

2. In reply I am to point that the members of the Association have already had ample opportunity of placing their views before the Committee and that the Lieutenant-Governor in Council regards that he is unable to allow any further opportunity for discussion of matters which have already been exhaustively examined by the Committee in the course of their enquiry and in regard to which they have arrived at an unanimous finding.

[No. 194.]

*Telegram, dated Muzaffarpur, 17 October, 1917, from Herbert Cox, Honorary Secretary, Champaran District Planters' Association, to Chief Secretary to Government of Bihar and Orissa, Ranchi*¹.

Gandhi publicly announcing Committees alleged recommendations as equivalent to Government orders thereby creating great excitement and revolt amongst *ryots*. We the European Community of Champaran decline to be governed in supersession of all law and order by Gandhi or by the committees unwarrantable proposals even though confirmed by Government which we confidently anticipate that this will not be. We demand an immediate meeting between our representatives and some official with full powers as requested by Chairman of Association in order to prevent serious disturbances.

[No. 195.]

*Government Resolution No. 6296-R., dated 18 October, 1917, by Secretary to Government of Bihar and Orissa, Revenue Department*².

READ:—

- (1) Resolution no. 1890-C, dated the 10th June 1917³.
- (2) The Report of the Champaran Agrarian Enquiry Committee⁴.

In the Resolution cited in the preamble the Government of Bihar and Orissa appointed a committee to inquire into the relations between landlords and tenants in the Champaran district, including all disputes arising out of the manufacture and cultivation of indigo, and to report the measures recommended by them in order to remove any abuses or grievances which they might find to exist.

¹. Revenue Department Confidential file No. Ag. Com. 25 of 1917.

². Revenue Department A Progs. Nos. 1—9 of February 1918.

³. *Vide* No. 126 *ante*.

⁴. *Vide* No. 188 *ante*.

2. The Committee assembled on the 11th July and after a preliminary meeting at Ranchi, proceeded to Champaran] where in the course of the ensuing six weeks, they examined a number of witnesses at Bettiah and Motihari and made a series of local inquiries. Their report was received on the 4th October and it contains the conclusions arrived at by the Committee, and a number of recommendations which, with a single exception¹, are unanimous.

3. The Committee have indicated the salient facts in regard to the history of the indigo industry in Champaran which has, since the first decade of the 19th century, figured so largely in the rural economy of the district, and His Honour in Council considers it unnecessary to supplement the account which they have given. Their report, without going into great detail, sufficiently explains the present situation, and the measures which the Committee recommend for the settlement of existing differences, and the removal of such abuses or anomalies as they have found in the existing relations of landlord and tenant in the district.

4. These recommendations may conveniently be grouped under the following three heads:—

(1) The substitution of a purely voluntary system of growing indigo for the *tinkathia* system, and the arrangements to be made for the commutation of the 'indigo obligation' and for the modification of the commutation where it has already been effected;

(2) The continuance of the temporary lease system in the estates under the management of the Court of Wards with adequate safeguards against the exaction of *abwab*, and other practices which are either improper or undesirable;

(3) Other measures designed to meet the grievances arising out of existing practices or arrangements.

5. The Committee have demonstrated beyond all question that the *tinkathia* system has outlived its day, and that in spite of periodical revisions of the terms of the engagements entered into by the tenants, the system is essentially unpopular and must necessarily give rise to friction between planter and tenant. Further, there is ample evidence to establish the fact that it is not necessary to retain the system to ensure to continuance of the indigo industry, as indigo is grown extensively on a system of free

¹. Refers to Raja Kirtyanand Singh's objection to the proposed fine for levy of *abwab*. See Chapter III of the Report at No. 188 *ante*.

contract in other parts of the province and in the adjoining districts of the United Provinces, and even in Champaran itself.

6. The Lieutenant-Governor in Council therefore accepts the Committee's recommendation that the *tinkathia* system should be entirely abolished, whether in respect of indigo or of any other crop to which it may have been extended in contravention of the bye-law adopted by the Bihar Planters' Association in 1910¹, and that this should be effected by legislation in which special provision should also be made for the regulation of the growing of indigo on a system of free contract. He agrees with the Committee that these contracts must be absolutely voluntary, that they must be for short terms only, that the particular plots to be cultivated with indigo must be entirely at the option of the tenant, and that the price to be paid must be a matter of voluntary agreement, and must be fixed on the weight of the crop delivered. He accepts also the proposals that the weight may, if so agreed, be determined by appraisement, and that in the first instance at any rate, minimum rates of payment should be fixed by the Bihar Planters' Association, subject to the approval of the Commissioner.

7. The abolition of *tinkathia* involves the abrogation of any obligation to grow indigo on that system which may attach to any *raiyat* as an incident of his tenancy, and the Committee proceed to discuss the claims of the planters to compensation for releasing their tenants from this obligation. In a large number of cases such compensation had been taken either in the form of a cash payment (*tawan*) or of an enhancement of rent (*sharahbeshi*) but there still remain a number of cases where no compensation has been taken, and the obligation has been recorded by the Settlement Officer in the record-of-rights. The difficult legal points involved in the *sharahbeshi* question, which affect only villages held on permanent lease from the Bettiah Estate, have not yet been finally adjudicated upon in the competent courts. The Committee, while pointing out the chief arguments put forward on either side, have refrained from attempting to anticipate what might be the ultimate finding of the courts, and have endeavoured instead to reach an amicable settlement which would obviate the disastrous results to all parties of prolonged and expensive litigation. The Committee's negotiations with the representatives of the three concerns in which 95 per cent of these enhancements have taken place, viz., Turkaulia Limited, Motihari Limited and Pipra, have resulted in a definite agreement² which has been accepted by Mr. Gandhi on behalf of the *raiyats*, and by the Committee as a whole as a basis for legislation, which will secure that the adjustments of rents and correction of the record-of-rights shall be final and binding. The Committee propose that

¹. See Introduction.

². Vide No. 186 ante.

the reduction of 26 per cent agreed upon in the case of Motihari and Pipra, should also be applied to the two remaining small concerns, Jallaha and Sirni, in which *sharahbeshi* has been taken¹. Where no compensation has yet been taken the Committee recommend that, in lieu of the existing obligation, the rent shall be fixed at the rate at which it would have stood had commutation taken place together with the others and been reduced in the manner now agreed upon.

8. The Lieutenant-Governor in Council considers that these recommendations offer a fair and equitable solution of a very difficult problem, the prompt, final and satisfactory settlement of which will, perhaps more than anything else, secure the restoration of amicable relations between planters and tenants over a very considerable part of the district. He proposes therefore to undertake at once the necessary legislation to give effect to the Committee's recommendations.

9. The question of commutation effected by the payment of a lump sum, or *tawan*, mainly concerns the villages held under temporary leases. The arguments put forward in defence of the practice in these villages have been carefully examined by the Committee and they have come to the deliberate conclusion that the taking of *tawan*, at any rate to the extent that has been done, cannot be justified. If, as some factories have contended, the obligation to grow indigo is an incident of the tenancy and the *tawan* taken represent the capitalized value of the enhancement of rent which might otherwise have been taken in the form of *sharahbeshi*, the answer, as the Committee state, is that a temporary lease-holder cannot create an incident of tenancy for his own benefit and that such a claim could only be, though it never has been, made by the Bettiah Estate as the superior landlord. If,

¹. See following extracts from the last day's proceedings of the Champaran Agrarian Enquiry Committee :—

“At the final meeting the redraft was considered and passed after a few modifications.

The two principal points considered were :—

(1) The position of Sirni and Jallaha as regards the *Sharhbeshi* agreement.

(2) The question of *tawan* in *mokarrari* villages. As to (1) Mr. Rainy was doubtful of the Wisdom of using coercion without giving the proprietors a chance to agree. The President said that if there had been no agreement by the other concerns he would not have agreed to coercion in these cases but the area in Sirni and Jallaha was small and they had taken *sharahbeshi* at a higher rate than in Turkaulia though rents were on the same level. Mr. Reid said that the 3 big concerns had agreed on the understanding that all should be treated alike. The inclusion of these concerns on the same term as Pipra and Motihari was agreed to.

....After signing the report the Committee then broke up in a weather of mutual admiration.”

(Revenue Department Confidential file No. Ag. Com. 28 of 1917.)

on the other hand, as other factories have contended, the payment was made by the tenants merely in consideration of the termination of an ordinary civil contract by way of liquidated damages, the claim is equally untenable for, as the Committee point out, the rates of payment taken have not varied according to the length of time which the contract had still to run, and it is evident that the mere release from the contract was not all that the tenant believed he was buying, nor was it the most important thing which the factory sold, namely, the final release of the *raiyats* from the obligation to grow indigo. The *raiyats* would not, the Committee think, have voluntarily paid such large sums as they have done merely for their release from the indigo obligation for the unexpired portion of the *sattas*.

Holding therefore that the taking of *tawan* on the scale on which it has actually been taken was not justified in temporarily leased villages, the Committee recommend that, as a condition of renewal of such leases, the Bettiah Estate should insist on a 25 per cent refund through the estate to the tenants, and as *tawan* must be considered, in part at any rate, as capitalized rent, that the estate should forgo for seven years any enhancement, which may have been or may be granted in the settlement courts on the ground of the rise in prices, of the rent of any tenant who had paid *tawan*. The Lieutenant-Governor in Council recognizes that these recommendations represent a reasonable compromise between the conflicting interests of tenant, lessee and superior landlord, and he will request the Court of Wards to give immediate and general effect to them.

10. The Committee refer to a few in which certain concerns had taken indigo *sattas* from the *raiyats* of villages which had very recently been leased to the factory, and after indigo had been grown for one or two years only had commuted the indigo rights by taking *tawan*. His Honour in Council agrees that action of this kind is entirely indefensible and that the Bettiah Estate should intervene in the interests of its tenants. He accepts the Committee's recommendation that in such cases the Court of Wards should refuse to renew the temporary lease unless the whole of the *tawan* taken is refunded.

11. In the case of permanently leased villages of a few concerns in which *tawan* was taken, the payment may be claimed to represent the capitalized value of the enhanced rent which might otherwise have been taken in the form of *sharahbeshi*. The Committee however recommend that, in view of the fact that the reduction of *sharahbeshi* has been accepted under the settlement by consent, in the interest of future peace and goodwill the *mukarrari-dars* should be advised to make a refund on a similar basis of a portion of the *tawan* taken by them. His Honour in Council

endorses this recommendation and trusts that the factories concerned given by the Committee.

12. The case of the Rajghat Factory¹ has been mentioned by the Committee as one calling for special treatment. No incident of the tenancy is claimed but written contracts were entered into by the tenants for the growing of indigo in consideration of freedom from rent enhancement. On the expiry of the contracts this arrangement was continued by mutual consent and the factory refrained from claiming in the settlement courts the enhancement of rent which it might otherwise have obtained. The tenants now desire to give up indigo, and the Committee consider that an opportunity should be afforded to the factory to use for enhancement of rent, for which the time ordinarily admissible under section 105 of the Bengal Tenancy Act has expired. His Honour in Council agrees that this is a case in which the provisions of sections 112 of the Act might reasonably be applied, and he proposes therefore to move the Governor-General in Council to sanction a settlement of rents in the villages of this concern under that section.

13. The Committee next deal with the exaction of *abwab* by the *thikadars* of the non-indigo concerns under the Bettiah and Ramnagar estates, and by the proprietress of the latter estate. The Committee remark that until recently these exactions have given rise to little complaint, and that not a single suit has been brought under section 75 of the Bengal Tenancy Act which provides the legal remedy. They observe that the orders issued by the Court of Wards, when the facts were brought to its notice in the course of the recent settlement operations, have been effectual in stopping the practice in the Bettiah estate. In the Ramnagar estate the advice of the local officers was ignored, but the Court of Wards has recently declared the proprietress disqualified under section 6(a) of the Bengal Court of Wards Act (Act IX B.C. of 1879) and proposes to take action, similar to that which has already proved successful in the case of the Bettiah estate.

14. The Lieutenant-Governor in Council proposes in addition to cause all the tenants in this tract to be informed that the taking of *abwab* is entirely illegal, and is not in any way countenanced either by the management of the estates or by Government. He agrees also with the majority of the Committee that, in this area at least, there is full justification for amending the law so as to enable the Collector on his own motion to enquire into and punish such exactions on the part of a landlord. The Committee's recommendation regarding the form of rent-receipts

¹. See last paragraph of Chapter II of Committee's report at No. 188 *ante*.

will be considered further in consultation with the Board of Revenue and, if possible, a simple form of receipt for intermediate payments will be prescribed under section 56(3) of Bengal Tenancy Act.

15. The Committee have considered the expediency of continuing the so-called *thikadari* system which, on more than one occasion, has been alleged to have been largely or even primarily the source and origin of the abuses such as those which have been dealt with by the Committee. The position of the Bettiah estate in this matter has always been exceptional; and when the Court of Wards took charge of the estate in 1897 it found extensive areas under lease to *thikadars*, both European and Indian, who with their predecessors in interest had held their villages from the estate on periodically renewed leases since a period only shortly subsequent to the Permanent Settlement. Though these *thikadars* have acquired thereby no legal rights beyond the currency of their existing leases, any complete or immediate change would obviously have been most unfair to them and at variance with the established practice of the state, and after the most careful consideration the Court, with the concurrence of Government, decided in 1899 that neither the interests of the estate nor of the tenantry demanded any radical change. Since then a general policy has been adopted of renewing leases only for short periods which would expire about the time when the present settlement operations were expected to be completed.

More recently, on the receipt of a special report from the Settlement Officer on the conditions prevailing in the leased villages in the northern part of the estate, the general question was again carefully considered by the Board and by Government, and prior to the Committee's enquiry, certain provisional conclusions had been reached regarding the future policy of the estate in this matter. These conclusions were for the most part in accordance with those arrived at by the Committee, namely, that in the absence of evidence that the large part of the estate now leased out temporarily could be more efficiently and more profitably managed under a system of direct management, no sweeping change in this direction is either necessary or desirable. At the same time it was decided that renewal should in any case be conditional on the good conduct of the lessee, and that the terms of the lease must provide against the introduction or continuance of practices, such as the exaction of *abwab* or the securing by undue pressure from tenants of contracts to grow a particular crop, or to provide labour or carts and the like on other than purely voluntary and commercial terms. On the other hand, the terms on which leases should be granted or renewed must be such as to leave the lessee a fair margin of profit after meeting the expenses of collection and not, as has been not uncommon in the past, leave so narrow a margin to the lessee as to induce him to secure a profit by illegitimate means.

16. In pursuance of this general policy the Court of Wards will now be asked to scrutinize each case of proposed renewal, both from the point of view of the lessee's past conduct and, where this warrants a renewal, of the terms on which the lease may be renewed. They will also be asked to prepare and submit for the approval of the Local Government a suitable revised form of lease, which will provide *inter alia* for the cancellation of the lease for proved misconduct, and give the Manager of the estate ample power and opportunity to keep himself informed of what is going on in leased areas. As recommended by the Committee, a refund of a part of the *tawan*, where this has been taken, will be a condition of renewal, and in the case of the European *thikadars*, membership of the Bihar Planters' Association will be made a necessary condition both of the renewal and of the continuance of any lease.

17. Of the minor recommendations of the Committee the first to be mentioned concerns the levy of fees on the transfer of occupancy holdings. The Lieutenant-Governor in Council endorses the condemnation by the Committee of the occasional levy of transfer fees in the case of transfers by inheritance, and he agrees that in temporarily-leased areas the fees, if any, should be payable to the superior landlord and, at the same time, that unnecessary inconvenience should not be caused to the parties by requiring their attendance in all cases at the headquarters of the estate. Specific provisions on both these points will be embodied in the new forms of lease for estates under Court of Wards management. The further suggestion that a standard scale of fees should be adopted in the estates under the Court of Wards and that the holders of *mukarrari* leases should be urged to adopt a similar system is a point on which it will be necessary to consult the Board of Revenue and Commissioner, as it involves a departure from the policy followed generally in Government estates and, until very recently, in Court of Wards estates outside Orissa and Chota Nagpur, that fees on transfer should be nominal only. The principle of a substantial fee subject to a maximum has, however, been adopted as a definite province of the Orissa Tenancy Act and in the case of new estates brought under management of the Court of Wards, the Board has recognized that when the existing practice as regards fees is a reasonable one, it should be retained. Apart from the Committee's recommendations, there is thus some ground for reconsidering the existing policy in the case of the Bettiah estate, and the Board of Revenue will therefore be asked to consider whether a suitable scale of fees should be adopted for this estate, such as the *mukarraridars* also might reasonably be pressed to adopt.

18. The Lieutenant-Governor in Council is at one with the Committee in condemning the practice, now abandoned by the Bettiah estate but still continued by some of its *mukarraridars* of

issuing licences for the sale of kerosene oil. The practice is clearly indefensible, and His Honour in Council trusts that now the attention of the *mukarraridars* has been drawn to it, the practice will at once be dropped.

19. The question of the rights of the Bettiah and Ramnagar estates and their *mukarraridars* to the hides of dead cattle is one on which the Committee have made no specific recommendation, though their general conclusion is that, subject to any legal right which the landlord may be held to possess, the hide is the property of the owner of the dead animal who should be entitled to dispose of it as he wishes by sale or otherwise. In the case of the Bettiah estate, where the income derived from this source is inconsiderable, the Lieutenant-Governor in Council is disposed to think that the claim should be abandoned, but he will defer taking any definite action until the analogous case of the Ramnagar estate, where the amount involved is considerable, has been thoroughly examined.

20. The Committee have made certain suggestions designed to mitigate the discontent to which the present arrangements regarding trees on tenants' holdings in the Bettiah estate have given rise. These arrangements are in accordance with the rights ascertained and recorded both in the present settlement and in that of 1892—99. The Committee however, recommend, as a concession, that in the Bettiah estate the *raiyats* should be given the option of purchasing at a fair valuation the landlords' half share in the timber. Subject to the proviso that the effect of this concession should be carefully watched, and if the result appears likely to lead to the denudation of any particular areas, that some limit should be put on the option, the Lieutenant-Governor in Council will ask the Court of Wards to give effect to the suggestion.

21. Similarly in regard to the provision of pasture grounds for the village cattle, the Committee's suggestion as to reservation of such areas, so far as this may be possible in estates under management, will be recommended to the Court of Wards and to the permanent tenure holders holding under the Court and, through the Collector of the district, to the private land-holders.

22. The Lieutenant-Governor in Council accepts the Committee's recommendations both in regard to the periodical prescription of a scale of minimum wages and the regulation of the period and conditions of contracts for the supply of the carts, and the Bihar Planters' Association will be asked to give effect to them by revision of their existing bye-laws.

23. The Board of Revenue will be asked to provide against the illegal levy of fines by a specific clause in all new leases, and to bring to the notice of landlords, not under its direct control and Court of Wards, and of the tenants generally, through the local officers, the illegality of such fines.

24. The system of management of pounds in Champaran was examined by the Local Government a year ago, and orders were then issued which, it was anticipated, would go some way towards removing all legitimate cause of complaint. The recommendation of the Committee in favour of direct management will now be brought to the notice of the District Board.

25. The final recommendation of the Committee in regard to the incorporation in the record-of-rights prepared under the Bengal Tenancy Act of an authoritative record of village customs will be carefully considered by the Local Government in consultation with the Board of Revenue.

26. In conclusion the Lieutenant-Governor in Council desires to express his high appreciation of the way in which Mr. Sly and the members of his Committee have carried out their difficult task and to thank them sincerely for their searching examination of the agrarian conditions in the Champaran district and for their earnest endeavour to arrive at a settlement acceptable to all parties. In this connection His Honour in Council recognizes that considerable concessions have been made on both sides, and he acknowledges with much pleasure the good sense and moderation shown by Mr. Gandhi, who represented the cause of the tenants on the Committee, and of Messrs. Hill, Irwin and Norman, three of the principal tenants of the Bettiah estate, who in the interest of peace and good will agreed to a substantial reduction in their rent roll and thereby set an example the spirit of which His Honour in Council trusts will be followed by the other planters and landlords of the district.

As suggested by the Committee the widest possible publicity will be given to the present orders by their publication in the vernacular and distribution among the *raiyats* of the district. Instructions will at the same time be issued impressing on the district staff, and especially that of the Court of Wards' estates, their responsibility for securing, so far as it rests with them to do so, the full effect is given to these orders.

ORDER.—Ordered that this Resolution and the Report of the Committee be published in the *Bihar and Orissa Gazette*, and that a copy of it, together with a copy of the Report, be submitted to the Government of India¹.

¹. This Resolution together with Committee's Report and a Draft Bill, which had been prepared embodying the main provisions of the Resolution and which was desired to be treated as an emergency legislation, was forwarded to Government of India in the Department of Revenue and Agriculture and Legislative Department on 20 and 22 October, 1917, respectively. As it was intended to introduce this Bill and, if possible, pass it into law at the meeting of the Local Legislative Council on 29 November next, previous sanction of Central Government was sought in accordance with the procedure then in vogue (under Section 79 of Government of India Act 1915).