

as Receiver from the 6th December 1952. The zamindar withdrew his petition on the 3rd September 1953 before final hearing. The High Court allowed the withdrawal and terminated the Receiver's management. Hence on the 3rd September 1953, charge of the estate was taken over by Anchal Adhikari, Darpan.

270. On the 15th October 1952 the zamindar of Kanika submitted a memorial to the State Government for excepting his estate from the operation of the Act on the ground that he was not an intermediary. Before submission of the memorial the zamindar had given notice, under section 80 of the Code of Civil Procedure that he would claim exception by filing a suit for a declaration to that effect. He filed a suit on the 25th November 1952, in the Court of Sub-Judge, Cuttack, praying for orders restraining the State Government from taking over the estate under the Act and obtained an *ex parte* order of injunction against the State Government on the same day restraining the Government from issuing the vesting notification. So, the notification under section 3 of the Act could not be issued in respect of the estate on the 27th November 1952 along with other estates. The Sub-Judge vacated the interim injunction on the 10th December 1952 on the objection filed by the State Government. The zamindar preferred an appeal before the High Court which granted on the 15th December 1952 an injunction on the State Government against the issue of notice under section 3 of the Act. The Original suit filed in the Court of the Sub-Judge was in the meantime transferred to the High Court on the application of the zamindar under section 24 of the Code of Civil Procedure read with Article 228 of the Constitution of India. The suit was dismissed with costs and so the estate was notified to have vested in Government with effect from the 10th November 1953. But the zamindar preferred an appeal in the Supreme Court which appointed the Collector as the Receiver to administer the estate till the disposal of the appeal. The appeal was ultimately dismissed.

271. The zamindari of Nagra (situated in Sundargarh district) was notified as abolished with effect from the 27th November 1952. The zamindar filed a Writ Petition on the 4th December 1952, in the High Court praying for directions to the State Government not to interfere with his estate or to give effect to the provisions of the Act on the following grounds, among others namely:—

- (i) that he was not an intermediary ;
- (ii) that his property was not an estate ;
- (iii) that the forest areas within the properties were not estates ;
- (iv) that the Act did not come under Article 31-A of the Constitution and that he was entitled to its protection ; and

- (v) that the Act was discriminatory and offended the provision of Article 14 of the Constitution.

Pending decision on the above issues, the High Court passed stay orders on the 18th December 1952, restraining the State of Orissa from taking possession or giving effect to the provisions of the Act or taking any other steps in pursuance of the notification under section 3 of the Act already issued in respect of the aforesaid estate until the disposal of the case. The High Court, however, decided the matter in favour of the Government on the 7th April, 1953. Against the decision of the High Court, the intermediary preferred

an appeal in the Supreme Court. The Supreme Court placed the management of the estate in the hands of the Collector by appointing him as Receiver of the estate under the direct control of the High Court till the disposal of the appeal. Accordingly the Collector took over its management as Receiver from the 27th May 1953. The Supreme Court subsequently held the vesting of the Nagre estate valid.

272. Writ petitions were filed in December 1952 by the intermediaries of Hemgiri and Sarafgarh (situated in the Sundargarh district) in the High Court to direct the State Government not to interfere with their rights and to give effect to the provisions of the Act and to take possession thereof according to the notification, dated the 27th November 1952, abolishing the estates. The principal grounds of the writ petitions were that—

- (i) their estates were independent principalities, and they were not intermediaries ;
- (ii) after the merger of Sambalpur into British territory the estates were attached to Gangpur for making payment of revenue previously paid to the Sambalpur Treasury ; and
- (iii) there was no Sanad defining the relation between the Gangpur State and Sarafgarh and Hemgiri estates.

On the 17th December 1953, the High Court passed orders restraining Government from taking possession under section 3 of the Act and also restraining the zamindars from collecting rent from the tenants during the pendency of the petition and also prohibiting the zamindars from interfering with the forests. Against this order appeal was filed by the zamindars in the Supreme Court which appointed the Collector as Receiver for the estates on the 15th May 1953. In the Supreme Court's further order, dated the 22nd March 1954, the Receiver appointed was discharged and the estates were made over to the zamindars. The Court allowed the appeal of the zamindars mainly on the ground that there was no evidence on record that the ancestors of the zamindars ever received or accepted any sanad or grant from the Raja of Gangpur and as such their properties did not come within the definition of "estate" as defined in the Act.

273. That such a revolutionary law as the Estates Abolition Act affecting the social and economic life of all the people was challenged and some of the suits were carried on to the highest Court was but natural. But this naturally delayed the process of taking over the affected estates.

274. After the vesting, these big estates were formed into different Anchals as envisaged in Chapter III of the Act and were placed in charge of Anchal Adhikaris. Large estates like Jeypore had to be divided into a number of Anchals for convenience of administration. For the smooth administration of this revolutionary Act instructions from the Board of Revenue in the matter of the taking over of estates, taking over of management papers and buildings were issued from time to time. Most of these estates had regular offices for the management of their zamindaris and employed a large number of employees. Almost all these employees were continued in service for the time being on their existing pay till the question of their final absorption or discharge was decided. The management of the estates taken over had to conform to the standard and pattern obtaining in Government offices and this meant

a very significant change with which the employees of the zamindars were not generally acquainted. Naturally, therefore, certain important posts like that of the Anchal Adhikari, the Head Clerk, the Revenue Supervisor, etc., in Anchal offices had to be filled up by drafting employees from Government service, and the day-to-day administration on the whole run smoothly.

275. Sub-section (2) of section 3 of the Act provided for publication of notifications of vesting in two consecutive issues of two newspapers circulating in the State in addition to publication in the Gazette. Accordingly, the first batch of notifications were published in newspapers. This provision was found to have no special advantage though it meant quite an appreciable expenditure. It was decided to delete this provision and this was achieved by an amending Act, namely, Orissa Act 2 of 1953.

276. The next batch of notifications under section 3 of the Act vesting a large number of estates in the districts of Cuttack, Puri and Balasore were issued between August and November of 1953. These related to small temporarily settled estates generally with a large number of co-sharers. Many of them were scattered bits of land situated in a large number of villages. Some of them were added to existing Anchals whereas majority of them had to be grouped together under certain new Anchals formed for their administration. Because most of these estates were owned by a large body of co-sharers, it became difficult for the authorities to find out their address, serve the notices of vesting on all of them and take complete possession of the estates. Many of these intermediaries did not at all have any paper of managment. The Anchal Adhikaris found it difficult to run the day-to-day administration of these small estates and the problem of building up a set of tolerably up-to-date record of ownership and possession of properties therein became quite difficult.

277. Though the original intention was to bring all kinds of intermediary interests within the scope of the Estates Abolition Act, yet the Judgement of the Supreme Court in the case of Hemgiri and Sarafgarh estates disclosed that this intention had not been reflected in the definition of the two basic terms used in the Act, namely, "estate" and "intermediary". In 1954, therefore, these two definitions were amended by Act 17 of 1954 so as to enlarge their scope and bring in all kinds of estates and intermediary interests within it.

278. The next batch of estates notified for vesting were a large number of Inams in the districts of Ganjam and Koraput and a few tenures in other districts. The notifications vesting the Inams were issued on the 1st July 1954. After vesting, most of them were attached to the Anchals within whose geographical limits they were situated and only two new Anchals, namely, Ghumsur and Berhampur were formed comprising some of these vested Inams. The vesting of the Inams on the 1st July 1954 caused quite a lot of commotion in the society and difficulties for the administration. For one thing, like the small estates of the northern districts each of these Inams had a number of co-sharers whose names and addresses were not known to the Collectors and it naturally took sometime for locating them. And by the time this could be done, most of them had filed Writ petitions in the High Court challenging the validity of the Act in its application to thier properties, questioning the right of Government to take over their Inams which they contended were not estates and praying for stay orders restraining Government from taking possession of the same. The High Court granted stay orders in all these cases and possession of the estates covered by the Writ petitions could not therefore be taken over.

279. The amendment of 1954 that sought to enlarge the definition of the term "estate" and "intermediary" was considered sufficient to cover the case of all Inams and after this amendment was passed into an Act, particulars were collected for the vesting of the remaining Inams. A batch of notifications vesting many of the remaining Inams in the districts of Ganjam and Koraput was issued in July 1955 but even in these cases, the Inamdars filed Writ petitions challenging the validity of the Act, and particularly contending that the Act enlarging the definition of the term "estate" and "intermediary" was *ultra vires*. In all these cases stay orders restraining Government from taking possession of the same were prayed for and granted by the High Court.

280. In order to handle the large volume of Writ petitions and defend the stand of Government, a special lawyer had to be appointed. When some of the petitions came up for hearing, the Inamdars chose to withdraw them and file declaratory suits in the Civil Court. The Court granted interim injunction restraining the State Government from taking possession till the disposal of these suits. Of the remaining Writ petitions some were allowed and some were disallowed. Most of the Inamdars, whose petitions were disallowed, chose to file appeals in the Supreme Court. In the cases which were allowed, the State Government filed appeals in the Supreme Court. Many of these appeals remained pending till recently. One batch of cases have recently been decided and it has been ruled by the Supreme Court that the vesting of Inams was neither unconstitutional nor illegal. Some of the Civil suits were decreed in favour of the Inamdars and in all such cases Government filed appeals against these decrees. The application of the tenancy legislation to Inams had in the past led to large-scale litigation and the Inam had been the subject-matter of numerous judicial decision. It was natural, therefore, that the application of the most revolutionary tenancy law to these Inams would create a similar situation.

281. By the end of 1955, three years had completed after the vesting of first batch of estates and Government naturally took a stock of the situation. The personal administration of zamindars was eliminated after vesting. Some time was necessary for the tenants to adjust themselves to the new set-up of impersonal administration. During this transitional period, tenants required careful and sympathetic consideration. The intermediaries had permanently lost their property. For many of them these properties were the only source of livelihood. The abolition of zamindaries also meant quite an appreciable diminution of their social status. They, therefore, required equally sympathetic treatment in respect of matters relating to settlement of their claims and payment of compensation. There were reasons to believe that the Anchal Adhikaris who were the pivot in the administration of vested zamindaries had not been able to fulfil all the hopes and expectations of both the zamindars and tenants. This situation was to a great extent attributable to certain defects inherent in the provisions of the Act and this had come out in course of its working. It was, therefore, considered necessary to amend the Act for removing the difficulties inherent in it, and Orissa Act 15 of 1956 achieved this objective to some extent.

282. The Act casts responsibility on the Collector in almost all matters of its administration. It was not possible for the Collector to discharge this responsibility in respect of all the estates that had been vested and yet to be vested. The Act, therefore, provided that a Deputy Collector specially empowered in this behalf could discharge the function of the Collector. But it was not always possible to find out a Deputy Collector for all items of work.

The Act was, therefore, amended to provide that a Sub-Deputy Collector specially empowered in this behalf may also discharge the function of the Collector.

283. A new definition, namely "intermediary interest" was added so as to clarify the definitions of "estate" and "intermediary".

284. It had been found out that in respect of the small estates with a large body of co-sharers it was not possible to collect all the particulars required for issuing vesting notifications under section 3. To overcome this difficulty, three new sections, namely, sections 3-A, 3-B and 3-C were added. Section 3-A authorises the State Government to declare by notification that the interests of all intermediaries or any class or classes of intermediaries in any part of the State have passed to and become vested in the State Government free from all encumbrances. Such a notification is required to be published in the Gazette and such publication is to be treated as conclusive evidence of notice of the declaration to everybody whose interest is affected thereby. Section 3-B provides that the substance of such a notification has to be, as soon as may be after the date of its publication, proclaimed by beat of drum in all the villages to which it relates. And the proclamation shall also call upon all intermediaries generally to comply with the requirement of the Act. This section further requires that all the intermediaries whose interests are affected by such a general notification have to file an application to the Collector in the prescribed form within a period of three months. The application has to accompany management papers like Zamabandi, Wasil-Baki, Siaha, Khatian, counterfoils of rent receipts for the agricultural year immediately preceding the year of vesting, register of all lands in Khas possession, village maps, particulars about rent or revenue payable to the superior landlord or Government with a certificate that he has not withheld any material information. The Collector has authority to dispense with the production of any document and has also power to extend the time by which such an application has to be filed. And if any intermediary does not furnish the documents and the information within the time limit, the Collector can levy penalty on him. On receipt of the application from the intermediary the Collector is required to transfer it with all its accompanying documents to the Compensation Officer. Section 3-C clarifies that when a notification under section 3 is issued any intermediary in relation to the estate under notification whether or not his name is included in the list of intermediaries published in the said notification shall, within a period of three months from the date of the issue of the notification, file an application before the Collector in the same manner as provided in section 3-B.

285. Clause (a) of section 5 of the Act provides that on the issue of a vesting notification, the entire estates including all communal lands and porambokes, other non-raiyati lands, waste lands, trees, orchards, pasture lands, forests, mines, minerals, quarries, rivers, streams, tanks and other irrigation works, water channels, fisheries, ferries, huts, bazars and buildings or structures shall vest in the State Government free from all encumbrances. In order to clarify the intention of this provision an explanation was added which defines "encumbrance" as a mortgage of or a charge on any estate or part thereof and includes any rights in land or other immovable property comprised in an estate but does not include an intermediary interest or the interest of a raiyat or an under-raiyat.

286. Clause (b) of section 5 provides that from the date of vesting all rent, cess, royalty and other dues accruing in respect of the estate are payable to the State Government from the date of vesting and if any payment is made to the outgoing intermediary it shall not be a valid discharge and all such rents, cesses, royalties and other dues shall be recoverable as arrear of land revenue. A proviso was added to this clause to clarify that if the date of vesting falls within the period to which the dues relate, only such proportion of the dues shall be payable to the State Government as the period beginning with the said date till the end of the period as aforesaid bears to the whole period. A second proviso was also added stipulating that the dues relating to the period after the date of vesting if appropriated by the intermediary can be recovered by the State Government from him as arrears of land revenue. A saving provision was added to the effect that any payment made to the intermediary under the orders of any Court of Law shall constitute a valid discharge. This proviso was found necessary in respect of estates which had been notified as vested but the possession of which could not be taken over because of the order of injunction issued by the High Court. It was the intention that in such cases the payment made to the intermediaries continuing possession of the estates should be taken as a valid discharge so far as the tenants are concerned.

287. Clause (d) of section 5 provided that all dues payable to the State Government by the intermediaries on the date of vesting whether payable in respect of the estates or not could be recoverable from him as arrears of land revenue and could be recovered also from the compensation payable to the intermediary in respect of the estate. This was amended to limit the scope of such recovery to dues payable in respect of the estate only and an explanation was added to clarify that where the date of vesting falls within the period to which the land revenue or cess payable for the estate relates the amount of revenue and cess recoverable shall be in the same proportion as the period up to the date of vesting bears to the whole period.

288. Clause (h) of section 5 provides that where by operation of this Act the right to the possession of any estate or any part thereof vested in the State Government, the Collector may by written order served in the prescribed manner, require any person in possession of such estate or any part thereof to give up possession of the same by a date specified in the order. This clause further authorises the Collector to take or cause to be taken such steps as in his opinion may be necessary for securing compliance with the said order or preventing any breach of the peace. In 1953, certain cases arose where these provisions had to be utilised for securing the delivery of possession of certain properties situated in vested estates in the districts of Cuttack and Balasore. Taking over charge of vested estates or properties that vest in the State Government does in case of small estates take quite sometime after the issue of the vesting notification. It was felt necessary to provide against the possibility of any damage, destruction or deterioration in value of such estates or part thereof as a result of continued possession of the intermediary after the date of vesting. A provision to this effect was made and it was specified therein that the Collector will have power to assess the value of the damage after giving the parties concerned an opportunity to be heard in the matter and such damages can be recovered as arrear of land revenue.

289. Clause (i) of section 5 provides that where the Collector is satisfied that a lease or settlement in any estate or transfer of any kind of building used primarily as office or cutchery or rest houses for estate servants on duty or as golas for storing rent in kind was made or created after the 1st January 1946 with the object of defeating any of the provisions of the Act or obtaining

higher compensation thereunder, he shall have power to make enquiries in respect of such settlement, lease or transfer and may, after giving reasonable notice to the parties concerned to appear and be heard set it aside, dispossess the person claiming under it and take possession of such property. If the Collector decides not to set aside any such settlement, lease or transfer he shall refer the case to the Board of Revenue for its confirmation and the orders of the Board passed in this regard shall be final. This casts a very great responsibility on the Collector who has to take action as and when cases of this type come to his notice. A question arose as to how to calculate the period of limitation in respect of rent payable after the date of vesting where the lease is ultimately found to be not attracting its provisions for cancellation. A proviso was added to this clause to clarify that the period of limitation for realisation of rent, etc., in such cases will be three years from the date of the order unless a longer period of limitation is applicable in respect of such dues under any other law for the time being in force.

290. Clause (a) of section 5 provides that the estate including all sairats like fisheries, ferries, etc., will vest in the State free from all encumbrances from the date of the vesting notification. The Parikud tenure and the Jagir Mahals situated in the Chilka lake in Puri district presented some difficulty in the matter of the fishery rights in the Chilka lake. The fisheries are very valuable properties, and just before the vesting, the intermediaries had leased out most of the fisheries for three to four years in advance. Soon after the vesting of the estates in 1953 the Collector served a notice under clause (h) of section 5 calling upon the lessees to give up possession of the fisheries on the ground that they had vested in the state free from all encumbrances by operation of clause (a). In order not to cause much hardship to the lessees who had actually paid the lease money in advance to the zamindars and yet to assert the rights of Government over the fisheries, a fresh agreement was made with some of the lessees, 20 per cent of the lease-money taken by the intermediaries was collected from them and they were allowed to continue the lease for a period of two years only. Government had to sustain this financial loss in the larger interest of the community and the lessees. But some of the lessees did not agree to these conditions and filed Writ petitions in the High Court questioning the legality of the notice directing them to give up all the fisheries. The judgment of the High Court was to the effect that the State Government had no authority for interfering with the rights of petitioners for the unexpired portion of the lease granted by the outgoing intermediaries. The matter went up to the Supreme Court in appeal and it was decided in favour of Government in 1955. In order, however, to clarify the position and place it free from all doubts relating to sairats, a clause, namely clause (k) was added to section 5 which provided that sairat rights like contracts for gathering of produce from land or for collection of produce or fish from forests or fisheries or collection of fees or tolls from hats, bazars, ferries, etc. leased out by the intermediary before vesting will become void after vesting. In respect of sairat leases in estates already vested in the State a proviso was added to the effect that where a lessee has enjoyed the right under a sairat lease during any period after the vesting but before the commencement of the Act introducing this amendment, the Collector may order a deduction from the total amount of compensation payable to the intermediary, of an amount which bears the same proportion to the value of the total benefits covered by the lease of the intermediary as the aforesaid period bears to the total period of such lease and the amount to be so deducted shall be determined by the Collector after conducting an enquiry in the prescribed manner. A second proviso was also added to this clause that no suit or other legal proceed-

ings shall lie or shall be proceeded with against the State for any damage caused or likely to be caused in relation to any such lease in respect of the period aforesaid by virtue of anything done or purporting to have been done in pursuance of the provisions of the Act.

291. Section 6 of the Act provided for settlement of homesteads (with buildings or structures standing on them other than any buildings used primarily as offices or kutcheries or rest houses for estate servants on duty and used as golas for storing grains) factories or mills for the purpose of trade manufacture or commerce and buildings used for storing grains or keeping cattle or implements for the purposes of agriculture (if constructed or established before the 1st January 1946) shall be settled with the intermediary as a tenant under the State Government subject to the payment of such fair and equitable ground rent as may be determined by the Collector. In such areas where no ground rent is charged for homestead lands no rent will be payable for the homesteads so settled. Buildings used as factories or mills or for storing grains or keeping cattle and agricultural implements constructed or established after the 1st January 1946 can also be retained by the intermediary on the same terms, provided the Collector is satisfied after an enquiry that the construction of these buildings were for *bona fide* purposes and there was no intention to defeat the provision of section 5 of the Act. Under section 7 of the Act all lands used for agricultural or horticultural purposes which were in Khas possession of the intermediary on the date of vesting, lands in possession of a mortgagee, if immediately before the execution of the mortgage bond they were in Khas possession of the intermediary and lands in possession of temporary lessees where the intermediary has less than 33 acres of land situated within the State shall be settled by the State Government with the intermediary or co-sharers as the case may be with right of occupancy in the lands subject to payment of such fair and equitable rent as may be determined by the Collector. Section 8 provided that all tenancy holdings and communal service holdings will continue after vesting without any change in the rights and liabilities as they existed before the date of vesting. In respect of lands granted by an intermediary on favourable terms for personal service the service-tenure-holder shall be discharged from the conditions of such service and the land may be settled with him in such manner and under such terms and conditions as may be prescribed. The procedure for settlement of lands under sections 6, 7 and 8 was not defined in the Act and in the absence of a statutory procedure, different Collectors and Anchal Adhikaris were following different procedures, some of them being defective. In order to bring about uniformity and in order to fix a time-limit for the completion of this item of work, two new sections, namely, sections 8-A and 8-B were inserted. Section 8-A provided that the claim for settlement of land under any of the sections 6, 7 and 8 had to be filed in the prescribed manner before the Collector within three months from the date of vesting and thereafter the Collector was to notify the claim in the official Gazette, inviting objections from all persons interested. It made a saving provision in respect of estates already vested to the effect that the claims, if any should be filed before the collector within three months from the date of passing of this amending Act. It made another provision to the effect that on failure of filing such claims within the stipulated period the right to make any claim in this regard would stand extinguished and the property would vest in the State. But, if the failure was due to the pendency of proceedings in a Court of Law in which the validity of any notification under section 3 or 3-A was in dispute, the State Government might extend the period for filing the claims by an order specially made in this behalf. The section also provided that any person disputing the claim as to the possession or to the extent of such lands and buildings might file an objection before the Collector within

three months from the date of notification of the claim in the Gazette and the Collector was to decide the claim after taking both the claim and these objections into consideration. Section 8-B provides that the period of limitation for recovery of rent in respect of lands forming subject-matter of settlement under sections 6, 7 and 8 of the Act for the period prior to the date of assessment shall be three years from the date of such assessment.

292. Section 9 was amended to provide for an appeal to the Board of Revenue against any order of the Collector under sub-section (4) of section 3, clauses (h), (i) and (k) of section 5, sections 6, 7 and 8 and sub-sections (3) and (4) of section 8-A, if presented within sixty days of the order appealed against. If the order appealed against has been passed by an Officer other than the Collector of a district, then the appeal, if preferred within sixty days of such order shall lie to the Collector. There were many cases in which claims had been allowed by the Collectors before introduction of sections 8-A and 8-B prescribing a definite procedure for preferring such claims. Sub-section (2) of section 9, provided that such cases should be notified in the prescribed manner in the official Gazette and objections received within a period of three months from the date of the said notification would be disposed of after hearing the parties concerned and the order so made would be final.

293. Section 18 provides for the remedy of creditors and maintenance-holders in respect of estates vested in the State. An amendment was introduced to clarify the form in which such claims are to be made.

294. Section 30 of the Act provides for calculation of compensation in respect of mines and minerals and this was amended to clarify the procedure to be followed in this regard.

295. Section 35 provides for correction of *bona fide* mistakes in the Compensation Assessment-Roll after its final publication. A further amendment was effected to provide that within a period of one year and a half from the date of issue of the payment order on the basis of a final Compensation Assessment-Roll *bona fide* mistakes can also be corrected by a Compensation Officer after giving the parties an opportunity of being heard in the matter.

296. Section 38 provides that, if the first instalment of compensation is not paid within a period of one year from the date of vesting the intermediary will be entitled to interim compensation. A proviso was added to the effect that where in the opinion of the Collector the intermediary has defaulted in the submission of records and documents as required of him under the provisions of the Act and that has caused delay in determination of compensation in respect of such estates the Collector may, at his discretion, and subject to the control of the Board of Revenue, refuse, suspend or stop payment of interim compensation. This was necessary to enforce submission of all management papers in time.

297. The aforesaid amendments were calculated to expedite the progress of all follow-up action (including payment of compensation) that was necessary after the issue of a vesting notification.

298. The Act was again amended by the Orissa Act 28 of 1956 when certain other difficulties as analysed below were brought to the notice of Government.

299. The provision of section 8-A was again amended to the effect that in respect of estates vested before the commencement of this Act 28 of 1956, the claims for settlement of land under sections 6, 7 and 8 would be filed within a period of three months from the date of commencement of the Act.

300. A new section, namely, section 19-A was inserted to provide that where a claim has been filed under section 18 of the Act the Claims Officer shall intimate the details of the claim to the Compensation Officer and on receipt of this intimation, if the claim is one for maintenance, the Compensation Officer shall intimate the Claims Officer the amount of net income computed by him for the purpose of paying compensation for the estate.

301. Section 20 was amended to provide that the Claims Officer shall determine the claims of each maintenance-holder in an estate having regard to the proportion that the net monetary allowance that was being received by the maintenance-holder bears to the net income of the estate computed under section 27.

302. Section 20-A was inserted for providing that the Claims Officer after determining the claim shall communicate his award to the Compensation Officer.

303. A specific provision was made in section 28 in respect of the estates succession to which is governed by the law of primogeniture providing that, if any person is in receipt of a monetary allowance in lieu of maintenance from such an estate, and such an allowance is a charge on the estate, then the amount of compensation payable to such person on account of such maintenance allowance shall bear the same ratio to the compensation payable to the intermediary as his claim as determined by the Claims Officer bears to the net income of the intermediary and such payment shall be deducted from the compensation payable to such intermediary.

304. Section 37 was amended and provision was made in it that the amount of compensation payable to a creditor or a maintenance-holder shall carry interest at the rate of $2\frac{1}{2}$ per cent per annum from the date of determination of the claim by the Claims Officer and shall be payable on and from the date of vesting in thirty annual equated instalments. An enabling provision was also made that as in the case of intermediaries, full payment of compensation can also be made to creditors and maintenance-holders at any time before completion of thirty years.

305. In 1954, Government decided to appoint a whole-time Financial Adviser to be in charge of all financial matters relating to administration of Anchals and assessment and payment of compensation. Accordingly, a Financial Adviser with a group of Auditors was appointed under the Board of Revenue. The strength of Auditors was augmented from time to time, and an Assistant Financial Adviser was also appointed to help the Financial Adviser.

306. In 1956, Government decided that a whole-time Director of Land Reforms should be appointed to control the day-to-day administration of the vested estates, to plan out vesting of unvested estates and to take preliminary action in respect of measures to be adopted for comprehensive land reforms like fixation of ceiling on land holdings, consolidation of holdings, etc. A Directorate of Land Reforms was then organised as a part of the Board of Revenue and the Financial Adviser and his staff were attached to this Directorate. It was expected that with this reorganisation in the administrative set-up, and with the amendments already carried out for clarifying and simplifying many of the provisions of the Act, most of the difficulties in regard to

administration of vested estates and taking follow-up action after vesting would disappear.

307. The implementation of the Act as amended up to the end of 1956 was carefully watched and two points of difficulty were noticed. The first related to the claims for settlement of lands under sections 6, 7 and 8 of the Act. Even though a simple procedure was prescribed and a penal provision against intermediaries was made in the amending Act to the effect that failure to file a claim in time will mean extinction of all claims for settlement under these sections, (resulting in loss of landed property) most of the intermediaries did not file any claim petition in time. There were many practical difficulties like non-availability of printed forms prescribed for filing claims, the ignorance of many of the small intermediaries about these amended provisions of the law and their lack of interest in the matter on the presumption that whether they filed a claim or not nobody would take the properties out of their possession. For want of up to date land records and for lack of vigilance on the part of the field staff, it was not possible to enforce the ultimate provision of the law in such matters, namely, to issue notices under clause (h) of section 5 on the intermediaries and take possession of the landed property thereby bringing a sense of seriousness. In short, therefore, there was lack of seriousness on both sides in these cases. But even in case of claims which were filed, final decisions could not be taken as the law had provided that the claims would be published in the Official Gazette and it was time-taking to publish all these voluminous claims in the Gazette. As time passed, people got acquainted with the penal provisions of the law and both the administration and the people became serious for prompt disposal of these cases. It was considered expedient to grant some more time for filing the claims, and to amend the provision regarding publication of claims in the Gazette that was causing much delay. The Act was, therefore, amended again by Orissa Act 23 of 1957 which substituted the publication of claims in the Gazette by a notice thereof by beat of drum in the appropriate locality and by placards posted at such conspicuous places as the Collector may deem fit for inviting objections from persons interested.

308. Powers for disposing of cases under sections 6, 7 and 8 of the Act had been delegated to Anchal Adhikaris so as to ensure their prompt disposal. Even though they finalised quite a number of cases, many of them remained pending in appeal before District Collectors. And Collectors were unable to devote any time for the disposal of these appeals. The power of hearing appeals was, therefore, given to Deputy Collectors working as Additional District Magistrates by an amendment effected by the Act 23 of 1957.

309. The original Act provided that the vested estates would be managed by Anchal Sasans consisting of the Anchal Sabha and the Anchal Adhikari. An enabling provision was also made that until an Act defining the constitution, powers, functions, etc., of the Anchal Sabha was passed by the legislature, the Anchal Adhikari would function as the Anchal Sasan. In view of this enabling provision, Anchal Adhikaris were managing these vested estates subject to the control of the Collector and the Board of Revenue. During the first few years of vesting of estates the Anchal Adhikaris were not able to satisfy either the tenants or the intermediaries presumably because the element of personal rule of intermediaries to which tenants were used was suddenly removed and the impersonal administration and the rule of law that came in its place was not always capable of producing quick and convenient results for all concerned. With the loss of properties, the intermediaries were in

such a frame of mind that no system howsoever perfect it might have been could have satisfied them immediately after the vesting of their estates. It, however, does not mean that the Anchal administration was perfect. There were difficulties and defects in the system. Whatever might have been the cause, the fact remains that there was a lot of dissatisfaction among the people in spite of the fact that a large number of concessions (like drastic reduction in the produce rent, grant of scholarships to poor and needy students, grant of contribution for local festivals like Durga Puja, execution of "works of benefit" like wells, market sheds, roads, embankments, etc., taking over the management of temples in Koraput, Sukinda and Dompura from the proprietores who expressed their unwillingness to continue to have the liability, etc.) were granted in these vested estates. Government, therefore, felt that before the dissatisfaction would take any definite agitational shape, it would be desirable to bring about a change in the administrative set-up. In the meantime, the Orissa Anchal Sasan Act, 1955 had been passed into law and this Act clearly defined the powers, duties and functions of the Anchal Sasan, the Anchal Sabha and the Anchal Adhikari and envisaged that not only the land revenue administration but also the local development administration should be given over to the Anchal Sasan. But it was felt that before the revenue administration of these areas (which naturally forms the bed-rock on which all other aspects of administration rests) was stabilised and based on a strong tradition, it would be undesirable to hand it over to the Anchal Sasan having no previous experience in the matter of revenue administration. Government, therefore, decided not to enforce the provisions of the Anchal Sasan Act and further decided to organise the administration of these vested estates on the line of Khasmahals and stabilise it. Section 14 of the Act was accordingly amended and sections 15, 16 and 17 were omitted as a consequential change.

310. The provision in the Act regarding payment of compensation for religious and charitable institutions of public nature was that they would be entitled to perpetual annuity equivalent to the net income of their estates whereas in case of an ordinary estate the maximum amount of compensation payable was only fifteen times of the net income. This provision in respect of estates belonging to charitable and religious institutions of public nature, therefore, placed a heavier financial commitment on the State in consideration of the fact that unless the income was insured to them for all time to come, the institutions might have to close down which would be undesirable. One pertinent question in this connection is, therefore, to decide as to which of the religious or charitable institutions are of public nature. There were many clear cases like the Shri Jaganath Temple at Puri. But there were a large number of cases not free from doubt and in view of the heavier commitment which the grant of perpetual annuity places on the Government, the Compensation officers at times found it very difficult to give a finding in doubtful cases and consequently no compensation either interim or final could be paid to them. And for want of compensation many institutions had to suffer during this period. This created rather an adverse feeling against Government. In order to expedite the disposal of such cases, the amending Act 23 of 1957 provided that in respect of estates relating to Hindu Religious trusts or institutions (most of the cases were of this nature) the Compensation Officer can in cases of doubts refer the matter for the opinion of the Endowment Commissioner appointed under the provisions of the Orissa Hindu Religious Endowments Act, 1951 and his recom-

recommendations to be made after a summary enquiry in the prescribed manner shall be taken into consideration by the Compensation Officer before he finalises his opinion.

311. Mention has been made of the power of the Compensation Officer to correct *bona fide* mistakes within a period of one year and a half from the date of issue of the Compensation Payment Order. With the decision of the Government to make full payment of compensation in one instalment to small intermediaries cases might arise where such correction would reveal over payment. In order to provide for the recovery of the amount paid in excess, sub-section (1) of section 35 was amended to authorise the recovery of such excess payment as arrear of land revenue without prejudice to any other mode of recovery.

312. By this time many of the compensation cases had been finalised and made ready for payment. But persons entitled to such payment were not turning up to receive them. Under the provisions of the Act interest would run on the compensation for this default on the part of the intermediaries. A proviso was, therefore, added to sub-section (3) of section 37 that where an intermediary does not turn up to receive payment of compensation within the prescribed time (the time prescribed was one month from the date of issue of the Compensation Payment Order) the amount of compensation shall be deposited as revenue deposit and no interest will accrue on it thereafter.

313. Section 38 was amended by adding a new sub-section (3) to the effect that after the date of vesting and before the date of assessment of perpetual annuity in case of religious and charitable institutions of public nature payment of interim compensation may be made to the extent of 75 per cent of the approximate amount of perpetual annuity.

314. The necessity of again amending the Act was felt in the same year and a Bill was introduced in the Legislative Assembly in December 1957 for the purpose. This Bill was ultimately passed as Orissa Act 3 of 1958.

315. The time-limit for filing claims for lands under sections 6, 7 and 8 of the Act was again extended in respect of all estates that had vested prior to the date of the amending Act (5th March 1958) upto a period of six months from the date of passing of the Act. A proviso was added to the effect that this period can be further extended up to a maximum period of one year by the Government for sufficient cause in any particular case or class of cases. Subsequently Government found it necessary to exercise this power to the maximum extent in favour of all intermediaries.

316. Section 18 was amended to provide that where the claim of a creditor is in respect of more than one estate situated within the jurisdiction of different Claims Officers, he will notify his claim to anyone of such officers. It also made a provision in respect of claims of this nature already filed before different Claims Officers to the effect that the creditor will have the option to select one of the Claims Officers to whose file all these claims will be transferred. This provision was found necessary because the old provision was causing avoidable hardship to the claimants in pursuing the same claim before different Claims Officers simultaneously. A consequential provision in section 21 was made to the effect that in such cases the Claims Officer has to apportion the claimed amount in respect of each estate in proportion to the net income thereof.

317. The original section 22 provided that for hearing appeals against the orders of the Claims Officer, a Board of one Member was to be constituted. The member would be a Judge of the High Court, if the appeal preferred would involve a claim exceeding Rs. 10,000 and a District Judge in other cases. It was considered expedient to give this power to the existing Courts so as to ensure quick disposal. Section 22 was accordingly amended providing appeals to the High Court and the concerned Districts Judge. The original section 32 provided that an appeal against the order of the Compensation Officer would lie to a Judge of the High Court to be appointed by the State Government for the purpose. This was likewise amended to provide that the order of a Compensation Officer shall be appealable to the High Court. Saving provisions in respect of pending appeals were also made.

318. A proviso was added to sub-section (1) of section 35 laying down that a Compensation Assessment Roll can also be corrected in consequence on the finalisation of the claims for settlement of lands under sections 6, 7 and 8. This amendment was intended to cover cases of compensation that had been finalised in consideration of the fact that claims had not been filed by the due dates. This was clearly consequential to the fact that time for filing the claim was extended.

319. There were some other amendments purely consequential in nature.

320. On 13th April 1959 all sub-proprietary interests excluding Tanki Bahels in the districts of Cuttack, Puri and Balasore that had not been vested till then by individual notifications were notified for vesting under section 3-A of the Act. On 1st June 1959 the Thekadari interests of Nawapara subdivision in the district of Kalahandi were similarly vested in the State. On 1st April 1960 the interests of Gountias, Malguzars and Maufidars in Khalsa villages and those of Thekadars and Maufidars in the ex-zamindari villages of Sadar and Bargarh subdivisions of Sambalpur district were similarly notified as vested in the State. On 13th April 1961 all Tanki Bahel estates were vested in the State by issue of a similar notification. The vesting of these small estates created a difficult problem particularly in the districts of Cuttack, Puri and Balasore as the intermediaries thereof did not have any management papers and the records had to be built up practically from nothing. There was, however, no such difficulty in the districts of Sambalpur and Kalahandi in the wake of the abolition of Malguzars, Thekadars, Maufidars and Gountias.

321. The Judgement of the High Court in November 1956 passed in Original jurisdiction case No. 112 of 1954 was to the effect that a minor Darmilla Inam is not a separate estate but is a part of the estate out of which it was created and it, therefore, vests along with it (the estate out of which it was created). In other words, when a notification is issued vesting an estate, the effect of the notification is to vest not only that estate but all the minor Darmilla Inams created therefrom after the permanent settlement. It naturally follows that individual notifications vesting such Inams are not necessary once the vesting of the estate out of which they were created is notified. A logical corollary of this is that a Darmilla Inamdar is not entitled to compensation as an independent estate but as a part of the estate out of which it was created and the compensation to be paid to the Inamdars will bear the same proportion to the total compensation as his net income would bear to that of the estate out of which it was created. Now, the law lays down a graduated scale for calculation of compensation on the basis of the net income. It is fifteen times of the first

five hundred rupees of net income, thirteen times of the next Rs. 3,500 of such income, ten times of the next Rs. 3,500, seven times of the next Rs. 3,000, five times of the next Rs. 15,000, four times of the next Rs. 15,000, and three times of the balance. Thus, the bigger an estate is, the compensation becomes proportionately less. Most of the Darmilla Inams were created out of big zamindaries, a fair portion of whose net income was likely to be in the last slab of the net income, and this means that the Inamdars (who were men of very small means) would also be subjected to this small amount of compensation. There was naturally a clamour from these Inamdars that their social or economic circumstances could not stand the loss of their Inams for such a meagre amount of compensation. In November 1960, therefore, a Bill was introduced in the Legislature to clarify the intention to accommodate the Darmilla Inamdars and pay them compensation as if they were separate estates. A new section, namely section 8-C was also added by this amending Act in order to provide for filing of claims for settlement of lands under sections 6 and 7 of the Act, laying down that a minor Darmilla Inam would be treated as a separate estate for this purpose and further providing that the claim for settlement of lands under sections 6 and 7 in respect of such Inams shall be filed within a period of three months from the date of passing of the Act (Act 2 of 1961), namely, 20th January 1961.

322. Opportunity was also taken to effect some other amendments also by this Act. Clause (b) of section 5 was thus amended to provide that payment of rent, cess, etc., relating to the period after vesting if realised by the intermediary can be recovered from his compensation and sub-section (1) of section 37 making a provision for recovery of dues under clauses (d) and (k) of section 5 was consequentially amended to provide for this recovery.

323. The difficulty relating to payment of perpetual annuity for estates held by religious and charitable institutions was that in a number of cases the annuity was even less than a rupee and the elaborate procedure prescribed for payment of compensation could not be worth undertaking every year to take payment of a paltry amount. Section 28 of the original Act was, therefore, amended by this amending Act to provide that if the perpetual annuity is not more than Rs. 5, it shall not be paid on annual basis but shall be paid at an interval of every five years at the rate of five times of such amount.

324. A proviso was added to sub-section (1) of section 37 of the Act to provide that where compensation is payable in shape of perpetual annuity, the deductions under anyone or more of the clauses (b), (d) or (k) of section 5 shall not together exceed 25 per cent of such annuity. This was considered necessary as in many cases such deductions were coming to more than the annuity for a number of years and it was certainly impossible for the interval to manage without any payment for years together.

325. Certain working difficulties again came to light and it was considered necessary to further amend the Act in certain respects. The Act was accordingly amended by Orissa Act 16 of 1962 providing that delegation of the power of the Collector under the Act need not be restricted up to a Sub-Deputy Collector and therefore the restriction was removed. This was intended to help in expediting the disposal of pending cases under sections 6, 7, and 8 by entrusting their disposal to non-gazetted Assistant Settlement Officers.

326. There was another important point which was causing hardship to the zamindars especially to the zamindars of Ganjam and Koraput. Many of them defaulted in the payment of land revenue and cess for a number of years immediately preceding the vesting of their estates. Under clause (b) of section 5, these arrears could be adjusted from the compensation payable to them. Now, the question was about the date of adjustment. The Collectors interpreted the provision of the Act to mean that only when compensation was assessed and a Compensation Payment Order was ready for issue, the necessary adjustment would be made and till then the arrears would earn interest at the rate of 12 per cent prescribed under the relevant Acts. As in most cases, final assessment of compensation was time taking the interest that was accruing on the arrears after the date of vesting was quite appreciable. As against this, the intermediary was entitled to only $2\frac{1}{2}$ per cent of interest on his compensation from the date of vesting. It was argued on behalf of the intermediaries that compensation being payable from the date of vesting, any adjustment from the compensation towards arrears of revenue and cess should be considered to have been made on the date of vesting itself. Government accepted this to be a reasonable grievance of intermediaries. Clause (d) of section 5 of the Act was, therefore amended by Orissa Act 16 of 1962 to carry out this intention.

327. In clause (h) of sub-section (1) of section 27, the Act provided that any amount which the Compensation Officer might consider suitable can be deducted from gross income on account of damage or destruction or deterioration in value of forest or other properties brought about after 1st January 1946. This was clarified by an amendment to the effect that the amount should be more or less equivalent to the approximate loss caused to the annual gross income of the estate by such damage, etc.

328. The amendment of 1956 provided that in case of doubt about the public nature of any religious or charitable institution, the Compensation Officer has to refer the matter to the Endowment Commissioner and in arriving at a decision, he has to take the opinion of the Endowment Commissioner into consideration. The provision was made more specific by further amending it to the effect that the Compensation Officer shall decide the matter in accordance with the opinion of the Endowment Commissioner unless it is contested by parties in which case he may hold an enquiry and may thereafter take a decision in the matter.

329. Section 31 of the Act provided that where there are share holders, the Compensation Officer while preparing the draft Assessment Roll would apportion the compensation among them. In practice this was found to be very difficult proposition as all the share-holders, particularly of the small estates were not coming before the Compensation Officer for supplying the necessary information and even when they came, the informations furnished by them were not very much helpful in the matter. Obviously, they did not exactly know the extent of their share and it was difficult under these circumstances to retain the statutory provision under which a Compensation Officer was obliged to hold up the publication of the draft Assessment Roll until he was able to make an apportionment among the share-holders. The Act was, therefore, amended to provide that if it is not reasonably practicable for the Compensation Officer to do so due to default on the part of all or any of the share-holders the apportionment need not be made by him.

330. The provision relating to appeals against orders of Compensation Officers in section 32 was that the appeal would lie to the High Court. Litigation in the High Court being costlier than in a local Court, there was

a clamour from the general public that an appeal against the order of a Compensation Officer should lie to the Collector. Government accepted this contention and an amendment of section 32 was made to that effect. Provision was also made in the amending Act for transferring all the pending appeals to the file of the Collector. A new section, namely, 32-A was added to provide for a second appeal in these cases to the Board of Revenue. Another section, namely, section 32-B was added to provide for a revision of the order of the Board of Revenue by the High Court only on a point of law. While ensuring that any mistake committed at the level of the Compensation Officer could be rectified by the Collector, the jurisdiction of the Board of Revenue and the High Court was not withdrawn and anybody feeling aggrieved by an appellate order of the Collector can move the Board of Revenue in second appeal or apply for a revision by the High Court. Necessary consequential amendments have also been made.

331. A committee known as the Estates Abolition Advisory Committee was appointed in September 1957 to advise Government "in the matter of expediting the payment of compensation to the ex-intermediaries and overcoming the difficulties that may arise in implementation of the provision of the Orissa Estates Abolition Act, 1951". The Committee was also given the responsibility of advising Government from time to time with regard to amendment of the Act and the rules thereunder as well as the procedure for payment of compensation and to suggest "such other steps to be taken by Government as may be deemed necessary by the Committee for the proper implementation of the provisions of the Act". In addition to the member, Board of Revenue, who was appointed as the Chairman of the Committee there were two official members and three non-official members, the Director of Land Reforms functioning as its Secretary. There was a change in the Constitution of the Committee in 1960 when the post of the Director of Land Reforms was abolished and a Land Reforms Commissioner and a Deputy Land Reforms Commissioner were appointed. Both of them were appointed as members of the Committee, the Deputy Land Reforms Commissioner functioning as its Secretary. The Committee holds meeting from time to time and its proceedings have been helpful to Government for formulating policy regarding the administration of the Act and particularly in respect of amending the various provisions of the Act, rules and executive instructions for quick and expeditious disposal of business.

332. A large number of amendments effecting drastic changes in the Act, rules and executive instructions have been made by now. All these amendments have been made with a view to make the administration of the Act easy and convenient for all concerned and to ensure expeditious and effective disposal of business. In the paragraphs below an indication as to how far this objective has been achieved is given in some detail.

333. To start with the issue of vesting notifications. So far as the zamindari estates and others paying land revenue direct to Government were concerned it was the duty of the Government to maintain the records of ownership and possession up to date. But the records, particularly of these small estates like the revenue-free estates of northern districts were hopelessly out of date because the proprietors had lost interest in getting the records corrected up to date when after 1946 it was more or less clear that the zamindari system was going to be abolished. Therefore, whereas it was possible to collect particulars without difficulty in respect of big estates, small estates paying

revenue direct to Government presented very great difficulty. Added to this difficulty was the fact that a large number of co-sharers owned each of these estates. It was quite an uphill task for the Collectors to collect the particulars about them. Survey, record-of-rights and settlement operations were either going on or had just been concluded in respect of most of the Inam estates in Ganjam and Koraput districts. It was fairly easy for the Collectors of these districts to collect tolerably up to date particulars from the settlement records for issue of vesting notifications. But so far as the revenue-free estates of northern districts particularly the districts of Cuttack, Puri and Balasore were concerned it was not possible to collect the particulars without entertaining huge staff for the purpose and therefore the estates have not yet been vested. The intermediary interests that subsisted under both the revenue-paying and revenue-free estates presented a much bigger problem. With the abolition of mutation and partition fees which the zamindars were collecting in the northern districts they completely neglected the maintenance of their records and it is in these districts that a large number of subordinate intermediary interests subsisted. With the abolition of zamindari estates, the Anchal Adhikaris tried to build up some record and on the basis of these records certain vesting notifications were issued. But after the issue of these notifications, it was found that the particulars mentioned in the notifications on the basis of the Anchal records were incorrect in many cases. It was feared that mention of incorrect particulars might lead to serious legal difficulties. The process of vesting these small subordinate tenures had therefore to be slowed down considerably and only where particulars could be available, notifications vesting these subordinate interests could be issued. Therefore the Act was amended and sections 3-A, 3-B and 3-C were inserted making two important additions, namely, that—

- (a) the Government may issue a general notification of vesting without mentioning the name of any intermediary or describing any estate, but only describing the class to which the estates belong ; and
- (b) even if a particular notification under section 3 is issued mentioning only certain names and omitting certain others owning the property mentioned in the notification, yet all persons having interest in the property will have their rights vested in the State by operation of the said notification.

It was considered that under the circumstances prevailing the best method would be to take advantage of these provisions of the Act, namely, to issue general notifications describing only the class of estates intended to be vested. Accordingly, on the 13th April, 1959, a notification was issued abolishing all subsiding sub-proprietary interests in the districts of Cuttack, Puri and Balasore. Similar action was taken in respect of Thekadari rights in the Nawapara subdivision of Kalahandi district and Malguzari, Gounti, Thekadar and Maufi rights in Sambalpur district and Tankibahel interests in Puri district. It has, however, been felt that even though the issue of such a general notification may be sufficient from a strictly legal point of view, yet for guidance of officers and particularly for locating the properties vested by operation of such a notification and for taking possession thereof it is but necessary to compile a list of the estates with other relevant particulars like names of the intermediaries, their address, etc., as far as such particulars can be ascertained from the existing records so that the list will serve at least as a rough guide for the

field officers. Special staff have, therefore, been sanctioned by Government for compiling these particulars in respect of the very large number of small interests still subsisting in the districts of Puri, Balasore and Cuttack. The compilation of such a list is naturally time-taking.

334. Arising out of the difficulty that has delayed the issue of vesting notifications is the problem of taking possession of vested estates. To locate a large body of co-sharers with small and sometimes conflicting interests covering scattered bits of land in different villages in the absence of an up-to-date and correct record of ownership and possession can better be imagined than described. The last settlement operation in all the districts excepting Ganjam and Koraput were carried on between 1922—1932 and in some cases even earlier. With so much change in the agrarian and social life of the country that has occurred thereafter it is futile to expect that the records prepared in these settlements would be of any help in the matter. In 1955-56, the Board of Revenue, therefore, directed that the records of last settlement should be utilised for building up an up-to-date record by undertaking local enquiry. Being a huge and difficult task, it was not possible for the field officers to do anything substantial in this regard. This fact explains to a great extent as to why the unsatisfactory position in the matter of records has been continuing for the last few years. In these circumstances, it is not possible to say if all the tenants and other persons holding interest in land have been brought on to the record and if the total revenue demand in these vested estates has been booked.

335. The difficulty was more pronounced in case of *sairats* like fisheries ferries, *char* lands, etc. The nature and extent of these properties do not generally find mention in the settlement records because of their liability to change from time to time. In the absence of a complete record of the existence, extent and the value of these properties, it is difficult to say if all of them have actually been brought under administration.

336. The next is about the provision of clause (b) of section 5 regarding apportionment of rent, revenue and cess payable in respect of an estate which vests in the middle of a year. Preparation of correct apportionment statements naturally depends on an up-to-date and complete record in the absence of which its preparation was very much delayed and the liability of zamindars in the matter of payment of revenue, cess and rent for the year of vesting remained unsettled for a number of years. Even when apportionment statements fixing the liability of zamindars were prepared, many of them were challenged as incorrect. As a corollary to this, payment of compensation is held up in many cases.

337. Then about recovery of arrears of land revenue, cess and other dues payable to Government in respect of vested estates. Clause (d) of section 5 authorises that without prejudice to any other mode of recovery, the dues can be recovered by adjustment from the compensation. So far as zamindari and other estates paying revenue and cess direct to Government in the pre-vesting days are concerned, there has been no difficulty as a complete record of the dues of these estates is available. The real difficulty is in respect of subordinate interests under these estates. There being no up-to-date and correct record regarding the demand and collection in respect of these sub-

ordinate interests, it has been difficult and even impossible in many cases to calculate the exact amounts for adjustment against compensation—the easiest mode of recovery. Naturally references by Compensation Officers in this regard have not been cleared up by Anchal Adhikaris and Tahasildars and in many cases for want of information, compensation cases have remained pending. Special efforts have generally been found necessary for finalising such cases.

338. Enforcement of the provisions of clause (i) of section 5 has, in the past, led to a lot of confusion and created hardship and difficulty for the tenants. In the beginning, its provisions were interpreted to mean that any lease granted or settlement made after the 1st January 1946, was liable to cancellation and accordingly all such cases were taken up for scrutiny and a large number of cases were instituted particularly in the district of Puri for the cancellation of these leases and settlements and the lessees concerned were called upon to produce documents of title and possession. Almost all these were agricultural leases of small areas granted by the zamindars in ordinary course of estate management for which the lessees had ordinarily paid salami, and usually no document of title had been prepared at that time (the usual practice has always been to grant an agricultural lease only by putting the lessee in possession and subsequently accepting rent from him). Thus, the lessees who had paid good money to secure good title were suddenly confronted with an unexpected situation. This not only caused serious dissatisfaction among the lessors, but resulted in temporary loss to Government as the rent of the lands involved in these cases was not collected. Disposal of these cases was not prompt and this was mainly due to want of complete and up-to-date records. This situation seriously affected the marketability of the lands covered by such cases. The result was more and more dissatisfaction among tenants. It was, therefore, suggested by a non-official member of the Estates Abolition Advisory Committee that a time-limit should be specified after which the Collector should have no jurisdiction to book a case of this type. Though in principle this was not acceptable, the Board of Revenue took note of the circumstances leading to such a suggestion and issued detailed instructions in 1959 for the guidance of field officers in the matter of booking cases of this type and emphasised that sufficient scrutiny should be effected and only where such scrutiny indicates to the satisfaction of the subdivisional officer, a *prima facie* case of fraud covered by the lease it can be formally booked as a case under this clause. In a number of cases that came up before the Board of Revenue for confirmation or in appeal, the true view of the law on the subject was indicated and it was only thereafter that the position has improved.

339. If the implementation of the law contained in clause (i) of section 5 has created hardship in a number of genuine cases, yet it has unearthed a large number of cases of fraud. Anticipating the abolition of zamindari, many zamindars had leased out even the last available inch of waste land by taking high premium in spite of the prohibition contained in Act I of 1948 and in many cases this was causing very great inconvenience to the villagers. This was particularly the situation in the districts of Cuttack, Puri and Balasore where the records being very much out of date it was a very difficult and time-taking job to scrutinise each and every case and in the interest of justice and equity, the delay involved is unavoidable.

340. The difficulty of bringing all sairats on to record after vesting has been mentioned in an earlier paragraph. Even where these could be easily located, their administration was not always smooth. In a Writ petition

filed by certain lessee, it was ruled by the High Court that an advance sairat lease granted by an outgoing intermediary was to be honoured until expiry of the term of the lease. On appeal, this was overruled by the Supreme Court but it was considered expedient to insert a new clause (A) in section 5. Obviously this clause became effective only in so far as sairat leases actually brought on to record. Many sairats continued and are suspected to be still continuing, off the record. Attempts have consistently been made to bring them on to record and properly lease them out.

341. The provisions of the Act as they stood originally did not contain any specific procedure for settlement of Khas lands and homesteads with the intermediaries. Both the sections 6 and 7 provided that such lands "shall be deemed to be settled by the State Government" with the intermediary from the date of vesting. The Collectors as well as intermediaries interpreted this provision to mean that by operation of the law the property stands settled with intermediaries and what was left to be done was just an assessment of fair and equitable rent in respect of agricultural lands and fair and equitable ground rent in respect of homesteads where such homestead was liable to such assessment and it being the duty of the Collector to prepare a record of such lands and then to settle fair and equitable rent, the intermediaries had nothing to bother about it. As the records were generally out of date, this meant local enquiry in each and every case. As more and more estates, particularly estates with a large body of cosharers were vested this item of work became more and more difficult. Similar was the difficulty in respect of lands held for personal service under the intermediaries which under the provisions of sub-section (3) of section 8 are to be settled with the concerned service-holder as a tenant on such terms and conditions as may be decided by the Collector. In some districts, while making the settlement of fair and equitable rent on the basis of information supplied by the field staff, no general notice to the public or individual notice to the intermediaries as to the lands in their possession and the amount of rent proposed to be settled was given and thus the claims of third parties (particularly those of temporary cultivating tenants) and objection of intermediaries could not be considered by the Collector at the time of settlement. Then the more difficult question was that in view of the large number of cases of this type it was next to impossible for the Collector himself to find time for their expeditious disposal. In the districts where the number of estates vested was a few, this did not present any difficulty but this certainly did present difficulty in the districts of Cuttack, Turi, Balasore, Ganjam and Koraput where not only the number of vested estates was large but the number of co-sharers possessing interest in each such estate was at times more than ten. In the district of Cuttack, a Special Additional District Magistrate was appointed to take up these cases. It was, however, felt that in view of the large number of these cases and in view of the simple nature of the question involved in them, the best course would be to delegate the power for their disposal to Anchal Adhikaris particularly because the amending Act had already prescribed a definite procedure for their disposal. Accordingly powers were delegated to all Anchal Adhikaris and they were asked to finalise these cases quickly. But the urgency for settlement of these cases was appreciated neither by the intermediaries nor by the Anchal Adhikaris in the beginning and as in these matters it is the claim petition of the intermediary that is the starting point of action by Anchal Adhikaris, it was but natural that the entire process was very much delayed. In order to accommodate the parties the time for filing claim petitions was extended from time to time but the response was not very encouraging in the beginning though

towards the end claim petitions poured in. Delay in the disposal of these cases created another problem, namely, it became difficult to find out, in the absence of any up-to-date record, as to who was in actual possession of lands on the date of vesting. In order to clarify the problem involved in the disposal of these cases, the Board of Revenue issued detailed instructions in 1959. The delay in disposal of these cases did lock up and has even now locked up quite an appreciable amount of Government revenue. Even where settlement was made, parties asked for time to pay up the accumulated arrears of rent settled and in consideration of the hardship involved in paying of rent for a number of years at a time, this request was accommodated. By now, a large number of these cases has been disposed of.

342. Delay in disposal of these cases did not, however, prevent the transfer of land involved in these cases. Where such transfers had taken place it is the transferees who have come up with claim petitions. In view of the fact that the settlement is to be made retrospectively from the date of vesting (and, therefore it is the transferor who is entitled to this settlement he having been in possession on the date of vesting) the transferees have no *locus standi* in these proceedings. The transferors are no more interested and thus these cases have all remained unsettled. There was yet a large number of cases in which nobody applied for settlement. Under the provisions of the law such land would vest in the State. It was, however, clear that it was not because that the parties did not want the lands on settlement but because of their ignorance and apathy that this situation has arisen. In order to prevent hardship, Government therefore decided that formal possession of these lands should be taken over but the lands should be settled with the very same persons on realisation of three years' fair and equitable rent plus all the back rent as premium. Action is accordingly being taken by the Tahsildars as and when cases of this type are coming to their notice.

343. Clause (b) of sub-section (1) of section 7 provides that lands in possession of temporary lessees can be settled with an intermediary, only if he has less than thirty-three acres of land in the State. There is no doubt that there has been an attempt on the part of some of the intermediaries to suppress temporary lessees and get the lands settled with themselves as lands in their Khas possession. But in most of the cases these temporary lessees have themselves asserted their rights and consequently in many cases such lands have not been settled with the intermediaries. Under the provisions of sub-section (1) of section, 8 the temporary lessees are continuing under the State Government with the same terms and conditions as were applicable to them immediately before vesting. As most of them were liable to pay produce rent to the intermediaries, it became the responsibility of the Tahsildars to keep a record of such tenants and make arrangements for realisation of produce rent. Realisation of produce rent creates difficulty and yet a tenant has the right to pay produce rent, if he so chooses. In order to save the administration from the botheration of realising and storing produce rent as well as to give relief to the tenants, it was decided by Government that the tenants should have the option to pay either produce rent or rent in cash at certain concessional rates for different classes of land. This facility was extended to all person paying produce rent whether or not they were temporary lessees. This was a great relief to the tenants. Almost all of them have chosen to pay rent in cash and this has saved the administration from a lot of botheration relating to realisation, storage and disposal of produce rent.

344. The aforesaid provision of the law relating to temporary lessees was misunderstood by certain Tahsildars in the beginning who treated even encroachers as liable to pay produce rent. The mistake has however, been rectified to a very great extent.

345. Sub-section (1) of section 8 provides for continuance of all pre-vesting tenants with all their rights and obligations of the pre-vesting period. The main difficulty that was faced in this connection was to prepare an up-to-date record of such tenants, particularly in respect of the estates in the districts of Cuttack, Puri, Balasore and Ganjam. The Tahsildars were suitably instructed for taking up the work in the basis of the records of last settlement to be supplemented by local enquiry. But the work was so huge that the results achieved were negligible. As has already been mentioned a correct demand register could not be built up and therefore the Board of Revenue in 1957 suggested to Government that a special establishment should be sanctioned to undertake an intensive mutation operation so as to make the records up-to-date. The establishment was sanctioned under Dhenkanal (now Cuttack) Major Settlement and some work was done in the districts of Cuttack, Puri and Balasore. It was then found that the response of the tenants was not encouraging and unless a field to field enquiry about ownership and possession was made, it would not be possible to prepare any useful record, and such an enquiry to be binding on the Government and the tenant should have statutory support. On the recommendation of the Board in 1959 Government finally decided that the operation should be converted into a revisional survey, record-of-rights and settlement operation so as to achieve the desired result. This work is still going on.

346. The zamindars had lost interest in the proper management of zamindaris a few years before their abolition. This resulted in unauthorised occupation of waste land by many tenants. Such unauthorised occupants had no right whatsoever and could be called upon under clause (h) of section 5 to give up possession. But here again the problem was want of record and therefore most of the encroachers continued without interruption or interference even after vesting. These encroachments could have been proceeded against under the Orissa Prevention of Land Encroachment Act, 1954. But systematic action under that Act was not also possible for want of complete and up-to-date record-of-rights. Moreover it was not possible for the administrative machinery to handle the large number of such cases. In many of the Tehsils, large extents of the land continued under occupation of encroachers and Government were heavily losing on this score. In 1960, a special establishment for booking these unauthorised cases in one of the Tehsils was sanctioned. In 1961, Government decided that all unobjectionable encroachments existing prior to the 13th September 1961, should be settled with the encroachers with raiyati right on realisation of salami.

347. The vested estates were formed into different Anchals and were placed in charge of Anchal Adhikaris. In the beginning there was difficulty in organising the administration of these Anchals. Though most of the employees of the outgoing intermediaries were retained in the service of Anchals it was considered that Anchal Adhikaris and persons holding important posts like Head Clerk, Accountant etc., should be drawn from Government service so as to ensure proper standard and procedure in these Anchals.

348. Accommodation for Anchal Offices presented some difficulty. The offices and Cutcheris taken over from zamindars were not in all cases suitable

for locating the Anchal offices, particularly in the district of Balasore. Funds were sanctioned in 1955 for construction of a number of Anchal buildings. To a great extent, these new buildings solved the accommodation problem. For collection of rent and remaining in charge of the administration at village level, Naib-Tahsildars were appointed. Accommodation for them could generally be found in the office buildings and Cutchery houses taken over from the intermediaries in the mufassils.

349. Towards 1955, a number of Anchals were reorganised and only such staff as were found suitable were retained in service. The scale of pay admissible to similar employees under Government were then made available to them.

350. In 1957 the Act was amended to provide that these Anchals should be managed as Government estates or raiyatwari tracts. This brought about a significant change in the administration from the 15th November 1957. Till then the rules regarding the administration of Government estates were not generally applicable to these Anchals and special rules and instructions of the Board were in force. With the introduction of the Khasmahal pattern of administration the responsibility for administration of these vested estates had to be reoriented and all the departments of Government had to be associated with it. The forests were handed over to the Forest Department, the schools, to the Education Department, the hospitals, to the Health Department and so on. The Anchal Adhikaris redesignated as Tahsildars thereafter remained responsible only for the revenue and general administration.

351. The next question was to reorganise these Tahsils. The problem of reorganisation was complicated but urgent particularly in the districts of Cuttack, Puri and Balasore where portions of single villages even were placed under different Anchal because they related to different estates. In order to ensure effective administration, the jurisdiction of Tahsils had to be in compact blocks containing full villages. From the beginning of the financial year 1959-60, the ex-zamindari tracts of Cuttack, Puri and Balasore were accordingly reorganised. With this reorganisation, some staff were found surplus and they were retrenched whereas the staff who were retained were absorbed as full-fledged Government servants. Consequently therefore the minimum qualification for similar posts in other Government offices have been enforced in all subsequent appointments but such of the existing incumbents as did not have the necessary educational qualification but were found otherwise suitable were retained subject to the condition that they should have to pass a qualifying test to be conducted by the Board of Revenue. Tahsils in the districts of Koraput and Sambalpur were also reorganised in 1960, and reorganisation for other districts has been taken up.

352. A number of claims by creditors and maintenance-holders were filed after the vesting of proprietary estates and estates governed by the law of primogeniture. Quick disposal of these cases was not possible because the parties concerned wanted time to prepare themselves. Consequently not only the claimants and maintenance-holders but the proprietors on whose estates these claims were made could not get their compensation finalised.

353. Calculation of gross assets for compensation presents considerable difficulty. The Act lays down that the gross asset relating to the agricultural year immediately preceding the year of vesting has to be calculated.

The main item for calculation of gross assets is naturally the rent and cess payable by the tenants. The records of the intermediaries themselves not being up-to-date they take considerable time for preparing and filing their asset statements before Compensation Officers. When received these asset statements are checked against the demand registers of Tahsils and as in almost all the cases discrepancies are noticed, these have to be reconciled before this element of gross asset is finally settled. The next element in the calculation of gross assets is the annual rent determined in the prescribed manner of buildings used primarily as office or cutchery etc., which have been taken over by Government. Generally inflated figures on this account are claimed by intermediaries and Compensation Officers require some time to enquire and fix up a fair and reasonable figure for the purpose. The third element in the calculation of gross assets is the sairat income which presents the greatest difficulty. The intermediaries claim very high figures of income from sairat sources whereas the records of Tahsildars generally show that during the post-vesting period these sources are fetching much less income. Detailed investigation has therefore to be made in all these cases for fixing up the income from sairats as will be included as gross assets. The next item is about the income from forests calculated on the basis of appraisal made of annual yield on the date of vesting by a Divisional Forest Officer subject to the approval of the Chief Conservator of Forests. This method of arriving at the gross income of forests is naturally time taking and added to it, any party aggrieved by the calculations made by a Divisional Forest Officer has the right of appeal to the Board of Revenue. There are other minor items for inclusion in the gross assets and they all present some difficulty.

354. Once the gross asset is calculated, section 27 provides certain deductions to be made for arriving at the net income. The first item of deduction is the amount payable as land revenue or rent and cess to the immediate landlord (including Government) in respect of estates. It is easy to find out these items in case of the estates held directly under Government in the pre-vesting days. But where these amounts were payable to a superior landlord, the figures have to be collected from Tahasildars concerned and in the absence of complete and up-to-date records, it becomes difficult for the Tahsildars to promptly comply with the requests of Compensation Officers in this regard. The second item of deduction is Agricultural Income Tax payable in respect of agricultural properties of the estate. The third item is the Income tax payable in respect of non-agricultural properties of the estate. The next element is the deduction of Choukidari tax or Municipal tax or any similar tax payable in respect of the buildings taken over by Government and the last item is the cost of management according to a scale laid down in clause (e) of sub-section (1) of section 27. These items were easy to find out. Deductions for any other tax or local imposition payable in respect of estates but not expressly mentioned in the Act and the value of any services or obligation of any other kind to be rendered or discharged as a condition precedent to the enjoyment of the estate are also required to be made from the gross assets in arriving at the net income. These items were not difficult to find out. The last item was the deduction of a suitable amount on account of damage, destruction or deterioration in value of forests or other property brought about after first day of January 1946 by any act or omission or commission of the intermediary.

355. After computation of the net income by making the aforesaid deductions from the gross assets the Compensation Officer is required to prepare a Compensation Assessment Roll indicating the amount of compensation

payable in respect of the estates (calculated on the basis of net income in a graduated scale as mentioned in paragraph 320) and adding to it the compensation payable in respect of mines and mineral and for improvements made by the intermediaries in respect of waste lands as indicated in the paragraphs below.

356. For the determination of compensation in respect of mines and minerals the gross income and net income of the intermediary from such mines and minerals have to be determined. The gross income is determined by taking the average annual income on account of royalty calculated on the basis of the annual returns filed by the intermediary for the assessment of cess or Income Tax during the period of twelve agricultural years preceding the year of vesting or any shorter period for which such returns have been filed. Salami and premium received for mines are to be excluded in calculating the gross income. The net income from royalties is to be computed by deducting from the gross income so determined the average of the Income Tax paid therefor during the said period and the cost of collection at prescribed rates. In case of mines worked directly by an intermediary the gross income has to be calculated by taking the average of the annual gross income from such mines calculated in the same manner and 5 per cent of such gross income is to be taken as the net income. After computing the net income, the compensation for mines has to be calculated according to the same graduated scale as is applicable for other incomes. The amount of compensation thus arrived at will be offered to the intermediary. If he does not accept the offer then the case has to be referred to a Tribunal consisting of a District Judge assisted by a mining expert to be appointed by the State Government, and the Tribunal after hearing the intermediary and the mining expert has to determine the amount of compensation payable to the intermediary.

357. In respect of estates the net income of which or any portion thereof is dedicated exclusively for charitable or religious purposes of a public nature without any reservation of pecuniary benefit to any individual, the compensation shall be assessed as a perpetual annuity equal to such income. In case of doubts as to the public nature of any Hindu Religious trust or institution, the opinion of the Endowment Commissioner will be sought for by the Compensation Officer and this opinion shall be taken as final unless contested by any party in which case the Compensation Officer will take a decision after hearing the party.

358. Deductions on the basis of awards of the Claims Officer in respect of claims and maintenance charges are to be made from the compensation and the compensation payable to the intermediary is then to be shown in the Compensation Assessment Roll which may, if possible, indicate the compensation payable to each share-holder in the estate. A draft of the Assessment Roll is to be published for not less than thirty days, a copy thereof being sent by registered post with acknowledgement due or by any other process to the satisfaction of the Compensation Officer to each of the persons whose name appears in the Assessment Roll. Objections to any entry in or omission from the Assessment Roll are then to be heard and disposed of by the Compensation Officer. An appeal against the Compensation Officer's decision lies to the Collector and a second appeal lies to the Board of Revenue. The High Court has also revisional jurisdiction in the matter. The Compensation Assessment Roll then becomes final and is formally finally published.

by the Compensation Officer and once finally published, it is final and conclusive evidence of the matter referred to therein subject to determination of any right in respect of claim to the compensation by the Civil Court. The Compensation Officer shall then give a certificate of final publication of Assessment Roll. He has also authority to correct *bona fide* mistakes in the Assessment Roll before payment of compensation is actually made. He can also amend the Compensation Roll within a period of one year and a half, even if a payment has been made and if such correction involves recovery from any party, such recovery can be effected as an arrear of land revenue. Where a correction of this type is made, a draft of the corrected Assessment Roll has to be published for objections and will be finalised only after hearing objections to any entry in or omission from such Roll. The Compensation Officer has then to make the necessary deductions under clauses (b), (d) and (k) of section 5 and request the Collector for payment of the balance. The Collector has then to issue a Compensation Payment Order in favour of the intermediary. The payment of compensation has to be made in thirty equated annual instalments and the procedure for payment is governed by special rules of the Orissa Treasury Code. It is more or less similar to the payment of pension but there are some differences like payment of compensation through Money Order or through the local Tahsildar where the amount payable is less than Rs. 100 and if the payment is not taken within a month from the date on which it is due, then it has to be deposited as revenue deposit so as to avoid the payment of interest on it thereafter. All matters relating to payment and assessment of compensation are supervised by the Financial Adviser attached to the Board of Revenue who is required to certify the calculation and the property thereof before the draft publication of the Assessment Roll.

359. Assessment and payment of compensation is thus a long drawn and complicated process. For a few years in the beginning of the post-vesting period, the progress of assessment of compensation was very slow. The special rules for payment of compensation were framed only in 1956. The work of assessment and payment of compensation gathered momentum only after the appointment of a wholetime Director of Land Reforms.

360. The total amount of compensation estimated as payable to intermediaries for the estates already vested and yet to be vested is Rs. 6.25 crores excluding the interest which is estimated at Rs. 2 crores. The cases of small intermediaries who more or less depended for their livelihood completely on their estates required some special consideration and Government decided as early as 1956 that all intermediaries whose compensation did not exceed Rs. 3,000 should be paid the entire amount in one instalment. Again in November 1956, Government extended this benefit to all the estates, the compensation in respect of which did not exceed Rs. 7,500. This benefit continued till 1958 when Government further ordered that all intermediaries whether their compensation exceeded Rs. 7,500 or not should be paid Rs. 7,500 at the first instance and the balance amount if any should then be paid in annual equated instalments. This concession was further extended by raising the limit of first payment to Rs. 14,000 in November 1960. In October, 1961 this was further raised to Rs. 30,000. This has been raised to Rs. 1 lakh in April, 1962. Thus after the organisation of the establishment for payment of compensation gathered momentum, it has been possible to make payment of compensation to most of the intermediaries and the difficulty of coming

to the Treasury every year and going through all the detailed formalities required for drawing the compensation amount from the Treasury do not now bother most of the intermediaries. That apart, the huge administrative machinery that would have been necessary for about thirty years to come for making payment of compensation has, to a very great extent, been eliminated by this process. This process has made the rehabilitation of small intermediaries possible. Where assessment of compensation has been delayed interim compensation is being regularly paid so that the intermediaries do not face any difficulty in this regard.

361. The amount of compensation and interest paid till now from the beginning is shown below:

Year of payment	Compensation	Interest
	Rs.	Rs.
1955-56	4,14,670	Nil
1956-57	12,48,253	37,287
1957-58	39,78,960	4,51,081
1958-59	65,01,524	9,72,335
1959-60	36,24,731	6,01,987
1960-61	38,33,239	6,83,643
1961-62	62,58,794	6,22,157
Total ..	2,58,60,171	33,68,470

NOTE—The figures for the year 1961-62 are provisional.

362. There are still a large number of intermediary interests for abolition under the Orissa Estates Abolition Act. The issue of a general notification under section 3-A appears to be the only method of notifying their vesting though for taking over the possession of these properties, settling Khas lands and payment of compensation, the names and other particulars of all persons interested have to be collected. With these intermediary interests existing, comprehensive land reforms measures cannot be effectively implemented. The problem is not limited to any particular district and will have to be faced every where. Systematic action has already been taken in this regard and particulars of these intermediary interests as far as they can be ascertained from the existing records are being collected.

363. As has been mentioned earlier, the Muthadars in the Agency tracts were mere service-holders having no property interests in the Muthas in their possession. They and their subordinates like Muthaheads were making many kinds of levies on the tribal population inhabiting the area in addition to

the mamuls they were entitled to. In 1953, Government decided that in the changed set-up, these functionaries had no use and their services should be terminated. Accordingly notices terminating their services and directing them to give back possession of their respective Muthas were issued in March 1954. Excepting the Muthadars of Karada, Ranaba and Kattingia, others took the stand that Government had no right to take away their Muthas by an executive order and that this could be done only by the operation of an Act of the Legislature and on payment of compensation. They filed writ petitions in the High Court and obtained a stay order at the first instance. The High Court finally allowed their petitions and restrained Government from taking possession of the Muthas. Against this order, Government preferred an appeal in the Supreme Court. In 1961, a compromise was arrived at with all Muthadars excepting two (Badagada and Badakhimedi) as a result of which Government made certain *ex gratia* payments to them and they withdrew all their claims and handed over the Muthas to Government.

CHAPTER VII

ABOLITION OF PART-TIME COLLECTION AGENTS 1952—1962

364. Mention has been made of the abolition of part-time collection agents, (namely, Sarbarakars and Thekadars) and introduction of Naib-Tahasildari system in Khurda, Banki and Angul Khasmahals and Patna ex-State. When the pattern of revenue administration was based on the idea of zamindari system, it was but natural that even in Khasmahal and raiyatwari tracts the responsibility of collection of rent was given to part-time collection agents. Such collection agents existed in almost all the ex-States. In the name of "Village Officers" they existed in Ganjam. As the abolition of the zamindari system progressed, and consequently the pattern of and emphasis in revenue administration changed, Government decided in principle to do away with part-time collecting agents and replace them by the Naib-Tahsildari system.

365. Work in this regard was started in 1954 when Government ordered abolition of the mustajari system in the entire district of Koraput excepting in the inaccessible areas of the Bonda hill tracts of the Malkangiri taluk. The collection was taken over by whole-time salaried employees designated as Revenue Inspectors (comparable to Naib-Tahsildars). The service lands of the mustajars and the Chalans (who helped the mustajars in collection of rent) were left in their possession till 1959 when detailed rules for settlement of these lands on raiyati term were framed on the same principle as had been adopted for the abolition of Gounti system in Sonepur and Kalahandi.

366. In December 1955 Government ordered abolition of the Gounti system in the Sonepur subdivision of Bolangir district and Sadar and Dharamgarh subdivisions of Kalahandi district. The same procedure as was followed in the Patna ex-State (abolition by compromise) was followed. The Gountias surrendered their rights and were given raiyati right over Bhogra lands in their possession. Other person in possession of Bhogra lands were also given raiyati right in respect of the lands in their possession. A fraction of the Bhogra land was set apart and earmarked for the benefit of Grama Panchayats

This scheme came into effect from 1st April 1956 and formal proceedings for conversion of Bhogra lands into raiyati in favour of persons in possession were taken up. The proceedings were, however, suspended in October 1956 under Government orders. They were revived in 1959 but have not yet been finalised.

367. In July 1956, orders were issued for abolition of the Gounti system in the districts of Sundargarh, Keonjhar, Dhenkanal and in the ex-State subdivisions of Sambalpur district on the same principles as had been enunciated for Sonepur and Kalahandi. Some preliminary work had been done when the work was suspended in October 1956. The work was revived in the Sundargarh district and in the Rairakhol subdivision of Sambalpur district in 1961. Some of the Gountias in the district of Sundargarh were not agreeable to surrender their rights in exchange of getting Bhogra lands on raiyati terms. Some of them who had already filed surrender petitions subsequently wanted to withdraw them. In the cases where surrender petitions were received and not withdrawn, action is being taken for completing the work relating to conversion of Bhogra lands into raiyati. There has been no difficulty in the Rairakhol subdivision and there the conversion of Bhogra lands into raiyati is going on smoothly. Work in the other areas has not yet been revived.

368. Orders for abolition of the Gounti system on the same principles in Boudh subdivision of Boudh-Khondmals district were issued in 1959. It is relevant to mention here that the Gountias in this subdivision did not have the responsibility for collection of rent excepting in one ex-zamindari area. The rent-collecting Gountias surrendered their rights in exchange of raiyati right over Bhogra lands but the other Gountias did not do so.

369. In order to avoid the difficulty inherent in a process of abolition by compromise and in order to put the operation on a statutory footing, Government have decided to bring up a legislation for abolition of these part-time collecting agents in the remaining ex-States.

370. Recently in a case arising out of the appointment of a Village Officer in Andhra Pradesh under the Madras Hereditary Village Officer Act, 1895, the Supreme Court ruled that the provisions of this Act so far as the hereditary tenure of Village Offices was concerned was *ultra vires*. The hereditary nature of the service thus having gone, the service of the Village Officer is now comparable to that of any public servant. These officers who for all practical purposes, are part-time employees have in the changed set-up of expanding activities of the State, outlived their utility. Government have decided to abolish these offices, and replace them by the whole-time salaried agency of Naib-Tahsildars. The Orissa Village Offices (Abolition) Act 12 of 1962 seeks to achieve this objective.

371. The rules for running the day to day administration in khasmahals and raiyati tracts were different for different areas of the State. These rules were framed about half a century ago and naturally did not ensure a proper administration in the changed set-up. The Manual of Tahsil Accounts containing uniform rules for the management of khasmahals and raiyati tracts throughout the State was therefore issued by the Board of Revenue in 1961.

CHAPTER VIII

TENANCY REFORMS 1953-1962.

372. While abolition of estates demanded constant attention of Government, the administration of the normal tenancy laws was not neglected. It has already been mentioned that the occupancy right in Sambalpur Sadar, Bargarh and Newapara subdivisions was not a marketable property and this had serious repercussions on the agrarian economy and social life in these areas. As early as 1939, the Sambalpur Land Laws Committee recommended that this restriction should be removed by amending the Central Provinces Tenancy Acts applicable to these areas. This recommendation could not, however, be implemented till 1953 when Orissa Acts 13 and 15 of 1953 were passed. These Acts amended the Central Provinces Tenancy Act, 1898 (applicable to Bargarh and Sambalpur Sadar subdivisions excluding the Mahadevpalli P.-S.) and the Central Provinces Tenancy Act, 1920 (applicable to Nawapara subdivision) respectively. It was provided in these amending Acts that an occupancy tenant would be free to sub-let his holding or any portion thereof for one agricultural year and shall also have the right to transfer his holding or any portion thereof, by sale, mortgage, gift, bequest or otherwise to a *bona fide* agriculturist provided that an occupancy tenant belonging to a Scheduled Tribe cannot transfer his right to any person who is not a member of a Scheduled Tribe except with the previous permission in writing of the Deputy Commissioner. An agriculturist has been defined as a person who holds land for the purposes of cultivating it himself or by members of his family or by hired servants and includes an agricultural labourer. The amendment further provides that all transfers excepting by way of lease or bequest shall be by registered instrument. The holding of an occupancy tenant has been made saleable by a Court in execution of a decree but if the holding belongs to a Scheduled Tribe, no Court sale other than a sale held for recovery of the dues of a co-operative society or for recovery of advances under the Land Improvement Loans' Act or the Agriculturist's Loans Act can be held unless the decree-holder obtains the previous permission in writing of the Deputy Commissioner. The Act also provides that a transfer made in contravention of any of its provisions can be declared void by the Deputy Commissioner who can also evict the transferee in such a case if it comes to his notice within a period of twelve years from the date of transfer. These two Acts were again amended by the Acts 14 and 17 of 1956 for giving unrestricted right of transfer to occupancy tenants in respect of transfers in favour of Grama Panchayats and subject to the previous permission in writing of the Deputy Commissioner, in favour of a public institution. Further amendments to these Acts were made by Orissa Acts 14 and 15 of 1958 which provide that an occupancy tenant shall have right, notwithstanding anything to the contrary contained in any entry in the village administration paper, or custom or decree or order of a Civil Court, to—

- (a) plant,
- (b) fell,
- (c) propagate lac on and enjoy the flowers, fruits and other products of, and
- (d) utilize or dispose of the timber of trees, on his land. But he shall not have the right to fell any tree reserved as a surety mark.

With these amendments the occupancy tenants in these areas (which were at one time under the administration of Central Provinces) got all the rights which occupancy raiyats in other areas of the State had been enjoying for a long time.

373. The Orissa Tenants' Protection Act which was being extended from time to time has exhibited certain difficulties and defects in its working. It was considered expedient to repeal this 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 5 of 1955 was passed. The circumstances leading to the passing of the Act can be comprehended very clearly from the following extract from its preamble—

“Whereas subsequent to the passing of the Orissa Estates Abolition Act, 1951 and pending further legislation relating to land reforms, large-scale eviction of tenants from actual cultivation of agricultural lands is being resorted to by owners of such lands ;

And whereas pending such further legislation it is expedient to afford relief to such persons by providing for their temporary protection from such eviction and for conferring on them certain other privileges. * * *

*

*

*

*

*”

The Act which has been extended from time to time and is intended to continue until comprehensive land reforms measures are enforced provides against arbitrary eviction of temporary tenants like crop sharers and fixes the maximum amount of produce rent payable by those who are liable to pay such rent or cash rent at an estimated value of the produce. It gave a chance to all land-holders to resume lands in possession of temporary tenants up to the extent of seven standard acres for personal cultivation. A standard acre means one acre of wet land or two acres of any other land, and wet land means any land for which any cess, rate or tax for purposes of irrigation, has been assessed under any law for the time being in force or any contract custom or usage having the force of law, irrespective of whether such cess rate or tax has merged in the rent payable for the land or not. This figure of seven standard acres must include lands already in personal cultivation on 1st July 1954. Option of selecting the lands for resumption and intimating the same in the prescribed manner to the “Collector” was to be exercised before the 15th June 1955. Once, a selection was made by the landlord in this regard, it was to be final and conclusive evidence of the selection. In respect of the lands selected for personal cultivation, notice of eviction on the tenants was to be served before 15th May 1955. The Act specifies the mode of payment of rent by these tenants and also the mode of settlement of disputes between tenants and landlords regarding all matters connected with payment of rent and possession of land. The jurisdiction of Civil Courts has been barred in respect of these matters which are cognizable by Revenue Courts. The quantum of rent payable by a tenant was fixed at 1/4th of the gross produce in case of temporary tenants and 1/6th of such produce in case of permanent tenants. This is, however, subject to the overall limit of four, six and eight standard maunds of paddy or value thereof respectively for dry land, wet land and land growing sugarcane, cotton, jute, tobacco, betel leaves or potato.

374. It will be observed that this Act confers additional rights on tenants both in the matter of the quantum of the rent and in the matter of eviction. These provisions virtually made the temporary tenants permanent for the time being and gave them substantial relief by reducing the rent payable by them. In this way, a temporary tenant has achieved rights which are more or less similar to the rights of an occupancy raiyat though this right is temporary in nature and is neither heritable nor transferable. Raiyats having such rights and paying produce rent have also got relief in the matter of the quantum of rent payable. It is but natural that these provisions have generally created strained feelings among landlords and tenants. In the areas where the pressure on lands is heavy and temporary tenants are numerous, it has created complete change in the agrarian life with very great repercussions on the social life. The marketability of lands under cultivation of temporary tenants has also been affected very much.

375. In order to ensure effective protection to the Scheduled Tribes of Scheduled Areas in the enjoyment of their land and other immovable property the Orissa Scheduled Areas Transfer of Immovable Property (By Scheduled Tribes) Regulation 2 of 1956 was passed and it came into effect on the 4th October 1956. This Regulation repealed the provisions of the Agency Tracts Interest and Land Transfer Act, 1917 that was applicable to Ganjam Agency and to the district of Koraput which are Scheduled Areas. The Regulation also applies to the other Scheduled Areas, namely, Sundargarh, Mayurbhanj and Khondmals districts. The Regulation provides that transfer of immovable property by a member of a Scheduled Tribe shall be absolutely null and void unless made in favour of another member of a Scheduled Tribe or with the previous consent in writing of the Collector and any other competent authority. All Subdivisional Officers have also been appointed as "competent authority" under the Act. A competent authority has power either on application by anyone interested or on his own motion and after giving the parties an opportunity to be heard, to order ejectment of any person in possession of any property claiming under a transfer which is not in accordance with the aforesaid provisions and in such a case the property shall be restored to the transferor or his heirs. In causing such restoration the competent authority may take such steps as may be necessary for securing the compliance of his order. If the competent authority feels that restoration of the property is not reasonably practicable, he shall record the reasons thereof and intimate his decision to the Grama Panchayat and thereafter the property shall be in charge of the Grama Panchayat which may settle the said property with any member of a Scheduled Tribe or in the absence of such a member, with any other person on such terms and conditions as it may deem proper. An appeal preferred within thirty days of the date of order of ejectment of placing the land at the disposal of Grama Panchayat if made by the Collector lies to the Board of Revenue and if made by any other competent authority, to the Collector or to any other officer specially empowered in this behalf. Where a transfer is in contravention of the provisions of this Act and a document of such transfer is presented for registration, such registration shall be refused. No surrender or relinquishment of any holding or part thereof by any tenant belonging to a Scheduled Tribe in favour of his landlord is valid unless after such surrender or relinquishment the landlord settles the surrendered land with another member of a Scheduled Tribe or retains its possession or settles it with any other person with the approval of a competent authority when it is not possible to settle it with a member of a Scheduled Tribe. This provision, however, does not apply to land held directly under the Government. The right, title and interest held by a

member of a Scheduled Tribe in any immovable property in any Scheduled Area is not attachable in execution of a money decree against such member. Provisions for infliction of penalty on the persons who in contravention of the provisions of the Act come into possession of immovable property belonging to Scheduled Tribes has also been made.

376. Before the merger of the States with the Province, the rulers and their relatives held large acreage of rent-free land as their Khamar lands. With the introduction of land reforms measures and with the change in the agrarian policy it was considered expedient to assess these lands to rent. Accordingly, the Orissa Private Lands of Rulers (Assessment of Rent) Act 13 of 1958 was passed. The Act provides for the assessment of rent on these lands and defines the procedure for such assessment. The work of assessment has been completed in many districts and the remaining work is expected to be completed within a short time.

377. A revolutionary change in land legislation of the State was brought about when the Orissa Bhoodan Yajna Act, 1952 (Act 16 of 1953) was passed. This was passed with the intention of facilitating the donation and settlement of lands in connection with the Bhoodan Yajna movement initiated by Shri Binoba Bhave. Shri Bhave's movement was to appeal to the people with landed property to make gifts of land for distribution among the landless. The Act provides for the establishment of a Bhoodan Yajna Samiti in the State in favour of which any owner can donate or grant land by declaration in writing in that behalf and the declaration shall be filed with the Revenue Officer appointed under the Act. The Revenue Officer is required to publish the declaration calling for objections from any person who is interested or affected by such declaration within thirty days from the date of publication. If no objection is filed, the Revenue Officer is required to make a summary enquiry as to the right, title and interest of the donor and may either confirm and supersede the declaration. Where an objection is filed, the Revenue Officer is required to give a hearing to the declarant and the objector before confirming or superseding the declaration. Where a declaration is confirmed, all rights, title and interest of the owner in such land will stand transferred and vested in the Bhoodan Yajna Samiti from the date on which the Revenue Officer notifies the declaration. Section 12 of the Act specifies the type of land that cannot be donated. Section 13 makes specific provision in respect of lands donated to Shri Binoba Bhave prior to the passing of the Act. Section 14 provides that any party aggrieved by an order of the Revenue Officer confirming the declaration can file a Civil Suit for declaration of his title within three months from the date of the order, and the order of the Civil Court shall be final and conclusive in this regard. The Samiti or such other authority or person as the Samiti may, with the approval of the State Government, specify either generally or in respect of any area, may, in the prescribed manner, grant lands which have vested in it to landless persons and the grantees shall hold them with such rights, liabilities, conditions, restrictions and limitations as are provided for by or under the Act. Lands once donated to the Samiti shall not for such time as it remains vested in it, be liable to attachment or sale. Shortly after passing of the Act Shri Binoba Bhave conducted a foot march in some of the districts of the State for appealing to the people to donate lands in favour of landless persons and the response was encouraging particularly in the district of Koraput where many whole villages were donated. The Act was amended by Act 29 of 1956 to provide that the distribution of donated land by the Samiti or such other authority or person as the Samiti may specify in general or in respect of any area may distribute lands to landless persons individually or jointly or to the village community and when such

a distribution is made, the Samiti or any person authorised by the Samiti in this behalf shall present the Bhoodan declaration along with a list showing names and addresses of person or persons to whom or the prescribed particulars of the village community or community purpose for which the land has been distributed in each case before the Revenue Officer. If such a declaration is confirmed it shall have effect from the date of such distribution. A further provision was made to the effect that land granted under the provisions of this Act may be cultivated by the grantee either individually or with the assistance of any other person or persons and the grantee shall be liable to pay the rent, cess or any other dues payable to the State Government in respect of the said land and where land is granted to a number of persons jointly or to the village community, all the persons to whom the land is granted or all the members of the village community, as the case may be, shall be jointly and severally liable for payment of rent, cess or other dues payable to the State Government in respect of the said land and when land is held by all the members of the village community, they shall be entitled to a rebate equal to ten per centum of the said payment if it is made in time. On the death of a person the land granted to him under the provisions of this Act shall pass on to his successor-in-interest who shall hold the land on the same terms and conditions as the grantee or his successor-in-interest. A grantee or his successor-in-interest shall be liable to eviction if he abandons the land granted to him or without any reasonable cause to the satisfaction of the Samiti keeps the land fallow for more than two consecutive years or fails, in case of grant of waste lands, within a period of three years from the date of the grant, to bring at least half of such land under cultivation without any reasonable cause to the satisfaction of the Samiti. It also provides for eviction of unauthorised occupants of land vested in the Samiti and penalty for contravention of the provisions of the Act. The Act was further amended in 1961 to provide for unrestricted donation of land by a person belonging to a Scheduled Tribe and banning the application of the provisions of the Orissa Scheduled Area Transfer of Immovable Property (By Scheduled Tribes) Regulation, 1956 to such cases. The total area of land donated to the Bhoodan Yajna Samiti till now is 3.80 lakh acres and about 20,000 acres of this have already been distributed.

CHAPTER IX

+ COMPREHENSIVE LAND REFORMS

378. In the outlines for the Second Five-Year Plan, the policy relating to the shape of land reforms after abolition of intermediary interests was indicated. The measures covered a very wide range, namely, resumption of land from tenants for personal cultivation, regulation of rent, conferment of right of ownership on tenants, fixation of ceiling on agricultural holdings and exemptions therefrom, acquisition of ceiling-surplus land and payment of compensation therefor, consolidation of holdings, land management practices, co-operative farming and pattern of village development. The Planning Commission recommended these measures for implementation. Before taking up legislation on these subjects the Government considered it necessary to set up a Committee for going into the details of the measures that would be necessary for implementing the above recommendations of the Planning Commission. Thus the Orissa Land Reforms Committee was set up in December 1957. The following extract from the Government resolution setting up the Committee indicates its scope :—

“The legislative measures for introducing comprehensive Land Reforms on the lines suggested by the Planning Commission in their Second Five-Year Plan have been under the consideration of Government for some time past.

Legislation for abolition of intermediaries at all levels has already been undertaken and a temporary measure to give effective protection to cultivating tenants from ejectment has also been enacted. It is essential in the interests of evolving a fairly uniform pattern of ownership confirming to commonly-agreed rights and obligations and for defining all the rights of ownership of tenants who will now hold lands directly under Government, to bring on the statute book a permanent legislative measure. The proposed reforms should also keep in view the interests of agricultural production and security of rural credit.

The Committee is expected to formulate their recommendations on the basis of the recommendations of the Planning Commission and in particular on the following :—

- (i) the incidents of tenancy where tenants are brought into direct relationship with Government ;
- (ii) grant of voluntary right of purchase of ownership to cultivating tenants from the owners of land of non-resumable areas ;
- (iii) ceiling on holdings ;
- (iv) administrative implementation of necessary land reforms ;
- (v) consolidation of holdings ;
- (vi) land management ;
- (vii) co-operative farming ; and
- (viii) land records."

The Committee consisted of ten members including the Secretary to the Government in the Revenue Department as its Secretary and the Minister of Revenue as its Chairman with eight members of the Legislative Assembly as its members. The Committee considered all the problems in general terms, formulated their recommendations on some of the points referred to them and observed as follows before formulating their recommendations on other points—

"The problems are to be gone into at length and the details of the complexities that arise in the implementation have to be studied carefully. This will take time. Hence our considered view is that the programme we recommend should be a phased one. We are of the opinion that our present recommendations should be confined to the following subjects only so that Government may be able to prepare a Bill for presentation in the Assembly in order to replace the Orissa Tenants' Relief Act, the life of which is expiring on the 30th June 1958 :

- (i) The incidents of tenancy where tenants are brought into direct relationship with Government ;
- (ii) Grant of voluntary right of purchase of ownership to cultivating tenants from the owners of the land of non-resumable areas ;
- (iii) Ceiling on holdings ;
- (iv) Administrative implementation of necessary land reforms ; and
- (v) Land Records.

We want to make it clear that the other three subjects on which we have been asked to give our recommendations are equally important measures relating to Land Reforms. But as these matters need further detailed examination, we consider it desirable to defer our recommendations on these subjects to a later date."

379. The report on the aforesaid subjects was submitted by the Committee in April 1958. After receipt of the report Government introduced the Orissa Land Reforms Bill in the Legislative Assembly on the 30th March 1959. The Bill was referred to a Select Committee. The Committee took evidence

considered representations addressed to it and discussed the Bill in detail and presented its reports with an amended Bill to the Legislative Assembly on the 24th February 1960. The Bill was passed by the Assembly in April 1960. On receipt of assent of the President it became Orissa Act 16 of 1960. Rules under the Act were then framed and administrative arrangements for its implementation were made. At this stage, Government considered that the Act should be amended in certain respects before coming into force. Therefore some amendments were introduced in the Legislative Assembly towards the later part of 1961. This amending Bill was referred to a Select Committee which also took evidence, discussed the Bill in detail and submitted its report with an amended Bill in November 1961. While the Bill was still under discussion in the Legislative Assembly, the judgement of the Supreme Court on the Kerala Agrarian Relations Act, 1961 on writ petitions Nos. 105, 114 and 115 was passed. This judgment struck down the Kerala Agrarian Relations Act, 1961 as *ultra vires*. The Orissa Land Reforms Act, 1960 and the proposed amendments thereto containing more or less similar provisions were, therefore, required to be scrutinised before further proceeding with the amendments. The matter is still under examination.

380. Chapter I of the Land Reforms Act defines important terms used in the Act and makes a provision that the Act shall override provisions of other Acts.

381. Chapter II relates to raiyats and tenants. It enumerates the different categories of persons who shall be deemed to be raiyats for the purposes of the Act. In addition to all the persons having right of occupancy, it includes, in the category of raiyats—

- (a) persons entitled to acquire right of occupancy in the Khamar lands of the ruler in any ex-State and persons holding lands on service-tenure under the Ruler or under any member of his family ;
- (b) temporary lessees in personal cultivation of lands in vested estates ; and
- (c) recorded sub-tenants and under-raiyats.

In order to acquire the right of a raiyat, the sub-tenants and under-raiyats are, however, required to pay 50 per cent of the market value of the land in question to their landlord.

A raiyat liable to pay produce rent shall not pay more than 1/8th of the gross produce or equivalent thereto. The right of a raiyat is permanent heritable and transferable but he shall have no right to lease out his lands unless he is a person under "disability" or is a "privileged raiyat". He is liable to eviction only if he—

- (a) has used the land comprised in his holding in a manner which renders it unfit for the purpose of agriculture ; or
- (b) has leased out the land in contravention of the provisions of the Act ; or
- (c) has used the land for any purpose other than agriculture.

A raiyat liable to eviction is entitled to three months' notice in writing from the landlord intimating his intention to evict and the grounds therefor. The transfer of raiyati right by way of sale, exchange or gift is to be made by a registered instrument except in case of Court sales or sales in pursuance of provisions of the Orissa Co-operative Societies Act. No Registering Officer shall accept for registration any instrument purporting to transfer the right of a raiyat unless the rent of the land transferred is stated separately in the instrument and unless it is accompanied by a notice filed by the transferor and the transferee giving particulars of the transfer. The notice shall be in the prescribed form, shall be accompanied by the prescribed fee, and shall be transmitted

to the Revenue Officer who is required to cause it to be served in the prescribed manner on the landlord named in the notice and also on the authority competent to maintain land records. Any dispute between a raiyat and his landlord regarding the landlord's right of eviction or the raiyat's right to the benefits under the Act shall be decided by a competent Revenue Officer. Partition of a holding among co-sharer raiyats shall be valid only if it is made by—

- (a) a registered instrument; or
- (b) a decree of a Court; or
- (c) an order of a competent Revenue Officer in a manner prescribed on mutual agreement.

Notice of the partition has to be given to the landlord and to the authority competent to maintain land records. If any land of a raiyat is lost by diluvion, the rent thereof shall, on application from the raiyat, be remitted but the right, title and interest of the raiyat, shall subsist for a period of twenty years and the raiyat shall be entitled on its reappearance during any time within this period to possess such land and shall be liable to pay such rent as may be determined as fair and equitable. Similarly any land gained by gradual accretion to any holding whether from the recess of a river or the sea may ordinarily form a part of such holding and the raiyat thereof shall be liable to pay additional rent therefor. The transfer of land by a raiyat belonging to a Scheduled Tribe shall be invalid unless it is made in favour of a person belonging to a Scheduled Tribe or with the previous permission in writing of a Revenue Officer and the Revenue Officer shall not grant such permission unless he is satisfied that a purchaser belonging to a Scheduled Tribe and willing to pay the market price is not available. Similar provisions shall also apply to persons belonging to Scheduled Castes.

382. A person having no permanent and heritable right in respect of any site on which his dwelling house or farm house stands is entitled to get raiyati right on it or on a portion thereof not exceeding 1/5th of an acre whichever is less if he or his predecessor-in-interest has—

- (a) obtained permission from the person having permanent and heritable right in the site and having right to accord permission for the construction of such house and
- (b) built such a house at his own expenses.

Continuous possession for at least six years immediately before the commencement of the Act shall be conclusive proof that necessary permission has been accorded for construction of the dwelling house. The person who acquires right by this provision has to pay compensation to his landlord. Similar provisions shall apply to agricultural labourers and village artisans and the sites on which their dwelling houses stand.

383. A tenant with temporary right shall not be liable to pay more than 1/4 th of the gross produce of the land or value thereof as produce rent. The landlord has right to evict such a tenant only if the tenant—

- (a) has used the land in a manner which renders it unfit for the purpose of agriculture, or
- (b) has failed to cultivate the land properly or personally, or
- (c) has failed to pay or deliver to the landlord the rent within a period of two months from the last date by which it becomes payable.

If however, the landlord is a privileged raiyat he can evict the tenant on the expiry of the period of lease if it be in writing or at the end of the year if it be an oral lease, a privileged raiyat being a person who holds land as a raiyat and is—

- (a) a trust dedicated exclusively for public purposes, or
- (b) a charitable or educational institution engaged *bona fide* in a work of public benefit, or
- (c) a religious or other institution by which public are benefited and from which no pecuniary benefit accrues to any individual except by way of a reasonable remuneration for services rendered in conformity with such principles as may be prescribed provided that the trustee of the institution subjects himself to certain control of a competent Revenue Officer, and
- (d) a raiyat the total extent of whose land held in any capacity whatsoever for personal cultivation does not exceed five standard acres as defined in the Act..

All the disputes between a temporary tenant and his landlord are to be decided by a competent Revenue Officer on an application from any party interested.

384. Chapter III provides for resumption of land from temporary tenants for personal cultivation. Protection to temporary tenants from arbitrary eviction has continuously been given since 1948 when the Orissa Tenants' Protection Act, 1948 was passed. An option to resume lands for personal cultivation, up to seven standard acres (including the land already in personal cultivation) was given in the Orissa Tenants' Relief Act, 1955. But the time allowed for exercising this option was very short and it was complained that many people who would have exercised this right of resumption could not do so because of the shortness of the time allowed for the purpose. Moreover, under the provisions of the Acts in force before the Land Reforms Act, 1960 a raiyat was free to lease out his holding to temporary tenants subject to arbitrary eviction and many people in exercise of this right did lease out their holdings when suddenly the Orissa Tenants' Protection Act put a restriction on resumption of lands so leased out. This ban on resumption has practically continued since then. As the Orissa Tenants' Protection Act was more or less unexpected, it would mean that a ban to resume lands once leased out in exercise of certain legal powers was being put without notice. It was, therefore, considered equitable that a last chance would be given to the landlords for resumption of lands for personal cultivation and yet the persons who have been given protection till now against arbitrary eviction should not be completely deprived of the benefits that should reasonably be expected to accrue from their long association with the land. Accordingly provision has been made that a landlord wishing to resume land should indicate his desire to do so both to the Revenue Officer and to the tenant concerned within a specified time. This right of resumption is somewhat restricted in the sense that a landlord is entitled to resume not more than two thirds in standard acre from each tenant if the land held by him under personal cultivation and through tenants together exceeds 15 standard acres. In all other cases the resumption shall not exceed $\frac{3}{4}$ ths of such land. The Revenue Officer is required to determine the lands which should be resumed and which should not be resumed. The lands which can be resumed and are intended to be resumed should be taken possession of by the landlord from the beginning of the year after the date of the order of the Revenue Officer. The land which cannot be resumed will be held by the tenant as raiyat without paying any compensation. The Revenue Officer shall issue a certificate declaring

the tenants' new right on such land. Where a landlord does not wish to resume any land, the tenant can retain the resumable land as a raiyat on payment of such compensation as may be agreed upon, or the market value to be determined in the prescribed manner. Where a landlord fails to cultivate the land personally after resumption, the land will revert to the tenant who can acquire raiyati right in it on payment of compensation. If a tenant does not acquire raiyati right in the resumable land which is not resumed by the landlord then the land has to revert to the landlord. The Chapter makes certain other consequential provisions.

385. Chapter IV relates to ceiling and disposal of excess lands. No person is entitled to hold land under personal cultivation in excess of the ceiling limit, namely, 25 standard acres if the person is an individual, and 25 standard acres together with 5 standard acres on account of each member of the family up to a maximum of 50 standard acres if the person is a joint Hindu Mitakshara family. In computing the ceiling limit, certain types of plantations, orchards used as such before the 30th March 1959 (the date of introduction of the Land Reforms Bill in the Legislative Assembly), specialised farms engaged in cattle breeding or dairy farming, tanks and irrigation sources, homesteads, manure pits, and cowsheds, lands held on condition of performing service of a public nature which are liable to resumption on failure of the service, sugarcane farms owned and operated by Sugar Factories and lands held by Co-operative Societies shall be exempted from the ceiling. That is to say, in computing the ceiling limits these lands will not be taken into consideration. Any person holding land more than the ceiling limit shall submit a return by a specified date indicating therein his choice of land which he wishes to retain. Failure to submit the return will mean that he will not have any claim for exemption and shall have no right to make the choice of land for retention within the ceiling limit. The Revenue Officer is required to prepare a draft statement indicating the lands to be retained and the lands shown as ceiling surplus separately and is required to publish the statement for objections. After the period of objections and if objections are received after their hearing and disposal the statement is to be made final. The ceiling-surplus land will continue in the possession of the owner but he will be required to dispose them of and a return of disposal is to be submitted to the Revenue Officer periodically until final disposal of all surplus lands. The Revenue Officer is also required to invite applications for the purpose of disposal of ceiling-surplus lands and shall prepare a list in order of priority as laid down in the Act and in such a case the person owning ceiling-surplus lands is required to transfer the land to the persons indicated in this list.

386. Chapter V provides for the administrative machinery for implementation of land reforms. The Government is required to constitute a Land Commission which is to consist of seven members of whom three shall be officials and four non-officials, the Land Reforms Commissioner being its Secretary *ex officio*. The Commission is required to review progress of Land Reforms from time to time and advise Government in all matters relating to land reforms. For each district, a District Executive Committee consisting of three members of whom the Collector of the District shall be one and shall also be the Chairman is also envisaged. The other two members shall be non-officials to be nominated by Government. A Revenue Officer will be appointed to be its Secretary. This Committee is required to review the progress of land reforms in the district.

387. Chapter VI makes miscellaneous provisions relating to appeals, revisions, reviews, Court-Fees, limitation, etc.

388. The amendments sponsored in 1961 mainly affect the provisions relating to resumption of land for personal cultivation and imposition of a ceiling.

CHAPTER X

SURVEY, SETTLEMENT AND LAND RECORDS

389. Whether land revenue is regarded as a tax upon agricultural income or as a rate for the privilege of cultivation under the protection and facilities provided by the State, it has, throughout India except where shifting cultivation is practised, come to mean an acreage rate and according to most modern methods of settlement is supposed to bear relation to the productive capacity or income from the land. Being an acreage rate, its proper assessment is bound up with accurate measurement or survey of the surface of the land so as to give the area cultivated, or in the possession of individual person or persons holding lands jointly. Survey is also necessary for the determination of areas of land likely to be cultivated in the future, for the determination of areas which may not be cultivated and are required for other purposes such as communal use or residential use and for the assessment of revenue of such lands as well. Smooth administration depends on it and in areas without survey, disputes between individuals or communities are frequent. Thus an accurate survey, a correct record-of-rights maintained up to date and fixation of land revenue demand on the basis of these two basic assets is an indispensable necessity for a proper and efficient revenue and civil administration. This fact has always been recognised though of course with varying emphasis from time to time depending on the pattern of prevailing land revenue administration. Just as the pattern of land revenue administration is not the same throughout the State because different parts originally formed part of different administrative units, so also the matters relating to survey, settlement and land records are not uniform throughout the State for the same reason. A brief sketch of the origin and growth of the administration relating to survey, settlement and land records during the early British period and thereafter is necessary to appreciate the prevailing conditions.

390. In the districts of Cuttack, Puri and Balasore that came under the British administration in 1803, the first survey was the revenue survey taken up between the years 1838 and 1850. This survey was undertaken to define the boundaries and areas of villages and estates, to provide maps and to collect accurate though limited statistics. The operations were started by the civil authorities by engaging an unprofessional establishment for survey and determination of village boundaries. They also decided boundary disputes and selected the villages in which internal survey would be necessary owing to their containing more than one estate. This was the so-called *thak-bast* survey, and the maps were rough sketches drawn by eye estimation and intended to serve only as an aid to the professional survey party for picking up the boundary demarcated on the ground. The professional survey party followed up this survey by accurately demarcating village boundaries and the main topographical features on the scale of 4" to a mile. The survey of estate boundaries within a village was also made in some instances. But this was done on the rough *thak-bast* maps, also known in these cases as *khetbat* maps.

The collection of necessary statistics was also done by the professional survey party. This revenue survey was fairly accurate but boundary comparison between different villages and paraganas was not always correctly done and there were many gaps and overlaps. The main defect of the revenue survey was that it was carried out without any clear idea of the main units concerned, the village or geographical unit and the estate or parcel of land belonging to the same proprietor or set of proprietors responsible for the payment of one item of revenue demand. The result was that scattered blocks of land belonging to the same estate were often treated as comprising a single village and detached blocks belonging to an estate which fell mainly in one village were sometimes treated as parts of that village or as separate villages instead of as parts of the village within the external periphery of which they lay.

391. The revenue survey village was taken as the unit in subsequent cadastral surveys following the provisions in section 3(10) (a) of the Bengal Tenancy Act defining a village as "the area defined, surveyed and recorded as a distinct and separate village in the general land revenue survey". Because of the fact that fixation of village boundaries in course of the revenue survey was not properly done, the definition in the Bengal Tenancy Act was subsequently modified in 1907 by insertion of a clause (b) which allowed the unit to be altered and after that date, the revenue survey village units when they were found too large or too small or not compact have been suitably adjusted for making the village a suitable administrative unit. The definition of "village" in the Orissa Tenancy Act was on the lines of this amended definition of the Bengal Tenancy Act.

392. The first survey, record-of-rights and settlement operation of the temporarily-settled estates in the districts of Cuttack, Puri and Balasore was conducted between 1890—1900 in connection with a revenue settlement. The Government estate of Khurda and Kujang were settled separately. A revision of survey and record-of-rights of the temporarily-settled areas was also made in 1906—1912 as a preliminary to annual maintenance of records. Some of the permanently-settled estates which had not been taken up in the survey and settlement operation of 1890—1900 were also taken up in this operation or a little earlier. The maintenance scheme was, however, subsequently dropped. The next operation was conducted between 1922 and 1932.

393. Sambalpur which was a district of the Central Provinces up to 1905 was cadastrally surveyed and settled between the years 1904—1908.

394. Angul was similarly subjected to periodical survey, record-of-rights and settlement operations. The Khondmals subdivision which was a part of Angul district till 1936 was not, however, fully surveyed and settled and only the lands belonging to non-Khonds were surveyed and settled between 1920 and 1930.

395. In the district of Sambalpur and in the Nawapara subdivision of Kalahandi where the Central Provinces Land Revenue Acts are in force, the responsibility for maintaining the land records was always on the Government and a regular establishment existed for this work. The records were, therefore, tolerably up-to-date, though during recent years the maintenance work was to some extent neglected. But in the districts of Cuttack, Puri and Balasore that follow the Bengal system of land administration, the maintenance of land records was always the responsibility of the zamindars and further, it was not a statutory requirement. When, therefore, the mutation fee was abolished and the partition fee was discontinued, the zamindars neglected the maintenance of the records which was, however, never satisfactory after the settlement of 1922—32. In the Khasmahals, the responsibility of maintaining the record

up-to-date between settlements was that of the Government as landlord, and the maintenance was satisfactory till the abolition of the Sarbarakari system. Thereafter the Naib-Tahsildars neglected the work.

396. The raiyatwari tracts in the district of Ganjam were completely surveyed and a record-of-rights for them was first prepared in the last quarter of the 19th Century. The maintenance of the record-of-rights in this area has always been considered the responsibility of Government and the Tahsildars, Revenue Inspectors and Village Officers have definite responsibilities in the matter as laid down in the Board's Standing Orders. In spite of this clear definition of duty and responsibility, the record-of-rights in these areas was hopelessly out of date when the Province of Orissa was created. The position further deteriorated thereafter and the main reason was the refusal of Village Officers to do their part of the duty and general slackness of Revenue Inspectors and Tahsildars in this regard. From time to time, special drives have been made to bring home the seriousness of the situation to the Village Officers, Revenue Inspectors and Tahsildars, but these drives have not produced any result. In the meantime, the records have naturally been going more and more out of date. And to that extent, the day-to-day revenue administration has suffered for the last thirty years if not more.

397. In respect of the ex-zamindari tracts of Ganjam and Koraput districts the position was very unsatisfactory when the Province of Orissa was created. Apparently, Government had never considered that it was their responsibility for conducting a basic survey and a record-of-rights operation in these areas. At the initiative of zamindars and raiyats, survey and record-of-rights operations had however been undertaken from time to time. Being isolated attempts made at different times they were not governed by any general policy or uniformity in procedure. As a matter of fact, the procedure adopted in conducting the survey and preparing a record-of-rights had been different for different estates. Thus, in the Badakhemedi Estate, the survey had been conducted on the field measurement book system, in the Khallikote and Athgad estates there had been a new system introduced for the first time as in Madras presumably to effect reduction in the cost and yet a third system was followed in the Chikiti estate. Similar had been the difficulty with the record-of-rights which had been prepared at different times for different estates. Generally, the record-of-rights was not a complete document. It mentioned only the name of the raiyat and there was no mention of parentage or further description for identification. There was no record of under raiyat though the area so held was always considerable. The record of irrigation rights was not explanatory. Only the broad classification of lands was shown but not sub-classifications.

398. Immediately after the creation of Orissa, Government realised the urgent necessity of having a proper survey and record-of-rights operation in all these zamindari estates so as to secure to the raiyats the enjoyment of the valuable rights conferred by the Tenancy Law. Accordingly, in 1938 a survey and record-of-rights operation was ordered for all these zamindari estates. The operation was suspended during the war emergency and was revived thereafter. It was concluded in Ganjam by 1950 but is still going on in some parts of the Koraput district.

399. In the "Agency" areas of Ganjam district no survey has been made or record-of-rights prepared yet. In the last quarter of the 19th Century the Chakapad Khandam of Balliguda subdivision which was then a part of the

Ghumsur taluk was surveyed and settled. When the Agency Tracts Interest and Land Transfer Act I of 1917 was passed, the Government of Madras ordered a survey and settlement operation in some portions of the G. Udayagiri taluk so as to survey and record the lands belonging to non-hill-men. This was done with a view to ensure that the protection given to hill-men by the new Act was effectively enforced. In view of the large-scale shifting cultivation that is practised in these "Agency" tracts and in view of the fact that the area, full of hills and jungles is sparsely populated, the remaining parts of these tracts have not yet been brought under a survey or record-of-rights operation even once.

400. Though in the ex-states survey and record-of-rights operations were taken up for the first time towards the close of the last century, yet generally, the work was far below the standard. Most of these states did not have the necessary financial resources to employ properly qualified officers who could have ensured such work. Generally junior officers having some training in the neighbouring Provinces were employed as Settlement Officers. Therefore, though the survey and record-of-rights operation undertaken in these states from time to time might have been sufficient for the purposes of fixing or revising the land revenue demand, yet it did not have much value as having produced an accurate survey or a proper record-of-rights. As Shri Ramadhyani in his report remarks:

"Settlement and survey being technical matters, what the Settlement Officer does is practically final. The position of the states may be contrasted with the position in the Central Provinces, for example where the Settlement Officer, usually a picked man, has the Settlement Commissioner and others to guide him and against whose decisions there is provision for appeal. In spite of the employment of inferior officers with low pay, settlements in these states do not appear to have been inexpensive on account of the inefficiency of the staff and the long period taken. In view of the vital importance of settlements and the amount of harm an unimaginative settlement can do both to the agriculturist and the administration, the introduction of a competent joint agency for the framing of settlement rules and instructions and for the actual supervision of settlement is urgently necessary. The importance of such a controlling agency is clear as few of the states can exist as such independently and employ a really competent settlement staff".

401. The position regarding maintenance of records in these ex-states before their merger with the province may be described in the following words of Shri Ramadhyani:

"** the position in the Orissa states may be said to be on the whole unsatisfactory though in some of the states like Gangpur, the records are probably more reliable than in the others. Generally speaking, in all the states in which the village head-man has powers to allot land for new cultivation or accept surrenders and reallot land without reference to the state, the settlement record is not maintained up-to-date and only after a Nayabadi settlement (that is, a settlement for the purpose of assessing new cultivation) is order restored to some extent. In the Orissa states, generally speaking, there is no field staff for the maintenance of records. New cultivation, if permitted only by the state, is generally recorded at the headquarters and the services of 'amins' are usually employed for purposes of surveying new lands etc. Mutation where they are intimated to the state are recorded but there must be many which

are not reported or brought to notice for long periods in spite of the penalty levied for delay. In fact, some of the states are more interested in the penalty than in keeping the records up-to-date. The instances mentioned in the report on Narsingpur where mutations which have actually taken place were not recorded on account of some trivial irregularity in the petition may be recalled here. * * * *. In the Agency as a whole, it may be said that the maintenance of land records leaves much to be desired. The maintenance of land records staff on the Central Provinces system is of course expensive, but if the Chhatisgarh states have been able to do this, there is no reason why the Orissa states should not do the same. The cost of the revenue and land records staff in many states is very small. * * * *.

Thus, when the states merged with the Province of Orissa, the Government was confronted with a problem the only solution of which was to have proper cadastral survey and a record-of-rights. But this was not immediately possible for various reasons, both administrative and financial.

✓ 402. In the past different principles of settlement were followed in different parts of the State. Acreage rates were applied on the basis of productive capacity of different classes of soil in the Khasmahals of Khurda and Angul. In the settlement of zamindaries between 1890 and 1900 the question of strictly co-relating the rent to the productivity of land by applying different acreage rates for different classes of land was considered but was ultimately abandoned. The then existing rents having been taken as fair and equitable were enhanced by 25 per cent on the ground of rise in prices. This was the case with the Banki Khasmahal also. The fallacy in this procedure is obvious. When a tenancy is created, the Zamindar in fixing the rent, takes into consideration a number of irrelevant factors like the amount of salami paid by the tenant, his social and economic status, demand for the land in the locality, and the possibility of future development of the land. It was not therefore surprising that lands having more or less the same productive capacity with the same advantages and disadvantages and situated in the same village were paying different rates of rents at the time of the 1890—1900 settlement. Enhancement of the existing rent by 25 per cent perpetuated this anomaly and virtually meant that the system of lump rentals originally introduced by the Zamindars was nothing unusual. In the settlement of 1922—32 the then existing rents were again taken as fair and equitable and were increased by 25 per cent generally on the ground of rise in prices. The position became some what more confusing after the grant of right of free transfer to occupancy raiyats. The amending Act of 1938 provided that the transferor and transferee should sign a statement in the prescribed form indicating the area and the rent of the property transferred. There being no definite acreage rates for different classes of land, the rent of the land transferred as mentioned in this statement is not always proportional to its area and this practice has further disturbed the rent structure. The landlord was not interested in correcting this anomaly as it did not affect the total rent payable to him. It is only when the zamindaries were abolished that the gravity of this anomaly in the rent structure could be appreciated by the administration.

403. In the last settlement of Nawapara subdivision where pressure on land was not heavy the then existing rents were slightly increased. As these existing rents had been fixed as more or less lump rentals as in the district of Cuttack, Puri and Balasore the existing rents have remained as such.

404. In the Sambalpur district (as it existed before creation of Orissa), the Central Provinces system of assessment by application of "soil factors" and "village unit rates" have always been followed. In this system first of all, the tract under settlement is divided into a number of "groups" or villages, as far as possible, homogeneous; there may be as many as nine or ten in each tahsil, the grouping depending on such factors as communications, markets, jungly tracts, liability to drought and so on. The common soils of the tract are also classified and comparative factors allotted; for instance, there may be a good soil with factor 32 while another only about half as productive as 16. These factors are chosen after careful enquiries regarding the cost of cultivation, the productivity of the land, and from a large number of actual crop experiments on each kind of soil. These factors ultimately furnish only the relative rents and it is expected that before he goes into the detailed rents, the Settlement Officer will have formed an estimate of the enhancement which the tahsil as a whole and the various groups separately may be expected to bear. This estimate is based on general considerations as well as crop experiments, land values, rents and other factors. On the basis of this estimate the standard rate for a "soil unit" in each group is worked out. Having arrived at this standard, the Settlement Officer takes into consideration the variations in the groups from the point of view of which of them can bear the most, and which, the least enhancement. The Settlement Officer proceeds to consider as to what extent the standard rate may be applied to the villages in the group, for, though the group is as far as possible homogeneous there are still variations, and after taking all factors into consideration he decides what total percentage of enhancement can be made in the village. Having decided on this, he can obtain the unit rate for each village and by application of the soil factor for each class of land, the acreage rate. This acreage rate is not applied uniformly but is still used as a guide in fixing the rents of holdings, and as tenants and malguzars are given an opportunity before final announcement to put forward circumstances pointing to a reconsideration of the matter, the procedure practically amounts to fixing rent field by field, using certain factors as a guide. The maximum enhancement permitted on an individual holding was 75 per cent. The method may be regarded to some extent as proceeding from aggregate to detail though the aggregate is only an estimate. The principles on which the profits of agriculture are to be estimated are contained in the Central Provinces Settlement Act. Mr. Dewar, who was the Settlement Officer of Sambalpur between 1904—1908 may be quoted in connection with the advantages of the soil unit system :

"It is, in the first place, not a system of assessment but an arithmetical aid to good assessment. Under the acre-unit system, the Settlement Officer was able to examine the rents of villages, holdings and classes of land, to compare them, and, by enquiries into their rent-paying capacities to determine the real relative pressure of the rents paid. No more than this is done with the aid of the soil-unit system. But the acre-unit suit only one kind of country. It is fully applicable and adequate in the canal villages of Sind, where the rainfall is very slight, the land flat, the soil homogeneous and the water supply as equal as engineering can make it. But in irregular country with varying soil, surface, and rainfall, where within one acre there may be not only different crops but differences of soil and drainage, the acre-unit system involves a mass of

calculations, the labour and expense of which discourage attempts at accurate land valuation. The use of the soil-unit sets the Settlement Officer free to choose that unit, arbitrary but not imaginary, which best suits his district and can be most easily and cheaply employed in calculations of comparison. To regard the soil-unit system as complicated is to confuse issues. It is simple arithmetic."

405. In respect of the areas under raiyatwari settlement an elaborate procedure for fixing the rent under what is commonly known as the "half net formula" has been followed. The system has been fully described in Chapter III.

406. In the ex-zamindari tracts of Ganjam and Koraput, the tenants were generally paying produce rent under what was commonly known as "half gross" principle. But as early as the beginning of the second half of the last century, cash rent had been introduced in the Parlakimedi zamindari and had nothing to do with the produce. In other estates, though a claim to half the gross produce used to be made, what the zamindars were recovering from tenants was actually a very high rate of cash rent. This has been fully explained in Chapter III. In some estates, particularly in a few villages of Khallikote and Athgada, "fair and equitable" rent had been settled under the provisions of the Madras Estates Land Act before creation of Orissa. But in all these cases, the basic principle that guided the Settlement Officers was the "half gross" principle. Thus even where cash rent had been settled in the ex-zamindari tracts of Ganjam and Koraput they were more or less mere mechanical substitutes for the produce rent without application of any scientific principle of assessment of fair and equitable rent.

407. The ex-states did not follow any definite system of settlement and the work done in each settlement generally followed the method in which the Settlement officer had his training in the Province from which he was drafted for the work. As Shri Ramadhyani observes, "settlements are in fact regarded as merely a means to augment the revenue, and the method adopted is of little importance so long as this purpose is served". He goes on to say, "generally speaking, throughout the states both survey and settlement have been done by officers who held no higher posts than that of Assistant Settlement Officers in provincial settlements and to this fact may be attributed the defects in places like Athgrah." Finally he mentions, "the report of one state (Nayagarh) shows that the increase of land revenue sanctioned by the Political Agent and Commissioner was at a uniform rate of two annas per acre resulting in an increase of about 4 per cent on the best class of land and 33 per cent on the worst class. In the matter of classification of villages and lands, on the whole, much arbitrariness has prevailed and each Settlement Officer has more or less given scope to his own previous training and back ground without a proper study of the conditions of the State. * * *

On the whole the states seem to have been unfortunate in getting for their Settlement Officers, who would not be fit to be in independent charge of settlements in the Provinces, retired officers or officers on the verge of retirement, sometimes too heavy to move about much".

408. With the abolition of zamindaries and part-time collecting agents in some parts of the State, the administration came in close contact with the cultivators. It was then realised as to how without a proper record of rights and proper settlement it was impossible to conduct the day to day revenue

administration satisfactorily. It was precisely for want of an up-to-date record that the administration of the Estates Abolition Act was not satisfactory. Anticipating this difficulty, the Acts for abolition of zamindaries both in West Bengal as well as in Madras Provided for record-of-rights and settlement operations. The West Bengal Estates' Acquisition Act provided for a record-of-rights operation before the acquisition of estates whereas the Madras Estates (Abolition and Conversion into Raiyatwari) Act provided for such an operation along with rent settlement immediately after the issue of vesting notification. Unfortunately the Orissa Estates Abolition Act did not make any such provision. But that did not in any way mean that these operations were not necessary. As has been pointed out earlier, it is the absence of an up-to-date record that has been responsible for the unsatisfactory administration of the Estates Abolition Act and all other laws relating to tenancy reforms that have been passed after 1938. It is also an urgent necessity that the wide disparity in the rates of rent and the various anomalies that have crept into rent structure by force and circumstances of history should be removed. Government therefore decided that as an emergent measure the existing rents should be standardised to a certain level and the Orissa Standardisation of Rent Bill, 1958 was introduced in the Legislative Assembly to achieve this objective. The Bill was referred to a Select Committee which submitted its report. But on re-consideration Government felt that with so much of anomaly in the rent structure, standardisation of rent only by imposing certain percentages as enhancement on existing rents with marginal adjustments would not remove these anomalies. Rather, this would be misunderstood and misinterpreted by the people. Government therefore decided that the Bill should be dropped and a programme for taking up survey, preparation of record-of-rights and settlement of rent throughout the State should be drawn up and should be implemented as early as possible.

409. The provisions in the various Tenancy Acts about survey, record-of-rights and settlement of rent had been framed in consideration of the pattern of administration then prevailing. Further more, for many areas no law for conducting record-of-rights and settlement of rents existed. Mention may be made of the raiyatwari tracts of Ganjam and the ex-States in this connection. In order to evolve a procedure for survey, preparation of record-of-rights and settlement of rent suitable in the changed circumstances and in order to ensure quick completion of various stages of work, the Orissa Survey and settlement Act, 1958 (Act 3 of 1959) was passed. The Act came into force in most parts of the State on 15th December 1960. Government finally decided that during the current plan period and the early years of the next plan period, survey, record-of-rights and settlement operations have to be conducted and completed throughout the State.

410. The Orissa Survey and Settlement Act unifies the procedure for conducting survey, record-of-rights and settlement of rent throughout the State and fixes definite principles regarding the settlement of rent on the basis of productivity of land. It eliminates many unnecessary stages that were prescribed in the earlier Acts and yet ensures all facilities that were available to the people for getting a correct survey done and a correct record-of-rights prepared. Survey, record-of-rights and settlement operations have already been undertaken under the provisions of this Act in many districts of the State. The Act was amended by Orissa Act 7 of 1962, so as to eliminate certain defects and make its operation smooth.

