

For the recovery of Government dues there is the Public Demands Recovery Act the provisions of which can be applied by the Government for the purpose of recovery by landlords. The Act contains provisions relating to judicial procedure. Generally speaking, the system of land tenures in Orissa is rather more complicated than the system in the Central Provinces.

In Sambalpur, the old Central Provinces laws are in force. Here the system is intermediate between the position prevailing in the Central Provinces before the grant of *malguzari* rights and the present system. The *gaontias* of Sambalpur differ from *malguzars* in having proprietary rights in the *bhogra* (corresponding to *sir*) only and in the waste land they have merely the position of trustees. As they have permanent rights to hold as *gaontias* transfers of the *bhogra* mean transfers of the interest of management also, in practice at least. The system in Sambalpur is in most other respects the same as in the Central Provinces.

At Angul, which was formerly a State, certain special regulations are in force on account of the backward nature of the tract which includes Kondhmahals. Here the Deputy Commissioner exercises criminal, civil and revenue powers concurrently up to a certain limit. Public demands are recovered by an order to make payment and, failing that, by sale of movable property. Immovable property is not usually sold. The whole of Angul is a government estate and the government has direct dealings with interests in land without the mediation of a zamindar. There are *sarbarakars* and collection of revenue is effected through them. In the government estates other than Angul, recovery of revenue is effected through kanungoes. In the Nayanand estate of Balasore recovery is effected through tahsildars and there are no *sarbarakars*.

In estates not under government there is no maintenance of land records by government and the matter is left entirely to the proprietors. It is said that in a few estates records are satisfactorily maintained but in most, they are not satisfactory.

74. *Bihar*.—Bihar, like Orissa, was a part of Bengal, and for the purpose of this enquiry it is necessary to consider only the system of Chota-Nagpur adjoining the States or actually including some of them. The rest of Bihar is still governed to a large extent by Bengal regulations, areas like the Santal parganas having some special regulation. The revenue law of Chota-Nagpur is the Chota-Nagpur Tenancy Act of 1908. Like the Orissa Tenancy Act, it follows to some extent the Bengal Tenancy Act. The different classes of tenants like tenureholders, occupancy and non-occupancy ryots or under-ryots are very similar to the Orissa tenants, the difference lying in the existence of ryots having *khuntkatti* rights, and *mundari khuntkattidars*. Occupancy ryots, non-occupancy ryots and settled ryots are the same as in Orissa. Ryots having *khuntkatti* rights are the descendants of the original clearers of the soil and such ryots have the privilege in respect of their lands that if the tenancy was created more than 20 years before the commencement of the Act, the rent payable cannot be enhanced in the absence of an original contract to the contrary, and if the rent is enhanced, the enhanced rent shall not exceed half the rent payable by an occupancy ryot. In other respects *khuntkatti* ryots have the same rights as occupancy ryots. Occupancy ryots have now the right to transfer land to any person residing in the police station area but in the case of aboriginals, transfers are restricted to aboriginal castes; usufructuary mortgage for 7 years or lease for five years is permitted to aboriginal and scheduled castes. A decree for sale cannot be passed against aboriginals of non-aboriginals except for arrears of rent, agricultural loans, etc. The feature of the *mundari khuntkattidar* tenancy is that the right of a *mundari* to hold jungle lands for the purpose of bringing suitable portions under cultivation by himself or male members of his family is recognised. The rent of such a tenancy may be enhanced only if the tenancy was created within 20 years immediately preceding the petition for enhancement, and the enhanced rent cannot exceed half the rent of occupancy land. A *mundari* tenancy cannot be transferred by sale whether by order of a court or otherwise. Recovery of dues is effected by the Deputy Commissioner taking the land under management. Such land cannot be mortgaged except by usufructuary mortgage for a period not exceeding seven years.

Distinct from the *mundari khuntkatti* tenancy but analogous are the *bhuinhari* holdings, but these have no rights in waste land and the holder of a *bhuinhari* holding may be a member of any aboriginal tribe. *Bhuinhari* holdings are subject to the same restrictions of transfer as other aboriginal holdings. In other respects the Chota-Nagpur Tenancy Act is very similar to the Orissa Tenancy Act.

The settlement of the rents is made under 'special rules and differs from the settlements under the Orissa Tenancy Act. The settlement of Chota Nagpur really follows the soil unit system of the Central Provinces.

The position regarding the Santal parganas is roughly the same as that of Angul.

75. *The Need for Revenue Law in the States.*—We may now proceed to a consideration whether these systems can be applied to the whole or portions of the Agency. The need for the framing of a law for the States has been clearly recognised and stated in the Political Adviser's confidential note and it does not seem necessary to make out an elaborate case for it. It may briefly be stated that the present position is highly detrimental to the interests of the cultivating classes as well as the State. Just as the zamindars show a strong disinclination to accept sanads which determine their rights and prefer to leave as much undefined as possible, so the Rulers do not seem to favour precise laws which would tie their own hands down to any extent, and in the few laws which have been framed, they have left many matters indeterminate or vague. A law in these parts is necessary to protect the interests of cultivators and lay down the legitimate sphere of the State without allowing scope for arbitrariness, as well as to lay down the principles of sound revenue administration which would safeguard the legitimate revenues of the State. The manner in which many States have alienated large portions of the State shows that the Rulers in fact need protection against themselves. That previously there was mismanagement and maladministration to a shocking extent is clear partly from what prevails now and from what prevailed a few years ago before the agitation of 1938. Although considerable improvement in the administration seems to have resulted, this is not the result of any change in the system or attitude of the Rulers which is likely to be permanent, but is largely the result of compelling circumstances and the pressure brought to bear by the Political Department. From the impression I received in conversation with the Rulers it seemed to me that some of them have the idea that all this agitation and interference is a passing phase which will be forgotten in a few years, and things will then go on as before. Unless therefore there is a change in the system which will take the administration to a large extent beyond the idiosyncracies of individual Rulers, there is little doubt that the administration will deteriorate. In this connection the conflict of interests between the Rulers and the ruled, and lack of scope for princely licence already stressed, may be recalled again. Mr. Bowstead has drawn attention to the complicated system of land tenures prevalent in Orissa and the dangers of an overcrowded bar but there is nothing to warrant an assumption that the revenue law in the States will necessarily be as complicated as in Orissa, and, on the whole, I do not think that anything really deplorable has resulted in the British districts from too many unemployed people seeking employment at the bar, so much so, that a return to the condition when there were no bars or law would not be contemplated by anybody. As regards the view certain people hold that a law is no protection, this view does not appear to be put forward by people who are placed in the position they contemplate for others; while it is true that a law can be evaded or rendered largely nugatory in practice, this position is fully taken into account by me, and it is on account of that very factor, that I have a recommendation to make regarding an agency for the proper enforcement of the law proposed.

76. *The Unsuitability of Provincial Laws.*—Coming now to the question whether the Laws of neighbouring provinces are applicable, we have seen that the revenue systems of all three areas, namely the Central Provinces, Bihar and Orissa are based mainly on the existence of intermediary proprietors between the State and the cultivator, and the areas where direct relations prevail are very small and fragmentary. In the States, on the other hand, the opposite is the case on the whole, and except in the zamindari areas and tenure villages, there is no intermediary proprietor.

as far as the great majority of villages is concerned; the position approximates closely in this respect to that in Berar. It is true that in a number of Chhattisgar States, the *gaontias* pose as *malguzars* and agitate for the grant of proprietary status but in no State has this been conceded, nor is it proposed to do so anywhere except in the State of Kawardha where the Ruler mooted some such proposal. The arguments advanced by the *gaontias* for the grant of such rights is that their present position being insecure in view of the liability to ejection, they do not find sufficient incentive to improve their villages, and this would be provided if proprietary, transferable rights are given. The opposite argument is also advanced, that is, that they have often effected improvements in villages and developed them and stand to lose everything if they were ejected; this of course is more an argument against ejection than for the grant of proprietary rights. Some *gaontias* argue that in fact they are *malguzars* and transferable rights should be granted. In Kawardha the argument advanced in favour of the proposal to grant *malguzari* rights is that it would provide a body of loyal supporters for the State which would be helpful in times of agitation. To begin with it may be stated that the *gaontiahi* tenure is based upon a '*patta*' or agreement issued at settlement and terminating at the next settlement. Only in the case of the so-called protected *gaontias* is there any undertaking on behalf of the State to renew the agreement at settlement; in other cases, the State can theoretically create new *gaontias* though in practice this is not *usually* done. Thus the *gaontias* theoretically hold for a limited term each time and there is neither guaranteed continuity nor rights of transfer mortgage or lease as in the case of *malguzari* status. The distinctions between *gaontias* and *malguzars* have already been mentioned in describing the village headmen of the States and it has been pointed out, that, they have not even the modified rights of *gaontias* in Sambalpur. While a *gaontia* in the States can be ejected from his post and the *bhogra* for a breach of the rules, or even on the vague ground of disloyalty the *malguzars* cannot be ejected for any cause. Even the protected *gaontias* have no such rights and the claim of *malguzari* status is entirely untenable.

Before deciding whether such rights should be granted it may be profitable to examine the history of tracts in which it has been granted. In the Central Provinces, the system prevailing before the grant of *malguzari* status was much the same as it is now in the States. "The systems above described which may be summarised by saying that most villages were left in the hands of lessees (patels, *gaontias*, *malguzars* or thekedars as they were variously described) who held leases on farm of the village land revenue from the government, prevailed in the open country or *khalsa* * * " (Dyer's Introduction to the Land Revenue and Settlement Systems of the Central Provinces—para. 26). Regarding the grant of proprietary status which was done by a proclamation in June 1854, the ideas which contributed to the grant such status are described by Dyer as follows :

"The English administrators approached the problem of the land settlement of India with pre-conceived ideas of land ownership based on the English system which were alien to the traditions of the country, and the question was debated in turn in all parts of India under the British sovereignty whether the right of ownership in the land vested or should be recognised in the zamindars or land holders who were responsible for the collection of the government revenue or in the ryots or cultivators who tilled the soil from which the revenue is paid *. The other (school) urged the benefits which the country would receive from an enlightened landed aristocracy, or middle class with a stake in the country, whose interests would necessarily keep them loyal to the established government and who would develop their property to the advantage of the State, the cultivators and themselves. In Bengal where the question was first dealt with, it was settled by recognising the proprietary right in the large zamindar". Dyer goes on to say that the opposite school headed by Sir Thomas Munro held the field when the presidencies of Madras and Bombay were settled, as the zamindari system failed to realise anticipations owing to the sub-division of estates and the growth of a succession of middlemen and of a system of rack-renting. By the time part of the Central Provinces was due for settlement, Sir William Sleeman criticised the ryotwari

settlement on the ground that it prevented anyone who is supported on the rent of land, or the profits of agricultural stock, from rising above the grade of a peasant, and so depriving society of one of its best and most essential elements," (a rather assailable proposition as there are many cultivators under the ryotwari system holding large areas of land and doing a flourishing money-lending business as well). He suggested that the remedy was in village settlements where the estate was of moderate size and this was the system adopted in the Saugor Nerbudda territories. In 1870, Colonel Keatinge, the officiating Chief Commissioner who had served many years in Nimar and "had thus real experience of the local conditions such as few officers of the time possessed" wrote against the policy of a proprietary right settlement in the Central Provinces "because in his view it had little foundation in the pre-existing state of things and was unsuited to the local circumstances" as follows :—

"The Government had before it the condition of the peasantry of both Eastern and Western India, and on its decision of this question of "superior proprietary right" will rest whether in the future the cultivators of Chanda, Nimar and Sambalpur are to share in the prosperity of the Maratha Kunbis, or to swell the wealth of a class which will in many respects resemble the zamindars of Bengal. The Nagpur districts have been settled for 30 years, and we already have the spectacle of an emigration from them into the ryotwari districts of Berar. This fact may well make government pause before going further.

If I am asked why the village managers in Nimar are now to be converted into landlords and why Government is to be subjected to the difficulties and inconveniences which the change will occasion, I can only reply that it is because the Settlement Officers deputed to the Central Provinces originally came from the north-west and brought their system with them".

Col. Keatinge recommended a *de novo* settlement on the principles of the ryotwari system of the Bombay Presidency. The Government of India's orders which were passed in 1875 contained the following among other conclusions. "It is clear that a serious mistake was made in applying to these districts a system of settlement foreign to the tenures of the country and unsuitable to the people. The only point now remaining for consideration is how far it is possible to remedy the mistake". The Secretary of State (The Marquis of Salisbury in Disraeli's administration) concurred in this view and desired that "every opportunity should be taken, consistently with good faith, of diminishing the area over which it (the proprietary system) operates" and added that "it may be deserving of your consideration whether you cannot, by authorising an offer of pecuniary compensation from time to time induce *malguzars* * * * * to accept a commutation of their proprietary rights". In Sambalpur, the inexpediency of extending the *malguzari* system was recognised and what was in substance a *ryotwari* settlement was made, under which the *gaontia* was treated as a village headman, who collected the revenue and the proprietary rights conferred on him were limited to his *bhogra* or home-farm, while the ryots on land other than the home-farm became government ryots, paying the government revenue assessed on their several holdings and not rent, ouster being allowed only for non-payment of revenue and the right of the ryot being heritable but not transferable. Conclusions similar to Col. Keatinge's have been arrived at by others also who have examined the revenue history of these tracts. Thus Wills in his settlement report on the Bilaspur zamindaris in 1913, after showing that the *gaontia* was formerly merely a rent-collecting official with no real responsibility for the revenue, concludes "What was then required in these zamindaris was first, a definite recognition of the ryots' status and, secondly, a definite recognition of the *gaontia*'s office as carrying with it no proprietary rights whatever and no real responsibility for the village revenue, but wide administrative duties hereditarily transmitted, in return for which certain lands were allotted to him free * * *. As it was, a foreign system was imposed on these estates, the modification of which so as to bring it into closer conformity with what the people had evolved for themselves, has since been one of the main problems of zamindari managements". After the creation of *malguzars* out of village headmen, the need for protection of the tenants became apparent as early 1873. In moving the first Tenancy Bill in 1883 for consideration, Sir C. Ilbert, expressed himself as follows : "We found a body of cultivators

paying revenue to the State through their village headmen. Under, and for the purposes of the revenue system which we introduced, we converted the headmen into proprietors or landlords, the cultivators into their tenants and the payments made by the cultivators into rent * * *. Under the circumstances there will be little dispute as to the necessity for legislation, or as to the main principles on which legislation should proceed * * *. And as to the principles of legislation it is clear that we must not allow what was intended to be a boon to the immediate revenue payers to be a curse to those from whom the revenue is ultimately derived." Thus it was that a tenancy law came into being and at the present day the law as it has developed and the actual position created has been one of no ordinary complexity.

Roughly the same position was created in Bengal which at that time included Bihar and Orissa. Discussing the background to the Permanent Settlement, the Land Revenue Commission of Bengal (Floud Commission) say in para. 38 of their report "At that time nobody thought it possible that rents could be further enhanced, and when there was more waste land than there were ryots to cultivate it, nobody thought that it would pay a zamindar to evict his ryots." The results of the Permanent Settlement on the revenue of Government and the rights of ryots and developments leading upto the enactment of the Tenancy Act of 1885 have been described in paragraphs 44 to 62 of the Land Revenue Commission report and it would make this report unnecessarily lengthy to quote, or to describe the situation here. The Chota-Nagpur Tenancy Act and the Orissa Tenancy Act were framed to cover similar needs and, in general form and to a large extent in substance, they follow the Bengal Tenancy Act. The remarks of the Land Revenue Commission, regarding the effects of sub-infeudation seem to me to apply to a large extent to the position of Bihar and Orissa also: "The development of sub-infeudation has led to a revenue system of immense complexity particularly in districts like Bakargunj where as many as 15 or 20 grades of tenure-holders are not uncommonly found. This chain of middlemen has shifted from one to the other the responsibility of collecting rents, and looking after the interests of the tenants. The system has severed the connection between the zamindars and ryots in estates where subinfeudation exists and has defeated the intention of Lord Cornwallis to establish a landlord and tenant system in Bengal on the English model". While there has not been so much sub-infeudation in the Central Provinces, there has been an enormous amount of sub-division of village shares, and today, shares which are fractions of one pice (Whole=16 annas) may commonly be found, and the position of many of these *malguzars* is hardly better than the peasant which Sir William Sleeman thought he would rescue him from. The position reached in Bengal and described by the Land Revenue Commission in respect of the benefits hoped for from the zamindari system is true of other areas as well: "If it was the case that Lord Cornwallis hoped that it would result in the creation of a class of landlords who would supply capital for the improvement of land and the extension of cultivation and if he aimed at a system such as then existed in England, his hopes have not been realised. It cannot be denied that the extension of cultivation since the Permanent Settlement has with few exceptions been the work of the actual cultivators rather than of zamindars as a class". In the Central Provinces also, *malguzars* as a class have done little to improve their villages. Few indeed have the financial capacity for this purpose and the bigger *malguzars* who hold a number of villages are generally absentee landlords whose only interest in the village is the revenue it produces. In the States, I have found that *thekedars* and *gaontias* are primarily interested in improving their own home-farm or *bhogra* land and some at least of the tanks claimed by the *thekedars* as built by them seem to have been constructed with *begar* rendered by the villagers. In Bastar, where one of the conditions imposed on the *thekedar* is that of building or improving a tank or well and planting mango groves there have been numerous cases of ejection for failure to fulfil these conditions and in some of the cases where fulfilment of the *theka* promise has been reported, this is seen to be only nominal (see report on Bastar regarding improvements made by *thekedars*). Any argument, in favour of leasing out villages or creating proprietary rights on these grounds, is therefore not borne out in practice and as far

as leasing is concerned, the usual practice in respect of it is that it begins with an initial payment by the *thekeदार* or *gaontia*, often forced up in auction, and he is more interested in recouping this in the first instance than in improving the village at further expense. Thus it is that shortly before the *theke* falls due for renewal in Bastar many *thekeदारs* make feverish attempts to plant mango trees many of which perish, or to do enough work on a well or tank to satisfy the tahsildar who inspects; frequently an extension of time is asked for. To return to the grant of proprietary rights, many attempts have been made in recent years in the Central Provinces to retrieve the position created by the grant of proprietary rights and various proposals have been considered such as the purchase of villages sold in the execution of civil court decrees or by other means, and these have all been dropped on financial grounds. Not only is the *malguzari* system not a success from the point of view of the development of villages or relations between tenants and landlord but, like the Permanent Settlement of Bengal, it involves considerable financial loss to the State. Responsibility for the revenue of a village whether through a *malguzar* or *gaontia* without proprietary status, can be borne satisfactorily only where the payment to be made to the State is considerably less than the total income from the village. In the areas where proprietary status was granted and land revenue based on village assets (including ryotwari rentals, rental value of home farm and miscellaneous income) it was found that even 66 per cent. of the assets as land revenue could not be borne and ultimately this was fixed at 50 per cent. for the Central Provinces, "Fifty per cent. exclusive of road cess, etc. should be fixed all over the Central Provinces * * *". Experience in other Provinces has shown that if the Government takes much more than 50 per cent. the settlement breaks down in a few years." This is the reason why the *sarbarakari* system in Orissa where the *sarbarakar* gets only about 10 per cent. or less of the village rentals as his remuneration, is gradually breaking down, in such States as Dhenkanal where the responsibility for revenue is rigorously enforced. The comparatively better position in Gangpur where the *gaontia* gets 25 per cent. has already been mentioned and in the Chhattisgarh States also where the *gaontia* gets a high remuneration, sometimes as much as fifty per cent. of the total rental, the system of responsibility is working better. This position may be contrasted with the position in Berar where the ryotwari system prevail and the *patel* is merely a collector, and has no responsibility for the revenue; here the collecting agency costs less than 10 per cent. The State is thus, in the *malguzari* areas, put to a great loss while the benefits to the villagers is generally nil. In Bengal, the Land Revenue Commission has mentioned the financial loss to the State and has also pointed out that the low cost of collection and the punctuality of payment have tended to obscure the defects of the system which has been to deprive the Government of the close contact with and intimate knowledge of rural conditions which the ryotwari system affords; this as well as the excessive litigation caused is a feature of the *malguzari* system as well. The Commission recommended that the Permanent Settlement and the zamindari system should be replaced by a *ryotwari* system, under which the Government will be brought into direct relationship with the actual cultivators. In the Central Provinces one of the most important steps taken in amending the tenancy legislation is to grant absolute occupancy as well as occupancy tenants the right to become owners of land in their own right, paying revenue directly to Government, on payment of a small multiple of rent to the *malguzar*. The effect of this, if suitable circumstances prevail, may be the gradual supersession of the *malguzari* system and evolution of a *ryotwari* system. The Sambalpur Land Laws Committee viewed the Central Provinces step with approval remarking "The system of having one Malik in a village with a number of tenants under him has been tried and the result has not at all been encouraging * * *. The relation between landlords and tenants has deteriorated gradually". Thus the case against the grant of proprietary rights to *gaontias* and other village headmen or lessees seems to be overwhelming. I have personal experience of the *ryotwari* areas of Berar as well as of the *malguzari* area of the Central Provinces and on the basis of my experience in addition to the views quoted above, I should offer the strongest possible opposition to convert the present village headmen into *malguzars*. Such a step, even if attended with no immediate financial loss to the State would, apart from the

complicated legislation necessary for the protection of the ryots, mean public loss in the long run as the *malguzar* would get all the unearned increment resulting from the future development of the State; the protection of the tenants would be a difficult feat of administration which the States are not capable of. The Kawardha proposal really seems to be a scheme, not to confer *malguzari* status as was done by the Government of India in 1854 as a gift, but to do so on payment, which while no doubt helping to ease the position created by the building of a costly new palace would leave an unwholesome legacy for the future. There can then be no question of either adopting the Central Provinces laws with any measure of completeness which would facilitate any future absorption into the province or of introducing a *malguzari* system.

Similar is the position with reference to the Orissa Tenancy Act or the Chota-Nagpur Tenancy Act. Both these Tenancy Acts are based upon the similar law of Bengal which may be regarded as their parent. The accrual of occupancy rights in all three cases required 12 years cultivation of lands in the village. In Chota-Nagpur there are the *mundari khunkhatti-dari* tenancy and the *bhuinhari* holdings as well as ryots with *khunkhatti* rights, the like of which is not to be found in the States. The 12 years' possession rule is something entirely arbitrary and I can find no circumstance in the States which would justify its imposition except perhaps for the protection of sub-lessees who have held for long periods and improved the land. In Bengal it was introduced in 1859 in order to obliterate a previous distinction between '*khudkashi*' and '*paikashi*' ryots. Since then it appears to have been adopted absolutely arbitrarily in other places, without any local reason, and was once a feature of the Central Provinces Tenancy Act from which it has now long been removed. In Dalziel's settlement report of Orissa (1932) it is stated that the principle of 12 years' possession appeared "to have crept into the Act of 1859 as a mere after-thought but it has continued to hold the field in all subsequent legislation. The Bengal Tenancy Act (Act VIII of 1885) extended the principle much further by providing that any person who has continuously held land as a ryot in any village for 12 years became a settled-ryot and that every settled ryot should have a right of occupancy in all lands held by him as a ryot in the village. This part of the Bengal Tenancy Act was extended in Orissa in 1891". I have not been able to find anything in Maddox's settlement report which suggests that any such rule was necessary in Orissa. In the States, I can see no necessity for any such rule for ryots at present, and in fact the introduction of the rule would certainly amount to the imposition of a disability upon the cultivator. The position regarding the 12 years' rule in Hindol and Athmallik which are the only two States to introduce it has been stated already, in both these cases the rule is an exotic one and has not yet crystallised. In Kanker where the old Central Provinces practice was copied, it is now proposed to abolish the distinctions. The ryot throughout the area under enquiry acquired the right to hold continuously so long as he paid the revenue as soon as he acquired possession of the land. The adoption of the 12 years' rule in the States would therefore be a measure of injustice.

Even apart from all these considerations, the laws of the Provinces as they are, do not suit the circumstances of the States. The peculiar position in the States in which a close definition of the States' rights is necessary has already been alluded to. Moreover, as this is the first law to be applied, there is need for several new provisions to deal with existing features and to give them the right orientation. It is not therefore practicable to adopt the provincial laws and it is absolutely necessary to frame a new law or laws.

If the States are ever absorbed into the province I suppose the Rulers will be zamindar and the ryots tenants. It is unnecessary to complicate the matter further by recognising proprietary or semi-proprietary rights in middle-men. There are already zamindars and tenure-holders and even sub-zamindars who will constitute the third degree of sub-infeudation if the Rulers become zamindars.

77. *One Law or Several Laws.*—We come now to the question whether one law can be framed for all the States or separate laws are necessary. If the position as found in each State is simply to be crystallised and codified, then identical laws are impossible for even two or three States. On the other hand the present position in many States has many undesirable

features which demand modification. Then again, if the law is to incorporate all peculiarities of all States, then not only is a single law impracticable but the task is also beyond me unless I spend a considerable time in each State, weigh and decide all conflicting claims put forward by tenureholders, zamindars and others. That one law for the whole agency, if practicable, presents immense advantages is obvious; it is equally obvious that it is impossible to incorporate all features of each State and still have a single law which can be understood properly. The question then arises, are the systems of the various States susceptible of being fitted into a broad legal framework dealing with main principles in which the detail is left to be filled in with special rules in each State? It is clear that even such a measure would be an advantage in face of the possibility of 39 different laws in a comparatively small area. I venture to think that the question can be answered in the affirmative provided that certain very necessary alterations are made in the system of village management and recovery of land revenue along with other essential reforms in other matters. It has already been pointed out that there is a considerable measure of uniformity in the systems of all the States. All the systems are based upon the principle that the State owns all land which has not been alienated. Further, apart from rent-free grants and certain zamindari tenures, there are no intermediate proprietors as the headmen of villages have not been given proprietary rights in any State. (The *birtia* villages of Sonapur seem to be an exception but these are really in the nature of *brahmottar* grants). The rent-free grants even do not present any features which are not susceptible of reduction to a common level. The ryoti tenures are all practically identical throughout the Agency. This is a considerable measure of agreement in important matters and if it is possible now to reduce the varying powers of the village headman in each State to a common basis, the problem is largely solved, as in procedure, settlements and similar matters there would be no difficulty in having common principles. It has been seen that the system of village headmen with responsibility for the revenue is breaking down in places where it has not been bolstered up by a considerable sacrifice of revenue on the part of the State. The evils of the existing system of leasing out villages or leaving the management to *sarbarakars* or *gaontias* have, I think, been brought out sufficiently clearly in the individual reports. The system of auctioning or selling the village headmanship is most pernicious one; the *theke-dari* system at its best is expected to provide capital for village improvement but this can hardly be forthcoming if the headman has to make an initial payment to the State. The first consideration of such a village headman is to reimburse himself by exploiting all the possibilities in the village. (See report on Udaipur where a *gaontia*, even before his appointment was formally confirmed, started demanding *salami* from a new comer). In some States, the *theke-dar* or *gaontia* has the power of allotting waste lands in the village and wherever the land has any value it may be taken as certain that he recovers a *nazrana*; in a few States the *wazib-ul-arz* prohibits this nominally but it is pretty certain that this rule is evaded in practice and with the connivance of the ryot. In a State like Nandgaon where cultivation is thick and land valuable, there is frequent friction between the ryots and the *gaontia* on account of the latter attempting to allot the little waste land available for cultivation while the ryots desire to retain it for grazing and other purposes. The power to accept surrender of lands has also placed a potent weapon in the headman's hands for profit and wherever the land has any value the *theke-dar* attempts to promote surrender. Wherever the transfer of land requires the services of the *gaontai* he does not fail to profit by it. The system of auctioning villages is popular with the States because it usually provides the Ruler with occasional income in the shape of *salami*. The case of Raigarh has already been mentioned. The practice of auction gradually results in the acquisition of proprietary rights and the Sarangarh practice of auctioning a village at the instance of a *gaontia* and sharing the premium may be recalled. The system of short term *thikas* and sub-leasing prevalent in Kanker and introduced in Surguja is particularly harmful from the point of view of village development and the interests of the cultivators. The evils of village management through leases are sufficiently apparent everywhere I think to put an end to the system. If the *malguzari* system has resulted in so much abuse and trouble as well as loss when the *malguzar* has secure rights, a short-term lease certainly has all the possibilities of the same evils to a

higher degree. With a system of *thekedars* with powers to allot lands and accept surrenders, apart from the possibility of abuse and harassment, the land records cannot be satisfactorily maintained. Though leases may bring in a certain amount of *nazrana* it is clear that on the whole the State suffers a loss in the shape of a heavy "draw-back" intercepted by the *gaontia* and in the *nazranas* which the headman intercepts and which would in a system of direct management go to the State. The powers of *thekedars*, as already mentioned, have been reduced from time to time on account of abuse, and in view of the corrupt practices inherent in the system, it is essential in the interests of proper village management and State revenue to seek a different system. In Bastar the need for abolition of the *theke-dari* system has been recognised and new *thekas* are not created while old *thekas* which are forfeited are not reissued. Throughout the Orissa States with the exception of a few like Gangpur or Pal-Lahra powers of allotment or reallocation of land have been taken away and *sarbarakars* in these areas are little more than collectors of revenue. In Patna recently the powers of allotment and allotment of land have been appropriated by the State. In the Chhattisgarh States of Surguja and Koroa there is a move towards the *ryotwari* system.

Thy system of farming out villages to headmen with responsibility for the revenue may now be regarded as a primitive method of management the utility of which, if any, has expired with the time when cultivators were difficult to find, and it is not suited to an age of rapid communications and rapidly increasing population; it has not fulfilled expectations of village improvements and has on the other hand resulted often in harassment of ryots and the powers of *thekedars* and *gaontias* have had to be reduced from time to time; the responsibility for the revenue of the village has resulted in the system breaking down in many places with the consequence that in two States (Nilgiri and Athgarh) the system of village headmen has been abolished altogether and in Baudh the headmen have been relieved from the responsibility of paying the land revenue. Nearly everywhere the States have been compelled to help the headmen with certificate procedure and other means (even in the Central Provinces *malguzars* seek the help of the tahsildar) and for many villages headmen willing to accept the responsibility for revenue cannot be found; the mass removal of headmen in Athmallik for quite trivial arrears of revenue in some cases is described in the report on that State.

The *ryotwari* system is moreover the only system which the States can have as a common factor and to prevent the loss of State revenue in the shape of heavy 'drawbacks' intercepted by the headmen.

CHAPTER VIII.—The Ryotwari System Proposed

78. The excellence of the system of direct management known as *ryotwari* and the uniformity of authoritative opinion in respect of it has already been noted. I am of opinion that this system should be introduced into the States. By suggesting a *ryotwari* system I am not suggesting anything new or foreign to the area; it will be shown presently how this system can be evolved out of the existing system; in a number of ways the position in many States where the headman has no rights of disposal of land is very similar to it. Briefly in the *ryotwari* system, there is a Village headman, who is, or should be, one of the local cultivators, with strong local interests and influence in the village. It is essential to the success of the system that the headman should, to the largest extent possible, be a local resident, and not as often happens under the *theke-dari* system, (particularly so where easy money is the first consideration) an outsider. This headman, as far as possible the choice of the villagers, will be a sort of local agent of the State, responsible for the collection of the revenue and having other administrative duties to discharge. Being a local man and well known to the villagers, there will be greater confidence in him than in the case of a temporary peon who acts as collector and has opportunities of cheating as well with comparative impunity. The State can also place greater faith in him as a collector of revenue. As a remuneration for the collection of revenue and discharge of other duties, the headman gets a remuneration which is usually a small percentage of the total land revenue. Having only the duty of collection to do, and bearing no personal responsibility

for the revenue, and having no such rights over village waste or land left without an occupant as the lessees have, and further with no payment to make in order to retain his office or to get it, the opportunities and incentives for the village headman to oppress the cultivators will be reduced to the absolute minimum. The post will as a rule be held hereditarily according to the law of primogeniture but the primary consideration will be the fitness of the person for the post and his ability to discharge the duties personally. This is the system prevalent in the ryotwari areas of Berar, Bombay and elsewhere.

79. *Conversion of the State System.*—How can the system in the States be converted into this and what will happen to the *gaontias* and *sarbarakars*? The description of *ryotwari* management given above will already have provided an answer. It is not necessary to oust the *gaontias*, *sarbarakars*, *padhans* and others who have often held for generations. As already pointed out, the practice in the States is that the headmen hold their posts ordinarily hereditarily even where they have no protected status, though sometimes they have to pay a *salami* to do so. Thus a great many families have held the headmanship for generations and the resentment likely to be caused by disturbing them has on the whole been recognised in the States. There are indeed numerous cases of outsiders also but even they tend to become hereditary. The responsibility for the revenue is a thing a great many headmen would like to be relieved of though some of the *gaontias* who are getting a high commission would not mind retaining it if they felt that the commission or "drawback" would be reduced. They would also like to feel greater security in their tenure and in their *bhogra* land, particularly where they have paid a heavy *salami* for it; there are bitter disputes regarding the *bhogra* between private co-sharers and all these are liable to be ejected if the *gaontia* is ejected. All *gaontias* and *sarbarakars* have administrative duties to do which they will have to do also as headmen of ryotwari villages. In these matters then, there is much in common between the present position and the system proposed and there will not be any appreciable change in transition. The chief difference between the two system may be summarised as follows: In some States, (mostly the Chhattisgarh States of Nandgaon, Khairagarh, Chhuikhadan, Kawardha, Raigarh, Sarangarh, Udaipur, Kalahandi and one or two in Orissa like Gangpur or Bamra) the headman has the powers of allotting waste land for new cultivation but practically everywhere now this is subject to the sanction of the State if there is forest growth; also he has the powers of accepting surrenders of land or taking possession of abandoned land or of lands the owners of which have died intestate or where male heirs have failed. In Sonapur Nandgaon and Udaipur the *gaontia* can levy a consent-fee on transfers of land; in Nandgaon and Raigarh a fee is levied on connivance at a transfer not permitted under the rules by the process of surrender and reallocation and in Sakti an illegal fee is levied on transfers which require the consent of the State. The *gaontias* have *bhogra* or *manwar* lands which they hold only while retaining the office and are liable to lose when they are ejected. In most cases *nazrana* or *salami* has been paid for the village, and this is a heavy sum in some of the Chhattisgarh States where lands are valuable. As the headmanship does not convey proprietary or transferable rights, the payment for which the 'village' is purchased may be regarded as made for the following rights and liabilities:

Rights.

1. Cultivating possession of *bhogra* or *sir* land.
2. Perquisites obtained from the allotment or reallocation of land.
3. Commission or remuneration unless this is provided by (1).
4. Illegal perquisites.

Liabilities.

1. Responsibility for the entire revenue of the village.
2. Liability to be ejected for non-payment of revenue or breach of rules.
3. Liabilities to make payments when theka is renewed and insecurity of tenure.

1 and 3 on the rights side are generally identical. In some places where there is 'excess' *bhogra* or *sir* this is held on assessment. If *bhogra* is inadequate the *gaontia* get a 'drawback' on the ryoti rents to make up the percentage of commission, otherwise the land is held rentfree and no commission is paid. Analysing the rights further, 2 and 4 are most valuable in a few States like Raigarh, Sakti, Sarangarh, Nandgaon, Khairagarh,

Chhuikhadan or Udaipur where land is valuable (see below, *nazranas* in most of these States are contrary to the *wajib-ul-arz*). Both of these are casual incomes and where land is really valuable there will be practically no case of surrender or abandonment, and cases of intestacy or failure of male heirs are also rare. It is in these areas also that the machinations of the headman for forcing a surrender of land may be expected. (Whether a change in the position of the headman is made or not, it is proposed to grant rights of transfer without any person's consent (except in the case of aboriginals) to ryots and also to alter the rule of inheritance in the Chhattisgarh States to the personal law). As regards illegal perquisites by levying *nazrana* and consent money in various matters where the consent of the headman is required, this is also a more or less casual income and is in some cases punishable; it is appreciable only in a few places as where there is close cultivation there is little land available for allotment and where the area is still undeveloped the land has little value and so on. The payment for the village may thus be regarded as very largely, if not exclusively, made for the *bhogra* or *sir* lands and (or) the remuneration for the post of village headman with the responsibility for the revenue. That headmen should no longer be allowed to exercise the powers of allotment of waste land, or accepting surrenders of land is clear. These powers should go in the interests of the revenue of the State and of better village management even if the practice of headmen with responsibility for revenue is retained. It is idle to give headmen these powers and not expect them to make money out of it or harass the ryots. The headman's potentiality for mischief has gradually been reduced from time to time and in most places there are very few such powers left now. Then again, in matters like transfers of land it is not proposed to leave this any long to the competence of the headman to sanction or not to sanction. In a number of States like Khairagarh, Chhuikhadan, Kawardha or Udaipur the levy of *nazrana* has been specifically prohibited where allotment of waste land is concerned and in no State is it a specifically authorised levy. This leaves us with the *bhogra* lands which are usually the best lands in the village, and this is generally what the headman paid his *nazrana* for. If therefore he gets permanent and transferable rights in the land, he will be adequately compensated for the payment. Then, on the liability side, if the headman is no longer personally held responsible for the revenue but is only expected to collect and credit the money, reporting cases of defaulters he cannot deal with to the authorities for necessary action, this is a distinct advantage for him and removes one of the chief causes of insecurity of tenure and so much trouble, as he originally had in many cases to borrow to pay, and then to file a civil suit or other proceedings, the costs of which first had to be paid by him. Further, on the ryotwari system, there is no question of removing him from the headmanship so long as he performs his duties and is not guilty of a criminal offence or gross misbehaviour, and even if he loses the post he would not lose the lands which now become his permanently with rights of transfer. No payment of any kind except perhaps a nominal one would be recovered from him where, on account of death or removal, a fresh order of appointment is issued in favour of his son and there would be no periodical renewals of the '*patta*'. Thus, on the whole, the *gaontia* would definitely not lose anything on the new system. Provision has, however, to be made for the cases where a recent appointment has been made but without recovery of any *nazrana* or only a nominal *nazrana*. In the case of headmen of long standing, I do not think the question should arise at all as by virtue of long possession (probable being the original clearers of the land) and discharge of their duties the headmen have acquired a right to get the same rights as an ordinary ryot gets in his land, even if payment of *nazrana* cannot be proved. If therefore a headman has, either by himself or through members of his family from whom he has inherited, held a village for 20 years or more it is proposed to give him the same rights as a ryot in his land. If the possession has been for less than 20 years and the *gaontia* is a new comer, the *nazrana* paid, if any may be set off against the estimated value of the land when it was given excluding the value of improvements, if any, made by the *gaontia*; new additions to the *bhogra* since the *gaontiahi* was acquired, if cultivated for less than 20 years will be regarded as liable to be paid for. It is proposed to recover only half the difference between the *nazrana* paid and the estimated value of the *bhogra* if the village has been held for more than 12

years. It is not proposed to make any payment to the *gaontias* if any extra payment has been made in view of the removal of the responsibility for the revenue and insecurity of tenure. The *gaontia* will be given the right to file a civil suit if any extra payment is demanded from him for the *bhogra* land and he considers himself aggrieved. The new status proposed for the *gaontia* may be clearly seen from the relevant sections of the draft law. I do not think that there will be either much litigation or even a large number of cases for settlement as headmen who have held longer than 20 years, who numerous will have full rights in the land unless there are additions to the *bhogra* within 20 years. The *gaontia* will not be compelled to buy such new additions or any portion of the *bhogra* and he can give up possession of the land or a portion of it. The *bhogra* thus settled, we have all the necessary conditions for a ryotwari system. One very strong reason why it is essential to settle *bhogra* is that in many places the headmen have got co-shares in the *bhogra* land who have indeed no permanent rights in it and are not recognised as shares in the village headmanship. The co-shares can enforce their interests in the *bhogra*, and in some cases any agreement subsisting between them and the *gaontia*, in the civil court. There is constant friction between the *gaontia* and the co-shares and bitter litigation as the *gaontia* has to share his *bhogra* but the co-sharers often refuse to take part in [the liabilities of the *gaontia*. These disputes are sometimes said to have assumed serious proportions. This state of affairs will to a large extent disappear when the *bhogra* is settled. The States themselves have fully recognised the need for settlement of the *bhogra*. The difference between the proposals made here and their idea is that they would like to realise *salami* for all *bhogra* whereas my proposals restrict it to new *gaontias* who have not held for 20 years; in my opinion it would be very unfair to the *gaontias* to make them pay *salamis* for land they have held and developed for generations.

The next question is about the commission the headmen get. As stated before, this is a rather high percentage of the total revenue of the village in a number of States and with the removal of the responsibility for payment of the revenue there is a good case to reduce it wherever it is more than ten per cent., except in small villages the total rental of which is very little. A sudden reduction of these amounts will undoubtedly cause hardship and it is proposed therefore to effect a reduction in three steps at five-yearly intervals. This could be done at settlement when changes in the *wajib-ul-arz* and in other directions are usually made in the States but as it is difficult to say when settlements will take place in future a definite period is fixed.

80. *The Ryots under the Proposed System.*—We can now proceed to deal with the position of the ryots. As the headman has ceased to exercise any proprietary rights in the village, and is merely a collector of revenue and a village official, the ryots hold land directly under the State and deal directly with it. It is the State which will now take action against them if they fail to pay their dues (this is the position already existing in some States like Athmallik, Baudh, Nilgiri or Athgarh and in some villages of every State where there are no *gaontias*) and the *gaontia* will only report defaulters. It is the State too which will allot waste land for cultivation, accept surrenders of land and reallocate surrendered land with recovery of premium. Coming now to the question of what the actual position of the ryot in land cultivated by him will be, it is hardly necessary to say that rights in the holding must have that absolute security which is essential for the prosperity and contentment of the cultivator, the improvement of cultivation and the consequent benefit of the State. Assuming that this is a proposition which nobody even in the States will now dispute and that the ryot will not be ejected from his land for any cause, other rights in which the cultivator is interested is how the land will descend after him, what rights he has in the matter of transfer by sale, gift, mortgage, lease, will or otherwise, what rights he has on trees and other produce growing on it, and whether he has any rights to make improvements.

(a) *Succession.*—As regards the right of succession, in most States there are no restrictions in this matter and inheritance seems to be governed by the personal law, but in a few of the Chhattisgarh States, there are restrictions to the effect that if direct heirs fail, succession is restricted to

males among collaterals and the right of adoption is not recognised except with permission, which means money. There is considerable feeling against this restriction. In the Central Provinces a similar restriction though less stringent used to exist in the case of occupancy tenants but this position has now been altered and occupancy tenants, like absolute occupancy tenants are governed by personal law in this matter. In Berar, succession is governed by personal law, and in Orissa and Bihar now, there seems to be no such restriction as exists in the States. There is no useful purpose behind the restriction except that it would offer the headman or the States a "windfall" now and then and in view of the feeling against it and the absence of such restrictions elsewhere I consider that it should be abolished and succession should be governed by personal law.

(b) *Transfers*.—Taking transfers, the position now in the States is that most of them allow transfer with or without the permission of the State but with the levy of consent-money or *salami* or mutation fee (disguised *salami*) and only in Ranpur, and probably now in Athgarh, is there the right of unrestricted transfer. The States in which transfer is not permitted at all have been mentioned before. There is undoubtedly strong feeling in favour of allowing transfer and in fact, wherever transfer is not permitted, it is often effected by illegal means or circumvention of the rules. Circumvention by surrender and reallocation and other practices have already been mentioned by me. Even in Bastar where the prohibition against transfer has been applied with some rigidity there is evasion of the rules as well as illegal transfer. I do not think that in areas where land has value transfer can be effectively prevented without giving rise to the strongest feeling. In the Central Provinces, Bihar and Orissa this feeling has been recognised, and in all three provinces the right of transfer has been conceded. In Bengal, Bihar and Orissa, the rights granted are practically unrestricted. This has been done in spite of the strongest arguments of the opponents of transfer that such rights are not in the interest of the cultivators. As the grant of these right in surrounding areas does not by itself constitute a case for similar steps in the States, we might examine the position a bit more closely.

The Ryots' case for Rights of Transfer.—To do this we have to look back to the previous history of cultivation and village management. As pointed out earlier, at one time, it was the cultivator who was once in great demand, not the land. The land at this time had no value and even the forest-growth on it had no value in view of the plentitude of such material. Land was anybody's for the asking and the desire to cultivate. This position still prevails to a large extent in States like Bonai, Korea or Changbhakar where nobody would buy waste land, and in fact many bogus cultivators whose real interests is in the forest growth come forward to take the land only to abandon it, after taking the timber. It is after the cultivator has put his labour into it, cleared the forest growth and ploughed the land, embanked it or manured it, that the land becomes fit for cultivation. Before this process takes place there is little value in the land. The importance of this initial effort is seen from the fact that there are numerous professional cultivators, even in areas where land may be had practically for the asking, who cultivate habitually on the *sanja* or *batai* system paying more rent than land-holding ryots. Such cultivators when questioned by me said that they had not the means to bring new land under cultivation. Thus, in former days when there were vast areas under jungle, and even now in the land-locked, backward areas of the States, land had and has little value. On the other hand, there were areas in which cultivators started settling where the land was rapidly acquiring some value. The transition from the state where the cultivator probably required inducements to take up land, to the state where he no longer was sought after so keenly has been mentioned. Here, it may be safely assumed that the cultivator, before being permitted to take up the land, was made to pay whatever value it possessed. The village headmen in those days were very much more powerful than they are now, and exercising the powers of allotment as well as of ejectment as they did, there can be no question that they squeezed out every pie the land was worth, either in the shape of high rents or *nazrana*, particularly where they themselves

had to make a payment for obtaining the village or retaining the headmanship. Prohibition of *nazrana* is futile where land has any real value and neither the headman nor the cultivator would trouble about the restriction. Thus the position is that everywhere either the land had no value when the cultivator took it, or it had little value, which has been paid to the *thekeदार*, and by the latter to the State in the shape of *nazrana*. The value of the land now is of course quite different from what it was when the land was acquired. Largely the present value has been given to it by the cultivator himself, and to some extent the enhanced value may be due to improvements in communications and other developments for which also the cultivator has paid and is paying in the shape of enhanced rent. Thus, on the whole, the value of the land has been put into it or paid for by the cultivator, and in view of this fact his feeling that he has a right to the value is natural. It may be mentioned that where land has so much value that there is competition for it the State often holds an auction, and the Udaipur practice where more than the royalty of trees is levied has already been noticed. In view of these facts, the State would not be making a gift of money to the cultivator by conceding the rights of transfer and in fact, by denying such right, the cultivator is being deprived of his legitimate rights. The levy of consent-money by the State or the headmen is an encroachment upon the cultivator's rights and deprives him of a part of the value of the land to which the State or the *thekeदार* has contributed little that has not been paid for, apart from levying such duties as stamp duties and registration fees on him. In Patna this fee has been justified on the ground that the land does not belong to the cultivator. It has been pointed out in the report on that State that the value of the right is recovered when land is put to auction and the levy of a transfer fee on a transfer by the cultivator amounts to depriving him of a part of the value he has already paid. Thus not only is the cultivator justified in his demand for the rights of transferring his land but is also justified in asking that there should be no restrictions or need for payment to middlemen.

Case for and against restriction.—The point to be considered now is whether the exercise of the right is detrimental to the interest of the cultivators and should be prohibited by the State in his interest. States which permit transfer on payment of consent money are not entitled to raise such a plea as they are really interested in aiding to the revenue. The arguments against permitting transfer are that the cultivator will soon start selling and losing his lands or will be deceived into doing so by wily money-lenders; soon, therefore, the cultivator will cease to be such, and become a labourer. While it is to some extent true that on account of his own extravagance or on account of the wiles of money-lenders, cases of cultivators losing their lands are not uncommon, it is by no means true that the grant of transferable rights results in cultivators as a general rule becoming labourers. The cultivator on the whole is strongly attached to his land, and recognises quite clearly that it means all the difference to him between a land-holder and a landless labourer, and this is evidenced by the way cultivators who have been ejected from land many years ago, still remember and speak of it as a grievance. If the cultivator would lose his land in the manner stated, there would be none but large landholders and land owning *sowcars* and agricultural labourers left in areas like Berar, the Bombay Presidency or Madras where the *ryotwari* system with unrestricted rights of transfer has prevailed for over a hundred years. Ranpur, where the cultivators have had such rights for a long time presents no such spectacle. It must be mentioned that during the great economic crisis through which the world has recently emerged (only to pass into a crisis of a different kind), large numbers of cultivators in the *ryotwari* areas of Berar lost their lands on account of the sudden fall in prices which coincide with a number of lean years. This was not due to the inherent defect of the *ryotwari* system but to the fact that during the preceding years of unprecedented prosperity the cultivator had entered into commitments which he expected to be able to meet, but was suddenly placed in a different position. Had there been no rights of transfer it is perhaps possible that large scale expropriation of cultivators would not have occurred, but the restriction of credit would have had much the same effect and resulted in surrender of lands. Prevention of transfer, as

already pointed out, results in evasion and discontentment; it restricts the credit of the cultivator as the only security he can usually offer in his land, and results in heavy rates of interest; this restriction of credit means inability to invest any capital in it and improve it; it means much more than that; in view of the majority of holdings in this country being uneconomic, and the consequent need for the cultivator to borrow in order to keep himself going during difficult years, vicissitudes often compel him to give up his land on account of inability to cultivate it, and this has the same result as expropriation, whereas, by sale of a part, he may be able to save rest. There is little doubt that on the whole it is in the *ryotwari* areas that the cultivators are more prosperous than in areas where the right is restricted, and this speaks more than theoretical arguments. It cannot be denied however that where transfer is unrestricted there is at times an alarmingly quick passage of land from the cultivators to the money-lenders and the need for doing something to prevent or slow down this process is felt. Legislation designed to control usurious rates of interest and other debt legislation to some extent protects the cultivator but all these are to a large extent circumvented by the money lender with the full co-operation of the needy agriculturist whose thought generally is for the alleviation of the momentary situation. Thus even though courts may not allow high rates of interest, the cultivator agrees to pay, and actually does pay, a high rate of interest, fictitious amounts are mentioned in sale deeds, and so on. If debt legislation does not always enlist the co-operation of the agriculturist in its administration, it is doubtful if restrictions on transfer will. In places where sales require the permission of the authorities, the restrictions is often used as a source of revenue; even if no consent money is levied, the cultivator has to spend an appreciable sum at a time when what he wants is money, in the way of court-fee, petition-paper fee, petition writer's expenses, expenses connected with coming to court, proclamation or notice fees and so on. Having paid all these fees, the case generally drags on for several months. And finally at the end of all this expense and trouble, if the court passes an order refusing the sale, the irritation and annoyance caused to the cultivator can be better imagined than expressed though some people find it hard to do the former; even if permission is granted the cultivator will often not have been able to get his money when he most wants it. If on the other hand it is argued that cases of refusal are few, then either the restriction is inoperative, or the cultivator seldom sells his land unwisely, and the need for the restriction is not great; in any case the restriction simply means that the cultivator has to spend a certain amount to obtain sanction, and thus is robbed of a part of the value of the land. If this kind of restriction is abandoned and it is provided that land shall not be sold in execution of civil court decrees the cultivator may get a measure of protection without undue restriction of credit though it is not many cases which go to the civil court and the *sowcar* has enough cunning to circumvent it: in fact he may find the restriction to his advantage and insist upon conditional sale or take the land as interest upon the loan, and of course the loan is never repaid, and the land never goes back. On the whole it seems to me that restrictions are not successful, cause only inconvenience and expense to the cultivator, and engender a feeling of grievance and frustration; it leads to the concoction of ways of circumvention which are always based on dishonesty and thus has the effect of lowering the moral standard of the poorer classes still further. What can for instance be worse than the practice of *sowcars* getting an ante-dated deed written out and, with the mendacious co-operation of the cultivator, get a decree actually passed before advancing him the money? And yet this is the sort of practice which is reported to be creeping in in some places in the Central Provinces on account of debt legislation against the moneylender. The Sambalpur Land Laws Committee mentions the existence of similar practices (page 36 of the Committee's report). It seems to me therefore that restrictions are ineffective and some other way of preventing accumulation of land in the hands of the money-lending classes must be sought. It seems to me that an attempt can be made in this direction by placing a disability on habitual cultivation through lessees of various kinds. If a person acquires large quantities of land, there must come a stage when direct cultivation is no longer possible or is at least very

difficult. Many lands are cultivated habitually through lessees and managed solely with a view to obtaining rent. When this stage is reached, if it can be provided that any cultivator who is cultivating that land may acquire the land for himself on payment of a *small multiple of the assessment on it, a process of land going back from the sahuکار to the agriculturist will have been set up and the evil to some extent counteracted. Of course "habitual cultivation" will require some definition and here the possibility of circumvention arises. In the Central Provinces Tenancy Act, there is a section (section 40)† under which, if it can be shown that any land is being habitually sublet, the right of the original tenant can be extinguished. Land may be presumed to be habitually sublet if it is sublet for a total period of more than seven years during any consecutive period of ten years, subject to certain exceptions in the case of women, minors, religious institutions etc. The section was originally framed to meet the needs of certain areas where habitual sublease of the type mentioned was common. I have not much personal experience of the working of the old section except in one case and the amended section is only about a year old but I am of opinion that a provision on the analogy of this would help in preventing the expropriation of agriculturists. On the whole I am not in favour of restricting transfer among non-aboriginal classes and this is also the general trend of opinion of all persons and bodies who have studied and are interested in the question; a restriction may however be placed on the execution of decrees by sale and such decrees made realisable by usufruct only if considered fit. In Berar, where land can be sold in execution of civil court decrees the collector to whom such cases are transferred for execution exhausts all possible expedients for recovery of the decretal amount and it may be possible to adopt similar practical measures.

Aboriginals—As regards aboriginal classes, it is recognised, more or less, that they need protection, not merely from moneylenders but from more advanced classes as well. The general trend of legislation where transfer of land is permitted is to permit it only among aboriginal tribes without restriction and to restrict it in the case of others to sales carried out with permission. These are the provisions of the Central Provinces Land Alienation Act. In Berar, the Land Revenue Code gives wide discretion to the Deputy Commissioner and all transfers require his permission. Under the Chota-Nagpur Tenancy Act also transfer between members of aboriginal tribes is unrestricted. How far this restriction is effective and does not cause hardship to the cultivator is open to question. Like restriction in other cases, it is bound to cause hardship in some cases and to a certain extent is ineffective as well. It was recently pointed out by the Political Agent that in Kawardha, since the restriction on transfers between aboriginals and non-aboriginals, though sales of land by aboriginals had decreased, still more land passed from aboriginals to non-aboriginals, than *vice versa*. This is easy to understand on account of the inferior economic strength of the aboriginals. Often an aboriginal purchaser cannot be found for the land and the State permits sale to a non-aboriginal. If the sale is not permitted it would cause hardship in some cases, and the cultivator may be obliged to abandon the land which is rather worse than selling it, as the aboriginal does not get even the money. On the whole, I do not consider that we can go any further than the provisions of the Central Provinces Land Alienation Act or the Chota Nagpur Tenancy Act in imposing legal restrictions on transfer by aboriginals and correction, if any necessary in cases such as Kawardha, must come by an improvement in the administration of the restrictions rather by any different legislation (see discussion of this point in the report on Kawardha). In certain States there are special rules to prevent acquisition of land in aboriginal areas. I can make no definite recommendations regarding these rules as they require special study and provision is made in the law for the continuation of special rules in such areas.

Mortgages and Leases.—In considering transfer by sale, mortgage has been touched upon. States which have conceded the right of sale have, generally speaking, conceded the right of mortgage also but in Kawardha

*In the draft law, five times the assessment has been proposed.

†See Appendix V, Pages 108 *infra*.

such a right has not been granted though sale is permitted. The reason given seems to be that the grant of this right would complicate land transactions and result in excessive litigation; the Central Provinces Tenancy Act does not permit simple mortgage in the case of occupancy tenants and probably this is also taken as a ground. In Kawardha, however, it is not proposed to permit any mortgage. As many other States do permit mortgages and as the right of sale without the right of mortgage is a definite handicap to a person who would borrow money I am of opinion that mortgages should be permitted in all the States. The reasons given for the Kawardha restriction do not seem sound.

As regards leases, I do not think any restriction is necessary as it is easy to evade restrictions and new leases are easily issued. Habitual subletting has already been dealt with.

81. *Other Rights.*—The next point in connection with the ryot's land is other rights. The right of the State to minerals is everywhere recognised and this is accordingly reserved. All other surface rights must, in my opinion, vest in the ryot to whom the land belongs.

Trees.—The lack of rights in trees on holdings has been a long standing grievance of the cultivator and the trend of all legislation in the Central Provinces, Orissa and Bengal is to grant these rights. In Chota-Nagpur the position is rather complicated but the general rule seems to be that all new trees on a holding belong to the tenant and, if any *salami* has been paid when the land was acquired, the forest-growth all belongs to the tenant. The practice in the States is to class certain classes of trees as 'reserved' under the forest rules and to apply this reservation to all land including cultivated holdings. In most States, ryots have been given full rights in trees of their own planting but I do not consider that there is any justification whatever for applying forest rules to cultivated holdings and claiming trees on such holdings. In no State is land allowed to be reclaimed without a *salami*, at least for the forest growth on it, or, if the applicant does not pay the *salami*, the growth is auctioned, or the forest department gets it cut and stacked. If a tree is of spontaneous growth on a holding I do not see that the State can justifiably claim any right in it to the detriment of the occupant of the holding; in fact, it appears to me that if anybody has a right to the tree, it is the man who holds the land. In this connection I may refer to the opinion of Mr. Mooney who guides the policy of the States in this matter. Mr. Mooney in a letter to me on the subject says: "The number of reserved trees has, in most States, been reduced to ten or less against 20 or even 30 in some cases. This reduction was only made in 1939 and 1940. It is therefore very recent and, as it did represent a very considerable concession to the villagers, the absolute necessity for further concessions in this respect is, I think, questionable. In most cases, trees such as mango, tamarind and jackfruit are not reserved, as the people themselves do not generally cut such trees. Mahua and a few of the more valuable timber trees have been kept as reserved species. In most States (e.g., Talcher and Nilgiri) my advice has been that even reserved trees standing on recorded lands may be cut by the tenant free of cost, provided the permission of the State (usually forest officer) is first obtained and provided he uses the timber for his own consumption. If he wishes to sell or export the timber, I have myself advised that he should pay some royalty (generally half). All States have not agreed to this and, in many cases, the tenant is charged something even if he uses it himself. It is my considered opinion that the tenants should have an exclusive right in all trees growing on his holding, including their fruit, but I am fairly sure that this is a more liberal view than the actual custom in either Bihar or Orissa". Mr. Mooney thinks that some restrictions are necessary in the interests of the tenants themselves who are usually short-sighted in the matter and this is the only reason why he wishes to make a charge. I am afraid that the view that 'concessions' have been made to the tenants does not sound concordantly with the opinion that the tenants should have an exclusive right in all trees. My view is that the reservation is really an encroachment upon the rights of the cultivator. It is admitted that the ryots would not cut down trees such as mango but actually in a number of States even these are reserved. If mango trees are not cut, this is much more so in the case of *mahua* which is often valued more than mango trees as it provides food

for man as well as beast, and often the cultivator finds it his only means of subsistence in difficult times. Reservation of *mahua* trees is even less necessary. As regards timber trees, while it is true that some of them may be cut down, I beg to differ from Mr. Mooney when he says that every tree would be cleared off irrespective of whether it was doing damage or not; for the agriculturist as to others, timber has a value for ploughs and other implements, and in areas where there is no restriction on cutting timber, trees are often allowed to stand on the edges of fields and guarded zealously. I fail to see why there should be insistence on "protecting" trees on cultivators' holdings when there is scope for planting trees elsewhere. In any case, the charge of half the royalty cannot be regarded as a check on the shortsightedness of individual tenants; it only means that the State cuts in and takes a portion of the income. In Orissa full rights have been granted in trees (except where the trees has already been recorded in the name of the landlord) and in Bihar the position seems to be similar. In Bengal full rights have existed since 1928 and in the Central Provinces also under the new Tenancy Act the rights in trees follows the rights in the holding. In the States, there is interference, not only with rights in trees (particularly such trees as *tendu* (*Diospyros Melanoxylon*) and *palas* (*Butea Frondosa*)) but I have noticed cases in Athgarh and Tigiria of fishing rights in flooded fields being leased out by the State to the detriment of the tenants' cultivation. I do not consider it necessary to place any restriction on any kind of tree on a cultivator's holding; the cultivator's absolute right to the produce of his holding except minerals must be recognised. Any protection to trees must be confined, as in the case of the Central Provinces, to trees standing on the waste land of the village. For the future, as happens nearly everywhere at present, when land is disposed of for the purpose of cultivation it is proposed that the State should, wherever possible, dispose of the land and trees on it by auction so that the full value is realised. This will leave the cultivator unrestricted rights in his land and a great source of friction will have been removed. In drafting the law, allowance will be made for certain local practices observed in connection with trees in the villages and mentioned in the individual reports.

82. *Abolition of Tree Taxes on ryoti holdings*.—The tree taxes levied or leviable on trees standing on ryoti holdings in States like Khairagarh, Udaipur, Korea, Seraikela, Sakti, Nandgaon, Changbhakar and Chhui-khadan, are recommended to be abolished, whether the tax is on lac-bearing trees or other trees (in Udaipur there is double taxation on lac bearing trees as there is a monopoly as well). The Forest Adviser recommended the abolition of taxes on trees in Korea and other States.

83. *Trees on Waste Land*.—In waste lands, ryots in almost all States enjoy the fruits of all trees but in a few places like Athmallik or Nilgiri the trees are either taxed or auctioned. In these places the practice seems to be of recent origin. In view of the commutation fee paid by ryots for the village waste I recommend that there should be no auction or tax upon the trees.

84. *Minor Minerals*.—With the exception of Nilgiri where it was said that a fee is charged for the use of gravel no fees are charged on minor minerals appropriated by ryots for domestic purposes and it is proposed to make this concession applicable in all States.

85. *Fisheries*.—In all States the right to fisheries in State tanks, rivers and streams is claimed by the State though leases are few. The right of the State will be recorded but leases should not be applicable to waters standing on ryoti lands.

86. *Conversion of land*.—In the matter of the use of the cultivator's land for non-agricultural purposes, apart from the erection of buildings or farm-houses necessary for the proper cultivation of the holding the assessment of the land is based on its agricultural use and diversion to more valuable non-agricultural purposes would afford a justification for enhanced land revenue, or premium, or both. This is usually recovered by the landlord or the Government nearly everywhere but in some States there are no rules about it and often no action is taken till settlement with consequent loss of rent. It is proposed to provide for the levy of a premium or *salami* on diversion and for the alteration of the assessment.

87. *Settlement of Waste Land.*—Settlement of waste land for cultivation and disposal or surrendered, abandoned and intestate holdings need regularisation and alteration with reference to the new position proposed. This is proposed to be made on lines recognised in the provinces. The headmen will have no powers of disposal of such lands and the State will have full rights.

The position in respect of waste land in the States is that in practically all of them all such waste land in the village is regarded as village forest and is covered by the forest rules or is held to be so in practice. While there may be some practical convenience in this in areas where the village boundary has not been surveyed and laid down, I can see neither the justification for this practice nor its desirability in areas where there has been proper survey. The only reason for the practice I can see arises out of the claim of the State to all trees (including those on cultivated holding as we have already seen) and thus wherever there are trees there are State forests. I am of opinion that this practice should be put an end to. A very good case can I think be made out for the cultivator's rights and interest in forests at least within several miles of his dwelling; he has, since the time cultivation started, exercised a right of user in the forests, and reservation by the State is of comparatively recent origin and may be regarded as an encroachment on the rights of the people, and in some areas is regarded as such. The policy in making surveys and settlements and demarcating the boundaries of villages is to include land suitable for cultivation and sufficient forest for the *nistar* of the villagers wherever possible, and it appears desirable to exclude the area within village boundaries from the operation of forest rules. An overlapping of forest rules and land revenue rules would only cause confusion and subject the villagers to the harassment of two different groups of officials. The States of course want forest jurisdiction to continue on account of the 'reserved' species of trees, on account of the lac, *tendu* and other monopolies and to preserve animals for shikar. Any proposal to leave these forests always limited in area (excessive village forests seem to have been included in reserves in most States), exclusively to the villager subject to any restrictions imposed in his own interest and to confine monopolies and leases to reserve forest areas would probably meet the strongest opposition from the States. Nevertheless I would urge the exclusion of forest growth or waste land within the demarcated boundaries of the village from the forest rules and the imposition of any restrictions and regulations here done by means of revenue rules framed under the revenue law. The reserved trees of the forest rules are not always the same as the trees it is desirable to protect in village forests in the interests of ryots. In all States except Ranpur a cess or commutation fee is charged for the exercise of rights of *nistar* and such free grazing as is permitted. In spite of the levy of this fee, there are reserved species which the cultivator may not take without payment. I can see little justification for this double levy which I do not think exists in any of the neighbouring provinces. In Angul from which the States seem to have derived the practice of reservation of trees there is no cess in addition to reservation. In the *malguzari* and *ryotwari* village forests of the Central Provinces the villagers are not required to make any payments for grazing or *nistar* and a similar position seems to prevail in Sambalpur, Chota Nagpur and Orissa; in these areas also the village waste and forest are under the control of the revenue authorities and not the forest authorities. In the Central Provinces and Sambalpur, reserved species in village forest are all fruit trees and are reserved entirely in the interests of cultivators and no charge is made if permission is granted for the cutting. More will be said about village forests and their management later. As far as objections to the proposal to exclude village forests from forest rules are concerned leases such as lac or *harra* commonly applying to village forests in practice now can easily be made applicable to them without making forest rules applicable. Remains only the question of killing of animals; the question of crop protection will be dealt with separately but no difficulty can be caused in the matter of exclusion of village areas from forests if the forest rules regarding shooting or killing is made applicable to animals rather than areas. It is, in my opinion, most improper to ban the killing of such vermin as pig and the States are letting the interests of shikar go too far.

The Central Provinces Game Act gives protection to certain animals and pigs can be killed anywhere.

Assuming that the case for the exclusion of village areas from forest rules is clear, it is desirable to set apart at the time of settlement preferably or at any other time, in consultation with forest staff, the portions of waste land in each village which are best suited and can be spared for reclamation. This would greatly facilitate subsequent allotment of land and eliminate the need for elaborate and dilatory enquiries in dealing with applications for reclamation. In the report on Bonai instances are quoted of cases dragging on for months; if so much difficulty is felt in getting land allotted it is not to be wondered at that people are not coming forward for colonisation. Land, including trees on it, wherever it has any value would be sold to the highest bidder if there is competition, otherwise at such price as may be fixed by the revenue officer or by rules. In the backward tracts of course it may be necessary to allot land without any charge except for the forest growth on it and there may be cases where the applicant is unable even to take the trees on payment, in which case the forest staff could take the trees (after the applicant has cleared or paid for the clearing) and dispose of them separately. In any case once the land is allotted on realisation of its value, or without a charge because it has no value, the person to whom it is allotted gets full rights in the land and would be liable to pay land revenue on it after a period of grace, say, three to five years according to circumstances, after the allotment, and the land revenue would be recovered whether the applicant has worked on the land or not. The practice of allotting large areas for reclamation to a single individual, which is responsible for the practice of getting an allotment of land made with intent to remove the forest growth only, should be stopped, and persons intending to found villages should get the land allotted to individuals through the State, such persons may be recognised as headmen and, if necessary, provided with an incentive by allowing a high percentage commission on the land revenue. Provision on this basis has been made in the proposed law.

As regards abandoned or surrendered land or land which becomes the property of the State through intestacy, such land can be disposed of by auction or as stated above.

88. *Homestead Lands*.—The question of the homestead lands and residential lands in towns may be dealt with together. Both in Orissa and Chhattisgarh it has been the custom to allow a certain area of land free as homestead for agriculturists, agricultural labourers and artisans. The exact area differs from State to State and to allow for this the actual area will not be prescribed but will be left to be laid down in rules framed subsequently. As regards towns and building sites taken up by non-agriculturists, a number of Chhattisgarh States are attempting to follow the Central Provinces practice regarding *nazul* or town lands while in Orissa *chanda* is in some States assessed to a higher rent. It is proposed to leave details to rules and to lay down simply that conversion of agricultural to non-agricultural purposes will result in the levy of a premium as well as enhanced rent, this rent being fixed on the premium or estimated premium. In Raigarh it has been pointed out that the Ruler has excluded the *gaontias* of seven villages on account of the value of the land for building sites, a measure of questionable fairness. Such difficulties will not arise under a *ryotwari* system. In zamindaris and villages which are under tenureholders where such a right is established, the tenureholders will get the profits. Allotment in villages and towns should be made by an official of the State in accordance with a lay-out except in the smallest villages. There will be no objection to building farm houses in fields for the purpose of facilitating cultivation.

89. *Zamindari and Other Tenures*.—So much about the disposal of land and ryoti tenure. To come now to the zamindari and other tenures, while the various grants in the States are all much of a muchness, the position is complicated to some extent by the existence, in some cases, of the rights to minerals or in waste land or forest. Zamindars or *ilaqadars* have for instance rights in minerals and forests in a few places and none of these in others. Tenureholders of other kinds have also different rights varying from proprietary rights to mere rights to revenue. There is much

vagueness also about their rights and bitter disputes have arisen in the past and may arise now. This is due to the fact that sanads are either non-existent or, are too vague to be of any use. Some zamindars have considerable and undefined powers in revenue as well as forest affairs which may be anything from powers to make settlements and appoint their own staff, to the summoning of persons to attend. Such powers, whatever foundation they may have had or whatever utility in the past, can no longer be allowed to be exercised in an area in which the chiefs themselves are petty. The Rulers have themselves proved incompetent to administer their States satisfactorily in some cases and this cannot be different in the case of the zamindaris a number of which are under the management of the State. It is therefore proposed to lay down in the law the matters in which the zamindars or tenureholders cannot have powers, and leave minor matters, if necessary, to be regulated by sanads or recognised practice. The zamindars have in some cases existed in a defiant semi-independence and it would be a good thing if their position could be cleared up by the issue of sanads but as this may not be necessary in all cases it is proposed to let custom be the guide in addition to existing sanads in matters not mentioned in the law.

In the law it is proposed to lay down that no zamindar or tenureholder will have the power to make a settlement and he shall be bound by the settlement made by the State; the State will have the power to appoint revenue staff and maintain records and the zamindar will have no power of distraint or coercion. The zamindar will not have powers to sell or lease villages and in the zamindari villages a settlement of headmen similar to that in the rest of the State will take place. The appointment and removal or discipline of village headmen will be made by the State only. If the zamindar has powers of allotting waste land, this as well as allotment of surrendered and abandoned land should be done subject to the same rules as in the rest of the State. Zamindars will be prohibited from making rentfree grants except with the previous approval of the State (See Section 48 of draft law). The rights of cultivators in all villages will be the same as those of ryots in the *khalsa* villages and the zamindars or other tenureholders will be debarred from levying any consent-moneys on transfer of lands. If a zamindari or tenure is at any time resumed or lapses to the State, the area will merge in the *khalsa* portion of the State.

In the draft Law, zamindars and others with a right to receive land revenue have all been defined as tenureholders and amounts payable by them to the State as *takoli*. Provisions have been made for the termination of tenures which are held subject to the performance of service, if the service is no longer required or has not in practice been rendered, as well as for the assessment or enhancement of the assessment of tenures the principle object of which is the maintenance of the holder. If any tenure is terminated, the *bhogra* lands, if any, held by the tenureholder, will be disposed of in the manner proposed for headmen. Perusal of Chapter IV of the draft Law will convey a clearer picture of the proposals. The creation or re-creation of tenures and grants except small grants of land to village chowkidars is not contemplated.

99. *Zamindari Takoli*.—The rights of zamindars in matters such as forests, will be discussed later. All zamindars make a payment to the State known as *takoli* which is usually a nominal payment. Sometimes it is based on the total revenue of the zamindari and at other times on the total income of the area; it is also a payment fixed in perpetuity in some cases while in other it can be enhanced. Formerly zamindars used to manage all the affairs of their zamindaris in a more or less independent manner, and practically all that the State expected of them was loyalty and military service, in addition to the nominal *takoli* fixed. The position is not longer tenable and in all but a few States like Bastar, Surguja, Kalahandi, Korea the zamindars have been divested of all administrative duties. In Bastar and Kalahandi, the zamindars have powers practically equal to those of the Rulers in revenue matters, and in view of the enormous importance of sound revenue management, it is desirable in the highest degree that all important revenue matters like settlement, court work or

maintenance of land records should be reserved by the State—like criminals and civil matters. As all this implies additional expenditure to the State the question naturally arises whether *takoli* can continue to be a nominal payment. The origin of the zamindaris shows that they were mostly the gifts of the Rulers, some of them meant for military purposes, others given to sons or brothers of the Rulers for the purpose of maintenance. *Takoli* seems to have been fixed as a token payment for the reason that the object of the grant would be defeated if a large portion of the income or land revenue was realised and there would be little left for the zamindar after meeting expenditure on the staff or military personnel. These conditions do not exist now, and if the State shoulders the burden of administration, law and order and other matters, it is reasonable and necessary that a larger portion of the zamindari income should find its way into the State coffers. Otherwise, there is a virtual enhancement of the personal income of the zamindar when the State looks after the administration. This position has existed in the States, and in the zamindaris of the Central Provinces the zamindars were a privileged class paying much less to the State than the proprietary *malguzars*. In the Central Provinces, *takoli* has recently been enhanced by special legislation. The need for such action in the States has already been felt and in cases such as that of the Surguja zamindaris where the Government of India ruled that *takoli* could not be enhanced, the imposition of an administrative cess was sanctioned. Some such action will have to be taken in other places where it is considered that the *takoli* should not be enhanced though perhaps it is much better to provide directly by law that *takoli* should be based on the income or land revenue so that with the enhancement of revenue there may be an automatic enhancement of the *takoli* in future. The *takolis* paid actually at present are very small in the following States: Bamra (9), Gangpur (5), Bastar (17 to 20), Jashpur (10), Kalahandi (10-15), Korea (12); the figures in brackets are approximate percentages; in Gangpur the actual percentage is probably less than five per cent. of the income; the *takoli* was to be enhanced but this was not done; the individual reports may be seen in this connection; in Bonai the zamindar pays a nominal *takoli* of Rs. 40. In the remaining States with zamindaris various percentages from 20 to 50 are paid, fifty being reached in Sonepur. I am of opinion that the *takolis* of all zamindaris should be increased to fifty per cent. gradually over a period of 15 years from now, directly or by the imposition of a *takoli* cess. The law will provide for a maximum percentage of 75 which may be reached at the second settlement to be made after the promulgation of the Law.

It will also be provided that such cesses as the State may impose for purposes such as maintenance or roads or schools mentioned in the Law and no others should be leviable in the zamindaris and the whole of such income except for collection charges payable to headmen, if any, should go to the State. This is more or less the position in most of the States (see however Kalahandi and Gangpur).

91. *Monopolies and Duties in Zamindaris.*— In the Surguja zamindaris the zamindars exercise the right of creating monopolies such as the hide monopoly, lac, tendu etc., within their own areas and actually levy their own export duties on articles exported from the zamindari. It is obvious that whatever powers in these matters the States enjoy, such powers, particularly those of taxing exports or imports should not be allowed to be exercised by the zamindars. In Surguja attempts are being made to persuade the zamindars to stop their export duties but I think something more emphatic is necessary to prevent zamindars claiming any such rights in future. As regards the other monopolies it is equally clear that whatever rights zamindars may enjoy over forests in their areas they should not be permitted to impose any monopolies which interfere in the least degree with the rights on cultivated land or village waste and it is necessary to be imperative in divesting them of these powers also. In Patna the zamindars have the right to income from ferries and pounds and their managements. I am of opinion that management of these should not be left to the zamindars whatever the State chooses to do in the matter of income. These matters are not included in the draft Law and the States may be given the necessary advice.

92. *Debottar Tenures*.—Coming now to tenures like *debottar*, *brahmottar*, the number of temple grants in the Orissa States particularly is enormous and the States lose thousands of rupees of land revenue on account of them. Many of the grants are to deities and institutions outside the State, and the State has no control over such institutions or over the use to which the income is put. Many large *debottar* grants are within the States itself and in most cases the revenue is administered by a special department controlled by the Ruler personally, or by members of the family. While no doubt some of the revenue is spent on religious functions like *melas*, *jatras*, or worship of the deity it is perfectly clear that a portion of the income in cash or kind, which may be considerable in some cases, cannot but be used for other purposes. Usually there is no audit of the expenditure. In Hindol State, when a request was made for information regarding the management of these grants, it was reported that there was a committee for looking after the management. When, however, during my visit to the State, I made a few enquiries about the committee, it transpired that a committee had been appointed in 1939 to make *recommendations* regarding the management of these grants, and actually had no powers of management, and further, that the committee had done no work since it was appointed. The misappropriation of all the *debottar* funds in Athgarh by the Ruler is mentioned in the report on that State. There can be no question that the *debottar* funds constitute an addition to the income of the Ruler or Ruling family. Any attempt to interfere with the administration of these grants will, of course, result in the cry of interference with religion. While perhaps it would be a difficult matter to do much in this matter now—and I do not propose to do anything more than insert an enabling clause in the law which will make resumption or assessment possible—the States should be strongly advised to consider the question of assessing at least those of the grants which are for institutions outside the State or beyond its control to a quit-rent. I note here that there are *debottar tanki* (quit-rent) grants in some of the States as well as *debottar nishkar* (rent-free). A close examination of the management of the individual land grants will probably reveal that some grants are not being properly used or alienation etc., may be revealed in which case resumption may be possible. It is proposed to lay down that *debottar* funds shall be strictly accounted for and any surplus after proper expenses of the deities have been met shall be credited to the State as revenue, except in the case of small land grants.

93. *Brahmottar Grants*.—Regarding *brahmottar* grants, most of these are held rent free and the sanads give what may be construed as absolute proprietary rights though in practice transfer is not permitted in most States or is restricted to Brahmins. Rulers in former days encouraged immigration of these men of learning and religion, considering it necessary not only for the well-being and culture of the countryside, but also for their own spiritual good. Whatever influence for good these people may have exercised in the past, it does not appear that their services are required to the same today. While nothing need be done which would break up these colonies of Aryan descent, there is no reason why the lands should not all be assessed fully to land revenue and converted into ryoti lands. The Rulers may want to levy a *salami* but I do not think there is any better justification for this than in the case of ryoti lands as the land has been held for generations and according to the sanads also the grants are absolute.

94. *Maintenance Grants*.—Reference has already been made to maintenance grants. I am of opinion that all grants which are not meant for the maintenance of deities or religious and charitable institutions or on condition of definite services being rendered and are held by individuals, singly or jointly, for their own purposes or on nominal conditions such as praying for the Ruler or attendance should be regarded as maintenance grants and resumed that is, fully assessed to rent, if they have been held for a period of over fifty years; generally there are few such grants where the original grantee is living, it is provided in the law that the assessment should be made gradually over a period of nine years.

The lands held by the Ruler or members of his family need to be considered separately. It has been pointed out that the Rulers often add

to these lands and dispose of them also at will. This is not in the interest of the State revenue and in the case of private sale or settlement the State revenue does not benefit and the Ruler's successor is placed at a disadvantage. I think it is extremely desirable to prevent alteration in the Ruler's personal lands by addition or subtraction. It is recommended that the lands should be made inalienable and the position existing on the *1st June 1942 should be allowed to crystallise. Provision is made in the law accordingly.

As regards *khamar* lands held by members of the Ruler's family these are usually meant to be held for life, and the law provides accordingly. On the death of the holder the grants should lapse and future grants should not be made.

The Bamra *khamar* villages need separate treatment. In some of these villages there are ryots who formerly had occupancy rights and have been deprived of such rights (see report on Bamra). The Ruler should be advised to have these rights enquired into and get them recorded as ryoti wherever such rights existed before.

95. *Service Grants*.—Among the service grants there are many which appear to me quite unnecessary. These exist not only for village service but there are many for service at the Ruler's palace. There are numerous '*paikali*' grants which are of little use now and though some are made use of for guard duties, etc., there is a great scope for reduction. In Raigarh, Gangpur or Kharsawan where there are whole village grants for service, it has been pointed out that in some cases as in Raigarh even the service for which the grant was made is not known and in others the services are nominal, and can be dispensed with. These States should be advised to assess the grants immediately to the full extent where services are not rendered or can be dispensed with; I think that all the village grants can be resumed as the services are purely nominal.

In the villages there are many *jagirs* the holders of which do no village service except for remuneration and render menial services to officers such as fetching water, providing pots, etc. Most of such grants could, I think, be assessed to rent, the holder being given ryoti rights except where the land has been held for less than 20 years on the same principles as settlement of *bhogra*. Where full assessment is levied as on *paiks* in Talcher, ryoti rights should be immediately granted as well as exemption from service. The position regarding the *paikali* tenures is described in the report on Talcher. These ryots are in most cases the original clearers of the soil and have held for generation and there is no equitable case for withholding ryoti rights from them.

96. *General Proposals*.—Generally grants may be regarded as falling into three classes, those meant for deities, religious or charitable institutions, maintenance grants, grants held on condition of service being rendered. Any grant should become resumable with liable to ejectment if it is alienated or dealt with in such a way as to defeat the object of the grant. Resumption and resettlement of land under grants should be made on the same principles as *bhogra*, that is, there should be mere assessment if the grantee has held for over 20 years. The provisions of the draft law will make these proposals clearer. An early examination in detail of all grants is necessary.

CHAPTER IX:—Survey and Settlements.

97. *States requiring Survey—Settlements*.—The position regarding survey and settlement has been described. The States of Bastar, Kalahandi, Korea, Udaipur and Bonai require complete survey and in the areas which have not been properly settled, settlement also. Ranpur and Bonai require a revision survey and settlement as early as possible. Ranpur was last settled in 1899 and Bonai in 1913; in both these States the records are hopelessly out of date or useless and there seems to be much land under cultivation which is probably paying no assessment. In Korea survey and settlement of the whole State is necessary. In Keonjhar and Bamra, in

*The object of this was to prevent deliberate additions to the personal lands when these proposals become known before the law is introduced but as the Rulers may register strong protests the Law provides for the crystallisation of the situation existing as its commencement.

the areas where shifting cultivation is being practised, it is highly desirable to lay down village boundaries. These States should be advised to take up the operations as soon as practicable after the promulgation of the law. In Bonai the commutation of *bethi* which is going on should be stopped and the State advised to take up a proper revisional settlement.

In the provinces, survey of village boundaries has been done by theodolite if not the internal survey; in the Central Provinces the village traverse was laid down by professional theodolite survey and the internal cadastral survey was done by a local patwari staff. It would be better if a similar procedure could be followed in the State but on account of the expense of a theodolite survey a plane table traverse, if carefully done, may suffice for the present. Cadastral survey is impracticable in the jungly tracts where cultivation is shifting or not steady, but if the traverse has been laid out the detailed cadastral survey could be done at any time by employing the patwari staff.

98. *Principles of Settlement.*—As regards the principle of settlements, it has been pointed out that no definite principle has been followed in the States and the procedure has been determined by the previous training of the officer employed. In some cases it is doubtful if the calibre of the officer concerned has been such that intelligent application of settlement principles has been possible at all, and as there has been no check by a superior officer in any case, settlements in the States may generally be described as haphazard. There is also evidence of neither the Central Provinces system nor the Bihar and Orissa system being followed closely, and officers have sometimes followed their own inclinations. Before deciding on the system which may be followed in the States the principles of settlements in neighbouring provinces may be briefly described.

99. *The Central Provinces and Berar System.*—In the Central Provinces, a somewhat elaborate system of soil classification and factors is followed. 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 will depend 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 has 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 will 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 will be 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 maximum enhancement on a group is fixed at 33 per cent. by the Settlement Act. The settlement officer proceeds to consider 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 will decide what total percentage 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 rents field by field, using certain factors as a guide. The maximum enhancement permitted on an individual holding by the settlement Act is 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.

In Berar, the Land Revenue Code sets out the principles on which "fair assessment" of lands may be calculated: the "profits of agriculture," rents paid by tenants, sale prices of land and principal moneys on mortgages are to be taken into account, and for determining the profits of agriculture, the cost of cultivation includes the depreciation of stock and buildings, the money value of the cultivator's labour and supervision, interest on cost of buildings and stock and on expenditure for seed and manure and on the cost of operations paid for in cash, in addition to all other expenses usually incurred in cultivation. The fair assessment cannot exceed 50 per cent. of the rental value of the land (non-agricultural). Grouping of villages according to physical features, communications and such matters is contemplated and a single scale of assessment is applied to all villages in the same group. The rates proposed are liable to be examined by a non-official committee before orders are passed. The period of settlement is a minimum of 30 years.

100. *The Orissa System.*—In Orissa apart from Sambalpur the rents are fixed under section 119 of the Orissa Tenancy Act by agreement or by the fixation of a table of rates for each class of land having regard to nature of the soil, situation, irrigation, etc. These rates are subject to the approval of the authority prescribed by the Government and when approved they may be presumed to be fair and equitable rates. Increase of prices and increase of productivity are the important grounds on which enhancement can be claimed. Usually a rigid table of rates for various classes of lands and villages is framed and applied by settlement officers.

101. *Chota Nagpur.*—In Chota Nagpur, the system of soil factors and classification of the Central Provinces is followed. It is said that this method is of greater value where there is considerable variation in soils. If for instance in a single field there are two or three different kinds of soils it is better to try and get the number of soil units in it than to place it under any one class.

102. *Relative merits of the Systems.*—As regards the relative merits of the Orissa and the Central Provinces systems, the Orissa system has the merit of not involving anything more than multiplication. Mr. Bowstead quoted the view of Sir Hugh McPherson who criticized the soil unit system in use in Sambalpur (para. 27 of Mr. Bowstead's report in F.-22 (4)-P./40) as elaborate and largely fictitious, and considered that a system in which the ryots themselves would be able to understand how their rents were calculated was best. He approved of classification of land and fixation of acreage rates: "so many acres of each class at so much per acre". This system must undoubtedly be most suitable in a tract where soil is uniform and fields can be regarded as uniform sheets of soil susceptible of being placed in a definite class. Fixation of rates however in this manner can sometimes create a difficult situation; a table of rates was drawn up for Khandpara as very fair but when it was applied it was found that it resulted in an enhancement of 144 per cent. and the table was therefore scrapped and an arbitrary enhancement was decided on. (See report on Khandpara.). The rigid application of a table of rates has the disadvantage of not allowing for individual circumstances. The Central Provinces method seems to me to have greater elasticity than the Orissa method. The Central Provinces system certainly has the appearance of being more complicated but this feature has not prevented its application to a tract like Chota Nagpur. The settlement officer of Sambalpur, Mr. Dewar, 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 suits 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." (Sambalpur Settlement Report, 1908, para. 102).

The question as to what method should be applied to the States is not free from considerable difficulty. The Bengal Land Revenue Commission after considering a number of settlement systems came to the conclusion that all things considered, no practicable principle that would give satisfactory results under all circumstances had been or could be devised, and that the provisions of the Bengal Tenancy Act should be followed with certain modifications. As pointed out before, both soil-unit and acre-unit systems have been used in the States. Imposition of any one system without a considerably more detailed study and consideration than I have been able to give it in the course of this general enquiry is not desirable, and the method adopted must also take into consideration, the method actually adopted at the previous settlement. Consequently while laying down certain principles which would be applicable under any system it is proposed to allow sufficient elasticity in the law to permit the use of either soil-units or acre-units in the actual assessment. The drafting of detailed settlement instructions will have to be done by the agency which will be recommended for this purpose.

103. *Period of Settlement.*—Coming now to the period of settlement, the minimum period seems to be not less than 30 years in most provinces of India. In the United Provinces and the Punjab, the period has recently been fixed at 40 years, in Bihar, Orissa, Central Provinces and Madras it is 30 years. In Bengal, it is 15 years, and the Floud Commission favoured 30 years. They pointed out that a long interval gave a feeling of security but on the other hand there may be great fluctuations of prices. What should be fixed is of course a minimum period during which there will be no revision and there should be no question of a revision being taken up automatically after the lapse of a certain period whether there is a case for enhancement or not. In fact the procedure should be that after a lapse of a certain period an examination should be made, and only if there has been an increase of prosperity or rise in prices which shows a clear rise in the profits of agriculture which is likely to be maintained, should a settlement be taken up. The States are in various stages of development, from practically primordial conditions to conditions approaching those of the districts and in view of the possibility of rapid developments taking place, it may be undesirable to fix too long a minimum period; I propose therefore a period of 20 years as minimum, leaving it to the Durbar to fix the actual period which in the more advanced States is expected to be 30 years as in the districts. Generally the States should be advised not to take up any settlements till the Revenue Law has been introduced. The operations going on in Boudh have been described in the report on that State. The Durbar should be advised to drop these operations. In view of the recommendation regarding the abolition of cesses in the States a reduction of land revenue does not appear necessary and in any case the present operations are not being conducted on sound principles or by competent officers.

104. *Commutation of Rent in Kind.*—Rent in kind exists in very few areas at the present day. In Sonapur a portion of the rent is paid in kind, and in Hindol, the *debottar* villages also make payment in the same manner; in Keonjhar the Juangs pay rent in kind, in the kondhmals of Ranpur there is no rent but a payment in kind is made for the whole area and goes to the Ruler as personal income. In the Juangpir the Juangs questioned appeared to be in favour of continuing payment in kind. In all other areas including backward areas cash payment seems to be convenient and the refusal of Durbar to permit commutation in Sonapur and Hindol is a grievance of the ryots. In my opinion it is extremely desirable to discourage payment in kind as far as possible in view of the liability

to corrupt practices in measuring and collecting it as well as in disposal and credit to the treasury. It is proposed therefore that no rents shall in future be fixed in kind with the proviso that in areas inhabited by aboriginals, if cultivators favour it generally, rent in kind may be fixed. Commutation of present rent in kind is made optional with the cultivator. As regards the disposal of produce-rent, it is dealt with at present as elephant fodder, for use in jails or is appropriated by the domestic department. Produce rent does not appear to be shown in the budget in every case and it would appear desirable that this is done. Subject to proper accounts, so long as rent continues to be received in kind, direct disposal of it in jails would appear to be the best way rather than sales by auction; there should be a formal sale to the jail department. I suggest that sale to the *khamar* or *Bhandar* or *debottar* department should not be encouraged. Goats, I suppose, will have to be auctioned and the proceeds credited to the State. The disposal of produce-rent is being left to be governed by special rules in the States which have such rent though auction is being prescribed as the normal course. See para. 3 of the note on draft Law.

CHAPTER X.—The Collection of Rent and Land Revenue

105. *The Part of the Village Headmen.*—The collection of land revenue may be regarded as falling into two distinct parts, according as the village or land concerned may be regarded as directly under the State or as an "alienated" village held by a zamindar, *khorphoshdar* or other tenureholder. "*Khamar*" villages or villages regarded as held by the Ruler in his personal capacity will, I think, have to be regarded as alienated in as much as the revenue of such villages does not enter the State accounts though in some States such as Talcher, the revenue of villages held by *khorphoshdars* is credited to the treasury under a separate head. In unalienated villages, it has already been proposed that the collecting agency will be the local headman, who gets a commission based on the total land revenue of the village; such a headman acts simply as a collector and has no responsibility for the revenue of the village.

106. *Objections Considered.*—States which favour a headman with responsibility may object on the ground that as the headman has no responsibility he will not trouble to collect and land revenue collections will therefore suffer. This is not a correct appreciation of the position. It is well known that normally the great majority of tax payers, whether it is land revenue or any other tax, only have to be asked in order to pay up their taxes without any trouble; in some cases a little insistence is necessary but it is only in a few cases that coercive action cannot be avoided. If this were not so, the system of headmen with responsibility would break down at once; for, if a large number of ryots would not pay except on coercion, the plight of the headman would be hard indeed. It may also be said that collections are better the greater the insistence on payment, and if there is a local man, there is greater opportunity of frequent and insistent demand than if there was an itinerant tax collector with several villages under him. Thus there is every reason to expect a high standard of collection in a village where there is a collecting headman; it must be understood of course that collection of revenue is one of the primary duties of the headman for the proper discharge of which he is expected to make strenuous efforts and for the dereliction of which he is liable to be punished. If for instance it is found that collection in any village are not satisfactory on account of slackness of the headman, one of the penalties to which he could be made liable would be payment of his commission on the actual collections. This of course cannot be made a general principle for the reason that some ryots will not pay in spite of the best efforts of the headman and will have to be coerced; it is only therefore where there is good reason to believe that the headman is not making adequate efforts that the penal measure can be applied. More serious measures such as suspension from the post, fine or dismissal could be taken for serious neglect of duty or incompetence.

Another objection which some people seem inclined to put forward is that in the absence of his personal responsibility the headman may misappropriate the money collected by him. This is not really possible except

for short periods as the ryot who has already paid and obtained a receipt will have to be shown as a defaulter, and as soon as he is proceeded against, the truth is bound to come out. Of course if a receipt is not given the ryot will not be able to prove payment but this can and does happen even under a system of responsibility. Again, under a system of responsibility, cases of *gaontias* and *sarbarakars* who have effected recovery from the ryots but have themselves not paid the amount are known, and in some such cases, the *gaontias* have surrendered the village or fled to another place. I have come across such cases in Udaipur and other States. The position cannot be any worse under the system where there is no responsibility and, if it is provided that where payment to the readman is proved recovery can be effected from him by sale of his movable or immovable property, apart from his liability to prosecution for criminal breach of trust, there is an adequate safeguard. These are not theoretical arguments but are based upon the actual satisfactory working of the system existing elsewhere. In Berar, of which I have personal experience, there have been indeed a number of cases where the headman recovered money but did not credit it for a considerable period (*i.e.*, several week) after collection, but these have come to light as soon as an officer went to the village or the tahsildar took action for default against the ryot or for unsatisfactory collection against the headman. On the whole, there is no greater danger here than there is in the case of the headman who can recover the revenue, give up the *bhogra* lands in which he has no permanent right and leave the State; the chances are indeed much less if the headman owns land in ryoti right in the village.

Another objection which may be raised is that under the ryotwari system individual accounts will have to be maintained for each ryot whereas under the present system an account is maintained only for the village as a whole. This objection is also not a sound one. At present, the *sarbarakar* with responsibility has to maintain a rent-roll in his village for his own information and will have to satisfy himself that each cultivator has paid his dues. If this rent-roll is maintained as an annual register of demand and collection, this is all that is necessary. At the headquarters there is no need to maintain individual accounts, if the village *jamabandi* is maintained at the headquarters, the revenue staff will be able to say at once in which village there are arrears. These arrears will have to be collected and paid in by the headman, or he will have to file a list of defaulters accounting for the arrears, against whom action can immediately be taken. Thus it is not necessary to keep individual accounts and such accounts will be left to the village officials. There will be some difficulty in areas where literate headmen are difficult to get, but for efficient revenue administration it is essential to have a literate official and patwaris will be necessary in such areas in any case. Of course the revenue staff at headquarters will be able to verify the correctness of the amounts entered in the list of defaulters by referring to the settlement record of the village. One other criticism which may be made is that the revenue staff will have to deal with a larger number of cases of default than under the system of responsibility. This again is more apparent than real and in fact it may be just the other way round. True, the State has to deal in the first instance only with the headman; but recovery has to be effected from the defaulter ultimately either as a result of cases started at the instance of the headman where he is allowed to file a list of defaulters for 'certificate procedure', or a number of civil suits will have to be taken up. In most States it is already permissible for the headman to file a list of defaulters and the position is thus not radically different. There are many villages in which collection is actually being made in the manner proposed (villages without headmen). Under the 'responsibility' system, the ryot has an incentive to be slack in payment knowing that it is the headman who will be called upon to pay in the first instance while, under the proposed system, he will have to be more prompt in payment. This, I think, is a desirable feature on the whole. Under the present system, the cultivator often has to make payment at a time when he is either busy with his harvest or the prices for his produce are the lowest in order to enable the *sarbarakar* or *gaontia* to pay sometime in January (in many of the States) but if the date for ryoti payments

is so fixed that the harvest is over and prices are also better, recovery will be easy. As in practically all States the financial year begins on the 1st of April, the "collection season" from, say, the third week of January to the end of March will be adequate for the recovery of the bulk of the revenue. There will be thus no appreciable difference between the existing position and the proposed one in the matter of collections; this matter will be discussed further later on. During this discussion it must not be forgotten that the *sarbarakar* system and the *gaontiahi* system are not successful except where a considerable portion of the State revenue is sacrificed and it is precisely for this reason that it is proposed to alter it.

107. *Headman in Tenure villages.*—Coming to the second category, in the zamindaris or analogous tenures of alienated villages, the collection of revenue has generally been regarded not only in the States but also elsewhere as primarily the business of the tenure-holder, and the usual procedure is to let them file civil suits for the recovery of the revenue. (This has also been the position with reference to headmen with responsibility except where it has been found that the system does not work). If the same attitude is maintained now, the question arises as to what should be done with the headmen. It has been pointed out already that in the tenure-holder's villages also, the headman system with responsibility usually prevails except where the tenure-holder may himself be regarded as the headman, that is, holds the village direct. In a number of States, the headmen cannot be removed except at the instance of the State but in others where the *theka* system prevails, the zamindar can generally do as he pleases. Considering the interest which the State has in the management of villages, whether alienated or unalienated, and the need for the safeguarding of the ryot's rights, the maintenance of land records, the reporting of crime and other matters, it is essential that there should be an agent responsible to the State for the various matters connected with proper administration, apart from any question of collection of revenue. The chowkidar or *kutwar* is in my opinion not a suitable person for this purpose for several reasons. Nearly always he is a low caste individual in indigent circumstances with little or no influence in the village and not respected or looked up to by the rest of the villagers. He is also for the same reason illiterate except very exceptionally and is not capable of maintaining any records. Further he is generally made use of as a sort of messenger for the purpose of carrying reports to the local police station or other place and where these are distant he will be absent for several days; a chowkidar is appointed often for several villages. Thus it is not possible for a single individual, generally of the lower classes and illiterate, to perform all the duties which may be expected of the village headman in a State with an efficient land records and revenue administration, and it is extremely desirable that there should be a headman as well as a chowkidar. The existing *gaontias* and *sarbarakars* have of course in nearly all cases paid for the position they hold and it is necessary to settle the home-farm lands with them if it is agreed that the present position of leasing out or selling villages is not satisfactory. In view of the position they have held, often for many generations, it is in the highest degree desirable that they should be appointed headmen. There appears no objection to the headmen holding the same position as in *'khalsa'* villages *i.e.*, as collectors of revenue; only they pay the revenue collected to the zamindars instead of to the State and the zamindars pay them the commission. This is in fact the practical position in many villages. In case default is made by the zamindars in payment of the headman's remuneration there will have to be a clause for recovery; also a separate clause for penal action against the headman if he fails to discharge his obligation properly. It is proposed to let the zamindars and others who have either exercised the right to appoint their own *gaontias* or who have exercised the right of nomination as in Patna to exercise the right of nomination so long as the nomination is made according to the general principles of appointment of all headmen and does not override the rights of hereditary except for sound reasons. According to these proposals there will have to be a headman in every village even if it is managed direct by the tenure-holder unless the tenure-holder himself agrees to be appointed as headman.

Assuming then that the system of *thekas* and headmen with responsibility is not permitted in the zamindaris and alienated villages also, should tenure-holders continue to proceed against defaulters by filing civil suits or should procedure similar to that of the State be open to them? Assuming that ryots in the zamindari and tenure villages are given the same rights in their lands as the ryots in the *khalsa* area and that no zamindar or other tenure-holder has the right to eject a tenant, the position roughly will be that the ryots instead of paying land revenue to the State, simply pay it to the tenure-holder. This again is the practical position nearly everywhere. The zamindar or tenure-holder will of course have the responsibility for the payment of the *takoli* or other payment imposed on him and if only the dilatory method of a civil suit is open to him while the responsibility is enforced, wherever the *takoli* is a heavy sum, difficulty may be experienced in payment. I may point out that even where the *takoli* is a nominal payment zamindars often make default and action has to be taken against them. The history of recovery in zamindaris in Bengal and Orissa shows that civil court procedure is often an unsatisfactory method and unless powers are given to zamindars which they are likely to abuse, recovery will not be easy. Though on account of the small number of zamindaris in the States the problem is not of any magnitude, I am of opinion that, it should be possible for zamindars to recover revenue from defaulters by applying to revenue officials, costs of course being recovered from the tenure-holders in the first instance. Thus the only difference between a zamindari area and *khalsa* area will be that it will be the zamindar who files a list of defaulters rather than the headman, and the costs, as prescribed, will also be paid by the zamindar in the first instance and recovered later from the defaulter. This procedure will facilitate prompt recovery of land revenue or rents from the cultivators and of *takali* or quit-rent from the zamindars. One of the grievances of the latter will also have been removed. It may be felt that this step will result in a large increase in the number of recovery cases the revenue staff will have to deal with but such a happening would be more apparent than real. The revenue staff is not different from the civil staff in the States and the adoption of revenue recovery procedure will result in a reduction of work. Even in the Central Provinces the tahsildar who recovers land revenue is empowered to try and execute rent suits as a civil court and the distinction is largely fictitious.

In this connection it is necessary to mention that the dues other than land revenue of the *debottar* department and sometimes loans of the *khamar* or private department of the Ruler are recovered in the same manner as State demands. It is not proposed to permit the recovery of such dues as arrears of land revenue and the normal agency of civil courts must be resorted to.

108. *Coercive Processes*.—The coercive processes for the recovery of revenue may now be considered. Existing processes in the States usually follow the processes prevalent in the neighbouring provinces though not always strictly. In some States the procedure of leasing out the land is followed. Taking up the common methods one by one, arrest and detention of defaulters hardly ever seems to be practised in the States and in view of this and the fact that the method is not popular and was recently abolished in the Central Provinces and Berar, I think it is not necessary to consider it as a method of recovery. Attachment of movable property is a universal and usually effective method of recovery. It does not usually do any harm unless the means of a person's livelihood and payment is taken away, and though concealment is possible, generally a warrant of attachment of movables makes most defaulters pay. In some of the States, plough cattle, agricultural implements and other articles which it would be a hardship to attach are not exempted from attachment but in most of the States this exemption is granted at least on paper. Subject to exemptions, attachment of movable property is to be recommended as a process fit for adoption. Apart from this method, the only other processes which may be used are those affecting immovable property and standing crops. In most of the States the land revenue is at present not a first charge upon the land, and questions of recovery of land revenue when a transfer is about to take place crop up. Land revenue is, in most places, and should, in my opinion, be a first charge on the land as the

ultimate source from which it is to be paid, irrespective of who is in possession. This is necessary to safeguard the States' interest as in the event of failure of other methods of recovery the land can be sold. Ejectment of a cultivator from his holding should now, I think, be regarded as a discarded method which is considered in many ways unjust. As has already been pointed out, the cultivator has either paid the value of the land or has given it the value it possesses, and to deprive him of the whole of the land for the land revenue which is usually a small amount is unfair, and deprives him of his source of livelihood and makes him a labourer. Sale of an entire holding for paltry areas of revenue, (though not the same as ejectment because the balance is paid to the cultivator) also reduces him to the position of a labourer. Ejectment from a portion of the land or sale of a portion sufficient to cover the arrears may be considered but the method does not seem to offer a satisfactory solution. There are already innumerable uneconomic holdings all over the country and sale of small bits of land, sandwiched perhaps between other holdings, are not attractive to any persons except a cotenant, and thus, in the absence of competition, is not likely to fetch a satisfactory price. Neither sale nor ejectment should be a common or readily practised mode of recovery; if a cultivator fails to pay his revenue even at the possibility of his land being put to sale it is usually because of genuine inability to pay, and if this process has to be resorted to except rarely, it is a sign that there is something wrong which only an unimaginative administration will overlook. It is unnecessary for me to expatiate further on a principle which is now accepted everywhere that land should not be put to sale except as an extreme measure and on this principle I proceed to suggest less drastic modes of recovery as intermediate steps. Failing recovery through the attachment and sale of movable property, I think that either the arrear may be allowed to remain till the next season and the crops attached or the land may be leased out to a person other than the defaulter who is thus temporarily excluded from the land, for as long as may be necessary to wipe out the arrears. If all these methods fail and there is no reason to write off the arrears, such portion of the holding as will cover the arrears but usually not less than a whole field should be sold. Generally I think it would be sound policy not to sell land unless at least three years' revenue is outstanding and recovery cannot be effected by other methods. It is also proposed not to permit sales after the commencement of the rains as in my experience it causes hardship to the holder as well as the purchaser. In the matter of sale of property, movable or immovable, the procedure contemplated in the Central Provinces Laws or the Bihar and Orissa Public Demands Recovery Act will be adopted and it is not necessary to discuss this further. It States where immovable property is sold for arrears it is this procedure which is said to be followed, in theory, if not in practice.

Regarding recovery from zamindars and tenure-holders, if a warrant of attachment and sale of movable property does not produce the desired results the only alternative is to take the estate under management. If the arrear is due on a land grant, the land may be leased out. In case of habitual default the grant may be resumed, the defaulter being ejected.

109 *Sales by Officers only.*—The practice of ministerial servants like nazirs, or police constables, or peons, selling movable or immovable property is proposed to be abolished and sales must be held in the presence of, or, in the case of immovable property, be conducted by, a responsible officer. Sales of land for land revenue should be avoided altogether if possible in aboriginal areas or if held should be governed by the general rule regarding the sale of land belonging to aboriginals. Taxes such as poll taxes can only be recovered, of course, by the sale of movable property.

110. *Instalments of Revenue.*—Reference has been made earlier to the instalments in which land revenue is payable. In many States, both instalments of revenue are recovered between the month of December and April. In Orissa the landlords pay their revenue in April and November. In the Central Provinces the instalments are in January-February and April; in Berar the instalments are similar. Essentially the Orissa and Central Provinces practice amounts to the same thing, that is, the land revenue payment in anyone financial year consists of the payment of one instalment out

of the previous season's crop and one out of the current season's crop. In most of the States on the other hand both payments are made in the last few months of the financial year. In the Central Provinces and Berar, the whole land revenue is payable at the end of January if more than $\frac{2}{3}$ of the land is sown with a crop which is harvested in December and the whole revenue is payable in April if $\frac{2}{3}$ of the land is sown with a spring or *rabi* crop. As the main crop in the States is rice there appears no strong objection to recovery in two instalments. Of course if the *kists* are equal, allowance has to be made for recovery from defaulters before the close of the financial year though this is not likely to make much difference as the following examination will show: If the 1st instalment is fixed on the 15th January and the second on the 15th March, we may resume that by the end of March all or practically all arrears of the first instalment will be recovered; of the second instalment there will be some arrears; now if we take the next financial year, the recoveries will be (1) balance (negligible) if any of the first *kist* of the previous year (2) arrears of the second *kist* of the previous year (3) whole (or nearly so) of the first *kist* of current year (4) bulk of second *kist* of current year. We may compare with Central Provinces or Berar: the payments in any financial year will be (1) whole of second *kist* of previous year (2) arrears of first *kist* of previous year (3) practically the whole of first *kist* of current year. In both cases, I think, the recovery should be equal to the demand for one year. In view of the varying customs in the States, it is proposed to leave the exact dates to be fixed by rules and it will only be provided in the rules that the first instalment shall not be earlier than 15 January and the second the first of March; this should afford sufficient protection to the ryots and allow enough latitude to the States.

111. *Receipts*.—Receipts for land revenue in the Central Provinces form are used in the Chhattisgarh States; this has been described already. I learn on enquiry that these *rasid-bahis* are sold at 0-3-3 to the cultivators through patwaris whose commission of 0-0-6 is included in the price, in the Central Provinces and Berar. This shows that the States are making an appreciable profit on the sale of these *rasid-bahis*. Some of the Orissa States seem to be doing likewise and it would appear necessary to advise the States that they are not expected to make a profit out of these sales. It is strongly recommended that the Orissa States should be advised to introduce the Central Provinces system of *rasid-bahis* prevalent in the Chhattisgarh States.

CHAPTER XI—Cesses.

112. *States' Cesses*.—It has been pointed out already that there are levies over and above the land revenue in the States which have often been imposed at any time, and without a definite purpose being mentioned, in some cases. Some of these 'cesses' are rates imposed in lieu of levies formerly prevalent such as *bethi begar*, various kinds of *mangans*, *abwabs* and the like and are regarded as a commutation of these levies. The cesses are imposed at so much per rupee of land revenue and thus form an addition to the land revenue. They vary in nature from a religious cess to cesses meant for schools, roads or dispensaries, apart from the commutation rates called 'miscellaneous' or 'local' cesses.

113. *Meaning of cess*.—Before making any suggestions regarding cesses it is necessary to see what is understood by a cess and whether any generally accepted principles regarding their imposition exist. A cess, according to the dictionary, has no more definite meaning than "a kind of rate or tax in Scotland, Ireland, India". In this loose sense it is sometimes used, but in this country a cess is nearly always used in conjunction with the object for which it is levied; thus one speaks of a lac cess or education cess. Usage in India is further based on the principle that a cess, being levied for a specific object, the revenue from the cess should be spent also on that object. To give one or two examples: The Indian Soft Coke Cess Act provides for the levy of a cess on soft coke with the object of creating a fund for the promotion of the interests of the industry; the proceeds of the cess are to be used for promoting the sale, manufacture of soft coke and connected matters; then again, the lac cess under the Indian Lac Cess Act is also meant to be funded for the improvement of the cultivation, marketing and other matter connected with the industry; the cotton cess

is meant for an exactly similar purpose; other examples of cesses are "school cess", "chowkidari cess", "road cess", and so on, all indicating the specific object for which it is levied and which it is meant to further. Such a term as a 'local cess' may be used to differentiate between cesses levied by local bodies or Provincial Governments and cesses imposed by the Central Government but the general import of the word cess in India is that it is meant for a specific purpose and the revenue derived is not to be treated as general revenue. I have not been able to find any authoritative definition of the word and hence it has been necessary to enter upon a certain amount of discussion. As an example of probable loose usage may be quoted entry No. 49 in the 7th schedule to the Government of India Act which talks of 'cesses on the entry of goods'. One common implication of the word is that it is a surcharge over and above other more important payment; it is thus levied upon commodities which already pay a separate rate. This last feature concerns us particularly, as all the cesses imposed in the States are surcharges upon the land revenue.

114. *Taxation Enquiry Committee's observations.*—The previous history of land revenue or rent in India shows that surcharges upon land revenue in various forms were being levied very commonly; these levies had often little to do with any facilities or privileges enjoyed by the ryot, and were levied upon auspicious occasions of the landlord or the Ruler, or to meet extraordinary expenses such as travel or festivities. Regarding these surcharges the Indian Taxation Enquiry Committee wrote (page 310—para. 430—Vol. I) as follows: "The practice of levying sucharges on land revenue or rent is of very long standing in India, and such charges, levied for a great variety of purposes, still form a considerable part of the tenants' burden in many places where land is held under landlords. The abolition of illegal exactions of this kind was one of the purposes of the permanent settlement which was followed early in the eighteen century by the regularisation of such of the cesses as it was intended to continue. These were at first levied principally for local purposes, but in the period 1871 to 1905, there were added considerable cesses for imperial purposes, chiefly the famine fund, in addition to which, in some provinces, there were added cesses for provincial purposes, chiefly payment of village officers. All the cesses that were levied for other than local purposes were wiped away by Sir Edward Baker's reforms of 1904-1905 and 1905-1906". The taxation Enquiry Committee found that cesses were levied on land revenue or rental and had become a common imposition of local bodies; it also found that provincial governments imposed maxima on the cesses which the local bodies could levy. It gave the reason for the maximum as "no doubt partly a fear on the part of the local government of encroachment on a provincial field of taxation, partly a fear on the part of local legislatures of adding to the burden of the cultivator". The Committee recommended that if the maxima were not altogether removed, they should at least be raised to 6½ per cent. of the annual value.

115. *Attitude of Government of India.*—The question of cesses was agitated in the memorial presented in connection with the land revenue in 1900 and suggestions were made regarding their limitation and application. The Government of India held that cesses for local objects such as education, roads or dispensaries were a proper levy, and found also that the incidence of the local rates was everywhere under ten per cent. of the land revenue; no general principles were however laid down, or a maximum fixed, though it appears from the resolution that the maximum of ten per cent. suggested by the memorialists was not considered unfair. (Land Revenue Policy of the India Government—paras. 23—36). One finding of the Government of India was that the local, customary payments to village officers could not be regarded as a cess but even if it was so regarded it was pointed out that the total rate of local taxation seldom exceeded ten per cent. From these we may draw another general conclusion regarding a cess, and that is, that it must be a small fraction of the land revenue itself and must not be such as to amount to a considerable enhancement of that amount.

116. *Cesses in the Provinces.*—To consider now some of the actual cesses levied in the provinces, in the Central Provinces, no cess is levied by the Government apart from the revenue; village chowkidars are paid in kind at customary rates in the *malguzari* villages but in the *ryotwari* villages

the settlement instructions lay down that the rate on the revenue payable should not exceed one anna per rupee of revenue [Central Provinces Settlement instructions page 9, para. 5 (3)]. A rate may be imposed on non-agriculturists according to their income and all residents of the village, except the poorest, are liable to pay. Under the Local Self-Government Act, a rate of 6½ per cent. may be levied for the maintenance of schools, or roads, or other purposes, and with the special sanction of the Provincial Government, a further rate of 6½ per cent. (ordinarily this extra rate is not levied). In Barar, as in the ryotwari villages of the Central Provinces, a rate of 6½ per cent. is levied for the village watchmen apart from the 6½ per cent. which may be imposed by the District Council as school or road cess.

In Orissa, a rate is levied for the remuneration of the chowkidar according to "haisiyat" or status, and this cannot strictly be classed as a surcharge on the revenue; the amount is fixed by a *panchayat* and is small.

In Bengal there are three cesses which together amount to 2½ annas per rupee of annual value of the lands. In Bihar a cess of one anna per rupee is levied.

117. *Rate and nature of cesses in the States.*—In contrast to these small payments the maximum cess levied in the States, apart from payments made to chowkidars and the forest cess which is regarded as a commutation fee (discussed later) works out at nearly 33 per cent. of the land revenue in the case of Khandpara and Patna, 25 per cent. in Talcher and Dhenkanal, 28 per cent. in Athgarh and 24 per cent. in Baudh. (If the forest commutation fees and payments made to village chowkidars are taken into account the cesses come up to fifty per cent. or more).

In Nilgiri, a *parbani* cess is levied for some religious purpose; the revenue does not enter the State accounts but goes to the Thakur Mahal; the cess is however, recoverable as part of the land revenue. The villagers of course do not appreciate this cess which was noticed during his enquiry by Mr. Bowstead, who however, raised no objection to this levy, which is quite improper by all modern standards. Along with the *parbaparbani* cess of Patna, and the rate of 2 annas per house levied in Rairakhol. I am of opinion that this cess should be abolished immediately. The States may be advised that funds for *jatras* should be entirely voluntary and if any collection is made at all it should be by means of collecting boxes at the actual temple or fair and the forest or revenue or other State staff should not be employed.

118. *Cesses as Commutation of Bethi.*—Apart from these religious levies there are the 'local' and 'miscellaneous' cesses. These cesses are commutations of former imposts like *begar*, *abwabs* which are now supposed to have been abolished. There is also the *kar* and *kartali* cess in Bamra which is a commutation of the right to purchase grain at a privileged price. When the question of abolishing these obnoxious levies came up the States put forward various pleas which, I am inclined to think, are purely specious and have no foundation of fact. In some States (Gangpur, Bonai, etc.) it was suggested that *begar* was being levied in lieu of the assessment on uplands which were being cultivated free. In other places it was suggested that the assessment itself was low. In other places again, it was simply argued that as *begar* and other imposts were customary levies and part of the ryoti tenure, if they were to be abolished, they should be replaced by a rate. Actually there seems to be no foundation of fact for these arguments. Correspondence in Gangpur shows that a suggestion was made to the ryots that they were holding uplands free in lieu of *begar* which they accepted, but the Ruler himself wrote that this was not the case and assessment of uplands did not mean an exemption from *begar*. (See report on Gangpur in which I have fully discussed this). In Bonai, the Ruler held that not only uplands but homesteads were held rent-free in lieu of *begar* (in Orissa as in many parts of the Central Provinces, there is a very old custom of holding homesteads free), and finding that assessment of uplands was only too readily accepted by the ryots, he put forward subsequently the suggestion that the low assessment of other lands was also in lieu of *begar* and in view of the fact that a settlement in Bonai was overdue as the rents were fixed long before, the ryots seem to have accepted this also to get out of *begar*, with the result that a

sort of settlement is being made in Bonai as "commutation" of *begar*; this will of course leave it open to the Ruler to claim a further enhancement on the ground of revision of the settlement. I think I have conclusively proved in my report on Bonai that *begar* was not being rendered in lieu of any other concession and that the enhancement of rents in the manner of a settlement is unjustifiable and improper. That the pleas of non-assessment or low assessment are concocted ones is shown by similar arguments put forward by the Central Provinces *malguzars* and zamindars. Here it was claimed that there was an intimate connection between *begar* and forest rights of user. The following extract from Mr. Jayaratnam's settlement report of Bilaspur is worth quoting: "Proprietors objected to the procedure on the ground that free *nistar* and grazing are complementary to the obligation of 'bhet-begar'. The objection is without substance, for there is no historical relation between the two customs. Bhet-begar had its origin in the communal cultivation of that portion of the home-farm—*thakur khet*—the produce of which was set aside to meet village expenses * * *. The custom as it exists at present finds no mention in Major Vans Agnew's description of Chhattisgarh". (Bilaspur Settlement Report—page 41, para. 48). In Surguja where some areas have still not been surveyed, the ryots did not seem to know of any connection between their unassessed *dand* land and *bhet-begar*; in the report on Gangpur the report of a Dewan is quoted to show that the uplands were formerly left unassessed not on account of *begar* but because the lands were not considered worth the trouble of assessing. The improbability of these suggestions is further indicated by the fact that *begar* falls heaviest upon villages upon the roadside while some villages in the interior practically escape it altogether; no difference has been made on account of the comparative immunity of such villages as far as can be seen from the settlement report. Though Mr. Bowstead did not find that the rents in the States were unduly high except in Bamra and Baudh he did not find that there was any special leniency in the assessment. Such being the case regarding *begar* and *bethi*, there could hardly be any plea for a cess on the ground of special privileges in commutation of other imposts such as were being levied in Talcher and which were commuted to a cess of 0-5-0 per rupee (recently reduced to 0-3-0 under advice of the Political Department). I have not made a special study of the incidence of land revenue in the States in view of the definite finding given in the matter by Mr. Bowstead (and in fact I do not think justifiable criticism can be made without detailed local knowledge), but my perusal of the settlement reports certainly does not lead me to conclude that there has been deliberate under-assessment in any State. In a number of States, notably, Dhenkanal and Patna, there were bitter complaints of over-assessment, and these are two States where there are heavy cesses also. In Patna the cart track is even now maintained by *begar*. Rejecting the argument therefore that land revenue is light or has not been assessed on certain lands on account of *begar* the conclusion is that in a number of States there is a heavy surcharge upon land revenue assessment.

119. *Village Cesses*.—In arriving at this conclusion I have not considered the payments made to chowkidars. The Government of India in its resolution of 1902 laid down that customary payments to village servants cannot be regarded as a cess. In view of the fact that in a number of States the cowkidar is a police official, and in addition there are others such as *jhankar* as well, and further, the villagers contribute towards the uniform of these servants, I do not think that the payments required to be made to these officials can be regarded as one made for village service. These officials must be regarded as different from the *lohar* and others who are appointed and removed by the villagers and get paid for services rendered. In the Central Provinces and Berar the payments for the chowkidars are definitely regarded as a cess, and in Orissa also there is a separate levy. Further, as will be shown while discussing village servants, heavy payments are made by the villagers in several States. Consequently I am of opinion that the payments made to such officials as the chowkidar must be regarded as a cess but I do not propose to include it as a cess for the purpose of the maximum amount of cess which I am going to recommend in view of the fact that such payments have been ruled as not being cesses.

120. *Forest Cess*.—Another payment which is regarded as a cess and about which some discussion is necessary is the forest or *nistar* or fuel cess. A brief description of this has been given earlier. Following

Mr. Bowstead's report [F. 22 (4)-P./40], it was decided that this should be based on the acreage of a ryot's holding and not upon the amount of land revenue in view of the liability of the latter to change upwards—at settlement. Actually a flat acreage rate does not appear to be suitable in a large number of States. The practice commonly found is that ryots own a small area of wet lands and a considerably larger area of uplands known as *goradand* or *at* which are irregularly cultivated, so much so, that till recently most of them were considered unfit for assessment. The yield of such land is poor, and the assessment is also low. If therefore there is to be a change from calculation on a rupee basis to a flat acreage basis, many ryots will by reason of their holding large areas of uplands against small areas of wet lands, have to pay an enhanced rate which is clearly unfair, unless there is a decreasing forest rate, as the assessment decreases on inferior lands. In a number of States in fact there is a different rate on dry lands. The best method of assessment of the forest rate would perhaps be to assess it on the *haisiyat* or status of each ryot but as this would be a different method altogether from what exists the method of assessment as an acreage rate at different rates for different classes of land in accordance with the practice in many States may be adopted.

The rate paid by the cultivators for the right of *nistar* in forests cannot properly be termed a cess in the accepted sense of the word. It is really a commutation of payments which would be made for the removal of forest produce from time to time. This feature is clearly recognised, for in Gangpur and other States, the village which objected to the forest cess were given the option of paying separately for their *nistar* or paying a consolidated rate. The ryot really purchases his *nistar* and in this view, I think the forest rate may be removed from the category of cess.

121. *Proposed Limit.*—Leaving then the forest cess as not really a cess, I am of opinion that the total cesses upon the rupee of land revenue, excluding payments made for the chowkidar but including any rate on the land revenue levied by a 'local body', should not exceed 3 annas in the rupee which amounts to $18\frac{3}{4}$ per cent. and is far from being a low limit. I think it is necessary also to lay down the principles that cesses should not be levied except for purposes such as maintenance of roads, dispensaries, schools, or chowkidars and should as far as possible not be imposed at settlement.

The following particular recommendations are made :

(1) The *parbani* cess in Nilgiri and the *parbaparbani* cess in Patna and the *tambikya* cess in Rairakhol should be abolished. (2) In Dhenkanal and Talcher the local and miscellaneous cesses respectively should be reduced by one anna each so as to bring the maximum cess to three annas and the balance of the cess, if any, should be used for some such specific purpose as road or dispensary ; (3) The *rasad* cess or improvement cess in Patna should be abolished ; this will bring the cesses down to three annas and the State will not suffer any loss of income as the amount is supposed to be given to village *panchayats* ; the village *panchayats* be left to impose their own taxes ; (4) similar measures in Athgarh, Daspalla, Kalahandi and Khandpara to reduce the cesses to not more than three annas, 5) abolition of the *kar* and *kartali* cess and other cesses in Bamra and Baudh in view of the high land revenue assessment (see reports on these States).

In a number of States the tenure-holders or Ruler appropriates cesses levied from ryots. It is proposed to stop this practice and make all cesses creditable to State revenues.

122. *Village Servants.*—There is some variation in the States in this matter. Common to all States however is the chowkidar and in practically all of them he is regarded as the local representative of the Police, and often he is appointed in consultation with the police. In two States only, there is a sort of head chowkidar. Throughout the State the chowkidar is appointed by the State and the zamindars and others have little say in the matter (except in Bastar zamindaris in which it is said that he is appointed by the zamindars). The appointment is usually hereditary. Comments have already been made on the number of village servants in some of the States. In the Central Provinces and Berar there is only one *kotwar* or *mahar* in most villages and it is usually only in very large villages that more than one village servant is found necessary ; in Berar,

in large villages (over 1,400 population) there is a watchman known as *jaglia*. In the States there is often an assistant to the chowkidar. Village servants usually hold rent-free service holdings and so long as the villagers do not have to pay more than one servant, or the village is sufficiently large to afford two or more without increasing the burden of the individual ryot or labourer considerably, it is proposed to leave it to the discretion of the States to appoint village servants other than the chowkidar. It will therefore be left to the State to prescribe the village servants and their duties by rules provided the villagers do not have to pay more than one anna per rupee of land revenue or its equivalent in kind for village servants. There should be no separate levy for the chowkidar's dress if the ryot is already paying one anna per rupee. Excessive payments now being recovered will have to be stopped as proposed in the law. At present, non agriculturists in a number of States do not pay for village servants and it is only fair that a payment should be recovered from them. This is provided for.

I do not think that there is any need for a head chowkidar or *dafedar* in Korea and Tigris which are the only two States out of thirty-nine to have these additional servants. I have not examined the State's reasons for these servants but *prima facie* they appear unnecessary, and the States may be advised to eliminate them unless they can show good cause to the contrary. In Orissa there are *dafedars* but the system there is different and in nearly all the States as well as in the Central Provinces or Sambalpur there is no *dafedar*.

There are a number of village servants like *baiga*, *lohar*, barber, *dhobi* and others who are paid for services rendered by the villagers. They perform menial services to officials and others. In the interests of the State revenue I recommend that all the lands held by them should be assessed to rent and converted into ryoti. In order to avoid hardship the same rule for settlement of the land is provided as in the case of village headmen. Also as there may be individual villages where it is necessary to retain rent-free holdings in exceptional circumstances the clause in the law is made merely an enabling one.

In order to avoid problems caused by sub-letting of service lands as in Khandpara, such lands should be sub-leased only with the permission of a revenue officer, and it is provided that if there is any sub-lessee cultivating without permission, the jagir-holder can be called upon to cancel the lease, but if a lessee at the time of the commencement of the law has been cultivating for over twelve years he may not be ejected without compensation. If the jagir-holder is not able to eliminate the lessee the land may be assessed to rent or the lessee may be called upon to perform the service.

CHAPTER XII.—Forests.

The next important matter in which the cultivator is most interested, viz., forests nistar, grazing, etc. will now be taken up.

123. *Policy*.—During the earlier discussion it has been suggested that the administration of forests in the States is somewhat one-sided, that is, the interests of the cultivators do not receive adequate emphasis. The policy of the Central Provinces Government will show that the cultivator's interests need special representation and examination and in the Central Provinces, it is not considered adequate to let the entire matter rest with the Forest Department, which, on the whole, is inclined to take a rather technical view. Government however recognises that certain privileges and concessions, which do not amount to rights of user have been enjoyed in the forests by the neighbouring population and desires that these privileges and concessions should continue to be enjoyed as freely as possible. They must, however, be defined and delimited and should not be allowed to increase except in unusual circumstances. The most satisfactory method of giving effect to this declared policy is to embody its principles in the provisions and prescriptions of working plans, and for this purpose a revenue officer should be associated with the preparation or revision of each working plan", [para. 82, C. P. Forest Manual, Vol. I; also section 4(2) of the Indian Forest Act.]. The special revenue officer is required to state for the orders of Government "the case clearly from both points of view" and to make recommendations after examining the whole matter. I do not indeed suggest that if one of the State revenue officers had been

associated in the preparation of the working plans this by itself would have made any difference and that the failure to do so has caused serious injustice. What I wish to indicate is that State policy should recognise that the cultivators have interests in forest management which need careful consideration and decisions should be less summary than they seem to me to be at present. State policy so far has, as already indicated, been rather sweeping in forest matters. It seems to be actuated by the idea that with the exception of the State personified by the Ruler, none else has any right in forests or forest-growth except as a matter of favour or concession. Thus it is that all forest-growth is claimed by the State and forest rules apply to all land in the State. The final decision in many States in a matter like the allotment of waste land for cultivation rests with the forest department and in some States (Bamra) the question rests entirely with the forest department. It is the forest officer whose permission is necessary to cut down trees, it is that department which appropriates the income from all trees and the proceeds of allotment of waste land, it is the forest department again which lays down the policy in the matter of crop protection and it is under forest rules that contracts of lac, tendu and other commodities like hides and skins are given out covering agricultural land and village cattle, and export duties on agricultural produce are imposed, the forest department controls minerals whether found in forest or not. This wide jurisdiction of the forest department assists in the squeeze for revenue which has already been mentioned as a characteristic of these States. The attitude of the State towards forests has of course been copied, except where definitely prohibited, by zamindars, *ilqadars* and others.

124. *Cultivators' Rights of User.*—In discussing the forests, it may be pointed out that wherever the theoretical ownership of waste land and trees may be assigned, the cultivating population has a strong prescriptive right to the appropriation of forest produce for their own domestic purposes and the needs of their animals. These rights were of course exercised, at the time when the clearing of forests for cultivation began, in the forests close to the village and the free utilisation of forest produce in these forests must have been gradually regarded by the cultivator as one of his privileges and rights as well as an incident of the cultivating tenure. In the early days none interfered with his rights (forest had little value), and when there was such interference it was regarded of course as an encroachment on his rights. Except therefore in distant forests, away from inhabited areas the State could not exercise its rights without a conflict with the agricultural community. While therefore reservation of forests in which the cultivator exercises no rights of user raises no protest, in reserving forests near by, the primary criterion should be that such reservation is in the interests of the cultivator himself. Reservation by the State would be justifiable on the ground that the revenue from the forest goes to the State and is spent, at least partly, in the interests of the community. Far different is the case however, with zamindars and others; here reservation generally means that the cultivator definitely loses his own rights and only one individual benefits. Reservation by zamindars, if permitted at all, should therefore be subject to strict control by the State and should be restricted to areas in which rights of *nistar* have never been exercised.

This however, is to some extent a digression; to come back to the main theme, the cultivator has exercised customary *nistar* rights for a long time in forest near his village; it has provided him free timber for his house and agricultural implements, fuel for his hearth, grazing for his cattle and it is on this basis that cultivation first started. Apart from this, there is the fact that the average cultivator in India shoulders taxation which recognises no lower limit and operates on his income however small it may be, I think it will also be found that the rate of his taxation is far higher than taxation to which non-agricultural incomes are subject; the burden of land revenue is felt most by cultivators with small holdings and is felt less and less as the holding increases in size, contrary to systems of income tax, which bear lightly on the lowest incomes; there are few professions where income is more precarious and in hard times it is often forest produce which keeps him going; thus there seems to be a strong case for allowing full rights of *nistar* in forests within the village boundary, subject only to such restrictions as may be imposed in the cultivator's own interests. This is in fact the policy which is generally followed

in the provinces with small variations. In Bihar and Orissa, in the Government estates, except for certain reserved species no charge is made in the villages for *nistar*, and grazing fees for the cattle of agriculturists seems to be charged only in the Khurda protected forests in Orissa. In the Central Provinces, in the village forests (including *malguzari* and *zamin-dari* areas), the villagers are entitled to free customary *nistar* subject to certain rules made for the preservation of forests, and grazing is usually free. In connection with *nistar* rights the following passage from Mr. Kamath's report on Grazing and Nistar in the C. P. Zamindaris may be quoted :

"Before the conferral of proprietary rights * * * the village waste or village forest was, for all practical purposes, the property of the whole village community. Definite communal rights existed in it for the whole body of villagers, the person on whom proprietary rights were later conferred being in the position of no more than a manager. At the time the grant was made, care was taken to maintain these rights, the newly created proprietor, however, being left to enjoy what income he legitimately could from the waste, provided he did not thereby interfere with or curtail the recognised rights of the village community * * *. If the existence and the nature of these very definite communal right is, realised, it will not be correct to describe village forests as the absolute private property of the zamindar". In Sambalpur the rights in village forests is similar to the Central Provinces position (what reservation of timber and other commodities is made by the zamindars in the Central Provinces in practice is illegal). In marked contrast is the position in the States. Nearly all the State levy a '*nistar* cess' and at the same time half the normal royalty is charged on tress of reserved species. In some places, grazing fees are also levied. The *nistar* forests in nearly every State have been drastically reduced, but even in these the State reserves the right to sell timber to traders and in practice also timber seems to be sold. Wood for State purposes is in some cases taken out of village forests though the reserves may well provide them.

The question of grazing fees will be considered later; though I consider that the levy of a *nistar* cess of commutation fee is not really justified I do not propose its abolition in view of the fact that the States have been levying it for some time and abolition of it in addition to the proposals for abolition already made would result in a heavy reduction of State revenue.

125. *Proposals regarding village Forest and Nistar.*—What I should consider equitable as a policy in this matter of *nistar* in the village forest is (1) wherever village boundaries have been demarcated and include village forest, villagers should have free rights of *nistar* as well as grazing (see para. below on grazing) subject only to restrictions for the preservation of the forests, and no cess or fee should be imposed if it does not exist already; (2) if the village boundary is not demarcated, steps should be taken to demarcate it, including such area of forest as may be considered reasonable, having in mind the present condition and possibility of future development as well as the desirability of reservation of areas with valuable forest growth in the general interest; (3) where a *nistar* cess is being levied at present for the use of the village forest, no additional royalty should be charged for the trees valuable as timber though there should be provision for control of *nistar* preferably through the agency of a village *panchayat*; (4) where there is no forest within village boundaries but 'protected' forests are provided, a commutation rate or *nistar* cess may be levied but there should be no additional royalty on particular species, on the cutting of which there may however be restrictions in the villagers' interests and in the interests of preservation of the forests; (5) the commutation rate should be optional and based upon either the *haisiyat* or status of the cultivator or should be an acreage rate on the land he holds, the rate being graduated according to the quality of the land he holds; (6) forest rules should not apply to the management of forests within village boundaries. I may note here that Mr. Kamath who examined the position in the C. P. zamindaris recommended village "*nistar panchayats*" to control *nistar*, a suggestion which I favour and which I myself proposed once. In Jashpur the management of forests through a village *panchayat* was ordered in a proclamation. I do not propose to include detailed rules about *panchayats* in the draft law, however, and the working of the *panchayats* will be governed by rules to be framed under the law.

126. *Grazing*.—Grazing is the next important point. It was reported on by Mr. Bowstead [F. 22 (4)-P/40] and the Resident, the Governor of Orissa agreed with him that grazing fees should be gradually abolished except in reserved forests. Col. Barton, in commenting on Mr. Bowstead's proposals, noted that the Forest Adviser also agreed. Orders were issued accordingly. I find however that Mr. Mooney has somewhat different ideas. He is 'in favour of charging a fee on all cattle surplus to agricultural requirements with the idea of limiting to some extent the number of uneconomic cattle maintained by the villagers'. (D. O. No. 185/F., dated the 20th January 1942 from Mr. Mooney to me). He is "prepared to admit that the small fees now charged for surplus cattle may provide little in the way of a deterrent", but contemplates the gradual raising of such fees in the interests of animal husbandry. He does not favour the levy of grazing fees as a source of revenue though he recommended it in Talcher where it does not exist at present, on the ground that there is need for placing some check on the number of excess cattle. While discussing village, forests, I partly made out a case for free grazing of the agriculturists' livestock in the village forest, that is, in all areas within village boundaries. Grazing is a question on which much has already been said, and much more can be said without still removing the matter from the field of controversy, particularly if it is desired to associate the question of improvement of livestock with it. I fail entirely to see that the imposition of grazing fees is likely in any way either to improve the condition of livestock or to reduce the number of 'useless' animals in the circumstances which prevail in this country. The idea that rather than pay grazing fees the cultivator would get rid of his 'surplus' cattle is, I fear, engendered of superficial consideration. To begin with, it is for the cultivator the same whether certain fees are charged on some of his cattle, the others being exempt, or a lighter fee is charged on all his cattle; if for instance a cultivator has six animals, and on four of them he has to pay a fee of 12 annas, it is not different to him from the imposition of a uniform fee of two annas each on all his cattle. Then again, 'useless' cattle are to him only those which have not much longer left to live, particularly in the case of plough bullocks or cart bullocks; these are usually driven so long as they are able to pull. It may be quite true that the work of three emaciated animals may be done by a single good one, but the good one usually costs much more than the cultivator can afford, and in the absence of veterinary aid and the prevalence of carnivora, bovine life is quite precarious and the cultivator only stands to lose by purchasing an expensive animal. Breeding of cattle costs little and though they may be poor 'stuff', the cultivator can get two or three such for practically no cost and what they lack in quality he certainly attempts to make up in quantity; the loss of such an inferior animal is not a really serious matter; if the same quantity of milk is provided by three animals at less cost and risk than one, why, of course, the former is preferable. Thus it is that the cultivator breeds and keeps a large number of 'surplus' cattle. To him they are not surplus so long as he can keep them going on the village grazing. As regards animals which even to him are useless, his religion prohibits him from destroying them, and the imposition of a grazing fee high enough to force him to do this, would entail serious consequences; he also has this argument: if the animal is to be destroyed because it is old and useless, should I also be destroyed because I am old and useless? Thus the imposition of a grazing fee fails entirely in its meant to reduce the number of 'useless' cattle. Mr. Kamath gives facts and figures (in para. 236, page 93 of his report on Grazing and Nistar in the C. P.) which go to show that the imposition of grazing fees has not resulted in the reduction of the number of cattle. Further, whatever Mr. Mooney's ideas behind the imposition of fees, the States certainly look on it as a source of revenue and this is shown by the fact that Bamra declined to accept Mr. Mooney's advice on the point of exemption of agricultural cattle. Mr. Mooney further admits that my suggestion that in many places, the pasture available on village grazing grounds and forest is so exiguous that it provides no nourishment for the cattle and that to charge a fee is to charge for, something they do not get is true, but he would suggest remedies or exemptions. On the whole, I must say that his case for the imposition of

grazing fees on the cattle of agriculturists is weak though I agree that in view of the limited pasture available, grazing in village forests must not be free to all cattle irrespective of whether they belong to agriculturists or not; I have suggested already that the agriculturist needs special consideration on account of the taxation he is subject to. To discuss the question from the beginning would take enormous time and paper. I might briefly say that it is the agriculturist who is entitled to free grazing for his cattle in the village forests, just as I have pointed out that he is entitled to free nistar. Along with 'agriculturist' (whom I would define as a person whose principal means of livelihood is agriculture), I would include village officials and servants such as chowkidar, blacksmith, *baiga* etc., as well as agricultural labourers, generally persons on whom the agricultural community depends. These persons would be entitled to graze all their cattle free. Non-agriculturists, that is, those whose principal means of livelihood is not agriculture or agricultural labour, particularly ahirs, gaolis and similar persons would not be permitted to graze their cattle on the village waste at all if alternative grazing in reserved forest is available at a reasonable distance, or only their plough cattle, if any, would be allowed to graze, unless the village forest is adequate for all the cattle in the village non-agriculturists would pay a fee on all cattle. If there is inadequate grazing for all cattle in the village forest and there is no alternative grazing near by, then I would impose a prohibitively high rate on the cattle of non-agriculturists if there was any danger of the village waste being denuded by their cattle, so as to induce them to keep their cattle elsewhere, or migrate to other villages. Grazing is a matter in which it is difficult to lay down uniform rules for all villages without causing difficulties, and it is proposed to allow enough latitude to revenue officers to deal with villages according to the actual grazing circumstances. An appendix shows the grazing proposals of Mr. Kamath for the Central Provinces zamindaris with the general principles of which I am in agreement. The classification of agriculturists and non-agriculturists, I have in mind, is more or less the same. Mr. Kamath points out in para 241 of his report the undesirability of dividing cattle into 'agricultural' and 'non-agricultural', and I am of opinion that the reasons given by him apply largely to the States.

127. *Crop Protection*.—Crop protection has already been discussed at some length (see part I) and it is not necessary to go into in much further here. In the provinces, protection of crops is actively encouraged instead of being hindered as in the States. It is recommended that any person in cultivating possession of a field should be given the right to protect his crops by shooting or by setting snares or other means, in, or in the vicinity of crops, any animals likely to cause damage to the crop; the right to destroy any animal which has killed or has come to kill village cattle including sheep and goats, within the boundaries of the village should also be recognised. There can be no justification for protecting pigs in any way and as they need to be killed in large numbers, the States should be advised to permit freely the shooting of pigs and also beats for pig anywhere within village boundaries; beats for pig should also be permitted in reserves adjoining villages but with special permission and under supervision. Beats are at present permitted in Bastar and Nandgaon. In the Central Provinces there are regular pig-killing societies. The Forest Adviser agrees that the shooting of all animals including elephants actually damaging, or in the vicinity of crops may be permitted. As already pointed out the shooting of elephants is prohibited in the States. The Forest Adviser feels that it is a delicate matter and speaks also of a religious prejudice which I have not heard of. He agrees however that they are one of the greatest curses of the cultivators. If the States wish to retain the ban on killing or shooting at elephants the cultivator should be given compensation for the damage done to the crops.

It has been pointed out that the number of gun licences issued for the protection of crops is inadequate in some States and also that the licence fees are high in some places. In the following States the number of licences is *prima facie* inadequate; Udaipur (48), Sarangarh (4), Rairakhol (51); Raigarh (76), Patna (158), Pal-Lahara (70), Korea (22), Changbhakar (98), Bonai (15), Bastar (404), Keonjhar (7), Jashpur (54). In Seraikela,

Sakti, Kharsawan no licences are issued. States with plenty of forest and wild animals should be advised to issue licences more liberally particularly Korea, Jashpur, Keonjhar, Rairakhol and Bonai, as soon as any policy of restriction followed on account of the war is revised. Certain States like Kanker, Changbhakar or Surguja have a fixed upper limit which does not seem to be based on any appreciation of actual need. Such upper limits do not seem to be necessary and discretion should be used in issuing licences according to circumstances.

The licence fees for muzzle-loaders is unduly high in Udaipur (Rs. 1-8-0), Tigiria (Rs. 2), Bonai (Rs. 2-8-0), Chhuikkhadan (Rs. 5), and States like Athgarh, Baramba, Keonjhar and others where it varies from four annas to Rs. 1-8-0. No licence fees should be charged for muzzle-loaders issued for crop protection only as in Bastar, Khairagarh and Changbhakar.

Regarding the question of reporting and disposal of animals shot, the cultivator should not be required to report to any person other than the village headman or chowkidar who may be made responsible for sending on the report to forest or other officials. It should also be the responsibility of the State to make arrangements for the disposal of the carcass through its village or other officials and the cultivator should have no responsibility in this respect. No fees should be levied for any animals shot. The relevant sections of the Law may be seen (Chapter on "Other Rights of the Ryots and Tenants").

128. *Monopolies*.—The various monopolies may now be considered. It is recommended that the hide monopoly should be abolished so far as village cattle are concerned; there can be no objection if skins of wild animals are made the subject of monopoly. It is laid down in the proposed law that the owner of an animal has a right to the skin and may dispose of it as he pleases; the only control necessary is in the matter of Sanitary disposal of the carcass and this is provided for. In States like Khairagarh or Nandgaon the commutation fee which is included in the land revenue of the ryot should be abolished.

The lac, tendu and harra monopolies are recommended to be abolished; contracts may be given out for these only in forests, including village forests but not ryoti holdings, on the basis of a tree tax or a lump payment for the exclusive right of propagation for the area; the cultivator should not be compelled to sell the lac, *tendu* or *harra* from his fields to any person. In the village forest or other forest to which his lease extends the contractor will have the exclusive right to propagate lac or get it propagated through villagers on reasonable terms to be prescribed in the lease, and the villager will have no right to propagate lac except on his own holding without the contractor's consent. In respect of *tendu* and *harra*, the customary rights of ryots in respect of their domestic needs must be safeguarded (this is provided for in some existing leases).

As regards *mahua*, this most important tree is a source of food to the cultivator and the States should *not* be permitted to give a contract outside reserve forests. The sale of *mahua* from village forests may however be restricted to the contractor or specified persons, if necessary. I do not think that export or import duties should be permitted on agricultural produce and cattle. If there is any hesitation about the hide and similar monopolies I strongly recommend that an export duty would be preferable to the machinations of a monopolist.

128A. *Composition of forest offences*.—The action required regarding composition of forest offences has been indicated in paragraph 47A. In the Central Provinces, the Divisional Forest Officer compounds offences but a report of cases compounded is invariably sent to the District Magistrate. If it is considered that forest officers in the States should have powers to compound, they should be required to send a report to a Magistrate. It is recommended that the practice of *darogas* compounding forest offences prevalent in Sarangarh should be put an end to. If

zamindars are exercising powers of inflicting fines for forest offences it is recommended that they should be prevented from doing so; they should file cases in the courts, if necessary.

CHAPTER XIII.—Other Matters

129. *Bethi-begar*.—The individual reports show that this system still prevails to a greater or less extent in most States. I should have thought that the total abolition of this levy in all forms needed no argument but actually *bethi* for certain purposes such as construction of *raths* and other purposes has been allowed to exist by the Political Agents. In Part I of this report the unreasonableness of allowing *bethi* for *raths* has been mentioned. I do not think there is need to compel ryots to labour without payment or inadequate payment in any of the States. As already pointed out, the cultivator is a heavily taxed person to whose burdens and misery it would be iniquitous to add. Labour is "dirt-cheap" in this country, and to insist upon free or underpaid labour is the height of callousness and perversity. I do not think there need be any fear of people refusing to turn up for work even on payment as people, particularly in the States, are most susceptible to influence by headmen or others in authority. Further I find it incomprehensible why the cultivator, a highly taxed person, is liable to this levy while non-agriculturists usually go scot-free. If there is to be any compulsion at all it should in my opinion be restricted to aid in case of fire or flood or other emergencies affecting general welfare; otherwise *bethi* should be abolished without any reservation and penalised. The question of cost seems to trouble the States only when the relief of the agriculturists is suggested, but they do not seem to mind it in the least when writing away thousands of rupees of State revenue in the form of grants for various purposes. If any difficulty is felt at all it is because of such improper acts, and it would be in the highest degree unfair if the ryot is to be made to labour so that a small number of privileged persons may enjoy rent-free grants. In Bonai a 'commutation' of *bethi* is being made (see report on Bonai). It is urged strongly that all *bethi-begar* should be abolished absolutely and no "commutation" should be permitted. Commutation is, I venture to think, a recognition of this obnoxious levy, a mere change of form. If this form of slavery is to be abolished because it is improper there can be no commutation of it. Commutation means that if a person is not willing to commute, or is unable to do so, then *bethi-begar* would continue as before. I urge with all emphasis that no levy or impost which is considered improper can be commuted; it would not be abolition but continuation of it in another form. I am not ignoring the practical aspects of the problem. If on account of the abolition of any such levy, the State has to find more money for expenditure, this should come from sources where there is scope for other taxation or by economies elsewhere. Taking the particular case of Bonai, where "commutation" is being made by putting up all rents I would point out that a survey and re-settlement is highly desirable in this State for proper administration, and if in the course of the resettlement the land is assessed to a fair rent which is bound to be higher than the present rates which were fixed many years ago, the State would get a higher revenue; as it is, there is a chance of the State making one enhancement now on the ground of commutation and a further enhancement a few years hence on the ground of resettlement. What I wish to point out is that the case for additional revenue should be decided on the basis of a scope for further taxation and not simply on the ground of abolition, of *bethi* and as a *quid pro quo* for it. In Surguja, the people are not in favour of a road cess being imposed in lieu of *bethi*; they are prepared to maintain the road, if necessary. This indicates that a surcharge on the land revenue is considered more objectionable than unpaid labour; if therefore a cess is imposed because *bethi* is not levied, such a proceeding would I think be definitely improper. I therefore propose to make a provision against *bethi* in the proposed law except for dealing with fires, floods or other emergencies such as defence and I recommend that ideas of commutation should not be encouraged. The case for additional revenue should be considered only on its merits and should not take any objectionable form such as a cess on land revenue or an increase of rates during the currency of a settlement.

130. *Rasad*.—In many States this has nominally at least been abolished but continues in a few. Formerly it used to be levied on a large scale from the cultivators but now only the *gaontia* or headman is responsible. It is conceded generally that this levy is improper and it is proposed to abolish it; it is contemplated that village headmen shall be entitled to payment for any provisions or articles supplied by them. Not so long ago *rasad* used to be levied from the villagers in some places when officers of the Political Department visited the State. Now no such levy is made.

131. *Salamis*.—In the *pattas* of *gaontias* a payment at Dusserah in cash, and sometimes a goat or two, is prescribed. The instances of recovery of this levy from ryots have been mentioned earlier. It is not proposed to make such levies recoverable by process under the new revenue law and customary gifts will be voluntary. The headmen will be prohibited from making recoveries of other than authorised dues and the States may be advised to see that recoveries such as in Kalahandi Udaipur or Kanker are stopped.

132. *Land Acquisition*.—The Indian Land Acquisition, Act is extremely sound though proceedings under it sometimes take a long time. The procedure in the States, even where it is the practice to grant some compensation, is absolutely summary, often causes great hardship for that reason, and compensation is sometimes paid long after acquisition and seldom seems to be adequate. Acquisition under the Land Acquisition Act need not always be dilatory as acquisition by exchange or negotiation is permitted and delay often occurs because of other reasons than the procedure. Delay to some extent is inevitable when the case of the party affected against acquisition, or in respect of the compensation to be paid, is given a proper hearing. I have considered the question of a different procedure for the States but have come to the conclusion that it is not desirable to introduce any sort of summary procedure until proper conventions and principles of administration have been established in the States. Besides a number of States claim to follow the Land Acquisition Act, though with scant justification sometimes, and in one or two States like Patna or Kawardha the Land Acquisition Act or a modified form of it has been formally adopted (see individual reports). Adoption of the Land Acquisition Act in all States would at least have the advantage that it would make the position in this respect uniform with the rest of India, and amalgamation with the provinces, if it ever takes place, will present one less problem. It is recommended therefore that all States should be advised to make a formal adoption and promulgation of the Indian Land Acquisition Act and to follow it strictly.

133. *Remissions and Suspensions of Land Revenue*.—The existing position has been described before. In British India, it is generally recognised that whatever the theoretical position in respect of land revenue or rent, in practice, the recovery of the assessment with rigidity causes great hardship when crop failure has occurred. The Central Provinces Tenancy Act, the Orissa Tenancy Act, the Berar Land Revenue Code, all make provision for the suspension of recovery, or for the remission of land revenue, in hard times. (The Chota-Nagpur Tenancy Act does not seem to contain provisions for this purpose though executive action is taken to grant remission or suspension). In most of the State, the only remissions granted are when land revenue cannot be recovered by coercive process, or when the land has been abandoned or surrendered. Recovery is thus effected with rigidity. In Bamra where it was reported that the assessment was rather high, and it was suggested that liberal remissions should be given in difficult circumstances, the remissions given seems to be mostly of this nature (see report on Bamra). During the last two years, however, a number of States have, on the advice of the Political authorities, been considering remissions or suspensions, but mostly these are without any definite policy, and some of the suspensions and remissions have the appearance of eye-wash. It is proposed to make provision as in the Orissa and Central Provinces Laws for grant of remissions and suspensions leaving details to be prescribed by rules.

134. *Loans*.—Loans play a great part in the agriculturists' life. He is often "kept going" through loans and many an agriculturist is born, lives, and dies in debt. It is unnecessary for me to write much on the

need for a policy of loans at low rates of interest to agriculturists to save them from usurious money-lenders. Quite a number of Rulers recognise the advantages of money-lending also and lend grain, and occasionally cash, to agriculturists, the rate of interest being usually 25 per cent. as against the 6½ per cent. for loans under the Agriculturists Loans Act. In granting these loans, there are various levies such as measurement fees, receipt fees, giving the debtor unwinnowed grain while the grain returned is carefully winnowed, and so on, which make the rate of interest much higher. It is perhaps not merely the Rulers who do grain-lending but other members of the family as well, and loans are often granted by the *debottar* department (quite improperly in my opinion) from *debottar* funds. I doubt if it is of any use to advise the Rulers to give up personal lending; the advice can easily be evaded if the loans purport to come from, say, the Rani. The only way of mitigating this seems to be to make sure that the State grants adequate sums as loans every year. They may be advised to adopt the Agriculturists' and Land Improvement Loans Acts of the provinces with suitable formal alterations but not the rate of interest or other clauses.

In Sonapur there are certain rules which make the Ruler's private lending a regular State affair. The State should be advised to abolish these rules and to adopt the laws mentioned above for the State loans.

135. *Registration and Other Fees.*—In the levy of court-fees, mutation fees, stamp fees, registration fees, process fees, the States find opportunities to increase their revenue unduly, while outwardly other more noticed fees are kept low. For instance in Kalahandi, the mutation fees are nominal but on petitions for mutation a high court-fees is levied. (I noticed this in cases seen by me but I have not called for a report whether this is prescribed). *Nazrana* is often disguised as mutation fee as in Bonai. If process fee has to be paid, the stamp of the necessary denomination has to be stuck on petition paper, which of course is paid for. In some States, special forms are used for mutation petitions on which, doubtless, a profit is made (a form costs one anna). Petition paper is sold at one pice per sheet in Orissa and Bihar (not in the Central Provinces), but in some States this costs two pice and in a few one anna. Profits made on receipts given to ryots have already been mentioned. Unless all these sources of revenue are watched, the temptation to make up loss of revenue in any one direction by a levy in another will not be resisted by the States; sound methods of revenue administration by which the income of the State is safeguarded sometimes do not seem to make an appeal to them, and while indulging in such things as rent-free grants which cause loss to the State, the screw is put on the agriculturist in other directions. The only way of stopping the tendency to levy various kinds of fees and alter them in an undesirable manner is to require the States to submit annual statements of the various charges levied to the Political Agent or Resident and this is recommended. Attention has been drawn to the high registration and stamp duties in some of the States. A number of States claim to follow the Indian Stamp and Registration Acts and it is recommended that all States should be advised to follow the Indian Acts in these matters as well as court fees and to apply the rates prevalent in the Provinces. The price of petition paper should not be higher than in Bihar or Orissa. In a few States the licence-fee charged on petition writers is high; Rs. 12 in Pal-Lahara, Rs. 10 in Baudh and Chhukhadan; I do not think that this fee should exceed Rs. 5 per annum.

CHAPTER XIV.—The Administrative Machinery.

136. *Separation of Revenue and Civil Functions, if possible, and Appointment of a Revenue Adviser.*—It has been pointed out that the Rulers often act as revenue courts, not merely for purposes of appeal or revision, but in all important cases they pass the orders themselves so that no appeal is possible and only a petition for reconsideration can be made. The Ruler and revenue officers act also as civil courts and it is in not more than one or two States that a person aggrieved by a decision of the revenue courts can find an unbiassed examination of his case in the civil court (concurrent jurisdiction should of course exist in a few matters only). The effect of the Ruler acting as the final authority on the decisions of officers has also been noted before. In view of the connection between

revenue and civil matters, the likelihood of revenue decisions being influenced by the financial interests of the State, as well as the summary nature of the enquiries on which decisions affecting title or interests are based and the need for civil courts to act as final arbiters in such matters, I recommend that there should, as far as possible, be a separation of revenue and civil functions; otherwise the existence of civil court will be of little use in such a matter as, say, disagreement between the revenue officer and an individual in the matter of compensation for acquisition of land, questioning the entries in the records of right made by revenue officers and so on. The Rulers should also cease to act as revenue courts or exercise powers except on the advice of a suitable Adviser and in the proposed law, the Darbar has been defined as the Ruler acting under the advice of a Revenue Adviser; (the position would then correspond to "Governor-in-Council" in the provinces); the Rulers are not qualified either by temperament or training to act successfully as revenue courts save as rare exceptions; revenue administration concerns the well being of thousands and millions of people, and being to a large extent technical, is not a fit subject for handling by amateurs; in any case, their personal interest in the matter, and the influence they are likely to exert on subordinate officers, indicates the need for a separate tribunal. The question then arises as to who should be the final and controlling authority in revenue matters. While in the larger States there may be Dewans or Ministers of sufficient capacity to be of some use in controlling subordinate officials or hearing appeals, it is essential that there should be an ultimate tribunal and controlling authority. The Dewans often have numerous administrative duties to perform and cannot spare adequate time or energy, and in the case of most of the State, they are hardly competent for the purpose; in many of the States they are officials of the type who are met with in charge of a tahsil or sub-division in the districts. Besides, the trouble with the administration of most of the States seems to be the lack of an inspecting agency which is necessary, considering the calibre of the officials employed. The need for a controlling revenue authority and ultimate tribunal with the necessary administrative and technical training is not altogether a need peculiar to these States. Such an agency exists in the provinces where, on the whole, much better staff is employed. Consequently the appointment of a Revenue Adviser or Commissioner is recommended. He would act as the ultimate tribunal in practice, though nominally the Ruler would be the tribunal, would be a supervising and inspecting agency, and would control and supervise settlements and thus obviate the need for settlement officers of superior grades who would cost a lot of money. Besides, a Revenue Adviser is essential if the law proposed is really to be given effect to in practice; the law as it stands needs to be supplemented by rules in each State which are necessary to cover individual requirements, and a number of executive instructions are also necessary for the proper functioning of the revenue staff. I quote here the opinion of Mr. Griffin who was till lately Political Agent at Sambalpur whom I consulted on the point: "I think that one of the best services which you can render to the States is to supply them with a sound revenue and tenancy law, as simple as possible. If codification is left to them, on the basis of the recommendations to be made in your report, we shall have appalling confusion (not due to any defect in your Report!) which no Political Agent, however industrious, will with the time at his disposal be able to smooth out."

3. It would hardly be practicable for you to draft a number of laws for different groups and this itself, given the importance of the law being framed by you, is an argument in favour of a uniform law for all the States. I do not myself see that there is any inherent impossibility in all the Orissa States being governed by one law, with the provision of individual rules, as you contemplate, to cover such divergencies as have to remain between the systems of each State.

4. Now that we are working for joint cadres it is clearly desirable that there should as far as possible be uniformity in the laws which they administer, and the revenue administration is a sphere where a joint cadre is probably more important than in any other branch of the administration. I hope too that there will be a joint officer in charge of the cadre—a man of experience and real qualification—who will be able to supervise the revenue administration including the settlement work. The last point

I regard as of the greatest importance; the practical difficulty with which we are always faced here is to get a sufficiently experienced and responsible settlement officer on the small salary which the State can afford to pay, and the Political Department orders that the settlement officer must be approved by the Political Agent and that the Political Agent must supervise the work as closely as possible do not really solve the difficulty; obviously uniformity in the law would make the task of the joint "revenue Commissioner" whom I contemplate much easier.

5. The drafting of the individual rules under the uniform law will present difficulties. I doubt whether you will yourself have time to do them all, and it will presumably fall to the States to draft them. Here again is the likelihood of confusion owing to imperfect drafting which I mentioned in paragraph 2 above, but any how the magnitude of the task will have been reduced and eventually it should be possible to attain satisfactory and coherent rules." * *

Assuming that the need for a joint officer is conceded the area and population as well as the number of States is definitely far too large for one officer to work single-handed as an appellate authority as well as in general supervisory charge of the revenue administration of settlement. It may be possible for two officers to manage though I doubt if it can be done without assistance but I do not consider it advisable to have two separate officers in the initial stage until all the rules and instructions have been framed. What I recommend is therefore one officer, preferably an experienced officer of the Indian Civil Service should be appointed as Revenue Adviser for the whole Agency. In order to deal with appeals from the States where the Dewan himself is the revenue officer two officers may be appointed for different groups of States who may be fairly senior members of the Orissa and Central Provinces provincial service respectively. These officers will not be allotted States where there are separate revenue officers and the Dewan can be made an appellate authority. Both of them will, to some extent, act as assistants to the Revenue Adviser who will deal only with revisions or final appeals on behalf of the Ruler, and also perform the duties mentioned before. The appellate officers as well as the Revenue Adviser will be touring officers. These officers will of course need ministerial staff; a stenotypist each would probably suffice. There will be of course menial staff and other details connected with office organisation but it is useless to go into details here before the proposals are accepted.

137. *Revenue Staff in the States.*—I have not mentioned other revenue staff necessary in the States. In most of them the revenue staff, particularly the staff required for the maintenance of land records, is inadequate for efficient administration, and in practically all States, a number of patwaris or additional patwaris will have to be appointed. It is not possible to make detailed recommendations about these here and to some extent this will depend on the system and material locally available. The details of land records will have to be left to a large extent to be prescribed by rules in view of what, already exists, and uniformity in these matters, which is desirable, can only be achieved after a number of years.

138. *Financial effects of the proposals.*—The reduction of revenue likely to be caused by the abolition of the cesses recommended for abolition only may be computed from the budgets of the States.* By restricting the leases to forests only a portion of the income will be lost and the exact amount lost cannot be estimated. The reduction of revenue occurs in only a few States and in no case will be heavy, except Bastar where it is desirable to reduce the grazing fees by abolishing it in portions of the State every year but if the *takoli* of the zamindars is increased, some of the loss can be made up; it is not the whole of the grazing fee which will be lost as village boundaries will be demarcated and ryots may find it necessary to take their cattle beyond village forests.

The proposals made in this report do not result necessarily in financial loss; there will be considerable additions to revenue on account of the settlement of *bhogra*, premia on the sale of waste land or conversion of agricultural land, stamp duties on sales and other sources though some of these will accrue gradually. The States in future will get the premia on

* I have not found this possible from the information I possess.

the sale of lands and diversion of agricultural lands steadily and the high percentage of the revenue intercepted by the *gaontias* in many places will also be gradually reduced; where a new *gaontia* is appointed he will get a smaller percentage. If the recommendations regarding the assessment of rent-free grants or increase of *takoli* are accepted much of the loss can be made up and in many cases there will be a definite increase of revenue.

139. *Alternative proposals.*—The proposals for a uniform law are based on the assumption that the *ryotwari* system which already exists to some extent will be introduced into the States and *gaontias* and *sarbarakars* will be converted from farmers of villages with responsibility for the revenue into village officials who only collect the revenue. If this proposal is not accepted as well as the proposals regarding rights of transfer of land, a single law will not be possible; as has been pointed out, there is variety in the States from those with no village headmen to those who have the responsibility for the revenue, and those who have other powers such as powers of allotment of land, accepting surrenders of land, or sanctioning leases. If it is desired simply to codify existing practices there will be 39 different laws for the 39 States or at best only a few less. It has already been pointed out that the provincial laws are not suitable for adoption by the States without so much modification that they would be different laws in each State. Of course, it may be argued that when a State has adopted a law, it may later, by virtue of its sovereign powers, modify the law in such a way that in a short time each State will have a different law. The answer to this is the joint supervision proposed and the elasticity of the law with reference to matters where variation cannot be avoided. As the basic system is the same, there will be little cause indeed for variation. I think the States are getting used to the idea that they are a single unit and I do not think fissiparous tendencies should be encouraged. The recommendation that there should be a single Revenue Adviser for the States is made with this end in view.

140. The recommendations made in this report will not exactly be to the liking of zamindars and tenure-holders and others who have for a long time held a privileged position at the expense of the ryot who has had to bear heavy taxation in various forms, largely on account of them. Even some of the Rulers will not appreciate them as they involve the disappearance of some *salamis* and the Ruler's powers are also restricted to a considerable extent, even though a sound revenue administration means, in the near future, a considerable increase of revenue. It is to be hoped, however, that most, if not all, of them will recognise that these measures are really in their own interest.

141. I have now come to the end of my long and difficult task; I hope I have not laboured in vain. I must apologise for the obvious shortcomings of this report in drafting and arrangement which may cause some little difficulty in passing orders; I could not however, make the report more satisfactory in this respect without taking rather more time over it. The individual reports mostly contain a description of existing conditions and comments are occasional only; as far as possible I have included all the important recommendations in this report but a close study of the individual reports will probably show occasionally points on which the States may be given advice. The draft law contains certain provisions on which no specific recommendations have been made in this report.

142. My thanks are due to the Provincial Governments of Bihar and Orissa whose officers have given me much help in studying their revenue system and lent me various manuals and reports. I am also indebted to Mr. B. R. Sen, the Revenue Secretary to the Government of Bengal who gave me much valuable help. To the Residents, Colonels Barton and Hancock, as well as other officers of the Agency, I am highly thankful for the interest they took in my work, and for the facilities enjoyed by me, for which they were responsible. The Rulers and Administrators of the States covered by this enquiry showed me much courtesy and hospitality in spite of the fact that my work was not exactly to their liking, and I am very thankful to them and to their officers; I hope that any resentment they feel is not personal.

R. K. RAMADHYANI,
Officer on Special Duty.

APPENDIX I

COPY OF NOTES BY SIR FRANCIS WYLIE, POLITICAL ADVISER, DATED THE 10TH AUGUST 1941.

During the last few days I have had a number of discussions with Mr. Ramadhyani about his forthcoming enquiry into land revenue conditions in the Eastern States. I think that Mr. Ramadhyani now knows my mind on this subject in a general way and that is all that is possible without real local knowledge. It is for this reason that I have suggested that Mr. Ramadhyani's terms of reference be drawn out in Calcutta where Col. Barton's local knowledge will be available. The draft terms can then be sent here for the Crown Representative's approval before they are finally conveyed to the Officer on Special Duty. The Resident has agreed to this and will take action accordingly when Mr. Ramadhyani reaches Calcutta.

2. Put very generally my own feeling in this whole matter is :—

(a) that there can be neither contentment nor prosperity in an agricultural community unless rights in the soil are both granted and effectively guaranteed. The expression 'rights in the soil' includes of course the fixation of the Land Revenue demand.

(b) that in the Eastern States, while in the soil may in some cases have been granted, practically nowhere are they really guaranteed ;

(c) that by the terms of their Sanads the Rules of these States are bound to accept the Crown Representative's advice ;

(d) that the necessity of both granting and guaranteeing rights in the soil is so urgent that the Crown Representative would be justified in tendering formal advice to all Rulers to put their Land Revenue administration in order forthwith including the grant of rights in the soil with the necessary concomitant of setting up the administrative machinery required to protect these rights.

3. There is no use however in tendering advice on the lines mentioned in (d) above unless we understand the technical aspect of the problem thoroughly. It is to provide us with a technical background that Mr. Ramadhyani has been placed on special duty. I may note a few of the questions to which I would personally expect him to provide an answer in his report :—

(a) What is the past revenue history of the cultivators in this part of India ?

(b) What rights in the soil if any subsist at present ?

(c) What administrative machinery if any exists to ensure the protection of these rights ?

(d) Assuming that a real proprietary title in the soil is to be granted by the Ruler what system is most appropriate in these particular States ? By system I mean 'malguzari', 'ryotwari' and so on.

(e) In what way if any does the system proposed differ from that obtaining in the adjoining Provinces ?

(f) What system of *village* revenue management is best suited to these areas ? Should "Thekedars" "Gaontias", etc., be abolished or retained ? If these functionaries are to be retained can rules be framed to ensure that opportunity for tyrannising over the cultivators shall be restricted ?

(g) What sample of administrative machinery requires to be set up which the limited resources of these small States will be able to support and which will yet be effective in protecting the cultivators in the enjoyment of their newly granted rights in the soil ?

(h) Is a Land Acquisition law necessary or feasible ?

(i) How can the villagers be most effectively protected in the enjoyment of their rights in village forests ?

The above list is by no means intended to be exhaustive but it may be of use to the Resident and to Mr. Ramadhyani in framing formal terms of revenue for the enquiry.

4. I have drawn Mr. Ramadhyani's attention to the advisability of suggesting a Land Revenue reform approximating as closely as may be to the system obtaining in the adjoining Provinces. One principal reason for this is that the day may quite clearly come when these small States will disappear altogether and be merged in the neighbouring Provinces. If that time should come the more closely administrative conditions in this whole area approximate to those obtaining in adjoining Provinces the easier will the transition become.

5. Mr. Ramadhyani should I think accompany his report with draft laws. If we fund ourselves in a position to put across his proposals in the way of formal advice to the Rulers of these States it would be an immense advantage if the new laws which the States will be required to promulgate were ; if not identic, at least comparatively uniform. I realise that one law, e.g., a Land Revenue Act will hardly do for all the States. In fact there may have to be three model Land Revenue Acts ; one for the C. P. States ; one for the Orissa States and one for the States which lie next to Bihar.

6. I very much regret that I shall not be here when Mr. Ramadhyani's report comes up for consideration but I shall be grateful if, when the report is in print, I can have a complimentary copy which I promise to read with acute interest.

7. A copy of this note should be handed to Mr. Ramadhyani and a copy should also be sent to the Resident.

APPENDIX II.

Cesses.						
State.	Educa- tion.	Dispen- sary.	Road.	Forest.	Others	Remarks.
1. Athgarh ...	0-2-3	0-1-3	0-1-0	0-0-6	...	
2. Athmallik ...	0-1-6	...	...	0-1-0	...	
3. Bamra ...	0-0-4½	...	...	0-1-0	0-1-0 (Kar & Kartali) 0-0-1 (Chowkidari)	
4. Baramba ...	0-1-0	...	...	0-0-9	...	
5. Bastar ...	...	...	...	...	0-1-0 (Patwari)	
6. Baudh ...	0-0-9	...	...	0-1-0 0-0-6	(per acre of wet land) (per acre of dry land)	
7. Bonai ...	0-1-0	...	...	0-1-6	(per acre of wet land)	
8. Changbhakar ...	0-0-6 (includes dispensary cess also)	...	...	0-8-0 (per plough)	0-0-3 (Kotwar cess)	
9. Chhuikhadan ...	0-1-6	(Cess is called Education and Medical cess)				
10. Dhenkanal ...	0-2-0	...	...	0-1-3	0-2-0 (Miscellaneous cess)	
11. Daspalla ...	0-1-0	0-1-0	...	0-1-6 (per acre of wet land) 0-0-9 (per acre of dry land)	0-2-0 Ditto	
12. Gangpur ...	0-2-0	(School and dispensary cess)				
13. Hindol ...	0-1-0	0-2-0	...	0-1-3	(per acre)	
14. Jashpur ...	0-0-9	0-0-9	...	1-0-0	(per plough)	
15. Kalahandi ...	0-0-6	0-0-6	...	0-4-0*	0-1-0 *0-2-0 for road (patwari) 0-2-0 for bethi	
16. Kanker ...	A portion of the land revenue is appropriated for school, dispensary and patwari.					
17. Kawardha ...	...	...	...	0-8-0 to 2-0-0 according to area	A cess of 0-2-0 is levied on muafiholders.	
19. Kharsawan ...	...	...	NIL			
19. Keunjhar ...	0-0-6	0-0-6	...	0-2-0 0-1-0	(per acre of wet land) (per acre other lands)	
20. Khairagarh ...	...	...	...	1-4-0	(per plough)	
21. Khandpara ...	0-1-0	0-1-0	...	0-1-0	0-3-0 (Miscellaneous)	
22. Korea ...	...	...	...	1-0-0 (per plough)	2-0-0	
23. Nandgaon ...	...	...	...	...	0-1-0 (patwari) 0-12-0 Hide cess per plough	
(The gaontia pays road, school and dispensary cess)						
24. Narsingpur ...	0-1-0	...	...	0-1-0 0-0-6	(per acre of wet land) (per acre other lands)	
25. Nayagarh ...	0-1-0 (includes dispensary cess also)	...	0-2-0	0-1-0	1-0-0 Water cess per acre	
26. Nilgiri ...	...	...	...	0-1-6 per man	0-0-3 Parbani cess	
27. Pal-Lahara ...	0-1-0	...	0-2-0	0-1-0 0-0-6	(per acre of wet land) (per acre other lands)	
28. Patna ...	0-1-0	0-1-0	...	0-0-6 to 0-2-0 per acre according to the distance from the forest	0-1-0 Patwari 0-1-0 Rasad 0-1-0 Parbaparbani	
29. Raigarh ...	...	...	...	1-0-0 to 1-8-0 (per plough)	A cess of 0-2-0 is levied from muafi villages only	
30. Raipur ...	0-1-0	0-1-0	...	0-1-0	...	
31. Ranpur ...	...	...	NIL			
32. Sakti ...	0-1-0	...	0-1-6 to 0-2-0	0-6-0	(for 5 acres approx)	
33. Saragarh ...	0-1-0	...	0-1-0	0-4-0	(per plough)	
34. Seraikela ...	...	...	...	0-3-0 to 1-4-0	per bigha	
35. Senepur ...	0-1-6	...	0-1-6	0-1-6 0-1-0	per acre of wet land per acre for others.	
36. Surguja ...	...	...	...	1-0-0 0-2-0	per plough or per rupee.	
37. Talehar ...	0-1-0	...	...	0-1-0	0-3-0 Miscellaneous.	
38. Tigiria ...	0-1-0	0-0-9	...	0-0-3		
39. Udaipur ...	...	...	...	0-8-0	0-1-0 land cess.	

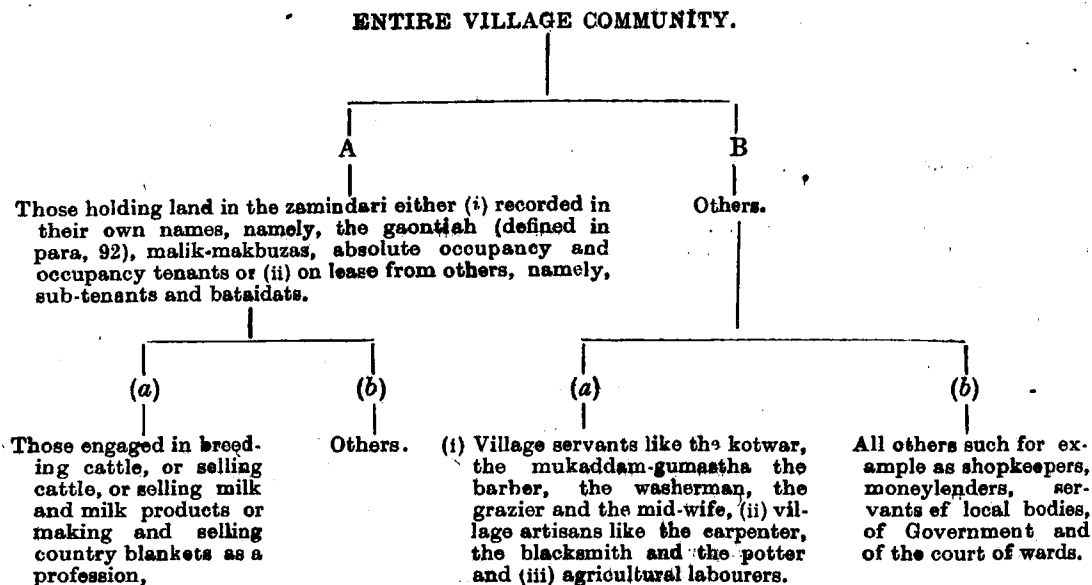
Note.—All rates are per rupee of land revenue unless otherwise stated.

APPENDIX III.

EXTRACT FROM THE REPORT OF AN ENQUIRY ON GRAZING AND NISTAR IN THE CENTRAL PROVINCES ESTATES BY MR. H. S. KAMATH, I.C.S.

231. *Skeleton Proposals.*—(1) The entire village community will be divided broadly into two classes (i) agricultural and (ii) non-agricultural.

(2) The following table will show how this division can best be done :—



Note.—Village servants and village artisans, placed under this sub-class will naturally be these not holding the land ; for if they do hold land, they come under class A.

Classes A(b) and B(a) will be considered agricultural and classes A(a) and B(b) will be considered non-agricultural.

(3) Grazing will be free for all cattle belonging to the agricultural classes.

(4) A member of the non-agricultural classes will be allowed to graze free of charge a certain definite number and for extra animals the zamindar may require him to pay at such rates as he may fix.

(5) The basis for the free allowance will be the working plough in the case of class A(a) and the house in the case of class B(b).

(6) The free allowance per working plough will be something like four plough animals, two milch animals, all calves at foot, two goats and one pony.

(7) Calculations regarding the grazing concession and grazing dues will be based on the patwari's titamma which the zamindar will be expected to consult and a copy of which will, therefore, be made available to him on moderate payment.

(8) The free allowance per house will be two milch animals, all calves at foot, two goats and one pony or two bullocks.

(9) Hired bullocks, if used by a member of the agricultural classes, will be considered 'his own for the time being and will not be liable to pay grazing dues.

(10) A zamindar charging grazing dues *mala fide* to a member of the agricultural classes, for example to a person selling milk and milk products casually or buying and selling cattle at the commencement of each season for his own use or in respect of cattle hired for his own cultivation, will be liable to pay a penalty of Rs. 50 or five times the fees charged, whichever be the greater.

(11) Grazing, whether when free or when on payment, will be available, in the banjar of the village where the owner of the cattle lives or holds land and also in its neighbourhood, except that in regard to the latter, the occupied area will not be available when crops are standing, nor closed bars nor threshing floors.

(12) The banjar will be defined as all unoccupied area except what is set apart for specific communal purposes.

(13) The neighbourhood of a village will be defined as that area round about the village, but within the zamindari—not being part of the waste land mahal nor of an authorized reserve worked and closed to grazing—which the cattle can cover during the day, in order to be back home before dusk.

Note.—Reserves like that of Khujji regarding which grave defects have been pointed out will not be considered 'authorized' for the purpose of this proposal.

(14) Daihan grazing will be liable to be paid for at such rates as the zamindar may fix.

(15) Ordinarily daihan grazing will be confined to the waste land mahal. If, however, a zamindar wishes to have a daihan outside the waste land Mahal, he will be required to take the Deputy Commissioner's permission to open it. He will be entitled to have the permission in case the daihan has been in existence in that village for a period of five years continuously preceding the 1st January 1940. Otherwise, his application will be decided on merits.

(16) Scrub and grass which are jointly recorded in the patwari papers today as scrub jungle and grass except in Bhandara will be separately recorded.

(17) The zamindar will be required to obtain the permission of a revenue officer not below the rank of a tahsildar if he wishes to alienate land recorded as grass or wishes to convert it to home-farm.

(18) A zamindar will be required to obtain the Deputy Commissioner's permission before reserving grass birs in the banjar during the currency of the settlement.

(19) An outsider setting up an establishment in a zamindari, in addition to the one he already has outside it, will be considered as belonging to class A(a).

(20) Cattle belonging to a resident of the zamindari, but to an establishment he has outside the zamindari, will be liable to be charged grazing dues.

232. *Proposals summed up.*—Briefly, the proposals contemplate—

(a) the division of the whole village community into (i) the 'agricultural' and (ii) the 'non-agricultural' classes ;

(b) free grazing for all cattle owned by the agricultural classes ;

(c) limits to the number of cattle that may be grazed free by the non-agricultural classes ;

(d) extension of the area available for grazing—whether when free or when on payment—from the village waste to the entire neighbourhood ; and

(e) measures to combat restrictions on grazing rights,—existing or extended.

* * * * *

APPENDIX IV.

FEES PAYABLE ON TRANSFERS OF LANDS.

Athgarh	Stamp duty	...	About 1 per cent.
	Registration	...	Re. 1 for Rs. 25, Rs. 2 for Rs. 50, Rs. 2½ for Rs. 100 and Rs. 3½ upto Rs. 500.
Athmallick	Salami	...	Nothing on transfers.
	Mutation	...	Re. 0-4-0 per rupee, Re. 0-2-0 per rupee for inheritance. 10 times the rental on sale. 0-8-0 per rupee of rental on other transfers. (Fees are doubled if mutation not applied for within six months)
	Amin Fees	...	0-10-0 per day.
	Proclamation	...	Re. 1
Bamra	Stamp duties and registration fees	...	are charged at about one-half per cent. and three-fourths per cent. <i>ad valorem</i> respectively.
Baramba	Salami	...	10 per cent. of the consideration.
	Mutation fee	...	Re. 1 per acre for transfers. Re. 0-4-0 per rupee for inheritance.
	Stamp Duty	...	About 1 per cent. (Graded scale).
	Registration fee	...	About ½ per cent. (Graded scale).
	Amin fee	...	0-8-0 per day.*
	Proclamation fee	...	Re. 1.
Bastar	No transfer fees	...	(Transfer not permitted).
	Mutation fee	...	0-8-0 in cases where ryots apply for mutation.
	Exchange	...	0-8-0 per rupee as court fee stamps.
	Stamp and registration fees	...	according to Indian Acts.
Baudh	Salami	...	No rigid rules,
	Mutation	...	Re. 1 in all cases.
	Stamp and Registration.	...	(Indian Acts are followed).
	Amin fee	...	Re. 0-12-0 for every 10 miles.
	Proclamation fee	...	Re. 1.
Bonai	Salami	...	25 per cent. of the consideration or 4 years rental whichever is higher.
	Mutation	...	2 to 8 annas on ordinary succession according as mutation is applied within six-months to over one year. Four times the annual rental if the transferee is a Bonai subject otherwise six times. 10 per cent. of the land revenue if succeeded by direct male heirs in gaontiahi succession cases. 25 per cent. by any other relation. 80 per cent. by a distant relative on an outsider.
	Amin fee	...	Re. 1 per day.
	Proclamation and process fees.	...	0-4-0 to Re. 1 according to its nature.
	Stamp and Registration.	...	Indian Acts are followed.
	Transfer not permitted.	...	
	No fee is charged.	...	(Transfer not permitted.)
	Mutation	...	10 per cent. of the consideration in sale or gift Rs. 2 only on exchange.
Chang Bhakar	Stamp Duty	...	comes to roughly one per cent. of the value.
Chhuikhadan	Registration fee	...	varies from 0-4-0 for bonds of Rs. 10 value to Rs. 3 for bonds with Rs. 100 and Rs. 2-8-0 for every extra Rs. 100.
Dasapalla	Mutation	...	10 per cent. of the consideration in sale or gift Rs. 2 only on exchange.

			Amin fee for the services of the amin is Rs. 1-8-0 to Rs. 3. Process fee 0-8-0.
Dhenkanal	...	Salami	is charged according to the class of land transferred from Rs. 2 to Rs. 17. Mutation fee 0-4-0 per acre to a maximum of Rs. 20. The Stamp duty on documents of sale and mortgage comes to one-half per cent. Registration comes to one-half per cent. Amin fee 0-10-0 per diem. No proclamation fee is charged.
Gangpur	...	Salami	on transfer by sale 2 annas per rupee of consideration. About 10 per cent. on transfer of nazul lands. Mutation 0-4-0 per acre or part of an acre subject to a limit of Rs. 5 with a minimum of Re. 1. Stamp Duty and Registration according to Indian Acts. Amin fee of 0-6-0 per diem is charged. Proclamation fee 0-8-0.
Hindol	...	Mutation	12½ per cent. of the consideration or six times the annual rental whichever is greater in cases of sale. Re. 1 for each tauzi in case of inheritance. 0-3-0 per rupee of rent in all other cases.
		Stamp Duty	Indian Stamp Act is followed.
		Registration	About ½ per cent.
		Amin fee	Re. 1 onwards according to area and distance.
		Proclamation fee	Re. 1
Jashpur	...	Salami	One year's rental and a suit [private nazarana to the Ruler on succession of the zamindars.
		Mutation	Nil.
		Stamp	Nil.
		Registration	0-2-0 per surrender deed.
		Proclamation	1-8-0 per proclamation.
			Other fee on applications 0-8-0.
Kalahandi	...	No. rights of transfer.	
		Mutation	Re. 0-4-0 for every Rs. 50 in gaonti villages (payable by the new gaentia), Re. 6-2-0 for every Rs. 50 in muafi villages by muafidar, Re. 0-2-0 for every Rs. 50 in hilly villages payable by gaentia and Re. 0-1-0 for every Rs. 50 in hilly villages payable by muafidars.
			Homestead lands at the nazul towns can be transferred on payment of 0-8-0 for every Rs. 50 value subject to the maximum of Rs. 15.
Kanker	...	Salami	Nothing is levied by the State. But the Thekedrr is entitled to a nazarana from the transferee of 25 per cent. and 12½ per cent. in the case of transfer by sale of gairmaurusi and maurusi respectively.
		Mutation	Rs. 3 uniform.
		Stamp duty	Re. 1 per cent. on the value of land.
		Registration	Re. 1 registration fee, Rs. 2 Attestation fee and 0-4-0 extra fee and copying fee 0-2-6 for hundred words.
			Court fee on application Rs. 2. Proclamation fee Rs. 2.
Kawardha	...	Nazarana	12½ per cent. for the tenants ; aboriginals 5 per cent.
		Registration fee	Re. 1 up to Rs. 100 and 0-8-0 for every Rs. 100.
		Attestation	Rs. 2.
		Endorsement	Rs. 1.
		Copying	0-12-0.
Keonjhar	...	Salami	Rs. 2 to Rs. 3 in cases of allotment of nayabadi lands, homestead gora and pal lands.
		Mutation	Nothing in case of inheritance. On transfer by sale 12½ per cent. from non-aboriginals ; 6½ per cent. from aboriginals. By gift Rs. 32 per acre to Rs. 6 according to the class of land. In case of unauthorised transfer 12½ per cent. mutation is charged over and above salami.
		Stamp	Indian Stamp Act is followed.
			Registration charge is about ½ per cent. Amin and proclamation fees Re. 1 each except in nayabadi cases where 0-8-0 each is charged.
Khairagarh	...	Stamp and Registration.	Indian Acts are followed.
		Registration fee	Re. 1.
		Endorsement	0-4-0.
			and a copying fee of 0-2-6 per 100 words.
Khandpara	...	Salami	10 per cent. of the consideration in the case of non-aboriginals aboriginals and 5 per cent. in the case of aboriginals.
		Mutation	0-4-0 per rupee of rental—minimum Re. 1. (If the mutation is not applied for in time, penalty is double fee till 12 months 0-2-0 daily afterwards.)
		Stamp duty	About ½ per cent.
		Registration	About 2 per cent.
		Proclamation fee	Re. 1

Kharsawan	...	Salami	...	Varies from Rs. 2 to Rs. 200 per bigha for different kinds of lands in Sadant Pir and Kolhan Pir.
		Mutation	...	0-2-0 per bigha—minimum Re. 1 : Maximum Rs. 5, payable in court fees.
		Stamp duty comes to about 1 per cent.		
		Registration fee	...	0-12-0 per deed.
		Amin's fee	...	Re. 1 per diem.
		Proclamation fee	...	Re. 1 plus 0-6-0 for the price of printed forms, drummer's fee, etc.
Korea	...	Transfer not permitted.		•
Nandgaon	...	Salami	...	Gaontia gets 25 per cent. (generally not fixed on all transfers and pays to the State 25 per cent. of what he gets.
		Mutation	...	No mutation on tenancy lands but on gaontia succession 0-2-0 for Rs. 50 mutation has to be paid.
		Stamp Duty	...	Re. 1 for each deed.
		Registration	...	Rs. 2 plus 0-2-6 writing fees for 100 words and 0-4-0 endorsement fee.
Narsinghpur	...	Salami	...	10 per cent. for sales, 5 per cent. for exchanges and 20 per cent. for gift.
		Mutation	...	0-2-0 per rupee of rental on bhogra or ryoti lands for direct succession, otherwise 0-4-0.
		Stamp duty about 1 per cent.		
		Registration fees comes to about $\frac{1}{2}$ per cent.		
		Amin fee	...	0-8-0 within 5 miles and for 5 acres and 0-4-0 for every additional 5 acres.
		Proclamation fee	...	Re. 1.
		On every application 0-8-0 court fee should be affixed.		
Nayagarh	...	Salami : Sale : Ryoti lands.	...	10 times the rental or 20 per cent. of the consideration whichever is higher.
		Brahmottar tanki	...	20 times the rental of 37 $\frac{1}{2}$ per cent. of the consideration whichever is greater.
		Anugruhi jagir	...	20 times the rental or 40 per cent. of the consideration whichever is greater.
		Gift	...	3 times the rental.
		Exchange	...	Rs. 2 per acre is taken.
		Mutation	...	0-4-0 per rupee of the rental—minimum Re. 1 (If mutation is not applied for in time penalty rate is charged).
		Stamp duty about 1 per cent.		
		Registration	...	About 2 per cent.
		Amin fee	...	Re. 1 per day.
		Proclamation fee	...	Re. 1.
		0-2-0 for every kind of application.		
Nilgiri	...	No Salami.		
		Mutation	...	3 times the rental.
		Stamp Duty	...	About $\frac{1}{2}$ per cent.
		Registration fee about $\frac{1}{2}$ per cent.		
		Proclamation fee	...	0-8-0.
		Mutation applications 0-12-0.		
Pal-Lahara	...	Nazarana	...	10 per cent. of the consideration.
		Mutation	...	0-12-0 per holding irrespective of the area.
		Stamp Duty	...	1 per cent.
		Registration fees	...	About $\frac{1}{2}$ per cent.
		Amin fees	...	0-8-0 per each enquiry.
		Proclamation fees	...	Re. 1 for each case.
Patna	...	Nazarana	...	25 per cent. of the consideration or 12 $\frac{1}{2}$ times the rental, Rs. 10 per acre for jacher lands. Rs. 5 per acre for settlement of forest and waste lands.
		Mutation : Thekedari	...	0-4-0 for Rs. 100.
		Ryoti	...	25 per cent. of the value of the land.
		Stamp and Registration fee.	...	According to Indian Acts.
		Amin fee	...	Rs. 1 onwards according to the distance.
		Proclamation fee	...	Rs. 2.
Raigarh	...	Nazarana	...	25 per cent. of the sale proceeds taken by gaontia.
		Mutation	...	0-4-0 for Rs. 50 gaontiahi mutation only.
		Stamp Duty	...	Indian Act rates.
		Registration	...	For surrender and transfer deeds Rs. 5. For mortgage Rs. 2-8-0 (Rest Indian Act rates).
		Patwari	...	0-2-0 per mile.
Rirakhel	...	Nazarana	...	Not fixed but generally offered.
		Mutation	...	0-2-0 per rupee of bhogra or ryoti rent for direct succession; otherwise 0-4-0.
		Stamp Duty	...	Indian rates.
		Amin fees	...	0-10-0 per diem.
		Proclamation fee	...	Re. 1 per proclamation.
Ranpur	...	Nazarana	...	25 per cent. by Brahmottar holders only. 5 per cent. of the immovable property in adoption cases.

	Mutation	...	Re. 1 per acre with proclamation fee 0-4-0.
	Stamp Duty and Registration fees	as per Indian Acts.	
Sarangarh	Salami	...	10 per cent. allowed to village gaontias on sales.
	Mutation	...	Nil.
	Stamp Duty	...	1 to 1½ per cent.
	Registration fee	1 per cent.	
	Endorsement fee	0-8-0.	
	Registrar's fee	Re. 1 per document.	
	Moharrir's fee	0-8-0.	
Sakti	Consent money	at 15 per cent. on the consideration.	
	Mutation	nil.	
	Stamp duty	one per cent.	
	Registration fee	Rs. 3.	
Seraikela	Salami	...	Re. 1 to Rs. 200 per bigha according to the class of land.
	Mutation	...	Re. 0-2-0 per bigha subject to a minimum of Re. 1.
	Stamp Duty	...	About ½ per cent.
	Registration	about ½ per cent.	
	Amin's	Rs. 1-8-0 to 5-0-0 according to the distance.	
Sonepur	Salami	...	10 per cent. to the village holder. 15 per cent. to the Ruler from the purchaser.
	Stamp, etc.	...	According to Indian Acts.
Surguja	Consent money	...	12½ per cent. or 2½ times the rent whichever is great. One year's rent for exchange.
	Mutation fee	...	0-4-0 for every Rs. 10 of rent.
	Stamp and Registration fee.	...	Central Provinces rates.
	Amin fees	...	0-12-0 per day.
Tilcher	Salami	is 12½ per cent. on sales.	
	Stamp duty	about ½ per cent.	
	Registration fee	is also levied.	
Tigiria	Salami	1/8 and 1/16 of the consideration on the sale of the State land and sikmi lands.	
		Re. 1 per gunth on allotment of waste land.	
	Mutation	Re. 1 for Rs. 5 rental.	
	Stamp duty	...	1 per cent.
	Registration fee	...	About 2 per cent.
	Amin fee	Re. 1.	
Udaipur	Salami	—25 per cent.	

APPENDIX V.

SECTION 40 OF THE CENTRAL PROVINCES TENANCY ACT.

40. (1) Subject to rules made under section 109, a Revenue Officer may, either of his own motion or on an application made by a subtenant holding land from a tenant, declare such sub-tenant to be an occupancy tenant of such land on the ground that the land is habitually sublet and fix the rent payable by him for the land to the landlord of the village, mahal or patti in which the land is situate, and thereupon the right of the original tenant in the land shall be extinguished ;

Provided that no such declaration shall be made in the case of a sub-tenant holding land from a charitable or religious endowment :

Provided further that no such declaration shall be made in the case of a sub-tenant holding land under a lease made before the first day of November 1939 :

Provided also no land shall be deemed to be habitually sublet by reason of a lease made before the first day of November 1939.

(2) A declaration made under sub-section (1) shall take effect from the commencement of the agricultural year next following the date of such declaration.

Explanation.—For the purpose of this section land may be presumed to be habitually sublet, if it is sublet for a total period exceeding seven years during any consecutive period of ten years, but no such presumption shall necessarily be made in the case of land of a minor or any other person subject to a legal disability or physical infirmity or a woman.

SECTION 62 OF THE PROPOSED REVENUE LAW.

62 (1) Any person in cultivating possession of land belonging to a ryot or tenant may apply to a revenue officer to be declared the ryot or tenant of the land, as the case may be, on the ground that the land is habitually sublet, and the revenue officer may make such a declaration on deposit by the applicant of a sum equal to five times the assessment for payment to the original ryot or tenant, whose right in the land shall thereupon be extinguished.

(2) A declaration made under sub-section (1) shall take effect from the commencement of the agricultural year next following the date of such declaration.

(3) For the purpose of this section land may be presumed to be habitually sublet, if it is sublet for a total period exceeding seven years during any consecutive period of ten years after the commencement of this Law, but such a presumption shall not necessarily be made in the case of land of a minor or any other person subject to a legal disability or physical infirmity or a woman.

J. L. P. Press, Berhampur.