

## [No. 34.]

*Telegram No. 52 C.T., dated Camp Puri, 19 April, 1917, from Government of Bihar and Orissa to District Magistrate, Motihari.*<sup>1</sup>

Mr. Gandhi should be given facilities for obtaining information regarding facts of agrarian situation as, for example, from Settlement Officer and Manager of Bettiah, but should be told that *raiyats* are in excitable state and warned not to take any action likely to result in breach of peace. Repeated to Commissioner.

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## [No. 35.]

*Telegram No. 51 C.T., dated Puri, 19 April, 1917, from Government of Bihar and Orissa, to Government of India, Home Department.*<sup>2</sup>

Your telegram no. 1028, the 18th instant.<sup>3</sup> Magistrate reports that proceedings have been taken as stated.... In absence of evidence that Gandhi meant to make trouble Lieutenant-Governor in Council is not satisfied as to necessity of any coercive action and had instructed the Commissioner to advise Magistrate to withdraw order under section 144, Criminal Procedure Code. He has also asked Magistrate to let Gandhi have full information regarding agrarian situation but to warn him that *raiyats* are in excitable state and caution him not to take any action that might result in breach of peace. Further report will follow in due course.

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## [No. 36.]

*Letter, dated 19 April, 1917, from L. F. Morshead, Commissioner, Tirhut Division, to Chief Secretary to Government of Bihar and Orissa.*<sup>4</sup>

In continuation of my No. 361 P.M. of the 17-18th April,<sup>5</sup> on the subject of Mr. Gandhi, I have the honour to report that Mr. Gandhi had been summoned under section 188, Indian Penal Code, before my instructions on the subject reached the District Magistrate, and pleaded guilty to the charge at the hearing.

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<sup>1</sup> Political (Special) Department, file No. 1571 of 1917

<sup>2</sup> Ibid.

<sup>3</sup> Vide No. 32 *ante*.

<sup>4</sup> Political (Special) Department, file No. 1571 of 1917.

<sup>5</sup> Vide No. 26 *ante*.

He still refuses to leave the district unless he is compelled. The Government Pleader was instructed to ask for a nominal sentence, but Mr. Gandhi has announced that he will go to jail, rather than pay a fine. Sentence has been deferred until Saturday.

The District Magistrate has seen Mr. Gandhi, and arranged that he should stay quietly at Motihari until Saturday, but on condition that Mr. Gandhi may see whom he pleases at Motihari. On Saturday he will see the District Magistrate again at 7 A.M., but it is hoped that the orders of Government will be received before then.

I learn from another source that Messrs. Mazharul-Haqq and Polak<sup>1</sup> have been to see Mr. Gandhi at Motihari, and Mr. Mazharul-Haqq has been heard to say that they wish Mr. Gandhi to be sent to jail, because of the feeling this will arouse in India.

The plea of guilty to a charge under section 188, Indian Penal Code, is an admission that disobedience of the direction issued to Mr. Gandhi under section 144, Criminal Procedure Code, tended to cause harm, and makes Mr. Gandhi's claim that he has come upon an entirely harmless and beneficial mission untenable. Apparently the advertisement to be gained by a few days in jail is thought worth this admission, but it seems to me to expose the whole business as one engineered for purposes of Political agitation. I need not emphasize the point again that Champaran is an unsuitable field for these political frivolities.

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[No. 37.]

*Letter No. 55 C.T., dated 20 April, 1917, from H. Mc Pherson, Chief Secretary to Government of Bihar and Orissa, to L.F. Morshead, Commissioner, Tirhut Division.*<sup>2</sup>

My dear Morshead,

I have laid your official letter<sup>3</sup> No. 259 P.M., dated the 16th 17th April, regarding Mr. Gandhi before Government and am desired to convey the following observations of the Lieutenant-Governor in Council in continuation of my telegrams of the 18th and 19th instant.<sup>4</sup>

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<sup>1</sup> Mr. H.S.L. Polak, was a strong Champion of Indian cause in South Africa and a close associate of Mahatma Gandhi (see Mahatma Gandhi's Autobiography).

<sup>2</sup> Political (Special) Department, file No. 1571 of 1917.

<sup>3</sup> Vide No. 22 *ante*.

<sup>4</sup> Vide Nos. 30 and 33 *ante*.

2. His Honour in Council considers that in your dealings with Mr. Gandhi you did not go about the matter in the right way. Mr. Gandhi came professedly to obtain information regarding the Champaran situation and expressed a wish to proceed with the cognizance and if possible the co-operation of the local officers. However much you might have distrusted his professions, you had nothing definite to go upon, you should therefore have taken him at his word and given him every facility to obtain the information sought by him. After explaining the general situation to him, as you did you might have given him letters of introduction to the Collector, the Settlement Officer, the Manager of Bettiah and the other local officers who might have supplemented your information and shown him the actual conditions and the difficulties attending their solution. You would then have been in a much stronger position to deal with him had he afterwards set himself to stir up trouble.

3. In His Honour in Council's opinion you made a mistake in calling upon Mr. Gandhi for credentials which was a way of cold-shouldering him, and keeping him waiting in Muzaffarpur till you had made a reference to Government, a reference which you should have made immediately, especially in view of the action you were contemplating, but which apparently you did not make till five days after his visit.<sup>1</sup> In the circumstances it was not unnatural that he got tired of waiting and slipped away. He probably thought that you had displayed no great desire to help him.

4. His Honour in Council, however, considers that you made a still greater mistake in that, without ascertaining the views of Government or even waiting for Mr. Gandhi's production of his credentials, you issued on anticipatory instruction to the District Magistrate of Champaran to keep an order under section 144, Criminal Procedure Code, ready waiting for Mr. Gandhi should he arrive in Motihari. Such an order, as you yourself practically admit, was of doubtful legality, and issued in anticipation of an order by the Local Government under rule 3 of the Defence of India Rules. It could only have the effect either of committing the Local Government to the course recommended or of placing them in the unpleasant position of having to repudiate your action.

5. You have given no evidence whatever to show that Mr. Gandhi was animated by sinister motives, nor had the Local Government any reason to dread the results of an enquiry by

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<sup>1</sup> Ironically enough, at a later stage of the movement the Government of Sir E.A. Gait was charged of similar negligence by the Government of India.

him. For the last three years we have been endeavouring through the settlement operations to let in the light of day all the admitted agrarian difficulties of Champaran; the proceedings have been open and the results are, or in the ordinary course of business will be, known to the public, and the Local Government have no reason to anticipate an unfavourable verdict on the fairness of the action taken by them.

6. It was, of course, and still is, necessary to warn Mr. Gandhi that certain parts of the district are in an inflammable condition and that any enquiries he may make must be made prudently and with great circumspection, lest *raiyats* should be excited by undue hopes or by sympathetic utterances which might be construed as an endorsement of imaginary grievances. But the course adopted by you was just that which was most calculated to intensify suspicion and create an impression that Government wanted to stifle enquiry and it has produced the embarrassing position....that Mr. Gandhi awaits conviction under section 188, Indian Penal Code, and sentence is deferred pending the orders of Government. As shown by the readiness with which he pleaded guilty to a charge against which he must have known he had a good defence on the ground that the order under section 144 was *ultra vires* Mr. Gandhi is doubtless eager to adopt the role of martyr which as you know he has already played in South Africa, and nothing perhaps would suit him better than to undergo a term of imprisonment at the hands of an "unjust" magistracy. This was a development which, knowing Mr. Gandhi's record, you might have anticipated.

In the circumstances His Honour in Council has no alternative but to direct the abandonment of the proceedings taken against Mr. Gandhi. He fully recognizes the fact that Mr. Gandhi will thus appear to have gained a victory over the local officials: and, if he is disposed to cause trouble, will be in a better position to do so, but this is unavoidable. The order issued under section 144, Criminal Procedure Code, was *ultra vires* and action cannot be taken under the Defence of India Rules unless and until Mr. Gandhi does something to justify such action.

Orders have now issued to Heycock to afford Mr. Gandhi such assistance and guidance in the pursuit of his enquiries as may be obtainable from the local officers and at the same time to warn him not to take any action likely to result in a breach of the peace. This is all that can be done now to retrieve the mistakes that have been made in the treatment of the case, and I am to express the hope that you and the local officers will do your best loyally to carry out the present orders.

A very difficult and delicate situation has now arisen and it will have to be handled with great tact, care and circumspection. If, after the warnings given to him, Mr. Gandhi does anything, by rash speeches or otherwise, likely to provoke a disturbance, the time will have come to consider whether coercive measures should be adopted against him. But unless a serious and emergent situation arises, the orders of Government should be obtained by telegram before definite action is taken.

Your sincerely,  
H. McPHERSON.

[No. 38.]

*Letter dated Muzaffarpur, 20 April, 1917, from L.F. Morshead, Commissioner, Tirhut Division, to Chief Secretary to Government of Bihar and Orissa.*<sup>1</sup>

I have the honour to express regret that the action taken by me was not suitable. Mr. Gandhi made no request to me for information or for instructions to local officials, and he admitted that he had not read up the past history of the case. As I understood him he wished to enquire for himself from the *raiyats*. He had already been warned by the Secretary to the Planters' Association,<sup>2</sup> who had supplied him with the last Settlement Report for Muzaffarpur,<sup>3</sup> of the danger of exciting the *raiyats*, and when I mentioned the same liability, said that he was aware of it, and would be discreet. He dwelt on the secrecy and quietness of his methods, as illustrated in the removal of some customs barrier in Western India, which he claims to have effected, and even on his success in the policy of passive resistance.<sup>4</sup> Although his manner and professions were studiously correct I was thoroughly dissatisfied with the interview, but did not consider that I had

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<sup>1</sup> Political(Special) Department file No. 1571 of 1917.

<sup>2</sup> Mahatma Gandhi had met Mr. James Wilson, Secretary, Bihar Planters' Association at Muzaffarpur on the 11th April, 1917, the very first day of his arrival there.

<sup>3</sup> Stevenson Moore's Final Report on Survey and Settlement in Muzaffarpur District, 1901.

<sup>4</sup> One of the earliest public acts of Mahatma Gandhi in India was an agitation for removal of Viramgam Customs Cordon in 1916. Owing to prevalence of plague at that time, all third class railway passengers were made to be medically examined at Viramgam, which caused a lot of hardships to them. Gandhi represented the matter to the Viceroy who immediately ordered for the removal of the Cordon. I regarded this event, writes Mahatma Gandhi in his autobiography, "as the advent of Satyagraha in India." See "My Experiments with Truth", pp. 377-380.