much more stringent provisions for the recovery of arrears of land revenue than our Act II of 1864.

The Bombay Code provides for the occupancy or alienated holding in respect of which an arrear of land revenue is due being forfeited to Government, and also provides for the arrest and imprisonment of the defaulter.*

* Under the Madras Act the defaulter can be imprisoned only if the arrears cannot be liquidated by sale of the property and even then only if Collector has reason to suspect fraud (section 48 of Act II of 1864).

Section 157 of Bombay Act V of 1879.

10. The questions raised may, it is submitted, be referred to the Board for opinion.

N. E. MARJORIBANKS.

18-1-98.

To the Honourable Member and for circulation—

I don't think it is necessary to refer the matter to the Board for opinion.

The provision is meant to be and would in this Presidency be, it is hoped, no more than a preventive measure: a sign post warning the people against the thin ice.

Agitation and preaching in favour of withholding Government revenue may not gain much success: but such agitation has a cumulative effect if there is no remedy in the Government pharmacopoeia to purge it. If it is allowed to go on unchecked it slowly but surely loosens the attachment of the people to the Government. This is perhaps true of all political agitation directed against the Government: but in the matter of the payment of the land revenue, which comes home to so vast a proportion of the people of India, the effect is peculiarly malign.

I think the Government may promise to make a provision in the Land Revenue Code.

G. S. FORBES.

19-1-98.

We should refer to the Board for opinion. There has been no case in the Presidency yet in which the proposed enactment was necessary, but these may be in the future. A Bill to alter the Act about recovering land revenue is on the anvil.

J. G^[ROSE].
25-1-98.

I have often thought that the law of conspiracy in India should be assimilated to the English Law. But I suppose, after what India says in the last three lines of page 1 of its letter, that we cannot enter on that branch of the subject. As to the rest, I am inclined to agree with the Secretary. I do not see what we shall gain by consulting the Revenue Board. We know already all they can tell us and it is advisable not to publish more widely than is essential confidential papers of this kind. It is clear that, in the event of a strike against the payment of land revenue, we should be in by no means as good a position as the Bombay Government was last year, for Act II of 1864 (Madras) contains no provisions so drastic and so capable of immediate application as the Bombay Revenue Code. I should therefore take advantage of the present opportunity to amend our Act, for the amendment of which, in other respects, a Bill is now ready in the manner proposed. Even so we shall be far from as well off as the Bombay Government, for we shall still have no section corresponding to section 153 of the Bombay Act and shall still be tied down to the somewhat cumbrous and dilatory procedure of Act II of 1864. But perhaps as our people are not so troublesome as the Bombay people, we can manage.

These papers explain, what I never before quite understood, the prosecution of Tilak on a comparatively unobjectionable newspaper article.

H. B^[LISS].
27-1-98.

I am inclined to the opinion of Sir Henry Bliss as to the law of conspiracy. But, we are not allowed to raise that large question; and I do not consider the present moment a suitable one for raising it.

Mr. Forbes has, I think, stated the case well, in his note of 19th January 1898, and I would accept what he says.

On the whole, I consider that it would be better not to refer to the Board.

A. E. H^[AVELOCK].
30-1-98.

To the Hon'ble Mr. J. Grose—

Drafts submitted for approval.

Issue.

G.S.F.
11-2-98

G.S.F.
J.G. (on draft.)
15-2-98.

[Issued as G.O., No. 798 and letter No. 799, Revenue, dated 16th February 1898.]

Government (1898) of Madras. REVENUE.

CONFIDENTIAL.

Recd.

Regd.

Enclosures

1898.

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G.O., Mis. No. 798, 16th February 1898.

FEBRUARY.

Act II of 1864.

Stating that the Government of India will be addressed in connection with certain proposals made by them in amending —.

CONFIDENTIAL.

GOVERNMENT OF MADRAS.

REVENUE DEPARTMENT.

READ—the following paper:—

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Endorsement No. 2635, Judicial.

Transferred to the Revenue Department with G.O., No. 2236-37, Judicial, dated 27th October 1893 (to be returned when done with).

FORT ST. GEORGE,
2nd December 1897.

(Signed) A. T. ARUNDEL,
Chief Secretary.

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(True Extract.)

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Secretary to Government.

To the Judicial Department, with G.O., Nos. 2236-37,
dated 27th October 1893, returned.

Exd. J. Henriens.

18 Copies.

1898.

HOME DEPARTMENT.

CONFIDENTIAL.

From

The Government of Fort St. George.

Recd.

Regd.

} 1898.

Enclosures

Spare copies

Letter, No. 799, Revenue, 16th February 1898.

FEBRUARY.

STATING that there has as yet been no case reported of organized agitation in this Presidency in favour of withholding the Government revenue, and that this Government accepts the suggestion to amend the land revenue law.

CONFIDENTIAL.

REVENUE DEPARTMENT.

LETTER—from

THE HON'BLE MR. G. S. FORBES, I.C.S.,
Secretary to the Government of Madras,
Revenue Department,

To

THE SECRETARY TO THE GOVERNMENT OF INDIA,
HOME DEPARTMENT.

Dated Fort St. George, 16th February 1898.

SIR,

I am directed to acknowledge the receipt of your letter No. 1474, Judicial, dated 12th November 1897, enquiring whether any difficulties have been experienced in this Presidency in the realization of the land revenue similar to those that have occurred in Bombay, and suggesting the insertion in the land revenue law, when it next comes under amendment, of a provision making it an offence for any person to incite another to withhold payment of the land revenue.

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I have the honour to be,

Sir,

Your most obedient servant,

(Signed) G. S. FORBES,
Secretary to Government.

Encl. J. Henricus.

18 Copies.

CONFIDENTIAL.

REVENUE DEPARTMENT.

NOTES CONNECTED WITH G.O., Nos. 798, 799, REVENUE, DATED
16TH FEBRUARY 1898.

Proceedings of the Judicial Department, No. 2635, dated 2nd December 1897.

[SUBJECT.—Amendment of Act II of 1864 (M.).]

To Secretary—

From the papers forwarded with the above, it appears that organized attempts were made in the Bombay Presidency towards the close of 1896 to induce landholders to withhold payment of land revenue. A mass meeting, attended by 2,000 persons, was held on 13th November 1896 at a place called Khatalvad, at which a Professor Sathe explained to his audience that "if their crops had failed, they should not pay assessment to Government." The proceedings of this meeting were commented on in an article of the *Kesari* newspaper, dated 15th December 1896, edited by Tilak, which contained the following statements:—"He (the Professor) clearly explained to all the assembled people that they should not pay the assessment if they were not in a position to do so." Again, "and where the crops have really failed, the people should take a vow not to pay the assessment." Placards containing extracts from this article were posted in various places in the Thana district, stating that it was the duty of the people by crying out a thousand times or by presenting petitions to obtain "from Government the privileges granted to them by the Famine Code, and that they should make a fixed resolve not to pay assessments" when the crops had really failed. The leaders were also exhorted to help the people in forming the resolution and it was pointed out that prompt payment of his dues even by one person would affect other persons injuriously and that the people must be prepared to suffer inconvenience, if necessary, "while quarrelling according to law". A Poona association, called the Sarvajanik Sabha, is stated to have sent out agents to various districts ostensibly to explain the provisions of the Famine Code, but the result was that in many districts there were unmistakable signs of a determination not to pay land revenue. The provisions of the Land Revenue Code, however, enabled Government to break down the combinations and recover the Government dues.

2. The Bombay Government consulted its Advocate-General in regard to the success of any legal steps that might be taken against the organizers of these attempts. That officer pointed out that an incitement not to pay the Government revenue was not punishable as abetment, as the latter should be abetment of an offence, which non-payment of revenue was not. He added that by the Common Law of England and Ireland for two or three persons to conspire together to do an injury to a third party or a class of persons was an offence, though the injury itself might not be so and that it was under this law of conspiracy that persons who incited tenants in Ireland not to make payment to landlords were tried and punished. The Advocate-General suggested that this law should be embodied in

the Indian Penal Code and that further it should be made an offence even for one person to incite another to withhold payment of the Government revenue. The Bombay Government made a recommendation accordingly to the Government of India. The latter is, however, opposed to the adoption of the English Law of conspiracy and is prepared to consider only the second proposal of the Bombay Government.

3. In their letter read above, the Government of India enquire whether any difficulties have occurred in this Presidency similar to those in Bombay. So far as known, the reply to this enquiry is in the negative. There was, however, an

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N.E.M.

agitation some time back in the Kistna district against the enhancement of the rate of water-tax, which resulted in large relinquishment of the permission to take water for the irrigation of wet crops and in the consequent transfer of the lands from wet to dry. The correspondence on this subject has been put up with the Gódávári settlement papers in circulation and is not therefore available. Notwithstanding the relinquishments, the ryots irrigated their crops during the year for which water-rate was charged, and in the following year they submitted applications for permission to take water as usual and had their lands retransferred to wet.

4. The second question put by the Government of India is whether on the next occasion for amending the land revenue law a section may be added thereto making it an offence for any person to incite another to withhold payment of the land revenue. The Revenue Recovery Act of this Presidency contains adequate provisions for the realization of the revenue, but does not furnish a ready means of putting down a conspiracy in its inception and of meeting out due punishment to the agitator who deserves it more than the ignorant people who are misled by him. For this reason it is thought that the proposal will commend itself to Government and that in that event a reply in the affirmative may be furnished to the Government of India.

V.K.R.

17-1-98.

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G.S.F.

Yes.

A. E. H[AVELOCK].

"to spite their faces." The Bombay agitations, however, seem to have been fomented by political agitators who saw an opportunity in the famine. There have been no such agitations in this Presidency. Local conspiracies to evade the payment of revenue are however probably not uncommon, *e.g.*, in the upland villages of the Tanjore taluk, the Kallar ryots often combine and refuse to pay the kist. Moveable property disappears when it is sought to be attached and selling the land is useless for nobody in the village will bid anything up to its value and no outsider would have to take it up. If the land is not really very valuable, the defaulters will allow it to be bought in by Government on the chance of being able to get it on a fraudulent darkhast. Otherwise some relation of the defaulter will bid for that as low a rate as he can get the Revenue Inspector to knock it down for.

6. For a conspiracy, to withhold land revenue by whatever motive prompted, to be successful, three conditions seem necessary—

I don't think these circumstances cover the case contemplated.

The danger is that agitators may mislead the people into imagining that if they show a determined and united front, Government will give in. There would be a rude awakening. But meantime serious consequences may have occurred.

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(1) The land must not be very valuable.

(2) The conspirators must not be dependent on it.

(3) The conspirators must be prepared to suffer considerably and be endowed with a spirit of cohesion and pugnacity. Everywhere throughout this Presidency these conditions seem to

be wanting. Either the land is very valuable or the people are wholly dependent on it, and at present, at all events, there is no spirit of cohesion or pugnacity anywhere.

7. It seems very unlikely, therefore, whether such conspiracies are ever likely to cause serious anxiety in this Presidency.

8. The next question relates to the proposed amendment of the land revenue law by inserting a provision making it an offence for any person to incite another to withhold payment of the land revenue.

Although conspiracies of the kind under discussion most probably never be successful in this Presidency and though they may never give Government anxiety, yet it is quite possible that the time may come when political agitators will turn their energies in this direction, if not in the hope of success yet in the hope of bringing odium on the Government amongst the ignorant ryots. It is submitted that the section would be a difficult one to use. Evidence of the incitement of resistance.

The evidence difficulty is common to all questions of conspiracy or abetment.

G.S.F.

would not be easily forthcoming. But the existence of the provision might prove a valuable warning.

9. In this connection it may be noted that the Bombay Code (*vide* section 150 *et seq.* of Bombay Act V of 1879) contains much more stringent provisions for the recovery of arrears of land revenue than our Act II of 1864.

The Bombay Code provides for the occupancy or alienated holding in respect

of which an arrear of land revenue is due being forfeited to Government, and also provides for the arrest and imprisonment of the defaulter.*

Section 153 of Bombay Act V of 1879.

* Under the Madras Act the defaulter can be imprisoned only if the arrears cannot be liquidated by sale of the property and even then only if Collector has reason to suspect fraud (section 48 of Act II of 1864).

10. The questions raised may, it is submitted, be referred to the Board for opinion.

Section 157 of Bombay Act V of 1879.

N. E. MARJORIBANKS.
18-1-98.

To the Honourable Member and for circulation—

I don't think it is necessary to refer the matter to the Board for opinion.

The provision is meant to be and would in this Presidency be, it is hoped, no more than a preventive measure: a sign post warning the people against the thin ice.

Agitation and preaching in favour of withholding Government revenue may not gain much success: but such agitation has a cumulative effect if there is no remedy in the Government pharmacopœia to purge it. If it is allowed to go on unchecked it slowly but surely loosens the attachment of the people to the Government. This is perhaps true of all political agitation directed against the Government: but in the matter of the payment of the land revenue, which comes home to so vast a proportion of the people of India, the effect is peculiarly malign.

I think the Government may promise to make a provision in the Land Revenue Code.

G. S. FORBES.
19-1-98.

We should refer to the Board for opinion. There has been no case in the Presidency yet in which the proposed enactment was necessary, but these may be in the future. A Bill to alter the Act about recovering land revenue is on the anvil.

J. G[ROSE].
25-1-98.

I have often thought that the law of conspiracy in India should be assimilated to the English Law. But I suppose, after what India says in the last three lines of page 1 of its letter, that we cannot enter on that branch of the subject. As to the rest, I am inclined to agree with the Secretary. I do not see what we shall gain by consulting the Revenue Board. We know already all they can tell us and it is advisable not to publish more widely than is essential confidential papers of this kind. It is clear that, in the event of a strike against the payment of land revenue, we should be in by no means as good a position as the Bombay Government was last year, for Act II of 1864 (Madras) contains no provisions so drastic and so capable of immediate application as the Bombay Revenue Code. I should therefore take advantage of the present opportunity to amend our Act, for the amendment of which, in other respects, a Bill is now ready in the manner proposed. Even so we shall be far from as well off as the Bombay Government, for we shall still have no section corresponding to section 153 of the Bombay Act and shall still be tied down to the somewhat cumbrous and dilatory procedure of Act II of 1864. But perhaps as our people are not so troublesome as the Bombay people, we can manage.

These papers explain, what I never before quite understood, the prosecution of Tilak on a comparatively unobjectionable newspaper article.

H. B[LISS].
27-1-98.

I am inclined to the opinion of Sir Henry Bliss as to the law of conspiracy. But, we are not allowed to raise that large question; and I do not consider the present moment a suitable one for raising it.

Mr. Forbes has, I think, stated the case well, in his note of 19th January 1898, and I would accept what he says.

On the whole, I consider that it would be better not to refer to the Board.

A. E. H[AVELOCK].
30-1-98.

To the Hon'ble Mr. J. Grose—

Drafts submitted for approval.

Issue.

G.S.F.
11-2-98.

G.S.F.
J.G. (on draft.)
15-2-98.

[Issued as G.O., No. 798 and letter No. 799, Revenue, dated 16th February 1898.]

Government {1898} of Madras. REVENUE.

CONFIDENTIAL.

Recd.

Regd.

Enclosures

1898.

Spare copies

G.O., Mis. No. 798, 16th February 1898.

FEBRUARY.

Act II of 1864.

Stating that the Government of India will be addressed in connection with certain proposals made by them in amending —.

CONFIDENTIAL.

GOVERNMENT OF MADRAS.

REVENUE DEPARTMENT.

READ—the following paper:—

From J. P. HEWETT, Esq., C.I.E., Secretary to the Government of India, Home Department (Judicial), to the Chief Secretary to the Government of Madras, dated Simla, the 12th November 1897, No. 1474.

I am directed to forward the enclosed correspondence * with the Government of Bombay regarding a proposal made by that Government, in consequence of an organized attempt made to induce occupants of land to withhold payment of land revenue, to the effect that the Government of India should consider the expediency of including in the Indian Penal Code a section or sections to make

* Letter from the Government of Bombay, No. 582, dated the 20th February 1897, and enclosures.

Letter to the Government of Bombay, No. 561, dated the 7th May 1897.

Letter from the Government of Bombay, No. 418, dated the 25th July 1897.

it an offence in India, as it is under the common law in England, to conspire to do an injury which is not itself an offence, and also a provision to make it an offence for even one person to incite the withholding of Government revenue. The Government of India inquired of the Bombay Government whether the exercise of the authorized coercive processes for the collection of the land revenue had been generally successful, and have received from the Governor in Council an assurance that they have been found perfectly efficacious in defeating the combinations that were commenced to prevent the recovery of the revenue. The Bombay Government, however, while admitting that this measure is not in existing circumstances necessary for the protection of the revenue, represent that the common law of England as to conspiracy is a reasonable and equitable law which might advantageously be applied in India.

In Sir Charles Lyall's strictly confidential letter No. 1460-1464, dated 4th October 1893, certain Local Governments and Administrations were consulted as to a proposal made by the Government of the North-Western Provinces and Oudh in its letter No. 105-4, dated 18th September 1893, for the insertion in the Indian Penal Code of two sections dealing with the law of conspiracy, and, after considering the replies of Local Governments to this reference, the Government of India determined that it was not then desirable to alter the law in the direction proposed by Sir Charles Crosthwaite. They are, as at present advised, opposed to the adoption of the English law of conspiracy in England, and do not wish at the present juncture to further consider the proposal of the Bombay Government on this point. But a suggestion has been made that it might be made an offence in the land revenue law in force in each province to incite any person to withhold payment of the land revenue, and I am desired to inquire whether any such difficulties have occurred in Madras as occurred in Bombay. I am also to ask

whether the Governor in Council thinks it advisable that when the land revenue law in Madras next comes under amendment, a section should be added to it, containing a provision in accordance with the suggestion above referred to, so as to afford a ready means of proceeding criminally against any persons who may at any time take a leading part in organizing a conspiracy or exciting an agitation against the payment of Government land revenue.

ENCLOSURES.

Endorsement No. 2635, Judicial.

Transferred to the Revenue Department with G.O., No. 2236-37, Judicial, dated 27th October 1893 (to be returned when done with).

FORT ST. GEORGE,
2nd December 1897.

(Signed) A. T. ARUNDEL,
Chief Secretary.

ORDER—Mis. No. 798, Revenue, dated 16th February 1898.

Ordered that the following letter be despatched to the Government of India.

(True Extract.)

(Signed) G. S. FORBES,
Secretary to Government.

To the Judicial Department, with G.O., Nos. 2236-37,
dated 27th October 1893, returned.

Exd. J. Henrius.

18 Copies.

CONFIDENTIAL.

REVENUE DEPARTMENT.

NOTES CONNECTED WITH G.O., Nos. 798, 799, REVENUE, DATED
16TH FEBRUARY 1898.

Proceedings of the Judicial Department, No. 2635, dated 2nd December 1897.

[SUBJECT.—*Amendment of Act II of 1864 (M.).*]

To Secretary—

From the papers forwarded with the above, it appears that organized attempts were made in the Bombay Presidency towards the close of 1896 to induce landholders to withhold payment of land revenue. A mass meeting, attended by 2,000 persons, was held on 13th November 1896 at a place called Khatalvad, at which a Professor Sathe explained to his audience that "if their crops had failed, they should not pay assessment to Government." The proceedings of this meeting were commented on in an article of the *Kesari* newspaper, dated 15th December 1896, edited by Tilak, which contained the following statements:—"He (the Professor) clearly explained to all the assembled people that they should not pay the assessment if they were not in a position to do so." Again, "and where the crops have really failed, the people should take a vow not to pay the assessment." Placards containing extracts from this article were posted in various places in the Thana district, stating that it was the duty of the people by crying out a thousand times or by presenting petitions to obtain "from Government the privileges granted to them by the Famine Code, and that they should make a fixed resolve not to pay assessments" when the crops had really failed. The leaders were also exhorted to help the people in forming the resolution and it was pointed out that prompt payment of his dues even by one person would affect other persons injuriously and that the people must be prepared to suffer inconvenience, if necessary, "while quarrelling according to law". A Poona association, called the Sarvajanik Sabha, is stated to have sent out agents to various districts ostensibly to explain the provisions of the Famine Code, but the result was that in many districts there were unmistakable signs of a determination not to pay land revenue. The provisions of the Land Revenue Code, however, enabled Government to break down the combinations and recover the Government dues.

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Drafts submitted for approval.

Issue.

G.S.F.
11-2-98.

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J.G. (on draft.)
15-2-98.

[Issued as G.O., No. 798 and letter No. 799, Revenue, dated 16th February 1898.]

Government (1898) of Madras. REVENUE.

CONFIDENTIAL.

Recd.

Regd.

Enclosures

1898.

Spare copies

G.O., Mis. No. 798, 16th February 1898.

FEBRUARY.

Act II of 1864.

Stating that the Government of India will be addressed in connection with certain proposals made by them in amending —.

CONFIDENTIAL.

GOVERNMENT OF MADRAS.

REVENUE DEPARTMENT.

READ—the following paper:—

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I am directed to forward the enclosed correspondence * with the Government of Bombay regarding a proposal made by that Government, in consequence of an organized attempt made to induce occupants of land to withhold payment of land revenue, to the effect that the Government of India should consider the expediency of including in the Indian Penal Code a section or sections to make

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ENCLOSURES.

Endorsement No. 2635, Judicial.

Transferred to the Revenue Department with G.O., No. 2236-37, Judicial, dated 27th October 1893 (to be returned when done with).

FORT ST. GEORGE,
2nd December 1897.

(Signed) A. T. ARUNDEL,
Chief Secretary.

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(Signed) G. S. FORBES,
Secretary to Government.

To the Judicial Department, with G.O., Nos. 2236-37,
dated 27th October 1893, returned.

Exd. J. Henricus.

18 Copies.

1898.

HOME DEPARTMENT.

CONFIDENTIAL.

From

The Government of Fort St. George.

Recd.

Enclosures

Regd.

1898.

Spare copies

Letter, No. 799, Revenue, 16th February 1898.

FEBRUARY.

STATING that there has as yet been no case reported of organized agitation in this Presidency in favour of withholding the Government revenue, and that this Government accepts the suggestion to amend the land revenue law.

CONFIDENTIAL.

REVENUE DEPARTMENT.

LETTER—from

THE HON'BLE MR. G. S. FORBES, I.C.S.,
Secretary to the Government of Madras,
Revenue Department,

To

THE SECRETARY TO THE GOVERNMENT OF INDIA,
HOME DEPARTMENT.

Dated Fort St. George, 16th February 1898.

SIR,

I am directed to acknowledge the receipt of your letter No. 1474, Judicial, dated 12th November 1897, enquiring whether any difficulties have been experienced in this Presidency in the realization of the land revenue similar to those that have occurred in Bombay, and suggesting the insertion in the land revenue law, when it next comes under amendment, of a provision making it an offence for any person to incite another to withhold payment of the land revenue.

2. I am to state in reply that there has as yet been no case reported of organized agitation in this Presidency in favour of withholding the Government revenue, and that the absence of the proposed provision from the Land Revenue Code has therefore not been felt. At the same time His Excellency in Council recognises that such agitation has a cumulative effect, and if allowed to go on unchecked slowly but surely loosens the attachment of the people to the Government. A provision on the lines suggested will not only furnish a ready remedy in the event of its operation being actively required, but will be even more valuable as a measure of warning and prevention. His Excellency the Governor in Council therefore accepts the suggestion of the Government of India and I am accordingly to state that the necessary provision will be made in Act II of 1864 (Madras), for the amendment of which in other respects a draft Bill is now ready.

I have the honour to be,

Sir,

Your most obedient servant,

(Signed) G. S. FORBES,
Secretary to Government.

Exd. J. Henricus.

18 Copies.

CONFIDENTIAL.

182
REVENUE DEPARTMENT.

NOTES CONNECTED WITH G.O., Nos. 798, 799, REVENUE, DATED
16TH FEBRUARY 1898.

Proceedings of the Judicial Department, No. 2635, dated 2nd December 1897.

[SUBJECT.—Amendment of Act II of 1864 (M.).]

To Secretary—

From the papers forwarded with the above, it appears that organized attempts were made in the Bombay Presidency towards the close of 1896 to induce landholders to withhold payment of land revenue. A mass meeting, attended by 2,000 persons, was held on 13th November 1896 at a place called Khatalvad, at which a Professor Sathe explained to his audience that "if their crops had failed, they should not pay assessment to Government." The proceedings of this meeting were commented on in an article of the *Kesari* newspaper, dated 15th December 1896, edited by Tilak, which contained the following statements:—"He (the Professor) clearly explained to all the assembled people that they should not pay the assessment if they were not in a position to do so." Again, "and where the crops have really failed, the people should take a vow not to pay the assessment." Placards containing extracts from this article were posted in various places in the Thana district, stating that it was the duty of the people by crying out a thousand times or by presenting petitions to obtain "from Government the privileges granted to them by the Famine Code, and that they should make a fixed resolve not to pay assessments" when the crops had really failed. The leaders were also exhorted to help the people in forming the resolution and it was pointed out that prompt payment of his dues even by one person would affect other persons injuriously and that the people must be prepared to suffer inconvenience, if necessary, "while quarrelling according to law". A Poona association, called the Sarvajanik Sabha, is stated to have sent out agents to various districts ostensibly to explain the provisions of the Famine Code, but the result was that in many districts there were unmistakable signs of a determination not to pay land revenue. The provisions of the Land Revenue Code, however, enabled Government to break down the combinations and recover the Government dues.

2. The Bombay Government consulted its Advocate-General in regard to the success of any legal steps that might be taken against the organizers of these attempts. That officer pointed out that an incitement not to pay the Government revenue was not punishable as abetment, as the latter should be abetment of an offence, which non-payment of revenue was not. He added that by the Common Law of England and Ireland for two or three persons to conspire together to do an injury to a third party or a class of persons was an offence, though the injury itself might not be so and that it was under this law of conspiracy that persons who incited tenants in Ireland not to make payment to landlords were tried and punished. The Advocate-General suggested that this law should be embodied in

the Indian Penal Code and that further it should be made an offence even for one person to incite another to withhold payment of the Government revenue. The Bombay Government made a recommendation accordingly to the Government of India. The latter is, however, opposed to the adoption of the English Law of conspiracy and is prepared to consider only the second proposal of the Bombay Government.

3. In their letter read above, the Government of India enquire whether any difficulties have occurred in this Presidency similar to those in Bombay. So far as known, the reply to this enquiry is in the negative. There was, however, an agitation some time back in the Kistna district against the enhancement of the rate of water-tax, which resulted in large

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N.E.M.

relinquishment of the permission to take water for the irrigation of wet crops and in the consequent transfer of the lands from wet to dry. The correspondence on this subject has been put up with the Gódavari settlement papers in circulation and is not therefore available. Notwithstanding the relinquishments, the ryots irrigated their crops during the year for which water-rate was charged, and in the following year they submitted applications for permission to take water as usual and had their lands retransferred to wet.

4. The second question put by the Government of India is whether on the next occasion for amending the land revenue law a section may be added thereto making it an offence for any person to incite another to withhold payment of the land revenue. The Revenue Recovery Act of this Presidency contains adequate provisions for the realization of the revenue, but does not furnish a ready means of putting down a conspiracy in its inception and of meeting out due punishment to the agitator who deserves it more than the ignorant people who are misled by him. For this reason it is thought that the proposal will commend itself to Government and that in that event a reply in the affirmative may be furnished to the Government of India.

V.K.R.

17-1-98.

5. The first question is whether difficulties similar to those which have occurred in Bombay have been experienced in this Presidency. Board's Proceedings, Mis. No. 2430, dated 14th May 1895, gives a full account of the water-rate agitation in Kistna and Gódavari in 1895. The case is not exactly the same, however, as

This, as the Under Secretary says, is quite a different case. In the Bombay case they incited the people to omit doing what they were legally bound to do: in Kistna there was incitation and combination to omit doing what each individual might do or not do just as he chose.

G.S.F.

Yes.

A. E. H[AVELOCK].

"to spite their faces." The Bombay agitations, however, seem to have been fomented by political agitators who saw an opportunity in the famine. There have been no such agitations in this Presidency. Local conspiracies to evade the payment of revenue are however probably not uncommon, e.g., in the upland villages of the Tanjore taluk, the Kallar ryots often combine and refuse to pay the kist. Moveable property disappears when it is sought to be attached and selling the land is useless for nobody in the village will bid anything up to its value and no outsider would have to take it up. If the land is not really very valuable, the defaulters will allow it to be bought in by Government on the chance of being able to get it on a fraudulent darkhast. Otherwise some relation of the defaulter will bid for that as low a rate as he can get the Revenue Inspector to knock it down for.

6. For a conspiracy, to withhold land revenue by whatever motive prompted, to be successful, three conditions seem necessary—

I don't think these circumstances cover the case contemplated.

The danger is that agitators may mislead the people into imagining that if they show a determined and united front, Government will give in. There would be a rude awakening. But meantime serious consequences may have occurred.

G.S.F.

(1) The land must not be very valuable.

(2) The conspirators must not be dependent on it.

(3) The conspirators must be prepared to suffer considerably and be endowed with a spirit of cohesion and pugnacity. Everywhere throughout this Presidency these conditions seem to

be wanting. Either the land is very valuable or the people are wholly dependent on it, and at present, at all events, there is no spirit of cohesion or pugnacity anywhere.

7. It seems very unlikely, therefore, whether such conspiracies are ever likely to cause serious anxiety in this Presidency.

8. The next question relates to the proposed amendment of the land revenue law by inserting a provision making it an offence for any person to incite another to withhold payment of the land revenue.

Although conspiracies of the kind under discussion most probably never be successful in this Presidency and though they may never give Government anxiety, yet it is quite possible that the time may come when political agitators will turn their energies in this direction, if not in the hope of success yet in the hope of bringing odium on the Government amongst the ignorant ryots. It is submitted that the section would be a difficult one to use. Evidence of the incitement of resistance.

In the Bombay case there was open preaching of resistance. The evidence difficulty is common to all questions of conspiracy or abetment.

G.S.F.

would not be easily forthcoming. But the existence of the provision might prove a valuable warning.

9. In this connection it may be noted that the Bombay Code (*vide* section 150 *et seq.* of Bombay Act V of 1879) contains much more stringent provisions for the recovery of arrears of land revenue than our Act II of 1864.

The Bombay Code provides for the occupancy or alienated holding in respect of which an arrear of land revenue is due being forfeited to Government, and also provides for the arrest and imprisonment of the defaulter.*

Section 153 of Bombay Act V of 1879.
* Under the Madras Act the defaulter can be imprisoned only if the arrears cannot be liquidated by sale of the property and even then only if Collector has reason to suspect fraud (section 48 of Act II of 1864).

Section 157 of Bombay Act V of 1879.

N. E. MARJORIBANKS.
18-1-98.

To the Honourable Member and for circulation—

I don't think it is necessary to refer the matter to the Board for opinion.

The provision is meant to be and would in this Presidency be, it is hoped, no more than a preventive measure: a sign post warning the people against the thin ice.

Agitation and preaching in favour of withholding Government revenue may not gain much success: but such agitation has a cumulative effect if there is no remedy in the Government pharmacopoeia to purge it. If it is allowed to go on unchecked it slowly but surely loosens the attachment of the people to the Government. This is perhaps true of all political agitation directed against the Government: but in the matter of the payment of the land revenue, which comes home to so vast a proportion of the people of India, the effect is peculiarly malign.

I think the Government may promise to make a provision in the Land Revenue Code.

G. S. FORBES.
19-1-98.

We should refer to the Board for opinion. There has been no case in the Presidency yet in which the proposed enactment was necessary, but these may be in the future. A Bill to alter the Act about recovering land revenue is on the anvil.

J. G[ROSE].
25-1-98.

I have often thought that the law of conspiracy in India should be assimilated to the English Law. But I suppose, after what India says in the last three lines of page 1 of its letter, that we cannot enter on that branch of the subject. As to the rest, I am inclined to agree with the Secretary. I do not see what we shall gain by consulting the Revenue Board. We know already all they can tell us and it is advisable not to publish more widely than is essential confidential papers of this kind. It is clear that, in the event of a strike against the payment of land revenue, we should be in by no means as good a position as the Bombay Government was last year, for Act II of 1864 (Madras) contains no provisions so drastic and so capable of immediate application as the Bombay Revenue Code. I should therefore take advantage of the present opportunity to amend our Act, for the amendment of which, in other respects, a Bill is now ready in the manner proposed. Even so we shall be far from as well off as the Bombay Government, for we shall still have no section corresponding to section 153 of the Bombay Act and shall still be tied down to the somewhat cumbrous and dilatory procedure of Act II of 1864. But perhaps as our people are not so troublesome as the Bombay people, we can manage.

These papers explain, what I never before quite understood, the prosecution of Tilak on a comparatively unobjectionable newspaper article.

H. B[LISS].
27-1-98.

I am inclined to the opinion of Sir Henry Bliss as to the law of conspiracy. But, we are not allowed to raise that large question; and I do not consider the present moment a suitable one for raising it.

Mr. Forbes has, I think, stated the case well, in his note of 19th January 1898, and I would accept what he says.

On the whole, I consider that it would be better not to refer to the Board.

A. E. H[AVELOCK].
30-1-98.

To the Hon'ble Mr. J. Grose—

Drafts submitted for approval.

Issue.

G.S.F.
11-2-98.

G.S.F.
J.G. (on draft.)
15-2-98.

[Issued as G.O., No. 798 and letter No. 799, Revenue, dated 16th February 1898.]

1898.

HOME DEPARTMENT.

CONFIDENTIAL.

From

The Government of Fort St. George.

Recd.

Enclosures

Regd.

1898.

Spare copies

Letter, No. 799, Revenue, 16th February 1898.

FEBRUARY.

STATING that there has as yet been no case reported of organized agitation in this Presidency in favour of withholding the Government revenue, and that this Government accepts the suggestion to amend the land revenue law.

CONFIDENTIAL.

REVENUE DEPARTMENT.

LETTER—from

THE HON'BLE MR. G. S. FORBES, I.C.S.,
Secretary to the Government of Madras,
Revenue Department,

To

THE SECRETARY TO THE GOVERNMENT OF INDIA,
HOME DEPARTMENT.

Dated Fort St. George, 16th February 1898.

SIR,

I am directed to acknowledge the receipt of your letter No. 1474, Judicial, dated 12th November 1897, enquiring whether any difficulties have been experienced in this Presidency in the realization of the land revenue similar to those that have occurred in Bombay, and suggesting the insertion in the land revenue law, when it next comes under amendment, of a provision making it an offence for any person to incite another to withhold payment of the land revenue.

2. I am to state in reply that there has as yet been no case reported of organized agitation in this Presidency in favour of withholding the Government revenue, and that the absence of the proposed provision from the Land Revenue Code has therefore not been felt. At the same time His Excellency in Council recognises that such agitation has a cumulative effect, and if allowed to go on unchecked slowly but surely loosens the attachment of the people to the Government. A provision on the lines suggested will not only furnish a ready remedy in the event of its operation being actively required, but will be even more valuable as a measure of warning and prevention. His Excellency the Governor in Council therefore accepts the suggestion of the Government of India and I am accordingly to state that the necessary provision will be made in Act II of 1864 (Madras), for the amendment of which in other respects a draft Bill is now ready.

I have the honour to be,

Sir,

Your most obedient servant,

(Signed) G. S. FORBES,
Secretary to Government.

Exd. J. Henricus.

18 Copies.

Government (1898) of Madras.
REVENUE.

CONFIDENTIAL.

Recd.

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Enclosures

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Spare copies

G.O., Mis. No. 798, 16th February 1898.

FEBRUARY.

Act II of 1864.

Stating that the Government of India will be addressed in connection with certain proposals made by them in amending —.

CONFIDENTIAL.

GOVERNMENT OF MADRAS.

REVENUE DEPARTMENT.

READ—the following paper:—

From J. P. HEWETT, Esq., C.I.E., Secretary to the Government of India, Home Department (Judicial), to the Chief Secretary to the Government of Madras, dated Simla, the 12th November 1897, No. 1474.

I am directed to forward the enclosed correspondence * with the Government of Bombay regarding a proposal made by that Government, in consequence of an organized attempt made to induce occupants of land to withhold payment of land revenue, to the effect that the Government of India should consider the expediency of including in the Indian Penal Code a section or sections to make

* Letter from the Government of Bombay, No. 582, dated the 20th February 1897, and enclosures.

Letter to the Government of Bombay, No. 561, dated the 7th May 1897.

Letter from the Government of Bombay, No. 418, dated the 25th July 1897.

it an offence in India, as it is under the common law in England, to conspire to do an injury which is not itself an offence, and also a provision to make it an offence for even one person to incite the withholding of Government revenue. The Government of India inquired of the Bombay Government whether the exercise of the authorized coercive processes for the collection of the land revenue had been generally successful, and have received from the Governor in Council an assurance that they have been found perfectly efficacious in defeating the combinations that were commenced to prevent the recovery of the revenue. The Bombay Government, however, while admitting that this measure is not in existing circumstances necessary for the protection of the revenue, represent that the common law of England as to conspiracy is a reasonable and equitable law which might advantageously be applied in India.

In Sir Charles Lyall's strictly confidential letter No. 1460-1464, dated 4th October 1893, certain Local Governments and Administrations were consulted as to a proposal made by the Government of the North-Western Provinces and Oudh in its letter No. 105-4, dated 18th September 1893, for the insertion in the Indian Penal Code of two sections dealing with the law of conspiracy, and, after considering the replies of Local Governments to this reference, the Government of India determined that it was not then desirable to alter the law in the direction proposed by Sir Charles Crosthwaite. They are, as at present advised, opposed to the adoption of the English law of conspiracy in England, and do not wish at the present juncture to further consider the proposal of the Bombay Government on this point. But a suggestion has been made that it might be made an offence in the land revenue law in force in each province to incite any person to withhold payment of the land revenue, and I am desired to inquire whether any such difficulties have occurred in Madras as occurred in Bombay. I am also to ask

whether the Governor in Council thinks it advisable that when the land revenue law in Madras next comes under amendment, a section should be added to it, containing a provision in accordance with the suggestion above referred to, so as to afford a ready means of proceeding criminally against any persons who may at any time take a leading part in organizing a conspiracy or exciting an agitation against the payment of Government land revenue.

ENCLOSURES.

Endorsement No. 2635, Judicial.

Transferred to the Revenue Department with G.O., No. 2236-37, Judicial, dated 27th October 1893 (to be returned when done with).

FORT ST. GEORGE,
2nd December 1897.

(Signed) A. T. ARUNDEL,
Chief Secretary.

ORDER—Mis. No. 798, Revenue, dated 16th February 1898.

Ordered that the following letter be despatched to the Government of India.

(True Extract.)

(Signed) G. S. FORBES,
Secretary to Government.

To the Judicial Department, with G.O., Nos. 2236-37,
dated 27th October 1893, returned.

Exd. J. Henricus.

18 Copies.

1898.

HOME DEPARTMENT.

CONFIDENTIAL.

From

The Government of Fort St. George.

Recd.

Regd.

} 1898.

Enclosures

Spare copies

Letter, No. 799, Revenue, 16th February 1898.

FEBRUARY.

STATING that there has as yet been no case reported of organized agitation in this Presidency in favour of withholding the Government revenue, and that this Government accepts the suggestion to amend the land revenue law.

CONFIDENTIAL.

REVENUE DEPARTMENT.

LETTER—from

THE HON'BLE MR. G. S. FORBES, I.C.S.,
Secretary to the Government of Madras,
Revenue Department,

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Dated Fort St. George, 16th February 1898.

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NOTES CONNECTED WITH G.O., Nos. 798, 799, REVENUE, DATED
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[SUBJECT.—*Amendment of Act II of 1864 (M.).*]

To Secretary—

From the papers forwarded with the above, it appears that organized attempts were made in the Bombay Presidency towards the close of 1896 to induce landholders to withhold payment of land revenue. A mass meeting, attended by 2,000 persons, was held on 13th November 1896 at a place called Khatalvad, at which a Professor Sathe explained to his audience that "if their crops had failed, they should not pay assessment to Government." The proceedings of this meeting were commented on in an article of the *Kesari* newspaper, dated 15th December 1896, edited by Tilak, which contained the following statements:—"He (the Professor) clearly explained to all the assembled people that they should not pay the assessment if they were not in a position to do so." Again, "and where the crops have really failed, the people should take a vow not to pay the assessment." Placards containing extracts from this article were posted in various places in the Thana district, stating that it was the duty of the people by crying out a thousand times or by presenting petitions to obtain "from Government the privileges granted to them by the Famine Code, and that they should make a fixed resolve not to pay assessments" when the crops had really failed. The leaders were also exhorted to help the people in forming the resolution and it was pointed out that prompt payment of his dues even by one person would affect other persons injuriously and that the people must be prepared to suffer inconvenience, if necessary, "while quarrelling according to law". A Poona association, called the Sarvajanic Sabha, is stated to have sent out agents to various districts ostensibly to explain the provisions of the Famine Code, but the result was that in many districts there were unmistakable signs of a determination not to pay land revenue. The provisions of the Land Revenue Code, however, enabled Government to break down the combinations and recover the Government dues.

2. The Bombay Government consulted its Advocate-General in regard to the success of any legal steps that might be taken against the organizers of these attempts. That officer pointed out that an incitement not to pay the Government revenue was not punishable as abetment, as the latter should be abetment of an offence, which non-payment of revenue was not. He added that by the Common Law of England and Ireland for two or three persons to conspire together to do an injury to a third party or a class of persons was an offence, though the injury itself might not be so and that it was under this law of conspiracy that persons who incited tenants in Ireland not to make payment to landlords were tried and punished. The Advocate-General suggested that this law should be embodied in

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3. In their letter read above, the Government of India enquire whether any difficulties have occurred in this Presidency similar to those in Bombay. So far as known, the reply to this enquiry is in the negative. There was, however, an agitation some time back in the Kistna district against the enhancement of the rate of water-tax, which resulted in large

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G.S.F.

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J. G[ROSE].
25-1-98.

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27-1-98.

I am inclined to the opinion of Sir Henry Bliss as to the law of conspiracy. But, we are not allowed to raise that large question; and I do not consider the present moment a suitable one for raising it.

Mr. Forbes has, I think, stated the case well, in his note of 19th January 1898, and I would accept what he says.

On the whole, I consider that it would be better not to refer to the Board.

A. E. H[AVELOCK].
30-1-98.

To the Hon'ble Mr. J. Grose—

Drafts submitted for approval.

Issue.

G.S.F.
11-2-98.

G.S.F.
J.G. (on draft.)
15-2-98.

[Issued as G.O., No. 798 and letter No. 799, Revenue, dated 16th February 1898.]

Government (1898) of Madras. REVENUE.

CONFIDENTIAL.

Recd.

Regd.

} 1898.
Enclosures
Spare copies

G.O., Mis. No. 798, 16th February 1898.

FEBRUARY.

Act II of 1864.

Stating that the Government of India will be addressed in connection with certain proposals made by them in amending —.

1898.

HOME DEPARTMENT.

CONFIDENTIAL.

From *The Government of Fort St. George.*

<i>Recd.</i>	}	<i>1898.</i>	<i>Enclosures</i>
<i>Regd.</i>			<i>Spare copies</i>

Letter, No. 799, Revenue, 16th February 1898.

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STATING that there has as yet been no case reported of organized agitation in this Presidency in favour of withholding the Government revenue, and that this Government accepts the suggestion to amend the land revenue law.

CONFIDENTIAL.

REVENUE DEPARTMENT.

LETTER—from

THE HON'BLE MR. G. S. FORBES, I.C.S.,
Secretary to the Government of Madras,
Revenue Department,

To

THE SECRETARY TO THE GOVERNMENT OF INDIA,
HOME DEPARTMENT.

Dated Fort St. George, 16th February 1898.

SIR,

I am directed to acknowledge the receipt of your letter No. 1474, Judicial, dated 12th November 1897, enquiring whether any difficulties have been experienced in this Presidency in the realization of the land revenue similar to those that have occurred in Bombay, and suggesting the insertion in the land revenue law, when it next comes under amendment, of a provision making it an offence for any person to incite another to withhold payment of the land revenue.

2. I am to state in reply that there has as yet been no case reported of organized agitation in this Presidency in favour of withholding the Government revenue, and that the absence of the proposed provision from the Land Revenue Code has therefore not been felt. At the same time His Excellency in Council recognises that such agitation has a cumulative effect, and if allowed to go on unchecked slowly but surely loosens the attachment of the people to the Government. A provision on the lines suggested will not only furnish a ready remedy in the event of its operation being actively required, but will be even more valuable as a measure of warning and prevention. His Excellency the Governor in Council therefore accepts the suggestion of the Government of India and I am accordingly to state that the necessary provision will be made in Act II of 1864 (Madras), for the amendment of which in other respects a draft Bill is now ready.

I have the honour to be,

Sir,

Your most obedient servant,

(Signed) G. S. FORBES,
Secretary to Government.

Exd. J. Henricus.

18 Copies.

CONFIDENTIAL.

REVENUE DEPARTMENT.

NOTES CONNECTED WITH G.O., Nos. 798, 799, REVENUE, DATED
16TH FEBRUARY 1898.

Proceedings of the Judicial Department, No. 2635, dated 2nd December 1897.

[SUBJECT.—Amendment of Act II of 1864 (M.).]

To Secretary—

From the papers forwarded with the above, it appears that organized attempts were made in the Bombay Presidency towards the close of 1896 to induce landholders to withhold payment of land revenue. A mass meeting, attended by 2,000 persons, was held on 13th November 1896 at a place called Khatalvad, at which a Professor Sathe explained to his audience that "if their crops had failed, they should not pay assessment to Government." The proceedings of this meeting were commented on in an article of the *Kesari* newspaper, dated 15th December 1896, edited by Tilak, which contained the following statements:—"He (the Professor) clearly explained to all the assembled people that they should not pay the assessment if they were not in a position to do so." Again, "and where the crops have really failed, the people should take a vow not to pay the assessment." Placards containing extracts from this article were posted in various places in the Thana district, stating that it was the duty of the people by crying out a thousand times or by presenting petitions to obtain "from Government the privileges granted to them by the Famine Code, and that they should make a fixed resolve not to pay assessments" when the crops had really failed. The leaders were also exhorted to help the people in forming the resolution and it was pointed out that prompt payment of his dues even by one person would affect other persons injuriously and that the people must be prepared to suffer inconvenience, if necessary, "while quarrelling according to law". A Poona association, called the Sarvajanic Sabha, is stated to have sent out agents to various districts ostensibly to explain the provisions of the Famine Code, but the result was that in many districts there were unmistakable signs of a determination not to pay land revenue. The provisions of the Land Revenue Code, however, enabled Government to break down the combinations and recover the Government dues.

2. The Bombay Government consulted its Advocate-General in regard to the success of any legal steps that might be taken against the organizers of these attempts. That officer pointed out that an incitement not to pay the Government revenue was not punishable as abetment, as the latter should be abetment of an offence, which non-payment of revenue was not. He added that by the Common Law of England and Ireland for two or three persons to conspire together to do an injury to a third party or a class of persons was an offence, though the injury itself might not be so and that it was under this law of conspiracy that persons who incited tenants in Ireland not to make payment to landlords were tried and punished. The Advocate-General suggested that this law should be embodied in

the Indian Penal Code and that further it should be made an offence even for one person to incite another to withhold payment of the Government revenue. The Bombay Government made a recommendation accordingly to the Government of India. The latter is, however, opposed to the adoption of the English Law of conspiracy and is prepared to consider only the second proposal of the Bombay Government.

3. In their letter read above, the Government of India enquire whether any difficulties have occurred in this Presidency similar to those in Bombay. So far as known, the reply to this enquiry is in the negative. There was, however, an agitation some time back in the Kistna district against the enhancement of the rate of water-tax, which resulted in large

Please see below.

N.E.M.

relinquishment of the permission to take water for the irrigation of wet crops and in the consequent transfer of the lands from wet to dry. The correspondence on this subject has been put up with the Gódávári settlement papers in circulation and is not therefore available. Notwithstanding the relinquishments, the ryots irrigated their crops during the year for which water-rate was charged, and in the following year they submitted applications for permission to take water as usual and had their lands retransferred to wet.

4. The second question put by the Government of India is whether on the next occasion for amending the land revenue law a section may be added thereto making it an offence for any person to incite another to withhold payment of the land revenue. The Revenue Recovery Act of this Presidency contains adequate provisions for the realization of the revenue, but does not furnish a ready means of putting down a conspiracy in its inception and of meeting out due punishment to the agitator who deserves it more than the ignorant people who are misled by him. For this reason it is thought that the proposal will commend itself to Government and that in that event a reply in the affirmative may be furnished to the Government of India.

V.K.R.

17-1-98.

5. The first question is whether difficulties similar to those which have occurred in Bombay have been experienced in this Presidency. Board's Proceedings, Mis. No. 2430, dated 14th May 1895, gives a full account of the water-rate agitation in Kistna and Gódávári in 1895. The case is not exactly the same, however, as the Bombay cases. Government had raised the water-rate, Re. 1, and the ryots, instigated no doubt by the richer among the landholders who were also vakils, etc., relinquished their applications for water, and announced their resolution to cultivate their lands with dry crops. The Government remained firm and the ryots soon realized the foolishness of "cutting off their noses

G.S.F.

Yes.

A. E. H[AVELOCK].

"to spite their faces." The Bombay agitations, however, seem to have been fomented by political agitators who saw an opportunity in the famine. There have been no such agitations in this Presidency. Local conspiracies to evade the payment of revenue are however probably not uncommon, e.g., in the upland villages of the Tanjore taluk, the Kallar ryots often combine and refuse to pay the kist. Moveable property disappears when it is sought to be attached and value and no outsider would have to take it up. If the land is not really very valuable, the defaulters will allow it to be bought in by Government on the chance of being able to get it on a fraudulent darkhast. Otherwise some relation of the defaulter will bid for that as low a rate as he can get the Revenue Inspector to knock it down for.

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I don't think these circumstances cover the case contemplated.

The danger is that agitators may mislead the people into imagining that if they show a determined and united front, Government will give in. There would be a rude awakening. But meantime serious consequences may have occurred.

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(1) The land must not be very valuable.

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be wanting. Either the land is very valuable or the people are wholly dependent on it, and at present, at all events, there is no spirit of cohesion or pugnacity anywhere.

7. It seems very unlikely, therefore, whether such conspiracies are ever likely to cause serious anxiety in this Presidency.

8. The next question relates to the proposed amendment of the land revenue law by inserting a provision making it an offence for any person to incite another to withhold payment of the land revenue.

Although conspiracies of the kind under discussion most probably never be successful in this Presidency and though they may never give Government anxiety, yet it is quite possible that the time may come when political agitators will turn their energies in this direction, if not in the hope of success yet in the hope of bringing odium on the Government amongst the ignorant ryots. It is submitted that the section would be a difficult one to use. Evidence of the incitement would not be easily forthcoming. But the existence of the provision might prove a valuable warning.

In the Bombay case there was open preaching of resistance. The evidence difficulty is common to all questions of conspiracy or abetment.

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9. In this connection it may be noted that the Bombay Code (*vide* section 150 *et seq.* of Bombay Act V of 1879) contains much more stringent provisions for the recovery of arrears of land revenue than our Act II of 1864.

The Bombay Code provides for the occupancy or alienated holding in respect of which an arrear of land revenue is due being forfeited to Government, and also provides for the arrest and imprisonment of the defaulter.*

* Under the Madras Act the defaulter can be imprisoned only if the arrears cannot be liquidated by sale of the property and even then only if Collector has reason to suspect fraud (section 48 of Act II of 1864).

Section 157 of Bombay Act V of 1879.

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N. E. MARJORIBANKS.
18-1-98.

To the Honourable Member and for circulation—

I don't think it is necessary to refer the matter to the Board for opinion.

The provision is meant to be and would in this Presidency be, it is hoped, no more than a preventive measure: a sign post warning the people against the thin ice.

Agitation and preaching in favour of withholding Government revenue may not gain much success: but such agitation has a cumulative effect if there is no remedy in the Government pharmacopoeia to purge it. If it is allowed to go on unchecked it slowly but surely loosens the attachment of the people to the Government. This is perhaps true of all political agitation directed against the Government: but in the matter of the payment of the land revenue, which comes home to so vast a proportion of the people of India, the effect is peculiarly malign.

I think the Government may promise to make a provision in the Land Revenue Code.

G. S. FORBES.
19-1-98.

We should refer to the Board for opinion. There has been no case in the Presidency yet in which the proposed enactment was necessary, but these may be in the future. A Bill to alter the Act about recovering land revenue is on the anvil.

J. G^[ROSE].
25-1-98.

I have often thought that the law of conspiracy in India should be assimilated to the English Law. But I suppose, after what India says in the last three lines of page 1 of its letter, that we cannot enter on that branch of the subject. As to the rest, I am inclined to agree with the Secretary. I do not see what we shall gain by consulting the Revenue Board. We know already all they can tell us and it is advisable not to publish more widely than is essential confidential papers of this kind. It is clear that, in the event of a strike against the payment of land revenue, we should be in by no means as good a position as the Bombay Government was last year, for Act II of 1864 (Madras) contains no provisions so drastic and so capable of immediate application as the Bombay Revenue Code. I should therefore take advantage of the present opportunity to amend our Act, for the amendment of which, in other respects, a Bill is now ready in the manner proposed. Even so we shall be far from as well off as the Bombay Government, for we shall still have no section corresponding to section 153 of the Bombay Act and shall still be tied down to the somewhat cumbrous and dilatory procedure of Act II of 1864. But perhaps as our people are not so troublesome as the Bombay people, we can manage.

These papers explain, what I never before quite understood, the prosecution of Tilak on a comparatively unobjectionable newspaper article.

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I am inclined to the opinion of Sir Henry Bliss as to the law of conspiracy. But, we are not allowed to raise that large question; and I do not consider the present moment a suitable one for raising it.

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Government {1898} of Madras. REVENUE.

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CONFIDENTIAL.

GOVERNMENT OF MADRAS.

REVENUE DEPARTMENT.

READ—the following paper:—

From J. P. HEWETT, Esq., C.I.E., Secretary to the Government of India, Home Department (Judicial), to the Chief Secretary to the Government of Madras, dated Simla, the 12th November 1897, No. 1474.

I am directed to forward the enclosed correspondence* with the Government of Bombay regarding a proposal made by that Government, in consequence of an organized attempt made to induce occupants of land to withhold payment of land revenue, to the effect that the Government of India should consider the expediency of including in the Indian Penal Code a section or sections to make

*Letter from the Government of Bombay, No. 582, dated the 20th February 1897, and enclosures.

Letter to the Government of Bombay, No. 561, dated the 7th May 1897.

Letter from the Government of Bombay, No. 418, dated the 25th July 1897.

it an offence in India, as it is under the common law in England, to conspire to do for even one person to incite the withholding of Government revenue. The Government of India inquired of the Bombay Government whether the exercise of the authorized coercive processes for the collection of the land revenue had been generally successful, and have received from the Governor in Council an assurance that they have been found perfectly efficacious in defeating the combinations that were commenced to prevent the recovery of the revenue. The Bombay Government, however, while admitting that this measure is not in existing circumstances necessary for the protection of the revenue, represent that the common law of England as to conspiracy is a reasonable and equitable law which might advantageously be applied in India.

In Sir Charles Lyall's strictly confidential letter No. 1460-1464, dated 4th October 1893, certain Local Governments and Administrations were consulted as to a proposal made by the Government of the North-Western Provinces and Oudh in its letter No. 105-4, dated 18th September 1893, for the insertion in the Indian Penal Code of two sections dealing with the law of conspiracy, and, after considering the replies of Local Governments to this reference, the Government of India by Sir Charles Crosthwaite. They are, as at present advised, opposed to the adoption of the English law of conspiracy in England, and do not wish at the present juncture to further consider the proposal of the Bombay Government on this point. But a suggestion has been made that it might be made an offence in the land revenue law in force in each province to incite any person to withhold payment of the land revenue, and I am desired to inquire whether any such difficulties have occurred in Madras as occurred in Bombay. I am also to ask

whether the Governor in Council thinks it advisable that when the land revenue law in Madras next comes under amendment, a section should be added to it, containing a provision in accordance with the suggestion above referred to, so as to afford a ready means of proceeding criminally against any persons who may at any time take a leading part in organizing a conspiracy or exciting an agitation against the payment of Government land revenue.

ENCLOSURES.

Endorsement No. 2635, Judicial.

Transferred to the Revenue Department with G.O., No. 2236-37, Judicial, dated 27th October 1893 (to be returned when done with).

FORT ST. GEORGE,
2nd December 1897.

(Signed) A. T. ARUNDEL,
Chief Secretary.

ORDER—Mis. No. 798, Revenue, dated 16th February 1898.

Ordered that the following letter be despatched to the Government of India.

(True Extract.)

(Signed) G. S. FORBES,
Secretary to Government.

To the Judicial Department, with G.O., Nos. 2236-37,
dated 27th October 1893, returned.

Exd. J. Henrius.

13 Copies.

1898.

HOME DEPARTMENT.

CONFIDENTIAL.

From

The Government of Fort St. George.

Recd.

Regd.

Enclosures

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Secretary to the Government of Madras,
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From the papers forwarded with the above, it appears that organized attempts were made in the Bombay Presidency towards the close of 1896 to induce landholders to withhold payment of land revenue. A mass meeting, attended by 2,000 persons, was held on 13th November 1896 at a place called Khatalvad, at which a Professor Sathe explained to his audience that "if their crops had failed, they should not pay assessment to Government." The proceedings of this meeting were commented on in an article of the *Kesari* newspaper, dated 15th December 1896, edited by Tilak, which contained the following statements:—"He (the Professor) clearly explained to all the assembled people that they should not pay the assessment if they were not in a position to do so." Again, "and where the crops have really failed, the people should take a vow not to pay the assessment." Placards containing extracts from this article were posted in various places in the Thana district, stating that it was the duty of the people by crying out a thousand times or by presenting petitions to obtain "from Government the privileges granted to them by the Famine Code, and that they should make a fixed resolve not to pay assessments" when the crops had really failed. The leaders were also exhorted to help the people in forming the resolution and it was pointed out that prompt payment of his dues even by one person would affect other persons injuriously and that the people must be prepared to suffer inconvenience, if necessary, "while quarrelling according to law". A Poona association, called the Sarvajanic Sabha, is stated to have sent out agents to various districts ostensibly to explain the provisions of the Famine Code, but the result was that in many districts there were unmistakable signs of a determination not to pay land revenue. The provisions of the Land Revenue Code, however, enabled Government to break down the combinations and recover the Government dues.

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4. The second question put by the Government of India is whether on the next occasion for amending the land revenue law a section may be added thereto making it an offence for any person to incite another to withhold payment of the land revenue. The Revenue Recovery Act of this Presidency contains adequate provisions for the realization of the revenue, but does not furnish a ready means of putting down a conspiracy in its inception and of meeting out due punishment to the agitator who deserves it more than the ignorant people who are misled by him. For this reason it is thought that the proposal will commend itself to Government and that in that event a reply in the affirmative may be furnished to the Government of India.

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G.S.F.

Yes.

A. E. H[AVELOCK].

"to spite their faces." The Bombay agitations, however, seem to have been fomented by political agitators who saw an opportunity in the famine. There have been no such agitations in this Presidency. Local conspiracies to evade the payment of revenue are however probably not uncommon, e.g., in the upland villages of the Tanjore taluk, the Kallar ryots often combine and refuse to pay the kist. Moveable property disappears when it is sought to be attached and selling the land is useless for nobody in the village will bid anything up to its value and no outsider would have to take it up. If the land is not really very valuable, the defaulters will allow it to be bought in by Government on the chance of being able to get it on a fraudulent darkhast. Otherwise some relation of the defaulter will bid for that as low a rate as he can get the Revenue Inspector to knock it down for.

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Mr. Forbes has, I think, stated the case well, in his note of 19th January 1898, and I would accept what he says.

On the whole, I consider that it would be better not to refer to the Board.

A. E. H[AVELOCK].
30-1-98.

To the Hon'ble Mr. J. Grose—

Drafts submitted for approval.

Issue.

G.S.F.
11-2-98.

G.S.F.
J.G. (on draft.)
15-2-98.

[Issued as G.O., No. 798 and letter No. 799, Revenue, dated 16th February 1898.]

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Government (1898) of Madras.
REVENUE.

CONFIDENTIAL.

Recd.

Regd.

Enclosures

1898.

Spare copies

G.O., Mis. No. 798, 16th February 1898.

FEBRUARY.

Act II of 1864.

Stating that the Government of India will be addressed in connection with certain proposals made by them in amending —.

CONFIDENTIAL.

GOVERNMENT OF MADRAS.

REVENUE DEPARTMENT.

READ—the following paper:—

From J. P. HEWETT, Esq., C.I.E., Secretary to the Government of India, Home Department (Judicial), to the Chief Secretary to the Government of Madras, dated Simla, the 12th November 1897, No. 1474.

I am directed to forward the enclosed correspondence * with the Government of Bombay regarding a proposal made by that Government, in consequence of an organized attempt made to induce occupants of land to withhold payment of land revenue, to the effect that the Government of India should consider the expediency of including in the Indian Penal Code a section or sections to make

it an offence in India, as it is under the common law in England, to conspire to do an injury which is not itself an offence, and also a provision to make it an offence for even one person to incite the withholding of Government revenue. The Government of India inquired of the Bombay Government whether the exercise of the authorized coercive processes for the collection of the land revenue had been generally successful, and have received from the Governor in Council an assurance that they have been found perfectly efficacious in defeating the combinations that were commenced to prevent the recovery of the revenue. The Bombay Government, however, while admitting that this measure is not in existing circumstances necessary for the protection of the revenue, represent that the common law of England as to conspiracy is a reasonable and equitable law which might advantageously be applied in India.

In Sir Charles Lyall's strictly confidential letter No. 1460-1464, dated 4th October 1893, certain Local Governments and Administrations were consulted as to a proposal made by the Government of the North-Western Provinces and Oudh in its letter No. 105-4, dated 18th September 1893, for the insertion in the Indian Penal Code of two sections dealing with the law of conspiracy, and, after considering the replies of Local Governments to this reference, the Government of India determined that it was not then desirable to alter the law in the direction proposed by Sir Charles Crosthwaite. They are, as at present advised, opposed to the adoption of the English law of conspiracy in England, and do not wish at the present juncture to further consider the proposal of the Bombay Government on this point. But a suggestion has been made that it might be made an offence in the land revenue law in force in each province to incite any person to withhold payment of the land revenue, and I am desired to inquire whether any such difficulties have occurred in Madras as occurred in Bombay. I am also to ask

whether the Governor in Council thinks it advisable that when the land revenue law in Madras next comes under amendment, a section should be added to it, containing a provision in accordance with the suggestion above referred to, so as to afford a ready means of proceeding criminally against any persons who may at any time take a leading part in organizing a conspiracy or exciting an agitation against the payment of Government land revenue.

ENCLOSURES.

Endorsement No. 2635, Judicial.

Transferred to the Revenue Department with G.O., No. 2236-37, Judicial, dated 27th October 1893 (to be returned when done with).

FORT ST. GEORGE,
2nd December 1897.

(Signed) A. T. ARUNDEL,
Chief Secretary.

ORDER—Mis. No. 798, Revenue, dated 16th February 1898.

Ordered that the following letter be despatched to the Government of India.

(True Extract.)

(Signed) G. S. FORBES,
Secretary to Government.

To the Judicial Department, with G.O., Nos. 2236-37,
dated 27th October 1893, returned.

Exd. J. Henricus.

18 Copies.

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1898.

HOME DEPARTMENT.

CONFIDENTIAL.

From
The Government of Fort St. George.

Recd.

Regd.

} 1898.

Enclosures

Spare copies

Letter, No. 799, Revenue, 16th February 1898.

FEBRUARY.

STATING that there has as yet been no case reported of organized agitation in this Presidency in favour of withholding the Government revenue, and that this Government accepts the suggestion to amend the land revenue law.

CONFIDENTIAL.

REVENUE DEPARTMENT.

LETTER—from

THE HON'BLE MR. G. S. FORBES, I.C.S.,
Secretary to the Government of Madras,
Revenue Department,

To

THE SECRETARY TO THE GOVERNMENT OF INDIA,
HOME DEPARTMENT.

Dated Fort St. George, 16th February 1898.

SIR,

I am directed to acknowledge the receipt of your letter No. 1474, Judicial, dated 12th November 1897, enquiring whether any difficulties have been experienced in this Presidency in the realization of the land revenue similar to those that have occurred in Bombay, and suggesting the insertion in the land revenue law, when it next comes under amendment, of a provision making it an offence for any person to incite another to withhold payment of the land revenue.

2. I am to state in reply that there has as yet been no case reported of organized agitation in this Presidency in favour of withholding the Government revenue, and that the absence of the proposed provision from the Land Revenue Code has therefore not been felt. At the same time His Excellency in Council recognises that such agitation has a cumulative effect, and if allowed to go on unchecked slowly but surely loosens the attachment of the people to the Government. A provision on the lines suggested will not only furnish a ready remedy in the event of its operation being actively required, but will be even more valuable as a measure of warning and prevention. His Excellency the Governor in Council therefore accepts the suggestion of the Government of India and I am accordingly to state that the necessary provision will be made in Act II of 1864 (Madras), for the amendment of which in other respects a draft Bill is now ready.

I have the honour to be,

Sir,

Your most obedient servant,

(Signed) G. S. FORBES,
Secretary to Government.

Etd. J. Henricus.

18 Copies.

CONFIDENTIAL.

REVENUE DEPARTMENT.

NOTES CONNECTED WITH G.O., Nos. 798, 799, REVENUE, DATED
16TH FEBRUARY 1898.

Proceedings of the Judicial Department, No. 2635, dated 2nd December 1897.

[SUBJECT.—Amendment of Act II of 1864 (M.).]

To Secretary—

From the papers forwarded with the above, it appears that organized attempts were made in the Bombay Presidency towards the close of 1896 to induce landholders to withhold payment of land revenue. A mass meeting, attended by 2,000 persons, was held on 13th November 1896 at a place called Khatalvad, at which a Professor Sathe explained to his audience that "if their crops had failed, they should not pay assessment to Government." The proceedings of this meeting were commented on in an article of the *Kesari* newspaper, dated 15th December 1896, edited by Tilak, which contained the following statements:—"He (the Professor) clearly explained to all the assembled people that they should not pay the assessment if they were not in a position to do so." Again, "and where the crops have really failed, the people should take a vow not to pay the assessment." Placards containing extracts from this article were posted in various places in the Thana district, stating that it was the duty of the people by crying out a thousand times or by presenting petitions to obtain "from Government the privileges granted to them by the Famine Code, and that they should make a fixed resolve not to pay assessments" when the crops had really failed. The leaders were also exhorted to help the people in forming the resolution and it was pointed out that prompt payment of his dues even by one person would affect other persons injuriously and that the people must be prepared to suffer inconvenience, if necessary, "while quarrelling according to law". A Poona association, called the Sarvajanic Sabha, is stated to have sent out agents to various districts ostensibly to explain the provisions of the Famine Code, but the result was that in many districts there were unmistakable signs of a determination not to pay land revenue. The provisions of the Land Revenue Code, however, enabled Government to break down the combinations and recover the Government dues.

2. The Bombay Government consulted its Advocate-General in regard to the success of any legal steps that might be taken against the organizers of these attempts. That officer pointed out that an incitement not to pay the Government revenue was not punishable as abetment, as the latter should be abetment of an offence, which non-payment of revenue was not. He added that by the Common Law of England and Ireland for two or three persons to conspire together to do an injury to a third party or a class of persons was an offence, though the injury itself might not be so and that it was under this law of conspiracy that persons who incited tenants in Ireland not to make payment to landlords were tried and punished. The Advocate-General suggested that this law should be embodied in

the Indian Penal Code and that further it should be made an offence even for one person to incite another to withhold payment of the Government revenue. The Bombay Government made a recommendation accordingly to the Government of India. The latter is, however, opposed to the adoption of the English Law of conspiracy and is prepared to consider only the second proposal of the Bombay Government.

3. In their letter read above, the Government of India enquire whether any difficulties have occurred in this Presidency similar to those in Bombay. So far as known, the reply to this enquiry is in the negative. There was, however, an

Please see below.

N.E.M.

agitation some time back in the Kistna district against the enhancement of the rate of water-tax, which resulted in large relinquishment of the permission to take water for the irrigation of wet crops and in the consequent transfer of the lands from wet to dry. The correspondence on this subject has been put up with the Gódavari settlement papers in circulation and is not therefore available. Notwithstanding the relinquishments, the ryots irrigated their crops during the year for which water-rate was charged, and in the following year they submitted applications for permission to take water as usual and had their lands retransferred to wet.

4. The second question put by the Government of India is whether on the next occasion for amending the land revenue law a section may be added thereto making it an offence for any person to incite another to withhold payment of the land revenue. The Revenue Recovery Act of this Presidency contains adequate provisions for the realization of the revenue, but does not furnish a ready means of putting down a conspiracy in its inception and of meeting out due punishment to the agitator who deserves it more than the ignorant people who are misled by him. For this reason it is thought that the proposal will commend itself to Government and that in that event a reply in the affirmative may be furnished to the Government of India.

V.K.R.

17-1-98.

5. The first question is whether difficulties similar to those which have occurred in Bombay have been experienced in this Presidency. Board's Proceedings, Mis. No. 2430, dated 14th May 1895, gives a full account of the water-rate agitation in Kistna and Gódavari in 1895. The case is not exactly the same, however, as

This, as the Under Secretary says, is quite a different case. In the Bombay case they incited the people to omit doing what they were legally bound to do: in Kistna there was incitation and combination to omit doing what each individual might do or not do just as he chose.

G.S.F.

Yes.

A. E. H[AVELOCK].

"to spite their faces." The Bombay agitations, however, seem to have been fomented by political agitators who saw an opportunity in the famine. There have been no such agitations in this Presidency. Local conspiracies to evade the payment of revenue are however probably not uncommon, e.g., in the upland villages of the Tanjore taluk, the Kallar ryots often combine and refuse to pay the kist. Moveable property disappears when it is sought to be attached and value and no outsider would have to take it up. If the land is not really very valuable, the defaulters will allow it to be bought in by Government on the chance of being able to get it on a fraudulent darkhast. Otherwise some relation of the defaulter will bid for that as low a rate as he can get the Revenue Inspector to knock it down for.

6. For a conspiracy, to withhold land revenue by whatever motive prompted, to be successful, three conditions seem necessary—

I don't think these circumstances cover the case contemplated.

The danger is that agitators may mislead the people into imagining that if they show a determined and united front, Government will give in. There would be a rude awakening. But meantime serious consequences may have occurred.

G.S.F.

(1) The land must not be very valuable.

(2) The conspirators must not be dependent on it.

(3) The conspirators must be prepared to suffer considerably and be endowed with a spirit of cohesion and pugnacity. Everywhere throughout this Presidency these conditions seem to

be wanting. Either the land is very valuable or the people are wholly dependent on it, and at present, at all events, there is no spirit of cohesion or pugnacity anywhere.

7. It seems very unlikely, therefore, whether such conspiracies are ever likely to cause serious anxiety in this Presidency.

8. The next question relates to the proposed amendment of the land revenue law by inserting a provision making it an offence for any person to incite another to withhold payment of the land revenue.

Although conspiracies of the kind under discussion most probably never be successful in this Presidency and though they may never give Government anxiety, yet it is quite possible that the time may come when political agitators will turn their energies in this direction, if not in the hope of success yet in the hope of bringing odium on the Government amongst the ignorant ryots. It is submitted

In the Bombay case there was open preaching of resistance.

The evidence difficulty is common to all questions of conspiracy or abetment.

G.S.F.

that the section would be a difficult one to use. Evidence of the incitement would not be easily forthcoming. But the existence of the provision might prove a valuable warning.

9. In this connection it may be noted that the Bombay Code (*vide* section 150 *et seq.* of Bombay Act V of 1879) contains much more stringent provisions for the recovery of arrears of land revenue than our Act II of 1864.

The Bombay Code provides for the occupancy or alienated holding in respect of which an arrear of land revenue is due being forfeited to Government, and also provides for the arrest and imprisonment of the defaulter.*

* Under the Madras Act the defaulter can be imprisoned only if the arrears cannot be liquidated by sale of the property and even then only if Collector has reason to suspect fraud (section 48 of Act II of 1864).

Section 157 of Bombay Act V of 1879.

10. The questions raised may, it is submitted, be referred to the Board for opinion.

N. E. MARJORIBANKS.
18-1-98.

To the Honourable Member and for circulation—

I don't think it is necessary to refer the matter to the Board for opinion.

The provision is meant to be and would in this Presidency be, it is hoped, no more than a preventive measure: a sign post warning the people against the thin ice.

Agitation and preaching in favour of withholding Government revenue may not gain much success: but such agitation has a cumulative effect if there is no remedy in the Government pharmacopœia to purge it. If it is allowed to go on unchecked it slowly but surely loosens the attachment of the people to the Government. This is perhaps true of all political agitation directed against the Government: but in the matter of the payment of the land revenue, which comes home to so vast a proportion of the people of India, the effect is peculiarly malign.

I think the Government may promise to make a provision in the Land Revenue Code.

G. S. FORBES.
19-1-98.

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We should refer to the Board for opinion. There has been no case in the Presidency yet in which the proposed enactment was necessary, but these may be in the future. A Bill to alter the Act about recovering land revenue is on the anvil.

J. G^[ROSE].
25-1-98.

I have often thought that the law of conspiracy in India should be assimilated to the English Law. But I suppose, after what India says in the last three lines of page 1 of its letter, that we cannot enter on that branch of the subject. As to the rest, I am inclined to agree with the Secretary. I do not see what we shall gain by consulting the Revenue Board. We know already all they can tell us and it is advisable not to publish more widely than is essential confidential papers of this kind. It is clear that, in the event of a strike against the payment of land revenue, we should be in by no means as good a position as the Bombay Government was last year, for Act II of 1864 (Madras) contains no provisions so drastic and so capable of immediate application as the Bombay Revenue Code. I should therefore take advantage of the present opportunity to amend our Act, for the amendment of which, in other respects, a Bill is now ready in the manner proposed. Even so we shall be far from as well off as the Bombay Government, for we shall still have no section corresponding to section 153 of the Bombay Act and shall still be tied down to the somewhat cumbrous and dilatory procedure of Act II of 1864. But perhaps as our people are not so troublesome as the Bombay people, we can manage.

These papers explain, what I never before quite understood, the prosecution of Tilak on a comparatively unobjectionable newspaper article.

H. B^[LISS].
27-1-98.

I am inclined to the opinion of Sir Henry Bliss as to the law of conspiracy. But, we are not allowed to raise that large question; and I do not consider the present moment a suitable one for raising it.

Mr. Forbes has, I think, stated the case well, in his note of 19th January 1898, and I would accept what he says.

On the whole, I consider that it would be better not to refer to the Board.

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Drafts submitted for approval.

Issue.

G.S.F.
11-2-98.

G.S.F.
J.G. (on draft.)
15-2-98.

[Issued as G.O., No. 798 and letter No. 799, Revenue, dated 16th February 1898.]

Government (1898) of Madras. REVENUE,

CONFIDENTIAL.

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Regd.

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Enclosures
Spare copies

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FEBRUARY.

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CONFIDENTIAL.

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REVENUE DEPARTMENT.

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From J. P. HEWETT, Esq., C.I.E., Secretary to the Government of India,
Home Department (Judicial), to the Chief Secretary to the Government
of Madras, dated Simla, the 12th November 1897, No. 1474.

I am directed to forward the enclosed correspondence* with the Government
of Bombay regarding a proposal made
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* Letter from the Government of Bombay,
No. 582, dated the 20th February 1897,
and enclosures.

Letter to the Government of Bombay,
No. 561, dated the 7th May 1897.

Letter from the Government of Bombay,
No. 418, dated the 25th July 1897.

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afford a ready means of proceeding criminally against any persons who may at any
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Endorsement No. 2635, Judicial.

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FORT ST. GEORGE,
2nd December 1897.

(Signed) A. T. ARUNDEL,
Chief Secretary.

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1898.

HOME DEPARTMENT.

CONFIDENTIAL.

From

The Government of Fort St. George.

Recd.

Regd.

} 1898.

Enclosures

Spare copies

Letter, No. 799, Revenue, 16th February 1898.

FEBRUARY.

STATING that there has as yet been no case reported of organized agitation in this Presidency in favour of withholding the Government revenue, and that this Government accepts the suggestion to amend the land revenue law.

CONFIDENTIAL.

REVENUE DEPARTMENT.

LETTER—from

THE HON'BLE MR. G. S. FORBES, I.C.S.,
Secretary to the Government of Madras,
Revenue Department,

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Dated Fort St. George, 16th February 1898.

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I am directed to acknowledge the receipt of your letter No. 1474, Judicial, dated 12th November 1897, enquiring whether any difficulties have been experienced in this Presidency in the realization of the land revenue similar to those that have occurred in Bombay, and suggesting the insertion in the land revenue law, when it next comes under amendment, of a provision making it an offence for any person to incite another to withhold payment of the land revenue.

2. I am to state in reply that there has as yet been no case reported of organized agitation in this Presidency in favour of withholding the Government revenue, and that the absence of the proposed provision from the Land Revenue Code has therefore not been felt. At the same time His Excellency in Council recognises that such agitation has a cumulative effect, and if allowed to go on unchecked slowly but surely loosens the attachment of the people to the Government. A provision on the lines suggested will not only furnish a ready remedy in the event of its operation being actively required, but will be even more valuable as a measure of warning and prevention. His Excellency the Governor in Council therefore accepts the suggestion of the Government of India and I am accordingly to state that the necessary provision will be made in Act II of 1864 (Madras), for the amendment of which in other respects a draft Bill is now ready.

I have the honour to be,

Sir,

Your most obedient servant,

(Signed) G. S. FORBES,
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From the papers forwarded with the above, it appears that organized attempts were made in the Bombay Presidency towards the close of 1896 to induce landholders to withhold payment of land revenue. A mass meeting, attended by 2,000 persons, was held on 13th November 1896 at a place called Khatalvad, at which a Professor Sathe explained to his audience that "if their crops had failed, they should not pay assessment to Government." The proceedings of this meeting were commented on in an article of the *Kesari* newspaper, dated 15th December 1896, edited by Tilak, which contained the following statements:—"He (the Professor) clearly explained to all the assembled people that they should not pay the assessment if they were not in a position to do so." Again, "and where the crops have really failed, the people should take a vow not to pay the assessment." Placards containing extracts from this article were posted in various places in the Thana district, stating that it was the duty of the people by crying out a thousand times or by presenting petitions to obtain "from Government the privileges granted to them by the Famine Code, and that they should make a fixed resolve not to pay assessments" when the crops had really failed. The leaders were also exhorted to help the people in forming the resolution and it was pointed out that prompt payment of his dues even by one person would affect other persons injuriously and that the people must be prepared to suffer inconvenience, if necessary, "while quarrelling according to law". A Poona association, called the Sarvajanik Sabha, is stated to have sent out agents to various districts ostensibly to explain the provisions of the Famine Code, but the result was that in many districts there were unmistakable signs of a determination not to pay land revenue. The provisions of the Land Revenue Code, however, enabled Government to break down the combinations and recover the Government dues.

2. The Bombay Government consulted its Advocate-General in regard to the success of any legal steps that might be taken against the organizers of these attempts. That officer pointed out that an incitement not to pay the Government revenue was not punishable as abetment, as the latter should be abetment of an offence, which non-payment of revenue was not. He added that by the Common Law of England and Ireland for two or three persons to conspire together to do an injury to a third party or a class of persons was an offence, though the injury itself might not be so and that it was under this law of conspiracy that persons who incited tenants in Ireland not to make payment to landlords were tried and punished. The Advocate-General suggested that this law should be embodied in

the Indian Penal Code and that further it should be made an offence even for one person to incite another to withhold payment of the Government revenue. The Bombay Government made a recommendation accordingly to the Government of India. The latter is, however, opposed to the adoption of the English Law of conspiracy and is prepared to consider only the second proposal of the Bombay Government.

3. In their letter read above, the Government of India enquire whether any difficulties have occurred in this Presidency similar to those in Bombay. So far as known, the reply to this enquiry is in the negative. There was, however, an agitation some time back in the Kistna district against the enhancement of the rate of water-tax, which resulted in large relinquishment of the permission to take water for the irrigation of wet crops and in the consequent transfer of the lands from wet to dry. The correspondence on this subject has been put up with the Gódávári settlement papers in circulation and is not therefore available. Notwithstanding the relinquishments, the ryots irrigated their crops during the year for which water-rate was charged, and in the following year they submitted applications for permission to take water as usual and had their lands retransferred to wet.

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N.E.M.

4. The second question put by the Government of India is whether on the next occasion for amending the land revenue law a section may be added thereto making it an offence for any person to incite another to withhold payment of the land revenue. The Revenue Recovery Act of this Presidency contains adequate provisions for the realization of the revenue, but does not furnish a ready means of putting down a conspiracy in its inception and of meeting out due punishment to the agitator who deserves it more than the ignorant people who are misled by him. For this reason it is thought that the proposal will commend itself to Government and that in that event a reply in the affirmative may be furnished to the Government of India.

V.K.R.

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5. The first question is whether difficulties similar to those which have occurred in Bombay have been experienced in this Presidency. Board's Proceedings, Mis. No. 2430, dated 14th May 1895, gives a full account of the water-rate agitation in Kistna and Gódávári in 1895. The case is not exactly the same, however, as the Bombay cases. Government had raised the water-rate, Re. 1, and the ryots, instigated no doubt by the richer among the landholders who were also vakils, etc., relinquished their applications for water, and announced their resolution to cultivate their lands with dry crops. The Government remained firm and the ryots soon realized the foolishness of "cutting off their noses to spite their faces." The Bombay agitations, however, seem to have been fomented by political agitators who saw an opportunity in the famine. There have been no such agitations in this Presidency. Local conspiracies to evade the payment of revenue are however probably not uncommon, e.g., in the upland villages of the Tanjore taluk, the Kallar ryots often combine and refuse to pay the kist. Moveable property disappears when it is sought to be attached and selling the land is useless for nobody in the village will bid anything up to its value and no outsider would have to take it up. If the land is not really very valuable, the defaulters will allow it to be bought in by Government on the chance of being able to get it on a fraudulent darkhast. Otherwise some relation of the defaulter will bid for that as low a rate as he can get the Revenue Inspector to knock it down for.

Yes.

A. E. H[AVELOCK].

G.S.F.

6. For a conspiracy, to withhold land revenue by whatever motive prompted, to be successful, three conditions seem necessary—

I don't think these circumstances cover the case contemplated.

The danger is that agitators may mislead the people into imagining that if they show a determined and united front, Government will give in. There would be a rude awakening. But meantime serious consequences may have occurred.

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(1) The land must not be very valuable.

(2) The conspirators must not be dependent on it.

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7. It seems very unlikely, therefore, whether such conspiracies are ever likely to cause serious anxiety in this Presidency.

8. The next question relates to the proposed amendment of the land revenue law by inserting a provision making it an offence for any person to incite another to withhold payment of the land revenue.

Although conspiracies of the kind under discussion most probably never be successful in this Presidency and though they may never give Government anxiety, yet it is quite possible that the time may come when political agitators will turn their energies in this direction, if not in the hope of success yet in the hope of bringing odium on the Government amongst the ignorant ryots. It is submitted that the section would be a difficult one to use. Evidence of the incitement would not be easily forthcoming. But the existence of the provision might prove a valuable warning.

In the Bombay case there was open preaching of resistance. The evidence difficulty is common to all questions of conspiracy or abetment.

G.S.F.

9. In this connection it may be noted that the Bombay Code (*vide* section 150 *et seq.* of Bombay Act V of 1879) contains much more stringent provisions for the recovery of arrears of land revenue than our Act II of 1864.

The Bombay Code provides for the occupancy or alienated holding in respect of which an arrear of land revenue is due being forfeited to Government, and also provides for the arrest and imprisonment of the defaulter.*

Section 153 of Bombay Act V of 1879.
* Under the Madras Act the defaulter can be imprisoned only if the arrears cannot be liquidated by sale of the property and even then only if Collector has reason to suspect fraud (section 48 of Act II of 1864).

Section 157 of Bombay Act V of 1879.

N. E. MARJORIBANKS.
18-1-98.

To the Honourable Member and for circulation—

I don't think it is necessary to refer the matter to the Board for opinion.

The provision is meant to be and would in this Presidency be, it is hoped, no more than a preventive measure: a sign post warning the people against the thin ice.

Agitation and preaching in favour of withholding Government revenue may not gain much success: but such agitation has a cumulative effect if there is no remedy in the Government pharmacopœia to purge it. If it is allowed to go on unchecked it slowly but surely loosens the attachment of the people to the Government. This is perhaps true of all political agitation directed against the Government: but in the matter of the payment of the land revenue, which comes home to so vast a proportion of the people of India, the effect is peculiarly malign.

I think the Government may promise to make a provision in the Land Revenue Code.

G. S. FORBES.
19-1-98.

We should refer to the Board for opinion. There has been no case in the Presidency yet in which the proposed enactment was necessary, but these may be in the future. A Bill to alter the Act about recovering land revenue is on the anvil.

J. G^[ROSE].
25-1-98.

I have often thought that the law of conspiracy in India should be assimilated to the English Law. But I suppose, after what India says in the last three lines of page 1 of its letter, that we cannot enter on that branch of the subject. As to the rest, I am inclined to agree with the Secretary. I do not see what we shall gain by consulting the Revenue Board. We know already all they can tell us and it is advisable not to publish more widely than is essential confidential papers of this kind. It is clear that, in the event of a strike against the payment of land revenue, we should be in by no means as good a position as the Bombay Government was last year, for Act II of 1864 (Madras) contains no provisions so drastic and so capable of immediate application as the Bombay Revenue Code. I should therefore take advantage of the present opportunity to amend our Act, for the amendment of which, in other respects, a Bill is now ready in the manner proposed. Even so we shall be far from as well off as the Bombay Government, for we shall still have no section corresponding to section 153 of the Bombay Act and shall still be tied down to the somewhat cumbrous and dilatory procedure of Act II of 1864. But perhaps as our people are not so troublesome as the Bombay people, we can manage.

These papers explain, what I never before quite understood, the prosecution of Tilak on a comparatively unobjectionable newspaper article.

H. B^[LISS].
27-1-98.

I am inclined to the opinion of Sir Henry Bliss as to the law of conspiracy. But, we are not allowed to raise that large question; and I do not consider the present moment a suitable one for raising it.

Mr. Forbes has, I think, stated the case well, in his note of 19th January 1898, and I would accept what he says.

On the whole, I consider that it would be better not to refer to the Board.

A. E. H^[AVELOCK].
30-1-98.

To the Hon'ble Mr. J. Grose—

Drafts submitted for approval.

Issue.

G.S.F.
11-2-98.

G.S.F.
J.G. (on draft.)
15-2-98.

[Issued as G.O., No. 798 and letter No. 799, Revenue, dated 16th February 1898.]

Government {1898} of Madras. REVENUE.

CONFIDENTIAL.

Recd.

Regd.

Enclosures

1898.

Spare copies

G.O., Mis. No. 798, 16th February 1898.

FEBRUARY.

Act II of 1864.

Stating that the Government of India will be addressed in connection with certain proposals made by them in amending —.

CONFIDENTIAL.

GOVERNMENT OF MADRAS.
REVENUE DEPARTMENT.

READ—the following paper:—

From J. P. HEWETT, Esq., C.I.E., Secretary to the Government of India, Home Department (Judicial), to the Chief Secretary to the Government of Madras, dated Simla, the 12th November 1897, No. 1474.

I am directed to forward the enclosed correspondence * with the Government of Bombay regarding a proposal made by that Government, in consequence of an organized attempt made to induce occupants of land to withhold payment of land revenue, to the effect that the Government of India should consider the expediency of including in the Indian Penal Code a section or sections to make it an offence in India, as it is under the common law in England, to conspire to do an injury which is not itself an offence, and also a provision to make it an offence for even one person to incite the withholding of Government revenue. The Government of India inquired of the Bombay Government whether the exercise of the authorized coercive processes for the collection of the land revenue had been generally successful, and have received from the Governor in Council an assurance that they have been found perfectly efficacious in defeating the combinations that were commenced to prevent the recovery of the revenue. The Bombay Government, however, while admitting that this measure is not in existing circumstances necessary for the protection of the revenue, represent that the common law of England as to conspiracy is a reasonable and equitable law which might advantageously be applied in India.

In Sir Charles Lyall's strictly confidential letter No. 1460-1464, dated 4th October 1893, certain Local Governments and Administrations were consulted as to a proposal made by the Government of the North-Western Provinces and Oudh in its letter No. 105-4, dated 18th September 1893, for the insertion in the Indian Penal Code of two sections dealing with the law of conspiracy, and, after considering the replies of Local Governments to this reference, the Government of India determined that it was not then desirable to alter the law in the direction proposed by Sir Charles Crosthwaite. They are, as at present advised, opposed to the adoption of the English law of conspiracy in England, and do not wish at the present juncture to further consider the proposal of the Bombay Government on this point. But a suggestion has been made that it might be made an offence in the land revenue law in force in each province to incite any person to withhold payment of the land revenue, and I am desired to inquire whether any such difficulties have occurred in Madras as occurred in Bombay. I am also to ask

whether the Governor in Council thinks it advisable that when the land revenue law in Madras next comes under amendment, a section should be added to it, containing a provision in accordance with the suggestion above referred to, so as to afford a ready means of proceeding criminally against any persons who may at any time take a leading part in organizing a conspiracy or exciting an agitation against the payment of Government land revenue.

ENCLOSURES.

Endorsement No. 2635, Judicial.

Transferred to the Revenue Department with G.O., No. 2236-37, Judicial, dated 27th October 1893 (to be returned when done with).

FORT ST. GEORGE,
2nd December 1897.

(Signed) A. T. ARUNDEL,
Chief Secretary.

ORDER—Mis. No. 798, Revenue, dated 16th February 1898.

Ordered that the following letter be despatched to the Government of India.

(True Extract.)

(Signed) G. S. FORBES,
Secretary to Government.

To the Judicial Department, with G.O., Nos. 2236-37,
dated 27th October 1893, returned.

Exd. J. Henricus.

18 Copies.

1898.

HOME DEPARTMENT.

CONFIDENTIAL.

From

The Government of Fort St. George.

Recd.

Regd.

} 1898.

Enclosures

Spare copies

Letter, No. 799, Revenue, 16th February 1898.

FEBRUARY.

STATING that there has as yet been no case reported of organized agitation in this Presidency in favour of withholding the Government revenue, and that this Government accepts the suggestion to amend the land revenue law.

CONFIDENTIAL.

REVENUE DEPARTMENT.

LETTER—from

THE HON'BLE MR. G. S. FORBES, I.C.S.,
Secretary to the Government of Madras,
Revenue Department,

To

THE SECRETARY TO THE GOVERNMENT OF INDIA,
HOME DEPARTMENT.

Dated Fort St. George, 16th February 1898.

SIR,

I am directed to acknowledge the receipt of your letter No. 1474, Judicial, dated 12th November 1897, enquiring whether any difficulties have been experienced in this Presidency in the realization of the land revenue similar to those that have occurred in Bombay, and suggesting the insertion in the land revenue law, when it next comes under amendment, of a provision making it an offence for any person to incite another to withhold payment of the land revenue.

2. I am to state in reply that there has as yet been no case reported of organized agitation in this Presidency in favour of withholding the Government revenue, and that the absence of the proposed provision from the Land Revenue Code has therefore not been felt. At the same time His Excellency in Council recognises that such agitation has a cumulative effect, and if allowed to go on unchecked slowly but surely loosens the attachment of the people to the Government. A provision on the lines suggested will not only furnish a ready remedy in the event of its operation being actively required, but will be even more valuable as a measure of warning and prevention. His Excellency the Governor in Council therefore accepts the suggestion of the Government of India and I am accordingly to state that the necessary provision will be made in Act II of 1864 (Madras), for the amendment of which in other respects a draft Bill is now ready.

I have the honour to be,

Sir,

Your most obedient servant,

(Signed) G. S. FORBES,
Secretary to Government.

Exd. J. Henricus.

18 Copies.

CONFIDENTIAL.

REVENUE DEPARTMENT.

NOTES CONNECTED WITH G.O., Nos. 798, 799, REVENUE, DATED
16TH FEBRUARY 1898.

Proceedings of the Judicial Department, No. 2635, dated 2nd December 1897.

[SUBJECT.—Amendment of Act II of 1864 (M.).]

To Secretary—

From the papers forwarded with the above, it appears that organized attempts were made in the Bombay Presidency towards the close of 1896 to induce landholders to withhold payment of land revenue. A mass meeting, attended by 2,000 persons, was held on 13th November 1896 at a place called Khatalvad, at which a Professor Sathe explained to his audience that "if their crops had failed, they should not pay assessment to Government." The proceedings of this meeting were commented on in an article of the *Kesari* newspaper, dated 15th December 1896, edited by Tilak, which contained the following statements:—"He (the Professor) clearly explained to all the assembled people that they should not pay the assessment if they were not in a position to do so." Again, "and where the crops have really failed, the people should take a vow not to pay the assessment." Placards containing extracts from this article were posted in various places in the Thana district, stating that it was the duty of the people by crying out a thousand times or by presenting petitions to obtain "from Government the privileges granted to them by the Famine Code, and that they should make a fixed resolve not to pay assessments" when the crops had really failed. The leaders were also exhorted to help the people in forming the resolution and it was pointed out that prompt payment of his dues even by one person would affect other persons injuriously and that the people must be prepared to suffer inconvenience, if necessary, "while quarrelling according to law". A Poona association, called the Sarvajanic Sabha, is stated to have sent out agents to various districts ostensibly to explain the provisions of the Famine Code, but the result was that in many districts there were unmistakable signs of a determination not to pay land revenue. The provisions of the Land Revenue Code, however, enabled Government to break down the combinations and recover the Government dues.

2. The Bombay Government consulted its Advocate-General in regard to the success of any legal steps that might be taken against the organizers of these attempts. That officer pointed out that an incitement not to pay the Government revenue was not punishable as abetment, as the latter should be abetment of an offence, which non-payment of revenue was not. He added that by the Common Law of England and Ireland for two or three persons to conspire together to do an injury to a third party or a class of persons was an offence, though the injury itself might not be so and that it was under this law of conspiracy that persons who incited tenants in Ireland not to make payment to landlords were tried and punished. The Advocate-General suggested that this law should be embodied in

the Indian Penal Code and that further it should be made an offence even for one person to incite another to withhold payment of the Government revenue. The Bombay Government made a recommendation accordingly to the Government of India. The latter is, however, opposed to the adoption of the English Law of conspiracy and is prepared to consider only the second proposal of the Bombay Government.

3. In their letter read above, the Government of India enquire whether any difficulties have occurred in this Presidency similar to those in Bombay. So far as known, the reply to this enquiry is in the negative. There was, however, an

Please see below.

N.E.M.

agitation some time back in the Kistna district against the enhancement of the rate of water-tax, which resulted in large

relinquishment of the permission to take water for the irrigation of wet crops and in the consequent transfer of the lands from wet to dry. The correspondence on this subject has been put up with the Gódvári settlement papers in circulation and is not therefore available. Notwithstanding the relinquishments, the ryots irrigated their crops during the year for which water-rate was charged, and in the following year they submitted applications for permission to take water as usual and had their lands retransferred to wet.

4. The second question put by the Government of India is whether on the next occasion for amending the land revenue law a section may be added thereto making it an offence for any person to incite another to withhold payment of the land revenue. The Revenue Recovery Act of this Presidency contains adequate provisions for the realization of the revenue, but does not furnish a ready means of putting down a conspiracy in its inception and of meeting out due punishment to the agitator who deserves it more than the ignorant people who are misled by him. For this reason it is thought that the proposal will commend itself to Government and that in that event a reply in the affirmative may be furnished to the Government of India.

V.K.R.

17-1-98.

5. The first question is whether difficulties similar to those which have occurred in Bombay have been experienced in this Presidency. Board's Proceedings, Mis. No. 2430, dated 14th May 1895, gives a full account of the water-rate agitation in Kistna and Gódvári in 1895. The case is not exactly the same, however, as

This, as the Under Secretary says, is quite a different case. In the Bombay case they incited the people to omit doing what they were legally bound to do: in Kistna there was incitation and combination to omit doing what each individual might do or not do just as he chose.

G.S.F.

Yes.

A. E. H[AVELOCK].

"to spite their faces." The Bombay agitations, however, seem to have been fomented by political agitators who saw an opportunity in the famine. There have been no such agitations in this Presidency. Local conspiracies to evade the payment of revenue are however probably not uncommon, e.g., in the upland villages of the Tanjore taluk, the Kallar ryots often combine and refuse to pay the kist. Moveable property disappears when it is sought to be attached and selling the land is useless for nobody in the village will bid anything up to its value and no outsider would have to take it up. If the land is not really very valuable, the defaulters will allow it to be bought in by Government on the chance of being able to get it on a fraudulent darkhast. Otherwise some relation of the defaulter will bid for that as low a rate as he can get the Revenue Inspector to knock it down for.

6. For a conspiracy, to withhold land revenue by whatever motive prompted, to be successful, three conditions seem necessary—

I don't think these circumstances cover the case contemplated.

The danger is that agitators may mislead the people into imagining that if they show a determined and united front, Government will give in. There would be a rude awakening. But meantime serious consequences may have occurred.

G.S.F.

(1) The land must not be very valuable.

(2) The conspirators must not be dependent on it.

(3) The conspirators must be prepared to suffer considerably and be endued with a spirit of cohesion and pugnacity. Everywhere throughout this Presidency these conditions seem to

be wanting. Either the land is very valuable or the people are wholly dependent on it, and at present, at all events, there is no spirit of cohesion or pugnacity anywhere.

7. It seems very unlikely, therefore, whether such conspiracies are ever likely to cause serious anxiety in this Presidency.

8. The next question relates to the proposed amendment of the land revenue law by inserting a provision making it an offence for any person to incite another to withhold payment of the land revenue.

Although conspiracies of the kind under discussion most probably never be successful in this Presidency and though they may never give Government anxiety, yet it is quite possible that the time may come when political agitators will turn their energies in this direction, if not in the hope of success yet in the hope of bringing odium on the Government amongst the ignorant ryots. It is submitted that the section would be a difficult one to use. Evidence of the incitement would not be easily forthcoming. But the existence of the provision might prove a valuable warning.

G.S.F.

9. In this connection it may be noted that the Bombay Code (*vide* section 150 *et seq.* of Bombay Act V of 1879) contains much more stringent provisions for the recovery of arrears of land revenue than our Act II of 1864.

The Bombay Code provides for the occupancy or alienated holding in respect of which an arrear of land revenue is due being forfeited to Government, and also provides for the arrest and imprisonment of the defaulter.*

* Under the Madras Act the defaulter can be imprisoned only if the arrears cannot be liquidated by sale of the property and even then only if Collector has reason to suspect fraud (section 48 of Act II of 1864).

Section 157 of Bombay Act V of 1879.

10. The questions raised may, it is submitted, be referred to the Board for opinion.

N. E. MARJORIBANKS.
18-1-98.

To the Honourable Member and for circulation—

I don't think it is necessary to refer the matter to the Board for opinion. The provision is meant to be and would in this Presidency be, it is hoped, no more than a preventive measure: a sign post warning the people against the thin ice.

Agitation and preaching in favour of withholding Government revenue may not gain much success: but such agitation has a cumulative effect if there is no remedy in the Government pharmacopœia to purge it. If it is allowed to go on unchecked it slowly but surely loosens the attachment of the people to the Government. This is perhaps true of all political agitation directed against the Government: but in the matter of the payment of the land revenue, which comes home to so vast a proportion of the people of India, the effect is peculiarly malign.

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J. G[ROSE].
25-1-98.

I have often thought that the law of conspiracy in India should be assimilated to the English Law. But I suppose, after what India says in the last three lines of page 1 of its letter, that we cannot enter on that branch of the subject. As to the rest, I am inclined to agree with the Secretary. I do not see what we shall gain by consulting the Revenue Board. We know already all they can tell us and it is advisable not to publish more widely than is essential confidential papers of this kind. It is clear that, in the event of a strike against the payment of land revenue, we should be in by no means as good a position as the Bombay Government was last year, for Act II of 1864 (Madras) contains no provisions so drastic and so capable of immediate application as the Bombay Revenue Code. I should therefore take advantage of the present opportunity to amend our Act, for the amendment of which, in other respects, a Bill is now ready in the manner proposed. Even so we shall be far from as well off as the Bombay Government, for we shall still have no section corresponding to section 153 of the Bombay Act and shall still be tied down to the somewhat cumbrous and dilatory procedure of Act II of 1864. But perhaps as our people are not so troublesome as the Bombay people, we can manage.

These papers explain, what I never before quite understood, the prosecution of Tilak on a comparatively unobjectionable newspaper article.

H. B[LISS].
27-1-98.

I am inclined to the opinion of Sir Henry Bliss as to the law of conspiracy. But, we are not allowed to raise that large question; and I do not consider the present moment a suitable one for raising it.

Mr. Forbes has, I think, stated the case well, in his note of 19th January 1898, and I would accept what he says.

On the whole, I consider that it would be better not to refer to the Board.

A. E. H[AVELOCK].
30-1-98.

To the Hon'ble Mr. J. Grose—

Drafts submitted for approval.

Issue.

G.S.F.
11-2-98.

G.S.F.
J.G. (on draft.)
15-2-98.

[Issued as G.O., No. 798 and letter No. 799, Revenue, dated 16th February 1898.]

Government (1898) of Madras. REVENUE.

CONFIDENTIAL.

Recd.

Regd.

Enclosures

1898.

Spare copies

G.O., Mis. No. 798, 16th February 1898.

FEBRUARY.

Act II of 1864.

Stating that the Government of India will be addressed in connection with certain proposals made by them in amending —.

CONFIDENTIAL.

GOVERNMENT OF MADRAS.
REVENUE DEPARTMENT.

READ—the following paper:—

From J. P. HEWETT, Esq., C.I.E., Secretary to the Government of India, Home Department (Judicial), to the Chief Secretary to the Government of Madras, dated Simla, the 12th November 1897, No. 1474.

I am directed to forward the enclosed correspondence * with the Government of Bombay regarding a proposal made by that Government, in consequence of an organized attempt made to induce occupants of land to withhold payment of land revenue, to the effect that the Government of India should consider the expediency of including in the Indian Penal Code a section or sections to make

* Letter from the Government of Bombay, No. 582, dated the 20th February 1897, and enclosures.

Letter to the Government of Bombay, No. 561, dated the 7th May 1897.

Letter from the Government of Bombay, No. 418, dated the 25th July 1897.

it an offence in India, as it is under the common law in England, to conspire to do an injury which is not itself an offence, and also a provision to make it an offence for even one person to incite the withholding of Government revenue. The Government of India inquired of the Bombay Government whether the exercise of the authorized coercive processes for the collection of the land revenue had been generally successful, and have received from the Governor in Council an assurance that they have been found perfectly efficacious in defeating the combinations that were commenced to prevent the recovery of the revenue. The Bombay Government, however, while admitting that this measure is not in existing circumstances necessary for the protection of the revenue, represent that the common law of England as to conspiracy is a reasonable and equitable law which might advantageously be applied in India.

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whether the Governor in Council thinks it advisable that when the land revenue law in Madras next comes under amendment, a section should be added to it, containing a provision in accordance with the suggestion above referred to, so as to afford a ready means of proceeding criminally against any persons who may at any time take a leading part in organizing a conspiracy or exciting an agitation against the payment of Government land revenue.

ENCLOSURES.

Endorsement No. 2635, Judicial.

Transferred to the Revenue Department with G.O., No. 2236-37, Judicial, dated 27th October 1893 (to be returned when done with).

FORT ST. GEORGE,
2nd December 1897.

(Signed) A. T. ARUNDEL,
Chief Secretary.

ORDER—Mis. No. 798, Revenue, dated 16th February 1898.

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(True Extract.)

(Signed) G. S. FORBES,
Secretary to Government.

To the Judicial Department, with G.O., Nos. 2236-37,
dated 27th October 1893, returned.

Exd. J. Henricus.
18 Copies.

1898.

HOME DEPARTMENT.

CONFIDENTIAL.

From *The Government of Fort St. George.*

<i>Recd.</i>	}	<i>1898.</i>	<i>Enclosures</i>
<i>Regd.</i>		<i>Spare copies</i>	

Letter, No. 799, Revenue, 16th February 1898.

FEBRUARY.

STATING that there has as yet been no case reported of organized agitation in this Presidency in favour of withholding the Government revenue, and that this Government accepts the suggestion to amend the land revenue law.

CONFIDENTIAL.

REVENUE DEPARTMENT.

LETTER—from

THE HON'BLE MR. G. S. FORBES, I.C.S.,
Secretary to the Government of Madras,
Revenue Department,

To

THE SECRETARY TO THE GOVERNMENT OF INDIA,
HOME DEPARTMENT.

Dated Fort St. George, 16th February 1898.

SIR,

I am directed to acknowledge the receipt of your letter No. 1474, Judicial, dated 12th November 1897, enquiring whether any difficulties have been experienced in this Presidency in the realization of the land revenue similar to those that have occurred in Bombay, and suggesting the insertion in the land revenue law, when it next comes under amendment, of a provision making it an offence for any person to incite another to withhold payment of the land revenue.

2. I am to state in reply that there has as yet been no case reported of organized agitation in this Presidency in favour of withholding the Government revenue, and that the absence of the proposed provision from the Land Revenue Code has therefore not been felt. At the same time His Excellency in Council recognises that such agitation has a cumulative effect, and if allowed to go on unchecked slowly but surely loosens the attachment of the people to the Government. A provision on the lines suggested will not only furnish a ready remedy in the event of its operation being actively required, but will be even more valuable as a measure of warning and prevention. His Excellency the Governor in Council therefore accepts the suggestion of the Government of India and I am accordingly to state that the necessary provision will be made in Act II of 1864 (Madras), for the amendment of which in other respects a draft Bill is now ready.

I have the honour to be,

Sir,

Your most obedient servant,

(Signed) G. S. FORBES,
Secretary to Government.

Exd. J. Henricus.

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CONFIDENTIAL.

REVENUE DEPARTMENT.

NOTES CONNECTED WITH G.O., Nos. 798, 799, REVENUE, DATED
16TH FEBRUARY 1898.

Proceedings of the Judicial Department, No. 2635, dated 2nd December 1897.

[SUBJECT.—Amendment of Act II of 1864 (M.).]

To Secretary—

From the papers forwarded with the above, it appears that organized attempts were made in the Bombay Presidency towards the close of 1896 to induce landholders to withhold payment of land revenue. A mass meeting, attended by 2,000 persons, was held on 13th November 1896 at a place called Khatalvad, at which a Professor Sathe explained to his audience that "if their crops had failed, they should not pay assessment to Government." The proceedings of this meeting were commented on in an article of the *Kesari* newspaper, dated 15th December 1896, edited by Tilak, which contained the following statements:—"He (the Professor) clearly explained to all the assembled people that they should not pay the assessment if they were not in a position to do so." Again, "and where the crops have really failed, the people should take a vow not to pay the assessment." Placards containing extracts from this article were posted in various places in the Thana district, stating that it was the duty of the people by crying out a thousand times or by presenting petitions to obtain "from Government the privileges granted to them by the Famine Code, and that they should make a fixed resolve not to pay assessments" when the crops had really failed. The leaders were also exhorted to help the people in forming the resolution and it was pointed out that prompt payment of his dues even by one person would affect other persons injuriously and that the people must be prepared to suffer inconvenience, if necessary, "while quarrelling according to law". A Poona association, called the Sarvajanic Sabha, is stated to have sent out agents to various districts ostensibly to explain the provisions of the Famine Code, but the result was that in many districts there were unmistakable signs of a determination not to pay land revenue. The provisions of the Land Revenue Code, however, enabled Government to break down the combinations and recover the Government dues.

2. The Bombay Government consulted its Advocate-General in regard to the success of any legal steps that might be taken against the organizers of these attempts. That officer pointed out that an incitement not to pay the Government revenue was not punishable as abetment, as the latter should be abetment of an offence, which non-payment of revenue was not. He added that by the Common Law of England and Ireland for two or three persons to conspire together to do an injury to a third party or a class of persons was an offence, though the injury itself might not be so and that it was under this law of conspiracy that persons who incited tenants in Ireland not to make payment to landlords were tried and punished. The Advocate-General suggested that this law should be embodied in

the Indian Penal Code and that further it should be made an offence even for one person to incite another to withhold payment of the Government revenue. The Bombay Government made a recommendation accordingly to the Government of India. The latter is, however, opposed to the adoption of the English Law of conspiracy and is prepared to consider only the second proposal of the Bombay Government.

3. In their letter read above, the Government of India enquire whether any difficulties have occurred in this Presidency similar to those in Bombay. So far as known, the reply to this enquiry is in the negative. There was, however, an

Please see below.

N.E.M.

agitation some time back in the Kistna district against the enhancement of the rate of water-tax, which resulted in large relinquishment of the permission to take water for the irrigation of wet crops and in the consequent transfer of the lands from wet to dry. The correspondence on this subject has been put up with the Gódávári settlement papers in circulation and is not therefore available. Notwithstanding the relinquishments, the ryots irrigated their crops during the year for which water-rate was charged, and in the following year they submitted applications for permission to take water as usual and had their lands retransferred to wet.

4. The second question put by the Government of India is whether on the next occasion for amending the land revenue law a section may be added thereto making it an offence for any person to incite another to withhold payment of the land revenue. The Revenue Recovery Act of this Presidency contains adequate provisions for the realization of the revenue, but does not furnish a ready means of putting down a conspiracy in its inception and of meeting out due punishment to the agitator who deserves it more than the ignorant people who are misled by him. For this reason it is thought that the proposal will commend itself to Government and that in that event a reply in the affirmative may be furnished to the Government of India.

V.K.R.

17-1-98.

5. The first question is whether difficulties similar to those which have occurred in Bombay have been experienced in this Presidency. Board's Proceedings, Mis. No. 2430, dated 14th May 1895, gives a full account of the water-rate agitation in Kistna and Gódávári in 1895. The case is not exactly the same, however, as the Bombay cases. Government had raised the water-rate, Re. 1, and the ryots, instigated no doubt by the richer among the landholders who were also vakils, etc., relinquished their applications for water, and announced their resolution to cultivate their lands with dry crops. The Government remained firm and the ryots soon realized the foolishness of "cutting off their noses

G.S.F.

Yes.

A. E. H[AVELOCK].

"to spite their faces." The Bombay agitations, however, seem to have been fomented by political agitators who saw an opportunity in the famine. There have been no such agitations in this Presidency. Local conspiracies to evade the payment of revenue are however probably not uncommon, e.g., in the upland villages of the Tanjore taluk, the Kallar ryots often combine and refuse to pay the kist. Moveable property disappears when it is sought to be attached and selling the land is useless for nobody in the village will bid anything up to its value and no outsider would have to take it up. If the land is not really very valuable, the defaulters will allow it to be bought in by Government on the chance of being able to get it on a fraudulent darkhast. Otherwise some relation of the defaulter will bid for that as low a rate as he can get the Revenue Inspector to knock it down for.

6. For a conspiracy, to withhold land revenue by whatever motive prompted, to be successful, three conditions seem necessary—

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G.S.F.

(1) The land must not be very valuable.

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be wanting. Either the land is very valuable or the people are wholly dependent on it, and at present, at all events, there is no spirit of cohesion or pugnacity anywhere.

7. It seems very unlikely, therefore, whether such conspiracies are ever likely to cause serious anxiety in this Presidency.

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G.S.F.

that the section would be a difficult one to use. Evidence of the incitement would not be easily forthcoming. But the existence of the provision might prove a valuable warning.

9. In this connection it may be noted that the Bombay Code (*vide* section 150 *et seq.* of Bombay Act V of 1879) contains much more stringent provisions for the recovery of arrears of land revenue than our Act II of 1864.

The Bombay Code provides for the occupancy or alienated holding in respect of which an arrear of land revenue is due being forfeited to Government, and also provides for the arrest and imprisonment of the defaulter.*

Section 153 of Bombay Act V of 1879.
* Under the Madras Act the defaulter can be imprisoned only if the arrears cannot be liquidated by sale of the property and even then only if Collector has reason to suspect fraud (section 48 of Act II of 1864).

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N. E. MARJORIBANKS.
18-1-98.

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The provision is meant to be and would in this Presidency be, it is hoped, no more than a preventive measure: a sign post warning the people against the thin ice.

Agitation and preaching in favour of withholding Government revenue may not gain much success: but such agitation has a cumulative effect if there is no remedy in the Government pharmacopœia to purge it. If it is allowed to go on unchecked it slowly but surely loosens the attachment of the people to the Government. This is perhaps true of all political agitation directed against the Government: but in the matter of the payment of the land revenue, which comes home to so vast a proportion of the people of India, the effect is peculiarly malign.

I think the Government may promise to make a provision in the Land Revenue Code.

G. S. FORBES.
19-1-98.

We should refer to the Board for opinion. There has been no case in the Presidency yet in which the proposed enactment was necessary, but these may be in the future. A Bill to alter the Act about recovering land revenue is on the anvil.

J. G[ROSE].
25-1-98.

I have often thought that the law of conspiracy in India should be assimilated to the English Law. But I suppose, after what India says in the last three lines of page 1 of its letter, that we cannot enter on that branch of the subject. As to the rest, I am inclined to agree with the Secretary. I do not see what we shall gain by consulting the Revenue Board. We know already all they can tell us and it is advisable not to publish more widely than is essential confidential papers of this kind. It is clear that, in the event of a strike against the payment of land revenue, we should be in by no means as good a position as the Bombay Government was last year, for Act II of 1864 (Madras) contains no provisions so drastic and so capable of immediate application as the Bombay Revenue Code. I should therefore take advantage of the present opportunity to amend our Act, for the amendment of which, in other respects, a Bill is now ready in the manner proposed. Even so we shall be far from as well off as the Bombay Government, for we shall still have no section corresponding to section 153 of the Bombay Act and shall still be tied down to the somewhat cumbrous and dilatory procedure of Act II of 1864. But perhaps as our people are not so troublesome as the Bombay people, we can manage.

These papers explain, what I never before quite understood, the prosecution of Tilak on a comparatively unobjectionable newspaper article.

H. B[LISS].
27-1-98.

I am inclined to the opinion of Sir Henry Bliss as to the law of conspiracy. But, we are not allowed to raise that large question; and I do not consider the present moment a suitable one for raising it.

Mr. Forbes has, I think, stated the case well, in his note of 19th January 1898, and I would accept what he says.

On the whole, I consider that it would be better not to refer to the Board.

A. E. H[AVELOCK].
30-1-98.

To the Hon'ble Mr. J. Grose—

Drafts submitted for approval,

Issue.

G.S.F.
11-2-98.

G.S.F.
J.G. (on draft.)
15-2-98.

[Issued as G.O., No. 798 and letter No. 799, Revenue, dated 16th February 1898.]

Government (1898) of Madras. REVENUE.

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Enclosures

1898.

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G.O., Mis. No. 798, 16th February 1898.

FEBRUARY.

Act II of 1864.

Stating that the Government of India will be addressed in connection with certain proposals made by them in amending —.

CONFIDENTIAL.

GOVERNMENT OF MADRAS.
REVENUE DEPARTMENT.

READ—the following paper:—

From J. P. HEWETT, Esq., C.I.E., Secretary to the Government of India, Home Department (Judicial), to the Chief Secretary to the Government of Madras, dated Simla, the 12th November 1897, No. 1474.

I am directed to forward the enclosed correspondence * with the Government of Bombay regarding a proposal made by that Government, in consequence of an organized attempt made to induce occupants of land to withhold payment of land revenue, to the effect that the Government of India should consider the expediency of including in the Indian Penal Code a section or sections to make it an offence in England, to conspire to do an injury which is not itself an offence, and also a provision to make it an offence for even one person to incite the withholding of Government revenue. The Government of India inquired of the Bombay Government whether the exercise of the authorized coercive processes for the collection of the land revenue had been generally successful, and have received from the Governor in Council an assurance that they have been found perfectly efficacious in defeating the combinations that were commenced to prevent the recovery of the revenue. The Bombay Government, however, while admitting that this measure is not in existing circumstances necessary for the protection of the revenue, represent that the common law of England as to conspiracy is a reasonable and equitable law which might advantageously be applied in India.

In Sir Charles Lyall's strictly confidential letter No. 1460-1464, dated 4th October 1893, certain Local Governments and Administrations were consulted as to a proposal made by the Government of the North-Western Provinces and Oudh in its letter No. 105-4, dated 18th September 1893, for the insertion in the Indian Penal Code of two sections dealing with the law of conspiracy, and, after considering the replies of Local Governments to this reference, the Government of India determined that it was not then desirable to alter the law in the direction proposed by Sir Charles Crosthwaite. They are, as at present advised, opposed to the adoption of the English law of conspiracy in England, and do not wish at the present juncture to further consider the proposal of the Bombay Government on this point. But a suggestion has been made that it might be made an offence in the land revenue law in force in each province to incite any person to withhold payment of the land revenue, and I am desired to inquire whether any such difficulties have occurred in Madras as occurred in Bombay. I am also to ask

whether the Governor in Council thinks it advisable that when the land revenue law in Madras next comes under amendment, a section should be added to it, containing a provision in accordance with the suggestion above referred to, so as to afford a ready means of proceeding criminally against any persons who may at any time take a leading part in organizing a conspiracy or exciting an agitation against the payment of Government land revenue.

ENCLOSURES.

Endorsement No. 2635, Judicial.

Transferred to the Revenue Department with G.O., No. 2236-37, Judicial, dated 27th October 1893 (to be returned when done with).

FORT ST. GEORGE,
2nd December 1897.

(Signed) A. T. ARUNDEL,
Chief Secretary.

ORDER—Mis. No. 798, Revenue, dated 16th February 1898.

Ordered that the following letter be despatched to the Government of India.

(True Extract.)

(Signed) G. S. FORBES,
Secretary to Government.

To the Judicial Department, with G.O., Nos. 2236-37,
dated 27th October 1893, returned.

Exd. J. Henricus.

18 Copies.

1898.

HOME DEPARTMENT.

CONFIDENTIAL.

From *The Government of Fort St. George.*

<i>Recd.</i>	}	<i>Enclosures</i>
<i>Regd.</i>		<i>Spare copies</i>

Letter, No. 799, Revenue, 16th February 1898.

FEBRUARY.

STATING that there has as yet been no case reported of organized agitation in this Presidency in favour of withholding the Government revenue, and that this Government accept the suggestion to amend the land revenue law.

No. 799, REVENUE, 16TH FEBRUARY 1898.

CONFIDENTIAL.

REVENUE DEPARTMENT.

LETTER—from

THE HON'BLE MR. G. S. FORBES, I.C.S.,
Secretary to the Government of Madras,
Revenue Department,

To

THE SECRETARY TO THE GOVERNMENT OF INDIA,
HOME DEPARTMENT.

Dated Fort St. George, 16th February 1898.

SIR,

I am directed to acknowledge the receipt of your letter No. 1474, Judicial, dated 12th November 1897, inquiring whether any difficulties have been experienced in this Presidency in the realization of the land revenue similar to those that have occurred in Bombay, and suggesting the insertion in the land revenue law, when it next comes under amendment, of a provision making it an offence for any person to incite another to withhold payment of the land revenue.

2. I am to state in reply that there has as yet been no case reported of organized agitation in this Presidency in favour of withholding the Government revenue, and that the absence of the proposed provision from the Land Revenue Code has therefore not been felt. At the same time His Excellency in Council recognises that such agitation has a cumulative effect, and if allowed to go on unchecked slowly but surely loosens the attachment of the people to the Government. A provision on the lines suggested will not only furnish a ready remedy in the event of its operation being actively required, but will be even more valuable as a measure of warning and prevention. His Excellency the Governor in Council therefore accepts the suggestion of the Government of India and I am accordingly to state that the necessary provision will be made in Act II of 1864 (Madras), for the amendment of which in other respects a draft Bill is now ready.

I have the honour to be,

Sir,

Your most obedient servant,

(Signed) G. S. FORBES,
Secretary to Government.

Exd. J. Henriens.

Copies.

CONFIDENTIAL.

REVENUE DEPARTMENT.

NOTES CONNECTED WITH G.O., Nos. 798, 799, REVENUE, DATED
16TH FEBRUARY 1898.

Proceedings of the Judicial Department, No. 2635, dated 2nd December 1897.

[SUBJECT.—Amendment of Act II of 1864 (M.).]

To Secretary—

From the papers forwarded with the above, it appears that organized attempts were made in the Bombay Presidency towards the close of 1896 to induce landholders to withhold payment of land revenue. A mass meeting, attended by 2,000 persons, was held on 13th November 1896 at a place called Khatalvad, at which a Professor Sathe explained to his audience that "if their crops had failed, they should not pay assessment to Government." The proceedings of this meeting were commented on in an article of the *Kesari* newspaper, dated 15th December 1896, edited by Tilak, which contained the following statements:—"He (the Professor) clearly explained to all the assembled people that they should not pay the assessment if they were not in a position to do so." Again, "and where the crops have really failed, the people should take a vow not to pay the assessment." Placards containing extracts from this article were posted in various places in the Thana district, stating that it was the duty of the people by crying out a thousand times or by presenting petitions to obtain "from Government the privileges granted to them by the Famine Code, and that they should make a fixed resolve not to pay assessments" when the crops had really failed. The leaders were also exhorted to help the people in forming the resolution and it was pointed out that prompt payment of his dues even by one person would affect other persons injuriously and that the people must be prepared to suffer inconvenience, if necessary, "while quarrelling according to law". A Poona association, called the Sarvajanic Sabha, is stated to have sent out agents to various districts ostensibly to explain the provisions of the Famine Code, but the result was that in many districts there were unmistakable signs of a determination not to pay land revenue. The provisions of the Land Revenue Code, however, enabled Government to break down the combinations and recover the Government dues.

2. The Bombay Government consulted its Advocate-General in regard to the success of any legal steps that might be taken against the organizers of these attempts. That officer pointed out that an incitement not to pay the Government revenue was not punishable as abetment, as the latter should be abetment of an offence, which non-payment of revenue was not. He added that by the Common Law of England and Ireland for two or three persons to conspire together to do an injury to a third party or a class of persons was an offence, though the injury itself might not be so and that it was under this law of conspiracy that persons who incited tenants in Ireland not to make payment to landlords were tried and punished. The Advocate-General suggested that this law should be embodied in

the Indian Penal Code and that further it should be made an offence even for one person to incite another to withhold payment of the Government revenue. The Bombay Government made a recommendation accordingly to the Government of India. The latter is, however, opposed to the adoption of the English Law of conspiracy and is prepared to consider only the second proposal of the Bombay Government.

3. In their letter read above, the Government of India enquire whether any difficulties have occurred in this Presidency similar to those in Bombay. So far as known, the reply to this enquiry is in the negative. There was, however, an agitation some time back in the Kistna district against the enhancement of the rate of water-tax, which resulted in large

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relinquishment of the permission to take water for the irrigation of wet crops and in the consequent transfer of the lands from wet to dry. The correspondence on this subject has been put up with the Gódvári settlement papers in circulation and is not therefore available. Notwithstanding the relinquishments, the ryots irrigated their crops during the year for which water-rate was charged, and in the following year they submitted applications for permission to take water as usual and had their lands retransferred to wet.

4. The second question put by the Government of India is whether on the next occasion for amending the land revenue law a section may be added thereto making it an offence for any person to incite another to withhold payment of the land revenue. The Revenue Recovery Act of this Presidency contains adequate provisions for the realization of the revenue, but does not furnish a ready means of putting down a conspiracy in its inception and of meeting out due punishment to the agitator who deserves it more than the ignorant people who are misled by him. For this reason it is thought that the proposal will commend itself to Government and that in that event a reply in the affirmative may be furnished to the Government of India.

V.K.R.

17-1-98.

5. The first question is whether difficulties similar to those which have occurred in Bombay have been experienced in this Presidency. Board's Proceedings, Mis. No. 2430, dated 14th May 1895, gives a full account of the water-rate agitation in Kistna and Gódvári in 1895. The case is not exactly the same, however, as

This, as the Under Secretary says, is quite a different case. In the Bombay case they incited the people to omit doing what they were legally bound to do: in Kistna there was incitation and combination to omit doing what each individual might do or not do just as he chose.

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Yes.

A. E. H[AVELOCK].

"to spite their faces." The Bombay agitations, however, seem to have been fomented by political agitators who saw an opportunity in the famine. There have been no such agitations in this Presidency. Local conspiracies to evade the payment of revenue are however probably not uncommon, e.g., in the upland villages of the Tanjore taluk, the Kallar ryots often combine and refuse to pay the kist. Moveable property disappears when it is sought to be attached and value and no outsider would have to take it up. If the land is not really very valuable, the defaulters will allow it to be bought in by Government on the chance of being able to get it on a fraudulent darkhast. Otherwise some relation of the defaulter will bid for that as low a rate as he can get the Revenue Inspector to knock it down for.

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7. It seems very unlikely, therefore, whether such conspiracies are ever likely to cause serious anxiety in this Presidency.

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Although conspiracies of the kind under discussion most probably never be successful in this Presidency and though they may never give Government anxiety, yet it is quite possible that the time may come when political agitators will turn their energies in this direction, if not in the hope of success yet in the hope of bringing odium on the Government amongst the ignorant ryots. It is submitted that the section would be a difficult one to use. Evidence of the incitement would not be easily forthcoming. But the existence of the provision might prove a valuable warning.

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To the Hon'ble Mr. J. Grose—

Drafts submitted for approval.

Issue.

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11-2-98.

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[Issued as G.O., No. 798 and letter No. 799, Revenue, dated 16th February 1898.]

Government {1898} of Madras. REVENUE.

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Enclosures

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FEBRUARY.

Act II of 1864.

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CONFIDENTIAL.

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REVENUE DEPARTMENT.

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ENCLOSURES.

Endorsement No. 2635, Judicial.

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FORT ST. GEORGE,
2nd December 1897.

(Signed) A. T. ARUNDEL,
Chief Secretary.

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HOME DEPARTMENT.

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From

The Government of Fort St. George.

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Regd.

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Letter, No. 799, Revenue, 16th February 1898.

FEBRUARY.

STATING that there has as yet been no case reported of organized agitation in this Presidency in favour of withholding the Government revenue, and that this Government accepts the suggestion to amend the land revenue law.

CONFIDENTIAL.

REVENUE DEPARTMENT.

LETTER—from

THE HON'BLE MR. G. S. FORBES, I.C.S.,
Secretary to the Government of Madras,
Revenue Department,

To

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HOME DEPARTMENT.

Dated Fort St. George, 16th February 1898.

SIR,

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2. I am to state in reply that there has as yet been no case reported of organized agitation in this Presidency in favour of withholding the Government revenue, and that the absence of the proposed provision from the Land Revenue Code has therefore not been felt. At the same time His Excellency in Council recognises that such agitation has a cumulative effect, and if allowed to go on unchecked slowly but surely loosens the attachment of the people to the Government. A provision on the lines suggested will not only furnish a ready remedy in the event of its operation being actively required, but will be even more valuable as a measure of warning and prevention. His Excellency the Governor in Council therefore accepts the suggestion of the Government of India and I am accordingly to state that the necessary provision will be made in Act II of 1864 (Madras), for the amendment of which in other respects a draft Bill is now ready.

I have the honour to be,

Sir,

Your most obedient servant,

(Signed) G. S. FORBES,
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CONFIDENTIAL.

REVENUE DEPARTMENT.

NOTES CONNECTED WITH G.O., Nos. 798, 799, REVENUE, DATED
16TH FEBRUARY 1898.

Proceedings of the Judicial Department, No. 2635, dated 2nd December 1897.

[SUBJECT.—Amendment of Act II of 1864 (M.).]

To Secretary—

From the papers forwarded with the above, it appears that organized attempts were made in the Bombay Presidency towards the close of 1896 to induce landholders to withhold payment of land revenue. A mass meeting, attended by 2,000 persons, was held on 13th November 1896 at a place called Khatalvad, at which a Professor Sathe explained to his audience that "if their crops had failed, they should not pay assessment to Government." The proceedings of this meeting were commented on in an article of the *Kesari* newspaper, dated 15th December 1896, edited by Tilak, which contained the following statements:—"He (the Professor) clearly explained to all the assembled people that they should not pay the assessment if they were not in a position to do so." Again, "and where the crops have really failed, the people should take a vow not to pay the assessment." Placards containing extracts from this article were posted in various places in the Thana district, stating that it was the duty of the people by crying out a thousand times or by presenting petitions to obtain "from Government the privileges granted to them by the Famine Code, and that they should make a fixed resolve not to pay assessments" when the crops had really failed. The leaders were also exhorted to help the people in forming the resolution and it was pointed out that prompt payment of his dues even by one person would affect other persons injuriously and that the people must be prepared to suffer inconvenience, if necessary, "while quarrelling according to law". A Poona association, called the Sarvajanik Sabha, is stated to have sent out agents to various districts ostensibly to explain the provisions of the Famine Code, but the result was that in many districts there were unmistakable signs of a determination not to pay land revenue. The provisions of the Land Revenue Code, however, enabled Government to break down the combinations and recover the Government dues.

2. The Bombay Government consulted its Advocate-General in regard to the success of any legal steps that might be taken against the organizers of these attempts. That officer pointed out that an incitement not to pay the Government revenue was not punishable as abetment, as the latter should be abetment of an offence, which non-payment of revenue was not. He added that by the Common Law of England and Ireland for two or three persons to conspire together to do an injury to a third party or a class of persons was an offence, though the injury itself might not be so and that it was under this law of conspiracy that persons who incited tenants in Ireland not to make payment to landlords were tried and punished. The Advocate-General suggested that this law should be embodied in

the Indian Penal Code and that further it should be made an offence even for one person to incite another to withhold payment of the Government revenue. The Bombay Government made a recommendation accordingly to the Government of India. The latter is, however, opposed to the adoption of the English Law of Government.

3. In their letter read above, the Government of India enquire whether any difficulties have occurred in this Presidency similar to those in Bombay. So far as known, the reply to this enquiry is in the negative. There was, however, an agitation some time back in the Kistna district against the enhancement of the rate of water-tax, which resulted in large

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V.K.R.

17-1-98.

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be wanting. Either the land is very valuable or the people are wholly dependent on it, and at present, at all events, there is no spirit of cohesion or pugnacity anywhere.

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8. The next question relates to the proposed amendment of the land revenue law by inserting a provision making it an offence for any person to incite another to withhold payment of the land revenue.

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that the section would be a difficult one to use. Evidence of the incitement would not be easily forthcoming. But the existence of the provision might prove a valuable warning.

9. In this connection it may be noted that the Bombay Code (*vide* section 150 *et seq.* of Bombay Act V of 1879) contains much more stringent provisions for the recovery of arrears of land revenue than our Act II of 1864.

The Bombay Code provides for the occupancy or alienated holding in respect of which an arrear of land revenue is due being forfeited to Government, and also provides for the arrest and imprisonment of the defaulter.*

* Under the Madras Act the defaulter can be imprisoned only if the arrears cannot be liquidated by sale of the property and even then only if Collector has reason to suspect fraud (section 48 of Act II of 1864).

Section 157 of Bombay Act V of 1879.

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N. E. MARJORIBANKS.
18-1-98.

To the Honourable Member and for circulation—

I don't think it is necessary to refer the matter to the Board for opinion.

The provision is meant to be and would in this Presidency be, it is hoped, no more than a preventive measure: a sign post warning the people against the thin ice.

Agitation and preaching in favour of withholding Government revenue may not gain much success: but such agitation has a cumulative effect if there is no remedy in the Government pharmacopœia to purge it. If it is allowed to go on unchecked it slowly but surely loosens the attachment of the people to the Government. This is perhaps true of all political agitation directed against the Government: but in the matter of the payment of the land revenue, which comes home to so vast a proportion of the people of India, the effect is peculiarly malign.

I think the Government may promise to make a provision in the Land Revenue Code.

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We should refer to the Board for opinion. There has been no case in the Presidency yet in which the proposed enactment was necessary, but these may be in the future. A Bill to alter the Act about recovering land revenue is on the anvil.

J. G^[ROSE].
25-1-98.

I have often thought that the law of conspiracy in India should be assimilated to the English Law. But I suppose, after what India says in the last three lines of page 1 of its letter, that we cannot enter on that branch of the subject. As to the rest, I am inclined to agree with the Secretary. I do not see what we shall gain by consulting the Revenue Board. We know already all they can tell us and it is advisable not to publish more widely than is essential confidential papers of this kind. It is clear that, in the event of a strike against the payment of land revenue, we should be in by no means as good a position as the Bombay Government was last year, for Act II of 1864 (Madras) contains no provisions so drastic and so capable of immediate application as the Bombay Revenue Code. I should therefore take advantage of the present opportunity to amend our Act, for the amendment of which, in other respects, a Bill is now ready in the manner proposed. Even so we shall be far from as well off as the Bombay Government, for we shall still have no section corresponding to section 153 of the Bombay Act and shall still be tied down to the somewhat cumbrous and dilatory procedure of Act II of 1864. But perhaps as our people are not so troublesome as the Bombay people, we can manage.

These papers explain, what I never before quite understood, the prosecution of Tilak on a comparatively unobjectionable newspaper article.

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27-1-98.

I am inclined to the opinion of Sir Henry Bliss as to the law of conspiracy. But, we are not allowed to raise that large question; and I do not consider the present moment a suitable one for raising it.

Mr. Forbes has, I think, stated the case well, in his note of 19th January 1898, and I would accept what he says.

On the whole, I consider that it would be better not to refer to the Board.

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To the Hon'ble Mr. J. Grose—

Drafts submitted for approval.

Issue.

G.S.F.
11-2-98.

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J.G. (on draft.)
15-2-98.

[Issued as G.O., No. 798 and letter No. 799, Revenue, dated 16th February 1898.]

Government (1898) of Madras. REVENUE.

CONFIDENTIAL.

Recd.

Regd.

Enclosures

1898.

Spare copies

G.O., Mis. No. 798, 16th February 1898.

FEBRUARY.

Act II of 1864.

Stating that the Government of India will be addressed in connection with certain proposals made by them in amending —.

CONFIDENTIAL.

GOVERNMENT OF MADRAS.
REVENUE DEPARTMENT.

READ—the following paper:—

From J. P. HEWETT, Esq., C.I.E., Secretary to the Government of India, Home Department (Judicial), to the Chief Secretary to the Government of Madras, dated Simla, the 12th November 1897, No. 1474.

I am directed to forward the enclosed correspondence * with the Government of Bombay regarding a proposal made by that Government, in consequence of an organized attempt made to induce occupants of land to withhold payment of land revenue, to the effect that the Government of India should consider the expediency of including in the Indian Penal Code a section or sections to make

* Letter from the Government of Bombay, No. 582, dated the 20th February 1897, and enclosures.
Letter to the Government of Bombay, No. 561, dated the 7th May 1897.
Letter from the Government of Bombay, No. 418, dated the 25th July 1897.

it an offence in India, as it is under the common law in England, to conspire to do an injury which is not itself an offence, and also a provision to make it an offence for even one person to incite the withholding of Government revenue. The Government of India inquired of the Bombay Government whether the exercise of the authorized coercive processes for the collection of the land revenue had been generally successful, and have received from the Governor in Council an assurance that they have been found perfectly efficacious in defeating the combinations that were commenced to prevent the recovery of the revenue. The Bombay Government, however, while admitting that this measure is not in existing circumstances necessary for the protection of the revenue, represent that the common law of England as to conspiracy is a reasonable and equitable law which might advantageously be applied in India.

In Sir Charles Lyall's strictly confidential letter No. 1460-1464, dated 4th October 1893, certain Local Governments and Administrations were consulted as to a proposal made by the Government of the North-Western Provinces and Oudh in its letter No. 105-4, dated 18th September 1893, for the insertion in the Indian Penal Code of two sections dealing with the law of conspiracy, and, after considering the replies of Local Governments to this reference, the Government of India by Sir Charles Crosthwaite. They are, as at present advised, opposed to the adoption of the English law of conspiracy in England, and do not wish at the present juncture to further consider the proposal of the Bombay Government on this point. But a suggestion has been made that it might be made an offence in the land revenue law in force in each province to incite any person to withhold payment of the land revenue, and I am desired to inquire whether any such difficulties have occurred in Madras as occurred in Bombay. I am also to ask

whether the Governor in Council thinks it advisable that when the land revenue law in Madras next comes under amendment, a section should be added to it, containing a provision in accordance with the suggestion above referred to, so as to afford a ready means of proceeding criminally against any persons who may at any time take a leading part in organizing a conspiracy or exciting an agitation against the payment of Government land revenue.

ENCLOSURES.

Endorsement No. 2635, Judicial.

Transferred to the Revenue Department with G.O., No. 2236-37, Judicial, dated 27th October 1893 (to be returned when done with).

FORT ST. GEORGE,
2nd December 1897.

(Signed) A. T. ARUNDEL,
Chief Secretary.

ORDER—Mis. No. 798, Revenue, dated 16th February 1898.

Ordered that the following letter be despatched to the Government of India.

(True Extract.)

(Signed) G. S. FORBES,
Secretary to Government.

To the Judicial Department, with G.O., Nos. 2236-37,
dated 27th October 1893, returned.

1898.

HOME DEPARTMENT.

CONFIDENTIAL.

From

The Government of Fort St. George.

Recd.

Regd.

} 1898.

Enclosures

Spare copies

Letter, No. 799, Revenue, 16th February 1898.

FEBRUARY.

STATING that there has as yet been no case reported of organized agitation in this Presidency in favour of withholding the Government revenue, and that this Government accepts the suggestion to amend the land revenue law.

CONFIDENTIAL.

REVENUE DEPARTMENT.

LETTER—from

THE HON'BLE MR. G. S. FORBES, I.C.S.,
Secretary to the Government of Madras,
Revenue Department,

To

THE SECRETARY TO THE GOVERNMENT OF INDIA,
HOME DEPARTMENT.

Dated Fort St. George, 16th February 1898.

SIR,

I am directed to acknowledge the receipt of your letter No. 1474, Judicial, dated 12th November 1897, enquiring whether any difficulties have been experienced in this Presidency in the realization of the land revenue similar to those that have occurred in Bombay, and suggesting the insertion in the land revenue law, when it next comes under amendment, of a provision making it an offence for any person to incite another to withhold payment of the land revenue.

2. I am to state in reply that there has as yet been no case reported of organized agitation in this Presidency in favour of withholding the Government revenue, and that the absence of the proposed provision from the Land Revenue Code has therefore not been felt. At the same time His Excellency in Council recognises that such agitation has a cumulative effect, and if allowed to go on unchecked slowly but surely loosens the attachment of the people to the Government. A provision on the lines suggested will not only furnish a ready remedy in the event of its operation being actively required, but will be even more valuable as a measure of warning and prevention. His Excellency the Governor in Council therefore accepts the suggestion of the Government of India and I am accordingly to state that the necessary provision will be made in Act II of 1864 (Madras), for the amendment of which in other respects a draft Bill is now ready.

I have the honour to be,

Sir,

Your most obedient servant,

(Signed) G. S. FORBES,
Secretary to Government.

Exd. J. Henricus.

18 Copies.

CONFIDENTIAL.

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2. The Bombay Government consulted its Advocate-General in regard to the success of any legal steps that might be taken against the organizers of these attempts. That officer pointed out that an incitement not to pay the Government revenue was not punishable as abetment, as the latter should be abetment of an offence, which non-payment of revenue was not. He added that by the Common Law of England and Ireland for two or three persons to conspire together to do an injury to a third party or a class of persons was an offence, though the injury itself might not be so and that it was under this law of conspiracy that persons who incited tenants in Ireland not to make payment to landlords were tried and punished. The Advocate-General suggested that this law should be embodied in

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Drafts submitted for approval.

Issue.

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11-2-98.

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15-2-98.

[Issued as G.O., No. 798 and letter No. 799, Revenue, dated 16th February 1898.]

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Profs of the Indl Debt. No. 2635 dt 2-12-1897

[Subject Amendment of Act II of 1864 (M)]

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[Issued as G.O., No. 798 and letter No. 799 dated 16th February 1898.]

CONFIDENTIAL.

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A. E. H[AVELOCK].
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To the Hon'ble Mr. J. Grose—

Drafts submitted for approval.

Issue.

G.S.F.
11-2-98.

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J.G. (on draft.)
15-2-98.

[Issued as G.O., No. 798 and letter No. 799, Revenue, dated 16th February 1898.]

CONFIDENTIAL.

REVENUE DEPARTMENT.

NOTES CONNECTED WITH G.O., Nos. 798, 799, REVENUE, DATED
16TH FEBRUARY 1898.

Proceedings of the Judicial Department, No. 2635, dated 2nd December 1897.

[SUBJECT.—*Amendment of Act II of 1864 (M.)*.]

To Secretary—

From the papers forwarded with the above, it appears that organized attempts were made in the Bombay Presidency towards the close of 1896 to induce landholders to withhold payment of land revenue. A mass meeting, attended by 2,000 persons, was held on 13th November 1896 at a place called Khatalvad, at which a Professor Sathe explained to his audience that "if their crops had failed, they should not pay assessment to Government." The proceedings of this meeting were commented on in an article of the *Kesari* newspaper, dated 15th December 1896, edited by Tilak, which contained the following statements:—"He (the Professor) clearly explained to all the assembled people that they should not pay the assessment if they were not in a position to do so." Again, "and where the crops have really failed, the people should take a vow not to pay the assessment." Placards containing extracts from this article were posted in various places in the Thana district, stating that it was the duty of the people by crying out a thousand times or by presenting petitions to obtain "from Government the privileges granted to them by the Famine Code, and that they should make a fixed resolve not to pay assessments" when the crops had really failed. The leaders were also exhorted to help the people in forming the resolution and it was pointed out that prompt payment of his dues even by one person would affect other persons injuriously and that the people must be prepared to suffer inconvenience, if necessary, "while quarrelling according to law". A Poona association, called the Sarvajanic Sabha, is stated to have sent out agents to various districts ostensibly to explain the provisions of the Famine Code, but the result was that in many districts there were unmistakable signs of a determination not to pay land revenue. The provisions of the Land Revenue Code, however, enabled Government to break down the combinations and recover the Government dues.

2. The Bombay Government consulted its Advocate-General in regard to the success of any legal steps that might be taken against the organizers of these attempts. That officer pointed out that an incitement not to pay the Government revenue was not punishable as abetment, as the latter should be abetment of an offence, which non-payment of revenue was not. He added that by the Common Law of England and Ireland for two or three persons to conspire together to do an injury to a third party or a class of persons was an offence, though the injury itself might not be so and that it was under this law of conspiracy that persons who incited tenants in Ireland not to make payment to landlords were tried and punished. The Advocate-General suggested that this law should be embodied in

the Indian Penal Code and that further it should be made an offence even for one person to incite another to withhold payment of the Government revenue. The Bombay Government made a recommendation accordingly to the Government of India. The latter is, however, opposed to the adoption of the English Law of conspiracy and is prepared to consider only the second proposal of the Bombay Government.

3. In their letter read above, the Government of India enquire whether any difficulties have occurred in this Presidency similar to those in Bombay. So far as known, the reply to this enquiry is in the negative. There was, however, an agitation some time back in the Kistna district against the enhancement of the rate of water-tax, which resulted in large

Please see below.

N.E.M.

relinquishment of the permission to take water for the irrigation of wet crops and in the consequent transfer of the lands from wet to dry. The correspondence on this subject has been put up with the Gódávári settlement papers in circulation and is not therefore available. Notwithstanding the relinquishments, the ryots irrigated their crops during the year for which water-rate was charged, and in the following year they submitted applications for permission to take water as usual and had their lands retransferred to wet.

4. The second question put by the Government of India is whether on the next occasion for amending the land revenue law, a section may be added thereto making it an offence for any person to incite another to withhold payment of the land revenue. The Revenue Recovery Act of this Presidency contains adequate provisions for the realization of the revenue, but does not furnish a ready means of putting down a conspiracy in its inception and of meeting out due punishment to the agitator who deserves it more than the ignorant people who are misled by him. For this reason it is thought that the proposal will commend itself to Government and that in that event a reply in the affirmative may be furnished to the Government of India.

V.K.R.

17-1-98.

5. The first question is whether difficulties similar to those which have occurred in Bombay have been experienced in this Presidency. Board's Proceedings, Mis. No. 2430, dated 14th May 1895, gives a full account of the water-rate agitation in Kistna and Gódávári in 1895. The case is not exactly the same, however, as the Bombay cases. Government had raised the water-rate, Re. 1, and the ryots, instigated no doubt by the richer among the landholders who were also vakils, etc., relinquished their applications for water, and announced their resolution to cultivate their lands with dry crops. The Government remained firm and the ryots soon realized the foolishness of "cutting off their noses

Yes.

G.S.F.

A. E. H[AVELOCK].

"to spite their faces." The Bombay agitations, however, seem to have been fomented by political agitators who saw an opportunity in the famine. There have been no such agitations in this Presidency. Local conspiracies to evade the payment of revenue are however probably not uncommon, e.g., in the upland villages of the Tanjore taluk, the Kallar ryots often combine and refuse to pay the kist. Moveable property disappears when it is sought to be attached and selling the land is useless for nobody in the village will bid anything up to its value and no outsider would have to take it up. If the land is not really very valuable, the defaulters will allow it to be bought in by Government on the chance of being able to get it on a fraudulent darkhast. Otherwise some relation of the defaulter will bid for that as low a rate as he can get the Revenue Inspector to knock it down for.

6. For a conspiracy, to withhold land revenue by whatever motive prompted, to be successful, three conditions seem necessary—

I don't think these circumstances cover the case contemplated.

The danger is that agitators may mislead the people into imagining that if they show a determined and united front, Government will give in. There would be a rude awakening. But meantime serious consequences may have occurred.

G.S.F.

(1) The land must not be very valuable.

(2) The conspirators must not be dependent on it.

(3) The conspirators must be prepared to suffer considerably and be endowed with a spirit of cohesion and pugnacity. Everywhere throughout this Presidency these conditions seem to

be wanting. Either the land is very valuable or the people are wholly dependent on it, and at present, at all events, there is no spirit of cohesion or pugnacity anywhere.

7. It seems very unlikely, therefore, whether such conspiracies are ever likely to cause serious anxiety in this Presidency.

8. The next question relates to the proposed amendment of the land revenue law by inserting a provision making it an offence for any person to incite another to withhold payment of the land revenue.

Although conspiracies of the kind under discussion most probably never be successful in this Presidency and though they may never give Government anxiety, yet it is quite possible that the time may come when political agitators will turn their energies in this direction, if not in the hope of success yet in the hope of bringing odium on the Government amongst the ignorant ryots. It is submitted

In the Bombay case there was open preaching of resistance.

The evidence difficulty is common to all questions of conspiracy or abetment.

G.S.F.

that the section would be a difficult one to use. Evidence of the incitement would not be easily forthcoming. But the existence of the provision might prove a valuable warning.

9. In this connection it may be noted that the Bombay Code (*vide* section 150 *et seq.* of Bombay Act V of 1879) contains much more stringent provisions for the recovery of arrears of land revenue than our Act II of 1864.

The Bombay Code provides for the occupancy or alienated holding in respect of which an arrear of land revenue is due being forfeited to Government, and also provides for the arrest and imprisonment of the defaulter.*

Section 153 of Bombay Act V of 1879.

* Under the Madras Act the defaulter can be imprisoned only if the arrears cannot be liquidated by sale of the property and even then only if Collector has reason to suspect fraud (section 48 of Act II of 1864).

Section 157 of Bombay Act V of 1879.

10. The questions raised may, it is submitted, be referred to the Board for opinion.

N. E. MARJORIBANKS.
18-1-98.

To the Honourable Member and for circulation—

I don't think it is necessary to refer the matter to the Board for opinion.

The provision is meant to be and would in this Presidency be, it is hoped, no more than a preventive measure: a sign post warning the people against the thin ice.

Agitation and preaching in favour of withholding Government revenue may not gain much success: but such agitation has a cumulative effect if there is no remedy in the Government pharmacopœia to purge it. If it is allowed to go on unchecked it slowly but surely loosens the attachment of the people to the Government. This is perhaps true of all political agitation directed against the Government: but in the matter of the payment of the land revenue, which comes home to so vast a proportion of the people of India, the effect is peculiarly malign.

I think the Government may promise to make a provision in the Land Revenue Code.

G. S. FORBES.
19-1-98.

We should refer to the Board for opinion. There has been no case in the Presidency yet in which the proposed enactment was necessary, but these may be in the future. A Bill to alter the Act about recovering land revenue is on the anvil.

J. G[ROSE].
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I have often thought that the law of conspiracy in India should be assimilated to the English Law. But I suppose, after what India says in the last three lines of page 1 of its letter, that we cannot enter on that branch of the subject. As to the rest, I am inclined to agree with the Secretary. I do not see what we shall gain by consulting the Revenue Board. We know already all they can tell us and it is advisable not to publish more widely than is essential confidential papers of this kind. It is clear that, in the event of a strike against the payment of land revenue, we should be in by no means as good a position as the Bombay Government was last year, for Act II of 1864 (Madras) contains no provisions so drastic and so capable of immediate application as the Bombay Revenue Code. I should therefore take advantage of the present opportunity to amend our Act, for the amendment of which, in other respects, a Bill is now ready in the manner proposed. Even so we shall be far from as well off as the Bombay Government, for we shall still have no section corresponding to section 153 of the Bombay Act and shall still be tied down to the somewhat cumbrous and dilatory procedure of Act II of 1864. But perhaps as our people are not so troublesome as the Bombay people, we can manage.

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