

(1)	(2)	(3)
		Rs.
1942-43 ..	Reproduction of maps for sale and administration.	12,903
1943-44 ..	Nil	Nil
1944-45 ..	Nil	Nil
1945-46 ..	Nil	Nil
1946-47 ..	Nil	Nil
1947-48 ..	Nil	Nil
1948-49 ..	Reproduction of maps and blue prints for attestation. Reproduction of maps for sale and administration.	334 6,765
1949-50 ..	Reproduction of maps and blue prints for attestation.	1,406
	Reproduction of maps for sale and administration	7,525
1950-51 ..	Reproduction of final maps	2,911
1951-52 ..	Reproduction of final maps	5,603
1952-53 ..	Indirect charges (reproduction of maps and supplemental sheets)	3,119
1953-54 ..	Nil	Nil
1954-55 ..	Nil	Nil
1955-56 ..	Nil	Nil
1956-57 ..	Nil	Nil
1957-58 ..	Nil	Nil

(ii) *Thana numbering and thana maps*—Under the Bihar and Orissa system thana maps have to be prepared in respect of the villages within a thana generally in 1"=1 mile scale and a jurisdiction list of villages within a thana otherwise known as thana list which serves as an index to the thana map is also prepared during the course of major settlement operation. This was not the practice in Madras System of Survey. During the course of survey under the Madras System "Estatewar" mujumulies were prepared in 1"=1 mile scale in respect of the villages finished from survey. The villages were numbered serially within each estate and the ryotwari villages within a taluk were given separate set of continuous serial. The village maps were given map numbers according to the serial number of the village within the estate or within the ryotwari area of a taluk, as the case may be. Following the Madras System "Estate Mujumulies" were prepared in this settlement and the serial numbers of the villages allotted to each village within an estate previously was not changed except in respect of the estate in which fresh map number had to be allotted in this settlement as the villages were unsurveyed. No Estate List to serve as an index to the Estate map was prepared on the pattern of the thana list of the North Orissa. After abolition of the Estates the Estate Mujumuli prepared in this settlement was not of much use. It is now proposed to prepare thana maps and thana lists and also tehsil maps and tehsil lists on the Bihar and Orissa pattern and the work will be taken up after the list of villages in the ryotwari area now taken up for survey and settlement operation is finalised.

(iii) *Drawing Section work at different stages of settlement operation*—In case of originally surveyed villages as soon as the map was received from the camp the Drawing Section scrutinised whether plot numbers had been linked up in the camp. Then the work of boundary milan and margin milan was taken up, finalised, and then inked up in black. Later the map and khasara were compared to detect any omission. At the same time, necessary information regarding conventional signs were gathered. The conventional signs were prepared by the Draftsman. After this the map was made over to the Area Section for extracting areas as per rule and then the map with the records was made over to the Khasara Section. After the map was received from the attestation camp, the original map was corrected according to the sketches as per the B. C. R. and then a plot index was prepared and made over to the Recess Section. When the maps were received from the Object Camps under section 166(1), subdivisions were checked and inked up in crimson red ink in the original map. Then the miscellaneous items of work such as heading printing, noting of adjoining villages, references and list of notable places, etc., were done on the map after which it was sent to the Deputy Director of Surveys, Bihar, for final printing and reproduction. After disposal of objections under section 169(1) the subdivisions were not incorporated in the original map, but a separate sheet called the supplemental sheet containing the subdivisions was prepared and sent to the Deputy Director of Surveys for reproduction.

CHAPTER III

LAW

18. *Introductory*—(i) As will appear from the notification issued by Government, the intention of Government in ordering preparation of record-of-rights in the Zamindari areas of Ganjam was to secure the ryots generally in the enjoyment as such of their legal rights. Generally speaking, the rights of the ryots needed protection. In a record-of-rights operation, the rights are neither created nor taken out. Whatever rights are there on the date of preparation of record-of-rights are only recorded. Various kinds of rights exist in land but it was not within the scope of this Major Settlement Operation to record all such rights. The limitation was due to the law under which the record-of-rights operation was carried on. It was carried on in accordance with the provisions of the Madras Estates Land Act the Statutory Rules framed thereunder. It is necessary to analyse some of the specific provisions of the law in so far as they are relevant for our purpose to appreciate the manner of recording followed in the estate areas.

(ii) The Madras Estates Land Act came in to force on the 1st July 1908 and it repealed the Madras Act VIII of 1865 and the object was to remove the imperfections of the previous Act and to declare the substantive and relative rights of land holders and their tenants. Some substantive and far-reaching changes were made in the Act by an amendment which came into force on the 30th June 1934 and the Act as amended in 1934 was the law which was applicable to Ganjam on the date of its separation from Madras as stated in paragraph 7 of Chapter I. This Act, as its title indicates, was not applicable to the entire district of Ganjam, but only to the estate areas. This means that the Act was not in force in the ryotwari and agency areas of Ganjam, unlike the Orissa Tenancy Act which is applicable to the Khasmahal as well as to Zamindari areas of North Orissa. In the Agency area, there was no Tenancy Act but in the ryotwari areas, the incidence of the rights of the ryots were governed by the Board's Standing Order as stated in paragraph 6(v) of the Chapter I. There was, therefore, no law for preparation of record-of-rights in the ryotwari areas of Ganjam and the record that was prepared during settlement was an executive document and was known as the diaglot. Even where record-of-rights operations were conducted under the provisions of the Madras Estates Land Act in some of the estate areas, the record-of-rights was prepared plotwar which corresponds to khasara of the Bihar and Orissa system and no holdingwar khatian was prepared. The changes introduced during the Major Settlement operation in the manner of preparation of record-of-rights will be dealt with in Chapters IV and V. But a complete switch over to the Bihar and Orissa pattern was not possible owing to the statutory provisions of the Madras Estates Land Act and as in case of survey, some adjustments in the Bihar and Orissa system had to be made to conform to the statutory requirements. Such adjustments will be more fully described in Chapter V.

19. *Difference between the provision of the Madras Estates Land Act and the Orissa Tenancy Act*—It is necessary to indicate here broadly the difference between the provisions of the Madras Estates Land Act and those of the Orissa Tenancy Act (the preparation of record-of-rights and settlement of rent were done under the provisions of the Orissa Tenancy Act in Cuttack, Puri and Balasore districts excluding the ex-state areas which are the northern districts of Orissa) to appreciate the manner of preparation of record-of-rights that was ultimately followed in Ganjam.

(i) *Tenancies*—(a) Tenancy implies a divorce between ownership and cultivation and is primarily the result of the inability or the unwillingness of the owner to undertake personal cultivation. The inability may arise on account of the owner being a woman, a minor or a person suffering from physical or mental disability, or on account of the owner residing in too distant a place to make personal cultivation possible or on account of his having an alternative living which he cannot forego. Unwillingness may be due to sheer laziness or to the difficulty of cultivating holdings which are either too large or too small and fragmented. The possibility of getting high rents is also a circumstance which encourages tenancy. This being the origin of the tenancy, it cannot certainly be said that the nature of the tenancies or the rights of the tenants in reality differed largely from area to area. While defining and codifying rights of the tenants which it seeks to protect any satisfactory agrarian code must take into consideration the rights of various classes of tenants existing on the land. In that respect, the Orissa Tenancy Act, 1913, which followed closely the provisions of the Bengal Tenancy Act, 1885, was a great improvement on the Madras Estates Land Act, 1908. The Orissa Tenancy Act recognised and defined four classes of tenants, namely, (a) tenure-holders including under-tenure-holders, (b) ryots, (c) under-ryots, i.e., tenants holding whether immediately or mediately under ryots (the word "mediately" presupposes all classes of intermediaries between the ryot and the actual cultivating tenant) and (d) Chandandars, whereas the Madras Estates Land Act, 1908 recognised and recorded the rights of only class of tenants, namely, ryots. It only governed the relation between the land-holder (corresponding to proprietor of the Orissa Tenancy Act) and the ryot (which corresponds to occupancy ryot of the Orissa Tenancy Act). There were neither tenure-holders between the proprietor and the ryot nor under-ryots, i.e., tenants cultivating under the ryots. Only the class of tenure-holders, namely, irresumable darmila whole inam villages came under the definition of "estate" in section 3(2) (e) of the Madras Estates Land Act and the holders of such inams were recorded as sub-land-holders under the main land-holder. It is not that there were no tenure-holders (intermediaries between the ryot and the proprietor) or under-ryots (i.e., tenants under the ryots) in the areas covered by the Madras Estates Land Act, but that the Madras Estates Land Act did not define and protect the rights of such persons. They were left to be governed by contract and section 19 of the Madras Estates Land Act expressly declared that the provisions of the Act would not apply to the relation between the ryots and their tenants and the rights of any other owners of the land. The above difference between the Madras Estates Land Act and the Orissa Tenancy Act is also apparent from the absence of any definition in the Madras Estates Land Act of the words "landlord" and "tenant" which definitions occur not only in the Orissa Tenancy Act but in almost all other tenancy laws of India and also from the altered definition of rent. This explains why no khewat (record of proprietary or other rent-receiving interest) was prepared for tenure-holders and why no sikimi khata (record of holdings of under-ryots) was prepared during the major settlement operations in Ganjam as in Orissa Settlement. The absence of the provisions regarding recording of rights of tenure-holders in the Madras Estates Land Act did not present any serious difficulty in Ganjam as there were not many intermediaries in the Zamindaries of Ganjam as in North Orissa Zamindaries, because the Zamindars here took active interest in the management of their estates and the "landlord was a real landlord", as observed by Mr. Dain. But if, as under the Orissa Tenancy Act, a tenant were presumed to be a tenure-holder if the area held by him exceeds 33 acres, a few more tenure-holders' rights would certainly have been recorded

Government, however, ordered in their letter No. 553—S-13/51, dated the 3rd/4th April 1952, that the rights of tenure-holders, if there were any, might be recorded in the remarks column of the khewat. But prior to this a somewhat extraordinary decision was given in Revision Petition No. 23 of 1944, dated the 1st April 1948 by Mr. Samuel, the then Revenue Commissioner of Orissa in his capacity as Board of Revenue in the famous Radha-mohanpur case in which the rent-receiving interest of one Ramesh Chandra Samanto was recorded in the remarks column of the Khewat of the land-holders (vide paragraph 31 of Chapter IV). But no order was received for recording the rights of the under-ryots which included Bhagchasis. In fact, the proposal of recording under-ryots in the record-of-rights was once discountenanced by Government as being illegal. Even the Orissa Tenants' Protection Act (Act 3 of 1948) and the Orissa Tenants' Relief Act (Act 5 of 1955) which were passed in the years 1949 and 1954, respectively with a view to giving temporary relief to the Bhagchasis or share-croppers (this included the Bhagchasis of the ryots as well as the tenants of private lands of the land-holders) against eviction and rack-renting had no tangible effect in Ganjam, and had absolutely no effect on the record-of-rights operation as the occupation of the Bhagchasis was not recorded anywhere in the record-of-rights. This serious lacuna in the law continued throughout the major settlement period and even after repeal of the Madras Estates Land Act by the Orissa Estates Abolition Act (Act I of 1952), as the proceedings pending on the date of vesting had to be continued under the old provisions of the Madras Estates Land Act under section 49 of the Orissa Estates Abolition Act. This has since been removed by the passing of the Orissa Survey and Settlement Act, 1958, under which the rights of all classes of tenants can be recorded.

(b) Another significant difference between the two Acts is in the incidence of rights of the most important class of tenants called as "ryots". Under the Orissa Tenancy Act, there are three classes of ryots, namely, (1) occupancy ryots, (2) non-occupancy ryots and (3) ryots holding a fixed rates, and the incidence of right of each class of ryots has been defined in the Orissa Tenancy Act. A non-occupancy ryot gets occupancy right in the lands held by him as such by continuous occupation for 12 years after which he becomes a settled ryot of the village and settled ryot of the village has right of occupancy in all lands for the time being held by him as a ryot in that village. Thus, unless a ryot is already a settled ryot of the village, he does not immediately get occupancy right. But under the Madras Estates Land Act any person who is admitted by the land-holder as a ryot, immediately acquires permanent right of occupancy in his holding. He need not have to wait for any length of time to acquire this valuable right. (A person can also acquire the status of a ryot by adverse possession of ryoti land for a continuous period of 12 years unless in the meantime, the land-holder institutes a suit in the Civil Court for his ejectment and this suit must be instituted within 12 years from the date of commencement of the occupation or if the land-holder has received or recovered any payment under section 163 as rent or damages for his unauthorised occupation, then within 2 years from the date of receipt or recovery of the payment). So under the Madras Estates Land Act, there is only one class of ryot, namely, occupancy ryot. [The Madras Estates Land Act prior to its Amendment in 1934, however, recognised the existence of non-occupancy ryots who were the tenants of lands called "old waste". After the Amendment in 1934, the distinction between "old waste" and "ordinary waste" was removed and so all classes of ryots became occupancy ryots only. Even after the amendment, there are certain classes of tenants who can be appropriately described as non-occupancy ryots. For example, if the land-holder has reclaimed any land by his own servants or by hired labour, he may, under section 6(4) of the Act, which is similar to proviso (ii) of section 232 of the Orissa Tenancy Act, prevent any person from acquiring a permanent right of occupancy in respect of the said land during a period of 30 years from the date of the first cultivation or reclamation. Similarly, under section 6(2) the land-holder can enter into contract for the temporary cultivation with agricultural crops on land reserved *bona fide* by him for raising a garden or tope or forest and the person occupying such lands cannot have occupancy right. In such cases, the tenants are tenants-at-will and their relationship is governed by contract. The Madras Estates Land Act does not codify or protect the rights of such tenants].

(c) Both under the Madras Estates Land Act and the Orissa Tenancy Act, occupancy right does not accrue on communal lands. The type of communal lands over which occupancy right does not accrue under the Orissa Tenancy Act is as given in section 55(c), "lands recorded or demarcated as belonging to the Government or to any Local Authority which is used for any public work, such as a road, canal or embankment, or is required for the repair or maintenance of the same, while such land continues to be so used or required". In Madras, the communal lands go by the generic term of "poramboke". The bar on accrual of occupancy right over such lands is apparent from the definition of "ryoti land". Under section 6, occupancy right will accrue only on ryoti lands. The definition of "ryoti land" is any cultivable land in an estate excluding (a) private land, (b) communal land or poramboke and (c) service land or jagir. The communal lands which have been described in clauses (a) and (b) of sub-section 16 of section 3 are —

(a) beds and bunds of tanks and of supply, drainage, surplus or irrigation channels; and

(b) threshing floor, cattle stands, village-sites, and other lands situated in any estate which are set apart for the common use of the villagers.

Thus, we find that village-sites in Ganjam come under the category of communal lands whereas under the Orissa Tenancy Act area, the homesteads within village-sites are like any other ryoti land over which the tenants have got occupancy rights. That is why under the Orissa Tenancy Act area the village-sites are surveyed in detail and the homesteads are included within the holdings of the tenants and are assessed to rent. But in the Madras area, as village-site is not ryoti land, occupation within the village-site cannot be assessed to rent, as "rent" is paid by a "Ryot" to a "land-holder" and a "ryot" is who holds "ryoti land" which does not include village-site. In the Major Settlement Operation in Ganjam, the village-site within a village has been surveyed as one plot and has been kept in the poramboke khata which corresponds to sarbasadharana khata of North Orissa Settlement. It may be stated in this connection that only village-sites and not all homesteads are free of assessment. If a ryot has his homestead within his ryoti land, it is not free of assessment. The same principle is also more or less followed in the ryotwari areas of Ganjam where under the Board's Standing Order 21 (4), occupation within the village-sites up to 25 per cent is free of assessment.

(d) Although settlement is mainly concerned with possession, still the aspect of the title to the land is not completely ignored. Of course all possessions are recorded but khatians are not given to those who do not hold any title. Possessions, if not ripened into title by adverse possession, are recorded in the remarks column.

Even possessions over communal lands are recorded in the remarks column as encroachment. The important difference between the Orissa Tenancy Act and the Madras Estates Land Act with regard to recording encroachments over waste lands is that the person encroaching upon ryoti land for a continuous period of 12 years automatically becomes a ryot under the Madras Estates Land Act unless in the meantime the land-holder institutes a suit for his eviction, whereas under section 61 of the Orissa Tenancy Act, a ryot who unauthorisedly occupies waste land for a continuous period of four years, the consent of the land-holder is deemed to have been given to the occupation unless in the meantime he makes an application to the Collector for his ejectment. Thus, in the major settlement operations a person who had occupied ryoti land (it also included cultivable waste land within its definition) for 12 years by the date of the record-of-rights operation, was recorded as a ryot and in the rent column the word "jamadharjya jogya" meaning—liable to assessment—was noted as he was not paying any rent. Occupation of lands for less than 12 years was recorded in the remarks column of the abada jogya anabadi khata against the plot concerned.

(e) The provisions regarding character of private lands in both the Acts are more or less similar. The legal incidents which appertain to private lands in an estate essentially differ from those attached to ryoti lands. Private lands are the lands over which the land-holder or the proprietor has got absolute unrestricted dominion. He can deal with it in any manner he likes, enter into any kind of contract he chooses or create in it any form of tenure he pleases. Section 19 of the Madras Estates Land Act prohibits regulation of relation between the land holder and a tenant of his private land except to the extent provided under section 134 for realisation of rent and under section 158 for eviction of the tenant. Section 55 of the Orissa Tenancy Act bars acquisition of right in proprietor's private land. This is also the case in the Madras Estates Land Act as occupancy right can accrue only on ryoti land and private lands are excluded from the definition of ryoti land. Both the Acts, however, recognise the right of the land-holder or the proprietor to convert his private land into ryoti land by his own volition. [This right has, however, been curtailed by the Orissa Communal Forests and Private Lands (Prohibition of Alienation) Act, 1948 (Act I of 1948), which has prohibited any lease or alienation or converting into ryoti land any communal, forest or private land or creating occupancy rights therein without the previous sanction of the Collector—this Act was made effective from 1st April 1946 in order to prevent large scale leasing and alienation of such lands on receipt of very high premium by the zamindars with a view to getting as much money as possible on the eve of the Zamindari abolition.] But the reverse is not the case. Although the land-holder is at liberty to convert the private land into ryoti but a ryoti land cannot be converted into a private land, because of the very definition of "private land" given in both the Acts. The principle of merger of occupancy right in the proprietary right is the same in both the Acts. Under section 8 of the Madras Estates Land Act which is analogous to section 26 of the Orissa Tenancy Act, when occupancy right in a holding vests in the land-holder (this may vest in the land-holder by several ways, e.g., by transfer, succession, surrender, abandonment, escheat, rent-auction sale, etc.), he shall have no right to hold the land as a ryot but shall hold it as a land-holder. This means that the character of the ryoti land will not be lost and the land-holder cannot have a kudivaram or the occupancy right over the land. He will hold the melwaram right only although he might be actually cultivating it for a number of years. During the record-of-rights operation many land-holders, especially the inamdars of whole inam villages were found to be cultivating some such lands. Some private lands were also under cultivating possession of the tenants. If the private lands had been converted into ryoti lands as provided in section 181 of the Madras Estates Land Act, they have been clearly recorded as ryoti (provided such conversion did not infringe the provisions of Act I of 1948) and there is nothing in the record-of-rights to show that the land was one's private land unlike in the record-of-rights of the North Orissa which shows such lands as "nijot babat stitiban". But if the private lands were in possession of the tenants without such conversion, the lands were recorded in the "private land" khata of the land-holder without mentioning the cultivating possession of anybody. Thus the record-of-rights do not show which of the plots were in khas possession of the land-holder and which in possession of the tenants. The onus was, however, on the landholder to prove that the land was private land because under section 185, one has to presume that the land is not private land until the contrary is proved except in case of pre-settlement whole inam villages where it shall be presumed to be the private land if on the 12th September 1946 the land in the possession of the inamdar did not exceed five acres in extent.

It has been stated that the ryoti lands vesting in the land-holder do not become his private lands. The question of how to record such lands if they happened to be in his khas possession came up for consideration. The North Orissa Settlement solved this problem by preparing two separate khata—one for private lands and another for lands in the cultivating possession of the proprietors which did not satisfy the definition of "private land" given in the Orissa Tenancy Act. The former was known as the "nijjote" khata and the latter as "nijchas". In the major settlement operation in Ganjam, no similar suitable Oriya expression was evolved for distinguishing the character of these two important categories of lands. The private lands were recorded in the khata called "private land" which expression was noted in column 4 of the khatian and the plots in the cultivating possession of the land-holder which were not private lands were recorded in a khata called "parityakta-o-bedakhali-ryoti". In the Orissa Settlement, such a khata was also prepared but it truly represented only the lands which were lying fallow either being surrendered or abandoned or being purchased in rent auction sales otherwise known as bought-in lands, other cultivable waste lands being recorded in the abada jogya anabadi khata. It would have been better to follow the North Orissa practice because recording of cultivated lands under the possession of the land-holder in the parityakta-o-bedakhali khata has led to confusion in the minds of the ryots as well as of their lawyers. Several revision petitions were filed, specially after abolition of the estates by the land-holders for transferring the lands in their khas possession from the parityakta-o-bedakhali khata to private land khata. In some revision petitions the Member, Board of Revenue, has ordered to record such lands "under the khawat of the petitioner with the remark Nij-dakhal in column 4 of the khatian and the character of the land as ryoti". It may be stated in this connection that after abolition of the estates all communal lands, other non-ryoti lands and waste lands, etc., have vested in the State Government. So the distinction between the character of the land recorded in the parityakta-o-bedakhali khata and that recorded in the private land khata is not of much importance because it is only the lands in "khas possession" of the intermediary on the date of vesting, whether recorded in the private land khata or in the parityakta-o-bedakhali khata or in the abada jogya anabadi khata, which shall be settled with him by the Collector under the Estates Abolition Act on ryoti basis. If, however, the intermediary owns less than 33 acres of land in total extent situated within the State of Orissa then the private lands even if they had been given on temporary lease would be settled with him on ryoti basis whereas the parityakta-o-bedakhali and other waste lands would be lost to him, as the lessees would hold them as "ryots".

(f) The incidents of occupancy rights of a ryot under the Madras Estates Land Act are the following :—

He is entitled—

- (1) to the heritability and alienability (in whole or in part) of his holding,
- (2) to the use of the land so as not to impair its value or to render it unfit for agricultural purposes,
- (3) to use, enjoy, cut down, carry away or dispose of all trees standing in his holding,
- (4) to the preferential right to make improvements, unless it affects the holding of another ryot under the same land-holder,
- (5) to reduction of rent on the ground of—
 - (a) permanent deterioration in the soil by a deposit of sand or by other specific cause without the fault of the ryot,
 - (b) permanent failure of supply from any irrigation work,
 - (c) fall in the average local prices of staple food crops in the taluk or the zamindari division,
- (6) to commutation of rent,
- (7) to alteration of rent on the ground of alteration of area,
- (8) to demand a patta by suit,
- (9) to demand a receipt for rent paid,
- (10) to compel the repair of irrigation works, if he along with other such applicants holds not less than 1/4th of the rent or of the extent of the ayacut,
- (11) to demand an official appraisalment or division of the produce,
- (12) to relinquish his holding or part of it,
- (13) to deposit rent due in the Collector's office.

The rights are more or less similar to those of occupancy ryots under the Orissa Tenancy Act except that there is no provision in the Orissa Tenancy Act for exchange of pattas and muchilikas and for compelling the landlord to repair irrigation works. Some of these specific rights were conferred very late to the occupancy ryots under the Orissa Tenancy Act. As for example, the right of transferability of holding or a part of it was conferred by an amendment to the Orissa Tenancy Act in the year 1938, whereas under the Madras Estates Land Act, this right was there from the very beginning. Before 1938 the landlords of the occupancy ryots in North Orissa were charging mutation fees to the extent of 25 per cent of the consideration money, but after 1938 occupancy holdings were made transferable without the landlord's consent and without payment of any fee to him. The incidents of these rights were not necessary to be recorded in detail in the record-of-rights because the Act defined the same. In the record-of-rights, the status was simply recorded as 'ryoti' corresponding to the status 'stithiban' or 'dakhil-swatwa-bisista' in the record-of-rights of North Orissa Settlement.

(ii) *The Settlement Procedure*—(a) The most important difference between the two Acts regarding the settlement procedure is that under the Orissa Tenancy Act, the record-of-rights is not finally published if the settlement of land revenue (this includes settlement of rent in khasmahal areas) is being or is about to be made and the final publication of record-of-rights has to wait till the orders passed on objections to the settlement rent-roll are incorporated in the record-of-rights. Under the Madras Estates Land Act, these two stages of preparation of record-of-rights and settlement of rent are independent and the record-of-rights stage has to be finalised before rent settlement can be taken up, although rent settlement might closely follow the record-of-rights operation. This leads to avoidable waste of time and expenditure and to clumsiness in the records. The difficulties of finalising the map before final publication of record-of-rights have been mentioned in Chapter II, paragraph 12. Similar difficulty is inherent in finally publishing the record-of-rights before taking up the rent settlement. Under the Madras Estates Land Act, if the record-of-rights have been once finally published under section 166(2) of the Madras Estates Land Act, it will not again be finally published after rent settlement but will only be republished under section 170(3) of the Madras Estates Land Act with the amendments ordered on objections to the rent-roll, (rent-roll is a copy of the record-of-rights except that in the rent-roll the holdings which are not assessable to rent are not included) filed under section 169(1) of the Madras Estates Land Act, incorporated in them. Therefore, although the law authorises incorporation of the changes ordered during rent settlement stage in the record-of-rights, still it does not authorise fresh copies of the record-of-rights to be prepared and distributed to the parties. Only supplemental or "Ka" khata, as they are called, can be prepared in respect of holdings created out of the main holdings in the final record-of-rights. The ryots are entitled to have their pattas corrected during republication but are not entitled to fresh copies of the record-of-rights. The supplemental khata containing only the lands acquired after final publication of the record-of-rights cannot be clubbed with the original khata of the ryot, although the lands under both the khata are held by the same person under the same status. The difficulties and the clumsiness in the records were particularly conspicuous where changes ordered during rent settlement stage were numerous and they were in fact numerous chiefly owing to the time-lag between final publication and rent settlement stages. A mere look at the original copy of the record-of-rights would convince anybody that the record-of-rights have been prepared shabbily (they appear shabby due to numerous corrections in the original record-of-rights and also due to insertions of supplemental khata by small bits of paper which have been pasted on the original khata and some of them appear to have been lost or damaged by this time) and that they cannot be easily handled for maintenance or even for reference. The same difficulty as was present in the Madras Estates Land Act also crept into the Orissa Survey and Settlement Act, 1958, as originally enacted but by the Amendment Act 7 of 1962 not only the difficulties have been removed by prescribing a procedure for simultaneous proceedings under section 36 of the Orissa Survey and Settlement Act but also some major improvements have been effected and unnecessary, lengthy and expensive stages have been omitted. The zamindari areas have been programmed to be taken up again in the year 1966-67. If the revisional settlement

operation is taken up as programmed, clean and clear copies of record-of-rights would be prepared. It is regrettable that so much time and money have been spent in preparing records of such doubtful utility mainly owing to the lacuna in the law.

(b) Under the rules framed under the Orissa Tenancy Act, attestation of records was a statutory stage whereas this very important stage of settlement was not statutory under the Madras Estates Land Act. Still then bujharat and attestation of the preliminary record-of-rights before draft publishing the same were done in Ganjam following the North Orissa system. In the Orissa Survey and Settlement Rules, 1962, this stage has also been made statutory.

(c) In both the Acts, the existing rent is presumed to be fair and equitable until the contrary is proved. But in Ganjam, rent settlement was not done under section 168 of the Madras Estates Land Act to which this presumption applied. With a view to reducing the rents in the zamindari areas, section 168-A was inserted by Orissa Act XIX of 1947 and a proviso was also added by the same Amending Act to section 168 to the effect that the rent or the rate of rent which had been determined on the basis of half the gross produce or any proportion of the gross produce regardless of the cost of cultivation, should not be deemed to be fair and equitable. In the Orissa Tenancy Act, there is provision for publishing a table of rate according to a certain prescribed procedure and settling the rent in accordance with this table of rate. This principle does not seem to have ever been applied to rent settlements in Orissa, as the rent was generally settled as a percentage of increase of the old rent mainly on the ground of rise in the price of paddy. The principles of rent settlement followed in Ganjam will be discussed in Chapter VI. Generally speaking the half-net principle at average of the normal prices of certain number of years which was just an extension of the ryotwari principle of rent settlement to estate areas, introduced by amendment to sections 40 and 168 of the Madras Estates Land Act and the rules thereunder by Act XIX of 1947, was foreign to the rent settlement principle under the Orissa Tenancy Act.

After the passing of the Orissa Survey and Settlement Act, 1958 the procedure of rent settlement has been made uniform throughout Orissa. Rules 48 to 51 of the Orissa Survey and Settlement Rules, 1962 prescribe certain factors to be taken into consideration for fixing fair and equitable rent, but there is no clear-cut principle like the half-net principle of the ryotwari settlement. The Orissa Taxation Enquiry Committee under the Chairmanship of Dr. Lokanathan have recommended that state share should be fixed at one-third of the net produce at average of the prices of produce in ten normal years preceding the settlement. There should be statutory recognition to this or to some such principle so that the intradistrict and the inter-district wide disparities now prevailing in the rates of rent of similar classes of lands with similar facilities are wiped out, as far as possible, in the future rent settlements of Orissa.

20. Amendments to the Madras Estates Land Act and the Rules made during the course of settlement operation—

(i) *Amendments to Madras Estates Land Act*—(a) According to sub-section (4) of section 164 of the Madras Estates Land Act, as it stood on the 1st April 1936, certified copies of survey plan, survey land register and field measurement book relating to any village which had been surveyed, should be furnished to the Karanam of the village and should be available for inspection by the ryots thereof. As in the major settlement operation, a detailed village map showing all fields and a record-of-rights was prepared dispensing with the preparation of Field Measurement Book and Survey Land Register, it was not possible to comply with this provision of the law. It was, therefore, considered necessary to amend this section. This section was amended by Act XI of 1944 which dispensed with the necessity of making over Survey Land Register and Field Measurement Book to the Karanam of the village.

(b) Section 166(2B) of the Madras Estates Land Act was amended by the same Act XI of 1944 to the effect that in the case of any village or area where there was no karanam, certified copies of the final record-of-rights should be made available for inspection by the ryots in such manner as the Revenue Commissioner might by general or special order direct. This amendment had, however, no effect in the Ganjam district as there were karanams in this district and this was mainly meant for the settlement operations in Koraput district.

(c) The circumstances leading to passing of the Orissa Act XVII of 1947 by which the definition of "estate" in section 3 (2) (d) of the Madras Estates Land Act was amended so as to bring in all pre-settlement whole inam villages within its orbit, will be discussed in paragraph 99 of Chapter X. This Act XVII of 1947 also made some important changes in section 185 of the Madras Estates Land Act. The old section 185 was substituted by 3 new sections, namely, 185, 185-A and 185-B. By the new section 185, the provision of the Madras Estates Land Act relating to private land was made applicable to private lands in whole inam villages, with a statutory presumption in favour of the inamdars as discussed in paragraph 33 of Chapter IV. Section 185-A required constitution of a tribunal to declare that the kudivaram in the lands of the village was vested in the inamdar on the first day of November 1933 and that he had retained it ever since. Applications to this effect had to be lodged within 3 years from the passing of the Act in such a manner as might be notified by the Government. No applications were filed by the inamdars in time. Therefore no tribunal was constituted. Some consequential amendments were also made by this Act XVII of 1947 to the definition of "private land" in section 3 (10), to section 6 regarding occupancy rights in ryoti land, to section 8 regarding merger of occupancy rights, to section 23 regarding presumption that inam villages were estates, to section 28 regarding fairness of rent paid in inam villages, to section 163-A regarding eviction of trespassers from ryoti lands and to section 192 regarding application of the Code of Civil Procedure to the proceedings of the tribunal constituted under section 185-A.

(d) The circumstances leading to the passing of Act XIX of 1947 for reducing rents of zamindari ryots will be discussed in paragraph 65 of Chapter VI. This necessitated consequential amendments to sections 28 and 168 of the Madras Estates Land Act by which presumption of fairness and equitability attached to the existing rent did not apply to proceedings under section 40 or under Chapter XI of the Madras Estates Land Act. According to sub-section (3) of section 40, for determining the average value of rent actually accrued due to the landholder during the 10 years preceding the date of application for commutation, the prices of only famine years were excluded. But by the amending Act XIX of 1947, the prices of years declared as abnormal by Government were also excluded as the prices prevailing during the war period were treated as abnormal although those years might not be famine years. If the income in these years were included in calculating the amount of rent actually accrued due to the land-holders, the ryots would have paid higher rates of rent in both good and bad years.

The amended section made it further clear that while commuting the produce rent, the Collector should have regard to the money rent payable by the ryots for lands of similar description with similar advantages in the same village or neighbouring villages where settlement of fair and equitable rent had been made under the provisions of section 168 as amended by Act XIX of 1947 or by section 168-A. In various notifications issued from time to time the years 1941-42 to 1955-56 were declared as abnormal years. Difficulties were, therefore, experienced in getting income accounts of the land-holders during the 10 years preceding 1941-42. The amending Act also made provision that if the value of the land-holders' income for such decennial period could not be ascertained, then the average value of the rent accrued due to the land-holder during any shorter period for which evidence might be available excluding famine and abnormal years should be taken into consideration. Act VI of 1951 made clause (a) of sub-section (3) of section 40 more clear by defining normal years to mean the years other than those which the State Government may notify to be or to have been famine or abnormal years. By this amending Act XIX of 1947, section 177 of the Madras Estates Land Act was also amended to give Government power to direct that the settled rent might take effect retrospectively in order to give benefits of the reduced rent to the ryots. In case of retrospective application of the settled rent, excess rent, if any, paid by the ryot could be either adjusted towards payment of future rent as so settled or was recoverable from the land-holder by a suit before the Collector. Under the old section 177 the rent once settled under Chapter XI of the Madras Estates Land Act could not be enhanced or reduced for a period of 20 years excepting on the ground of alteration of area or on the ground of increase or decrease of productivity. By this amending Act, the State Government got power to direct settlement of rent under section 168-A at any time within a period of 20 years. Act XIX of 1947 also made some consequential and minor changes in sections 169, 178 and 215 of the Madras Estates Land Act.

(e) Section 172 of the Madras Estates Land Act authorised the Board of Revenue either on application or on its own motion to direct the revision of record-of-rights or any portion of it any time within 2 years from the date of final publication under sub-section (2) of section 166 or if there has been a settlement of rent, within 2 years from the date of republication under section 170(3). Due to the Second World War settlement operation was suspended in 1942 and the operations were resumed in the year 1947. In some of the estates of Ganjam district, final publication of a large number of villages was done prior to 1942. As the settlement operations were suddenly closed in 1942 and the record-of-rights prepared prior to that date was removed to Jeypore in Koraput district as a measure of safety, the persons whose record-of-rights were finally published prior to 1942 could not avail of the opportunity afforded by the law. Orissa Act V of 1945 therefore extended the period of limitation to 6 years from the 18th June 1945. This period was further extended to 8 years by Orissa Act XXVIII of 1947. These amendments facilitated revision of record-of-rights by the Board of Revenue on application or on its own motion. By the Orissa Act X of 1944 a provision was made for revision under section 172 of the orders of the Revenue Commissioner in appeal under section 171 of the Madras Estates Land Act by a Commission consisting of the Revenue Commissioner and two other persons appointed by the State Government. The whole section 172 was recast by Act VI of 1951 and separate provision for correction of record-of-rights by the Board of Revenue on its own motion and also by application of parties was made.

(ii) *Amendments to the Statutory Rules*—As it was decided to prepare records according to the Bihar and Orissa method, it was found necessary to amend the statutory rules under the Madras Estates Land Act in certain respects to conform to this decision of Government.

(a) Rule 6 of the Statutory Rules required publication of a general notice in Form No. I before initiating the record-of-rights operation ordered by Government under sections 164 and 165 of the Madras Estates Land Act. In the judgement of the Orissa High Court on the writ petition of ex-Zamindar of Bodogoda regarding recovery of settlement costs, it was observed by the Honourable High Court that Form No. I prescribed under rule 6 was to be used only in cases where there was application for survey and settlement from the land-holder or the ryot. As the Ganjam Settlement Operation was initiated by Government *suo motu*, form No. I was amended in Revenue Department notification No. 2439-L.R.S., dated the 22nd November 1954 to include cases where the survey and settlement operation was initiated *suo motu* by Government.

(b) Rule 14 of the Statutory Rules was amended in 1941 to make provision for supply of a copy of the final record-of-rights to the land-holder and extracts from the record-of-rights to the ryots and other occupants under the seal and signature of the Collector at the time of final publication. Under the old rules, such copies were supplied after incorporation of the settled rent at the time of republication of record-of-rights.

(c) Rule 18 of the Statutory Rules was also amended in 1941 to omit the provision regarding supply of copies of rent-rolls to the land-holder and the ryot during the period of draft publication as supply of such copies was considered unnecessary. This rule 18 was further amended in 1947 in accordance with amendments to sections 40 and 168 of the Madras Estates Land Act by Act XIX of 1947.

(d) Rule 23 was substituted by another rule of the same number in 1948. The old provision regarding reading out of the contents of the record-of-rights at the time of republication was omitted as copies and extracts of record-of-rights were to be supplied at the time of final publication and amendments ordered under section 169(1) of the Madras Estates Land Act were to be incorporated in the copies supplied previously. This amended rule made provision for supplying copies of final record-of-rights at the time of republication to the land-holder and the ryots and other occupants if this had not been supplied to them at an previous stage.

(e) According to rules 25 and 26, extracts of consolidated record-of-rights and settlement of rent as finally republished had to be supplied to the ryots and the land-holders. As rule 14 was amended for supplying copies of the final record-of-rights to the ryots and land-holders, etc., at the time of final publication stage and as rule 23 was also amended in such a way that the ryots and the land-holders and karanams might get the settled rent and the amendments ordered under section 169(1) incorporated in their copies of the record-of-rights at the time of republication, rules 25 and 26 were deleted by Government order No. 1380-R., dated the 14th May 1941.

(f) As the procedure of fixing fair and equitable rent was changed under the provisions of Act XIX of 1947 it was found necessary to frame detailed rules for the guidance of officers doing rent settlement. Further it was found necessary to prescribe certain procedure for making up-to-date the final record-of-rights which had been republished in the minor settlement operations long ago before draft publishing the same as rent-rolls for

inviting objections. Detailed rules under sections 40 and 168-A were therefore framed in Government notification No. 7798-R., dated the 20th September 1947. The provisions under these rules will be discussed at length in the rent settlement, Chapter VI.

(g) According to rule 19, objection petitions against any entry in or omission from the rent-roll were to be filed in Form No. 12. As all kinds of objections were intended to be entertained owing to the time-lag between the final publication and rent settlement, Form No. 12 was found inconvenient and so the rule was amended to receive objections in Form No. 5 deleting Form No. 12. This rule was further amended in 1950 to realise re-measurement fees on objections filed for correction of any measurement or any boundary and seeking for fresh inspection or measurement. Previously there was provision of realising remeasurement and reinspection fees only on objections filed under section 166(1) of the Madras Estates Land Act and not under section 169 (1). Rule 19 was amended to discourage unnecessary and frivolous objection petitions at the time of rent settlement. The statutory period of 3 months for filing objections to any entry in or omission from the rent rolls given in old rule 19 was also amended and the time was reduced to one month. Form Nos. 9 and 11 were amended accordingly.

(h) Under the statutory rules under the Orissa Tenancy Act, if a special notice is issued to the defaulter who fails to respond to the call of the Revenue Officer requiring him to appear before him or to furnish any information then a process fee of Rs. 0-12-0 can be levied. Such a rule was not in existence in the statutory rules under the Madras Estates Land Act. A provision was made by amending the rule in notification No. 9070-R., dated the 3rd August 1949 to levy process fee of Rs. 0-12-0 on any individual if a special notice was issued to him for his non-attendance before the Collector or for his failure to furnish him any information which was considered to be in his possession. Recourse to this penal provision of the Law has not been taken in the Major Settlement Operation as it was, on the face of it, a very non-effective provision for enforcing attendance. The problem of non-attendance of ryots specially during preparation of preliminary record-of-rights to point out boundaries and ownership assumed very serious proportion, but nothing could be done excepting persuading the people to co-operate and guard their own interest. The Bengal Survey Act, 1875 which was applicable for the settlement operation in North Orissa made very effective provision for enforcing attendance of parties during the settlement operation as under section 51 of this Act a daily fine of fifty rupees could be levied on any person who failed to comply with a requisition contained in any special notice issued to him under section 7 requiring him to attend before the Assistant Settlement Officer. Neither the Madras Survey and Boundaries Act nor the Madras Estates Land Act contained any such penal provision.

21. *Passing of other tenancy laws and their effect on the Major Settlement Operation*—(a) In order to save the private forests from wanton destruction the Orissa Preservation of Private Forests Ordinance, 1946 was issued. This was subsequently replaced by the Orissa Preservation of Private Forests Act VIII of 1947 which is still in force. It defined "forest" as including communal lands containing trees and shrubs and any class of land declared to be a forest by Government notification excluding reserve and protected forests. It prohibited leases or alienations of any part of a forest, by an owner without the previous sanction of the Government or any officer authorised by them. Some cases of transfer of forest lands as defined in this Act seemed to have been done in contravention of this Act specially in Khallikote and Dharakote estates. But as there was no objection from any side and the illegality was not specifically brought to the notice of the settlement department, the leases have been validated by preparing the records in the names of the lessees.

(b) The Orissa Communal, Forests and Private Lands (Prohibition of Alienation) Act (Act I of 1948) was passed when it came to the notice of Government that landlords were resorting to large scale alienation and assignment of communal, forests and private lands on receipt of high premium. This Act was made effective retrospectively from 1st April 1946. It prohibited alienation of communal, forests and private lands by any landlord without the previous sanction of the Collector but protected the transactions made after 1st April 1946 but before passing of the Act if they satisfied certain conditions. A large number of illegal alienations of this nature in Khallikote and Athagada estates were noticed during the rent settlement operation and a report to this effect was sent to the Collector for necessary action.

(c) Pending enactment of comprehensive land reform measures the Orissa Tenants' Protection Act (Orissa Act 3 of 1948) was passed for protection against the arbitrary eviction of the tenants holding on produce rent and for fixing a maximum on the quantum of rent payable by them. This Act was made effective retrospectively from 1st September 1947. The Act defined a 'tenant' as a person paying produce rent or rent fixed on the estimated value of the produce and provided that such a tenant would be protected from arbitrary eviction by the landlord and would not be liable to pay more than one-third of the gross produce of the land or value thereof as rent, if he was an occupancy ryot in the northern district, one-sixth of such produce, if he was an occupancy ryot in the southern district, two-fifth of the gross produce, if he had no right of occupancy. The Act exempted landlords who were ryots having less than 33 acres of land from the operation of the provision relating to protection of tenants from eviction. This Act was intended to be in force up to the 15th January 1949 but it was extended from time to time till 1955 when it was replaced by the Orissa Tenants' Relief Act (Act 5 of 1955).

The question whether the proportion of rent limited under the Orissa Tenants' Protection Act could be recorded in the record-of-rights as the lawful rent payable at the time of preparation of record-of-rights was the subject of a much heated discussion. In this connection there was a Government order, an extract of which is quoted below: "It is apprehended that the Orissa Tenants' Protection Act which has been enacted subsequent to the passing of the Orissa Act XIX of 1947 (Rent Reduction Act), is likely to create confusion in the matter of adjustment of rent. In this connection I am to say that it has been clearly laid down in section 6 (2) of the Orissa Tenants' Protection Act that the provision of the Madras Estates Land (Orissa Amendment) Act, 1947 (Orissa Act XIX of 1947), will not be affected by the former Act. Hence, the provision of the latter Act will override the provision of the former Act."

The above Government order was interpreted to mean that the proportion of rent in the Orissa Tenants' Protection Act was not to be treated as the legally payable rent. Accordingly half the gross produce was recorded as the lawfully payable rent in all cases in the record-of-rights. This was challenged by Dr. H. K. Mahatab in a communication, dated the 10th February 1954 to the then Revenue Minister on the representation of the ryots during his tours in this district especially in Ponkala mutha of Khallikote estate. A detailed report was submitted to the Board in this respect. The Board of Revenue finally decided to leave records as they were.

It was considered expedient to repeal the Orissa Tenants' Protection Act and substitute it by a more comprehensive legislation covering all the temporary tenants and all tenants liable to pay produce rent. Accordingly the Orissa Tenants' Relief Act, 1955 (Act 5 of 1955) was passed, which repealed the Orissa Tenants' Protection Act. This Act has been extended from time to time and is still in force and is intended to continue until comprehensive land reform measures are enforced by introducing the provisions of the Orissa Land Reforms Act. This Act (Act 5 of 1955) confers some additional rights on tenants both in the matter of the quantum of rent and in the matter of eviction. By this Act, all temporary tenants have achieved the rights which are more or less similar to the rights of an occupancy ryot though this right is temporary in nature and is neither heritable nor transferrable. As in case of the previous Act, the enactment of the Orissa Tenants Relief Act also had no effect on the record-of-rights operation in the district. (After introduction of the Orissa Survey and Settlement Act, 1958 the possession of Bhagchasis is being recorded in the record-of rights in the ryotwari settlement operation).

(d) The Orissa Estates Abolition Act, 1951 (Orissa Act I of 1952), was passed "providing for the abolition of all the rights, title and interest in land of intermediaries between the ryot and the State of Orissa and for vesting in the said State all the said rights, title and interest in pursuance of the directive principles of the State policy laid down by the Constitution wherein it is incumbent on the State to secure the ownership and control of all material resources of the community so that they may best subserve the common good and to prevent the concentration of wealth and means of production to the common detriment". After the coming into force of this Act Government started taking over several estates in convenient batches. So far as Ganjam district was concerned, the zamindaries were taken over on the 1st June 1953. Thereafter the inam estates have been taken over in several batches except in some cases where writs were allowed by the High Court or the Supreme Court. It was intended to constitute local authorities to be called Anchal Sasans for the purpose of management of all estates vested in the State Government under provisions of this Act and for this purpose the Orissa Anchal Sasan Act, 1955 was passed. But subsequently Government decided that the management of the estates taken over by the Government should be on the pattern of the management prevailing in the ryotwari or the Khasmahal areas. By the Orissa Estates Abolition (Amendment) Act, 1957 (Orissa Act 23 of 1957), section 14 of the Orissa Estates Abolition Act, 1951 was amended and it was provided that the estates vested in the State Government should be managed according to the laws, rules and regulations for the time being in force for the management Government estate or ryotwari areas or other areas under the direct management of Government by whatever name known, as the case may be, subject to the provisions of the Orissa Estates Abolition Act.

The Orissa Estates Abolition Act repealed the Madras Estates Land Act but in section 49 of the Orissa Estates Abolition Act it was provided that any proceeding pending on the date of vesting with respect to the Survey and Settlement operations under any of the tenancy laws should be continued as if the Orissa Estates Abolition Act had not come into force. When the Orissa Estates Abolition Act came into force in the district of Ganjam, the record-of-rights had been finally published in 2,005 villages and in 110 villages record-of-rights had not been finally published. Rent settlement had been finished in 1,546 villages and this was pending in 459 villages. Section 49 of the Orissa Estates Abolition Act did not make it clear as to up to which stage the proceedings should continue under the provisions of the old law. Even the Orissa Survey and Settlement Act, 1958, which contained a similar provision in section 46 did not make this point clear. This point has since been made clear by the Orissa Survey and Settlement (Amendment) Act (Act 7 of 1962), which has provided that all such proceedings shall be continued up to the stage of final publication of records. It was, therefore, interpreted that the proceedings should be continued under the Madras Estates Land Act up to the stage of republication and even subsequent stages like revision by the Board of Revenue should also be done under the provisions of the Madras Estates Land Act.

The effect of the passing of the Orissa Estates Abolition Act on the record-of-rights prepared in this settlement is as follows—

(i) Since all proprietary or the rent-receiving interests have vested in the State Government, khewat No.1 given to the landlord, khewat No.3 prepared for samilat interests and khewat No. 4 which is a sub-landlord's khewat prepared for irresumable darmila inamdars shall belong to the State Government and only one khewat, namely, khewat No. 1 will be prepared for all such lands together with the lands recorded in khewat No.2-A of the State Government. In respect of only 93 villages record-of-rights were finally published after the coming into force of the Orissa Estates Abolition Act. The record-of-rights of 2,005 villages (1,573 ryoti and 432 inam villages) had been finally published before the date of vesting. Rent Settlement had been completed in respect of 1,546 ryoti villages before the date of vesting. The record-of-rights of 1 ryoti and 92 inam Villages were finally published after the date of vesting. The records of 12 ryoti and 278 inam villages were republished after the date of vesting. On the date of vesting, the records of the villages had reached the following stages of settlement operation—

- (a) Records which were finally republished under section 170 (3) of the Madras Estates Land Act and the statutory period of filing revision petition was over.
- (b) Records which were finally published under section 166 (2) of the Madras Estates Land Act and the statutory period of filing revision petition had expired, but were pending for rent settlement.
- (c) Records in which objection hearing under section 166 (1) of the Madras Estates Land Act was finalised, but were awaiting final publication.
- (d) Records which had not reached the final publication stage.

In respect of records mentioned at (a) above, it was decided that they would be left as they were. In respect of records mentioned at (b) above it was decided that the name of the land-holder would be corrected on filing of specific objection by the Collector under section 169 (1) of the Madras Estates Land Act. In some cases objections were filed and khewats were corrected in the name of Orissa Sircar, but in other cases, this could not be done as the Collector did not file objection petitions in time. In respect of records mentioned at (c) above, it was decided that necessary corrections would be made either by way of revision by the Board of Revenue under section 172 of the Madras Estates Land Act after final publication or during rent objection hearing stage under section 169 (1) of the Madras Estates Land Act. The Tahasildars have filed revision petitions for correction of khewats in respect of 78 villages of this category and the petitions have not yet been disposed of by the Board.

In respect of records mentioned at (d) above, it was decided that correction could be made *suo motu* by the settlement department as in case of any other mistakes detected in the preliminary record-of-rights. This last category of villages are still pending and are included in the list of pending villages given in Appendix I.

(ii) As the records were prepared in the names of the land-holders, private land khatas prepared during the course of preparation of preliminary record-of-rights still exist. Homesteads and lands in khas possession of the ex-land holders are required to be settled with them on ryoti basis by the Estates Abolition Collectors, i.e., Tahasildars under sections 6 and 7 of the Orissa Estates Abolition Act by following the prescribed procedure. Some revision petitions have been filed before the Board of Revenue for conversion of such lands into ryoti although the Tahasildars are the proper authorities for disposal of such applications. The holders of service lands held for doing personal service of the ex-intermediary are to be discharged from the conditions of such service and the lands held by them are to be settled with them on ryoti basis on payment of fair and equitable rent by the Estate Abolition Collectors. Service lands held for doing communal service in the village will continue under the old terms and conditions. The rights and liabilities attached to any other lands in the estates before the abolition have been protected under section 8 (1) of the Orissa Estates Abolition Act. The holders of such lands will hold in the same rights and subject to the same restrictions and liabilities as they were entitled or subject to immediately before the date of vesting. Fraudulent leases of lands made after the 1st January 1946 were liable to be cancelled under section 5 (i) of the Orissa Estates Abolition Act by the Collector.

Thus, it will be seen that the implementation of the Orissa Estates Abolition Act has rendered some of the entries in the record-of-rights already prepared obsolete. Where there is scope to correct these entries, steps have been taken to do so. Otherwise, the Tahsildars have to effect necessary corrections in the course of maintenance of the record-of-rights under Chapter IV of the Orissa Survey and Settlement Rules, 1962.

CHAPTER IV

RECORD-OF-RIGHTS

22. *Procedure*—(i) The operation starts by the Government making an order directing preparation of record-of-rights by the Collector under section 164 of the Madras Estates Land Act. This may be done on application of the parties concerned or in certain circumstances *suo motu* by Government. For preparation of record-of-rights, a survey under the Madras Survey and Boundaries Act is essential under sub-section (3) of section 164. Certain officers are appointed as Collectors to conduct the operation. Collector includes any person appointed by Government to exercise any of the functions of a Collector under the Act. Generally the officers appointed to carry on settlement operations are appointed as Collectors under Chapters XI and XII of the Madras Estates Land Act. Particulars to be recorded in the record-of-rights are also mentioned in the Government order. Then a draft record-of-rights is prepared by the Collector in the prescribed manner which is published for inviting objections to any entry in or omission therefrom. The objections must be filed within a prescribed period (3 months under the statutory rules of the Madras Estates Land Act). After disposal of the objections and amendment of the draft record-of-rights in accordance with the orders passed on such objections, the records are finally framed and published under section 166(2) of the Madras Estates Land Act. Every entry in a finally published record-of-rights is presumed to be correct until the contrary is proved.

(ii) The rules framed under the Madras Estates Land Act prescribe in some more details the procedure for preparation of draft record-of-rights, its publication and receiving of objections and final publication. At the first stage, the Collector is to publish a general notice in Form No. 1 inviting every person claiming to be interested in the lands of the village to clear obstructions to existing survey marks, to put survey marks to indicate their individual rights and occupation and to be present before the Collector to point out boundaries and supply information for the purpose of preparation of record-of-rights and to produce evidence in support of their rights and to provide labour, etc. After preparation of draft record-of-rights, a notice in Form No. 2 is published in the prescribed manner informing the parties about the date of its publication and inviting all persons to attend. On the date fixed for publication of the draft record, the entries in the draft record-of-rights are read out and the persons present are informed that the record-of-rights will remain open for inspection in the camp office for three months from the date of publication of the draft record and that objections, if any, be preferred in Form No. 5 within the said period after which no objection will be entertained. An individual notice to this effect is also served on each person concerned along with an extract of the draft record-of-rights concerning his lands. If an objection is made, a notice in Form No. 6 is served on all persons whose interests may, in the opinion of the Collector, be affected thereby and they are called upon to attend at such time and place as the Collector may fix for the disposal of the objection. If the correctness of any measurement or any boundary laid out is objected to and fresh inspection and measurement is demanded, the party so objecting and demanding is required to deposit the cost of the remeasurement and reinspection as determined by the Collector. If after the reinspection or remeasurement it appears that the original measurement was wrong and the inaccuracy was not due to any omission on the part of the party in pointing out boundaries, furnishing information and producing records in proper time, the Collector may order the amount deposited or any part of it to be refunded to the objector. After disposal of all objections, the draft record-of-rights are corrected in accordance with orders passed on the objections after which the record-of-rights are finally framed for final publication. At the time of final publication, the record-of-rights is published by exposing its contents to public view and by reading out the extracts concerning any individual *bona fide* interested in the record, if desired by him. The fact of final publication has to be certified at the foot of the record-of-rights under the signature of the Collector or other officer deputed by him and attested by the village officers. At the time of final publication the land-holder is entitled to a copy of the record-of-rights. The ryot is also entitled to an extract from the record-of-rights relating to his tenancy and the karanam of the village is also entitled to a copy.

This is broadly the position of law with regard to preparation of record-of-rights. It is not, however, possible for any statute to prescribe all the minute details for preparation of record-of-rights or for that matter any other operation. So the detailed rules are left to be framed by the heads of departments or heads of offices. As the settlement operations are conducted under the administrative control of the Board of Revenue, executive instructions for different stages of settlement are framed for guidance of Settlement Officers and Assistant Settlement Officers by the Board of Revenue. These executive rules supplement the statutory rules and law on the subject and cannot be contradictory to the provisions of the statute. The "Technical Rules of the Settlement, Bihar and Orissa", Volumes I and II and the "Bihar and Orissa Survey and Settlement Manual, 1928" containing the executive instructions of the Board of Revenue were followed *mutatis mutandis*, in the major settlement operation in Ganjam. Detailed executive instructions relating to survey, khanapuri, bujharat, attestation, draft publication, objection hearing, final publication, rent enquiry, preparation and publication of settlement rent-roll, rent objection hearing, confirmation of rent, republication, patta distribution, etc., were also framed by the Settlement Officer for the guidance of the Assistant Settlement Officers.

(iii) Unlike the Orissa Tenancy Act, the Madras Estates Land Act does not provide for attestation of the draft record-of-rights before its publication. Attestation is preceded by bujharat, i.e., explanation of the entries in the draft record-of-rights to the parties with a view to either getting the entries confirmed by them or getting them altered by instituting oral or written objections before the Assistant Settlement Officer. Although bujharat and attestation were not statutory stages under the Madras Estates Land Act, still the rules regarding bujharat and attestation followed in North Orissa Settlement were adopted, *mutatis mutandis*, to the Ganjam Settlement Operations. Experience shows that during the limited period of field enquiry it is not possible to prepare a correct record-of-rights. Moreover during the field operation, the ryots do not get opportunity to know what is being recorded. It is, therefore, absolutely necessary to let them know about the entries in the record-of-rights concerning them so that they might get opportunities to raise objection to any entry in or omission therefrom before the record-of-rights reach draft publication stage. During the bujharat and attestation stages, the Assistant Settlement Officer has powers to make necessary corrections in the draft record-of-rights prepared during Khanapuri stage either on his own motion or on written or verbal objection by the party. Experience shows that bujharat and attestation stages form the backbone of the settlement operation and are the most useful and important stages in preparing correct record-of-rights. That is why bujharat and attestation were introduced in the Ganjam Settlement although they were not statutory stages under the Madras Estates Land Act. (This

lacuna in the law has since been removed by making the attestation compulsory under the Orissa Survey and Settlement Rules, 1962).

23. *Particulars recorded*—The order of the Government under section 164 of the Madras Estates Land Act on which the Ganjam Major Settlement was started, specified the following particulars to be recorded :—

- (a) The name of each ryot's land-holder and of each land-holder in the estate or portion thereof
- (b) the name of the ryot, or where there is no ryot, the name of the occupant
- (c) The situation, extent and one or more of the boundaries of the land held by the ryot, as shown in the survey map of the village.
- (d) Whether the land is irrigated, unirrigated or garden land and if irrigated, whether double or a single crop.
- (e) The rent lawfully payable at the time the record is being prepared and whether the ryot is entitled to the benefit of proviso (a) of clause (i) of section 30.
- (f) How the rent has been fixed, whether by decree or under the provisions of this act or otherwise
- (g) Any rights lawfully incident to the holding
- (h) If the rent is gradually increasing rent, the times at which and stages by which it increases.
- (i) If the land is claimed to be held free of rent, whether rent is actually paid or not and when rent is not paid, whether the occupant is entitled to hold the land without such payment and if so entitled, on what authority and the rent payable if the land were liable to rent.
- (j) The record of irrigation rights ordered under sub-section (3) of section 164 and the record of special rights in the waste land ordered under the same sub-section.

The headings of the draft khatian form which form the main and the most important constituent of the record-of-rights strictly conformed to the particulars ordered by Government to be recorded. The headings of this form were approved by the Revenue Commissioner in his letter No. 180—II-5/38-L.R.S., dated the 17th February 1939.

24. *Records of minor settlement operation*—The following records prepared previously were available for use and reference during the major settlement operation :—

- (a) The records of villages of which only survey had been finished (There were 853 such villages)
- (b) Records of villages which were finally published in the minor settlement operation (53 villages).
- (c) Records of villages of which rent settlement had been finished and republished under section 170(3) of the Madras Estates Land Act (276 villages).

The details of records which were received for each of the categories of villages mentioned above and those prepared during the major settlement operation in those villages as well as in the originally surveyed villages are given in Appendix II. The records prepared in the major settlement followed the Bihar and Orissa pattern with such modifications as were necessary to conform to the legal provisions.

25. *Constitution of record-of-rights*—The Revenue Commissioner in 1939 passed an order declaring the following records to constitute the record-of-rights :—

- (1) Khewat (the record-of-rights of land-holders)
- (2) Khatian (Record-of-rights register) and plot index
- (3) Irrigation khatian (Record of irrigation rights)
- (4) Descriptive Memoir

These records were accordingly draft published till 1941. According to two subsequent orders passed by the Government in 1941, the Descriptive Memoir was declared not to form a part of the record-of-rights. Therefore, many Descriptive Memoirs which were draft published in accordance with the earlier order of the Revenue Commissioner on the subject were not finally published. But these memoirs which were comparable to village-notes of North Orissa were continued to be prepared carefully as they were very important documents.

26. *Recording of status*—The Madras Estates Land Act, the Agrarian Code under which the record-of-rights and settlement operations were taken up, deals with two broad statuses, namely, (i) the land-holder and (ii) the ryot. It specifically excludes the tenants of the land-holder on his private lands and the tenants of the ryots from its purview (section 19) and therefore, leaves their relation to be regulated by the Contract Act or the Transfer of Property Act. Compared to the Orissa Tenancy Act which gives a well-defined status to everybody interested in land and thereby having the outward appearance of a very clumsy piece of legislation, the Madras Estates Land Act which in clear terms states that it is intended to define the relationship between the land-holder and his ryots (and these terms have been very rigidly defined in the Madras Estates Land Act) appears on the face of it, to be a very simple and straight forward piece of legislation. One would, therefore, be tempted to think that the recording of statuses recognised in the law would have been a very simple proposition. In fact, however, this was not so. That the law did not recognise many rights in land and the definition of the "land-holder" was peculiarly worded and that under the Government order an occupant (though he might not be either a land-holder or a ryot) was also entitled to be recorded in the record-of-rights made it difficult for the Settlement Officer in the early period of this settlement to issue clear-cut orders in the matter of recording the status of the persons in the record-of-rights and amendments of the orders were being issued from time to time as the operation progressed and experience was gained. Added to this many peculiar expressions like "ଶାସ୍ତ୍ରୀୟ ଶ୍ରମିକ" meaning a ryot having permanent right of occupancy, "ଶାସ୍ତ୍ରୀୟ ଶ୍ରମିକ ନୁହେଁ" meaning a ryot not having permanent right of occupancy (though such a right is not recognised by law), "ଅଧିକାରୀ ଶ୍ରମିକ" meaning an under-tenant having no right

"Kami jeroyati" meaning excess over inam lands, were recorded as the status of different lands in the records of the minor settlement operation. These expressions were not idiomatic and natural in the Oriya language and therefore, they were not used in the records of the Major Settlement though they were left in tact in the finally published or finally republished records of the minor settlement, as they could not be altered under the law. In the major settlement operation such unstatutory and even illegal expressions were avoided and the expressions strictly conformed to the statutory requirements. Special incidents, if any, attached to the holding were recorded in the "special incidence" column of the khatians. A glossary of words and abbreviations used in the major settlement records is given in Appendix VIII. Statuses were recorded in the khewats and khatians. Paras. 27 to 34 describe the different statuses recorded in the present settlement.

* 27. *Land-holder*—(i) The definition of "Land-holder" includes, besides an owner, one who is entitled to collect the rent due in respect of the whole or portion of an estate. The Estate Land Act adopts one comprehensive definition for both the "owner" of an estate and a person who has only a subordinate interest which entitles him to collect rents. The pre-settlement whole inam villages were declared as estates by Orissa Act XVII of 1947. Consequently the owners of all pre-settlement whole inam villages came under the definition of land-holders. Under section 3(5) all owners of estates are land-holders. But all land-holders who are entitled to recover rents need not necessarily be owners of estates. There is some difficulty in reconciling the definition of an estate and the definition of a land-holder. According to the preamble of the Act, the Act was intended to declare and amend the law relating to the holding of land in estates in the Presidency of Madras. But when we come to the definition of land-holder, we find that it means a person owning an estate or a part thereof and includes every person entitled to collect the rents of the whole or any portion of the estate by virtue of any transfer from the owner or his predecessor-in-title. A minor inamdar holding under a post-settlement grant for melwar right only has been held to be a land-holder within the definition in section 3(5) of the Madras Estates Land Act though he would not be the owner of an estate or a part of an estate.

(ii) Where the transfer by the holder of a permanently settled estate does not amount to a transfer of ownership by a proprietor but only amounts to the creation of an under-tenure, like a Mokhasa, etc., the portion transferred is not an estate under section 3(2) (b), but would constitute an estate under section 3(2) (e), being a portion of an estate held on a permanent under-tenure, because unless there was a transfer of ownership (a permanent lease is not a transfer within the meaning of section 8 of the Regulation XXV of 1802), the grantee was not entitled to separate registry under Act I of 1876 (which was the law governing disposal of applications for separate assessment and registry of alienated portion of permanently settled estates).

(iii) The rights of the land-holders were not recorded in Khewats (Record of land-holder's right) in any of the minor settlement records. But in the Major Settlement, the records of land-holder's right in proprietary tenures were prepared in khewats following the North Orissa pattern. The right of the lessees and mortgagees were not recorded in the khewats as their interests were temporary in nature. Where, however, an estate was under the management of the Court of Wards, the Manager of the Court of Wards on behalf of the lawful land-holder was recorded in the record-of-rights. Khewats were classified as follows with the approval of Government.

Khewat No. 1—Khewat No. 1 was given to all owners of "estates", including the inamdars of inam "estates". For co-sharers having separate possession, batta khewats with letters, A, B, etc., as determinator were prepared. In the status column of the khewat, the status has been recorded as "ଜମିଦାର", or the actual status of the inam estate, as the case may be.

The following lands were kept under this khewat:—

- (1) Heta (private lands of the land-holder)
- (2) Parityakta-0-Bedakhali ryoti (cultivated ryoti lands abandoned or surrendered and not in the occupation of ryots).
- (3) Ryoti (ryoti lands in the occupation of ryots)
- (4) All Darmila inam lands forming part of the parent estate.
- (5) Abadajogya anabadi (cultivable waste lands which are also ryoti lands).
- (6) Abada Ajogya Anabadi lands (waste lands that cannot be cultivated).

Khewat No. 2-A—This was prepared in the name of the Government (State Government) with the following khatians:—

- (1) Khatians for minor pre-settlement inams in which Government is solely interested.
- (2) Khatians for ryotiwari lands under Government on conversion of resumed inams.
- (3) Khatians for lands directly in the occupation of Government Departments or Local Bodies except District Board Roads and drains which were kept in the poramboke khata along with other poramboke lands.

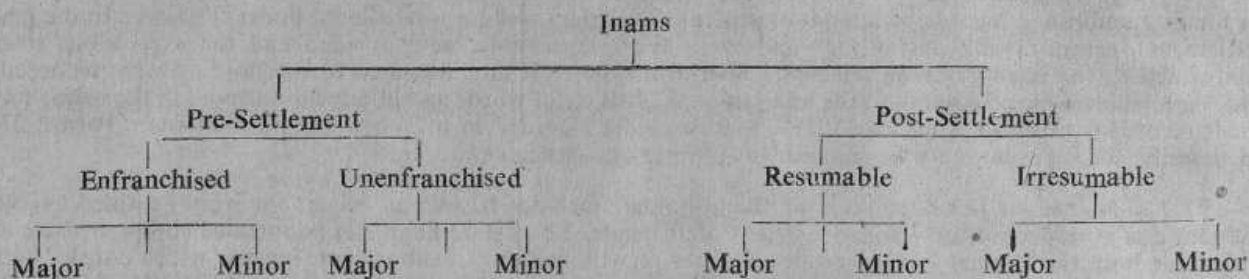
Khewat No. 2-B—All khatians of lands in which Central Government was interested, such as railway lands, etc., were kept under this khewat.

Khewat No. 3—There were some pre-settlement inam lands in respect of which Government got a quit rent and the land-holder also was getting a nominal rent which was known as kattubadi. These inam khatians were kept under this khewat, this being a Samilat of khewats 1 and 2-A showing separately in the khatians the amounts payable to State Government and to the land-holder.

Khewat No. 4—This was prepared for major darmila inams, but later on this was limited to irresumable major darmila inams under orders of Government (vide para. 28). (After abolition of the intermediaries under the Estates Abolition Act, there would henceforward be only two khewats, namely, khewat No. 1 for the lands of the State Government and No. 2 for those of the Union Government).

28. *Inams* (See also paragraph 99 of Chapter X).

The following table shows the division and subdivision of inams:—



(i) *Pre-settlement Inams*—These tenures may be either rent-free or held on payment of quit-rent. The inams that had been granted before the permanent settlement of the estates in 1802 are known as pre-settlement inams. Government are interested in the pre-settlement inams the assets of which are excluded from the total assets of the estates when the land revenue of the estates was permanently fixed. Hence, these inams are also sometimes referred to as Government interested lands, i.e., G.I. lands. A *milan* (comparison) of the present area of the pre-settlement inam lands was made with that entered in the survey land register or the old record-of-rights, as the case may be, and discrepancies, if any, were reconciled by enquiries after making entries in the change registers.

In respect of some of the pre-settlement inam lands a quit-rent was payable to Government along and nothing to the estate. These minor inams were recorded in the present settlement solely under the Government khewat. In other pre-settlement inams, a quit-rent known as *Kattubadi* was also payable to the estates. These tenures were recorded under the *Samilat khewat* of the land-holder and the Government. The pre-settlement inams are further subdivided into enfranchised and unenfranchised inams. Enfranchised inams are in the same position as *ryotwari* lands in respect of succession, transfer, subdivision and sale for arrears of quit-rent. They may also be accepted as security for any purpose in the same manner as *ryotwari* lands. The right of unenfranchised inamdars is restricted in these respects and these inams are liable to resumption and to assessment of full rent by Government on infringement of the conditions of the *sanads* or title deeds confirming the inams. (The circumstances leading to enfranchisement have been described in paragraph 99 of Chapter X).

The following kinds of pre-settlement inams are enfranchised inams:—

(a) *Village Service inams*—Inams granted to village officers and village servants such as *Karji*, *Karnam*, *Dandasi* and *Taliyari* for revenue and police services still required. These inams are always enfranchised and have been differentiated from inams granted for service to the village community, e.g., inams to barbers, blacksmiths, potters etc., which are unenfranchised. Inams granted for services to the village community are known as village Artisan Inams.

(b) Some personal or subsistence inams, such as *Brahmadayam* inams (also called *Agraharams* or *Srotriems*) granted by former Governments for remuneration of services in the Revenue or Police Department which are no longer rendered or required but have been declared enfranchised in the title-deeds granted by the Inam Commissioner. Inams granted to religious persons such as Brahmins or persons well versed in *Vedas* also come under this category.

When cases of transfers of enfranchised pre-settlement inams were found, *khatians* were prepared for the transferred portions in the names of the transferees. These *khatas* show the portions in the transferee's possession and the portion of the quit-rent of the original tenure payable by the transferees according to the facts actually existing.

The following pre-settlement inams are unenfranchised inams:—

(a) *Religious and Charitable Inams* (also called *Debadayam* or *Dharmadayam*)—These are grants to religious and charitable institutions made for the performance of service to these institutions.

(b) *Village Artisan Inams*—These are held by barbers, carpenters, blacksmiths, washermen, potters, *purohits* (priests), astrologers and temple servants, etc.

(c) Some personal or subsistence inams and inams granted by former Government for the remuneration of services in the Revenue or Police Departments which are no longer rendered or required and which have not been declared to be enfranchised in the title-deeds granted by the Inam Commissioner. These inams have been held not to have been enfranchised if it was found that no quit-rent was payable to Government for them (unless it had been redeemed).

None of these three classes of inams can be alienated in whole or in part in any way. Succession in the case of inams of class (b) above is governed by the law of primogeniture. Hence, partitions of these inams among the members of the inamdar's family was ignored and no subdivision was made for such partitions. All classes of illegal alienations of these lands have been reported to the District Collector for necessary action. The possession of illegal alienees was noted separately with the details of illegal possession in the remarks column against the plots concerned. The *khatians* for the inam holdings were prepared in the name of the lawful inamdar and no attempt to split up the quit-rent, if any payable, was made.

Partition of the inams coming under class (a) above among different co-sharers, *sebaitis* or *marfatdars* and inams coming under class (c) above among co-sharer inamdars was not recognised but their respective possession was noted in the remarks column against the plots concerned. The principle followed in this case was to have one *khata* for the entire holding covered by one title-deed.

The details of pre-settlement inams as noted in the minor settlement final records were not self-contained, viz., at places the word "*phaisal*" alone was noted in the status column. In some cases the word "*Inam*" only was noted. In the major settlement records the pre-settlement inams were distinctly noted as such, i.e., "*pre-settlement enfranchised Brahmadaya inam*" and "*pre-settlement unenfranchised debadayam inam*" etc., the special incidents attached to each, if any, was noted in the appropriate column of the *khatian*.

A separate field register was prepared for pre-settlement minor inams under khewat No. 2A. In the khatians the survey numbers were entered with simply the description that they were inam lands with no other details. The separate field register contained all other particulars of such lands. The field registers did not form part of the record-of-rights and were not published. So the inamdars who were mostly actual cultivators could not know anything about their lands. As these lands did not form part of the estates, the inamdars, even if they were actual cultivators, had no occupancy right and were not, therefore, entitled to khatas. The total area of such lands as recorded in this settlement is 40,522-22 acres.

Whole inam villages are otherwise known as major inams. A pre-settlement whole inam village in order to qualify for "estate" does not necessarily mean that all the lands of the village must form subject-matter of the grant. One has to look to the wording used in the grant. If it is expressed to be a named village the area covered by the grant shall be deemed to be an "estate" under explanation (1) to section 3(2) (d), notwithstanding that it did not include certain lands in the village of that name which have already been granted on service or other tenure or been reserved for communal purposes. Subsequent partition among the grantees or their successors-in-title does not affect the character of the "wholeness" of the inam village and in such cases they were given batta khewats of khewat No. 1. If a portion of the inam village has been resumed by the Government, the remaining portion is also regarded as an "estate" and the resumed portion is converted into ryotwari tenure.

Pre-settlement major inams became "estates" under Act XVII of 1947 and the inamdars were, therefore, given khewat No. 1. Their tenants were given ryoti rights, if they were not tenants of their private lands, although they were mostly paying kind rent of half the gross produce. They were treated like any other "estates" except that the lands under their khas possession were presumed to be their private lands (see also para. 20 of Chapter III). There were 385 pre-settlement whole inam villages dealt with in this major settlement operation treating them as separate estates, out of which the High Court and the Civil Court have since declared that the following inam villages are not "Estates" under the Madras Estates Land Act:—

PARLAKIMEDI TALUK

(1) Champaniguda	..	In Civil Suit
(2) Garabandha	..	In High Court writ
(3) Katalakavita	..	Ditto
(4) Jiludipadu	..	Ditto
(5) Gokula	..	Ditto
(6) Singipur	..	Ditto

KODALA TALUK

(7) Digapada Jaganathpur	..	In High Court writ
(8) Chadhiapada Krishandasapur	..	Ditto
(9) Jamadeipur	..	Ditto
(10) Chachina Jaganathpur	..	Ditto
(11) Bira Krishna Sasanapur	..	Ditto
(12) Syamasundarapur	..	Ditto
(13) Sebatideipur	..	Ditto
(14) Babarapur	..	Ditto

CHATRAPUR TALUK

(15) Burtuli	..	In High Court writ
(16) Hundata	..	Ditto
(17) Jaganathapur No. 76	..	Ditto
(18) Balata	..	Ditto
(19) Khajpalli	..	Ditto
(20) Ranajhalli	..	Ditto
(21) Jaganathapalli No. 79	..	Ditto
(22) Khasalapalli	..	Ditto
(23) Rajabalapalli	..	Ditto
(24) Sriramachandrapur	..	Ditto

BERHAMPUR TALUK

(25) Kaithapalli	..	In High Court writ
(26) Lanjia	..	Ditto
(27) Manahara	..	Ditto
(28) Dabhara Purushotampur	..	Ditto
(29) Dhanyarasi Sasan	..	Ditto
(30) Rajamanipur	..	Ditto
(31) Tentulia Kulamanipur	..	Ditto
(32) Lokanathapur Sasan	..	Ditto
(33) Ramachandrapur	..	Ditto
(34) Sundarabalava Jagadevapur	..	Ditto
(35) Sina Khalla	..	Ditto

ASKA TALUK

(36) Radhadeipur	..	In High Court writ
(37) Purusotampur	..	Ditto
(38) Dayanidhipur	..	Ditto
(39) Gopalakrishnapur alias Kamasasan	..	Ditto

(ii) *Post-settlement, subsequent or Darmila inams*—Post-settlement inams come under two categories, viz., post-settlement major inams and post-settlement minor inams. The former category covers grant of whole villages and the latter covers grant of lands of a part of the village. Post-settlement whole inams of irresumable nature have been treated as Estates under section 3(2) (e) of the Madras Estates Land Act and post-settlement whole inams of resumable nature and post-settlement minor inams have been treated as parts of the parent estates. In the beginning, no differentiation between resumable and irresumables was made. But Government ordered that villages which constituted separate estates had to be notified separately while for villages which did not constitute separate estates, issue of separate notification was not necessary. So these two categories of post-settlement whole inam villages had to be differentiated so that notification with regard to final publication of record-of-rights and settlement of rents could be issued (About issue of khewats to these inamdars *see* para. 27). Enquiries were made in respect of all major darmila inams (there were 150 such villages) taken up in the Major Settlement Operation and a decision was taken as to which of the inam villages were resumable and which irresumable and orders were passed by the Settlement Officer in respect of all these villages. But since final publication had already been done in 53 villages by the time Government orders were received and in the remaining villages objection hearing had been completed, the records were left as they were. Necessary correction in the khewats was decided to be done by starting proceedings under section 172 of the Madras Estates Land Act. The statistics collected show that khewats have been given wrongly to resumable inamdars in 59 cases. After abolition of the "estates" the distinction between resumable and irresumable whole inam villages has lost its significance as all khewats will thereafter come under khewat No. I of the "Orissa Sircar". The Tahasildars have since filed petitions before the Board of Revenue for effecting necessary corrections in the records under section 172 of the Madras Estates Land Act. They are awaiting disposal by the Board.

The following kinds of post-settlement inams were noticed:—

(a) Inams granted to religious or charitable institutions and for their services, (b) personal or subsistence inams and (c) inams granted for service to be rendered to the land-holder or to the village community. The land-holder's right to grant darmila inams of classes (a) and (b) was curtailed under the provisions of the Impartible Estates Act (Act II of 1904). Under that Act the proprietor of an Impartible Estate was incapable of alienating or binding by his debts, such estate or any part thereof beyond his own life-time unless the alienation was made, or the debt incurred, under circumstances which would entitle the managing member of a joint Hindu Family not being the father or grand-father of the other co-parceners to make an alienation of the joint property or incur a debt, binding on the shares of the other co-parceners, independently of their consent. But the proprietor of an Impartible Estate was authorised to grant sites for public charitable and public religious institutions and to grant leases of home-farm lands for terms not exceeding fifteen years. Under the provisions of section 3 (16) (c) of the Madras Estates Land Act service inams granted by the land-holders are quite legal, if granted rent-free or on quit-rent before the passing of the Estates Land Act or if granted rent-free after the passing of the Estates Land Act. (All the ancient zamindari estates of Ganjam excepting Athagada were impartible under Act II of 1904).

Darmila inams of classes (a) and (c) cannot be alienated, but inams of class (b) can be alienated subject to the conditions of the grant. Class (c) is nothing but ordinary jagirs of North Orissa granted by the zamindars for service to themselves or to the community.

Illegal alienations were recorded in the same way as illegal alienations in pre-settlement inam tenures but no report to the District Collector was necessary for these alienations. In the case of inams under class (c) the individuals actually performing the services and recognised by the land-holder were recorded and partitions without the land-holder's consent among the members of their families were ignored.

(Holdings which are by origin ryoti were not treated as service inams if the land-holder was found to have commuted the rent payable for the holdings into service. These holdings were treated as ryoti and the legally payable rent—recorded along with a note in the special incidents column that the rent was not paid as the ryoti rendered service. In some cases the word "ବିହାର" has been noted in the legally payable rent column).

The records of minor settlement operations did not show the distinction clearly in respect of Darmila inams of different classes. In the Major Settlement Operation all Darmila service inam lands were recorded with sufficient details and the details of specific services were distinctly noted in the special incidents column of the khatian.

I give below an exhaustive list of Darmila inams found during the course of settlement operation in this district :—

- (1) Karji service inams
- (2) Karnam ditto
- (3) Washerman ditto
- (4) Carpenter ditto
- (5) Blacksmith ditto
- (6) Barbar ditto
- (7) Paika ditto
- (8) Potter ditto
- (9) Dandasi ditto
- (10) Debadaya inam
- (11) Brahmada inam

- (12) Mokhasa inam
- (13) Personal inam
- (14) Khoraposa inam
- (15) Bhalloki inam
- (16) Anugruhi inam
- (17) Jagiri inam
- (18) Mazkuri inam
- (19) Bahumati inam

(iii) Description of some of the peculiar types of inams (both pre and post-settlement) found during preparation of record-of-rights is given below :—

(a) *Mokhasa inam and Jagir inam*—Pre-settlement Mokhasa inams are found in Parlakimedi Estate. Post-settlement Mokhasa inams are found in Parlakimedi Estate and Sanakhemedi Estate. Post-settlement jagir inams are found in Athagad Estate. Mokhasa legally implies a service tenure but in fact no service was rendered to the land-holder.

(b) *Pre-Settlement Setho inam*—This is an inam of distinction granted to respectable persons for some good work. These were found in Biridi Estate.

(c) *Mazkuri inam*—This type of inam is only one of its kind in Bodokhemundi Estate and is Darmila in nature and was granted for village services. This was held to be irresumable in nature.

(d) *Bahumati inam*—This is an interesting type of Darmila minor inam granted as a reward. This is the only one of its kind granted by the Zamindar of Athagada Estate to one Madhu Sahu of Arakhapur village for having settled a boundary dispute between the Zeroyati village of Arakhapur and inam village of Patnapalli by marching on foot along the boundary.

(e) *Khoraposh inam (Post-settlement)*—These are subsistence inams and were found in Sheragada, Palur, Beridi and Badakhimidi Estates.

(f) *Chautha inam*—In Sanakhemedi Estate there were some cases of chautha (one-fourth) inams, the mela varam right in respect of one-fourth of the share of the land being granted to the inamdar and another one-fourth being reserved to the Estate. In these cases the lands were cultivated by tenants having kudivaram right and they paid shares of produce rent according to the shares delineated above to the inamdar and the Estate.

(g) *Resumed inams*—These lands were once minor pre-settlement inam lands but since resumed but no patta on ryotwari status had been granted by the Collector. These lands were recorded as resumed inam and no rent settlement of these lands was done as these were not estate ryoti lands, the quit rent and kattubadi being noted as usual. An area of 227.10 acres was recorded under this status.

(2) *Kami Jiroyati, Nala Balka and Chapamani lands*—These are excess over inam lands detected by the land-holder. These were recorded as ryoti if not in the possession of the land-holder and as parityakta-o-bedakhali ryoti if in the possession of the land-holder.

29. *Ryoti*—A “ryoti” is defined in section 3 (15) of the Madras Estates Land Act. As all ryots have got occupancy rights under the provisions of section 6 (1) of the Madras Estates Land Act, no entry is required to be made in the record-of-rights to show if the ryot has occupancy right or not. Ryoti right can be acquired in a ryoti land by occupation for a continuous period of 12 years or by being admitted to it by a land-holder.

Any person found in agricultural possession of any ryoti land (i.e., any cultivable land in the estate excluding private land, communal land called poramboke and service land) was recorded as a ryot in column 4 of the draft khatian under ryoti status, if he was paying rent. 3,50,626.87 acres were recorded under this status including acres 673.73 in respect of which rent was commuted to service. If he could not show any proof of payment of rent or of land-holder's consent to his occupation of land and he had been in possession of the land for 12 years, he was also recorded as “ryot” under “ryoti” status, but a separate ryoti khata called “Jamadharya jogya ryoti” meaning ryoti land liable to assessment was given to him. 37,018.29 acres were recorded under this status. The following classes of lands were also ryoti lands as defined in the Act, but separate khatas were prepared for them:—

(i) *Lands in cultivating possession of the land-holder other than private lands*—A parityakta-o-bedakhali khata (his status was recorded in column 4 of the draft khatian without the name of the land-holder and not in column 10 meant for recording description of status) was prepared for lands as shown in paragraph 19 of Chapter III 10,254.55 acres were recorded under this status. There were some lands detected as excess over inam lands variously called “Kami Jiroyti” “Nala Balaka”, or “Chapamani” lands. They were recorded in ryoti jamadharya jogya khata if in the possession of the inamdar or in parityakta-o-bedakhali khata if in possession of the land-holder.

(ii) *Cultivable waste lands, if not communal in character*—The status of these lands were recorded as “abada jogya anabadi” in column 4 of the draft khatian without the name of the land-holder. If a person was in unauthorised cultivating possession of any ryoti land for less than 12 years, he was not given a separate khata, but his possession together with the year of possession was recorded in the remarks column of the plot concerned either in the “abada jogya anabadi” khata or in the parityakta-o-bedakhali khata, as the case may be. 62,560.45 acres were recorded as cultivable waste lands and 922.52 acres as encroachments.

30. *Pattadar*—These were once minor pre-settlement inam lands but since resumed and pattas granted by the Collector on ryotwari status. These lands were recorded under pattadari status. These were distinguished from ryoti lands of the Estate. No rent settlement was done in respect of such lands as these were not estate ryoti lands. 383.75 acres were recorded under this status.

31. *Intermediary interest*—Madras Estates Land Act does not recognise any tenure-holder. During settlement operation some cases came to notice in which the intermediary who received rent from the ryots

could not be treated as land-holder under the Madras Estates Land Act nor it was possible to treat him as a ryot. The conditions of grant embodied in the lease deed was so vague that it was not possible to bring him under any of the above classes. Although they were comparable to tenure-holders of North Orissa, as the Madras Estates Land Act did not recognise such a tenure, it was not possible to classify him as such. Under the Madras Estates Land Act under section 3(2) (e) where the grant of a permanent under-tenure was found to be irresumable, the holder thereof was treated as a land-holder but where the tenure was resumable in nature it was treated as part of the parent estate. So there was some difficulty in recording the exact tenure of the land in the settlement records. The decision of the Revenue Commissioner in Radhamohanpur case solved the difficulty to some extent. According to the interpretation of the Revenue Commissioner in Revenue case No. 23 of 1944, dated the 1st April 1948, a grant of this nature which was otherwise called Saswitaguta lands obviously constituted a permanent lease which gave right to the lessee to reclaim and enjoy the vacant lands.

This case arose in village Radhamohanpur in Chikiti estate in which, one Shri Ramesh Ch. Samanto was the petitioner. He purchased the right from another. This was a revision petition under section 172 of the Madras Estates Land Act arising out of the order of the Collector (Assistant Settlement Officer), dated the 20th November 1941 whereby the petitioner's request for being recorded as a land-holder for an area of 169.44 acres out of the total of 174.97 acres of the village was refused. This village was granted by a registered deed, dated the 12th July 1921 by the then zamindar to Shri B. Virasa Lengam on Saswita Gutta for a rent of Rs. 250 a year. Subsequently an area of 5.53 acres belonging to the deity Shri Swapneswar Mahadeb was excluded from the grant and the rent payable was reduced from Rs. 250 to Rs. 242. Shri Ramesh Samanto, the petitioner purchased the interest by a registered deed of 1932. There were three categories of lands in the village. An area of 44.56 acres was in occupation of ryots, an area of 14.28 acres was recorded as poramboke and rest of the area of 109.51 acres was in occupation of the petitioner. The Revenue Commissioner held that the petitioner was a ryot in respect of the lands under his occupation covering an extent of 109.51 acres, but in respect of the lands under possession of other persons, he held an intermediate land-holder's right. It was ordered that an entry should be made in the remarks column of the khewat of village Radhamohanpur that the petitioner held an intermediate land-holder's interest as a permanent lessee in respect of the lands under possession of the ryots subject to payment of Rs. 242 to the zamindar and a cross reference to this entry should be made in the respective khatians in the appropriate columns. A copy of the judgement is given in the Appendix III. The mode of recording such lands as embodied in the order of the Revenue Commissioner in the above case was followed in all such cases in record-of-rights operation not only in Ganjam but also in Koraput.

32. *Abada-ajogya-anabadi*—Abada-ajogya-anabadi means waste lands which cannot be cultivated on account of either physical impossibility or legal restrictions. In the minor settlement operation, lands, named as "Dhimira, Pathara, Chanchada, Parbata, Pathar Chatana, Bana (forest containing timber as opposite to Jhati banno, i.e., bushy forest), nadi (not affording irrigation facilities) were noted as poramboke. In the Major settlement operation, these were recorded in abada-ajogya-anabadi khata. 1,76,204.25 acres have been recorded as uncultivable waste.

33. *Hetta lands*—(See also paragraphs 19 and 20 of Chapter III)

It is a term used to mean the land-holder's private lands as defined in section 3(10) of the Madras Estates Land Act. These lands were recorded as land-holder's private lands and the status of the khata was recorded as "private land" in column 4 of the draft khatian without the name of the land-holder, as this right is incident to the proprietary right only and whoever is the land-holder as noted in the khewat takes the private lands along with the proprietary right (under C. P. system, this is not the case as the "Sir" or private lands are retained even when the estates pass away from the hands of the proprietor). The Madras Estates Land Act deals with mainly the relation of the land-holder and the ryot in respect of "ryoti" land. Section 19 of the Act states that except as otherwise specially provided in this act, the relations between a land-holder and a tenant of his private land are not regulated by the provisions of the Act.

Apart from the specific circumstances stated in the definition in section 3(10) which have to be proved to satisfy that a particular land is private land, other tests have been laid down in various decisions, on proof of which a land may be held to be private land. One has, of course, to start with the presumption that lands are not private lands until the contrary is proved. But according to provision of Orissa Act XVII of 1947 if on the 12th September 1946, the land in the possession of an inamdar land-holder, whether situated in one inam village or in different inam villages, did not exceed five acres in extent, such land shall be presumed to be the private land of the land-holder until the contrary is proved. The various tests which will prove the contrary are (i) that the land-holder has cultivated himself and intends to retain as resumable for cultivation by himself even when from time to time he demisses it for a season, (ii) that land was before 1-7-1898 specifically let as private land, (iii) that by local custom lands were always treated as private land and (iv) by other evidence. Under this head "other evidence" decisions have laid down various circumstances as indicating that the lands are private, such as (a) changes in the personnel of the tenants from time to time, (b) changes in the amount of rent payable, (c) changes in the system of payment, i.e., sometimes in grain, sometimes in cash and so on, (d) limited periods of enjoyment by the tenants, (e) periodical leases by the proprietor in public auction to the highest bidder, (f) simultaneous enjoyment of certain rights by the land-holder, such as enjoyment of the usufruct of the trees on the lands, etc., (g) issue of separate pattas known as Sagubadi pattas unlike the pattas granted to regular ryots, (h) construction of wells by the proprietor with the intention of cultivating the lands himself, (i) admission of tenant in documents to the effect that the land-holder has the absolute title to the lands and so on.

The legal incidents which appertain to private land in an estate essentially different from those annexed to ryoti land. The differences are fundamental. The Act draws a sharp distinction between the two classes of lands. Private land is, to borrow a word from the English law of Real property, the free hold of the land-holder over which he has absolute unrestricted dominion. He can deal with it in any manner he likes, enter into any kind of contract he chooses and to create in it any form of tenure he pleases.

The policy of the Act in section 8 (3) appears to be to restrict encroachments by the land-holder on ryoti lands and appears to be opposed to the augmentation of the land-holder's private lands, except under special circumstances. On the other hand, by expressly providing for conversion of private lands into ryoti lands under section 181, the intention appears to be to facilitate the increase in area of ryoti land in the estate. Recording of private lands created difficulty as land was always claimed to be private. Claims for converting private lands into ryoti lands and vice versa were keenly contested in all cases especially in some of the Major Estates like Badagada, Sanakhemedi, Badakhemedi and Dharakote and almost in all inam estates. In the Sanakhemedi estate there were a few cases in which the estates granted private lands as Darmila inam but such inams were not recognised as under the Madras Estates Land Act the land-holder can convert his private land into ryoti land only. The land-holder's right to lease out private land and to convert it into ryoti land was curtailed under Act I of 1948 and so any lease given after the 1st April 1946 without the permission of the Collector was not recognised. 3,860.51 acres have been recorded as private land in the zamindaries and 45,324.13 acres in the inam estates.

34. *Poramboke lands*—These are communal lands as defined in section 3(16)(a) and (b) of the Madras Estates Land Act and are governed by the provisions of sections 20, 20-A and 20-B of the Act. In the minor settlement records the word "poramboke" was noted in status column or kism column—the remarks column showing the description of the land such as "Danda", "Rasta", "Village Site", "Bijesthali", "Khala", etc. The word 'Poramboke' is a Tamil term which means excluded places or outside tracts and was being loosely used in Madras for all uncultivable waste lands. In the major settlement operation poramboke khata has been prepared only for communal lands, the kism column showing the description of the land. This is analogous to sarbasadharan khata of North Orissa. For other types of uncultivable waste lands another khata called abada ajogya anabadi khata has been prepared as mentioned in para. 32. According to Government orders, the poramboke lands were at first tentatively placed under the Government khewat pending final decision of the Government whether poramboke should be treated as Government land or zamindari land with reference to zamindar's sanad and kabuliati according as the reversionary right in these lands vested in the Government or the zamindar. In a subsequent communication Government decided that till a final decision on the question of reversionary right on poramboke lands was reached, they should be kept in a separate khatian. Accordingly the poramboke lands previously recorded in Government khewat were excluded from the Government khewats and kept only in a separate khatian, leaving the column meant for showing the land-holder blank. Under another order of the Revenue Department the District Board roads which were previously kept in a khatian under the Government khewat were also excluded from the Government khewat and were included in the poramboke khatian.

When poramboke lands were at first tentatively recorded under Government khewat, the Raja Bahadur of Khalhikote raised an objection saying that these lands formed part of the estate lands, the reversionary rights vesting in the estate and it was, therefore, not proper to take them out of the estate khewat and keep them under Government khewat. This question was a subject of much heated discussion and correspondence at various levels. The Revenue Commissioner in his review proceedings No. 536—XVIII-139/44-L.R.S., dated the 12th August 1944 (printed as Appendix IV) finally decided as follows: "All lands found by the settlement authorities to be poramboke shall be excluded from the land-holder's khewat and it must be made clear in the village khewat that the porambokes are not the anabadi of the land-holder and have not been included in any of the khewats, either those of the landlord or those of the State". The question of reversionary right in individual cases was, therefore, left to be decided by the District Collector under section 20-A of the Madras Estates Land Act, as the Settlement Court was not the proper forum to decide such cases. After abolition of the estates all poramboke lands will henceforward be included under Khewat No. I of the "Orissa Sircar".

In Ganjam, village site has been mapped in one Block without detailed survey and recorded in poramboke khata unlike North Orissa where individual occupations within village-sites are separately mapped and recorded within the occupancy holdings of the raiyats. As village site is excluded from the category of ryoti land, no assessment on occupations within village sites is permissible. But where house-sites formed part of the ryoti agricultural holdings they were assessed at the rate for dry lands according to the classification of the land made in the record-of-rights. Simply the existence of houses on ryoti agricultural holdings did not convert the land into poramboke but they continue to be ryoti.

35. *Extent of land of different categories*—Appendix V shows the extent of private lands, parityakta-o-beda-khali lands, ryoti lands (cash rented, produce rented, niskar and liable to assessment) and poramboke lands recorded in different stages including inam estates in the major settlement operation.

36. *Rights over trees*—This did not present any difficulty in Ganjam as the rights of the ryots over trees standing on their holdings had been recognised as early as 1908 by the Madras Estates Land Act whereas similar rights were conferred on occupancy raiyats in Orissa Tenancy Act area as late as 1938, which explains why there was difficulty regarding trees in the last settlement of Orissa. As right over trees in one of the incidents of occupancy right of a ryot, it was not considered necessary to specifically mention this in the record-of-rights. The Estates Land Act does not contemplate a patta for trees alone being held as a holding. The rent payable under a patta for trees alone is not rent within the definition of section 3(11) of the Act.

During the course of settlement operation, however, it came to notice that in Surangi estate in some villages it had been found that the estate was realising one anna as Panu (cess) per tree standing in poramboke and waste lands and that had been recorded in the remarks column of the final record-of-rights. In some ryoti khatians, the fact of payment of panu of Re. 0-1-0 per tree was noted in the remarks column of the khatians. In some cases it was found that the estate had assigned topes on ryoti status and recognised the same only on payment of panu of 1 anna per tree. This had been recorded in the final record-of-rights. In all these cases, proper enquiry as to the existence of the right which by custom or by contract had arisen before the passing of the Madras Estates Land Act was made before framing the record.

37. *Easement rights*—Rights-of-way or rights of use of water exercised by individual persons or by the public in lands not recorded in their names was noted against the remarks column of the plots in which such rights were exercised.

38. *Encroachment on communal lands*—Without the written orders of the District Collector, no communal lands or tank bed, etc., can be assigned or used for any other purpose. Section 21 of Estates Land Act enbales the Collector to give effect to that provision by summary eviction of the encroacher, wherever diversion of such lands for other purposes has been made without his permission. The illegal or forcible possession of the encroacher and the year of his possession were noted in the remarks column of the record-of-rights unless the diversion of such lands for other purposes had been made with the permission of the Collector of the district. In all such cases reports were submitted to the District Collector for taking such action as he thought proper. 2,345.95 acres were recorded as encroachments on communal lands.

39. *Classification of cultivated lands*—In the major settlement operation the nature of the soil, situation of the land, distance from the irrigation source, capacity of the land to retain moisture, nature of the crop, etc., were taken into consideration in classifying the lands. The lands have been classified into three main classes, viz., wet, rainfed and dry and each of these have been further subdivided into three sub-classes or tarams according to the safety of the crops. Lands the crops of which are seldom liable to damage due to excessive rainfall or scanty rainfall have been put in the first class. Wetlands where crops fail in yerars of scanty rainfall as well as in years of excessive rainfall have been placed in the second class. Rainfed and dry lands that are not capable of retaining moisture for any length of time after the rains cease and are consequently unfit for growing any valuable crops have been put in the third class. Lands lying midway between the first and the third have been put in the second class. The classification was done by the amins, checked by the Inspectors, Kanungos and Assistant Settlement Officers. No special classification was made except that the topes were classified under "other classes" in column 18 of the draft khatian.

These details were recorded in the preliminary record-of-rights but it was held by Government that taram classification should not form part of final record-of-rights and consequently the tarams were dropped from the final records but rents were calculated on the information in the taram register and the rates of rent were noted below the plots indicating the taram in question in the final record-of-rights. The extent under different classification of lands as recorded in this settlement is as follows:—

Wet	Rainfed	Dry	Total
Acres	Acres	Acres	Acres
2,05,058.29	1,79,414.92	1,38,335.13	5,22,808.34

40. *Writing of caste in the record-of-rights*—According to the order of the Government contained in Book Circular No. 20, dated the 27th November 1949 caste previously written in the record-of-rights was deleted from the record-of-rights but according to Government order contained in Book Circular No. 26, dated the 6th September 1952 the order regarding caste was not made applicable to the record-of-rights on the ground that in certain cases rights on land depended upon the caste of a person particularly in the case of inams and persons belonging to the Scheduled Tribes. Accordingly, caste was restored in the record-of-rights and continued to be recorded in the record-of-rights subsequently prepared.

41. *Irrigation*—(i) Notification under section 165 of the Madras Estates Land Act required that it should be mentioned in the record-of-rights whether the land was irrigated or unirrigated and further that a record of irrigation rights showing all rights and obligations of each ryot and land holder in respect of (i) the use by the ryots of water for agricultural purposes and (ii) the repair and maintenance of irrigation works should also be prepared. Accordingly, an irrigation khatian (called "Record of Irrigation Rights") was prepared and finally published as it also formed a part of record-of-rights. The name and plot number of the irrigation source of all wet lands were mentioned in column 14 of the draft khatian corresponding to column 8 of the final record-of-rights.

(ii) The rights and liabilities of the ryots with regard to irrigation in the zamindari areas completely differ from those in the ryotwari areas. Chapter VIII of the Madras Estates Land Act gives effect to the immemorial duties of the zamindar to maintain public tanks for general benefits, particularly for facility of irrigation and progress of cultivation. The Act as amended in 1934 made effective provision for compelling the land holder to execute repairs to irrigation work, imposing restrictions on the use of anicut and making provision for reclassification of lands due to irrigation. This is with regard to the irrigation work which were situated within the estate and had been constructed either by the ryots or by the land-holder. In Ganjam besides numerous irrigation works which were constructed by the zamindars (all of them minor except at Parla-khimeri where there were some medium projects) the main source of irrigation was the Government irrigation source of Rushikulya and the Jayamangal Canal System. The Rushikulya Canal System is the most important irrigation work in the district. It irrigates Ghumsur, Aska, Berhampur and Chatrapur taluks and was constructed as a famine measure at a cost of about Rs. 50 lakhs in the years 1892—1901. The system commands 33 Government and 8 inam villages of Ghumsur taluk, 21 Government and 36 inam and 131 zamindari villages of Aska taluk, 107 Government, 17 inam and 15 Zamindari villages of Berhampur taluk and 64 Government and 18 inam villages of Chatrapur taluk. It irrigates about one lakh acres. (Details of this canal will be given in the Final Report of the ryotwari settlement). The main irrigation system of Khallikote is the Kharkhari stream which irrigates about 20 villages with an ayacut of about 5,000 acres. In Athagada there are 3 hill streams namely, Baguda, Dhannai and Jagati which irrigate a large percentage of wet lands by constructing some reservoirs. Mallada, Tampara and Kharkhari canal irrigate about 10 villages in Biridi estate. The Rushikulya system irrigates the lands of all the four zamindaries situated in Ghumsur Division Dharakot, Seragada, Sanakhimeri and Bodagada and several proprietary estates. Bodagada zamindari does not contain any good irrigation source and is dependent mostly on rainfed tanks. The Ghodahada river runs through Sanakhimeri estate and there is an anicut at palaspur and several villages are irrigated by this river. This Ghodahada River serves as the irrigation source for many villages of Bodokhimeri estate. Narayana Sagar in Jorada estate and Mukund Sagar and Bag Nala in Surangi estate are also some good irrigation sources. There are some other small irrigation sources in the estate areas taken up under the settlement operation.

They are not important. The extent of area recorded as wet (irrigated) in the settlement operation in different estate areas and inam villages situated in different taluks is given below:—

Irrigated area in Major estates

Serial No.	Name of estate	Total area of the estate (excluding porambokes) in acres	Total area irrigated in acres	Remarks
(1)	(2)	(3)	(4)	(5)
(1)	Chikiti	45,004.06	19,529.16	
(2)	Biridi	32,246.78	5,705.66	
(3)	Sheragada	15,216.96	4,879.33	
(4)	Jarada	10,080.48	4,162.75	
(5)	Paluru	14,266.32	671.61	
(6)	Aska Malukdari	11,779.09	3,877.74	
(7)	Humma	4,202.95	1,718.32	
(8)	Sanakhemidi	61,104.67	15,879.51	
(9)	Surangi	23,208.56	5,230.38	
(10)	Athagada	1,15,728.21	33,306.40	
(11)	Khallikote	10,414.22	27,181.25	
(12)	Bodagada	40,366.82	4,614.19	
(13)	Badakhemidi	77,492.47	19,873.78	
(14)	Dharakote	56,084.54	17,666.05	
	Total	6,10,346.13	1,64,296.13	

Irrigated areas in inam villages of different Taluks

(1)	Berhampur taluk	28,118.83	9,684.21
(2)	Chatrapur taluk	74,116.36	8,494.24
(3)	Kodala taluk	28,362.83	6,822.47
(4)	Aska taluk	40,013.10	6,033.36
(5)	Ghumsur taluk	13,218.27	4,729.25
(6)	Parlakhimedi taluk	17,397.52	4,998.63
	Total	1,51,226.91	40,762.16
	Grand Total	7,61,573.04	2,05,058.29

(iii) The law regarding water-rate in Ganjam is as follows :—

Unlike North Orissa there was no law in Madras for realisation of water-rate. In North Orissa the Bengal Irrigation Act, 1876, provided that all persons accepting water for irrigation from canals constructed by Government must pay water rate fixed by Government. This water rate in North Orissa is realised by P. W. Department who maintain and repair the canals. But under the Madras system which is followed in Ganjam the water rates are merged in the rent of the lands and are collected by the staff of the Revenue Department whereas the maintenance, improvement and repair work are done by the Public Works Department, that is the Irrigation Department. In ryotwari areas of Ganjam no water rate is separately charged for lands registered as wet under particular

irrigation sources. The rate of rent for wet lands was fixed on usual settlement principles which automatically took into consideration, the extra benefits arising out of irrigation and a consolidated rate of rent was fixed. The Madras Irrigation Cess Act, 1865 (Act VII of 1865) provided for differential water rates for water taken to lands not registered as wet and also for realisation of water rate from the lands in estate areas. In ryotwari areas when dry and rainfed lands are irrigated, the ryots have to pay water cess separately to Government besides the assessment fixed on the land. The principle here is that when any land recorded in land records as unirrigated, is irrigated from a Government source, water charge should correspond to the difference between the irrigated rate of assessment and the existing rate of rent on such land. There are also other detailed rules regarding single wet crop, double wet crop etc., and they are not relevant here.

When water is supplied from Government irrigation source to lands in zamindari and whole inam villages the water cess is charged at the following rates as per Appendix I, para C(II) to Board's Standing Order 4.

	Per acre Rs. As. Ps.
(1) Sugarcane, betel	.. 6-0-0
(2) Plantain, Turmeric and Elephantyam	.. 5-0-0
(3) Paddy, first crop	.. 4-0-0
(4) Paddy, second or third crop	.. 2-0-0
(5) Onions, Garlic, wheat, Chilli (Garden crop), Sweet potatoes (Garden crop)	3-0-0
(6) Tobacco, Summer ragi, chilli (field crop), sweet potatoes (field crop) pen- dalum, brinjal, groundnut, and jute.	2-0-0
(7) Gingelly, Greengram, Mustard, Bengalgram, Coriander, Winter Ragi, Vege- tables (cucumber, melon, etc.)	1-0-0

Three-fourths of the above rates are charged when water is taken from third, fourth or fifth class sources of irrigation. When water used for irrigation cannot be obtained without raising it by baling or by some mechanical contrivance, the water cess charged is three-fourths of the above rate. This is the "occupier rate", i. e., a fixed rate charged on the area actually irrigated and which usually varies with the nature of crop or crops.

These rates were being paid by the landholder and the ryots concerned in equal proportion, i. e., half by ryot and half by land-holder. The ryots used to pay this in addition to the assessment fixed for their land. For taking water from the irrigation sources constructed and/or repaired or maintained by the land-holder or by the land-holder and the ryots jointly, they were not to pay anything extra as the rent was already high, being fixed on the halfgross principle whether in cash or in kind and the land-holder automatically got the benefit of extra yield.

(iv) During the settlement operation in the ex-Estate areas the lands under the ayacut of Rushikulya canal system have been recorded as wet according to actual state of fact on the ground. After abolition of the estates, the areas came directly under Government. Basing on the settlement records there was an agitation by the ryots of Sanakhemidi and Badakhemidi estates regarding payment of water tax for lands under the ayacut of the Rushikulya canal system. Their contention was that no water cess should be collected from the lands which were recorded in the record-of-rights as wet being irrigated by the Rushikulya canal system, as the rate of rent fixed for wet lands was a consolidated one as prevalent in ryotwari areas for lands registered as wet under Government irrigation sources. The Collector, Ganjam, took exception to the recording of lands as wet under the Rushikulya canal system and contended that the mention of Rushikulya canal as a source of irrigation for wet lands in the zamindari villages in the settlement records appeared to be a mistake committed by the Settlement Department as this was not an irrigation source maintained by the zamindar and taking advantage of this mistake the ryots of the zamindari areas were now agitating not to pay any water cess in respect of wet lands already registered in the settlement records under Rushikulya canal system. The matter was referred by the Collector to the Board of Revenue and the Board ordered as follows :—

"In the ex-zamindari areas, lands irrigated by the Rushikulya canals have been classified as wet and rent assessed at the wet rates of ryotwari area enhanced by 25 per cent. As the ryotwari tenants do not have to pay any water tax, the water tax is paid by the Revenue Department to the Irrigation Department by book adjustment. A similar arrangement should be followed in the ex-zamindari areas. The ryots should not be made liable to pay water tax, in addition to paying rent at wet rates. Government have already accepted this principle. Please inform Public Works Department that no water tax, water cess or water rate whatever it may be called, is to be realised from the ryots in ex-zamindari areas. Payment to the Irrigation Department will be made by the Revenue Department by book adjustment. This will have to take effect from the 1st July 1954".

This order did not apply to lands using the water of the Rushikulya canal for irrigation, though recorded as wet under some other Irrigation source. Although no water cess is separately chargeable on lands recorded as wet, still under the Madras irrigation Cess Act, 1865, water cess is separately chargeable if water is taken for such land from any source different from the source registered as the source of supply of that land.

(v) A uniform law known as the Irrigation Act, 1959 (Orissa Act 14 of 1959) has been passed by the Orissa Legislature for levy of water rate and cess in the entire State of Orissa which will repeal the Bengal Irrigation Act, 1887, and also the Madras Irrigation Cess Act, 1865. It has not yet come into force in the district of Ganjam.

CHAPTER V

PREPARATION OF RECORDS

42. *Arrangement of blocks*—(i) In Chapter I, I have discussed how the idea of having a Major Settlement operation was mooted in the year 1937. By that time, Act XVII of 1947 declaring whole inam villages as estates had not been passed. So in 1938 for the purpose of the settlement operation, all the royti villages in different estates in this district were divided into three blocks, viz., A, B and C as follows:—

Block A ... Dharakote and Athagada estates

Block B ... Khallikote, Badakhimedi and Chikiti estates

Block C ... Sanakhimedi, Sheragada, Badagada, Surangi, Jarada, Palur, Biridi, Aska, Malukdari and a few other small estates.

(ii) Block D had not then been formed. At first the estates previously surveyed were taken up. The survey land register and the maps had to be collected from the collectorate or different estates and copies of the Survey Land Registers were prepared and then the villages were taken up for preparation of the record-of-rights. But many of the records were not received in time and hence, it was not possible to stick to the programme of the settlement operation by Blocks. Consequently the programme had to be revised and adjusted from time to time according to the availability of records. In 1942, due to the Second World War and the consequent emergency, the settlement operation had to be suspended. The programme of work was upset. After the resumption of the operation in 1947, Block D was formed and work was started in the royti villages not taken up before and in the inam villages. The total number of major settlement villages (i. e., those villages in which record-of-rights operation was taken up for the first time) and minor settlement villages (i. e., the villages in which record-of-rights had been prepared previously under the minor settlement operation) is given below, estatewar.—

Serial number	Name of the estate	Total number of villages in the estate.	Block A		Block B		Block C		Block D		Number of villages in which record-of-rights have been finally published.	Number of villages in which rents have been confirmed under section 170(3) of M. E. L. Act.	Remarks
			Major	Minor	Major	Minor	Major	Minor	Major	Minor			
1	2	3	4	5	6	7	8	9	10	11	12	13	14
1	Dharakote	207	110	11	..	..	7	37	42	..	207	190	
2	Aska Malukdari	29	..	..	..	..	27	1	1	..	29	29	
3	Sanakhimedi	181	..	..	..	..	160	..	21	..	181	148	
4	Sheragada	39	..	..	..	..	30	..	9	..	39	34	
5	Badagada	166	..	..	..	..	129	..	37	..	166	148	
6	Kotinada (Aska)	1	..	..	..	..	..	..	1	..	..	..	
7	Athagada	292	74	..	64	76	8	..	70	..	288	262	
8	Khallikote	347	..	..	166	126	14	..	41	..	344	333	
9	Badakhimedi	227	..	..	120	24	33	..	50	..	227	196	
10	Dwaragan	1	..	..	..	..	1	..	..	..	1	1	
11	Chikiti	151	..	..	93	..	31	..	27	..	150	136	
12	Surangi	129	..	..	..	..	92	19	18	..	129	113	
13	Jarada	59	..	..	..	..	24	29	6	..	59	56	
14	Inam estates of Berhampur taluk	21	..	..	..	..	..	..	21	..	20	10	
15	Palur	21	..	..	..	..	16	..	5	..	21	20	
16	Bandatala Nuagan	1	..	..	..	..	1	..	..	..	1	1	
17	Mohanadapur	1	..	..	..	..	1	..	..	..	1	1	
18	Jharpadar	1	..	..	..	..	1	..	..	..	1	1	
19	Biridi	83	..	..	..	..	71	..	12	..	83	80	
20	Humma	8	..	..	..	..	..	6	2	..	8	7	
21	Inam estates of Chatrapur taluk	38	..	..	..	..	..	..	38	..	38	12	
22	Ghumsur	50	..	..	..	..	..	..	50	..	50	42	
23	Parlakhimedi	60	..	..	..	..	..	..	60	..	60	19	
24	Karabalua (Chikiti)	1	..	..	..	..	1	..	..	..	1	..	
25	Dubarakudi(Palur)	1	..	..	..	..	1	..	..	..	1	..	
	Total	2,115	184	11	443	226	648	92	511	..	2,105	1,839	

43. *Obstruction to the work*—(i) In the initial stage of settlement operation the people of the villages under settlement operation did not fully co-operative with the settlement staff. It was difficult to get accommodation for the staff in the mofussils. The Bihar and Orissa system of survey and preparation of record-of-rights was introduced in this district. The people of this district being accustomed to the method of work of South Indian Surveyors according to the Madras procedure and also to the manners and customs of the surveyors who remained in a village for a pretty long time, felt very difficult to accommodate themselves to the speedy methods of work and manner and customs of the Amins of North Orissa. In some cases the people of this district looked down upon the officers and staff of North Orissa as aliens. To relieve them of their distress and to counterbalance their difficulties, some Amins knowing both Telugu and Oriya languages were posted to assist them in their work and since then the difficulties experienced by the Oriya staff in bilingual area were eased to some extent. A year or two after the initiation of the settlement operation in Ganjam, people gradually got accustomed to settlement work and attendance of the people was rather fair. In Block D where the inam

villages were taken up for preparation of record-of-rights both the inamdar who generally is not the resident of the village and the villagers did not co-operate with field staff and consequently the progress of work was held up at different stages. The non-co-operation of the people reached such a high pitch that in many cases labour for survey had to be engaged at Government cost. During the whole settlement operation, however, only a sum of Rs. 4,413-2-6 was spent on this account.

(ii) Sometime after the settlement work had been started in this district, Mr. P. T. Mansfield, I. C. S., the then Revenue Commissioner met the prominent people of this district in a conference and introduced Mr. F. E. A. Taylor, I. C. S., the then Settlement Officer-designate, to them and requested them to co-operate with the Settlement Department to make the operation a success. Mr. Mansfield was sadly disillusioned to hear some of them challenging Mr. Taylor's ability to deal with South Orissa Tenancy Laws. As a result of the discussion there, some officers who had previously worked in the southern districts were posted to work as Assistant Settlement Officers. The local Bar Association of Berhampur had great misgivings regarding the way in which the settlement operations would be conducted and the impact it would have on the people of the district especially on the people of the estates which had never been under any satisfactory record-of-rights and settlement operations. Added to this, the introduction of the Bihar and Orissa system of work which was considered foreign to the district, created suspicion in the minds of the intelligentia. The Bar Association, Berhampur, submitted a memorandum to the District Judge, Ganjam-Puri, in which a number of issues were raised. These were given wide publicity so much so that it was published in the *Amrit Bazar Patrika*, dated the 20th July 1939. The Rajah Bahadur of Khallikote also raised objections which were mostly a reiteration of the objections raised by the Bar Association. A summary of the objections raised by him is given below:—

- (a) The Survey Land Register which was prepared long ago is not being brought up to date.
- (b) The record-of-rights register followed by the Madras Survey Party and which was prescribed by the Madras Board of Revenue is being mutilated beyond recognition into three broad divisions such as (i) Khewat, (ii) Khatian and (iii) record of irrigation rights. A copy of the Khewat No. 2 (i. e., Government khewat is not being supplied to the estate. The subdivision sketches and measurements are not supplied. Khewat No. 1 was unnecessary as the zamindar was usually one. Samilat khewat is very rarely put to use. The introduction of the khatians is no improvement upon the Madras record-of-rights register inasmuch as the columns of the khatian require unnecessary information and omit essential entries regarding the rate of rent. The omission of the rate of rent against each survey number causes hindrance in the discharge of duties imposed upon the landholders under section 145 of the Act. The publication of a combined notification under the Madras Survey and Boundaries Act and Madras Estates Land Act is irregular. A large number of forms superseding the single Madras form introduces unnecessary confusion into the matter without effecting any improvement. All waste lands in the estates are being entered in the Government khewat although they do not belong to Government.
- (c) The survey amins are paid on outturn basis and they are thus inclined to make numerous subdivisions and the increased cost of the settlement is to be borne by the landholders and ryots. The ryots for whose convenience subdivisions are made, should be made to bear the cost for the subdivision.
- (d) Taram classification is not a part of the record-of-rights and ought not to have been published under section 166 as a part of settlement operation. Taram classification should not have been left mainly to the Amin but these should have been entrusted to the Assistant Settlement Officers.
- (e) Lawfully payable rent should be noted in the record-of-rights instead of the existing rent.
- (f) An extract of the record-of-rights register only is given to the landholder instead of a true copy thereof as provided in rule II of the statutory rules.
- (g) The holding war abstracts and the Descriptive Memoir are not supplied although they form part of the record-of-rights, to the village karanam. The village karanam is only supplied with a survey land register and plan prepared by the Madras Survey Party and the new plans containing numerous subdivisions are not supplied to the village karanam. By this, the people will be deprived of the opportunity of filing any objection against wrong subdivision.
- (h) Issue of khatians to the holders of pre-settlement and all kinds of service inams are unauthorised and recognition of subdivisions in either of these inams is against law. The recognition of alienations of subsequent service inams would destroy the objects of the grants.
- (i) Process fees can only be levied to carry out the orders of the Court. The levy of process fee by the Settlement Department is illegal as the Settlement Officer is not a Court.
- (j) Survey is to be done under Madras Survey and Boundaries Act as per direction in section 164 of the Madras Estates Land Act but it is being carried under Bihar and Orissa Survey and Settlement Manual and procedure. Hence, the procedure contravened the provision of section 164 of the Madras Estates Land Act.
- (iii) The Settlement Officer submitted a report to the Revenue Commissioner. The Settlement Officer's report exposed the hollowness of many of the objections raised by the Rajah Bahadur and the Bar Association as these were based on a misconception of some of the Bihar and Orissa procedure. Some of the points were pertinent and relevant and the procedure underlying them was amended where necessary as has been pointed out in Chapters III and IV. I shall simply make a passing reference to them here.

There was, it must be admitted, not much time at the disposal of the then authorities to study the Madras procedure and reconcile it with the Bihar and Orissa procedure which would have enabled them to adopt the best out of both the systems. Some of the objections raised were, therefore, relevant and they had to be duly considered and the procedure followed hitherto was changed to some extent as indicated below:—

- (i) Taram classification which hitherto formed part of the record-of-rights was omitted from the final record-of-rights before final publication.

(ii) Minor pre-settlement inam lands were embodied in an inam register with full details, the khatians simply showing the plots as pre-settlement inams.

(iii) The Descriptive Memoir was not treated as part of the record-of-rights.

(iv) Realisation of process fee, as a measure of enforcing the attendance of parties during field work which was hitherto done generally in cases of non-attendance was restricted to cases where any individual failed to respond to the call of the Collector (Assistant Settlement Officer) requiring him to appear before him in person and to furnish him with any information which is considered to be in his possession. In such cases the Collector was required to issue notice to that individual directing his attendance before him at a time and place to be specified in the notice and when such a notice was issued, a process fee of annas twelve only was to be levied together with the actual charge which was incurred for service of the notice. Statutory rule 54 of the Madras Estates Land Act was amended to provide for this.

(v) The procedure of combined notice and notification for survey and record-of-rights, however, continued but this came in for severe castigation by the High Court in the Badagada writ case.

44. *Staff—(i) Training*—When settlement operations were started in this district, there was a great dearth of trained staff. So trained staff from North Orissa who had served in other settlements and many of whom were really competent were imported and with them the settlement work was started in this district. These persons did not have any knowledge of the Madras Laws and the Madras procedure which they took sometime to pick up. There was a chorus of protest from all sections of the public for employment of the people of this district in the operation. In order to satisfy the public demand and also to obtain the required number of trained personnel for settlement operation in this district, a training school was opened by the Collector under the supervision of the Settlement Officer for training of Amins and Inspectors. The selection of trainees was made jointly by the Settlement Officer and the Collector of Ganjam in some cases. The product of the training school which mainly consisted of the people of this district did not come up to the standard of North Orissa staff. But to satisfy the public demand, the best of the lot were selected and employed in settlement operation. Some of them, however, proved to be quite useful towards the last stage of settlement operation.

(ii) The survey school opened was closed down after sometime, and persons trained in private survey schools were entertained as and when occasion arose but they had no knowledge of survey. The Gazetted Officers and non-gazetted Assistant Settlement Officers who had no previous experience of settlement work, were given training before being placed in independent charge of camps. An analysis of the composition of staff from the beginning of the settlement operation till 1956 when there was some talk of closing down the settlement operation due to legal difficulty arising out of the Badagada writ case, shows that out of 1,687 employees in the Service Roll, 410 were persons of Northern districts, 1,143 were Oriyas of South Orissa, 2 were Bengalees, 100 were Telugus, 1,665 were Hindus, 14 were Mussalmans and 8 were Christians. Out of the Oriyas, 8 were men of the Scheduled Castes and two belonged to the Scheduled Tribes.

(iii) *Punishment*—Ninety-nine Amins and Inspectors were discharged not to be re-employed for bad work under orders of the Board. Eight Amins and Inspectors were dismissed for misconduct. A sum of Rs.3,074-15-0 was imposed as fine on the staff during the whole course of the settlement operation. One Peon was dismissed for having committed serious irregularity in the service of notice. One Kanungo was also dismissed for misconduct. One Gazetted Officer was degraded to his former rank of ministerial officer.

(iv) *Bribery and other cases*—One Chakradhar Das, Inspector of Ganjam Settlement, was prosecuted in a charge of bribery but the case ended in acquittal. Another Radhamohan Sahu was prosecuted on a charge of false personation as a Settlement Amin for realisation of remeasurement fee and he was convicted by the first Class Magistrate of Chatrapur.

(v) *Health*—The health of the staff was generally good and there was no untoward circumstances due to the bad climate of any of the areas under settlement operation. There was, however, a few cases of death in the camp and at head office due to natural causes. By being continuously in charge of settlement work, the health of Shri S. C. Banerji, Settlement Officer, broke down and he went on long leave from time to time till he died before reaching the date of superannuation. The health of Shri Lokanath Patnaik, Settlement Officer, also broke down towards the last part of his service and he was compelled by his failing health to go on leave preparatory to retirement. As a precautionary measure for maintaining the health of the staff in camp, medicines worth Rs. 1,227-0-9 were purchased during the whole course of settlement. Generally Quinine, Paludrine, Mepacrine tablets, Magsulph, Sodamint, etc., were supplied to the camps for use of the staff and officers, if and when necessary.

45. *Amalgamation of villages*—Amalgamation of villages or division of villages was not done in the Major Settlement Operation owing to difficulties presented by section 3(19) of the Madras Estates Land Act. Under section 3(19) of the Madras Estates Land Act, the essential requirements for a village are—

(i) the local area must be situated in an estate or the area must constitute an estate, (ii) this must be designated as a village in the revenue accounts maintained by the karanam or it is recognised or declared by the Provincial Government as such and it includes any hamlet or hamlets attached thereto. These conditions could not usually be fulfilled. This difficulty has since been removed. Under the New Orissa Survey and Settlement Act as amended by the amending Act 7 of 1962, a procedure has been prescribed for alteration of village boundaries or constitution of new villages during settlement operation in rule 61 of the Orissa Survey and Settlement Rules, 1962.

46. *Preparation of the khewat*—Khewats were not prepared for estates during the minor settlement operation whereas in the major settlement khewats of proprietary estates were prepared invariably in all cases except in case of poramboke and District Board roads. The details of khewats prepared have been discussed in para. 27 of Chapter IV. The circumstances under which resumable under-tenures were not allotted independent khewats in some cases and poramboke lands including District Board roads were not included in any khewat have been mentioned in detail in paras. 28 and 34 respectively of Chapter IV.

47. *Partial of Survey, Khanapuri, etc*—Check or partial of kistwar and khanapuri was done by Inspectors, Kanungoes and Assistant Settlement Officers. Check of subdivisions by side measurement at the Attestation stage and Objection stage was done by the Assistant Settlement Officers. In addition to this, the Assistant Settlement Officers did 10 per cent of classification check at the khanapuri stage. The Inspectors, Kanungoes and Assistant Settlement Officers had also to check stones, boundary lines, etc. After the Amin had finished survey, some final or independent partial was given. The minimum of independent partial was 12 chains per 100 acres. Besides this, the Assistant Settlement Officers and Kanungoes were required to do personal partial of at least one line in each sheet. It was laid down that every quadrilateral should contain a partial line. The Circle Officer himself did the final partial. Mistakes found out at final partial were corrected. In a few cases it was found necessary to order a fresh survey. In these cases, the Amin responsible for the wrong survey was very severely punished.

The average incidence of kistwar check over the whole settlement was as follows :—

Inspector	..	1.87 linear miles per square mile
Assistant Settlement Officer and Kanungo	..	0.75 Ditto
Independent or final partial	..	0.54 Ditto
Personal partial	..	0.04 Ditto

The number of plots checked at khanapuri by the Inspectors was 63,995 or 16.75 per cent and that by the Assistant Settlement Officers and Kanungoes was 26,830 or 7.03 per cent of the total number of plots.

48. *Khatian and Parcha*—In the minor settlement records, the record-of-rights was prepared plotwar which roughly corresponds to khasra in the Bihar and Orissa System with details regarding irrigation, status and rent. The draft khatian used in this Major Settlement contains 19 columns and with some modifications resembles the khatian forms of North Orissa. The form adopted conforms to the provisions of Section 165 of the Madras Estates Land Act. In Ganjam, the local name of the land called 'Chaka' has been noted in the khatian below the plot numbers for identification of the land, whereas, the boundary forms an important source of identification of the lands in North Orissa. The classification of the lands in North Orissa is Sarad, Biali, etc., whereas in Ganjam wet, rainfed and dry have been noted as classification with the name of the source of irrigation in case of wet lands. In Ganjam, the khatian serves the purpose of both Survey Land Register and record-of-rights and the parcha is treated as an extract of survey land register and forms as an enclosure to the notice under section 9(2) of the Madras Survey and Boundaries Act. Till preliminary record stages of Block C, this notice was given before Bujharat but in the villages of Block D 9(2) notices were served at the time of attestation as per order of the Government on the objection raised by the District Collector in this respect and other matters. The following objections were raised by the Collector in this connection :—

- (i) Village plans and survey field registers were not supplied to the Collector before issue of notices under section 9(2) of the Madras Survey and Boundaries Act to enable the Collector to file complaints in respect of Government interested lands and for filing appeals under section 11 of the Madras Survey and Boundaries Act.
- (ii) Government interested lands were not surveyed as full fields as required under rule 34 of the Madras Survey Manual.
- (iii) Inam lands covered by different title deeds were surveyed as full fields as a result of which discrepancies arose between the areas as recorded in respect of Government Inam lands in Government records and in the Settlement records.
- (iv) Previous survey records of minor service inam lands were not consulted.
- (v) Irrigation maps were not also consulted.

On the objections raised by the District Collector, the following procedures were adopted during the survey and preparation of record-of-rights of Government interested lands situated in estate villages, as per orders of the Revenue Commissioner :—

- (i) Notices under section 9(2) of the Madras Survey and Boundaries Act were issued at the attestation stage.
- (ii) Copies of village plans and extracts of survey field registers were supplied to the Collector along with the notices under section 9(2) of the Madras Survey and Boundaries Act.
- (iii) The issue of fresh notices under section 9(2) in case of lands already surveyed in the year 1941-42 for which records had been finally published was not considered necessary and if mistakes were discovered it was decided that steps would be taken by the Collector for their rectification by taking recourse to the proviso under section 172 of the Madras Estates Land Act.

49. *Khanapuri*—In respect of originally surveyed villages, the Amins wrote the khasra or list of plots in numerical order showing the description of the lands in each plot. They also made entries in all the columns of the khatian except those meant for area, status and rent which were recorded at the time of attestation. (The area is entered in khasra section before attestation.) When any contest arose about any record during khanapuri, a dispute was entered in a form called "dispute list" and decided by the Assistant Settlement Officer or in a few cases by an experienced Kanungo on merits. In respect of villages which were previously surveyed in the minor settlement where the Map and Survey Land Register were available, Khanapuri was made by the Amins in the field by a process called "the field bujharat" explaining all differences between the past and the present in change of registers called 'A' Change Register involving change of registry and 'B' Change Register involving

subdivision. The entries regarding area, status and rent were completed then and there. The undisputed entries in the Change Registers were disposed of by the Assistant Settlement Officers or Kanungoes, the disputed ones being transferred to the 'dispute list' were disposed of by the Assistant Settlement Officer or by an experienced Kanungo, when specially authorised. The attestation was done in all cases by the Assistant Settlement Officers in the originally surveyed villages the change not involving disputes were explained in the 'Yadast' with the orders of the checking officers thereon. The total number of plots kharapurid during the major settlement for 1,783 villages finished from all stages of the operation is 8,34,522.

50. *Attestation*—The stages of bujharat and attestation were not followed in Madras system. It was an imposition of Bihar and Orissa system on the Madras system by a liberal interpretation of the words occurring in section 166(1) "when the Collector has, after making such enquiry as he sees fit, completed a preliminary record, etc." There is no mention of "Attestation" in the Madras Estates Land Act or its Statutory Rules. Absence of Bujharat means denying a valuable facility to the ryots in understanding as to how the preliminary records have been prepared." This naturally leads to complications at subsequent stages. In case of attestation of originally surveyed villages, the procedure of attestation as followed in North Orissa was followed. In case of revision survey villages, the Munserim in charge of Bujharat made a preliminary check of the records before commencing the bujharat. Then he checked the khewats, explained the entries in the preliminary record-of-rights, explained the changes in the change register, checked the status, entered the rent and cess and gave reference to the land-holder's jamabandi. In the originally surveyed villages the Descriptive Memoirs were partly written at the time of kharapuri by the officers and in case of revision survey villages the relevant columns were filled up by the Assistant Settlement Officers during their tour in villages at the time of field work. In both the cases the Descriptive Memoirs were completed before attestation and poramboke and private land proceedings were drawn up. It was the duty of the Stone Munserim sent to the camp to check the stones and see if the stones had been correctly fixed at all the points. The total number of plots attested in 1,783 villages completed from all stages of the operation was 8,92,142. Total number of kharapuri disputes and attestation disputes was 11,245. The percentage of the dispute to the number of plots is less than 2. The percentage of check of kharapuri and classification by the Inspecting Officers was 36.18.

51. *Recess work at different stages*—As soon as the map and the khasra were received in the khasra section, the areas were entered in the khasra. After the decennial totals were finalised, and the area verified with the total area of the village, the areas were entered in the khatian and khasra. The alphabetical arrangement of the khatians and khatawar totals of the areas were made. Then a tipa teriz was prepared and the total area of the village was again verified with reference to the khasra. The orders in the yadasts were also checked in the khasra section and necessary action taken. Thereafter the Inspector finished his check and the record was made over to the Mukabila section in which khasra and khatian were compared. Then the record was made ready for attestation and made over to the Record Room for issue to the Attestation Camps. After the records were received from the attestation camps, the records were checked with reference to the change registers, badars, dispute lists, miscellaneous petitions and the orders of the officer. Then khatians were arranged again alphabetically. Anka milan was made and the plot index and teriz were brought up to date. The records were checked by the Peshkar. Safai or preparation of copies before Draft Publication was made and compared for distribution to the ryots at the draft publication stage. After the records were received from the objection camp under section 166 (1), they were again checked with reference to the orders on the objection petitions and final teriz was made. Final safai made before final publication. After the records were received from the rent objection camp under section 169(1) the orders passed in the objection petitions were again checked in the Rent Janch Section. All corrections till this stage were made in the working khatian and Rent Roll. The rent was checked as per the rates fixed by the Rent Settlement Officer and the total area and the total rent were compared and finalised. Then a confirmation sheet was prepared and submitted to the Settlement Officer for confirmation. After rent was confirmed by the Settlement Officer it was incorporated in the final record-of-rights. Copies of supplemental khatas or 'Ka' khatas as they are called were made and compared for distribution to the parties and then the record was made ready for republication under section 170(3).

52. *Draft Publication and Final Publication*—Draft publication by reading out the contents of record-of-rights and giving copies thereof to the ryots was made and parties were allowed to file objections under section 166 (1) of the Madras Estates Land Act. After disposal of the objections, the record was finally framed and published. The period of draft publication was 3 months and the public got advantage of filing objections within the period of 3 months from the date of draft publication. But in the case of objections after draft publication of rent-rolls the period of objection was at first 3 months but was subsequently reduced to one month from the date of draft publication of the rent-roll. Although sufficiently long period was given for filing objections under section 166 (1) of the Madras Estates Land Act and this fact was widely published in the early stages of the statutory period, the rush of objections was always towards the later part of the period. In all, the total number of objections filed under section 166 (1) and those under section 169 (1) in all the zamindari and proprietary estates was as follows :—

Objections under section 166(1) of the Madras Estates Land Act	..	68,383
Objections under section 169(1) of the Madras Estates Land Act	..	1,27,349

The average disposal per day by an officer varied from 26 to 40. The objections under sections 166(1) and 169(1) had been classified under different heads and the number allowed or disallowed under each head is given below—

Total number of cases	Possession					Money Rent					Status					Title		Trees	Remeasure-ment	Produce Rent					Classification					Remarks					
	Landlord Versus Landlord	Landlord Versus Ryot.	Ryots Versus Landlords	Ryots Versus Ryots	Landlord Versus Ryots	Ryots Versus Landlords	Zirayati Versus Bakast	Landlord Versus Ryots	Ryots Versus Landlord	Status					Title	Trees	Remeasure-ment	Landlord Versus Ryots	Ryots Versus Landlord	Landlord Versus Ryots	Ryots Versus Landlord	Landlord Versus Ryots	Ryots Versus Landlord	Landlord Versus Ryots	Ryots Versus Landlord	Ryots Versus Landlord									
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34		
	Allowed	Disallowed	Allowed	Disallowed	Allowed	Disallowed	Allowed	Disallowed	Allowed	Disallowed	Allowed	Disallowed	Allowed	Disallowed	Allowed	Disallowed	Allowed	Disallowed	Allowed	Disallowed	Allowed	Disallowed	Allowed	Disallowed	Allowed	Disallowed	Allowed	Disallowed	Allowed	Disallowed	Allowed	Disallowed	Allowed	Disallowed	
68,383	4,063	4,969	1,667	6,166	1,248	3,616	12,409	12,665	558	522	363	649	12	1	444	1,493	1,314	1,097	730	..	165	239	7,808	3,070	43	895	10	751	17	191	553	654			
1,27,349	90	506	536	2,215	1,240	4,778	31,854	22,630	2,629	2,475	1,053	2,583	10	29	298	1,325	409	1,545	18	40	3	15	40,009	6,572	13	110	21	47	75	110	224	593			

Cases relating to section 169 (1) of the Madras Estates Land Act

Cases relating to Section 166 (1) of the Madras Estates Land Act

Cases relating to Section 169 (1) of the Madras Estates Land Act

The objections under change of registry tops the list. The objections in general were however simple in nature except a few which were complicated and contested.

53. *Clerical errors under section 175 of the Madras Estates Land Act*—Under section 175 of the Madras Estates Land Act, clerical and accidental mistakes in the record-of-rights are corrected by any Collector specially empowered by the Government and such corrections are made after giving reasonable notice to the parties to appear and be heard in the matter. There is no time-limit for correction of records after final publication or republication of the record-of-rights. Mistakes of this nature are generally detected during scrutiny at different stages of the settlement operations. Proceedings under this section are also initiated on the application of the parties concerned, the karanams or land-holders, as the case may be. The Board of Revenue directed that the different Taluk Officers of the district should be asked to scrutinise the final record-of-rights supplied by the Settlement Department and submit a list of such mistakes for action under section 175 of the Madras Estates Land Act. Some of the Taluk Officers submitted list of mistakes detected by them and proceedings under section 175 of the Madras Estates Land Act were started and records were corrected. Certain percentage of mistakes pointed out by them did not actually exist in the final record-of-rights. The number of mistakes pointed out by the Taluk Officers was rather negligible as compared with the mistakes pointed out by the staff of this department. During his tour in this district, Dr. H. K. Mahatab brought to the notice of the Government that there were innumerable mistakes in the ryoti copies of final record-of-rights supplied by the Settlement Department. Under orders of the Government a sample survey was made in respect of 5 villages in Khallikote ex-estate and the result of such survey was brought to the notice of Government. Enquiries during sample survey revealed that the majority of mistakes detected during survey were not due to any laches on the part of the Settlement Departments but due to negligence of the ryots themselves who did not care to get their transfers or changes, etc., recorded at different stages of the settlement operation although the law afforded enough opportunity for this from the beginning of settlement operation. 3,471 mistakes of clerical nature were instituted and disposed of.

54. *Revisions under section 205 of the Madras Estates Land Act*—From the beginning of the settlement operation, 204 cases under section 205 of the Madras Estates Land Act were instituted and all of them were disposed of. None of the cases was important in nature.

55. *Appeals under section 171 of the Madras Estates Land Act*—Under section 171 the appeal should lie within three months from the date of republication under section 170(3) before any Revenue Authority superior in rank to the Assistant Settlement Officer (Collector) and the Settlement Officer (Confirming authority). The Collector of Ganjam was specially appointed as the appellate Authority under section 171. But in a subsequent notification this power was delegated to a retired District Magistrate under re-employment, namely late Gopinath Behera of Berhampur. 253 appeals under section 171 of the Madras Estates Land Act were filed out of which only 52 were disposed of. The rest are still pending for disposal by the Collector, Ganjam.

56. *Revision Cases under section 172 of the Madras Estates Land Act*—2, 425 revision cases under section 172 of the Madras Estates Land Act have been filed before the Board of Revenue and most of these cases have since been disposed of by the Board of Revenue. 958 are cases filed by the Collector as well as Tahsildars for correction of khewats consequential to abolition of the Estates. Formerly all revision petitions under section 172 of the Madras Estates Land Act were filed in the office of the Board of Revenue at Cuttack. As this was inconvenient to the parties rule 13 of the Board of Revenue (Orissa) Rules, 1951 was amended on the 7th September 1953 to the effect that review, revision and appeal petitions relating to survey and settlement operations could be filed at the headquarters of the different settlement operations. Thereafter most of the revision petitions were filed at Berhampur Settlement Office which were forwarded to the Board for disposal along with the report of the Settlement Officer.

57. *Civil cases under section 173 of the Madras Estates Land Act*—Twenty-one civil cases against the entries in the record-of-rights were instituted in the Civil Court. There is no information about their disposal.

58. *Remeasurement fees*—In the attestation stage, subdivisions are very often necessary and it is made mostly on the applications of the ryots but no fee is charged at this stage. According to the Government order, remeasurement fees were charged at objection stage. The rate of remeasurement fee at the objection stage in Ganjam was Re. 0-12-0 for the first two plots and Re. 0-6-0 for each plot above two. There was no provision in the rule to realise remeasurement fees during rent objection hearing stage. Rule 19 of the statutory rules was amended in notification No. 1818-R., dated the 14th February 1950 to provide for this.

In June 1953, the Board of Revenue raised the question of unification of the procedure of charging remeasurement fees as the standard rate of fees laid down in rule 238 of Bihar and Orissa Technical Rules, Volume-I was considered to be out of date in view of the revision of pay of the settlement employees particularly of the Surveyor Munsarims. Moreover four different rates of fees were realised in different settlements as noted below—

Name of area	Maximom plots	Rate	Plot in excess of maximum	Rate
(1)	(2)	(3)	(4)	(5)
		Rs.A.P.		Rs.A.P.
1. North Orissa Districts	4	0-12-0	1	0-3-0
2. Kalahandi	10	2-0-0	1	0-3-0
3. Ganjam-Koraput	2	0-12-0	1	0-6-0
4. Dhenkanal	4	1-8-0	1	0-6-0

The Board finally decided that the rates noted against serial 4 would apply to all districts in the State of Orissa except Ganjam and Koraput districts. On a reference made by the Settlement Officer, Koraput Government passed an order that no remeasurement fees should be realised from the Government in case it became necessary to inspect or to remeasure certain lands at the instance of the Tahsil Agents. But a separate account of such cases should be maintained for reference in future. No such case has arisen in Ganjam as majority of the survey work had been finished by 1954 when this order was passed by the Government. The rates of remeasurement fees have been made uniform under the Orissa Survey and Settlement Rules, 1962.

59. *Railway lands*—During the survey of Blocks A, B and C, a special Overseer was deputed by the Railway Department to look to the interest of the Railway Department and point out the railway lands. Although previous intimation was given to the Railway authorities from time to time, the Railway authorities did not depute any staff during the survey of Block D and consequently there was a lot of correspondence over the subject and in some cases the correspondence went on for years together. In respect of survey of villages Nilapur and Khanda, some discrepancies were noticed between railway plan and the settlement survey plan. The matter was finalised after joint spot inspection of the Charge Officer and the Railway Engineer.

60. *Missing of records*—The records of villages Deulpalli and Bira Dhanurjayapur were lost during transit to the Final Publication Camp, Russelkond on the 1st February 1954. The Police, who were informed of the matter, failed to trace out the records. On receipt of some clue from the staff of Kodola Camp, the Charge Officer recovered a portion of the records from a Cartman of Baliassara near Boirani who picked up the same at night on the 4th mile of Berhampur-Aska Road. As the full record was not available, the records of these two villages were reconstructed from the preliminary stage on the basis of the map which was available after observing all the formalities and the notification under section 13 of the Madras Survey and Boundaries Act was cancelled. The final publication of the records was done in due course.

The final record-of-rights of villages Bada Agula, Sana Baragan and Ambajhar Nuapalli prepared during minor settlement were missing from the Collectorate as a result of which the changes ordered during rent settlement stage in this settlement could not be incorporated in the final record-of-rights and so the settled rent could not be given effect to in these villages.

61. *Descriptive Memoir*—This is analogous to the village-notes of North Orissa. According to the procedure followed in Madras Presidency, a Descriptive Memoir consisted of the following details:—

- (1) Date of publication of the records under section 166
- (2) Year of introduction of the settlement of rents
- (3) Situation of the village
- (4) The areas under several description and tenure of land.
- (5) Method of survey and demarcation
- (6) Population
- (7) Details of ryoti holdings
- (8) Live-stock, pasture and forest
- (9) Record of irrigation rights
- (10) Financial results

The form was changed with the approval of the Government. In the Major Settlement, Ganjam, the record of irrigation rights was separately embodied in the irrigation khatian. The Descriptive Memoir followed in Ganjam Major Settlement consists of the following details:—

- (1) Physical features
- (2) The method of survey and demarcation
- (3) Population, religion and caste
- (4) Number of holdings in the possession of hereditary and non-hereditary cultivators.
- (5) Economic condition of the people
- (6) Agricultural stock
- (7) (a) Roads and communication
(b) Nearest Market
- (8) Village measures
- (9) Wages of agricultural labourers
- (10) Notes about existing rent and system of realisation
- (11) Notes which may prove useful for settlement of rent
- (12) Forest rights
- (13) Results of crop-cutting experiments, if any
- (14) Brief account about fair rent settlement.
- (15) Rate of fair rent
- (16) Year of introduction of the fair rent
- (17) Date of publication of the records under section 166(2) and under section 170(3) and details of publication of notification of rent settlement by referring to the Gazette

The form introduced in the Ganjam Major Settlement was more comprehensive than that used in the Minor Settlement operation and the notes made in the Descriptive Memoir by the Assistant Settlement Officers were of great use at the time of Rent Settlement.

CHAPTER VI

RENT SETTLEMENT AND CESS

62. *Systems of Rent in existence before Rent Settlement*—In the zamindari areas of the Ganjam district the following systems of rent collection were in vogue:—

- (i) Kost Royani
- (ii) Mustajari
- (iii) Cash rents
- (iv) Assamwari

(i) *Kost Royani system*—This was a system under which the entire body of ryots of a village or a section of them on behalf of the whole body, agreed to pay a lump sum in cash to the land-holder in lieu of the produce rents payable by them in respect of all crops.

The way in which this system worked is that the value of the gross produce of a village was estimated annually by estate servants and village assessors. The lease amount was fixed as a result of haggling. The ryots then paid as rent the cash value of the share of the produce which was customarily due from them as rent. The shares varied from village to village. In case of bad crop the ryots approached the Estate Authority for remission. No outsider was allowed to compete with the ryots. The share of the gross produce (not its value) which was payable as rent to the land-holder was noted in the record-of-rights as the legally payable rent. This system was in force in some villages of estates Athagada, Khallikote, Chikiti and Surangi.

(ii) *Mustajari system*—Under this system lease for realising the ryoti rents of a village for one year or for a term of years was given to a lessee or a body of lessees who might be either ryots of the village or outsiders. The lessees or body of lessees were known as Mustajars and a certain amount was paid to the land-holder as consideration for the lease, sometimes with reference to the crop outturn of the village, sometimes arbitrarily and sometimes by auction. The lease was usually granted in auction to the highest bidder. The auction took place before the commencement of the agricultural operation of the year in April or May. In years when there were no rival bidders or the bid amount was not up to the expectation of the land-holder the leasing out was kept in abeyance till the crops were ready when the auction was held with brisk bidding. In years where no bid was offered by anybody to the satisfaction of the estate, the estate kept the village for direct realisation of the rents from the ryots by the sharing system.

The Mustajar collected rents from the ryots by taking a share of all kinds of crops grown on produce rented lands. Cash rents were realised by the Mustajar in the ordinary way. The Mustajars seldom granted receipts for the dues received by them. The proportion of the gross produce taken by the Mustajar as the land-holder's share was recorded as the existing rent. The mustajar was a farmer of rent. Generally he had enormous profits. Mustajari system was prevalent in some villages lying in estates Athagada, Khallikote, Badakhemendi, Chikiti, Dharakote, Sheragada, Badagada and Sanakhemendi.

(iii) *Cash Rent*—Cash rents had been fixed in a number of villages by the land-holders by commutation of produce rents. These were at times revised by the land-holders. In some cases cash rents were either concessional or privileged in consideration of special factors such as supply of labour and various articles of consumption, lands enjoyed by the deities, etc. These cash rents were recorded wherever they were found, provided they had been agreed to by the ryots. Cash rent was prevalent in some villages of estates Athagada, Khallikote, Biridi, Dharakote, Sheragada, Jarada and Aska Malukdari. Besides there were 276 villages in which cash rents were settled in the minor settlement operation under provisions of the Madras Estates Land Act in estates Athagada, Khallikote, Dharakote, Jarada, Surangi and Badakhemendi.

(iv) *Assamwari system*—According to this system the estate directly recovered rent from the ryots. These rents were either cash fixed with reference to the value of a certain proportion of the crop outturn or produce rents. In either case the proportion of the gross produce payable to the land-holder (and not the cash equivalent) was recorded as the existing rent. This rental system was prevalent in some villages of estates Athagada, Khallikote, Badakhemendi, Chikiti, Jarada, Paluru and Humma. In case of produce rents no share of the by-products (straw, etc.) was normally taken by the land-holders. This fact was not mentioned in the khatian but this was entered in the Descriptive Memoir in the proper column.

The worst of the above rental systems was the mustajari system as it did not maintain direct relation between the ryots and their landlords. The mustajars who were worst speculators collected rents from the ryots without having any regard for their welfare. They often took advantage of their position and were often alleged to have taken illegal exactions from the ryots and harassed them, whenever they could and also exact "bethi" service for their private purposes. With the abolition of the estates and fixation of cash rent, the system has died a natural death.

63. *Mamools*—Mamools such as Khala Mamools were occasionally allowed to ryots by the Mustajar and even by the estate in years when the collections were directly made by the estate at varying rates of the gross produce of paddy and ragi, the rates of ragi being different from that of paddy. The Mamools varied from estate to estate and often from village to village. The mamools were separated from the gross produce before the division of the crops and were taken by the ryots. An enquiry about this was made and the results entered in the Descriptive Memoir.

64. *Illegal exactions*—During the course of settlement operation it came to light that in almost all the estate areas illegal exactions of some or other of the following kinds were in vogue, the nature of which varied from estate to estate.

(i) *In connection with the Car Festival of Lord Jagannath*—Felling of trees in the forest for constructing Ratha of Lord Jagannath, supply of logs at the "Ratha Padia" and supply of ropes of "Siali Lata", etc. The above services were realised from some ryots without payment of any remuneration.

(ii) *Halachina*—Originally this meant dues realised by the estate for each plough owned by the ryots as rent. But in course of time this was realised in addition to the legal rent payable by the ryots. In some estates this was realised at the rate of Re.0-12-0 per each unit (called Kania) of ryoti land, the unit being an original share in the total ryoti land of the village.

(iii) *Sithobasan*—This was imposed by the land-holder of a particular village for the remuneration of the services of a paik. The mustajar used to pay up the same to the Estate at the rate of 5 bharans of paddy and a sum of Rs. 7 and he realised the same from the ryots at the rate of 2½ Adas of crop other than paddy.

(iv) *Laxmipuja dues*—The ryots of the village used to pay Rs. 2 each to the Mustajar for this festival.

(v) *Construction of a residential house for the Mustajar at the khala*—The mustajars used to levy Re. 0-1-0 per each Bharan of land (1/5th of an acre) on the ryots for construction of a house for his residential purpose in the Khala during the harvesting season (Bharana is both a square measure as well as volume measure in Ganjam).

(vi) *Heta Halachina*—The land-holder used to realise an excess amount of Re. 0-8-0 above the rent for cultivation of his private land for each plough possessed by the ryot.

(vii) *Khajana Rosam*—In case of a cash-rented village the land-holder's agent used to realise an excess of 6 pias in a rupee in addition to legal dues of the estate. In some estates also a sum of Rs. 3 was realised for collection of Rs. 100.

(viii) *Halabhada*—In case of cash-rented villages if there was a bumper crop in the village the land-holder used to realise 4 to 8 annas per rupee in addition to the cash rent.

No case of action under section 136 of the Madras Estates Land Act by a suit before the Collector for recovery of such illegal exactions and penalties seems to have been filed in Ganjam against any of the land-holders.

65. *Circumstances leading to the passing of Act XIX of 1947*—In the zamindari areas the share of rent was half the gross produce. In the neighbouring ryotwari areas the ryots paid much less rent as the principle was half the net produce as per Board's Standing Order I (3). As the rents realised in the zamindari areas were thus high and appeared oppressive there was continuous discontentment amongst the zamindari ryots and agitation was started under the leadership of the Zamindari Ryot's Association. In 1937 the Congress Ministry framed a Bill for reducing the rent of the zamindari ryots. According to this Bill in zamindari areas the rates of rent should not exceed more than 25 per cent of the rates prevailing in the neighbouring ryotwari areas. The Bill was passed by the then Legislative Assembly but it did not get the assent of the Governor as the zamindars sought the protection of the Governor on the ground that their income would be greatly reduced if the Bill were to become law. The Governor of Orissa, Mr. Habbak forwarded this Bill for consideration of the Governor-General of India. In 1941 the Governor-General, Mr. Linlithgo vetoed the Bill on the ground that the zamindars promised to reduce the high pitch of the then existing rent and that the effect of the Bill had not been investigated by the Provincial Government.

According to the assurance given by the zamindars, the Rajabhadur of Khallikote and Athagada only to some extent reduced the rates of rent settled in the minor settlement. He also fixed cash rents in the mustajari and kost royani villages by commutation process. The other zamindars, however, did not appear to have taken similar steps. Therefore, discontentment continued to exist. A conference of ryots, land-holders and representatives of Government was held early in January 1948 under the Presidentship of the then Minister of Revenue, Shri Nabakrushna Choudhury in which the zamindars gave an assurance to reduce the rents in their estates.

As it was found by the Government that the zamindars had not fulfilled their assurance, the Government prepared Madras Estates Land Act (Amendment) Bill so as to empower the Rent Settlement Officers to commute the existing produce rents during Rent Settlement and reduce existing cash rents wherever they were found to be high. Later on this bill was passed by the Legislative Assembly as the Madras Estates Land (Orissa Amendment) Act, XIX of 1947.

As the Settlement Operations were closed during the period of War it was found necessary to resume the settlement operations so that rents could be settled according to the provisions of section 168-A of the Madras Estates Land Act which was inserted by Orissa Act XIX of 1947. From the middle of 1947 the settlement operations were resumed. Rent settlement was first taken up in the estates where the zamindars did not act up to their assurance. Khallikote and Athagada and Parlakemedi estates were left out of rent settlement operations at the first instance as the Raja Bahadur of Khallikote gave certain concession and as the cash rents in Parlakimedi were not so high when compared with the adjoining ryotwari areas.

66. *Rent Settlement*—(i) Act of XIX of 1947 provides that while commuting produce rents the prices prevailing in the agnormal years to be declared by the Government under section 40(3) of the Madras Estates Land Act have to be excluded besides the famine years. The statutory rules framed under section 168-A require that while fixing rents, not less than 33⅓ per cent of the gross produce has to be given as deduction towards cultivation expenses. Besides this concession on account of vicissitudes of season and merchant's profit can also be allowed by the rent Settlement Officers at their discretion in order to enable them to fix fair and equitable rent. Under the old section 168 the existing rent or the rate of rent was presumed to be fair and equitable until the contrary was proved. But under Act XIX of 1947, a proviso was added to the effect that they would not be deemed to be fair and equitable if the previous rented been fixed on the basis of half the gross produce or any portion of the gross produce regardless of the cost of cultivation. Section 168-A gave power to the Collector to reduce even the existing cash rents if they were fixed without having regard to cultivation expenses or were unfair and inequitable otherwise. Government declared the years 1941 to 1956 as abnormal years on the recommendation of the Settlement Department and the Collector of Ganjam. The income of these years while fixing the rents was not taken into consideration.

(ii) Government directed fixation of fair and equitable rent in all the ryoti villages excluding the villages of Athagada, Khallikote, Biridi and Parlakimedi. The question whether rent settlement operations in the above four estates should be taken up or not was examined in detail and a report was submitted to the Government by the Settlement Officer for their orders through the Board. Government ordered that rent settlement should also be taken up in the ryoti villages of Khallikote and Athagada, Biridi and Parlakimedi and they also issued noti-